

**RUSH PLANNING BOARD
REGULAR MEETING
MINUTES OF APRIL 21, 2015**

A regular meeting of the Rush Planning Board was held on April 21, 2015 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
Shivaun Featherman, Deputy Town Clerk

EXCUSED: Rick Wurzer, Member

OTHERS PRESENT: Councilwoman Jillian Moore, Town Board Liaison
Jim Missell, Land Surveyor
Gerry Kusse, Code Enforcement Officer (CEO)
John David, Resident
Mary Ann David, Resident
Tom Tuety, Resident
Robert Kraus, Resident
Bill Chase, Resident
Harold Slack, Resident
Sharon Slack, Resident
Michael Stewart, Resident
Patti Stewart, Resident
Debbie Stevens, Resident
Kimberly Compson Kolb, Resident
Jim Kolb, Resident

Chairman Felsen welcomed all to the April Planning Board meeting.

APPROVAL OF MINUTES:

The Minutes of March 17, 2015 were reviewed.

Chairman Felsen made a Motion to accept the Minutes of March 17, 2015 as amended.

Board Member Strock seconded the Motion, and the Board polled:

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

PUBLIC HEARING:

Application 2015-05P by James Missell, agent for Janet Felosky, requesting Subdivision approval to separate 9 acres from an 81.6 acre parcel located at 7566 West Henrietta Road. Proposed lot 1 will contain 72 acres and is zoned Commercial. Proposed lot 2 will contain 9 acres and is zoned Light Industrial.

Land Surveyor Jim Missell explained that Janet Felosky is the owner of the property at 7566 West Henrietta Road, addressed as Search Hill Properties and formerly owned by Henry Hanson. Mr. Missell stated the property contains 81.6 acres which includes 9.0 acres on the west side of the road that the applicant would like to separate from the parcel. Mr. Missell added that on the southwest corner of the property there is a 2.0 acre parcel the applicant would like to combine into proposed lot 1.

Vice Chairman Morelli inquired as to the purpose of the proposed Subdivision. Mr. Missell replied that a company called Comet Flasher is interested in purchasing the proposed 9.0 acre parcel. They make construction signs with flashers.

Mr. Missell stated that he is addressing Town Engineer Ewell's comments. Mr. Missell added that he has received the comments from the Monroe County Department of Planning and Development. The wetlands and flood plain are along Honeoye Creek and he has shown the limits of the 100 year flood plain for the flood insurance rate maps.

Vice Chairman Morelli pointed out that there is a proposed driveway on the site map. Mr. Missell explained that was added to demonstrate a driveway could be installed as it is a good sight distance situation. Vice Chairman Morelli stated that should read as "potential" as "proposed" suggests that it is part of the plan.

Mr. Missell stated the property is in an Agricultural District and he did submit an Agricultural Data Statement.

Chairman Felsen read into the record that the Conservation Board reviewed the Application and did not find any aspect of the project to significantly impact the environment.

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

Resident Sharon Slack asked what is the difference between Light Industrial and Commercial zoning and is there a policy regarding parking?

Chairman Felsen stated that in the Town zoning ordinance there are certain types of facilities that can be built in both Commercial and Light Industrial. For example, in Light Industrial there is very little Commercial allowed. There could be a bank or a restaurant.

Vice Chairman Morelli read aloud from the Town Code regarding Light Industrial:

"A. Permitted uses.

(1) The following uses and their accessory uses are permitted after review by the Planning Board to determine conformance with the intent of this section:

- (a) Scientific or engineering research and/or experimental development of materials, methods or products.
- (b) Engineering design of products
- (c) Manufacture of:
 - (1) Electric, electronic or optical instruments or devices;
 - (2) Scientific, laboratory and process control instruments and devices;
 - (3) Computers and data processing equipment.
- (d) Light manufacturing, assembling, fabricating or packaging of products produced from previously prepared materials such as textiles, plastics, paper, leather, precious or semiprecious metals or stones, glass, ceramics, base metal bar, sheet and special shapes.
- (e) Testing and repairing of the products or type of products which may be manufactured in the district.
- (f) Support services for the facilities and employees of the district.
- (g) Offices for professional, executive, engineering and administrative purposes. However, no more than 45% of the land area in a Limited Industrial District may be used for such purposes.
- (h) Retail and service-type commercial businesses. However, no more than 5% of the land area in a Limited Industrial District may be used for such purposes.

