

**RUSH PLANNING BOARD
REGULAR MEETING
MINUTES OF FEBRUARY 18, 2014**

A regular meeting of the Rush Planning Board was held on February 18, 2014 at the Rush Town Hall, 5977 East Henrietta Road and was called to order at 7:30 PM.

PRESENT: John Felsen, Chairman
John Morelli, Vice Chairman
Don Sweet, Member
Scott Strock, Member
Rick Wurzer, Member
Shivaun Featherman, Deputy Town Clerk

OTHERS PRESENT: Cathy Frank, Town Board Liaison
Gerry Kusse, Code Enforcement Officer, Resident
Todd Ewell, Town Engineer
James Kolb, Resident
Charlie Laskowski, Resident
Letty Laskowski, Resident

Chairman Felsen welcomed all to the February Planning Board meeting.

APPROVAL OF MINUTES:

The Minutes of January 21, 2014 were reviewed.

Vice Chairman Morelli made a motion to accept the minutes of January 21, 2014 as corrected.

Board Member Sweet seconded the motion and the Board members polled:

Roll:	John Felsen	aye	
	John Morelli	aye	
	Rick Wurzer	aye	
	Don Sweet	aye	
	Scott Strock	aye	carried.

PUBLIC HEARING:

Application 2014-01P by Jim Kolb, agent for Duane and Debbie Stevens, seeking a change of use from Antique Barn to Event Pavilion, and a change of use from Retail Space to Restaurant. Property is located at 7272 West Henrietta Road, Rush, NY 14543 and is zoned commercial.

Before Mr. Kolb presented to the Board, Chairman Felsen explained that Mr. Kolb is presenting an amended site plan of one that had been previously approved.

Mr. Kolb explained to the Board the changes to his site plan:

- Change the ice cream area to a restaurant
- The septic system will be installed to meet the Monroe County Health Department's requirements
- Change the Antique Barn to Event Barn
- Add a deck to the barn
- Add a porch to the front of the barn
- Install two bathrooms inside the barn

Chairman Felsen asked Mr. Kolb how he plans on getting water to the barn; he did not see that in the plans. Mr. Kolb stated there is an existing ½" water line in the barn. Chairman Felsen would like that shown on the site plan.

Chairman Felsen inquired about the lighting. Mr. Kolb showed the lighting on the site plan but mentioned the wattage of the bulbs is not noted. His goal is to have no spillage off the property. He is not planning on adding additional lighting as he would like to keep the atmosphere rural.

Chairman Felsen noted that the drainage pond is on the neighbor's property. Mr. Kolb stated that he and the Stevens plan on meeting with the neighbors, Mr. Marks and Mr. Feinstone next week regarding an easement or the possibility of purchasing the property in order to keep the pond in the current location. Chairman Felsen advised Mr. Kolb that if he does purchase the property, he will need to file a subdivision application along with a site map for a public hearing.

There was a discussion regarding whether or not the parking area needs to be paved. Vice Chairman Morelli stated that this is not an on-going, everyday business and it may create more environmental problems by paving that entire area rather than leaving it as gravel. Board Member Sweet agreed, stating he is aware of several churches and golf courses that do not have paved parking lots and there is a lot more runoff with blacktop rather than gravel. Vice Chairman Morelli read from the Town Code that "all parking spaces, except single family dwellings, shall be surfaced with an asphaltic or Portland cement binder pavement so as to provide a durable and dustless surface." Mr. Ewell asked Mr. Kolb how he intends on plowing the parking area in the winter. Mr. Kolb stated that the business will not be open in the winter. It is for seasonal use for the

summer months. Mr. Kolb stated that currently he uses millings from asphalt. It is a hard surface, is porous and drains well.

Chairman Felsen asked about the change for the existing retail space next to the restaurant. Mr. Kolb is proposing to use that area for a bakery. Chairman Felsen asked if Mr. Kolb still intends to install an ATM, and Mr. Kolb responded that he will not be installing an ATM. Chairman Felsen also asked for an update regarding plans for a gazebo. Mr. Kolb replied that he will not be building a gazebo; he plans on installing a trellis by the septic area instead.

Chairman Felsen asked if there are any dumpsters on the property. Mr. Kolb replied that there are two dumpsters, however, he prefers to use totes outside. Chairman Felsen advised Mr. Kolb to label on the map where the totes are stored and where the dumpsters are located.

Mr. Kolb stated that he would like to file a complaint with Monroe County about the dirt pile on the south side of his property. He is concerned that in the spring the runoff will be significant and affect the agricultural area. The owner of that property is Mr. Gaff. Chairman Felsen noted that there are no town regulations pertaining to earth work or fill. Chairman Felsen advised Mr. Kolb to get with the NYS DOT or with Highway Superintendent Mark David to inquire if the dirt pile is in the state right of way.

Chairmen Felsen entered into the record reviews from Monroe County. He also entered into the record the Rush Fire District Review letter and stated that their only recommendation is to have a sprinkler system installed into the party barn due to the age and material of the building.

Chairman Felsen stated that the Conservation Board reviewed the application and had the following concerns:

1. The septic systems are not shown on the site plan for the existing buildings.
Chairman Felsen noted that they are on the site plan.
2. Is the restaurant designated as restaurant and why is there a change from retail space to restaurant space.
Chairman Felsen stated that is self-explanatory.
3. Is the driveway cut at Route 15 appropriate for commercial business.
Chairman Felsen noted that issue is in Town Engineer Todd Ewell's review letter as well.
4. What the basement of the barn is being used for.
Mr. Kolb stated that it is being used for general storage.

