

**RUSH ZONING BOARD OF APPEALS  
PUBLIC HEARING & WORKSHOP  
APPROVED MINUTES  
MAY 11, 2006**

A regular meeting of the Rush Zoning Board of Appeals was held on May 11, 2006 at the Rush Town Hall, 5977 East Henrietta Road, and was called to order at 7:00 P.M.

**BOARD MEMBERS PRESENT:** Mr. Don Van Lare, Chairman  
Mr. David Eddy  
Mr. Dan Taylor  
Mrs. Amber Corbin

**EXCUSED:** Mr. Robert Weiler

**OTHERS PRESENT:** Mrs. Lisa Sluberski, Town Board Liaison  
Mrs. Laura Baranes, Pride Signs  
Mr. Gerald Kusse, Code Enforcement Officer  
Mr. Jason DiPonzio Esq.  
Mr. David Ferries, 692 Rush West Rush Road  
Mr. Werner Wandersleben, 555 Five Points Rd  
Mr. Richard Clark, 666 Rush West Rush Rd

**PUBLIC HEARING:**

**Application 2006-01 Z** by David Ferries for an Area Variance to build a 40' x 50' barn 15 feet from the property line. Proposed structure does not comply with property line set back requirement of 25 feet. Location is at 692 Rush West Rush Road. Property is located in an R-30 Zoning District.

In describing the reasons for building the barn so close to the lot line, Mr. Ferries stated that he was concerned that the barn would be too close to the septic system leach lines and he wanted it farther away from the pool.

Mr. Ferries was asked what a barn of this size would be used for. Mr. Ferries stated that he would be using it for storage. There was a lengthy discussion regarding the size of the proposed structure.

Mr. Van Lare read the comments from:

1. Monroe County Department of Planning & Development, Monroe County Development Review. This Application was referred as a Local matter.

Mr. Richard Clark, residing at 666 Rush West Rush Rd stated his concerns for the size of the barn in relation to the size of Mr. Ferries lot.

The Board Members suggested an alternative size for the barn. Mr. Ferries considered changing the size of the barn to 40' x 40'.

There were no further comments and Mr. Van Lare declared the Public Hearing closed.

**Application 2006-02 Z** by Pride Signs acting as Agent for Richard Dorschel for a Sign Variance for the renewal of the expired permit for the signs on the building located at 7283 West Henrietta Road. Property is located in a Commercial Zoning District.

Mr. DiPonzio provided the Board Members with an outline of the relief requested by Dorschel Automotive. There was a discussion regarding the total square footage of the signs on the building, as well as the previous approvals given to Dorschel Automotive. The hours of operation for the dealership was discussed to determine the appropriate time for the lights for the signs to be turned off.

Mr. Van Lare read the comments from:

1. Monroe County Department of Planning & Development, Monroe County Development Review. This Application was referred as a Local matter.

There were no further comments and Mr. Van Lare declared the Public Hearing closed.

## **WORKSHOP:**

**Application 2006-03 Z** by Werner & Karen Wandersleben for an Area Variance to build a 28' x 32' two car garage 75 feet from the centerline of the road. Proposed structure does not comply with the minimum front setback requirement. Location is a 555 Five Points Road. Property is located in an R-30 Zoning District.

Mr. Wandersleben described the structure he was proposing to build. The location of the garage will be 50 feet between the existing 3 car garage and the proposed 2 car garage. The doors of both garages will face each other with the back of the proposed garage facing the street. The lot is heavily treed and the proposed garage will not be very visible from the street. Mr. Wandersleben will be storing his boat, truck and other personal items in the proposed garage. Mr. Wandersleben's parents live with them so they have 4 vehicles. They would like to keep their property looking good and want to store everything inside. The proposed structure would be built to look similar to their house.

The Public Hearing for this Application will be on June 8, 2006.

Mrs. Corbin has been assigned this Application.

**APPROVAL OF MINUTES:**

The Minutes of April 13, 2006 were reviewed.

Mr. Van Lare made a Motion to approve the Minutes of April 13, 2006 as submitted.

Mr. Eddy seconded the motion and the Board Members polled:

Roll:	Mr. Taylor	aye	
	Mr. Eddy	aye	
	Mr. Van Lare	aye	
	Mrs. Corbin	aye	carried.

**DECISIONS:**

Mr. Eddy made a Motion **WHEREAS**, This Board has examined **Application 2006-01Z** by David K. Ferries of 692 Rush West Rush Road, located in an R30 Zoning District, requesting side and rear setback variances for a barn located on the north-west side of the existing residence, and maps and other materials, which were filed with the application. **WHEREAS**, the application is solely for an area variance, now **BE IT RESOLVED**, that this Board determines that it is a Type II action, which requires no further processing under SEQR. The reason for this determination is that Section 617.5 c (12) of Title 6 of the New York Code of Rules and Regulations, in listing Type II Actions, includes “granting of individual setback and lot line variances”.

Mr. Van Lare seconded the motion and the Board Members polled:

Roll:	Mrs. Corbin	aye	
	Mr. Taylor	aye	
	Mr. Eddy	aye	
	Mr. Van Lare	aye	carried.

