

**RUSH ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES OF JUNE 11, 2015**

A regular meeting of the Rush Zoning Board of Appeals was held on June 11, 2015 at the Rush Town Hall, 5977 East Henrietta Road, and was called to order at 7:01 PM.

**PRESENT:** Garry Koppers, Vice Chairperson  
David Flass  
Lee Hetrick  
Susan Swanton  
Shivaun Featherman, Deputy Town Clerk

**EXCUSED:** Amber Corbin, Chairperson

**OTHERS:** Dan Woolaver, Town Board Liaison  
Gerry Kusse, Code Enforcement Officer  
Robert & Cynthia Tinney, Residents

Vice Chairperson Koppers welcomed all and called the June Zoning Board of Appeals meeting to order at 7:01 PM.

Vice Chairperson Koppers welcomed new Zoning Board Member Susan Swanton and thanked her for her commitment to the Rush Zoning Board of Appeals and to the Town of Rush.

**WORKSHOP:**

**Application 2015-01Z** by Robert and Cynthia Tinney requesting a rear setback variance for an in-ground pool. The proposed location does not comply with 120-19 of the Rush Town Code. Property is located at 4 Boulder Creek Drive and is zoned Residential-30.

Mr. Tinney explained that they have lived at 4 Boulder Creek for over two years and they would like to install an in-ground pool in their backyard. They have recently discovered that their property line is not as deep as they had originally thought, and plans to install the pool would put it on the property line. The Tinney's contacted Mr. Stein, who owns the property behind them, and Mr. Stein provided the Tinney's with a letter dated May 11, 2015 stating his agreement for them to build their pool up to the property line. In addition, Mr. Stein has verbally agreed to sell them a portion of his land once the busy farming season is over and he has time.

Both Board Member Hetrick and Vice Chairman Koppers advised the Tinney's to obtain a commitment letter before their July 9, 2015 Public Hearing from Mr. Stein stating that he is willing to sell them property. That would make a big difference in the Zoning Board's decision. Mr. Tinney stated that if they do purchase land from Mr. Stein, their proposed in-ground pool would then be 75' from the property line.

Board Member Hetrick stated there is a DEC buffer zone on some of the lots on Boulder Creek Drive but does not know if it pertains to the Tinney's property. Code Enforcement Officer (CEO) Gerry Kusse stated that the DEC buffer zone may end at the swale located at 14 Boulder Creek Drive.

Vice Chairperson Koppers advised the Tinney's that both he and CEO Kusse checked past history and the Zoning Board has never granted approval for anything to be installed on property lines. The Zoning Board tends to approve the least amount of variance versus the most allowable variance. Vice Chairman Koppers added that it is very unlikely that the Zoning Board will approve an in-ground pool on the property line. If something like that is approved, it sets precedence for the entire Town.

Vice Chairperson Koppers advised the Tinney's that before their Public Hearing on July, 9, 2015, a Zoning Board Member will be contacting them to visit their property and take measurements. Vice Chairperson Koppers asked the Tinney's to stake out the area where they hope to install their proposed pool before the visit.

**APPROVAL OF MINUTES:**

Board Member Hetrick made a motion to approve the Minutes of December 11, 2014 as amended.

Board Member Flass seconded the Motion and the Board Members polled.

Roll: Lee Hetrick            aye  
      Susan Swanton        abstained  
      David Flass            aye  
      Garry Koppers        aye    carried.

**APPLICATION ASSIGNMENTS:**

Vice Chairperson Koppers and Board Member Swanton are assigned Application 2015-01Z.

With no further business, a Motion was made by Vice Chairperson Koppers and agreed by common consent that the meeting be adjourned at 7:35 PM.

Respectfully Submitted,

Shivaun Featherman  
Deputy Town Clerk