

**RUSH ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES OF JULY 11, 2013**

A regular meeting of the Rush Zoning Board of Appeals was held on July 11, 2013 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  
Meribeth Palmer, Deputy Town Clerk  
John Mancuso, Town Attorney

**OTHERS PRESENT:** Gerry Kusse, Code Enforcement Officer, Resident  
Dan Woolaver, Town Board Liaison  
David Sluberski, Resident  
Curran Brown, Resident  
Christine Brown, Resident  
Andrew Shepland, Resident  
Ansgar Schmid, Resident  
Kathryn Hankins, Resident  
Lee Hankins, Resident  
Carol Barnett, Resident  
Jeffrey Metchick, Resident  
Harold Slack, Resident  
Sharon Slack, Resident  
Patti Stewart, Resident  
Michael Stewart, Resident  
Pat Kraus, Conservation Board, Resident  
Ms. Hansen, Attendee  
Robert Turner, Applicant  
James J. Bonsignore, Attorney for Applicant  
John Clark, Engineer  
James Bucci, Resident  
Suellen Miller, Resident  
Carl Ast, Resident  
Lori Gysel, Resident  
Robert Powers, Resident  
Carolee Powers, Resident  
Chris Giordano, Resident

Chairman Van Lare welcomed all to the July Zoning Board of Appeals meeting.

**PUBLIC HEARING:**

**Application 2013-11Z** by Robert Turner of Turner Underground Installations, 1233 Lehigh Station Road, Henrietta, New York, and property owner Henry Hansen, requesting a use variance for 7.83 acres of a proposed 24.65 acre lot for the purpose of the eventual construction by Mr. Turner of two (2) new 12,750 square foot buildings and approximately 20,000 square foot outdoor storage area. Property is located at 7566 West Henrietta Road and is zoned commercial.

Chairman Van Lare reminded the audience members who wish to speak to state their name for the record and to limit comments to no more than 5 minutes. Prepared statements or letters can be submitted to Deputy Town Clerk Palmer to be entered into the record.

Attorney James J. Bonsignore stated that he represents land owner Henry Hansen and applicant Robert Turner of Turner Underground Installations. Mr. Turner is the contract vendee for a portion of Mr. Hansen's property. Mr. Bonsignore explained that an application was originally filed for a use variance and while going through the variance process Mr. Turner took a second look at his request and found that it was not adequate to accommodate any future growth. Therefore, a new application has been submitted with a new site plan that shows both phases of construction. The total project is comprised of two buildings and approximately 7.83 acres.

Mr. Bonsignore stated that this application is very unique given that the applicant is seeking to severely restrict the use of his property. If the variance should be granted, the use of the property will be solely and specifically limited to the use granted by the Zoning Board of Appeals. This property is currently zoned commercial. Currently any commercial enterprise is permitted including retail businesses and service businesses. Special permits can also be granted for the property by the Planning Board for activities such as public utilities. Examples of allowable business retailers in the current code could include Loews, Wal-Mart, or strip malls with banks and fast food restaurants with 24 hour drive through windows. All of these types of businesses have the potential to increase traffic with 24 hour lighting. Mr. Bonsignore stated that this is not the intention of this application. This application is to solely use the property for the home office of Turner Underground installations in addition to the storage and minor repair of industrial equipment. No industrial activity is going to take place on the property. Mr. Bonsignore also conveyed that this is not an after-hours operation. Vehicles and equipment will leave in the morning and return in the evening. Lights will be off in the evening and the intention is to minimize any and all disruption or detrimental impact that could possibly effect the surrounding properties.

Mr. Bonsignore wanted to emphasize that first, this application will prevent a potential for higher intensity use under the existing commercial zoning and second, this application limits the area to the greatest extent possible. The map submitted indicates the 80 acre parcel in red. In addition to subdividing the property the use will be limited to 7.83 acres of prime land; this is approximately 10% of the entire property.

