

**RUSH PLANNING BOARD  
REGULAR MEETING  
MINUTES OF MARCH 17, 2015**

A regular meeting of the Rush Planning Board was held on March 17, 2015 at the Rush Pavilion, 1900 Rush-Scottsville Road and was called to order at 7:30 PM.

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

**OTHERS PRESENT:**

Cathy Frank, Town Supervisor	Pravin, Attendee
Todd Ewell, Town Engineer	Robert Kraus, Resident
Robert Maze, Resident	Pat Kraus, Resident
Sgi Brindan, Resident	Bharhavi Selvanathan, Resident
Navaratnam Wijayaharan, Resident	Kumaran Mahenthiran, Resident
Keenan Kanapathipillgi, Resident	Daniel Bolsky, Resident
James Kolb, Resident	Priganesh Madhranath, Attendee
Kimberly Compson Kolb, Resident	Upanishad Menth, Attendee
Vimalan Sothinathan, Resident	S. Kremar, Attendee
Ashwin, Resident	Satha Nalliannan, Attendee
Kowreesan Y., Resident	Vythi Alagappan, Attendee
Eleathea Barraclough, Resident	Kannam Nilakantan, Attendee
Michael Steinberg, Attendee	Cindy Varner, Resident
Sankara Devaraknoda, Attendee	Raji Schendil, Attendee
Abhi Mahathevan, Attendee	Veena Ganeshan, Attendee
Jillian Moore, Town Board Liaison	Kane Gascon, Attendee
Muralee Mahathevan, Attendee	Kristina Schiano, Attendee
Parames Natrajan, Attendee	Raja Rala, Attendee
K. Paltmanathan, Attendee	Nandini A., Attendee
Luxon S., Resident	Eilas Boyd, Attendee
Ajayan V., Resident	Sai Ram Sai Tedla, Attendee
Thanu P., Resident	Carl Jutzin, Resident
Tharuman T., Attendee	Kathy Doyle, Resident
Kumaran M., Attendee	S. Seimoganaratnam, Attendee
Palaniappan M., Attendee	Debbie Stevens, Resident
Danesihan S., Attendee	Pamela Bucci, Town Clerk
Shinthujan Swalingan, Attendee	Radhika Rainesh, Attendee
Santeep Aradha, Attendee	Viles A., Attendee
Abhi S., Attendee	Shandhi, Attendee
Shankai S., Resident	James Varner, Resident
Anagayan A., Resident	Larry Heining, Engineer

Jim Missell, Land Surveyor  
John Sciarabba, Land Tech Engineer

James Featherman, Attendee  
Gerry Kusse, Code Enforcement Officer

Chairman Felsen welcomed all to the March Planning Board meeting.

**APPROVAL OF MINUTES:**

The Minutes of February 17, 2015 were reviewed.

Board Member Sweet made a Motion to accept the Minutes of February 17, 2015 as written.

Board Member Wurzer seconded the Motion, and the Board Members polled:

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

Vice Chairman Morelli and Board Member Strock were excused from the February 17, 2015 Planning Board Meeting.

**PUBLIC HEARING:**

**Tabled Application 2014-04P** by Larry Heining, agent for Navaratnam Wijayaharan of the Sri Vidya Temple, requesting Subdivision and Site Plan approval to construct a proposed 15,100 square foot temple building on the south side of the existing temple complex. Properties are located at 6970 and 6980 East River Road and are zoned Residential-30.

**Application 2014-06P** by Larry Heining, agent for Navaratnam Wijayaharan of the Sri Vidya Temple, requesting a Special Permit for religious use in a Residential-30 zoning district. Properties are located at 6970 and 6980 East River Road and are zoned Residential-30.

Larry Heining, agent for Navaratnam Wijayaharan (Haran), presented to the Board a traffic study that he compiled and SRF Associates assessed. Mr. Heining explained that he evaluated Saturday peak hours at the temple as part of the traffic study. After evaluating the data, SRF Associates determined that additional traffic resulting from the proposed new temple will not be significant and will not create adverse traffic impacts.

