

**RUSH ZONING BOARD OF APPEALS  
PUBLIC HEARING & WORKSHOP  
APPROVED MINUTES  
NOVEMBER 9, 2006**

A regular meeting of the Rush Zoning Board of Appeals was held on November 9, 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  
Mrs. Amber Corbin  
Mr. Robert Weiler  
Mr. Dan Taylor

**OTHERS PRESENT:** Mrs. Lisa Sluberski, Town Board Liaison  
Mr. Gerald Kusse, Code Enforcement Officer  
Mr. & Mrs. Rick Fornataro, 2580 Pinnacle Rd  
Mr. Kristopher Vurrano, Woods Oviatt Gillman  
Ms. Gretchen Vona  
Ms. Christine Heisinger  
Brittany Duncan  
Mr. Rich Repka, 50 Lyons Rd  
Danielle Sacheli  
Darnell Grantt  
Mr. Rick Wells, 889 Rush Henrietta TL Rd  
Mrs. Pamela Wait, 431 Five Points Rd  
Mr. Edward Richard, 2584 Pinnacle Rd  
Ms. Corinne Campanella, 2584 Pinnacle Rd

**PUBLIC HEARING:**

**Application 2006-08 Z** by Edward Richard for an Area Variance to park a boat in front of the main structure. The proposed placement does not comply with § 120-57 G of the Code of the Town of Rush. Location is at 2584 Pinnacle Road. Property is located in an R-30 Zoning District.

Mr. Richard stated that the boat was in the driveway because of the steep hill in the rear and he can't park the boat there.

Mr. Van Lare read a list of previous violations to move the boat or obtain a Variance. This order was not followed thru in a timely manner.

Mr. Fornataro stated that he felt that Mr. Richard was flaunting the Town of Rush regulations because he had received numerous violations from the Code Enforcement Officer in the past. Mr. Fornataro felt that Mr. Richard had no respect for the Town and he should not be allowed to continue with the violations. Mr. Fornataro submitted a letter

to the Board Members containing the history of violations occurring on Mr. Richard's property.

Mr. Van Lare read a letter of support with signatures from the following residents:

1. Mr. Todd McRae residing at 2 Pheasant Run.
2. Mr. Rich Repka residing at 50 Lyons Rd.
3. Mr. Gary Diana residing at 40 Lyons Rd
4. Mr. Howard Klick residing at 2590 Pinnacle Rd.
5. Mr. Allan Raymond residing at 60 Lyon Rd.

Mr. Kusse stated that in the past he had visited the Applicant's property and had sent numerous letters regarding the existing violations.

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

### **WORKSHOP:**

**Application 2006-09 Z** by Rick Wells for an Area Variance to build an addition onto an existing garage. The proposed addition does not comply with the property line set back requirements. Location is at 889 Rush Henrietta Townline Road. Property is located in an R-30 Zoning District.

Mr. Wells stated that he would need a side setback variance of 3 feet and a front set back variance of 10 feet to add onto an existing garage that was built in 1978. The proposed garage will be one level and will be used for auto storage.

The Public Hearing for this Application will be on December 14, 2006.

**Application 2006-10 Z** by Pride Signs acting as Agent for Mr. Richard Dorschel for a Sign Variance to construct a 11'x10'x 21' high internally illuminated double-pole pylon sign and message center. The proposed sign exceeds the total square footage allowed by Commercial Zoning. Property is located at 7283 West Henrietta Road. Property is located in a Commercial Zoning District.

**PRIDE SIGNS AGENT FOR MR. DORSCHER DID NOT APPEAR AT THIS WORKSHOP. THEY WILL APPEAR ON DECEMBER 14, 2006**

Mr. Van Lare stated that he had sent information to the Applicant indicating that the Application that has been submitted was first proposed in 2005 as Application 2005-07 Z and at that time, the Application was denied because the existing signs were already at the maximum number of signs allowed and consisted of more square footage than allowed by the Town Code. A Variance had previously been granted for this.

**Application 2006-11 Z** by Pamela Wait for a Fence Variance to electrically charge a fence used for animal retention. Property is located at 431 Five Points Road. Property is located in an R-30 Zoning District.