Mr. Bonsignore also stated that under the applicable regulations, Mr. Hansen has been unable to receive any kind of financial benefit from the property. Historically the property was rezoned approximately 30 years ago from residential to commercial. The decision to rezone did not work out economically. Mr. Hansen has made continued efforts to market the property including selling, subdividing and leasing but has never gained a reasonable return on the property. This has been demonstrated with some of the information provided such as taxes and other carrying expenses of the property. Mr. Hansen is seeing a 70% loss each year. Even with this current proposal Mr. Hansen will still have difficulty realizing a reasonable return on the 80 acres. The 25 acres to be subdivided contains a large portion that cannot be used. It is very limited due to wetlands and other factors. Additionally there is a lack of public utilities such as sewers to support a commercial use. Therefore, the hardship regarding this property has not been self-created.

Engineer John Clark presented a revised site plan that includes a potential future building and an additional outdoor storage for vehicles.

Chairman Van Lare inquired with Mr. Clark regarding the 24.65 acre parcel and what type of land would remain after the proposed 7.83 acres is developed. Mr. Clark responded that remaining lands are in the flood plain, not suitable for construction. The proposed outdoor storage area for vehicles is actually located in the flood plain area.

Mr. Clark and the Board discussed the existing vegetation and the applicant's intent to add screening near the existing residential homes.

Board Member Pruden inquired further regarding the proposed area for outdoor storage of vehicles and specifically what type of equipment will be stored there. Board Member Pruden's concerns would be vehicles containing fuel and oil, open to the elements and possible exposure to flood waters. Mr. Clark stated that in the event of a flood that Mr. Turner would likely have time to remove the equipment from that area. Mr. Turner stated that he would be placing track hoes, back hoes and trucks on the gravel pad and they would all be in working order. Mr. Turner also stated that a fuel depot would not be placed in that location.

Mr. Bonsignore stated if there are environmental concerns, the Board could require that the stored vehicles and equipment to be fully operational so that they can be moved easily.

Board Member Pruden asked about the hours of operation. Mr. Turner stated that in the warmer months they would start as early as 6:00 AM. In the winter it would be closer to 7:00 AM.

Board Member Corbin asked for clarification on the aerial map showing proposed 24.65 acre lot and the 7.83 acre portion to be developed.

Chairman Van Lare opened the public hearing to the audience, requesting that anyone wishing to speak or comment to please state their name for the record.

Resident Patty Stewart stated that the proposed project will be right behind her house and decrease her property value. Ms. Stewart stated that she has viewed the applicant's current site in Henrietta and does not like the way it's kept. Ms. Stewart also feels that the project will create a lot of dust, dirt and truck traffic.

Resident Kathryn Hankins asked the applicant about the remaining 90% of the land. Ms. Hankins asked if the use variance is approved would it set up the remaining land for a comparable use.

Mr. Bonsignore responded no, it would not affect the remaining land. The requested use variance specifically limits the use to 7.83 acres. The remaining 90% of land will continue to be commercial and it will not change.

Ms. Hankins stated that she contacted New York State for guidance in terms of zoning and the definitions have to be tied to the zoning code that the town already has in place, unlike Mr. Bonsignore's description of commercial use. Ms. Hankins stated that high intensity commercial use is not in the town's comprehensive plan and it's not in the definition of the town's commercial code. All of the uses that this project represents such as an increase in noise and dust are prohibited in the zoning code. Ms. Hankins stated that the comprehensive plan indicates that commercial use needs to be compatible with residential neighborhoods. Ms. Hankins also stated that it is not a unique property, there is 100 acres north of the Lehigh Trail, thus creating an industrial corridor all the way up to New York State (NYS) Route 251.

Mr. Bonsignore explained that commercial use under the town code allows for any retail use such as strip mall properties that typically have 4 or 5 tenants usually consisting of a restaurant, bank and coffee shop with a 24 hour drive through with lights that are required by law. The above stated uses are permitted in addition to offices. Mr. Bonsignore stated again that the proposal is severely limited to 7.83 acres only. It is not going to create an industrial corridor.

