

PEQUANNOCK TOWNSHIP BOARD OF ADJUSTMENT  
MEMORIALIZING RESOLUTION  
BRIAN AND HELENE KLAASSENS  
9 Cedar Road, Pompton Plains, NJ 07444  
Block 1407, Lot 13

**WHEREAS**, the applicants are the owners of property located at 9 Cedar Road, Pompton Plains, New Jersey, Block 1407, Lot 13 located in the R-11 zone district; and

**WHEREAS**, the applicants propose to install an in-ground swimming pool in a secondary front yard; and

**WHEREAS**, testimony was taken at a public hearing on October 1, 2009, at which time the Board took sworn testimony and both the applicants and the public were afforded the opportunity to be heard and participate in the application and to make comments; and

**WHEREAS**, the Board has reviewed and considered all of the evidence and the testimony at the public hearings from which the Board makes the following factual findings:

1. All proper public notice has been given in accordance with the municipal land use law.
2. The subject property is a flat, generally square corner lot located at the northeast corner of the junction of Cedar Road and Elm Road. The lot is presently improved with a two story frame dwelling facing Cedar Road and a utility shed in the northeast corner of the lot.
3. The applicants propose to install an in-ground swimming pool in the northwest corner of the lot, setback 10' from the west property line and 10' back from the north property line. That location was selected because the septic tank and septic field occupy nearly the entire rear yard making it impossible to install an in-ground swimming pool in a conforming location.
4. The house directly behind the subject property to the north faces Elm Road and is approximately 30' from the common property line between lots 13 and 1, block 1407. The driveway servicing the house on the adjacent lot connects to Elm Road and the floor plan of the house has an office and two bedrooms on the south side of the house.
5. The applicants propose to install a 16' x 30' in-ground, kidney-shaped pool with a shallow end of 4' and a 7' depth at the other end of the pool. The shallow end would be nearest to the septic system.

6. The applicants testified that they have spoken with their adjacent neighbors to the north and those neighbors are in favor of the application. Those neighbors did not appear at the meeting to testify in person.

7. A question was raised about the proximity of the utility shed to the property lines, particularly the east property line. That dimension is not given on the plans submitted and the Board wants to insure that the shed is properly located on the property.

8. The Board also notes that the zoning table on the plan fails to identify this as a corner lot with two front yard setback requirements. The yard adjacent to Elm Road is a secondary front yard thereby requiring a setback of 50'. The existing house is only 32.8' from the Elm Road property line and testimony indicated that it is a preexisting nonconformity.

9. No members of the public appear to testify in connection with this application.

Based upon the above factual findings, the Board has reached the following conclusions:

1. The applicants have sustained their burden under N.J.S.A. 40:55d - 70c(1) (a) that by reason of size and shape of this property and the location of the existing structures, especially the septic system, there is a zoning hardship and the strict enforcement of the setback requirements of the zoning ordinance would impose exceptional practical difficulties to this property.

2. The applicants have also sustained their burden under N.J.S.A. 40:55D-70c(2) in that the benefits of granting the requested variance substantially exceed any detriment which there may be and the Board finds that there is no detriment. The benefits to the public are the enhanced visual environment in the neighborhood and additional ratables to the Township.

3. The requested variance can be granted without substantial detriment to the zone plan, zoning ordinance or the public good.

**NOW THEREFORE BE IT RESOLVED** by the Board of Adjustment of the Township of Pequannock this 5<sup>th</sup> day of November 2009 that it now memorializes, ratifies and adopts the action taken at the public hearing on October 1, 2009 granting the application of Brian and Helene Klaassens to construct an in-ground swimming pool in the secondary front yard of the subject property, subject to the following conditions:

1. All construction shall be in substantial conformity with the plans filed with the application, prepared by Douglas B. Smith, dated September 9, 2008, and most recently revised August 10, 2009.

2. Before any permits are issued pursuant to the relief granted in this resolution, the applicants shall cause the plans to be revised to add reference to the secondary front yard, to show that there is one conforming front yard setback of 51' 6", and a secondary front yard which is a preexisting nonconforming 32.8'.

3. The applicants shall further revise the plans to show the exact location of the shed in the northeast corner of the property from each property line. If the location of the shed does not conform to the required setback, the applicants shall move the shed to a conforming location which shall be shown on the plan.

4. No permits and/or certificate of occupancy shall be issued for the construction permitted by this resolution, unless and until all fees, costs and escrows required in connection with this application have been paid in full.

I hereby certify that the above is a true copy of a resolution adopted by the Board of Adjustment of the Township of Pequannock at its regular meeting on November 5, 2009, by a vote of 7 to 0.

  
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Linda Zacharenko, Secretary