

**RUSH ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES OF AUGUST 13, 2009**

A regular meeting of the Rush Zoning Board of Appeals was held on August 13, 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
Al Simon
Amber Corbin
Frank Pavia, Attorney for the Town
Meribeth Palmer, Deputy Town Clerk

EXCUSED: Kelly Pruden

OTHERS PRESENT: Gerry Kusse, Code Enforcement Officer
Lisa Sluberski, Town Board Liaison
Robert Hayes, Resident
Steve Dzina, Resident
Beverly Smith, Resident
James Sickles, Property owner

PUBLIC HEARING:

Application 2009-03Z by Steve and Hilary Dzina requesting a height variance for an existing fence on the property located at 6278 Rush Lima Road. The fence does not comply with §58-6 of the Rush Town Code. Property is located in an R-30 zoning district.

The Zoning Board received review comments from the Monroe County Department of Planning and Zoning stating that the existing fence is within the state right-of-way and must be removed. A Highway Work Permit is required for all work proposed in the right-of-way including the removal of the fence. Mr. Dzina stated that he will contact the New York State Department of Transportation (NYSDOT) for details.

Resident Beverly Smith stated for the record that she is very happy with the fence.

Don Van Lare entered into the record a letter from the owners of 6268 and 6263 Rush Lima Road stating that they have no objection to the existing fence.

The Zoning Board will keep the hearing open.

Application 2009-05Z by Robert and Janice Hayes of 75 Thunder Ridge Drive requesting an area variance to park a motor home forward of the rear foundation line. The proposed location does not comply with §120-57 G of the Rush Town Code. Property is in an R-30 Zoning District.

Mr. Hayes restated that the vehicle is a motor home and is his home for 6 months out of the year. He stated that he chooses not to store the motor home for accessibility reasons and insurance coverage issues. Mr. Hayes stated that the landscape of his lot does not allow him to park the motor home to the rear of the dwelling.

Mr. Hayes stated that the way the ordinance is worded it does not apply to self propelled motor vehicles. Town Attorney, Frank Pavia discussed the interpretation of the ordinance and the discretion and authority under the law that the Zoning Board has to interpret the ordinance.

Don Van Lare declared the hearing closed and stated that the Zoning Board has up to 62 days to make a decision regarding the application.

WORKSHOP:

Application 2009-01Z by James Sickles requesting a residential use variance for the property located at 6115 Rush Lima Road. As set forth in the Rush Town Code, residential use is not permitted in a commercial zone.

Application 2009-04Z by James Sickles requesting three area variances for the property at 6115 Rush Lima Road. The property width at setback, the minimum structure set back from center line and the side set back of the structure does not comply with either the Commercial or the R-20 zoning district requirements as set forth in the Rush Town Code.

Mr. Sickles has revised his application to reflect the financial difficulty of renting this dwelling as a commercial space. It was also noted that the size of the lot would make parking very difficult for a commercial enterprise. In addition the request would ultimately not alter the character of the existing neighborhood. The dwelling is currently suitable to accommodate single family use.

The Zoning Board wants to make sure that this is going to be an appropriate use for this parcel. It was also noted that if Mr. Sickles is granted a use variance and sells the property, the use variance becomes null and void, returning it to a commercially zoned parcel.

INFORMAL:

Lisa Sluberski, Town Board liaison confirmed that the Public Hearing for the Sign Ordinance will be held on Wednesday, September 9, 2009 at 7:15 PM at the Rush Town Hall. The Public Hearing for the Planned Unit Development will be held

Wednesday, October 14, 2009, 7:15PM at the Rush Town Hall. The Zoning Board also discussed the zoning ordinance §120-57G regarding the outdoor storage of recreational vehicles.

The Zoning Board will wait for the NYSDOT to reach a final conclusion with Mr. Dzina regarding the portion of the fence to be removed. If Mr. Dzina removes or reinstalls any portion of the fence, Mr. Dzina will be required to obtain a new permit. He will also be required to install the fence with the finished side facing outward. If the state allows the side portion of the fence to remain, Mr. Dzina will need to submit revise his variance application as the fence will need a location variance as well as a height variance to comply with Rush Town code §58-6 and §58-7.

Application 2009-05Z by Robert and Janice Hayes will be added to the September agenda for further discussion and a formal motion.

Application 2009-06Z by Wildwood Country Club requesting a sign variance will be added as a workshop to the September Zoning Board agenda.

Deputy Town Clerk Palmer will contact Mr. Clark of Wildwood Country Club.

The Zoning Board also discussed the proposed sign ordinance and the changes to some of the sign size requirements

APPLICATION ASSIGNMENTS:

Application 2009-01Z by James Sickles has been assigned to Don Van Lare.

Application 2009-04Z by James Sickles has been assigned to Amber Corbin and Al Simon.

APPROVAL OF MINUTES:

The Minutes of July 9, 2009 were reviewed.

Robert Weiler made a motion to approve the Minutes of July 9, 2009 as submitted.

Al Simon seconded the motion and the Board Members polled.

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

With no further business, a motion was made by Don Van Lare and agreed by common consent that the meeting be adjourned at 8:45 PM.

RUSH ZONING BOARD OF APPEALS
AUGUST 13, 2009

Respectfully Submitted,

Meribeth Palmer
Deputy Town Clerk