E. General provisions.

- (1) Outside parking of vehicles or any other machinery or equipment, except during business hours, shall be permitted only upon issuance of a special permit by the Planning Board in accordance with the procedure set forth in § 120-69.
- (2) There shall be no outside storage of material, raw, processed or partially processed, in bulk or packages, except during actual construction on the site. There shall be no outside stockpiles or storage racks.
- (3) All equipment for the handling of material and processes shall be enclosed in a suitable building.
- (4) All waste, scrap, refuse, empty containers, drums, bottles and cartons shall be stored in suitable closed containers.
- (5) Notwithstanding the provisions of § 120-19, side and rear setbacks adjacent to any residential district shall be a minimum of 75 feet, of which 20 feet thereof shall be used to create a screened buffer zone. Such screening shall not be less than four feet in height and may be accomplished by deciduous and/or evergreen plantings or by a fence or masonry wall of acceptable design. All such buffers and screenings shall be properly maintained by the owner or owners of the screened industrial property.

Resident Tom Tuety stated that he owns the land to the south of 7566 West Henrietta Road. He believes the proposed Subdivision makes sense because the Commercial and the Light Industrial are divided by Route 15.

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

Application 2015-06P by James Missell, agent for John David, requesting Subdivision approval to separate portion of lands on the south side of the road and subdivide that portion into 5 lots. Remaining lands will retain existing house. Property is located at 902 Rush West Rush Road and is zoned Residential-30.

Land Surveyor Jim Missell explained that he and the property owners were before the Board in January and February of 2015 with an earlier version of the proposed Subdivision. The property owners have since decided to subdivide the south lot that was originally proposed as 15 acres and subdivide that into 3 parcels of 5 acres each. This necessitated a resubmittal and a reapplication from 3 lots to 5 lots.

Mr. Missell has included the archeological determination in the Application. Mr. Missell consulted with the New York State Department of Environmental Conservation (DEC) regarding wetlands on proposed lot 3 and has provided the Board with their exhibit and written report. Scott Jones of the DEC will be coming to the property site to do his official delineation for lot 3.

Mr. Missell stated he is addressing Town Engineer Ewell's comments. Chairman Felsen noted that one of Town Engineer Ewell's comments is that the applicant should add a note that the 5 lots are not approved for building, however, Chairman Felsen stated that he would like the note added to each lot. Chairman Felsen stated that he would like that done to the plans for Application 2015-05P – Felosky, as well.

Chairman Felsen noted that the Monroe County Department of Planning & Development comments have not changed from the original Application. Chairman Felsen read into the record the Conservation Board review, questioning if the property is in an Agricultural District. Mr. Missell confirmed that it is.

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

There were no comments from the audience.

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

DISCUSSION:

Robert Kraus to discuss the role of the Agricultural Advisory Committee.

Mr. Kraus explained that he is introducing the Agricultural Advisory Committee to the Rush Boards. The Town Board passed a Farmland Protection Plan in September of 2012. In accordance with the plan, in 2013 the Town Board appointed an Agricultural Advisory Committee comprised of 3 members; two members being owners of real property located in the Town of Rush that is engaged in a farm operation, and one member being an owner of real property in the Town of Rush interested in agriculture. Mr. Kraus stated the committee members are himself, Bill Chase and George Moore. According to the plan, the committee has some responsibility to help resolve local farming disputes if any arise, contribute to any modifications of local zoning and other land use regulations, and review the Farmland Protection Plan periodically to see if it should be updated.

Mr. Kraus stated the committee was formed because there is a lot of farming in this town and it's important to residents who value this kind of environment. Going forward, the committee hopes to be consulted on agricultural matters and provide input into any zoning changes that are considered.

Mr. Chase stated that in addition to farm complaints, the committee can be helpful with agricultural related complaints, farm market issues and drainage. The committee understands agricultural district law which is the ruling law. In the Town of Rush, the agricultural farmland protection plan follows the New York State Ag District Law closely.

Chairman Felsen stated there is an application next month for site plan approval by Kyle Stevens. The Planning Board was told by the town attorney and by Bob Somers, Manager of the New York State Department of Agriculture and Markets; and their attorney, that the Town approve a site plan for Mr. Stevens. Mr. Chase stated that some of the site plans that towns are asking for, to the degree that they are asking for, aren't necessary. The site plan doesn't need to be an engineered site plan; it can be hand written. However, it does need to be approved for safety issues; emergency equipment needs access. Mr. Chase added that through the Agriculture and Markets Law, the Town cannot impede his ability to make a living unless he is breaking a law.

Vice Chairman Morelli stated he would like to see the committee more progressive with respect to collaborating with the Planning Board. For example, Bob King came to a Planning Board meeting and condemned this town as being anti-farming. Vice Chairman Morelli stated that has never been an agenda of the Planning Board, and is concerned about the image of the Planning Board when statements like that are made.