Resident Jeffrey Metchick indicated his property on the map, stating that in the winter there is no vegetation and he has a clear view to the proposed site. He is also concerned about smoke when the trucks start up in the morning and potential harm to the surrounding property. Mr. Metchick stated that he offered to purchase a portion of Mr. Hansen's property along the creek. Mr. Metchick stated that Mr. Hansen wanted \$100,000 per acre.

Resident Carolee Powers stated that she is a concerned citizen that the proposal looks like heavy industry with 2 large buildings and trucks continually coming and going. Ms. Powers wanted to know how many trucks are involved and what would really be taking place on the property. Ms. Powers also stated concern for the bordering Honeoye Creek.

Mr. Turner explained to the audience the typical operations and the criteria under which he is required to operate. On site projects are carefully monitored by the New York State Department of Environmental Conservation (NYSDEC). His operations are bound by

strict Storm Water Pollution Prevention Plans (SWIPP), therefore, Mr. Turner maintains his vehicles at the highest standards. Mr. Turner stated that he operates with 5 full size Kenworth trucks, 4 mid-size utility trucks, and pick up trucks. Mr. Turner stated that he is proposing a large building in order to store his trucks inside where they can remain in a temperature controlled environment. The drill trucks which use water cannot be exposed to freezing conditions. Mr. Turner stated majority of repairs are done off site at truck dealerships; only minor repairs will be done on site inside the building. Mr. Turner's trucks are very often on job sites for weeks or months at a time. Mr. Turner also stated that there are no toxic chemicals involved with his operation or drilling equipment.

Mr. Bonsignore also responded to Ms. Powers regarding the proposed use compared to what is currently allowable under the commercial zoning. Retail services are allowable under the current commercial code. This could cause continuous vehicle traffic all day long, all evening long up 9 or 10 at night. Mr. Bonsignore stated that with Mr. Turner's business, there could be months where there is very little or no traffic from his site.

Resident and Conservation Board Member Patricia Kraus commented on a personal note stating that she does not live near the proposed site, however, it is matter of justice and how the town's zoning laws and comprehensive plan are applied. Ms. Kraus stated area residents such as Mr. Metchick who purchased land to build a home with the understanding that this kind of use was not allowed. The Conservation Board has submitted a letter with their comments. Ms. Kraus also stated concern regarding what Mr. Turner said about the NYSDEC involvement with drilling projects and that the NYSDEC admits to not having adequate staff to regulate what is required to be regulated.

Board Member Pruden clarified for the audience that the NYSDEC monitors the projects sites not Mr. Turner's business operations. Many of the operations that Mr. Turner participates in are called Article 7 projects, which are the most highly regulated by the NYSDEC. Mr. Turner wanted to imply that he is familiar with the restrictions regarding the environment and again he maintains his equipment at a very high standard. Mr. Turner also wanted the audience to know that he is not involved with hydrofracking.

Resident Lori Gysel stated that she is concerned about changing the landscape of Rush. She moved to Rush for the open space and farmland. Ms. Gysel is also concerned about an increase in industry and traffic on West Henrietta Road.

Resident Christopher Giordano wanted more information on the Kenworth trucks that were mentioned. Mr. Turner stated that Kenworth is the brand name and they are large 18 wheel flatbed trucks that are used to transport the drilling equipment. Mr. Giordano asked Mr. Turner how many trucks will be acquired in the future. Mr. Turner stated that he has been in business for 20 years and the number of trucks has not increased. Mr. Turner said it would be hard to project at this point and future growth would not happen overnight. Mr. Turner also stated that a majority of his business will be within 50 miles of the proposed site. Mr. Turner stated that due to the nature of his business and the involvement of the NYSDEC, he is environmentally aware of the importance of limiting disturbance to the area.

Resident Sharon Slack stated that this project looks like heavy industry and asked if Mr. Turner has looked at any industrial parks. Ms. Slack does not want outdoor parking in a residential area.

Mr. Bonsignore stated that he understands the concern; however, the property is not zoned residential and this property, regardless of what is around it, is zoned commercial and can support much more invasive activity than what is currently being proposed.

