

Town of Henlopen Acres

104 Tidewaters
Henlopen Acres, DE 19971

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MINUTES: Hearing of the Board of Adjustment of the Town of Henlopen Acres held on Tuesday December 3, 2019 at 1:00 p.m. at Town Hall on 104 Tidewaters in Henlopen Acres, Delaware

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|-----------------|--------------------|--------------------------------|
| PRESENT: | Bob Stevens | Board of Adjustment Chairman |
| | Jeff Jacobs | Board of Adjustment |
| | Ashlee Reed Hidell | Board of Adjustment |
| | Leigh Jamison | Board of Adjustment |
| | Rick Berl | Attorney – Board of Adjustment |
| | Dick Kollar | Zoning Officer |
| | Thomas Roth | Town Manager |
| | Lisa Michaels | Town Clerk |
| | Joni Reich | 25 Tidewaters |
| | Robert Hammond | 85 Tidewaters |
| | Paddy Richards | 5 Rolling Road |
| | Joe & Gina Wade | 96 Tidewaters |

EXCUSED: Norma Lee Derrickson Board of Adjustment

1) Call to Order

Chairman Bob Stevens called the meeting to order at 1:00pm.

2) Hearing on request of Robert and Janet Hammond for a special exception to Section §130-21 to decrease the east side setback.

[Testimony is not verbatim.]

Mr. Stevens opened the floor to comments. No one in the audience had comments. Mr. Stevens reminded the Board that the request from the Hammonds is for a special exception and not a variance. The Hammonds are not required to show exceptional practical difficulty as they would for a variance. A special exception shall be granted as long as it will not adversely affect the use of adjacent or neighboring properties.

Mr. Robert Hammond, Mr. Dick Kollar and Mr. Thomas Roth were all sworn in by Mr. Stevens prior to testifying.

Mr. Hammond addressed the Board explaining his reasons for applying for the special exception. The special exception will allow him to put an entrance on the east side of his house. This will allow him and his family to access the side yard where the trash cans are located and also make it easier to get to the pool in the back yard.

Mr. Kollar testified that the width of the lot at 85 Tidewaters is less than 100 feet wide. As per section §130-60 of the Code, a special exception may be granted by the Board of Adjustments to decrease the setback.

There were two letters of objection received that will be included in the record and were read to the Board. The first was from Chuck and Karen Walsh at 83 Tidewaters and the other from Porter Wheeler at 79 Tidewaters. Mr. Wheeler objection didn't apply because it was related to a variance and not a special exception. The Walshs are immediate neighbors located on the side of the proposed construction. Their objection is the lighting the will accompany the new construction and how it may affect their bedroom and sun porch both located on that side of the house.

Mr. Roth presented photos of 85 Tidewaters as it relates to 83 Tidewaters, where the new entrance would be located. The photos were reviewed by the Board and Mr. Richard Berl, the Board of Adjustment attorney.

Mr. Hammond addressed the lighting concerns by stating the only new lighting being added will be one light by the door. The other lighting will be solar, which is currently already there. Mr. Hammond understands the concerns from the Walshs and will be sure the lighting used does not shine onto the property at 83 Tidewaters. Mr. Hammond also wanted the Board to be aware the proposed entrance will not be used as a main entrance but simply to access the pool and the trash cans.

Mr. Jeff Jacobs asked whether either resident voicing an objection are full time residents. Mr Roth stated "no". The Walshs and Mr. Wheeler are seasonal and Mr. Hammond is a weekend resident. Mr. Jacobs also asked Mr. Hammond if he has any spotlights on his home to which Mr. Hammond responded yes on the corners. These are only used for loading and unloading vehicles otherwise they are kept off. Mr. Jacobs then asked Mr. Hammond to show on the submitted plans where the new entrance will be located. The Committee then discussed with Mr. Hammond the location as it relates to 83 Tidewaters.

Mr. Berl asked Mr. Kollar if there are any lighting requirements in the Zoning Code for Henlopen Acres. Mr. Kollar responded there was not specific lighting requirements simply any lighting installed cannot be intrusive on neighbors. There are also safety lighting requirements in the International Residential Code which the Town follows.

Mr. Jacobs made a **motion** to approve the Special Exception for 85 Tidewaters to reduce the side setback.

He voted "yes" because he feels by granting the special exception it will not pose substantial detriment to the Town or the neighbors. He believes the Walsh's lighting concern is legitimate and that Mr. Hammond understands the need to limit lighting on that side of the house.

Mrs. Ashlee Reed Hidell seconded the **motion** to approve the Special Exception. She voted "yes" agreeing that the only concern is lighting and it has been addressed by Mr. Hammond and is not a reason to deny the Special Exception.

Mrs. Leigh Jamison voted "yes" to grant the Special Exception. She reiterated that Mr. Hammond

understands the need to address the lighting concerns and she doesn't believe granting the Special Exception will negatively impact 83 Tidewaters.

Mr. Stevens voted "yes" to grant the Special Exception and agrees with all the reasons stated previously by the Board members.

The **motion** to grant the special exception passed 4 yes-0 no.

Mr. Berl will draft the formal ruling to be reviewed by the Board and will include the lighting Requirement. The final decision will be sent to Mr. Hammond at 85 Tidewaters and the Walshs at 83 Tidewaters.

3) **Review and Approval of Minutes**

a. **October 10, 2018**

b. **February 7, 2019**

A **motion** to approve the minutes from October 10, 2018 and February 7, 2019 was made by Mr. Jeff Jacobs and seconded by Mr. Bob Stevens. **Motion** passed unanimously.

4) **Adjournment**

Having no other business the meeting was adjourned at 1:31pm.