

**RUSH PLANNING BOARD  
REGULAR MEETING  
MINUTES OF MAY 19, 2015**

A regular meeting of the Rush Planning Board was held on May 19, 2015 at the Rush Town Hall, 5977 East Henrietta Road and was called to order at 7:30 PM.

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

**EXCUSED:** John Morelli, Vice Chairman

**OTHERS PRESENT:** Councilwoman Jillian Moore, Town Board Liaison  
Gerry Kusse, Code Enforcement Officer (CEO)  
Kyle Stevens, Resident  
Floyd Schlosser, Resident  
Joyce Schlosser, Resident  
Tom & JoAnn Gust, Residents  
Bill Chase, Resident  
Shaun & Laura Malone, Residents  
Fredric & Nancy Calev, Residents  
Jim Kolb, Resident  
Andrea Taylor, Resident  
Phyllis Gerringer, Resident  
Jim Naugle, Resident  
Harold Manning, Resident  
David Manning, Resident  
Frank Aquino, Resident  
Maurice Stewart, Resident  
Donna Rubin, Resident  
Robert Kraus, Resident  
Tom Rodak, Land Surveyor

Chairman Felsen welcomed all to the May Planning Board meeting.

**APPROVAL OF MINUTES:**

The Minutes of April 21, 2015 were reviewed.

Board Member Sweet made a Motion to accept the Minutes of April 21, 2015 as amended.

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

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

**PUBLIC HEARING:**

**Application 2015-03P** by Kyle Stevens of Stevens & Sons, LLC requesting a Special Permit to operate a farm stand. Property is located at 2500 Rush-Mendon Road and is zoned Residential-30.

**Application 2015-07P** by Kyle Stevens, requesting Site Plan approval for current farming operations and seasonal agritourism activities. Property is located at 2500 Rush-Mendon Road and is zoned Residential-30.

Kyle Stevens explained that for the past 6 years, along with regular farming activities, he has included a seasonal corn maze and pumpkin patch at this property. Over the years, it has grown and one of the concerns raised is the proximity to other homes, in particular, the Calev's home. In response to that, Mr. Stevens stated he has moved the activities further from the Calev's property. In addition, he took care of some drainage and grading issues along with general housekeeping. He made room to expand farming operations to include an organic Community Supported Agriculture (CSA), which is a crop share program where families and participants can join the farm and buy into the farm's harvest. Participants buy a membership at the beginning of the season, pledging their support throughout the harvest season and in exchange for their support, they receive produce. It costs about \$16.50 a week for a family of two to participate in the program.

Mr. Stevens explained that he started doing the corn maze and pumpkin patch as an opportunity for his kids to get involved with agriculture and help the community. It's grown and now rather than cart their surplus to area farm markets to sell, they donate all their surplus to food pantries. The money generated through the CSA funds their ability to grow food to give to people in need in the community.

Mr. Stevens stated they farm inside the State School at Industry with the kids and sponsor their agricultural program. Mr. Stevens sells the products that they jointly coproduce and donates the profits back to them.

Mr. Stevens explained that their primary marketing venues are the pumpkin patch and corn maze. These activities attract families to join the farm. Last year was their first year with the CSA and they had 20 members. This year they are targeting 150 families and are producing surplus to feed 200 families through the food pantry. The revenue from the pumpkin patch and corn maze funds their budget for the season. Mr. Stevens stated his application is in part to have a site plan approved for the changes he did in grading and landscaping to make the farm more presentable to receive the public.

Chairman Felsen advised Mr. Stevens that the Site Plan is for the actual operation of his program on site, specifically the different activities during the September to November time period. The Special Permit application is for allowing a farm stand to operate in a residential area.

Chairman Felsen asked Mr. Stevens to confirm the dates and times that the agritourism activities will be operating. Mr. Stevens replied the activities will start on the first weekend in September and run through the first weekend in November. The days of operation are Friday, Saturday and Sunday from 10:00 am to 6:00 pm, with occasional moonlight maze walks offered Friday and Saturday nights until 10:00 pm. During the week, they host kids with disabilities and small school groups by appointment and are not open to the general public.

