

**RUSH ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES OF SEPTEMBER 13, 2012**

A regular meeting of the Rush Zoning Board of Appeals was held on September 13, 2012 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
Amber Corbin
Kelly Pruden
Garry Koppers
Pamela Bucci, Town Clerk

OTHERS PRESENT: Gerry Kusse, Code Enforcement Officer, Resident
Dan Woolaver, Town Board Liaison

WORKSHOP:

Application 2012-04Z by Joseph Giorgione requesting a 2 unit residential use variance for the pre-existing structure located at 6101 East Henrietta Road. The proposed use does not comply with 120-12C of the Rush Town Code. Property is zoned commercial.

Application 2012-05Z by Joseph Giorgione requesting an area variance for the property located at 6101 East Henrietta Road. The existing parcel does not comply with 120-17 of the Rush Town Code. Property is zoned commercial.

Application 2012-06Z by Joseph Giorgione requesting a front setback variance for the pre-existing structure located at 6101 East Henrietta Road. The pre-existing structure does not comply with 120-18 of the Rush Town Code. Property is zoned commercial.

Application 2012-07Z by Joseph Giorgione requesting side and rear setback variances for a pre-existing garage located at 6101 East Henrietta Road. The pre-existing garage does not comply with 120-19 of the Rush Town Code. Property is zoned commercial.

Applicant Joseph Giorgione explained that he is proposing a residential two family house. The proposed rental units would consist of a 3 bedroom unit downstairs and a 2 bedroom unit upstairs. At one time the property and dwelling was considered pre-existing residential. After remaining empty for several years the parcel has reverted back to commercial zoning.

Mr. Giorgione has repaired the front septic and added an additional septic unit in the rear. Mr. Giorgione stated that he has submitted documentation from Monroe County Department of Public Health (MCDPH) indicating that they have inspected the septic system, it is in compliance and will accommodate a five bedroom dwelling.

Chairman Van Lare inquired about the condition of the current gravel driveway. Mr. Giorgione stated he is planning on adding new millings. The ingress and egress will be located on Rush West Rush Road. The existing garage will accommodate 2 small vehicles and additional parking will be provided along the west lot line. Mr. Giorgione will screen the parking from the neighboring lot area by planting arborvitae.

The Board discussed the use variance question regarding the uniqueness of this particular property. Although there are other multi residential properties in this commercial zone, Mr. Giorgione's property remained empty for more than one year, therefore, it has reverted back to commercial and its use is no longer pre-existing non-conforming.

The Board agreed that it is not a self-created issue the residential dwelling already exists. The return to commercial zoning is not a suitable use for the particular parcel.

An area variance for the .5 acre lot will be needed. Commercial zones require 1 acre.

The current front setback from East Henrietta Road (NYS Route 15A) is 66 feet. Commercial zones require 140 feet on state roads. A 74 foot variance will be needed.

A side and rear setback for the existing garage will also be required. Mr. Giorgione stated that he has replaced the roof and it will be sided later. The structure itself is in good standing.

The Board informed Mr. Giorgione that they would be scheduling a visit with him to view the property and take measurements.

Public hearing has been scheduled for October 11, 2012 at 7:00PM.

APPLICATION ASSIGNMENTS:

Application 2012-04Z and 2012-05Z has been assigned to Chairman Van Lare and Garry Koppers. Application 2012-06Z and 2012-07Z has been assigned to Bob Weiler.

BOARD DISCUSSION:

Gerry Kusse inquired as to why the zoning in the hamlet was changed to community commercial. Since community commercial zone was initiated so long ago, there was only speculation as to why it was changed without researching records from the late 60's and early 70's.

Councilman Woolaver had nothing to report.

APPROVAL OF MINUTES: July 12, 2012

Don Van Lare made a motion to approve the Minutes of July 12, 2012 as corrected.

Robert Weiler seconded the motion and the Board Members polled.

Roll:	Don Van Lare	aye	
	Robert Weiler	aye	
	Amber Corbin	aye	
	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 7:20 PM.

Respectfully Submitted,

Pamela J. Bucci
Town Clerk