

**RUSH ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES OF APRIL 14, 2016**

A regular meeting of the Rush Zoning Board of Appeals was held on April 14, 2016 at the Rush Town Hall, 5977 East Henrietta Road, and was called to order at 7:12 PM.

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

OTHERS: Dan Woolaver, Town Board Liaison
Phil D'Alessandro, Building Inspector
Steve Tomanovich, Resident

Chairperson Corbin welcomed all and called the April Zoning Board of Appeals meeting to order when the applicant arrived at 7:12 PM.

WORKSHOP:

Application 2016-01Z by Steven Tomanovich requesting a side setback variance for a proposed garage. The proposed location does not comply with 120-19 of the Rush Town Code. Property is located at 6101 East Henrietta Road and is zoned Commercial.

Mr. Tomanovich explained to the Board that he would like to build a two-car garage on the west side of the property and pointed out the location on his site map. The existing one-car garage will be demolished as it is not in good condition. Chairperson Corbin asked Mr. Tomanovich if he is currently using the existing garage. Mr. Tomanovich replied that he is currently using it for storage.

Before the garage is destroyed, a demolition permit must be obtained from Building Inspector Phil D'Alessandro.

In September of 2015, the Zoning Board denied Mr. Tomanovich's proposed garage location. Mr. Tomanovich stated that he has relocated the proposed location of the new garage 10' further north than his original Application 2015-03Z.

Chairperson Corbin read aloud the reasons for the denial of original Application 2015-03Z for a proposed garage from the September 10, 2015 Minutes:

*"...**BE IT FURTHER RESOLVED**, that Application 2015-03Z request for two front setbacks and one side setback for the sole purpose of constructing a detached two-car garage (24'x24'), be denied, as requested in the plans submitted with this application.*

The reasons for this action are:

- 1. The proposed detached two car garage would have been placed four feet (4') from the west property line. Owner constructed the two existing decks he is requesting a variance for earlier this year. The proposed 2 car garage could have been built further from property line if decks were not constructed in their present location, which would have made the parcel more in compliance with current zoning.*
- 2. The proposed detached two car garage would have been placed seventy-eight feet (78') from the center line of Rush West Rush Road. Currently there is an existing garage in the northwest corner of property that owner plans to demolish. Owner is seeking a variance for a 4 foot (4') setback and the minimum zoning requirement is 25 feet (25'). This, the variance sought represents an 84% deviation from the requirement. This is also a further deviation from the existing garage, which currently has a side setback of 8'6".*
- 3. The benefit can also be achieved by an alternative method. For example, the proposed garage could be moved close to the location of the existing garage, which would increase the side and front setbacks and would make the parcel more in compliance with the current zoning.*
- 4. Alleged difficulty was self-created. Owner has been granted other variances for this property since taking title. Owner was aware of the zoning restrictions for this property when it was purchased by Owner.*

Mr. Tomanovich explained that he is resubmitting this Application based on reason # 3 of the Application 2015-03Z denial. Chairperson Corbin clarified the denial process when an applicant is not open to possible options. Mr. Tomanovich stated that he is now willing to look at different locations.

Chairperson Corbin explained the Zoning Board workshop and public hearing process. At the conclusion of the workshop, select members of the Zoning Board will schedule a visit to the property, take measurements and discuss with the applicant any issues and options. At the May 17, 2016 public hearing, in order for possible approval, requests for two front setbacks and one side setback will be required. Chairperson Corbin further advised Mr. Tomanovich that it would be helpful to have signed letters from his neighbors stating that they do not have any concerns about the garage project. At that meeting, the Zoning Board will make a determination.

Chairperson Corbin noted that when Mr. Tomanovich purchased the property, he agreed to comply with the variances in place. Condition #3 of Application 2012-04Z, which is that the parking area is to be screened from the adjacent property by evergreen plantings, is not in compliance. Mr. Tomanovich was advised to consult with the Building Department to remedy the situation.

Mr. Tomanovich stated that if he is approved to build a new garage, planting evergreen trees now only means he will have to relocate them, however, he is open to working out an arrangement. Board Member Flass suggested the possibility of placing evergreen trees in pots in their future positions. Chairperson Corbin asked that the applicant contact the Building Department.

APPROVAL OF MINUTES:

Chairperson Corbin made a Motion to approve the Minutes of December 10, 2015 as written.

Board Member Hetrick seconded the Motion and the Board Members polled:

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

APPLICATION ASSIGNMENTS:

Vice Chairperson Koppers and Board Member Flass are assigned Application 2016-01Z.

REPORT OF OFFICERS:

Councilperson Woolaver stated that the Zoning Citizens Committee has been reviewing with the town attorney their proposed changes to the current Zoning Code.

With no further business, a Motion was made by Chairperson Corbin and agreed by common consent that the meeting be adjourned at 7:46 PM.

Respectfully Submitted,

Shivaun Featherman
Deputy Town Clerk