

**RUSH ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES OF JULY 9, 2009**

A regular meeting of the Rush Zoning Board of Appeals was held on July 9, 2009 at the Rush Town Hall, 5977 East Henrietta Road, and was called to order at 7:00 PM.

**BOARD MEMBERS PRESENT:** Don Van Lare, Chairman  
Robert Weiler  
Kelly Pruden  
Amber Corbin  
Al Simon

**OTHERS PRESENT:** Gerry Kusse, Code Enforcement Officer  
Lisa Sluberski, Town Board Liaison  
Robert Hayes, Resident  
Steve Dzina, Resident  
Hilary Dzina, Resident

**WORKSHOP:**

**Application 2009-03Z** by Steve and Hilary Dzina requesting a height variance for an existing fence on the property located at 6278 Rush Lima Road. The fence does not comply with §58-6 of the Rush Town Code. Property is located in an R-30 zoning district.

Mr. and Mrs. Dzina stated that they are requesting a variance for a fence that they have already installed. Mr. and Mrs. Dzina provided photos, a survey map and measurements for the board. They stated that the 6 foot tall fence was installed to screen the view, lighting, noise and the continuous coming and going of vehicles from the neighboring business and the business across the street. Mr. and Mrs. Dzina also stated that they received verbal approval from the business owner/neighbor prior to the installation. The Zoning Board noted that Rush Town Code states the maximum allowable height for a fence forward of the rear building line is 4 feet and any fence or planting higher than 36 inches shall be placed at least 35 feet back from the edge of the pavement.

Mr. and Mrs. Dzina explained their confusion regarding the code and felt the fence fell into the same category as their burm. Mr. and Mrs. Dzina stated that when they applied for a permit to put in a burm, the town referred them to New York State Highway Department to seek permission for the proposed burm that would be located in the New York State right of way. Mr. and Mrs. Dzina stated that they were unable to contact the state or receive permission from the state. The Zoning Board stated that local zoning applies rather than state regulations on these matters. After reviewing the application the Rush Town Code, the Zoning Board determined that further measuring of the property will be necessary. It was also suggested that a letter of consent from the neighbor/business owner would be helpful. Don Van Lare

stated that 1 or 2 members of the board will make arrangements to look at the fence and property.

The Public Hearing for Application 2009-03Z by Steve and Hilary Dzina will be held on August 13, 2009.

**Application 2009-05Z** by Robert and Janice Hayes of 75 Thunder Ridge Drive requesting an area variance to park a motor home forward of the rear foundation line. The proposed location does not comply with §120-57 G of the Rush Town Code. Property is in an R-30 Zoning District.

Mr. Hayes explained that he has been a resident of Thunder Ridge Drive for 18 years and that he has owned the motor home for the past 9 years. The motor home is his home from approximately September/October to April/May. During that time the motor home is not parked on the property. Mr. Hayes also stated that he chooses not to store the vehicle due to the chance of fire, theft, and vandalism. He also stated that insurance will only cover book value and will not cover full replacement value if anything were to happen to the motor home.

Mr. Hayes is requesting to keep the motor home in its current location, in the driveway on the south side of the house, partially behind the rear foundation line. Mr. Hayes stated that this location has some natural screening from trees and foliage. Mr. Hayes explained to the board that due to the 16' rise in elevation of the back yard he cannot place the motor home straight back. That would require a costly renovation including the removal of earth, installation of a retaining wall and perhaps create drainage problems. Mr. Hayes also stated that the turning radius of the motor home prevents him from just placing it behind and parallel to the dwelling. In order to achieve this, Mr. Hayes stated again that he would have to create costly, paved driveway loop that would extend around the back of the house and exit the north side of the home. This would also require the removal of land and the installation of a retaining wall. Mr. Hayes feels that parking the motor home in the rear, middle of his property would make it even more visible to neighbors as well as create some difficulties for him and his disability.

As requested by Mr. Hayes, the application notice has been changed to read "forward of the rear foundation line" rather than "in front of the main dwelling" so not to mislead the public regarding the current location of the motor home.

The Public Hearing for Application 2009-05Z by Robert and Janice Hayes will be held on August 13, 2009.

#### **ASSIGNMENT OF APPLICATIONS:**

Amber Corbin and Al Simon have been assigned **Application 2009-03Z** by Steve and Hilary Dzina.

Robert Weiler and Don Van Lare have been assigned **Application 2009-05Z** by Robert and Janice Hayes.

**INFORMAL DISCUSSION:**

Lisa Sluberski, Town Board Liaison stated that the request made by the Zoning Board to consider the recent joint town meetings as training hours was granted.

Deputy Clerk Palmer will contact Frank Pavia, Town attorney to request his presence at the August 13, 2009 Zoning Board meeting.

**APPROVAL OF MINUTES:**

The Minutes of June 11, 2009 were reviewed.

Don Van Lare made a motion to approve the Minutes of June 11, 2009 as amended.

Al Simon seconded the motion and the Board Members polled.

Roll:	Robert Weiler	aye	
	Amber Corbin	aye	
	Kelly Pruden	aye	
	Al Simon	aye	
	Don Van Lare	aye	carried.

With no further business, a motion was made by Don Van Lare and agreed by common consent that the meeting be adjourned at 8:30 PM.

Respectfully Submitted,

Meribeth Palmer  
Deputy Town Clerk