

**RUSH ZONING BOARD OF APPEALS
PUBLIC HEARING & WORKSHOP
UNAPPROVED MINUTES
OCTOBER 13, 2005**

A regular meeting of the Rush Zoning Board of Appeals was held on October 13, 2005 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. Robert Weiler
Mr. David Eddy
Mr. Dan Taylor
Mrs. Amber Corbin

OTHERS PRESENT: Gerald Kusse, Code Enforcement Officer.
Neil Hall, 1787 Rush Henrietta Townline Rd.
Susan Syer, 1787 Rush Henrietta Townline Rd.
Richard Hartlieb, 65 Scofield Rd.
Mr. & Mrs. David Manning, 399 Jeffords Rd.
Harold Manning, 399 Jeffords Rd.
Bill Riepe
Kristan Udicious, 15 Harvest Lane
Laura Barnes, Pride Signs, 2340 Br. Hen TL Rd
Rob MacFarlane, Pride Signs
Tom Magill, Sickles Corp.
Scott Pundt, Dorschel Automotive
David Barth, 6600 Rush Lima Rd

PUBLIC HEARING:

Application 2005-04 Z by Richard Hartlieb for an Area Variance to build a 24'x 24' pole barn garage 18' from the property line. Proposed structure does not comply with property line set back requirement of 25 feet. Location is at 65 Scofield Road. Property is located in an R-30 Zoning District.

Mr. Hartlieb stated that he had changed the location of the proposed garage, he is asking for a 2 foot variance. The Board Members discussed the new position of the garage.

Mr. Van Lare read the letter/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 hearing closed.

Application 2005-05 Z by Neil Hall for an Area Variance to build a 3 car garage and a front porch onto the existing house. Location of the proposed structures does not comply with the front set back requirement of 110 feet. Location is at 1787 Rush Henrietta Townline Road. Property is located in an R-30 Zoning District.

Mr. Hall & Ms. Syer provided the Board Members with a drawing showing all of the measurements for the proposed garage and porch. The Board Members discussed the Application.

Mr. Van Lare read the letter/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 hearing closed.

Application 2005-06 Z by Harold & David Manning acting as agent for John Pfluke for an Area Variance to create a building lot with the road frontage width of 110 feet. The proposed lot width does not comply with the Zoning Ordinance requirement of 150 feet. Property is located on Pinnacle Road, south of the intersection of Jeffords Road. Property is located in an R-30 Zoning District.

The Board Members discussed the proposed lot width, stating that the house to be built will be approximately 300 feet from the existing house on Pinnacle Road. The lot is heavily wooded and will remain this way after the Subdivision.

Mr. Van Lare read the letter/comments from:

1. Monroe County Department of Planning & Development, Monroe County Development Review.

The Board Members discussed the above comments.

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

WORKSHOP:

Application 2005-07 Z by Pride Signs acting as Agent for Richard Dorschel for a Sign Variance to construct a 10'x12'x 25' high internally illuminated double-pole pylon sign and message center. Property is located at 7283 West Henrietta Road. Property is located in a Commercial Zoning District.

There were discussions regarding the location of the proposed sign as well as the required square footage of signs to be allowed for the parcel.

The Board Members have scheduled another Workshop for November 10, 2005 to review and discuss the expired signs as well as the proposed sign.

Application 2005-08 Z by K. Donald Fosnaught for a Fence Variance to construct a 5' high x 180' long, wooden stockade fence along the west property line. A portion of the fence will be forward of the rear foundation line. Property is located at 2123 Rush Mendon Road. Property is located in an R-30 Zoning District.

Mr. Fosnaught stated that he would like the fence for privacy. He would like the finished side of the fence to face his property.

The Board Members discussed the Application.

The Public Hearing for this Application will be held on November 10, 2005.

INFORMAL DISCUSSION:

Mr. Tom Magill / Sickles Corp. Height of home to be built on Boulder Creek Drive is to be 45 feet, which will exceed the requirement of 35 feet.

The Board Members and Mr. Magill discussed the proposal as well as the response time for fire apparatus to respond to the house in case of a fire. Mr. Van Lare asked if a sprinkler system was being considered for the house, Mr. Magill stated that there was not. Mr. Van Lare asked for comments from the Fire Marshall regarding this request. Upon receiving the comments from the Fire Marshall as well as the submittal of a Variance Application, the Zoning Board will consider the request.

APPROVAL OF MINUTES:

The Minutes of September 8, 2005 were reviewed.

Mr. Van Lare made a Motion to approve the Minutes of September 8, 2005 as submitted. Mr. Weiler seconded the Motion and the Board Members were all in agreement.

