

**RUSH ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES OF MARCH 8, 2012**

A regular meeting of the Rush Zoning Board of Appeals was held on March 8, 2012 at the Rush Public Library, 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  
Garry Koppers  
Meribeth Palmer, Deputy Town Clerk

**OTHERS PRESENT:** Lisa Sluberski, Town Board Liaison  
Gerry Kusse, Code Enforcement Officer  
Bill Riepe, Town Councilman, Resident  
Mark Hasman, Attendee  
John Lombardo, Attendee  
James Kolb, Business Owner, Resident  
Kimberly Levine, Resident  
Paul Levine, Attendee

**PUBLIC HEARING:**

**Application 2012-01Z** by Mark Hasman and John Lombardo requesting sign variances for 3 proposed signs. Property is located at 7283 West Henrietta Road. Signs do not comply with 120-27 of the Rush Town Code. Property is zoned commercial.

Mark Hasman and John Lombardo are seeking approval to replace the existing commercial business signs located at 7283 West Henrietta Road with signs for their proposed business, Exit 11 Auto. Mr. Hasman and Lombardo stated that they will not be using a pole sign. They are proposing to replace the 2 existing wall signs and 1 roof sign. All three proposed signs are 52 square feet in size. In addition, the applicants are requesting a height variance for the existing service sign.

Chairman Van Lare informed the applicants that if their application is approved this evening they will be required to obtain a sign permit from the Rush Building Department prior to installation.

**Correspondence:**

Monroe County Department of Planning and Development has ruled application 2012-01Z a local matter.

The Rush Fire District has no concerns at this time regarding application 2012-01Z.

With no further comments, Chairman Van Lare declared the public hearing closed.

**INFORMAL DISCUSSION:**

Resident Kimberly Levine appeared before the board to discuss the storage of a recreational vehicle. Ms. Levine stated that she received a violation notice from the Rush Code Enforcement Officer for storing the 24 foot travel trailer/toy hauler in the driveway of her home. Ms. Levine would like to discuss possible options and to inform the board of obstacles keeping her from placing the vehicle behind the rear corner of her house.

Ms. Levine explained that there is flooding on a constant basis on her property. A drainage swale that runs east to west along the neighboring property line to the north contributes to the flooding. The property owner to the north has had ongoing septic system problems due to the flooding. In addition, a drainage culvert that runs parallel to East River Road on the east side and north of Ms. Levine's property overflows during heavy rains and pushes the water back into her yard. Ms. Levine stated that her raised bed septic is also on the north side of her house and both septic system and flooding prevents her from placing the travel trailer in the rear on that side of her house. The south side of the yard has several trees and is not wide enough to accommodate a 25 foot setback. In addition to the drainage problems sink holes have been developing that require soil to be brought in to fill the holes.

Board member Gary Koppers recalled that there is a large area of designated wetlands east of Ms. Levine's property.

Ms. Levine also informed the board that the original building plans for the house, garage and driveway were moved from the north side of the property to the south side with town approval due to the drainage issues. Attendee Paul Levine stated that he was the builder of the home and when they began to dig they hit water at 3 feet down. The house was built 5 feet above site plan to try to compensate for the water. Fill was later brought in to grade the land up to the house.

Ms. Levine has contacted the Rush Highway Superintendent Mark David regarding the overflowing culvert. Ms. Levine resides on a county road and was given a contact person for the Monroe County Highway Department (MCHD).

Rush Highway Superintendent Mark David has offered to meet with a MCHD representative when they visit Ms. Levine's property.

The Board asked Ms. Levine if fill and gravel would create an acceptable path to accommodate the travel trailer. The Board also asked Ms. Levine if she could locate a commercial property or barn to temporarily store the travel trailer until the drainage issues are resolved.

Rush Town Code 120-57G requires any type of recreational vehicle(s) to be placed behind the rear foundation line of the dwelling and not within the designated side setback.

Chairman Van Lare stated that a side setback variance would be considered if the travel trailer could be placed behind the rear foundation line of the home. Chairman Van Lare also noted: out of the last five applications, the Board has not approved any variance for storing any type of recreational vehicle forward of the rear foundation line. Variances are valid for the length of ownership. Once the property/house is sold the variance is invalid. Allowing campers and trailers in the fronts of homes in perpetuity, ultimately changes the character of the neighborhood.

Ms. Levine stated that she will be using the travel trailer for work/commercial business and wondered if the use would have different storage conditions.

Commercial vehicles stored in residential areas are required to comply with a weight limit set forth in the Rush Town Code. Ms. Levine's travel trailer exceeds the allowable weight limit.

Ms. Levine stated that she often sees Landscaping equipment and other trailers parked in residential zones. Code Enforcement Officer Gerry Kusse stated that he often has to address those issues with residents.

Ms. Levine also asked for clarification regarding length of time acceptable for having the travel trailer in the driveway. The Board informed Ms. Levine that a couple of days in the driveway to load or unload the trailer is acceptable. The code also allows a one time 30 consecutive day time period for storage not in compliance with the code.

Ms. Levine stated that she was unaware of the town code requirements for recreational vehicles. Chairman Van Lare stated that several years ago a petition to change the code regarding the storage of recreational vehicles was presented to the Town Board and the Town Board did not change the code. The Chairman stated that is the Zoning Board's duty to uphold the law. The Zoning Board reminded Ms. Levine that she has every right to apply for a variance.