Vice Chairman Morelli asked Mr. Heining to clarify what data SRF Associates based their report on. Mr. Heining replied that SRF Associates used his car counts, noted on the last page of the report, and the Department of Transportation's 2010 study of East River Road for their evaluation. Mr. Heining noted that the report was reviewed by

Town Engineer Ewell's traffic engineer. Town Engineer Ewell stated that he is familiar with SRF Associates and it is a very reputable firm.

Mr. Heininger presented updated plans to the Board. A sign will be installed by the Monroe County Department of Transportation on East River Road north of the temple to alert drivers of the approaching driveway. A new sign meeting the Town Sign Law requirements will also be installed by the temple at the driveway entrance. The sign will be 32 square feet and lit from the top and filter down to be more visible.

Mr. Heininger discussed water calculations and noted that he increased the flow from 150 gallons per minute to 500 gallons per minute, which should be more than adequate.

Mr. Heininger discussed existing and proposed drainage and stated that the Town Wide Drainage Easement will be what the Town requires.

Mr. Heininger stated that required parking spaces per code are 81 spaces and he has 88 proposed parking spaces.

Mr. Heininger pointed out trees on the updated plans. There will be 8 new sugar maples along the driveway and 1 sugar maple in the field. There have been 40-50 trees relocated to the front yard. There will be red maples with a back drop of Norway spruce and white pines across the front of the temple, with additional trees planted around the temple.

Chairman Felsen inquired as to when the trees will be planted. Mr. Heininger replied that the trees proposed for the front will be planted as soon as the planting season is appropriate for the species of trees.

Mr. Heininger prepared a lighting plan which shows the existing 150 watt metal haloids and the proposed LED's which are 175 watts. He added lighting contours per Town Engineer Ewell's request. There will be no excessive light spillage over property lines. Mr. Heininger added that the lighting meets the Town Code.

Pravin addressed the neighbors' concerns that were discussed at the November 18, 2014 Planning Board meeting. Pravin pointed out that the most common concern was noise. In response, the temple administration has removed all outside speakers. The proposed trees will reduce noise. Sport camp activities will be moved to a field that is behind the proposed temple, across the stream and far from neighbors.

In response to concerns about excessive mowing noise, Pravin stated that they will mow areas near the neighbors earlier in the day and mow back areas later in the day. There will be no mowing at night.

In regards to complaints that buses idle at the site, the temple administration has arranged that buses will drop off visitors, and then leave the property and park at the Park & Ride until it is time to return to pick up the visitors.

Pravin stated they will inform neighbors of upcoming events and festivals. That information is also available on-line and in a published calendar.

Construction noise for the proposed temple will be minimal as there will be no basement so there will be no digging. Also, the granite will be carved in India and shipped to the United States.

Michael Steinberg, attorney for the temple, stated there are 3 festivals every year. The highlight of each festival is the procession outside – similar to other church carnivals. They will work with the Board on a reasonable noise curfew. Vice Chairman Morelli asked if there are outside events during regular services. Pravin replied no. Board Member Sweet asked if the exterior structure of the proposed new temple will be solid concrete walls. Pravin replied yes; insulated concrete walls.

Gerry Kusse, Code Enforcement Officer (CEO), stated that he has received only one noise complaint regarding the temple in 15 years. The complaint was 6 years ago and involved children playing basketball late at night. CEO Kusse called Haran and the matter was immediately handled.

Pravin pointed out the temple is listed as an Emergency Shelter in case of a natural disaster.

Mr. Heininger stated that at the October 21, 2014 Planning Board Meeting, they were told they would need a Special Permit for the proposed temple for religious use in a residential zone. However, a Special Permit for the temple currently exists. It will continue until the proposed new temple is built, and then it will be a continuation. The use is not going to stop.

Chairman Felsen opened the floor for public comments and asked anyone speaking to state their name and address for the record.

Resident Daniel Bolsky stated the same issues that he complained of at the November 18, 2014 Planning Board meeting which were bus noise, many hours of lawn mowing and an incident where there was chainsaw noise at a bonfire.

