

**RUSH ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES OF SEPTEMBER 10, 2009**

A regular meeting of the Rush Zoning Board of Appeals was held on September 10, 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  
Meribeth Palmer, Deputy Town Clerk  
**EXCUSED:** Kelly Pruden

**OTHERS PRESENT:** Gerry Kusse, Code Enforcement Officer  
James Sickles, Property owner  
Jeanne Bowman, Resident  
David Vaughn, Resident

**PUBLIC HEARING:**

**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 submitted all necessary information required. After reviewing the materials and discussing the zoning of the parcels surrounding Mr. Sickles' property, it was stated that the most efficient way to proceed would be to rezone Mr. Sickles' commercial parcel and the neighboring commercial parcel to the east, back to residential. Both owners will need to provide written letters to the Town Board requesting the change from commercial zoning to R-20 zoning.

The Monroe County Department of Planning and Development has ruled this a local matter.

Don Van Lare declared the Public Hearing closed.

## **WORKSHOP:**

**Application 2009-06Z** by Wildwood Country Club requesting a sign variance for an existing sign located at 1201 Rush West Rush Road. Magnolia's is requesting to co-locate with the Wildwood Country Club sign. The sign is located in the right of way and does not comply with §120-31B, 3A of the Rush Town Code. The sign is located in an R-20 zoning district.

Wildwood Country Club was previously granted a variance for their sign. The proposed changes to the Wildwood Country Club sign will be the addition of a 1q x 8q section to the bottom of the existing sign for Magnolia's Restaurant and replacing the very top section in order to state "open to the public". It will continue to be illuminated during the operation hours of the facility and no later than midnight. Mr. Clark provided the board with a current certificate of liability insurance and a signed letter holding the town harmless from any claims or damages as a result of the sign being located in the town's right of way. It was stated that Magnolia's has a 4 year lease with the option to renew. Mr. Clark stated that if Magnolia's leaves the Wildwood Country Club site, just that portion of the sign would be removed. There is a possibility that the sign is also in the Rush West Rush Road right of way, measurements will be taken. Public Hearing for this application is scheduled for October 8, 2009

## **OLD BUSINESS:**

**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.

Don Van Lare made a Motion **WHEREAS**, this Board has examined Application 2009-05Z by Robert and Janice Hayes for an Area Variance for property at 75 Thunder Ridge Drive, Rush, New York, located in an R-30 District, requesting relief from section 120-57G, to park a 40 foot motor home forward of the rear of the main structure and within the space between the property line and the required side setback line, as described in such maps, photographs, and materials submitted with the application, and

**WHEREAS**, the application is solely for an Area Variance, now

**BE IT RESOLVED**, that this Board determines that this is a Type II SEQR 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 Regulations, in listing Type II Actions includes "granting of individual setbacks and lot line variances."

Al Simon seconded the motion and the Board Members polled:

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

**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 denied for the following reasons:

1. The Town Code allows outdoor parking of boat trailers, travel trailers and similar vehicles, but not within the space between the property line and side setback lines. Additionally, in residential districts, the vehicles are permitted only to the rear of the main structure. The applicants request would not only place the motor home beside and in front of the main structure, but also between the property line and side setback line.
2. Allowing large boats, trailers, recreational vehicles or motor homes to remain forward of the rear of the main structure in residential properties for long periods of time, as an area variance would permit, is detrimental to the character of the neighborhood.
3. The benefit sought by the applicants could be achieved by some other means such as commercial storage or placing on non-residential property where such parking is allowed.
4. This Board has been consistent in its rulings concerning the parking of boats, trailers and similar vehicles on the side or in the front of dwellings in residential districts. (See Rush Zoning Board Applications 2003-10Z, 2006-08Z, 2008-02Z, and 2008-04Z).
4. The difficulty is self created.

Robert Weiler seconded the motion and the Board Members polled:

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

**INFORMAL:**

Updates: Dzina application remains open pending a visit and determination from a New York State Department of Transportation representative in September. The application will be reviewed at the October 8, 2009 Zoning Board meeting.

**APPLICATION ASSIGNMENTS:**

**Application 2009-06Z** by Wildwood Country Club has been assigned to Robert Weiler.

**APPROVAL OF MINUTES:**

The Minutes of August 13, 2009 were reviewed.

Don Van Lare made a motion to approve the Minutes of August 13, 2009 as submitted.

Robert Weiler 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 8:25 PM.

Respectfully Submitted,

Meribeth Palmer  
Deputy Town Clerk