The Board stated that they are willing to work with Ms. Levine to find a way to place the travel trailer behind the house. The Board suggested that Ms. Levine follow up with MCHD to work on solving the drainage issues. Another thought was to gather any of the surrounding neighbors experiencing the same drainage issues and approach MCHD as a group.

Code Enforcement Officer Gerry Kusse stated he will give Ms. Levine time since she is in the process of resolving the problem. He also suggested that Ms. Levine seek a temporary solution until a permanent solution is reached.

Jim Kolb came before the Zoning Board to discuss a business sign to be placed on the corner of New York State Route 251 and West Henrietta Road. At this time, the commercial property at this location is at its limit with 2 signs for Diamonds Limousines and 2 signs for Colby's ice cream and bake shop. The only other allowable sign would be a free standing complex sign for the 2 current businesses occupying the property. Chairman Van Lare stated that a variance is not required for this type of sign. A sign permit would be required and Mr. Kolb was given written directions for the application process. It was also noted that the permit would need to be obtained by the owner of the property. Chairman Van Lare made it clear that the proposed sign would have to accommodate all future businesses as well. The maximum size allowable for the complex sign is 8' x 4'. The sign also is required to be back 15 feet from the edge of the property.

Code Enforcement Officer Gerry Kusse stated for the record that he advised Mr. Kolb to seek a variance for the sign, that he interpreted the code differently including the type of sign and the use of logos.

Mr. Kolb stated that he is proposing a complex sign, not to be confused with a directional sign.

#### **BOARD DISCUSSION:**

Councilwoman Sluberski had nothing to report.

#### **DECISIONS:**

Amber Corbin made a motion **WHEREAS**, this Board has examined **Application 2012-01Z** by Mark Hasman and John Lombardo (Exit 11 Auto Inc.), prospective buyers of 7283 West Henrietta Road, located in a Commercial Zoning District, requesting a variance from the Rush Zoning Ordinance, Section 120-26: 120 Attachment 1, Chart C, regulating the allowable area for wall signs, and 120 Attachment 2, regulating the number of wall signs for Commercial use, single or double tenant site. Section 120-27B (1) prohibiting roof signs and Section 120-28(X) On-site directional signs. The variance request consist of four (4) signs with a total area of approximately one hundred sixty one point eight (161.8)

square feet as explained in the maps, diagrams and other materials which were filed with the Application, and

**WHEREAS**, the Application is in accordance with Rush Zoning Ordinance Section 120-33, now therefore,

**BE IT RESOLVED**, that this Board determines that this is an unlisted Type II Action which requires no further processing under SEQ. The reason for this determination is that Section 617.5 (b) (1) and (2) of Title 6 of the New York Code of Rules and Regulations, in listing Type II Actions, includes those that have no significant impact on the environment and also are not listed as Type I Actions.

Kelly Pruden seconded the motion and the Board Members polled:

Roll:	Kelly Pruden	aye	
	Amber Corbin	aye	
	Garret Koppers	aye	
	Robert Weiler	aye	
	Don Van Lare	aye	carried.

**WHEREAS, Application 2012-01Z** was submitted by Mark Hasman and John Lombardo (Exit 11 Auto Inc.), for the purpose of requesting 3 variances to install 4 signs on the premises at 7283 West Henrietta Road, as described in the Application and other materials 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 Public Hearing desiring to speak on the matter were heard, all correspondence received on this matter was read and these statements were considered by this Board. Then

**BE IT RESOLVED**, that the Application be approved for (1) two wall signs on the east and west sides and (2) a roof sign on the north side of the building and (3) a directional sign, on the east side, in excess of the of the size and height requirement.

This application was granted with the following conditions:

1. The square footage of the wall sign on the east wall of the building is not to exceed fifty-two (52) total square feet, and one wall sign on the west wall of the building, is not to exceed fifty-two (52) total square feet.
2. The roof sign of the north side of the building is not to exceed fifty-two (52) total square feet.

3. The service sign on the east side of the building, above the garage bays is to be no more than 5.8 total square feet and no more than eleven (11) feet six (6) inches in height.
4. The signs may be illuminated during normal business hours, but in no event, later than eleven (11) PM local time.
5. No additional signs or any increase in the existing signage is permitted.
6. Sign Permits are to be obtained from the Town of Rush Building Inspector/ Code Enforcement Officer within sixty (60) days of taking ownership of the property and prior to the installation of the proposed signs

The reasons for this action are:

1. The four signs: the illuminated roof sign on the north roof, measuring fifty-two (52) square feet and the two illuminated signs on the east and west sides of the building, each measuring fifty-two (52) square feet, and the directional service sign, measuring five point eight (5.8) square feet, are less total square footage than previous owners signs.
2. The Applicant's location is at the intersection of two state highways near a federal interstate highway.
3. There will be no undesirable change in the character of the neighborhood by the granting of these variances.

Don Van Lare seconded the motion and the Board Members polled:

Roll:	Kelly Pruden	aye	
	Amber Corbin	aye	
	Garret Koppers	aye	
	Robert Weiler	aye	
	Don Van Lare	aye	carried.

**APPROVAL OF MINUTES:** February, 2012

Don Van Lare made a motion to approve the Minutes of February, 2012 as corrected.

Robert Weiler seconded the motion and the Board Members polled.

Roll:	Don Van Lare	aye	
	Robert Weiler	aye	
	Amber Corbin	aye	

RUSH ZONING BOARD OF APPEALS  
MARCH 8, 2012

Kelly Pruden            aye  
Garry Koppers        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 7:50 PM.

Respectfully Submitted,

Meribeth Palmer  
Deputy Town Clerk