**WHEREAS**, **Application 2006-01Z** was submitted by David K. Ferries of 692 Rush West Rush Road, requesting variances from the side and rear setback requirements for structures of at least 25 feet as set forth in the Code of Rush Chapter 120-19 as described in such maps and diagrams submitted with the application, and

**WHEREAS**, a public hearing on this application was scheduled and notice was posted as required by law, and

**WHEREAS**, All persons at the hearing desiring to speak on the matter were heard, all correspondence on the matter was read and those statements were considered by this Board, then,

**BE IT RESOLVED**, that the Application be granted as requested in the plans submitted with the application, with the exception that the dimensions of the structure be 40 feet wide by 40 feet long. The barn as proposed in the plan shall be placed no closer than 15

feet from the northern (side) property line, and also no closer than 15 feet from the western (back) property line with the following conditions:

1. No work is to be commenced on the barn until a Building Permit is obtained from the Town of Rush.
2. The construction of the barn is to be completed within one year of the approval of the application.

The reasons for this action are:

1. There will be no undesirable change in the character of the neighborhood.
2. There is no discernible detriment to the health, safety or welfare of the community or neighborhood that would occur by the granting of this variance.
3. Due to the location of the septic and existing structures, the area selected by the applicant provides the most viable option for the location of the barn.

Mrs. Corbin seconded the motion and the Board Members polled:

Roll:	Mrs. Corbin	aye	
	Mr. Taylor	nay	
	Mr. Eddy	aye	
	Mr. Van Lare	nay	carried.

Chairman Van Lare declared the vote to be 2 to approve and 2 to deny. Since a majority of 3 is required to decide, the Motion is tabled until the Rush Zoning Board of Appeals meeting of June 8, 2006. At that time a discussion and revote will occur.

The Clerk was asked to send a letter to Mr. Ferries informing him of the tie vote for his Application and that the Board Members at the June 8, 2006 meeting would discuss and revote on this matter. Mr. Ferries is required to be present at this meeting.

Mr. Van Lare made a Motion **WHEREAS;** this Board has examined **Application 2006-02 Z** by Pride Signs (Laura Baranes) for Dorschel Automotive at 7283 West Henrietta Road, located in a Commercial Zoning District, requesting a variance from the Rush Zoning Ordinance, Section 120-28 C. (3) (a) and (b) regulating the number and size of signs in a Commercial District, Section 120-28 B. (4) prohibiting roof signs and Section 120-28 A. (3) for a non-complying directional sign. The variance request consist of four (4) signs with a total area of approximately 258.7 square feet as explained in the maps, diagrams and other materials which were filed with the Application, and **WHEREAS;** the Application is in accordance with Rush Zoning Ordinance Section 120-33, now therefore, **BE IT RESOLVED,** that this Board determines that this is an unlisted Type II Action which requires no further processing under SEQR. The reason for this determination is that Section 617.5 (b) (1) and (2) of Title 6 of the New York Code of Rules and

Regulations, in listing Type II Actions, includes those that have no significant impact on the environment and also are not listed as Type I Actions.

Mr. Taylor seconded the motion and the Board Members polled:

Roll:	Mrs. Corbin	aye	
	Mr. Taylor	aye	
	Mr. Eddy	aye	
	Mr. Van Lare	aye	carried.

**WHEREAS, Application 2006-02 Z** was submitted by Pride Signs for Dorschel Automotive, requesting a renewal of the signs on the premises at 7283 West Henrietta Road, as described in the Application and other materials submitted with the Application, and **WHEREAS**, a Public Hearing on this Application was scheduled and notice was posted as required by law, and

**WHEREAS**, all persons at the Public Hearing desiring to speak on the matter were heard, all correspondence received on this matter was read and these statements were considered by this Board. Then

**BE IT RESOLVED**, that the Application be approved for (1) a roof sign on the north side of the building (2) two wall signs on the east and west sides and (3) a directional sign, on the east side, in excess of the of the size and height requirement. The total signage exceeds the maximum permitted by two signs in number and about 132 square feet in area.

This application was granted with the following conditions:

1. The signs may be illuminated during normal business hours, but in no event, later than eleven (11) PM local time.
2. This variance is for a period of five (5) years.
3. No additional signs nor any increase in the existing signage is permitted.
4. Sign Permits are to be obtained from the Town of Rush Building Inspector/ Code Enforcement Officer within sixty (60) days of the approval of this application, with the exception of the directional sign which is deemed qualified under Section 120-28 (A) (3) of the Code of the Town of Rush.

The reasons for this action are:

1. Three of the signs; the illuminated roof sign on the north, now measuring 98.2 square feet and the two illuminated signs on the east and west sides of the building, each measuring 80.2 square feet were previously approved by a variance granted by the ZBA on October 1, 1998.
2. The illuminated directional sign, identifying a service area, was originally believed to be exempt under Section 120-28 A. (3).
3. No adverse comments have been received by this Board or by the Rush Code Enforcement Officer regarding the signs as they were originally installed.

4. The Applicant's location is at the intersection of two state highways near a federal interstate highway.
5. If both frontages of this facility were considered in calculating the maximum signage permitted, it would almost equal the square footage of the signs currently present.

Mr. Taylor seconded the motion and the Board Members polled:

Roll:	Mrs. Corbin	aye	
	Mr. Taylor	aye	
	Mr. Eddy	aye	
	Mr. Van Lare	aye	carried.

There were no further discussions and the Meeting was adjourned at 8:45 P.M.

Respectfully submitted,

Darlene Pilarski  
Deputy Town Clerk