Resident Carl Jutzin has been a neighbor of the temple for 16 years and stated they are good neighbors; he enjoys living near them. Mr. Jutzin added that he has met and talked with visitors to the temple and they are doctors, lawyers and other professionals as well as families with children. Mr. Jutzin has observed that when children play outside, they are well supervised and the time is structured. Mr. Jutzin stated he has had only one complaint, and that was a light shining in his window at night. Immediately the light was turned the other way after he called, and two nights later the light was turned off. Once in a while, he hears horns or drums, or there are bright lights. However, it has not occurred at night at a time where it has disturbed him. It is Mr. Jutzin's belief that the people that operate the temple are trying to make the world a better place and they are trying to make the neighborhood a better place. Mr. Jutzin supports them, and he supports the proposed temple.

Resident Robert Maze stated that he attended the November 18, 2014 Planning Board meeting where many complaints and issues were discussed. It is his belief that since that time, the temple administration has put a lot of time and energy into solutions. Mr. Maze asked if there are contact names and phone numbers on the temple's website to call when there is a complaint and if a complaint is made, what is a reasonable resolution response time?

Pravin replied that they will post contact names and phone numbers on their website. There is currently a form that can be filled out with any issues and within 24 hours it will be addressed. Pravin stated their main number is 533-1970 and someone will answer during temple hours.

Resident Jim Varner considers it a privilege to live near the temple. Mr. Varner stated people at the temple have been nothing but accommodating and invite anyone to take part in events or to observe. Mr. Varner had one noise complaint years ago. He called to complain and before he hung up the phone, the noise stopped. Mr. Varner believes they do all they can to be good neighbors and he applauds them.

With no further comments or questions, Chairman Felsen declared the Public Hearing closed.

**Application 2015-04P** by James Missell, agent for JoAnne Marlowe, requesting Subdivision approval to create 2 parcels from an existing parcel. Property is located at 315 Kavanaugh Road and is zoned Residential-30.

Mr. Missell explained to the Board the applicant would like to divide the 57 acre lot into two parcels. Proposed lot R2-B will be 21 acres and will contain the existing structures, including the primary residence and horse barn. Proposed lot R2-A will be 36 acres and will be primarily agricultural.

Mr. Missell informed the Board there was a Subdivision done several years ago by Jim Parker which was the Sevor Subdivision. At that time, a portion of land was split from proposed lot R2-B. The dashed line on the site map indicates the separation. Mr. Missell stated he does not know the reason for the split and called the Monroe County Clerk's office for more information, however, they do not have a record of it. It is Mr. Missell's intention to combine the separated land with proposed lot R2-B. The Subdivision that was filed by Mr. Parker did not include that lot but the current assessment does.

Mr. Missell stated he has made the changes requested by Town Engineer Ewell in his review letter.

Chairman Felsen advised Mr. Missell that existing wells will need to be shown on the map as well as the wetlands noted by the Monroe County Department of Planning and Development.

With no further comments or questions, Chairman Felsen declared the Public Hearing closed.

**INFORMAL:**

Jim Kolb to provide updates on property located at 7272 West Henrietta Road.

Mr. Kolb appeared with property owner Debbie Stevens and Land Tech Engineer John Sciarabba. Mr. Sciarabba stated the previous septic system plan that Mr. Kolb put out to bid would have been over \$100,000.00 to construct so Mr. Kolb investigated other options and discovered the Presby System. Mr. Sciarabba explained that Presby is a term for a franchise that developed a new kind of leach field that Land Tech was not aware of but is an approvable system in Monroe County.

Mr. Sciarabba stated that Land Tech became a certified designer through Presby and has designed a Presby system for Mr. Kolb. The system is 61' long and 25' wide and meets the requirements of both Presby and the Monroe County Department of Public Health (MCDPH). The MCDPH has been reviewing the design for the past two weeks and Mr. Sciarabba is waiting for their comments. After that, Mr. Sciarabba will be making an application to the Department of Environmental Conservation (DEC) for a State Pollutant Discharge Elimination System (SPDES) permit.

Mr. Sciarabba stated he addressing Town Engineer Ewell's comments with minor changes to the plan. Most of the design efforts at this point will be related to drainage. Mr. Sciarabba also noted that the adjoining property owner has agreed to an easement for use of the drainage pond on his property if needed, contingent on an approved plan.

