

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

A regular meeting of the Rush Zoning Board of Appeals was held on March 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:** Jim Kolb, Resident  
Dan Woolaver, Town Board Liaison  
David Flass, Resident  
Selden Chase, Resident  
Steven Tomanovich, Resident  
Lee Hetrick, Resident

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

**PUBLIC HEARING:**

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

Mr. Tomanovich is proposing a two story enclosed porch addition to the front of the property facing East Henrietta Road and explained that it would improve the appearance of the structure. Mr. Tomanovich pointed out on the site map the approximate distances of his property to the properties adjoining his:

- 150' to the east
- 150' to the south
- 60' to the north

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. Mr. Tomanovich submitted a list of two signatures with addresses from his neighbors in support of his application.

With no further questions regarding the application, Board Member Pruden made a motion to close the public hearing for Application 2014-03Z by Steven Tomanovich.

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.

Chairwoman Corbin entered into the record a letter received from Mr. Tomanovich to the Rush Zoning Board regarding the property at 6101 East Henrietta Road. The letter is dated February 17, 2014 and is requesting a use variance extension of Application 2012-04Z, condition four (4), for one year.

Chairwoman Corbin explained that the Board will assign the letter Application number 2014-04Z and will make a ruling on the Application later in the meeting. Chairwoman Corbin stated that Mr. Tomanovich will need to withdrawal the newly filed use variance as it is unnecessary. Mr. Tomanovich acknowledged to the Board that he will be withdrawing the application. Chairwoman Corbin noted that the fee that Mr. Tomanovich had paid to the Town Clerk's office will be refunded.

**PUBLIC HEARING:**

**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.

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.

With no further questions regarding the application, Board Member Weiler made a motion to close the Public Hearing for Application 2014-02Z by Jim Kolb, agent for Duane and Debbie Stevens. 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.

**INFORMAL DISCUSSION:**

Resident Selden Chase appeared before the Board expressing his concern that Rush Zoning setback requirements for variances are unreasonable. Supervisor Anderson advised Mr. Chase that once the Town had finished conducting interviews for the open Zoning Board positions, it would contemplate forming a citizens committee to review the Town Zoning Code.

Board Member Pruden stated that she understands his frustration with the Code, however, the Zoning Board cannot make suggested changes because that in itself is a conflict of interest. She advised that if the townspeople of Rush want to change the Code, they need to petition the Town Board. Board Member Weiler informed Mr. Chase that the Rush Code is the same standard code that is used for most of the towns in this area. He added that the Zoning Board is here to make exceptions and the acceptance rate is high as far as variances.

**DECISIONS:**

Board Member Koppers made a Motion **WHEREAS**, this Board has examined Application 2014-02Z, submitted by Duane and Debbie Stevens of 7272 West Henrietta Road, located in a Commercial Zoning District, requesting a side setback variance for an existing ground deck, to the east of building F, and the maps, and diagrams and other materials were submitted with the application;

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

**WHEREAS**, Application 2014-02Z was submitted by Duane and Debbie Stevens of 7272 West Henrietta Road, requesting a variance from a side setback requirement for structures of at least twenty-five ( 25) feet as set forth in the Code of Rush, Chapter 120-19, 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 2014-02Z be granted as requested in the plans submitted with this application, subject to the following conditions:

1. The approval of this variance is contingent upon the applicant and the property owner obtaining final site plan approval for the property from the Planning Board of Town of Rush within six (6) months of the approval of this application.
2. The existing ground deck will be no more than Fourteen (14) feet from the property line.
3. No Building Permit is required from the Town of Rush.

The reasons for this action are:

1. The deck was constructed prior to application 2014-02Z.
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:	Garry Koppers	aye	
	Robert Weiler	aye	
	Kelly Pruden	aye	
	Amber Corbin	aye	carried.

Board Member Pruden made a Motion **WHEREAS**, this Board has examined Application 2014-03Z, submitted by Steven Tomanovich located at 6010 East Henrietta Road, located in a Commercial Zoning District, requesting two (2) front setback variances for a proposed enclosed porch addition, on the east side of 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 **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 Koppers seconded the Motion and the Board Members polled:

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

**WHEREAS**, Application 2014-03Z was submitted by Steven Tomanovich, of 6101 East Henrietta Road, requesting two (2) variances from a front setback requirement for structures of at least one hundred forty (140') 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 2014-03Z be granted as requested in the plans submitted with this application, subject to the following conditions:

1. The proposed enclosed porch shall be placed no closer than sixty-one (61') feet from the center line of East Henrietta Road and shall be placed no closer than seventy-two (72') feet from the center line of Rush West Rush Road.
2. No work is to be commenced until a Building Permit is obtained from the Town of Rush.
3. The construction of this proposed enclosed porch addition is to be completed within one year of the approval of this application.

The reasons for this action are:

1. The home is currently seventy (70') feet from the center line of East Henrietta Road and sixty-five (65') feet from the center line of Rush West Rush Road, and it will not allow for the One hundred forty (140') foot minimum setbacks.
2. The placement of the proposed enclosed porch addition 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: Garry Koppers        aye  
      Robert Weiler        aye  
      Kelly Pruden         aye  
      Amber Corbin        aye    carried.

In regards to the use variance extension letter from Mr. Steven Tomanovich, Application 2014-04Z, Chairwoman Corbin made a Motion to grant an extension of original Application 2012-04Z, condition four (4), for one year and that the applicant will comply with all original variances. Board Member Pruden 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 February 13, 2014 as written.

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.

**BOARD BUSINESS:**

Chairwoman Corbin read the below:

The Zoning Board would like to thank Mr. Robert Weiler for his years of work and dedication to the Town of Rush and the Zoning Board of Appeals. Your experience and knowledge will be missed. The Zoning Board will have two new members joining the Board next month.

With no further business, a motion was made by Chairwoman Corbin and agreed by common consent that the meeting be adjourned at 7:33 PM.

ZONING BOARD OF APPEALS  
MARCH 13, 2014

Respectfully Submitted,

Shivaun Featherman  
Deputy Town Clerk