

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JANET HORGEN AND JAMES HORGEN (Case No. 11140)

A hearing was held after due notice on January 28, 2013. The Board members present were: Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances of the side yard and rear yard setback requirements.

Findings of Fact

The Board found that the Applicants were seeking a variance of variance of 2 feet from the 10 feet side yard setback requirement and a variance of 2 feet from the 10 feet rear yard setback requirement for a proposed addition. The Applicants have requested that the aforementioned requested variances be granted as they pertain to certain real property located south of Road 360 (Fred Hudson Road) east of Bethany Loop, being Lot 266 within The Salt Pond, Phase I development; said property being identified as Sussex County Tax Map Parcel Number 1-34-13.00-1500.00. After a hearing, the Board made the following findings of fact:

1. Janet Horgen and James Horgen were sworn in and testified on behalf of the Application.
2. The Board found that Janet Horgen testified that the Property is located in Salt Pond.
3. The Board found that Janet Horgen testified that her husband has been diagnosed with Spinal Stenosis.
4. The Board found that Janet Horgen testified that the proposed addition will include first floor bedroom and will be handicap accessible for her husband.
5. The Board found that Janet Horgen testified that the extra two feet is necessary to make the addition wheelchair accessible.
6. The Board found that Janet Horgen testified that the Property is adjacent to a stream.
7. The Board found that Janet Horgen testified that the variances will not have an adverse effect to the neighborhood.
8. The Board found that Janet Horgen testified that it would be impossible to add onto the dwelling elsewhere since it would ruin the street view of the house.
9. The Board found that Janet Horgen testified that the existing dwelling was built to the rear of the lot since the front yard is heavily wooded creating a uniqueness to the Property.
10. The Board found that Janet Horgen testified that the variances are needed to enable reasonable use of the Property.
11. The Board found that Janet Horgen testified that the difficulty was not created by the Applicant.
12. The Board found that Janet Horgen testified that the variances are the minimum variances necessary to afford relief.
13. The Board found that Mrs. Horgen submitted pictures in support of the Application.
14. The Board found that Donna Villani was sworn in and testified in opposition to the Application.
15. The Board found that Donna Villani testified that she is Chairperson on Salt Pond's Architectural Committee.
16. The Board found that Donna Villani testified that the Applicants submitted plans to the Committee in October 2012 and that the Committee denied the plans.

17. The Board found that Donna Villani testified that there are no unique physical circumstances to the lot as the lot measures 8,530 square-feet in size and is rectangular in shape.
18. The Board found that Donna Villani testified that the proposed addition will include a bedroom, bathroom, laundry room, atrium and a deck.
19. The Board found that Donna Villani testified that the variances would adversely affect the appropriate use and development of the adjacent property.
20. The Board found that Donna Villani testified that no large area variances have been granted in Salt Pont as most variances are for inches and not feet.
21. The Board found that Donna Villani testified that the approval of the Application would set a negative precedent in the community.
22. The Board found that Donna Villani testified that the variances will alter the essential character of the community.
23. The Board found that Donna Villani testified that the proposed atrium is not necessary and could be removed.
24. The Board found that Donna Villani testified that the proposed addition can be altered to be built in strict conformity with the Sussex County Zoning Ordinance.
25. The Board found that Ms. Villani submitted a copy of the proposed floor plan of the addition.
26. The Board found that Janet Horgen testified that she was not aware the committee denied her plans.
27. The Board found that Janet Horgen testified that the proposed addition will take up most of the open deck.
28. The Board found that Janet Horgen testified that without the atrium they would lose their view of the Property.
29. The Board found that Janet Horgen testified that the existing laundry room is upstairs.
30. The Board found that Janet Horgen testified that the existing first floor also has a step down great room.
31. The Board found that Janet Horgen testified that the existing dwelling was constructed by someone else in 1992.
32. The Board found that five (5) persons appeared in support of the Application.
33. The Board found that four (4) persons appeared in opposition to the Application.
34. Based on the findings above and the testimony presented at the public hearing and the public record, the Board determined that the Application failed to meet the standards for granting a variance because the exceptional practical difficulty was being created by the Applicants.

The Board denied the variance application finding that it failed to meet the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the Application was denied. The Board Members voting to deny the Application were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. No Member voted against the Motion to Deny the Application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY


Dale Callaway
Chairman

Date February 19, 2013