

**RUSH ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES OF JANUARY 9, 2014**

A regular meeting of the Rush Zoning Board of Appeals was held on January 9, 2014 at the Rush Town Hall, 5977 East Henrietta Road, and was called to order at 7:00 PM.

**PRESENT:** Amber Corbin, Chairwoman  
Robert Weiler  
Kelly Pruden  
Garry Koppers  
Pamela Bucci, Town Clerk  
Shivaun Featherman, Deputy Town Clerk  
John Mancuso, Esq., Town Attorney

**OTHERS:** Dan Woolaver, Town Board Liaison  
Richard Snyder, Contractor  
Mark Eberle, Resident  
Steven Tomanovich, Resident

Chairwoman Corbin welcomed all and called the January Zoning Board of Appeals meeting to order at 7:00 PM.

**PUBLIC HEARING:**

**Application 2013-17Z** by Regina Lapp-Harmon requesting a front setback variance for a porch addition to the single family residence located at 7679 East River Road. The proposed addition does not comply with 120-18 of the Rush Town Code. Property is located in an R-20 zoning district.

Mr. Snyder, representing the Harmons, stated that replacement of the front door revealed a rotted rim and floor joist from water damage. This led to major repairs. To further protect the facade and improve drainage, a covered porch over the existing cement slab has been proposed. Mr. Snyder is requesting a front setback variance of 43 feet from center line.

Chairwoman Corbin entered into the record all correspondence; a letter from the owner, Regina Lapp-Harmon, giving her permission for Mr. Snyder to act on her behalf, and a site map with measurements of the property. Monroe County Department of Planning and Development ruled the application a local matter, and the Rush Conservation Board has reviewed the application and does not find any aspect of the project to significantly impact the environment.

With no further questions regarding the application, Board Member Pruden made a motion to close the public hearing for application 2013-17Z by Regina Lapp-Harmon. Board Member Weiler seconded the motion and the Board Members polled.

Roll: Robert Weiler        aye  
      Kelly Pruden         aye  
      Garry Koppers        aye  
      Amber Corbin        aye    carried.

**WORKSHOP:**

**Application 2014-01Z** by Mark and Kelli Eberle requesting a front setback variance for a porch addition to the single family residence located at 332 Keyes Road. The proposed addition does not comply with 120-18 of the Rush Town code. Property is located in an R-30 zoning district.

Mark Eberle explained the addition that he would like to make to his front porch. Currently the porch does not protrude past the profile of the front of the house and he is proposing a larger front porch that will protrude 2.87 feet from the front of the house. The front of the house is currently 79.3 feet from the center line. Chairwoman Corbin stated that if the Board were to grant this variance, Mr. Eberle would have one year from the date of the approval of the application to complete the project. Chairwoman Corbin advised Mr. Eberle that a member of the Zoning Board will be contacting him soon to visit the property, and that Mr. Eberle's Public Hearing will be on February 13, 2014. It was recommended that Mr. Eberle estimate the distance to each of the properties adjoining his as this would be a good record for the Board to determine how the neighbors would be impacted.

**DECISIONS:**

Board Member Koppers made a motion **WHEREAS**, this Board has examined Application 2013-17Z, submitted by Regina Lapp-Harmon located at 7679 East River Road, located in an R-20 Zoning District, requesting front setback variance for a proposed front porch, to the existing home, and the maps, and diagrams and other materials were submitted with the application; and

**WHEREAS**, the application is solely for an Area Variance; now therefore,

**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: Robert Weiler        aye  
      Amber Corbin         aye  
      Kelly Pruden         aye  
      Garry Koppers        aye    carried

**WHEREAS**, Application 2013-17Z was submitted by Regina Lapp-Harmon of 7679 East River Road, requesting a variance of fifty-two (52) feet for a front setback requirement for structures of at least one hundred ten (110') 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 2013-17Z be granted as requested in the plans submitted with this application, subject to the following conditions:

1. The Front Porch shall be placed no closer than Fifty-eight (58) feet from the front highway center line of East River Road.
2. No work is to be commenced until a **Building Permit** is obtained from the Town of Rush.
3. The construction of this front porch is to be completed within one year of the approval of this application.

The reasons for this action are:

1. The home is so located and will not allow for the One hundred-ten (110') foot setback.
2. The placement of the front porch is consistent with the neighborhood and the proximity of other pre-existing buildings on the road.
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.