Vice Chairman Morelli stated that some towns have Agricultural zones. The Town of Rush does not have that although it's proposed in the Comprehensive Plan. Mr. Chase is not in support of adding agricultural zones to Rush. Currently, a farmer is allowed to plant and plow land and it doesn't have to be in an agricultural zone. He would not want to be pigeon holed in an agricultural zone.

Vice Chairman Morelli stated he is not suggesting that the Town of Rush create agricultural zones, only that Rush is very unique in the fact that agricultural and residential activities overlap and that residential concerns have to be taken into consideration.

Mr. Chase stated he believes every farmer does consider residents and that no one is looking for conflict. He has had residents ask him to stop plowing at times and if he is able to stop, he will. However, it's his living. Mr. Chase stated that this is part of what the Agricultural committee will do; work as a liaison if there is a conflict or complaint. In addition, if a housing development is planned next to agricultural land and the Planning Board is concerned about drainage, the committee can advise.

Mr. Kraus stated as a response to Vice Chairman Morelli's point, the plan talks about agricultural zoning as an idea to be looked at. It also talks about an alternative being an agricultural overlay district, which would seek to protect agriculture a little bit more in certain areas where there is prime soil and larger acreage, etc. A large portion of Rush is in the Agricultural district. The plan created a map that laid out the land and the land use in the town. The plan looked at a combination of factors having to do with prime soil, acreage, development pressure and potential productivity to factor an idea of where the best farmland is in town. This will be helpful in regards to agricultural zoning if the town were to go that route. Mr. Kraus added that at some point, the committee would need to review that.

Vice Chairman Morelli stated it's very important to protect agricultural lands and it's good that Rush has a committee to focus on preserving that.

Board Member Strock asked if the committee views the Agenda's for upcoming meetings and specifically, does the committee plan to attend the May 19, 2015 Planning Board meeting for Mr. Stevens' Public Hearing for site plan approval? Board Member Strock added that personally he doesn't understand Agriculture and Markets Law and is hoping the committee can interpret.

Mr. Kraus stated they do plan to attend the May 19, 2015 Planning Board meeting. He has started reading the Agenda's and will be spotting the projects that could use some input.

In summary, Mr. Kraus stressed that the committee is available and added that Mr. Chase and Mr. Moore are very knowledgeable regarding farming. Mr. Kraus stated that he values farming as something that is very important to his quality of life.

INFORMAL:

Jim Missell to discuss building a single family home on lot R-2A of the Hellman Resubdivision. Lot R-2A is adjacent to 901 Rush-Scottsville Road.

Mr. Missell explained that property owners Bruce and Linda Hellman sold their home at 901 Rush-Scottsville and would like to build a home on the lot adjacent to the one they sold, which is lot R-2A. They have asked Mr. Missell to assist with the design and construction of their new home. Mr. Missell stated that as he looked into the design phase and spoke with Land Surveyor Jim Parker, it appears that the 2006 approvals for the new home were almost finished. Mr. Missell showed the Board the Mylars that Mr. Parker had provided. Mr. Missell stated that the Subdivision map that created lot R-2A

was filed at Monroe County and he presented the Board with a copy. The applicants have the Monroe County Department of Public Health's Department approval, which was good for two years so Mr. Missell will be resubmitting for the County's review. They also have the Monroe County Water Authority's approval. Mr. Missell stated that at the time of the Planning Board approval in September of 2005, Town Engineer Ewell wanted a design for the retaining wall. Mr. Missell stated that the property owners have now decided they will not install a second driveway which eliminates the need for a retaining wall. There are no other changes to the original plan.

Chairman Felsen advised Mr. Missell that as the property owners will not be installing a second driveway, it needs to be removed from the plan. Mr. Missell stated the Mylar is not his and it is hard to modify Mylar's, especially when they are hand drawn. Chairman Felsen asked if Land Surveyor Jim Parker could do it. Mr. Missell stated he can try to obtain Mr. Parker's permission to alter the Mylar and Mr. Missell will sign off on it, or a note could be added to the Mylar. Chairman Felsen stated he would rather the second driveway be removed from the Mylar instead of a note. Mr. Missell suggested a separate 8 ½ x 11 supplement to the plan showing the modification. Chairman Felsen asked Code Enforcement Officer (CEO) Kusse if that would be acceptable to him. CEO Kusse nodded yes.

Mr. Missell asked the Planning Board for approval to complete the design phase. Chairman Felsen agreed, stating that the site plan does not get filed with the County, only at the town, and the Subdivision map is already filed with the County.

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

Jim Kolb appeared with property owner Debbie Stevens and explained that on March 24, 2015 Land Tech created the application for the septic system and submitted it to the Monroe County Department of Public Health, however, they never received it. Mr. Kolb resubmitted the application but that caused a delay.