Mr. Bonsignore clarified that there is still a great misconception as to Mr. Turner's proposed use. There will be no industrial activity taking place on site. The only use is pulling trucks into a garage or parking them. There is no drilling, no digging and there is no operation of equipment on site. This is not an industrial use. The only reason that the applicant is here is due to interpretation, the proposal did not fit the commercial use description. However, there has been no determination that this is an industrial use. The applicant's request is for a very limited use variance rather than requesting a rezone of the entire property. Rezoning the property would create a large industrial parcel.

Resident Dave Sluberski informed the Board that he has submitted 2 letters, one as a resident and second on behalf of the Rush Democratic Committee. Mr. Sluberski stated that it's very important for the town to work with residents and businesses to create a positive atmosphere for a positive outcome for all. However, in the past Mr. Dorschel claimed hardship 2-3 years after purchasing when he experienced difficulties regarding signage and curb cuts. Sometimes these purchases are gambles. There are also some false assumptions regarding why Mr. Hansen's property has not sold. There is currently a sign on the property that is false advertising stating that the property is industrial. Two years ago there was a detour for East River Road that passed through Rush West Rush Road, now it is a common cut through. As a resident on that road, the additional traffic continues to increase along with dust and noise. The same will happen with Mr. Turner's trucking business which will increase the traffic on NYS Route 15 in addition to all the short cuts in the area.

Resident Harold Slack asked about the sign on the property advertising it as industrial. Chairman Van Lare clarified that the sign is not correct and that the land is zoned commercial. Mr. Slack was also informed that the town did not put the sign up and the Zoning Board does not have authority over incorrect signs. Mr. Slack asked what makes a temporary use variance permanent. Chairman Van Lare again clarified that temporary use permits no longer exist. A use variance once granted is permanent for the indicated portion of land with any restrictions that the Zoning Board of Appeals deems necessary.

Mr. Bonsignore pointed out that if a use variance is granted it is subject to the conditions that are applied to the property by the Board.

Mr. Slack also asked about the floor drain and storm drains on the plan. Mr. Clark explained that the building would have an oil water separator. They are used when vehicles are being washed to catch any oil or grease byproduct. This is a requirement by the NYSDEC and it is on the proposed plan. The plan also adheres to all the storm

water NYSDEC requirements including water quality and water quantity retention. The plan contains a bio-retention/rain garden swales and a retention pond for water quality. The storm water retention ponds and swales are maintained by the owner of the property.

Resident Kathryn Hankins stated that the last comment is really important. 10 years from now this will be a brown field. Rains that wash over the outdoor stored vehicles will be contaminated and leach into the gravel. Ms. Hankins stated that this is not a good location for the magnitude of this project. Ms. Hankins pointed out that different types of microbes can return on the trucks from other areas and could potentially enter the environment here. Ms. Hankins stated that this is a gateway property to the Rush community and the comprehensive plan specifically refers to community commercial. Industrial activity will lower property values by 40%. The nearby residents are on wells and need environmental protection.

Resident Michael Stewart stated that the gravel pad will be directly behind his house. The outdoor storage of vehicles is not allowable by code with the exception of Snyder's garage and the dealership up the road. Mr. Stewart does not want to look at stored vehicles. Mr. Stewart is also concerned about security.

Resident Robert Powers asked with such low growth over the last 20 years, why is such a large parcel needed. The Board indicated that may be the arrangement between Mr. Hansen and Mr. Turner.

Mr. Bonsignore stated that due to the flood plain much of the land is not usable and they are limiting their request to only 7.83 acres. If Mr. Turner's business was doing well and wanted to expand beyond the 7.83 acres he would have to come back to this Board and meet the required use variance criteria. He would already be receiving a reasonable return and would fail to meet the very first criteria needed for an additional use.

Although only 7.83 acres is proposed for a use variance Ms. Hankins stated that it indicates a change to the entire 80 acre parcel and opens the door to additional variances on the remaining land that will alter the character of the neighborhood.

