

**RUSH ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES OF FEBRUARY 13, 2014**

A regular meeting of the Rush Zoning Board of Appeals was held on February 13, 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
Shivaun Featherman, Deputy Town Clerk

OTHERS: Gerry Kusse, Code Enforcement Officer, Resident
Dan Woolaver, Town Board Liaison
Mark Eberle, Resident
David Flass, Resident
Jim Kolb, Resident
Duane Stevens, Resident
StevenTomanovich, Resident

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

PUBLIC HEARING:

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 is proposing a larger front porch that will protrude less than 3 feet from the front of the house. The new addition will cover a concrete curb that previous owners had installed. The proposed front porch will be more useable than the current porch and improve the appearance of the front of the home. Mark stated that the proposed porch addition is a small part of a larger home improvement project which includes re-roofing and re-siding. Mr. Eberle provided the Board with the approximate distances of his property to the properties adjoining his:

- 352 Keyes Road – 300'
- 300 Keyes Road – 1500'
- 343 Keyes Road – 500'
- 321 Keyes Road – 200'

Chairwoman Corbin entered all correspondence into the record. Monroe County Department of Planning & Development has 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. The Rush Fire Commissioner does not have any concerns regarding this application. A letter of support was received from Mr. John Enright of 321 Keyes Road. Mr. Eberle submitted a list of eleven (11) signatures with addresses from his neighbors in support of this application.

Chairwoman Corbin acknowledged that the Zoning Board was in receipt of a letter that did not specifically object to the requested variance, however, the letter was not signed. Chairwoman Corbin stated that it is the Boards practice not to enter unsigned correspondence into the record.

With no further questions regarding the application, Board Member Pruden made a motion to close the public hearing for Application 2014-01Z by Mark and Kelli Eberle. Board Member Koppers seconded the motion and the Board Members polled.

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

WORKSHOP:

Application 2014-02Z by Jim Kolb, agent for Duane and Debbie Stevens, seeking an area variance for a proposed deck. The proposed deck does not comply with 120-19 of the Rush Town Code. Property is located at 7272 West Henrietta Road and is zoned commercial.

Mr. Kolb explained that he had previously constructed a small, flat side deck attached to the ice cream store, not realizing that it was not within the lot line. The initial survey indicated that the lot line was the hedgerow. However, when the land was resurveyed it was discovered that the lot line is further east. This was also pointed out by Mr. John Felsen, Chairman of the Rush Planning Board, during the application phase of a change of use variance. Mr. Kolb is confident in the accuracy of the second land survey. There is a difference of a 14' opening on a driveway. Mr. Kolb stated that the driveway is not needed for fire access. He has spoken with his neighbors and stated that he will have letters from them stating they have no issues.

Chairwoman Corbin stated that when she looked at the application, there was a reference to Building #2, however, there is no Building #2 on the map. Mr. Kolb replied that has since changed, and it should be worded Building F.

Chairwoman Corbin asked Mr. Kolb when the deck was first constructed. Mr. Kolb replied that it was in the summer of 2013. Mr. Kolb stated that Mr. Kusse had advised him that a building permit was not needed as it was flat on the ground. Mr. Kusse stated for the record that he was told by Mr. Kolb before the deck was built that it would be laying on grade, and that there would be no footers. Mr. Kusse agreed at that point that a building permit would not be needed, however, Mr. Kusse stated that he has not

seen the deck since it has been built. Chairwoman Corbin stated that the Zoning Board needs the actual dimensions of the deck written on the site map by the land surveyor. Chairwoman Corbin stated they will need to receive the revised site map a week before the Public Hearing on March 13, 2014 in order to have time to review it. The measurement from the corner of the existing deck to the east side lot line needs to be noted on the map and the measurement will need to be from the corner of the deck to the center front line of Route 251, also needs to be noted on the map.

Chairwoman Corbin also stated that Mr. Kolb will need to provide letters from his neighbors with their comments before his public hearing on March 13, 2014.

Application 2014-03Z by Steven Tomanovich, seeking front and side setback variances for a proposed porch. The proposed porch does not comply with 120-18 and 120-19 of the Rush Town Code. Property is located at 6101 East Henrietta Road. Property is zoned commercial.

