

**RUSH ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES OF JUNE 12, 2008**

A regular meeting of the Rush Zoning Board of Appeals was held on June 12, 2008 at the Rush Town Hall, 5977 East Henrietta Road, and was called to order at 7:00 PM.

BOARD MEMBERS PRESENT: Don Van Lare, Chairman
Robert Weiler
Dan Taylor
Amber Corbin
Kelly Pruden

OTHERS PRESENT: Gerry Kusse, Code Enforcement Officer
Lisa Sluberski, Town Board Liaison
Peter Wierzba, Resident
Michael Eaton, Resident
Keith Nehrke, Resident

PUBLIC HEARING:

Application 2008-01 Z by Peter and Denise Wierzba for an Area Variance to install an aboveground swimming pool 10 feet from the property line. The proposed location does not comply with the required setback in an R-30 Zoning District. Property is located at 1743 Rush Scottsville Road.

The applicant stated reasons for the proposed location of the pool. The applicant also explained that the back of the lot is very wet and is on a downward slope. Correspondence from neighbor James Galbally was read, stating that he has no issues with the placement of the proposed swimming pool.

Application 2008-01 Z was referred to as a Local Matter by Monroe County Department of Planning & Development, Monroe County Development Review.

There was no further discussion and the hearing was closed.

INFORMAL DISCUSSION:

Application 2008-02 Z by Keith Nehrke and Krystal Huxlin for an Area Variance to park a boat on the west side of the house. The proposed location does not comply with §120-57 G of the Code of the Town of Rush. Property is located at 1514 Rush Scottsville Road. Property is in an R-30 Zoning District.

Mr. Nehrke stated that the boat is located in the back area of the house, just not within the side and rear setback requirements. He also stated that the back portion of his yard slopes and the only flat area is in the back, on the west side, very close to the neighboring property. This area is screened by trees on three

sides which would conceal the boat. A Zoning Board member will be arranging a time to view the location. There was no further discussion regarding this application.

The Public Hearing for this Application will be scheduled for July 10, 2008.

Application 2008-03 Z by Michael Eaton for an Area Variance for an existing deck and ramp. The location of the deck and ramp do not comply with the required setback in an R-30 Zoning District. The property is located at 15 Aprille Lane.

In 2005 a permit was issued to Michael Eaton for building a deck and ramp. The permit was approved, however, the resident stated he was unaware of his duty to call for a final inspection when the deck was complete. Upon expiration of the permit, a letter was sent to Michael Eaton stating the permit had expired and could be renewed. When Code Enforcement Officer Kusse was called for a final inspection, it was then discovered that the deck was not within the required setback. Mr. Eaton and the Board also discussed the fence and other structures on the property. A Zoning Board member will investigate and measure the location. Mr. Kusse also stated that the Town has no authority over playground equipment and related items placed on residential property. Mr. Kusse and the Zoning Board discussed the inspection process and the various time frames involved. There was no further discussion regarding this application.

The Public Hearing for this application will be scheduled for August 14, 2008.

Further discussion continued regarding the Zoning Code for recreational vehicles along with setback clarification.

DECISIONS:

Dan Taylor made a Motion **WHEREAS**, this Board has examined **Application 2008-01 Z** by Peter D. Wierzba and Denise P. Wierzba of 1743 Rush-Scottsville Road, located in an R-30 district, requesting a side setback variance for a 24q diameter above ground swimming pool in the back yard of their 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.

Don Van Lare seconded the motion and the Board Members polled:

Roll:	Kelly Pruden	aye	
	Amber Corbin	aye	
	Dan Taylor	aye	
	Robert Weiler	aye	
	Don Van Lare	aye	carried.

WHEREAS, Application 2008-01 Z was submitted by Peter D. Wierzba and Denise P. Wierzba of 1743 Rush-Scottsville Road requesting a variance from a side setback requirement for structures of twenty five (25) feet as set forth in the Code of Rush, Chapter 120-19, 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 pool will require a side setback variance of fourteen (14) feet.

The following conditions apply:

1. No work is to commence until a building permit is obtained from the Town of Rush.
2. The electric service line running overhead in the vicinity of the pool must be removed.
3. The installation of the pool is to be completed within one year of the approval of this application.

The reasons for this action are:

1. The location of the swimming pool is secluded with no visible neighbors.
2. There will be no undesirable change in the character of the neighborhood.
3. There is no discernable detriment to the health, safety or welfare of the community or neighborhood resulting from granting the variance.

Don Van Lare seconded the motion and the Board Members polled:

Roll:	Kelly Pruden	aye	
	Amber Corbin	aye	
	Dan Taylor	aye	
	Robert Weiler	aye	
	Don Van Lare	aye	carried.

APPROVAL OF MINUTES:

The Minutes of May 8, 2008 were reviewed.

Don Van Lare made a Motion to approve the Minutes of May 8, 2008 as submitted.

Robert Weiler seconded the motion and the Board Members polled:
Roll:

Kelly Pruden	aye	
Amber Corbin	aye	
Dan Taylor	aye	
Robert Weiler	aye	
Don Van Lare	aye	carried.

APPLICATION ASSIGNMENTS:

Amber Corbin and Kelly Pruden have been assigned **Application 2008-02 Z** by Keith Nehrke and Krystal Huxlin.

Robert Weiler has been assigned **Application 2008-03 Z** by Michael and Heather Eaton.

There were no further discussions and the Meeting was adjourned at 8:17 P.M.

Respectfully submitted,

Meribeth Palmer
Zoning Board Clerk