Mr. Bonsignore clarified one last time that the parcel is 80 acres and it has not been subdivided. The 24.65 acre parcel will only occur if the Zoning Board grants the use variance. The use variance request is for approximately 7.83 acres or 10% of the 80 acre parcel. If the Zoning board grants the use variance, it will only apply to the indicated 7.83 acres. The remaining lands will continue to be zoned commercial. Any further changes to the remaining lands would have to go through the entire application process again. The very purpose of having use variances in a zoning code is to recognize the fact that comprehensive plans and zoning codes are not air tight and there are circumstances in which exceptions can be made and that is the purpose of this application. Again the application severely limits the use of the property to 2 buildings and the storage of vehicles and is much less invasive than rezoning the property.

Resident James Bucci stated that he has lived in the area for many years and the traffic on NYS Route 15 is only going to get busier regardless of the proposed project. Rush needs new businesses in the town for growth and development. The proposed project is desirable in that it allows a business to come into town while still giving the town and residents a say and control. Mr. Bucci stated that another less desirable business could go on that parcel and not be required to obtain approvals from any of the Town's Boards. The proposal presented consists of visually appealing buildings and it would contribute to the town tax base. It may even encourage Snyder's garage to clean up their property. Residents should be more concerned with the years of leaking contaminants on Snyder's property such as fuel, oils and radiator fluids from car wrecks that are towed to the property for repair. Mr. Bucci stated that the community needs to come together and support not only safety but growth as well.

It was noted that if the use variance is granted the project still has to go before the Planning Board for site plan approval.

Resident Kathryn Hankins noted the lack of people in attendance. Ms. Hankins stated very few people knew about the hearing tonight. Had there been a sign on the property the room would be far more crowded. Ms. Hankins stated to the Board that attendance tonight does not represent the community's sentiments.

Chairman Van Lare replied that he takes issue with Ms. Hankins statement. This Board has been working with this applicant's request since last February. Notifications have been put out to the public on the town website, by published legal notices in 2 papers, on the Town Hall bulletin board and resident letter for those who live within 500 feet of the property. Chairman Van Lare does not know how Ms. Hankins can say that people do not know about the meetings.

Ms. Hankins stated that she meant to imply that in March after the last application was withdrawn, most people thought the project was gone.

Board Member Pruden stated that proper notice was given through all required avenues and Deputy Town Clerk Palmer works very hard to make sure that the web site has all the appropriate information. Residents can even call or stop in to the Town Clerk's Office to get updated information. Citizens need to take responsibility themselves to know what is going in the community.

With no further comments Board Member Pruden made a motion to close the Public Hearing.

Chairman Van Lare 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.

Chairman Van Lare Stated that the Zoning Board of Appeals will continue to allow submittals and letters regarding the application thru the close of business on Monday July 15, 2013. The Board will adjourn the decision on the application to the next meeting in order to review all the new correspondence received.

The August 8, 2013 meeting has been rescheduled to Tuesday August 6, 2013 at 7:00PM.

**Application 2013-09Z** by Curran and Christine Brown requesting a front setback variance for a barn. The proposed location does not comply with 120-18 of the Rush Town Code. Property is located at 30 Rotzel Road and zoned R-20.

Mr. Brown submitted a new detailed map with all of the required measurements and photographs of the site.

Mr. and Mrs. Brown live on a corner lot and have 2 front setbacks. Mr. Brown stated that he would like to construct a barn to line up with the front foundation line of the house for aesthetics. This would comply with the required set back from East River Road. However, a front setback variance will be required from Rotzel Road. The current house is what the Zoning Board calls pre-existing/non-conforming. The Zoning Board also confirmed that the barn would not be forward of the house.

Mr. Brown is asking for 35 feet of relief from the required 100 foot setback. The barn will be no closer than 65 feet from center line.

Resident Dave Sluberski came forward and viewed Mr. Brown's site plan. Mr. Sluberski stated that he lives just around the corner and he has no objection to the location of the barn.

Chairman Van Lare read all correspondence into the record. Monroe County Department of Planning and Development (MCDP&D) ruled the application a local matter. The Rush Conservation Board does not find any aspect of the project to have significant impact on the environment.

With no further comments Board Member Corbin made a motion to close the Public Hearing.

Board Member Pruden 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.