Mr. Van Lare read a letter of support from Mr. Anthony Mugnolo the adjacent property owner residing at 445 Five Points Road.

Mr. Van Lare stated that the fence would be electric and he felt that a setback placement of the fence would be required in the event that in the future, houses would be built on the adjacent property. Ms. Wait stated that the bottom wire would be 1 foot off the ground and between 12 and 18 inches between next 3 strands of wire. The electric fence will be used to keep deer out of pasture and to prevent the spread of disease. This being part of Ms. Wait's comprehensive plan to control the deer.

Mr. Taylor suggested calling Cornell University for guidance. Ms. Wait stated that she had contacted them for information.

The Board Members discussed the set back placement for the electric fence. The Board Members felt that five (5) feet would be an appropriate distance from the wooden fence. The Board Members compromised on a distance of four (4) feet giving Ms. Wait enough room to mow the grass and still remain on her property. Ms. Wait was asked to post a warning sign on the electric fence.

Mr. Eddy asked Ms. Wait if the fence would be turned on 24 hours a day, 7 days a week. Ms. Wait stated that the fence would only be turned on at night.

The Public Hearing for this Application will be on December 14, 2006.

**Application 2006-12 Z** by Kenneth & Judy Livingston for an Area Variance for an existing enclosed porch. Structure does not comply with the property line side set back requirement. Location is at 119 Thunderidge Drive. Property is located in an R-30 Zoning District.

Mr. Vurrano stated that his clients were requesting a two (2) foot Variance for their preexisting enclosed porch. Mr. & Mrs. Livingston wanted to make sure that they had no violations in the event that they wished to sell their home.

The Public Hearing for this Application will be on December 14, 2006.

#### **APPROVAL OF MINUTES:**

The Minutes of October 12, 2006 were reviewed.

Mr. Van Lare made a Motion to approve the Minutes of October 12, 2006 as submitted.

Mr. Weiler 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.

**DECISION:**

Mr. Van Lare stated that this issue had gone on far too long. He felt that he couldn't grant the variance with the information submitted.

Mr. Weiler stated that they would be setting a precedent for granting a variance of this type when the Applicant had enough land to store his boat on.

Mrs. Corbin stated that the problem was self created.

Mr. Eddy made a Motion **WHEREAS**, this Board has examined **Application 2006-08Z** by Edward Richard requesting an Area Variance for property at 2584 Pinnacle Rd, Rush, New York, located in an R-30 District, requesting relief from Section 120-57G. to park boats and boat trailers forward of the main structure and within space between the property lines and the required front and side setback lines, as described in such maps 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 were read and those statements were considered by this Board, then

**BE IT RESOLVED**, that the Application is denied for the following reasons:

- 1) Records submitted by the Town of Rush Code Enforcement Officer reflect a history of conditions detrimental to the past and present residents of the adjoining property. Those conditions were the direct result of the Applicants boat being parked in their shared driveway. The potential of the continued detriment to the nearby properties and its negative impact on the neighborhood environment caused by the granting of the requested relief outweighs the benefit to the applicants.
- 2) The benefit sought by the Applicant could be achieved by other methods typical for storing boats, such as the use of commercial storage or barn locations.
- 3) There is no evidence of practical difficulty or unnecessary hardship. Strict compliance with the Zoning Ordinance would not unreasonably prevent the applicants from the use and enjoyment of their boat.
- 4) The problem is self-created.

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

Roll: Mrs. Corbin                 aye  
      Mr. Taylor                 aye  
      Mr. Weiler                 aye  
      Mr. Eddy                   aye

Mr. Van Lare                      aye        carried.

**APPLICATION ASSIGNMENTS:**

Mrs. Corbin has been assigned **Application 2006-09 Z** by Rick Wells.

Mr. Van Lare has been assigned **Application 2006-10 Z** by Pride Signs acting as Agent for Mr. Richard Dorschel.

Mr. Taylor has been assigned **Application 2006-11 Z** by Pamela Wait.

Mr. Weiler has been assigned **Application 2006-12 Z** by Kenneth & Judy Livingston.

There were no further discussions and the Meeting was adjourned at 7:40 P.M.

Respectfully submitted,

Linda G. Henry  
Town Clerk

Darlene M. Pilarski  
Deputy Town Clerk