Chairmen Felsen entered into the record Town Engineer Todd Ewell's review letter. A discussion followed regarding the necessity of a traffic study that Mr. Ewell suggested the applicant conduct. Mr. Kolb stated that as his business is seasonal, and events are held only on weekends, there would not be a mass burden of traffic during the morning

and afternoon commute times. Mr. Kolb also added that Dorschel just completed a traffic study of that area and suggested that the Board review it. Chairman Felsen responded that the Board has reviewed it. Mr. Ewell stated that the Dorschel traffic review was not done for Mr. Kolb's site. Vice Chairman Morelli does not think a traffic study is necessary. Mr. Ewell stated that although the flow of traffic may be only on weekends, it could be concentrated for short periods of time. The applicant is not proposing a curve cut, therefore DOT comment is not necessary.

Chairman Felsen asked the audience if they had any questions or concerns. Mr. Laskowski lives at 7311 West Henrietta Road and voiced his concerns about the noise level and the lighting. He stated he can hear the music in his home for hours at a time, and that the light on the south side of the barn shines into his home. He is also concerned about future expansion of Mr. Kolb's business. Mr. Laskowski also complained about a dog on the property that barks excessively.

Mr. Kolb stated that he set a rule to have the music stop at 11 PM. He will change the light on the south side of the barn so it will not shine into Mr. Laskowski's home. Mr. Kolb told Mr. Laskowski that he will work with him regarding any issues he has to come to a mutual compromise and develop a plan for the noise level that is acceptable to him.

With no further comments or questions, Chairman Felsen declared the public hearing closed.

Chairman Felsen made a motion to table Application 2014-01P by Jim Kolb, agent for Duane and Debbie Stevens, seeking a change of use from Antique Barn to Event Pavilion, and a change of use from Retail Space to Restaurant.

The reasons for this table are concerns regarding the drainage on the site, the existing detention pond that drains part of the property is located on someone else's property, the issues of paved vs. unpaved parking lots and that a variance for the deck needs to be granted by the Zoning Board of Appeals.

There was no second to the motion. Chairman Felsen asked the Board if they would like to vote. Vice Chairman Morelli stated that if there is no second, than it is off the table.

Vice Chairman Morelli stated that he believes the applicant has tried hard, made a good faith effort and has come a long way and the Board has approved applications before with contingencies.

Board Member Strock stated the Board has not approved an application with contingencies of this magnitude before. He stated the septic system is not designed, finalized or approved. In addition, the lighting, drainage, and parking lot are still issues.

Board Member Sweet asked if the application is tabled, can the applicant come back next month with everything and get approval. Chairman Felsen said yes. Board Member Sweet suggested tabling the application with conditions that the applicant resolve those conditions and present them to the Board next month.

Chairman Felsen said Mr. Kolb will need to provide the days and hours of operation as part of the plan, as well as state how he will address the noise level and the lighting.

Vice Chairman Morelli seconded the motion and the Board Members polled.

Roll:	John Felsen	aye	
	John Morelli	aye	
	Rick Wurzer	aye	
	Don Sweet	aye	
	Scott Strock	aye	carried

Chairman Felsen stated the most important issue is the drainage and asked Mr. Kolb how impervious the parking lot is. Mr. Kolb stated there is no puddling, no erosion and no runoff. Mr. Ewell stated that the driveway is millings which are asphalt and black. Vice Chairman Morelli asked Town Engineer Todd Ewell if that is acceptable. Mr. Ewell responded that the biggest issue is the drainage going off of it. He recommends looking at a whole overall drainage scheme that would benefit the property and the adjacent properties.

Vice Chairman Morelli volunteered to draft a letter to the town attorney on whether the town can accept asphalt millings as a substitute to paving.

Board Member Sweet asked Mr. Kolb if the lighting for the parking area is basic, and if the parking lot is well lit in the dark. Mr. Kolb said yes and pointed out the lighting location on the map.

Town Engineer Todd Ewell advised Mr. Kolb that his land surveyor, Mr. Sciarabba, will need to prepare a response letter to each of the comments in his review, including a letter regarding the traffic. Mr. Ewell also stated he did not include the noise issue in his review; however, Mr. Sciarabba will need to address that as well. Mr. Ewell needs the responses back before March 18th so he has time to go over any questions or issues with Mr. Sciarabba before the next meeting.

Vice Chairman Morelli brought up the recommendation from the Rush Fire District that a sprinkler system be installed in the barn. Mr. Kolb stated that under the state law, he is in compliance as the seating in the barn is 99 people or less, and he has a tent as overflow. Chairman Felsen asked where the tent will be located. Mr. Kolb responded that it will be near the patio. Chairman Felsen stated the tent and the overflow parking areas will need to be on the site plan. Mr. Ewell advised that the total spaces required for code as well as the parking spaces proposed will also need to be on the site plan and to include at least four handicap parking spaces.

Chairman Felsen advised Mr. Kolb to have Mr. Sciarabba address the water service issue. Mr. Kolb stated that there is a 12" main that runs by the building and he feels that

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is adequate. Chairman Felsen stated that a 12" main can still have low water pressure but adequate volume and reiterated that the water system will need to be addressed.

With no further business, a motion was made by Board Member Sweet and agreed by common consent that the meeting be adjourned at 9:27 PM.

Respectfully submitted,

Shivaun Featherman
Deputy Town Clerk