**Application 2013-10Z** by Andrew and Laurie Shepland requesting a front setback variance for a garage addition. The proposed location does not comply with 120-18 of the Rush Town Code. Property is located at 801 Fishell Road and zoned R-30.

Mr. Shepland appeared to request a front setback for a proposed garage addition. Mr. Shepland is asking for a 3 foot variance. The Board reviewed the details of map that Mr. Shepland submitted with the application. Mr. Shepland has submitted the required names of adjoining property owners.

Chairman Van Lare read all correspondence into the record. MCDP&D ruled the application a local matter. The Rush Conservation Board does not find any aspect of the project to have significant impact on the environment. Chairman Van Lare noted that a letter of support containing signatures from neighbors Schuback, O'Mara, Quinlan and Erberle has been submitted.

With no further comments Board Member Weiler made a motion to close the Public Hearing.

Board Member Corbin 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.

#### **WORKSHOP:**

**Application 2013-012Z** by Douglas Dumbleton requesting a side setback variance for a picnic pavilion. The proposed location does not comply with 120-19 of the Rush Town Code. Property is located at 19 Keyes Road and zoned R-30

**Mr. Dumbleton did not appear. The workshop will be rescheduled for August 6, 2013.**

#### **REPORTS:**

Councilman Woolaver had no report.

#### **DECISIONS:**

Bob Weiler made a motion **WHEREAS**, This Board has examined Application 2013-09Z by Curran & Chris Brown of 30 Rotzel Road, located in a residential district, requesting a front setback variance of 35 feet for a new pole barn, 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 SEQ. 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 all variances for relief from granting of individual setback and lot line variances.

Chairman Van Lare 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.

**WHEREAS**, Application 2013-09Z was submitted by Curran & Chris Brown for property at 30 Rotzel Road requesting a variance from a front setback requirement for structures of 100 feet as set forth in the Code of Rush Chapter 120-18, 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 new pole barn as identified in the plan shall be placed no closer than 65 feet from the centerline of Rotzel Road.

The following conditions apply:

1. No work is to commence until a building permit is acquired from the Town of Rush.
2. The construction of the proposed pole barn is to be completed within one year of the approval of this application.

The reasons for this action are:

1. Construction of the proposed pole barn at the required 100 foot setback would require the removal of large amounts of wooded area including several very large trees.
2. The proposed barn will be no closer to the centerline of Rotzel Rd. than the pre-existing, non-conforming primary dwelling.

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 neighborhood.

Board Member Pruden 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.

Board Member Koppers made a motion **WHEREAS**, this Board has examined Application 2013-10Z, submitted by Andrew and Laurie Shepland, of 290 Keyes Road, located in an R-30 Zoning District, requesting front setback variance of 5 feet for a proposed garage addition, and the maps, and diagrams and other materials were 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.

Board Member Pruden 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.

**WHEREAS**, Application 2013-10Z was submitted by Andrew and Laurie Shepland of 290 Keyes Road, requesting a variance from a front setback requirement for structures of at least 100 feet as set forth in the Code of Rush, Chapter 120-18, as described in the maps 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 was read and those statements were considered by this Board; then

**BE IT RESOLVED**, that Application 2013-10Z be granted as requested in the plans submitted with this application, subject to the following conditions:

1. The new garage will be no less than 95 feet from the front highway centerline.
2. No work is to be commenced until a building permit is obtained from the Town of Rush.
3. The construction of this garage is to be completed within one year of the approval of this application.

The reasons for this action are:

1. The placement of the new garage is consistent with the neighborhood and the proximity of other pre-existing buildings on the road.
2. There will be no undesirable change in the character of the neighborhood.
3. There is no discernible detriment to the health, safety or welfare of the community or neighborhood that would occur by the granting of these variances.

Board Member Pruden 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.

**APPROVAL OF MINUTES:** June 13, 2013

Chairman Van Lare made a motion to approve the Minutes of June 13, 2013 as written.

Board Member 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 Chairman Van Lare and agreed by common consent that the meeting be adjourned at 8:20 PM.

Respectfully Submitted,

Meribeth Palmer  
Deputy Town Clerk