Chairman Felsen inquired if there is a local contractor that can install the Presby system. Mr. Sciarabba replied there is a certified installer in the area. Chairman Felsen asked Mr. Kolb if he has hired this person. Mr. Kolb replied no and stated that Chuck Wolcott of Wolcott Contracting & Consulting is interested in becoming a certified contractor for Presby. Mr. Kolb would like to hire Mr. Wolcott if he is certified in time to install the system.

Mr. Kolb stated that during the installation of the septic system, the existing septic tanks will be used as holding tanks and emptied on an as needed basis. Mr. Kolb informed the Board that he has a wedding scheduled on 4/12/15. After the 4/12/15 wedding, there are no scheduled events for the Wedding Barn until 05/02/15. Mr. Kolb believes the septic system will be installed by 05/01/15. Mr. Sciarabba agreed that is a realistic time frame.

Mr. Kolb asked the Board to approve a one day temporary Certificate of Occupancy (C of O) for the wedding scheduled for 4/12/15. Chairman Felsen informed Mr. Kolb that the Planning Board does not issue C of O's; the Code Enforcement Officer does. Chairman Felsen asked CEO Kusse if he would issue a one day temporary C of O for 4/12/15 conditioned upon the Health Department allowing Mr. Kolb to use the existing tanks as holding tanks.

Before answering, CEO Kusse asked if the MCDPH, in their current review of the Presby system, is taking into account the expansion of the food offerings, specifically

fried foods. CEO Kusse is concerned about the possibility of the MCDPH deciding that fried foods are not compatible with a Presby system.

Mr. Sciarabba replied that the state health code is based on water volume, not specific foods. It's the volume of people that contribute to the water volume. Mr. Sciarabba stated it will meet the Health Department's requirements. As far as incorporating grease, most grease traps are under the sink but the one that Mr. Kolb has is a large external grease trap outside of the building. Mr. Sciarabba stated he will advise MCDPH of the change.

Mr. Kolb stated that he has confirmed with MCDPH that his restaurant is approved for frying foods. Chairman Felsen advised Mr. Kolb that frying foods is permitted, however, has Ed Martin of Land Tech taken into consideration a possible change in the sizing of the grease trap? This is a proposal change and the grease trap may have to be redesigned. Mr. Sciarabba stated he will consult with Mr. Martin.

CEO Kusse asked the Board if they are in agreement that he will issue Mr. Kolb a one day temporary C of O for his event on 4/12/15. Chairman Felsen stated yes.

Mr. Sciarabba stated he will keep CEO Kusse and Town Engineer Ewell involved on the approval process for the septic system.

**DECISIONS:**

Vice Chairman Morelli made a motion **WHEREAS;** this Board has reviewed **Application 2014-06P** by Larry Heininger, agent for Navaratnam Wijayaharan of the Sri Vidya Temple, requesting a Special Permit for religious use in a Residential-30 zoning district and that the Planning Board has determined that the existing special permit originally issued covers the proposed use and ongoing operations and is not required to be reissued.

Board Member Sweet seconded the Motion and the Board polled:

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

**The Short Environmental Assessment Form (Short EAF) for Application 2014-04P by Larry Heininger, agent for Navaratnam Wijayaharan of the Sri Vidya Temple, was completed by the Board at this time.**

Chairman Felsen made a motion **WHEREAS;** this Board has examined **Tabled Application 2014-04P** by Larry Heininger, agent for Navaratnam Wijayaharan of the Sri Vidya Temple, requesting Subdivision and Site Plan approval to construct a proposed 15,100 square foot temple building on the south side of the existing temple complex. Properties are located at 6970 and 6980 East River Road and are zoned

Residential-30; and

**WHEREAS**, maps and other materials were filed along with the Application, including the Short Environmental Assessment Form (“Short EAF”), pursuant to the New York State Environmental Quality Review Act (“SEQRA”); and

**WHEREAS**, the Board has referred the application to the Town of Rush Conservation Board for its review and has considered its recommendations; and

**WHEREAS**, this Board has not found any aspect of the proposed action to be environmentally significant; and

**NOW, THEREFOR**, upon consideration by the Board of the Application and the other materials submitted by Larry Heining, agent for Navaratnam Wijayaharan of the Sri Vidya Temple, including the Short EAF, and the Board having given the submitted documentation matter due consideration; it is

