

**RUSH ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES OF OCTOBER 8, 2009**

A regular meeting of the Rush Zoning Board of Appeals was held on October 8, 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
Kelly Pruden
Meribeth Palmer, Deputy Town Clerk
EXCUSED: Amber Corbin

OTHERS PRESENT: Gerry Kusse, Code Enforcement Officer
Lisa Sluberski, Planning Board liaison
David Wang, Wildwood Country Club
Thomas Roth, Resident
Kevin Mryglod, Contractor

PUBLIC HEARING:

Application 2009-06Z by Wildwood Country Club requesting a sign variance for an existing sign located at 1201 Rush West Rush Road. Magnolia 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.

Robert Weiler stated that the sign measurement that is currently being used by Wildwood Country Club actually includes the lighting on either side of the sign, therefore the sign itself is 13 inches less than the measurement submitted. The sign still conforms to the required maximum 50 square feet. The Zoning Board also stated that if approval is granted for the sign variance a building permit will be required. The permit can be obtained from the Building Code Enforcement Officer at the Town Clerk's Office. If the permit is obtained before the new Sign Ordinance is passed, the sign will be grandfathered under the old ordinance.

Monroe County Department of Planning and Development has ruled application 2009-06Z as a local matter.

Don Van Lare declared the Public Hearing closed.

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 applicant is not present to speak on the matter. The Zoning Board has not received any new correspondence regarding application 2009-03Z. Monroe County stated in their review of the application that the existing fence is in the New York State Right of Way. If the application is denied a work permit must be obtained and the fence must be removed. The New York State Department of Transportation (NYSDOT) representative Mr. David Goring stated that they are currently discussing the location of the fence. The Zoning Board will wait for a determination from the NYSDOT.

Don Van Lare declared the hearing closed.

WORKSHOP:

Application 2009-07Z by Thomas Roth requesting a front setback variance for a proposed addition to the main dwelling. The proposed location does not comply with Rush Town Code §120-198. Property is located at 1839 Rush Scottsville Road and is in an R-20 zoning district.

Tom stated he is proposing a 12qx 16q addition to the kitchen which is on the east side of the main dwelling. The front set back is 75q from the center line to the proposed addition, they are asking for a 35q variance. The addition will be sided to match the existing siding. A Zoning Board member will be out to view the proposed location. The Public Hearing will be scheduled for November 12, 2009.

INFORMAL:

The Zoning Board discussed the status of the rezoning request for 6115 and 6123 Rush Lima Road. A formal request has been submitted to the Town Board by both owners. The Zoning Board will wait to make a determination on Mr. Sicklesq variance request for 6115 Rush Lima Road until after the rezoning hearing.

The Rush Town Board will be discussing Rush Town Code 120-57G at the October 14, 2009 Town Board meeting. Councilwoman Sluberski invited further comments from the Zoning Board. Chairman Van Lare stated that they have no additions or changes to the comments previously submitted to Town Board and they have been consistent in their decisions regarding applications that have come before them.

Gerry Kusse and the board discussed the time frame in which appearance tickets are served after a denied application ruling. It was also noted that denial letters will be sent by certified mail with return receipts.

The Zoning Board briefly discussed the sign ordinance.

DECISIONS:

Application 2009-06Z by Wildwood Country Club requesting a sign variance for an existing sign located at 1201 Rush West Rush Road. Magnolia 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 district.

Robert Weiler made a motion **WHEREAS**, This Board has examined Application 2009-06Z by Wildwood Country Club of 1201 Rush-West Rush Road, located in an R-20 district, requesting an addition to an existing sign which is located in the right-of-way at the intersection of Rush-West Rush Rd. and Thunder Ridge Dr. 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.

Al Simon seconded the motion and the Board Members polled:

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

WHEREAS, Application 2009-06Z was submitted by Mr. David C. P. Wang and Mr. Bob Clark for a sign permit which will add a new section to an existing sign located at the entry to Wild Wood Country Club on Thunder Ridge Drive as described in such map and diagrams submitted with the application.

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 following conditions apply:

1. All the conditions which were defined in the ZBA application 2001-08 for the original sign will continue to apply except for the requirement for a \$750 letter of credit.
2. The construction of the proposed sign addition is to be completed within one year of the approval of the application.
3. No work is to commence until a building permit is obtained from the Town of Rush.

The reasons for these actions are:

1. The dimensions of the revised sign are well below the (50) square feet allowable size.
2. While the existing sign is well within the 60 foot right-of-way of Thunder Ridge Drive at 18 ft 7 inches from the centerline of the road, no apparent problems have been noted in the past.
3. There will be no undesirable change in the character of the neighborhood.
4. There is no discernible detriment to the health, safety or welfare of the community or neighborhood that would occur by the granting of this variance.

Kelly Pruden seconded the motion and the Board Members polled:

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

ASSIGNMENT OF APPLICATIONS:

Kelly Pruden and Al Simon have been assigned **Application 2009-07Z** by Thomas Roth.

APPROVAL OF MINUTES:

The Minutes of September 10, 2009 were reviewed.

Don Van Lare made a motion to approve the Minutes of September 10, 2009 as submitted.

Robert Weiler seconded the motion and the Board Members polled.

Roll:	Robert Weiler	aye
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Kelly Pruden	abstained	
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 7:45 PM.

Respectfully Submitted,

Meribeth Palmer
Deputy Town Clerk