Mr. Kolb stated that the State Pollutant Discharge Elimination System (SPDES) permit was also submitted on March 24, 2015 but the person who approves the SPDES permits just retired, causing another delay. Mr. Kolb was informed that the Monroe County Department of Public Health is ready to approve the septic system once they receive the approved SPDES permit. Mr. Kolb stated that once approvals are received, the septic system will be installed within 3 weeks.

Mr. Kolb stated that Town Engineer Ewell had questions regarding drainage and Ed Martin of Land Tech will be setting up a meeting with Town Engineer Ewell to discuss those concerns. Board Member Stroock asked Mr. Kolb if he understands Town Engineer Ewell's drainage concerns. Mr. Kolb replied he hasn't seen Town Engineer Ewell's comment letter but understands the drainage issues. Chairman Felsen stated that Mr. Kolb's consultant, Ed Martin, receives the comment letters and it is Mr. Martin's responsibility to share them with Mr. Kolb.

Mr. Kolb stated that he has upcoming weddings scheduled and is requesting a temporary Certificate of Occupancy (C of O). Chairman Felsen asked CEO Kusse if he has any comments. CEO Kusse stated he does not like to continue issuing temporary C of O's for the operation. CEO Kusse is discouraged from the many delays in the approval process and believes that unless someone can force the issue with the agencies involved in the approval process, there will be continued requests for temporary C of O's.

Chairman Felsen asked Mr. Kolb and Mrs. Stevens for the date that they are asking for the temporary C of O. There was discussion among Mr. Kolb, Mrs. Kolb and Mrs. Stevens of various dates. Mrs. Stevens stated through June 20, 2015 and asked CEO Kusse, "What do you think?" CEO Kusse replied, "I think it's going to happen."

CEO Kusse stated that he has a copy of Mr. Kolb's schedule which he gave Town Supervisor Frank and he believes the events start in May. Mr. Kolb confirmed the events start May 2, 2015.

Vice Chairman Morelli asked for updates from Mr. Kolb through emails to Deputy Town Clerk Featherman, who will distribute the updated to the Planning Board Members, CEO Kusse and Town Engineer Ewell.

DECISIONS:

Chairman Felsen made a motion **WHEREAS**; this Board has examined **Application 2015-05P** by James Missell, agent for Janet Felosky, requesting Subdivision approval to separate 9 acres from an 81.6 acre parcel located at 7566 West Henrietta Road. Proposed lot 1 will contain 72 acres and is zoned Commercial. Proposed lot 2 will contain 9 acres and is zoned Light Industrial and the maps and other materials which were filed with the application, including the Short Environmental Assessment Form (Short EAF); and

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

Board Member Sweet seconded and the Board Members polled.

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

Chairman Felsen made a motion to grant preliminary approval of **Application 2015-05P** by James Missell, agent for Janet Felosky, requesting Subdivision approval to separate 9 acres from an 81.6 acre parcel located at 7566 West Henrietta Road with the following conditions:

1. The driveway for lot 2 be identified as "potential" rather than "proposed".

2. The applicant complying with the Monroe County Development Review Committee and the Town Engineer's comments.
3. The applicant adding to both lots 1 and 2 that they are not approved for building.

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

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

Chairman Felsen made a Motion to waive the final Subdivision hearing for **Application 2015-05P** by Janet Felosky conditioned upon:

1. The applicant meeting the requirements of the preliminary Subdivision approval.

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

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

The Short Environmental Assessment Form (Short EAF) for Application 2015-06P by James Missell, agent for John David, was completed by the Board at this time.

Board Chairman Felsen made a Motion **WHEREAS**; this Board has examined **Application 2015-06P** by James Missell, agent for John David, requesting Subdivision approval to separate portion of lands on the south side of the road and subdivide that portion into 5 lots. Remaining lands will retain existing house. Property is located at 902 Rush West Rush Road and is 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 James Missell, agent for John David, 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.

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

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

Board Chairman Felsen made a Motion to grant preliminary Subdivision approval for **Application 2015-06P** by James Missell, agent for John David, requesting Subdivision approval to separate portion of lands on the south side of the road and subdivide that portion into 5 lots. Remaining lands will retain existing house. Property is located at 902 Rush West Rush Road and is zoned Residential-30 conditioned upon:

1. The applicant complying with the Town Engineer's comments.
2. The applicant having the wetland flagged by the New York State Department of Environment Conservation and delineated on the plan after the flagging.
3. The applicant placing on each of the 5 lots that they are not approved for building.

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

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

Chairman Felsen made a Motion to waive final Subdivision hearing conditioned upon:

1. The applicant complying with the conditions of the preliminary approval.

With no further business, it was agreed by common consent that the meeting be adjourned at 9:20 PM.

Respectfully submitted,

Shivaun Featherman
Deputy Town Clerk