Board Member Weiler seconded the motion and the Board Members polled.

|       |               |     |         |
|-------|---------------|-----|---------|
| Roll: | Robert Weiler | aye |         |
|       | Amber Corbin  | aye |         |
|       | Kelly Pruden  | aye |         |
|       | Garry Koppers | aye | carried |

**INFORMAL MEETING:**

Mr. Steven Tomanovich appeared to discuss the property on 6101 East Henrietta Road. He explained that he is in the process of purchasing the property from current owner Mr. Joseph Giorgione and he will be closing soon. Chairwoman Corbin stated that the Zoning Board had previously granted Mr. Giorgione four variances, which had expired on October 19, 2013. The four original variances were:

- Application 2012-04Z for a use variance.
- Application 2012-05Z for an area variance.
- Application 2012-06Z for a front setback variance.
- Application 2012-07Z for a side and rear setback variance.

Mr. Tomanovich explained that he will not be making any changes from the original four variances, however, he will be seeking a variance for a two story, enclosed front porch. Chairwoman Corbin informed Mr. Tomanovich that the Board will need to grant a variance before he can continue with the plans he has for the property. Attorney Mancuso was asked by Chairwoman Corbin on how to handle the four variances that have now expired. Attorney Mancuso explained that originally the proposal was for Mr. Tomanovich to submit an application to the Board to extend the condition of the four variances to give him an additional year to satisfy the requirements of the four variances that were granted. However, if Mr. Tomanovich will be requesting a new variance, then the procedure will be to submit a new application and use the information that was previously submitted with any changes that now need to be made to update it.

Mr. Tomanovich asked for a clarification on why Mr. Giorgione originally needed a front setback variance. Chairwoman Corbin stated that the pre-existing structure does not comply with the current setback requirements of the Town Code. Attorney Mancuso asked Mr. Tomanovich if the porch variance that he will be seeking is within the setback requirements, and will it impact the side and rear setback of Application 2012- 07Z. Board Member Koppers advised that it will impact the front setback variance.

It was determined that as only Application 2012- 06Z will be changing, the other three variances can remain the same. Attorney Mancuso advised Mr. Tomanovich that he will need to submit the following:

1. A separate application requesting the new front porch area variance.
2. A survey map.
3. A letter application asking that the Zoning Board considers granting him an extension of the conditions on the other three variances that are not changing (Application 2012-04Z, Application 2012-05Z, and Application 2012-07Z).

Attorney Mancuso advised Mr. Tomanovich to include in the letter the facts on why he needs to make the request, and that he intends on complying with the variances that were originally granted, asking for additional time. Chairwoman Corbin stated that if he ever sells his home in the future, the record on the variances will be clear.

Mr. Tomanovich was advised that he can submit the applications as soon as he is ready, as he is a contract vendee. Attorney Mancuso stated that the architect's plans must show how much of a variance he needs for the proposed porch in order for the Zoning Board to grant the minimum area variance. Mr. Tomanovich replied that he has a drawing that he has submitted to his architect.

Board Member Pruden advised Mr. Tomanovich that he will need to stake out where the front porch will lay before they come out to view the property. Mr. Tomanovich was also advised that Gerry Kusse, Rush Code Enforcement Officer, can advise him through the process.

**APPROVAL OF MINUTES:**

Chairwoman Corbin made a motion to approve the Minutes of December 12, 2013 as written.

Board Member Pruden seconded the motion and the Board Members polled.

|       |               |     |          |
|-------|---------------|-----|----------|
| Roll: | Robert Weiler | aye |          |
|       | Kelly Pruden  | aye |          |
|       | Garry Koppers | aye |          |
|       | Amber Corbin  | aye | carried. |

**BOARD BUSINESS:**

Councilman Woolaver had nothing to report.

Board Member Pruden read the below:

On behalf of the Zoning Board of Appeals of the Town of Rush, we would like the record to show that Chairman Van Lare passed away in December. We are all very saddened by this as the town and Zoning Board has lost a most valuable asset of knowledge as well as a good friend. He will be greatly missed.

With no further business, a motion was made by Chairwoman Corbin and agreed by common consent that the meeting be adjourned at 7:35 PM.

Respectfully Submitted,

Shivaun Featherman  
Deputy Town Clerk