Chairman Felsen stated there are 4 activities that do not fall under the New York State Agriculture and Markets Law; the duck races, the cow train, the slide on the outpost tower and the tire obstacle course, and that Mr. Stevens had stated in his application to the Planning Board that he will have the New York State Department of Labor inspect those activities. Mr. Stevens confirmed that is correct.

Chairman Felsen inquired as to the operating times of the farm stand. Mr. Stevens replied the farm stand will operate from the spring right through the fall. Chairman Felsen asked where the farm stand will be located. Mr. Stevens stated he made an amendment to the site plan noting the location of the farm stand. It will not be on Route 251 because there is no safe way to exit the road. The farm stand will be located close to the office and maintenance building.

Board Member Sweet inquired about port-a-potties. Mr. Stevens stated there are port-a-potties at the main building and seasonal port-a-potties with handicap accessibility at the outpost area.

Board Member Strock asked if there is a retention pond on the property. Mr. Stevens replied there is a pre-existing pond and pointed out the retention area on the site map. He is not proposing topography changes.

Board Member Sweet is concerned about lighting, especially around the maintenance building. Mr. Stevens stated there are two lamps on the building that are standard exterior dawn to dusk lights.

Board Member Sweet stated that he visited the property last fall and noted the tremendous amount of changes that have taken place and how much better it looks then it did a few years ago. Mr. Stevens has done a lot of work and it looks really nice.

Mr. Stevens informed that Board that each year he keeps track of any issues so he can resolve them for the following year. The biggest issue was Mr. and Mrs. Calev's concerns about people wandering onto their property, and even though the linear park runs through both of their properties, Mr. Stevens wanted to be sensitive to that and move activities as far from their property as possible.

Chairman Felsen read into the record the Conservation Board's reviews. For Application 2015-03P for a Special Permit, the Conservation Board did not find any aspect of the project to significantly impact the environment. For Application 2015-07P for Site Plan approval, the Conservation Board asked where the septic system will be located and why it's needed. Mr. Stevens stated it is a non-public, pre-existing septic system. Chairman Felsen stated that the Conservation Board noted that regarding environmentally sensitive areas, there are woodlands and steep slopes in the vicinity. Mr. Stevens stated that the woodlands are on the far western side of his property and pointed out the area of the steep slopes on the site map.

Chairman Felsen read into the record that the Fire Commissioner does not have any issues or concerns with either application. Chairman Felsen noted the applicant has addressed Town Engineer Ewell's comments, and that the Monroe County Department of Planning and Development's review stated that the applicant will need a coordinated safe crossing of the trail. Mr. Stevens confirmed that has been done.

Chairman Felsen asked Code Enforcement Officer Kusse for any comments. CEO Kusse stated he continues to have concern about things that have been constructed on Mr. Stevens property that have not been permitted from a public safety point of view. If those things were constructed on private property, he would make sure that they were properly gated and shielded so that little kids couldn't fall off of them.

In response, Mr. Stevens stated that the top of the outlook tower is for staff only. It is used as an observation point so they can see over the corn maze for safety. The lower area is only 5'-6' from the ground but there is a slope that makes it look much taller than it is and added that they can review that.

Chairman Felsen asked if a building permit is needed for that structure. CEO Kusse replied that something being constructed like that, whether it's for agritourism or an amusement park, may require some kind of a permitting process and an inspection to insure that public safety is taken into account.

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

Resident Nancy Calev stated that she objects to the statement Mr. Stevens said that things have gotten better; they have not. She could not open a tiny business in her home without getting shut down, yet Mr. Stevens continues to expand his business. The noise has increased; she hears the pumpkin chucker all weekend long. Mrs. Calev stated they have people pulling into their driveway and people wandering into their yard. She is very angry that there is no security, fencing or sound barrier. Mrs. Calev complained that there is currently one trailer on the property and she fears it could turn into 20 trailers and possibly become low-income housing. Mrs. Calev stated that Mr. Stevens wants to entertain children but even daycares have regulations to entertain children, and added that wherever children go, predators go. Mrs. Calev stated that there was a "peeping tom" on her property wearing a black stocking cap. This is the type of people that get invited into public. Mrs. Calev stated she cannot enjoy her home anymore.

