

**BEFORE THE BOARD OF ADJUSTMENT OF THE
TOWN OF HENLOPEN ACRES**

IN RE: :
 :
APPLICATION OF ROBERT :
HAMMOND and JANET :
HAMMOND. :

DECISION OF THE BOARD OF ADJUSTMENT

The Board of Adjustment of the Town of Henlopen Acres convened at 1:00 p.m. on Tuesday, December 3, 2019, in the Henlopen Acres Town Hall, to consider the Application of Robert and Janet Hammond. Present from the Board of Adjustment were Chairman Bob Stevens, and Board members Ashley Reed Hidell, Leigh Jamison and Jeffrey Jacobs. Also present were Richard E. Berl, Jr., Esquire, Counsel to the Board of Adjustment, Zoning Official Dick Kollar, and Town Manager Thomas A. Roth.

ISSUES

The purpose of the public hearing was to allow the Board of Adjustment to consider a request for a Special Exception from Section 130-22 of the Code of the Town of Henlopen Acres, which requires side yard setbacks of 20'. The Applicants were requesting a variance of 5'8" for the purpose of adding a small addition to expand a laundry space, create an entrance/exit, and add a new exterior stairway and landing on the east side of an existing dwelling.

FINDINGS OF FACT

1. The Applicants are the owners of Lot E-7 in Henlopen Acres, Delaware, with a street address of 85 Tidewaters.
2. The Applicants wish to expand an existing laundry room, an entrance/exit, and a new staircase and landing to the east side of the dwelling.
3. There is an existing exterior shower on the east side of the property which already extends into the area in which the proposed addition would be located, and hence the addition would likely not be visible from the street.
4. The Applicants' have a pool in the backyard, and an entrance into the laundry room is logical as the bathrooms are already on that side of the house. The additions will be located on an existing walkway.

5. The Applicants' lot is approximately 80' wide. Under the Code, if a lot was less than 12,500 sq. ft. in area, or if a lot was less than 100' wide, when the Code was enacted in 1974, Section 130-60 permits an owner to apply to the Board of Adjustment for a Special Exception to reduce either the side setbacks, or the rear setback, or both. Since the Applicants' lot meets the qualification for relief, they have applied for a reduction of the side setback.

6. The Board reviewed an objection from Porter Wheeler, which generally argued that approving the Application would establish a bad precedent. However, the Applicants' lot qualifies for relief under an existing Code Section, and will not operate as a general precedent for other lots which are not burdened by that same limitation.

7. The Board also reviewed an objection from Charles and Karen Walsh, the immediate neighbors to the east, whose objections focused primarily on increased noise and lighting. The Board viewed photographs of the area, which is noted to have a significant tree buffer between dwellings.

8. The building code requires that a light be located at an entrance/exit, and the Henlopen Acres Code does not regulate lighting. The Applicants' dwelling currently has corner flood lights, which the Board felt would be more intrusive than an additional light around the new entrance. However, the Applicant indicated that those flood lights are not on when they are absent. They utilize the property generally on weekends and holidays. In addition, the Applicant indicated that whatever light is utilized will be shaded in some fashion so as not to create "light pollution".

9. The Board did not believe that noise levels would be any greater than already exist, as the Applicants already utilize a pool in the backyard.

CONCLUSIONS OF LAW

1. Because the Applicants' property is less than 100' in width, the Code offers relief by way of a Special Exception.

2. The Applicants' request meets the requirements for the issuance of a Special Exception in that it will not substantially affect adversely adjacent or neighboring properties, nor will it undermine the purpose and spirit of the Zoning Code.

DECISION

The Board voted unanimously to approve the requested variance from the required 20' side yard setback, to 14'4".

**BOARD OF ADJUSTMENT OF THE
TOWN OF HENLOPEN ACRES**

Dated:

BY: _____
Chairman

Dated:

Member

Dated:

Member

Dated:

Member