**RESOLVED**, that the Board declares itself Lead Agency for purposes of conducting an Uncoordinated Review of the Application pursuant to SEQRA; and it is further

**RESOLVED**, the Board classifies the Application as an Unlisted Action, as that term is defined pursuant to SEQRA subject to uncoordinated review under 6 N.Y.C.R.R. § 617.6; and it is further

**RESOLVED**, that upon its examination and study of the Short EAF and the maps and plans submitted with the Application, and upon the advice and recommendations of the Conservation Board, the Board determines that the Application will not present a potential significant adverse environmental impact and thus issues a Negative Declaration concluding the SEQRA process. The reasons for this determination are that the proposed action cannot reasonably be expected to lead to any of the following consequences:

- A. a substantial adverse change to ambient air or water quality or noise levels or in solid waste production, drainage, erosion or flooding.
- B. The removal or destruction of large quantities of vegetation or fauna, the substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on critical habitat areas, or the substantial affecting of a rare or endangered species of animal or plant or the habitat of such a species.
- C. the encouraging or attracting of a large number of people to a place for more than a few days, relative to the number of people who would come to such place absent the action.
- D. the creation of a material conflict with the Town’s existing plans or goals as officially approved or adopted.

- E. the impairment of the character or quality of important historical, archaeological, architectural or aesthetic resources or of existing community or neighborhood character.
- F. a major change in the use of either the quantity or type of energy.
- G. the creation of hazard to human health or safety.
- H. a substantial change in the use, or the intensity of use of land or other natural resources or in their capacity to support existing uses where such a change has been included, referred to, or implicit in an official comprehensive plan.
- I. the creation of material demand for other actions which would result in one of the above consequences.
- J. changes in two or more elements of the environment, no one of which is substantial, but when taken together result in a material change in the environment.

Board Member Sweet seconded and the Board Members polled.

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

Vice Chairman Morrelli made a Motion to grant approval of **Tabled Application 2014-04P** by Larry Heinger, agent for Navaratnam Wijayaharan of the Sri Vidya Temple, requesting Subdivision and Site Plan approval to construct a proposed 15,100 square foot temple building on the south side of the existing temple complex conditioned upon:

1. The applicant obtaining the Town Engineer's approval.
2. The applicant obtaining Monroe County Department of Public Health's approval.
3. The proposed signage and the tree planting are accomplished as soon as weather permits.
4. The temple Board meet the proposed suggested solutions outlined in the responses to the neighbor concerns dated 03-11-15.
5. The applicant notifies nearby residents of the proposed festivals and that the notification contains information for contacting temple personnel regarding complaints or concerns.

6. That in the future should the Town of Rush Law be revised regarding site plan approval, the applicant shall appear before the Planning Board for review and reapproval before the Code Enforcement Officer issues a Building Permit.

Board Member Sweet seconded the Motion and the Board polled:

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

**Application 2015-04P** by James Missell, agent for JoAnne Marlowe, requesting Subdivision approval to create 2 parcels from existing parcel. Property is located at 315 Kavanaugh Road and is zoned Residential-30 and the maps and other materials which were filed with the application, including the Environmental Assessment form, and

**WHEREAS**, the proposed action is a Type II action under the State of New York SEQR laws requiring no further action by the Board.

Board Member Sweet seconded the Motion and the Board Members polled:

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

Chairman Felsen made a Motion to grant Subdivision approval of **Application 2015-04P** by James Missell conditioned upon:

1. The Applicant showing the wetland and adjacent area of the wetland RU-2 and the existing area of the septic system and existing well or wells.
2. The lot that used to be separate will be combined.

Board Member Sweet seconded the Motion and the Board Members polled:

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

Chairman Felsen made a Motion to waive final Subdivision hearing conditioned upon the applicant complying with the conditions of the preliminary approval.

RUSH PLANNING BOARD  
MARCH 17, 2015

Vice Chairman Morelli seconded the Motion and the Board Members polled:

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

With no further business, it was agreed by common consent that the meeting be adjourned at 10:30 PM.

Respectfully submitted,

Shivaun Featherman  
Deputy Town Clerk