

**RUSH ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES OF MARCH 12, 2009**

A regular meeting of the Rush Zoning Board of Appeals was held on March 12, 2009 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
Amber Corbin
Kelly Pruden
Al Simon

OTHERS PRESENT: Frank Pavia, Attorney for the Town
Gerry Kusse, Code Enforcement Officer
Lisa Sluberski, Town Board Liaison
James Sickles

WORKSHOP:

Mr. Sickles appeared to request a use variance. He stated that he purchased property at 6115 Rush Lima Road for utility easement purposes with the intention of selling it after the utilities are installed. He also stated that he was not aware of the current zoning at the time he purchased the property. Mr. Sickles currently has a lease agreement with an individual who has rented the house as office space for a masonry business. The Zoning Board explained that the house and property is pre-existing and non-conforming. However, the use of the property as a residence has lapsed for more than a year. Variances will now be required in order for the house and property to be used in compliance with the Rush Town Code. The Zoning Board also stated that Mr. Sickles must provide an accurate map with dimensions of the property, the width at setback, the setback of the house at centerline, and the two side dimensions. The Zoning Board also mentioned that Mr. Sickles's use variance application must show substantial monetary loss or financial difficulties in order to justify the use. If Mr. Sickles wishes to consider rezoning the property, again he will need to provide proof of substantial monetary loss or financial difficulties. Frank Pavia, Town Attorney conveyed that it will be very difficult for Mr. Sickles to show these difficulties especially since he has already leased the property to a commercial business for approximately 6 months. A use variance is given to the applicant/owner, not to the property. If the property is sold, the use variance becomes null and void. If a use variance is given to Mr. Sickles for his tenant to be able to live there, the tenant will not be able to operate his business from that location.

EXECUTIVE SESSION:

A motion was made by Don Van Lare and agreed by common consent to adjourn to executive session at 7:50 PM to discuss a town legal matter.

On the motion of Don Van Lare, the meeting was returned to regular session at 8:15 PM.

INFORMAL:

Welcome to new Zoning Board member Al Simon.

The Zoning Board further discussed Mr. Sickles's application and the history behind the rezoning of the parcel located at 6115 Rush Lima Road.

Lisa Sluberski attended the Association of Towns conference in New York City. She obtained and shared information with the Zoning Board on training, training tools and the New York Planning and Zoning Conference scheduled for this September.

The Zoning Board discussed the petition and letter submitted to the Town Board requesting to change town code 120-57G.

Don Van Lare made a motion to recommend that Town Code 120-57G remain as written.

Roll:	Robert Weiler	aye	
	Amber Corbin	aye	
	Kelly Pruden	aye	
	Al Simon	aye	
	Don Van Lare	aye	carried.

APPROVAL OF MINUTES:

The Minutes of February 12, 2009 were reviewed.

Robert Weiler made a motion to approve the Minutes of February 12, 2009 as submitted.

Kelly Pruden seconded the motion and the Board Members polled.

Roll:	Robert Weiler	aye	
	Amber Corbin	aye	
	Kelly Pruden	aye	
	Al Simon	abstained	
	Don Van Lare	aye	carried.

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With no further business, a motion was made by Don Van Lare and agreed by common consent that the meeting be adjourned at 8:35 PM.

Respectfully Submitted,

Meribeth Palmer
Deputy Town Clerk