

**RUSH ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES OF OCTOBER 14, 2010**

A regular meeting of the Rush Zoning Board of Appeals was held on October 14, 2010 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  
Kelly Pruden  
Amber Corbin  
Al Simon  
Meribeth Palmer, Deputy Town Clerk

**OTHERS PRESENT:** Michael Duch, Resident  
Chris DeMinco, Resident  
Gerry Kusse, Code Enforcement Officer  
Tom Doupe, Town Board Liaison

**PUBLIC HEARING:**

**Application 2010-05Z** by Chris DeMinco of 980 Rush Scottsville Road requesting an area variance to park a motor home/car hauler 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. Van Lare explained to the audience that the variance is based on the zoning section of the Rush Town Code. The code applies to all recreational vehicles such as trailer, boats, campers and motor homes and prohibits these types of vehicles from being parked forward of the rear foundation line of the main dwelling as well as within the required side and rear setbacks.

Mr. DeMinco explained that in order for him to put the vehicle behind the rear foundation line between the house and garage he would have to construct an additional driveway, raise power lines, risk root damage to an existing tree in close proximity, reroute the current underground drainage, and potentially incur septic system issues due to the lack of aeration in the ground soil from the addition of another driveway.

Mr. DeMinco submitted documents for an alternative location for the car hauler. This location would be on the west side of the property. This location is much flatter, shields the car hauler from the neighbors' view and is behind the rear foundation line of the house. Mr. DeMinco has signed and submitted a formal request to modify the original application to reflect a request for a side setback variance for the above described location.

Board member Amber Corbin asked for clarification on the type of recreational vehicle. Mr. DeMinco stated that the vehicle is registered as a recreational vehicle yet functions as a race car hauler with sleeping quarters.

Monroe County Department of Planning and Development has ruled Application 2010-05Z as a local matter.

Chairman Van Lare read a letter from resident Jeanine Adams dated October 6, 2010 stating that she has reviewed and approves of Mr. DeMinco's variance request.

Chairman Van Lare declared the Public Hearing closed.

**Application 2010-06Z** by Michael Duch of 34 Jeffords Road requesting a side setback variance for an existing shed. The current location does not comply with §120-19 of the Rush Town Code. Property is located in an R-30 Zoning District.

Resident Michael Duch appeared to request relief from the Town of Rush Zoning Code that requires a 25 foot side setback for structures in an R-30 Zoning District. Although a shed permit was purchased by the previous owner, a variance was not obtained and no certificate of occupancy was issued for the shed. Mr. Duch has since replaced the original shed putting it in a slightly different location that is drier, more aesthetically pleasing and less visible to the neighbors. Mr. Duch would like a variance to keep the existing shed in its current location, 13 feet from the lot line on the west side of the property.

Monroe County Department of Planning and Development has ruled Application 2010-06Z as a local matter.

Chairman Van Lare read a letter from residents Kyle and Sherry Stevens dated September 13, 2010 stating that they have no objections to Mr. Duch's application.

Chairman Van Lare declared the Public Hearing closed.

#### **INFORMAL DISCUSSION:**

The Zoning Board discussed application 2009-02Z. The variance granted for the garage addition located at 6416 Rush Lima Road has expired. In addition, a building permit was never obtained for the project. Code Enforcement Officer stated that only ground work has been done so far and that the owner has been advised by Mr. Kusse not to proceed until the Zoning Board has been consulted. Mr. Kusse stated that he will notify the owner by letter stating that re-application for a variance and a building permit will be required before any more work can commence. The Zoning Board also mentioned that the motor home parked there is in violation of the zoning ordinance.

The November Zoning Board of Appeals meeting will not be held on November 11, 2010 due to Veterans Day. The meeting has been scheduled for November 18, 2010.

Chairman Van Lare has been assigned to create the motion for application 2010-05Z by Chris DeMinco.

Tom Doupe reported that the public hearing regarding the proposed code change to regulate the height of structures has been scheduled for November 10, 2010.

The Board also discussed wind turbines, outdoor wood furnaces and the likelihood of a moratorium on outdoor wood furnaces sometime in the future.

### **DECISIONS:**

Don Van Lare made a Motion **WHEREAS**, this Board has examined **Application 2010-06Z** by Michael Duch of 34 Jeffords Road, located in an R-30 district, requesting a side setback variance for a pre-existing shed, and maps and other materials which were filed with the application, and

**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 the granting of individual setback and lot line variances.

Robert Weiler seconded the motion and the Board Members polled:

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

Don Van Lare made a motion **WHEREAS**, **Application 2010-06Z** was submitted by Michael Duch for property at 34 Jeffords 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 existing shed is allowed to remain no closer than thirteen (13) feet from the west lot line. Approval is dependent on the applicant obtaining the required permit from the Town of Rush.

The reasons for this action are:

1. The neighbors have no objection to the shed and reside a considerable distance from its location.
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.

Amber Corbin seconded the motion and the Board Members polled:

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

**APPROVAL OF MINUTES:** September 9, 2010

Don Van Lare made a motion to approve the Minutes of September 9, 2010.

Robert Weiler seconded the motion and the Board Members polled.

Roll:	Robert Weiler	aye	
	Kelly Pruden	aye	
	Al Simon	aye	
	Amber Corbin	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 8:00 PM.

Respectfully Submitted,

Meribeth Palmer  
Deputy Town Clerk