

**RUSH ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES OF APRIL 13, 2017**

A regular meeting of the Rush Zoning Board of Appeals was held on April 13, 2017 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
Susan Swanton
Pamela Bucci, Town Clerk

EXCUSED: Councilperson Jillian Coffey, Town Board Liaison
Building Inspector, Phil D'Alessandro

OTHERS: David Matt, Schultz Associates

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

Town Clerk Bucci read the Legal Notice in its entirety for the record.

WORKSHOP:

Application 2017-01Z by David Matt of Schultz Associates, agent for Pamela Tuety, requesting a front setback variance for a proposed garage. The proposed location does not comply with 120-18 of the Rush Town Code. Property is located at 533 Fishell Road and is zoned Residential-30.

Chairperson Corbin invited the applicant to address the Board.

David Matt, of Schultz Associates, explained that he will be building a garage for Pamela Tuety at 533 Fishell Road. A previous house was built in the flood zone. A garage was not included in the plan. A few site plans were done in years past. The current site plan was submitted and signed by Chris Schultz of Schultz Associates on March 29, 2017. Mr. Matt presented a few designs to Ms. Tuety, one having the garage squared up with the house requiring an 8-10 foot retaining wall which is very costly. Another plan drawn placed it too close to the setback. The flood zone prohibits a build in areas and the setback requirement prohibits it to be built closer to Fishell Road. Keeping the flood plain area set, the minimum garage possible is 12' x 8' door standard. They are placing the garage as high up the hill as possible without being in the flood zone and without disturbing the septic, but are too close to the setback. The location of the leach field has also been a consideration. The garage is going to be used as a storage shed; it's not needed for a car because there is a 20' x 50' wide strip located across the road which is part of the property and will be used as a parking space. The applicant would need a variance whether it is a garage or a shed. Mr. Matt stated that the road is presumed to be low volume and a guard rail exists.

Chairperson Corbin obtained some history of the property by talking with Tom Tuety (father to Pamela Tuety) noting that this was previously used for a scout building. There are Minutes from 1978 granting a variance for the house 57 feet away from the centerline of the pavement (equivalent to 47.33 feet from centerline of the highway right-of-way), which will be retrieved by the Town Clerk for the Board's review. There was also a variance granted in 1985 #85-14 dated July 14, 1985 which refers to Application #1978-8. Mr. Matt produced the 1985 plan showing the foundation which is still in existence. The exact northwest corner is being used as a focal point.

Board Member Hetrick asked if there will be a basement. Mr. Matt replied that there will be a walk-out basement. Board Member Hetrick suggested decking the basement and placing the garage next to the house. Mr. Matt stated that he was advised that the cost for that was more expensive than a retaining wall, however, he is not the contractor.

Chairperson Corbin noted that a deck is shown on the map which will also need a building permit and a variance.

Chairperson Corbin stated that this site map shows the garage 36 feet from centerline of the road. It is a foot off the right-of-way. The Board discussed centerline of the pavement versus centerline of the road.

Board Member Flass asked for the location of the guardrail. Mr. Matt replied that it is 24.3 feet from the edge of the pavement.

Board Member Hetrick noted that Fishell is an old road and very steep.

Chairperson Corbin stated that they will reference the 1978 Minutes and / or application when received and send it to the applicant. Two representatives will visit the property with the owner or representative and report back to the Board at the next meeting. Applicant Pamela Tuety is to provide a letter authorizing Mr. Matt to represent her.

Chairperson Corbin noted that because a previous foundation exists on the parcel, building is permitted. The actual setback is at the creek edge and, therefore, a building permit for the garage is not permitted without a variance.

Mr. Matt stated that he will add the deck for the next meeting and get a signed acknowledgment to represent Pamela Tuety at the May 11, 2017 public hearing.

Board Member Flass asked what the height of the garage will be. Mr. Matt stated 8 ½ feet inside with a slope of 12 feet.

Board Member Hetrick noted that ash trees marked with a white X are to be removed. Mr. Matt asked if these types of variances have ever been approved. Chairperson Corbin and Vice Chairperson Koppers both replied, stating that a variance of this high of a percentage has not been previously approved.

APPROVAL OF MINUTES:

Chairperson Corbin moved to accept the November 16, 2016 Minutes as submitted by Deputy Town Clerk Featherman.

Board Member Flass seconded the motion and the Board Members polled:

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

Board Member Susan Swanton will be abstaining from the vote until Procedures for all Boards are reviewed and approved.

BOARD DISCUSSION:

Board Member Swanton has not received information from Town Attorney Mancuso regarding procedures for all Boards and will continue to vote nay. It is no reflection on the Minutes.

Chairperson Corbin reported the following:

- Attended a training workshop and encouraged Board Members to complete their training hours.
- Councilperson Jillian Coffey is the newly appointed liaison to the Zoning Board of Appeals.

Board Member Swanton reported the following:

- Will be absent for the next Zoning Board meeting.

APPLICATION ASSIGNMENTS:

Board Member Hetrick and Chairperson Corbin are assigned **Application 2017-01Z**.

ADJOURNMENT:

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.

REOPEN MEETING:

Chairperson Corbin motioned to reopen the meeting at 7:53 PM by common consent to have a discussion with Town Clerk Bucci regarding a procedural suggestion.

Town Clerk Bucci requested the Board to consider streamlining the process of the Zoning Board of Approval meetings to hold only public hearings. Both the Planning Board and the Town Board present public hearing only. The reason for the consideration is to require applications by the 10th of the month and speed up the process for residents. Applications that are complex will require the Board to table the public hearing so that additional information can be obtained and submitted.

Changing the procedure of submission, assigning review of Board Members and eliminating workshops were discussed by all Board Members and Town Clerk Bucci.

ADJOURNMENT:

With no further business, a Motion was made by Chairperson Corbin and agreed by common consent that the meeting be adjourned at 7:58 PM.

Respectfully Submitted,

Pamela J. Bucci
Town Clerk