Resident Donna Rubin stated she does not know Mr. Stevens and her property is not adjacent to his, but she has walked on the trail many times and has not had any problems. She believes what Mr. Stevens has done is great, and his property looks great. She supports Mr. Stevens and she believes that if our sons and daughters grow up here and want to have a business that contributes to our community, we ought to support them.

Resident Craig Schlindwein enjoys what Mr. Stevens has been doing. Mr. Schlindwein stated he was not thrilled with the landscaping business that Mr. Stevens originally had there, but he is very happy with what Mr. Stevens has done since. His granddaughter loves the place. He believes the noise has not been above what one would expect a farming operation to have. Mr. Schlindwein added there is so much traffic now on the linear trail they do not believe that Mr. Stevens farm activities add much more. Mr. Schlindwein has never seen a problem on the trail.

Resident Bill Chase stated he owns a greenhouse in Rush and is also part of the Agricultural Advisory Committee. Mr. Chase informed the Board that the New York State Department of Agriculture and Markets has visited Mr. Stevens property and for all purposes gave him a clean bill – they have proven that he has an agricultural enterprise and the rides, for the most part, are covered by the Agricultural and Markets Law. Mr. Chase believes that legally the Planning Board cannot stop Mr. Stevens from operating.

Resident Jim Kolb of Colby's Catering and Ice Cream Store stated that he listens to the silent majority in Rush; people that visit his restaurant and talk about town politics and projects. The people that have gone to see what Mr. Stevens is doing have all been very happy with it. Mr. Kolb stated he lives on a road that 13,500 cars travel on per day so he knows about traffic. Traffic is not an issue on this road bothering people. People get used to it. Mr. Kolb believes that Mr. Stevens operation is good for the kids and for the community, and that it will raise the value of the community because people will know where Rush is. Mr. Kolb added that he spends a lot of money advertising the Town of Rush on the radio so people will know about it. Mr. Kolb stated he is proud of Mr. Stevens for what he is doing.

Resident Karen Quackenbush lives two doors down from Mr. Steven's property. During the past two years, she has had a daily opportunity to observe the work that Mr. Stevens is doing to develop his family's land into a small farm. She has had several opportunities to have conversations with him regarding his plans and the other outreach opportunities that he is doing in the community. Mrs. Quackenbush stated she has been totally impressed by what she has seen and heard. Mr. Stevens is voluntarily educating people about the food they eat and where it comes from. He has taught people how to use sustainable farming practices, the joys of animal husbandry, and how to give back to the community we live in. Mr. Stevens displays the qualities that a good neighbor should. She is proud to have him as a neighbor and fully support his proposals to continue to expand his farming operation and to provide seasonable, wholesome family activities.

Resident Fred Calev lives directly next door to Mr. Stevens. He believes what Mr. Stevens has is not a farm but a landscaping commercial construction company that Mr. Stevens advertises on his website. Mr. Calev complained of the following at Mr. Stevens property:

- The possibility of lightning striking the trees where animals are kept
- Severe flooding at the road
- Over 75 parked cars
- The removal of a berm that the County had installed
- The destruction of an artesian well on Rush-Mendon Road
- A commercial gift shop
- No egress for vehicles
- Goats and cows making noise and confined to a pen
- The smell of port-a-potties
- Mr. Calev's home losing value because it's next to a commercial operation
- Mr. Calev's homeowner's insurance increasing
- The septic for the trailer
- The noise from pumpkin guns
- The use of dangerous chemicals
- Construction trucks, bulldozers, backhoes and snow plows
- The sale of mulch
- Income from a commercial business, not a farm
- Dangers of children on farms
- Rats from open dumpsters

Mr. Calev repeatedly stated that it is a residential zone. Mr. Calev stated that he would not have a problem with a farm next door, but he does have a problem with a commercial landscaping business next door.

Chairman Felsen asked Mr. Calev, for the Board's benefit, is he stating that as of today, a landscaping business exists on Mr. Steven's property? Mr. