

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

A regular meeting of the Rush Zoning Board of Appeals was held on July 13, 2017 at the Rush Town Hall, 5977 East Henrietta Road, Rush, NY 14543 and was called to order at 7:00 PM.

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

**OTHERS:** Councilperson Jillian Coffey, Town Board Liaison  
Jerry Stoutenberg, Resident  
Sandra Boysen Sluberski, Resident  
Dave Sluberski, Resident  
Sydney Long, Resident  
Brad Long, Resident

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

Chairperson Corbin expressed sincere condolences on behalf of the Zoning Board to Board Member Hetrick and the Chase family on the passing of Selden Chase.

**PUBLIC HEARING:**

**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 he has parked his trailer on the east side of his garage for many years. He is seeking a side setback variance to continue to store the trailer in the same spot. There is no other location on his property to store it. If he parked it in front of his garage, he would lose significant access to his garage. Having the trailer parked to the side looks better than if it was parked in front of the garage.

Chairperson Corbin explained that she and Vice Chairperson Koppers visited Mr. Stoutenberg's property and did determine that having the trailer parked to the side of his garage looks better than if it was parked in front of his garage. Mr. Stoutenberg's situation is unique in that his garage sits to the rear of his house instead of parallel to his house. There is a shed and a large tree behind his garage and there is not a spot to store the trailer without requiring a variance on his back lot line. There is a drainage

area to the west of his property line and there are two septic tanks and a leach field on his property.

Resident Dave Sluberski asked to view the site map. Chairperson Corbin invited him to the table and pointed out various items on the map, including the current location of the trailer. Chairperson Corbin explained that the Town Board recently adopted a new Law that would make it legal for Mr. Stoutenberg to park his trailer in front of his garage, but that location would be more visible and intrusive than the trailer's current location to the side of the garage.

Resident Sydney Long is Mr. Stoutenberg's neighbor. She asked when the new Law was implemented.

Vice Chairperson Koppers replied that the new Law was adopted in May. It allows for off-street parking to occur in back of the front line of a principle structure.

Ms. Long stated that Mr. Stoutenberg has lived in his home all of his life and asked if grandfathering is possible?

Chairperson Corbin replied that grandfathering is not part of the Town Code. The previous Town Code was more restrictive. Off-street parking of certain trailers and vehicles was authorized behind the rear of the house.

Ms. Long stated that Mr. Stoutenberg's trailer is not very visible from the road and hopes that this Board grants Mr. Stoutenberg's request.

Chairperson Corbin read into the record:

- Letters of support from 4 of Mr. Stoutenberg's neighbors
- The Rush Board of Fire Commissioners
- The Rush Conservation Board
- Monroe County Department of Planning & Development

Mr. Stoutenberg stated that per the Board's request, he has researched the option of installing a fence in front of the trailer to hide it and discovered that the highest fence panels available are only 6' tall. If he installed a 6' fence, 3' of his trailer would still be visible.

Board Member Hetrick noted that a fence permit would be required, and a variance request if the fence is over 6'.

With no further questions or comments, Chairperson Corbin made a Motion to close the public hearing. Board Member Swanton second the Motion, and the Board polled:

Roll:	Lee Hetrick	aye
	Garry Koppers	aye
	David Flass	aye

Susan Swanton     aye  
Amber Corbin     aye     carried.

**DECISIONS:**

Vice Chairperson Koppers made a Motion **WHEREAS**, this Board has examined **Application 2017-03Z**, submitted by Jerry Stoutenberg of 426 Rush Scottsville Road, Rush, NY, located in a R-30 District, requesting a side setback variance to park a trailer on the east side of the garage; 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 SEQRA Action which requires no further processing under SEQRA. 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 “granting of individual setbacks and lot line variances.”

Chairperson Corbin seconded the Motion, and the Board polled:

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

**WHEREAS**, **Application 2017-03Z** was submitted by Jerry Stoutenberg 426 Rush Scottsville Road, Rush, NY, requesting a variance from a side setback requirement 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 submitted with the application; and

**WHEREAS**, a Public Hearing on this application was scheduled and notice 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 2017-03Z** be granted as submitted with the application, subject to the following condition:

1. The proposed trailer, as proposed in the application, shall be placed no closer than 18.5 feet from the eastern side setback.

The reasons for this action are:

1. There will be no undesirable change in the character of the neighborhood. The property is located within visual distance to the Industry Residential Center.
2. There is no discernible detriment to the health, safety or welfare of the community or neighborhood that would occur by granting this variance.
3. Neighbors have no objection to the trailer being parked in the proposed location.
4. Parking the trailer on the side of the house, which is in front of the garage, as allowed by the newly adopted Code for the Town of Rush, would be more intrusive.
5. There is no other place on the property to place the trailer, as the back yard has the leach bed field. The west side of the property is a wet area. If moved to the back lot line a variance would also be needed and trees would need to be removed.
6. The eastside of the property has large pine trees along the property line, blocking the view of the trailer from the house next door.

