

**RUSH ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES OF JUNE 12, 2014**

A regular meeting of the Rush Zoning Board of Appeals was held on June 12, 2014 at the Rush Town Hall, 5977 East Henrietta Road, and was called to order at 7:00 PM.

PRESENT: Amber Corbin, Chairperson
Garry Koppers, Vice Chairperson
David Flass
Lee Hetrick
Shivaun Featherman, Deputy Town Clerk

OTHERS: Dan Woolaver, Town Board Liaison
Gerry Kusse, Code Enforcement Officer
Joshua Nau, Resident
Amy Nau, Resident
John Kearney, Business Owner

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

PUBLIC HEARING:

Application 2014-07Z by Joshua and Amy Nau requesting a side setback variance for a proposed pole barn. The proposed location does not comply with section 120-19 of the Rush Town Code. Property is located at 1226 Rush-Scottsville Road in a (R-30) residential zoning district.

Mr. Nau explained that he would like to construct a 30' x 40' pole barn with a 10' lean-to behind his existing home to be used for storage. He would like to build the proposed pole barn 15' from the property line and is seeking a side setback variance of 10'.

Mr. Nau provided the following measurements:

- The neighbor's house to the south is 60' off the center of the road.
- The neighbor's garage to the west is 45' from the lot line and their house is 90' from the lot line.
- The neighbor's house to the east is 80' from the lot line.

Board Member Flass asked if the proposed structure will be near the leech fields. Mr. Nau pointed out on the site map where the leech fields are located, and stated that the proposed pole barn will not be near them.

Chairperson Corbin entered all correspondence into the record. Monroe County Department of Planning and Development has ruled the application a local matter. The Rush Fire Commissioner does not have any concerns regarding the application. The

Rush Conservation Board does not find any aspect of the project to have a significant impact on the environment, however, they are inquiring as to what the buildings are near the neighbor's lot line. The buildings had been clarified as storage sheds. Mrs. Nau submitted three signed letters of support from neighbors.

With no further questions or comments regarding the application, Vice Chairperson Koppers made a motion to close the public hearing for Application 2014-07Z by Joshua and Amy Nau. Board Member Flass seconded the motion and the Board Members polled.

Roll: Lee Hetrick aye
 Garry Koppers aye
 David Flass aye
 Amber Corbin aye carried.

WORKSHOP:

Application 2014-05Z by John Kearney requesting a Use Variance to display an outside tire rack during business hours. The proposed location does not comply with section 120-12 E (3) of the Rush Town Code. Property is located at 5970 East Henrietta Road in a (C) commercial zoning district.

Mr. Kearney explained to the Board that he would like to display two tire racks outside, in the middle of the pump stations, during his business hours, which are 8:00 am to 6:00 pm Monday through Friday, and from 8:00 am to 12:00 pm Saturday. He would like to have tires available as a convenience to his customers. A similar business in Rochester would have two tire deliveries per day, however, in the Town of Rush that is not possible. By having tires available at his location, customers could have bad tires replaced right away.

Chairperson Corbin asked the applicant for a survey map of the property, as the map he had submitted with his application is hand drawn. Mr. Kearney replied that he submitted a survey map to the Rush Planning Board in July of 2013 when he applied for a special permit for the outdoor storage of vehicles. Chairperson Corbin asked Deputy Clerk Featherman if that is something that could be pulled from the record. Deputy Clerk Featherman replied it is, and she will provide copies to the Zoning Board Members. Chairperson Corbin asked Mr. Kearney to provide dimensions and pictures of the tire racks at the July 10, 2014 Public Hearing.

Board Member Hetrick noted that if the tires were not stored outside, Mr. Kearney would have to store them in a bay. As there are three bays, the applicant would lose 30% of his work space. Chairperson Corbin advised Mr. Kearney that a Use Variance is one of the most difficult to approve as the applicant must satisfy all four requirements listed on the application. It would be helpful to provide data at the July 10, 2014 Public Hearing showing that tire sales could help make his business more successful.

Chairperson Corbin informed the applicant that before the Public Hearing date, a Zoning Board Member will be contacting him to schedule a time to visit the property.

DECISIONS:

Vice Chairperson Koppers made a motion **WHEREAS**, this Board has examined Application 2014-07Z, submitted by Joshua and Amy Nau of 1226 Rush-Scottsville Road, Rush, NY, located in an R-30 District, requesting a side setback variance for a proposed 30' x 40' pole barn with a 10'x40' lean-to, located on the northeast side boundary line, 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."

Chairperson Corbin seconded the motion and the Board Members polled.

Roll: Lee Hetrick aye
 Garry Koppers aye
 David Flass aye
 Amber Corbin aye carried.

WHEREAS, Application 2014-07Z was submitted by Joshua and Amy Nau of 1226 Rush Scottsville Road, Rush, NY, requesting a variance from a side setback requirement for structures of at least twenty-five feet (25') 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 2014-07Z be granted as submitted with the application, subject to the following conditions:

1. The southeast corner of the pole barn, as proposed in the plan, shall be placed no closer than Fifteen feet (15') from the east property line.
2. No work is to be commenced on the pole barn until a Building Permit is obtained from the Town of Rush.

3. The construction of the pole barn is to be completed within one year of the approval of this application.

The reasons for this action are:

1. The placement of the pole barn 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 this variance.

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

Roll: Lee Hetrick aye
 Garry Koppers aye
 David Flass aye
 Amber Corbin aye carried.

APPROVAL OF MINUTES:

Board Member Koppers made a motion to approve the Minutes of May 8, 2014 as written.

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

Roll: Lee Hetrick aye
 Garry Koppers aye
 David Flass aye
 Amber Corbin aye carried.

APPLICATION ASSIGNMENTS:

Chairperson Corbin and Vice Chairperson Koppers are assigned Application 2014-05Z.

BOARD BUSINESS:

Councilman Woolaver stated that the Town Board has completed interviews for the vacant Zoning Board position. The decision will be announced at the June 25, 2014 Town Board Meeting.

CEO Kusse had nothing to report.

ZONING BOARD OF APPEALS
JUNE 12, 2014

With no further business, a motion was made by Chairperson Corbin and agreed by common consent that the meeting be adjourned at 7:27 PM.

Respectfully Submitted,

Shivaun Featherman
Deputy Town Clerk