DECISIONS:

Mrs. Corbin made a Motion **WHEREAS**; this Board has examined **Application 2005-4Z**, submitted by Richard Hartlieb of 65 Scofield Road, located in a R-30 District, requesting a side setback variance for a proposed 24' x 24' pole barn/garage located on the West side of the property, and the maps, and diagrams and other materials were submitted with the application. **WHEREAS**, the application is solely for an Area Variance, now **BE IT RESOLVED** that this Board determines that this is a Type II SEQR Action which requires no further processing under SEQR. The reason for this determination is that Section 617.5c (12) of Title 6 of the New York Code of Rules and

Regulations, in listing Type II Actions, includes “granting of individual setbacks and lot line variances.”

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

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

WHEREAS, Application 2005-4Z was submitted by Richard Hartlieb of 65 Scofield Road, requesting a variance from a side setback requirement for structures of at least twenty-five (25) feet as set forth in the Code of Rush, Chapter 120-19, as described in the 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 was read and those statements were considered by this Board, then

BE IT RESOLVED, that Application 2005-4Z be granted subject to the following conditions:

1. The southwest corner of the pole barn/garage, as proposed in the plan, shall be placed no closer than 23 feet from the southwest property line.
2. No work is to be commenced until a Building Permit is obtained from the Town of Rush.
3. The construction of this addition is to be completed within one year of the approval of this application.

The reasons for this action are:

1. Approval of this application will allow the proposed structure to be located parallel with the existing residence.
2. There will be no undesirable change in the character of the neighborhood
3. 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.

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

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

Mr. Eddy made a Motion **WHEREAS**, This Board has examined **Application 2005-05Z** by Neil J. Hall of 1787 Rush-Henrietta Town Line Road, located in an R30 district, requesting a front setback variance for a garage located on the east 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. Weiler	aye	
	Mr. Van Lare	aye	carried.

WHEREAS, **Application 2005-05Z** was submitted by Neil J. Hall of 1787 Rush-Henrietta Town Line Road, requesting a variance from the front setback requirement for structures of at least 110 feet as set forth in the Code of Rush Chapter 120-18 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. The garage as proposed in the plan shall be placed no closer than 98 feet to the centerline of Rush-Henrietta Town Line Road and no closer than 74 feet to the centerline of East Henrietta Road with the following conditions:

1. No work is to be commenced on the garage until a Building Permit is obtained from the Town of Rush.
2. The construction of the garage 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 existing structure and mature trees, the area selected by the applicant provides the most viable option for the location of the garage.

WHEREAS, Application 2005-05Z was submitted by Neil J. Hall of 1787 Rush-Henrietta Town Line Road, requesting a variance from the front setback requirement for structures of at least 110 feet as set forth in the Code of Rush Chapter 120-18 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. The porch as proposed in the plan shall be placed no closer than 104 feet to the centerline of Rush-Henrietta Town Line Road with the following conditions:

1. No work is to be commenced on the porch until a Building Permit is obtained from the Town of Rush.
2. The construction of the porch 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.

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

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

Mr. Weiler made a Motion **WHEREAS,** This Board has examined **Application 2005-06Z** by Harold and David Manning of 2471 Pinnacle Rd., located in an R-30 district, requesting a lot width variance for Lot 3 of a sub division located on Pinnacle road adjacent to their 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 617.5c(12) of Title 6 of the New York Code of Rules and Regulation, in listing Type II Actions, includes all variances for relief from 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. Weiler	aye	
	Mr. Van Lare	aye	carried.

WHEREAS, Application 2005-06Z was submitted by Harold and David Manning for property noted as Lot 3 of a subdivision on Pinnacle Rd., adjacent to their residence at 2471 Pinnacle Rd. Rd., requesting a variance from a minimum lot width requirement of 150 feet as set forth in the Code of Rush Chapter 120-17 as described in such map 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 statements were considered by this Board, then,

BE IT RESOLVED, that the Application be granted as requested in the plans submitted with the application. The width of Lot #3 in the noted subdivision as proposed in the plan shall be no less than 102 feet.

The reasons for this action are:

1. The lot in question is heavily treed restricting the views from the proposed residence on lot 3 to other residences in the subdivision and adjacent existing homes. This mitigates the most undesirable characteristic of flag lots and it is recommended these trees be maintained as much as possible during construction.
2. The variance requested is minimal and appears to be the least objectionable of the alternatives for the proposed Sub Division.
3. There will be no undesirable change in the character of the neighborhood.
4. 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.

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

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

APPLICATION ASSIGNMENT:

Mr. Taylor has assigned **Application 2005-08 Z** by K. Donald Fosnaught.

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Mrs. Corbin stated that she would not be able to attend the November 10, 2005 meeting.

There were no further discussions and the Meeting was adjourned at 8:20 P.M.

Respectfully submitted,

Darlene Pilarski
Deputy Town Clerk