Chairperson Corbin seconded the Motion, and the Board polled:

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

Board Member Flass appreciates the neighbors letters and comments, noting that it is good to hear from the people most affected by a variance request.

Mr. Stoutenberg asked that if in the future he purchases a different trailer, will it be covered under this approved variance? Vice Chairperson Koppers replied yes.

#### **APPROVAL OF MINUTES:**

Chairperson Corbin made a Motion to approve the Minutes of May 11, 2017. Board Member Hetrick seconded the Motion, and the Board polled:

Roll:	Lee Hetrick	aye	
	Garry Koppers	aye	
	David Flass	aye	

Susan Swanton      abstain  
Amber Corbin      aye                  carried.

Vice Chairperson Koppers and Board Member Swanton were excused from the May 11, 2017 Zoning Board meeting.

Chairperson Corbin made a Motion to approve the Minutes of June 8, 2017. Vice Chairperson Koppers seconded the Motion, and the Board polled:

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

Chairperson Corbin was excused from the June 8, 2017 Zoning Board meeting.

Board Member Swanton had previously stated at the October 13, 2016 Zoning Board meeting that she will be voting “nay” on the approval of Minutes until there is clarification by the town attorney regarding the standards of the Rules of Procedure for the Zoning Board.

**BOARD BUSINESS:**

Chairperson Corbin explained that David and Susan LaPorta had submitted Applications 2017-04Z and 2017-05Z requesting a side and a front setback to build a proposed home at 0 Works Road, and appeared at the June Zoning Board meeting for a workshop. At that meeting, Board Member Hetrick determined that the applications were unnecessary, which is why the LaPortas are not present tonight for a public hearing. Chairperson Corbin thanked Board Member Hetrick for his hard work.

Vice Chairperson Koppers stated that he obtained a copy of the deed for 0 Works Road which showed the measurements. Board Member Hetrick explained that there are 10 rods along Works Road and 16 rods along Honeoye Falls # 6 Road. A rod is 16 ½', so 10 rods x 16 ½' = 165', and 16 rods x 16 ½' = 264'. This shows the lot size as 165' wide by 264' long.

Board Member Hetrick stated what makes the building lot unique is that the narrowest side of the lot gives a front on Works Road which is 165'. The minimum lot width requirement is 150' and the LaPortas were measuring by the right-of-way on Honeoye Falls #6 Road, which was under 150'. There is no setback for right-of-way; setback is from the property lines. There is an area on the property measuring 30' by 125' where a house can be built without requiring any variances.

Chairperson Corbin stated that the information was shared with Planning Board Chairman Felsen. The proposed location of the house will determine the necessity of a variance. Depending on the house location, a side, a rear or a front setback variance

may be required, but based on the information that was before this Board last month at the workshop, they do not need a variance.

Board Member Swanton shared that she attended the Freedom of Information Law (FOIL) presentation given by Robert Freeman. Mr. Freeman is the Executive Director of the Department of State Committee on Open Government. Board Member Swanton gave a report on her findings. All emails between Board Members should include a copy to Deputy Town Clerk Featherman.

Chairperson Corbin noted that Board Member Swanton had forwarded her report via email to Board members and the town attorney. The town attorney advised that Mr. Freeman is not an attorney; he is a representative. The town attorney will be assisting the Town Board with developing Rules and Procedures.

Chairperson Corbin stated that regarding the suggestion of incorporating the Zoning Board workshops with the public hearings, she spoke with Town Clerk Bucci and the town attorney today and was advised that Rules and Procedures fall under the Town Board jurisdiction. Chairperson Corbin would like it noted for the record that this suggestion was not initiated by the Zoning Board.

Councilperson Coffey understands that after previously discussing the subject with the Town Board and the town attorney, streamlining Zoning Board workshops with public hearings was suggested by Town Clerk Bucci at the April 13, 2017 Zoning Board meeting. The Planning Board uses that procedure on a regular basis so that may be used as a guideline.

Chairperson Corbin believes it's always good to consider ways to improve how this Board serves the town and asked that the Zoning Board be allowed input as the discussion proceeds.

Councilperson Coffey replied yes; it will be a dialogue as the Town Board moves forward and before any decision is made.

**REPORT OF OFFICERS:**

Councilperson Coffey had no further report

With no further business, it was agreed by common consent that the meeting be adjourned at 7:37 PM.

Respectfully Submitted,

Shivaun Featherman  
Deputy Town Clerk