Mr. Tomanovich explained to the Board that he would like to build a two story, enclosed porch on the side of the property that faces East Henrietta Road. Chairwoman Corbin asked Mr. Tomanovich if the proposed porch is living space or a porch, as the drawings he submitted look like actual living space. Mr. Tomanovich explained that it is a proposed porch, and that it will not have heat but it will have electricity. It will not have access from upstairs to downstairs, and no access to the outside.

Chairwoman Corbin stated that as the property is a corner lot, she would like the application changed to two front setback variances; one from East Henrietta Road and one from Rush West Rush Road. Mr. Tomanovich will also need to submit a more detailed map with actual measurements on it, the names of the neighbors that will be in view of the porch, and the approximate distances from the proposed porch to his neighbors' homes. Chairwoman Corbin stated that it would be helpful to have his neighbors either send signed letters to the Town Hall with their approval, or for Mr. Tomanovich to submit a list with his neighbors signatures and their addresses in support of his application.

Chairwoman Corbin read a letter that Mr. Tomanovich had submitted asking the Board to grant an extension of three variances that had been obtained by the previous owner but had not been completed; Applications 2012-04Z, 2012-05Z and 2012-07Z. The Board and Mr. Mancuso, Town Attorney, reviewed the applications and determined that only Application 2012-04Z for a use variance needs an extension because it has a one year time limit. Applications 2012-05Z and 2012-07Z are for area variances and do not contain any time limitations. As a result, Mr. Tomanovich should submit an amended letter requesting that the Zoning Board of Appeals grant a one year extension of condition 4 of Application 2012-04Z. Board Member Pruden advised that Mr. Tomanovich keep the first sentence of the letter intact, however, as it shows that Mr. Tomanovich intends to continue the variances previously granted with the property.

Mr. Tomanovich asked Mr. Kusse if he needs the building permit before he has the electrical inspected and the windows replaced. Mr. Kusse advised Mr. Tomanovich

that he can proceed with the electrical inspection and replacing the windows before the building permit is issued.

DECISIONS:

Board Member Pruden made a motion **WHEREAS**, this Board has examined Application 2014-01Z submitted by Mark and Kelli Eberle as property owners of 332 Keyes Road, located in an R-30 district, requesting a front setback variance for a front porch to be constructed on the existing residence, and maps and other materials which were filed with the application; and

WHEREAS, the application is for a front setback variance only, now therefore,

BE IT RESOLVED, that this Board determines that it is a Type II action, which requires no further processing under SEQRA. The reason for this determination is that Section 617.5c(12) of Title 6 under 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.

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

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

WHEREAS, Application 2014-01Z was submitted by Mark and Kelli Eberle as property owner for property located at 332 Keyes Road, Rush, New York, requesting a variance from a front setback requirement of 100 feet from the center line of the road, not being a state or county road, 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 on the matter was read and statements were considered by this Board, and,

NOW THEREFORE, BE IT RESOLVED, that Application 2014-01Z is granted as requested in the plans submitted with the application. The proposed front porch as identified in the plans shall be placed no closer than 23 feet from center line of Keyes Road.

The following conditions apply:

1. No work is to commence until a building permit is obtained from the Town of Rush;
2. The construction of the proposed front porch is to be completed within one year of the approval of the application;

The reasons for this action are:

1. The proposed front porch will present no impediment to the enjoyment of the neighboring properties to the east and west;
2. Neighbors have voiced no written, signed objection to the addition of the front porch; and
3. 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 Koppers seconded the motion and the Board Members polled.

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

APPROVAL OF MINUTES:

Board Member Pruden made a motion to approve the Minutes of January 9, 2014 as written.

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.

BOARD BUSINESS:

Councilman Woolaver stated that the Town Board has received several applications for the vacancies on the Zoning Board and are in the process of scheduling interviews.

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Board Member Koppers suggested that the Zoning Board process be placed in the next newsletter for residents.

Board Members Koppers and Weiler were assigned Application 2014-02Z, and Chairwoman Corbin and Board Member Pruden were assigned Application 2014-03Z.

With no further business, a motion was made by Chairwoman Corbin and agreed by common consent that the meeting be adjourned at 7:55 PM.

Respectfully Submitted,

Shivaun Featherman
Deputy Town Clerk