

**RUSH ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES OF FEBRUARY 14, 2008**

A regular meeting of the Rush Zoning Board of Appeals was held on February 14, 2008 at the Rush Town Hall, 5977 East Henrietta Road, and was called to order at 7:00 PM.

**BOARD MEMBERS PRESENT:** Mr. Don Van Lare, Chairman  
Mr. Robert Weiler  
Mrs. Amber Corbin

**ABSENT:** Mr. Dan Taylor

**OTHERS PRESENT:** Mr. Chris Martin, Corneles Engineering  
Mr. James Naugle, 1739 Middle Road  
Ms. Phyllis Gerringer, 1758 Middle Road  
Mr. and Mrs. David Slayton, 1658 Middle Road  
Mr. Donald Eichenauer, 35 Sylvan Knoll  
Mr. John Stanton, 2 Sylvan Knoll  
Mr. Patrick Coleman, 36 Sylvan Knoll

**PUBLIC HEARING:**

**Application 2007-09Z** by Chris Martin P.E. acting as Agent for Al DiMaria Properties LLC for an Area Variance for the lot width of a proposed driveway. The Proposal does not comply with the requirements specified in the Code of the Town of Rush. Property is located on the west side of Middle Road, south of Sylvan Knoll. Property is lot #3 and is located in an R-30 Zoning District.

Chris Martin gave a presentation showing the proposed subdivision and the area variance needed for the driveway on lot #3. Mr. Van Lare commented on the response from the Monroe County Department of Planning and Development regarding their concern for the location of the New York State Freshwater Wetland RU-9 and the 100 foot adjacent area. Mr. Chris Martin showed on his site map that the development will not encroach on the Wetland and Buffer area. Mr. Chris Martin also answered questions from the residents pertaining to their concerns on home size, utilities, and water drainage.

Mr. Van Lare enters correspondence into the record:

1. The Response from The Monroe County Department of Planning and Development, dated February 14, 2008 stating a concern for the New York State Freshwater Wetland RU-9 and the 100 foot adjacent area, and that Lot #3 will not interfere with the Wetland.
2. A letter from Robert Faugh, Rush Fire Commissioner Chairman, dated January 23, 2008 stating that after a review of application 2007-09Z the Fire District has two concerns regarding the 1100 foot driveways. First, there are no fire hydrants in close proximity. The district recommends installing a new hydrant close to the requested driveways. Second, the district recommends

that the Fire Marshall review the plan and that the driveways comply with current standards. Finally it is recommended that DiMaria properties consider equipping the properties with residential sprinkler systems.

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

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

The Minutes of January 10, 2008 were reviewed.

Mr. Van Lare made a Motion to approve the Minutes of January 10, 2008

Mr. Weiler seconded the motion and the board members polled:

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

#### **DECISIONS:**

Mr. Van Lare made a Motion **WHEREAS;** this Board has examined **Application 2007-09Z** by Al DiMaria of Al DiMaria Properties on Middle Road (202.03-1-8), which is located in an R-30 District, requesting a width variance at the setback on lot #3, and the 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. Weiler seconded the motion and the Board Members polled:

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

**WHEREAS, Application 2007-09Z** was submitted by Al DiMaria of Al DiMaria Properties requesting a variance from the minimum lot width requirement as set forth in the Rush Town Code Chapter 120-17.A 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. lot #3 as proposed in the application, shall have a width at the setback of 138.97 feet (or a variance of 11.03 feet) with the following conditions:

1. No work is to be commenced on the parcel until the applicant is granted site plan approval by the Rush Planning Board and a Building Permit is obtained from the Town of Rush.
2. The concerns of the Rush Fire Commissioners are resolved prior to the start of construction.
3. The construction of the structure is to be completed within one year of the Rush Planning Board's site plan approval of the application.

The reasons for this action are:

1. The area of the proposed variance is in neither the New York State Freshwater Wetland nor the 100 foot adjacent area.
2. Lot #3 is over 13 acres. The size of this parcel more than offsets the small width variance granted.
3. The development of this parcel into three large lots appears to be more satisfactory to the neighbors than previously announced more extensive plans.
4. There will be no undesirable change in the character of the neighborhood.
5. There is no discernable detriment to the health or safety or welfare of the community or neighborhood that would occur by the granting of this variance.

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

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

Don Van Lare will not be able to attend the March 13<sup>th</sup> Zoning Board meeting. Mr. Robert Weiler will act as Chair.

There were no further discussions and the meeting was adjourned at 7:50 PM.

Respectfully submitted,

**Meribeth Palmer**

Meribeth Palmer  
Zoning Board Clerk