

**RUSH ZONING BOARD OF APPEALS
SPECIAL MEETING
MINUTES OF MAY 26, 2016**

A special meeting of the Rush Zoning Board of Appeals was held on May 26, 2016 at the Rush Town Hall, 5977 East Henrietta Road, and was called to order at 7:31 PM.

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

Chairperson Corbin welcomed all and called the Special May Zoning Board of Appeals meeting to order at 7:31 PM. Chairperson Corbin explained that the public hearing portion of Application 2016-01Z was satisfied at the May 12, 2016 Zoning Board meeting, and tonight's meeting is for voting purposes only.

TABLED APPLICATION:

Application 2016-01Z by Steven Tomanovich requesting two front setback variances and a side setback variance for a proposed garage. The proposed location does not comply with 120-18 and 120-19 of the Rush Town Code. Property is located at 6101 East Henrietta Road and is zoned Commercial.

Board Member Flass made a Motion **WHEREAS**, this Board has examined **Application 2016-01Z**, submitted by Steven Tomanovich located at 6101 East Henrietta Road, located in a Commercial Zoning District, requesting two (2) front setback variances and a side set back variance for a proposed detached two-car garage on the north-west side of property, 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 and, therefore, not subject to further review 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 the granting of individual setbacks and lot line variances.

Vice Chairperson Koppers seconded the Motion, and the Board polled:

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

WHEREAS, Application 2016-01Z was submitted by Steven Tomanovich, of 6101 East Henrietta Road, 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 with the application, and two (2) front setback variance requirements 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 2016-01Z** be granted as requested in the plans submitted with this application and subject to the following conditions:

1. The existing detached garage in the northwest corner of the property is to be demolished. The applicant must first obtain a demolition permit from the Town of Rush before demolition of the existing detached garage is begun.
2. The proposed garage shall be placed no closer than eight feet (8') from the west property line.
3. The proposed garage shall be placed no closer than ninety-two feet (92') from the center line of Rush West Rush Rd. The proposed garage shall be placed no closer than one-hundred-twenty feet (120') from the center line of East Henrietta Road.
4. No work is to be commenced on the garage until a building permit is obtained from the Town of Rush.
5. The construction of this garage 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 front setbacks.
2. The placement of the garage 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.

BE IT FURTHER RESOLVED, that the Applicant, upon taking title to 6101 East Henrietta Road, agreed to all variances that were granted for this property, including condition #3 of Application 2012-04Z providing that “the parking area is to be screened from the adjacent property by evergreen plantings.” The Applicant submitted a letter to the Rush Zoning Board of Appeals on February 17, 2014, agreeing to all original variances.

- Applicant, to date, has not satisfied condition #3 of Application 2012-04Z. Applicant was given six (6) months from September 10, 2015 to comply with this condition.
- Applicant's failure to comply with condition #3 of the 2012-04Z use variance constitutes a violation of the variance pursuant to Zoning Code section 120-68(M).
- Applicant will have six months (6) from the date of this resolution to comply with all conditions of the variances for 6101 East Henrietta Road. Applicant's failure to do so could result in revocation of his approvals, rendering his property non-compliant, or, in the alternative, the Town Code authorizes the imposition of certain penalties for zoning violations as enforced by the Code Enforcement Officer (CEO).

Vice Chairperson Koppers seconded the Motion, and the Board polled:

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

Chairperson Corbin advised the applicant to be mindful of the dates and to please consult with the Code Enforcement Officer (CEO) in order to be in compliance.

With no further business, a Motion was made by Chairperson Corbin and agreed by common consent that the meeting be adjourned at 7:40 PM.

Respectfully Submitted,

Shivaun Featherman
Deputy Town Clerk