

**RUSH ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES OF JUNE 8, 2017**

A regular meeting of the Rush Zoning Board of Appeals was held on June 8, 2017 at the Rush Town Hall, 5977 East Henrietta Road, and was called to order at 7:00 PM.

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

**EXCUSED:** Amber Corbin, Chairperson

**OTHERS:** Councilperson Jillian Coffey, Town Board Liaison  
Jerry Stoutenberg, Resident  
David & Suzanne LaPorta, Residents

Vice Chairperson Koppers welcomed all and called the June Zoning Board of Appeals meeting to order at 7:00 PM.

**WORKSHOPS:**

**Application 2017-03Z** by Jerry Stoutenberg requesting a side setback variance to store a trailer. The location does not comply with §120-57 G of the Rush Town Code. Property is located at 426 Rush-Scottsville Road and is zoned Residential-30.

Jerry Stoutenberg explained that a trailer has been parked in the same spot on his property since 1972. This has been his family home since it was built. Years ago he started a racing business and his father had been concerned about the location of the parked trailer, but was told by the town that it's a licensed vehicle and therefore not a problem.

Vice Chairperson Koppers advised the applicant that the Town Board changed the law this year to allow trailers to be parked behind the front of the principle structure but within the required setbacks. Has he considered parking the trailer in front of his garage?

Mr. Stoutenberg replied that he would lose significant access to his garage. His trailer is 8 ½' wide and his garage door is only 16' wide. Also, having the trailer parked to the side looks better than if it was parked in front of the garage. He had tried different locations but between large trees on his property and limited room between the back setback and shed, no other location works.

Vice Chairperson Koppers explained that before the public hearing date of July 13, 2017 two Zoning Board Members will contact him to schedule a time to visit the property and take measurements. Also, the Board will need the names of neighboring property owners and the approximate distances to his neighbor's houses.

Board Member Hetrick advised it would be helpful to obtain letters from his neighbors stating that they are not opposed to the current trailer location.

**Application 2017-04Z** by David and Suzanne LaPorta requesting a front setback variance for a proposed home. The proposed location does not comply with §120-18 of the Rush Town Code. Property is located at 0 Works Road and is zoned Residential-30.

**Application 2017-05Z** by David and Suzanne requesting a side setback variance for a proposed home. The proposed location does not comply with §120-19 of the Rush Town Code. Property is located at 0 Works Road and is zoned Residential-30.

Mr. LaPorta explained that they purchased the unapproved building lot in 2005 and have since tried to sell it. They have now decided to pursue obtaining building approval and then sell it as an approved building lot. He asked if building lot approval and variances would be transferrable to a new owner.

Vice Chairperson Koppers replied that once a lot is approved for building, approved variances would be transferrable to a new owner. Board Member Hetrick agreed and explained that only a Use Variance is not transferrable.

Vice Chairperson Koppers noted that the LaPorta's had appeared before the Planning Board informally in August 2014 with questions about obtaining building approval for the lot. At the time, the site map did not have a proposed house location, and Planning Board Felsen advised them that in order to build a home on the property, two variances would be required – minimum lot width and minimum lot depth, however, the house location would need to be determined before presenting to the Zoning Board.

Vice Chairperson Koppers asked the applicants if they had considered asking the neighboring property owner if they could purchase 30', allowing them a bigger lot and eliminating the need to seek variances. Mr. LaPorta replied that they had inquired several years ago but the owner wasn't interested.

Board Member Hetrick noted that **Application 2017-05Z** is not for a setback. The 150' pertains to the minimum lot width. Vice Chairperson Koppers does not recall the Zoning Board having received a lot variance request before. Board Member Hetrick stated that is because as a rule, the Zoning Board would not grant a variance on an unapproved building lot. The actual locations of the septic and well need to be determined before the location of the house can be proposed. Once the septic location is determined, the well has to be 100' from it, and the house needs to be 20' away from the leach lines. The Zoning Board cannot grant a variance without knowing where the home will be located.

Board Member Hetrick further explained that **Application 2017-05Z** is not necessary. The minimum lot width is 150' in a Residential-30 zone. The LaPorta's lot is 165' wide. A lot is not measured from a right-of-way; it's measured from the centerline of the highway right-of-way not including the pavement. Board Member Hetrick used the site map to point out the different measurement numbers and the mathematical process to determine the lot width.

Vice Chairperson Koppers thanked Board Member Hetrick for his insight.

Mr. LaPorta asked with the property being a corner lot, is lot depth an issue?

Board Member Hetrick explained that the lot has two front setbacks; 110' from Works Road and 110' from Honeoye Falls #6 Road. There is one side setback of 25' and one rear setback of 25'. Using the site map, Board Member Hetrick explained the measurements and the mathematic process to determine that there is an area that is 30' wide by 124' long where they could build a 29' wide by 43' long two-story home approx. 2500 square feet. If approved by the Planning Board, it would be within all the setbacks and no variances would be required. Board Member Hetrick pointed out a dotted lined area on the site map where the 30' by 124' area is located. If a house was built inside that area, no variances would be needed.

Board Member Flass checked the Town Code and noted that in a summary section, it states that both variances would run with the land and work has to begin within one year of the date of the variance approval. The variance runs out after one year if the work isn't done unless the Zoning Board grants a longer period.

Board Member Hetrick advised that a building permit expires in a year but that it can be renewed.

Mr. LaPorta asked if there is an expiration on the approval of a building lot?

Vice Chairperson Koppers replied that once a lot is approved to build upon, it is always an approved building lot.

Vice Chairperson Koppers advised the LaPorta's to inform potential buyers of house restrictions when selling the lot.

### **APPROVAL OF MINUTES:**

Vice Chairperson Koppers stated that the approval of the May 11, 2017 Minutes will be postponed as the Board Members who were at that meeting are not all present tonight.

Board Member Swanton commended Deputy Town Clerk Featherman on an excellent job writing the May Minutes.

**BOARD BUSINESS:**

Vice Chairperson Koppers stated that a discussion regarding incorporating the Zoning Board workshops with the public hearings will wait until a full Board is present.

Board Member Hetrick believes that decision would be made by the Town Board, as the Zoning Board is appointed.

Councilperson Coffey will consult with the Town Board and the town attorney regarding the procedural change suggestion.

Board Member Flass stated that regarding procedural changes, this Board needs to formally write its Rules and Procedures. Board Member Swanton stated that she has emailed the town attorney regarding Rules and Procedures for the Zoning Board, and the town attorney will develop something that would cover all of the Boards and commissions.

**REPORT OF OFFICERS:**

Councilperson Coffey reported that the Design Charrette will be held this Saturday. There was an article in the City newspaper regarding the Town of Rush participating in the Charrette and the investment that the Town is making to identify itself and collaborate as a community on the vision for the hamlet.

The Monroe County Fair Association's potential Partnership with the Town is progressing. The Fair Association will be submitting designs and SEQR reviews.

**APPLICATION ASSIGNMENTS:**

Vice Chairperson Koppers and Board Member Swanton are assigned **Application 2017-03Z**.

With no further business, a Motion was made by Vice Chairperson Koppers, seconded by Board Member Flass and agreed by common consent that the meeting be adjourned at 8:09 PM.

Respectfully Submitted,

Shivaun Featherman  
Deputy Town Clerk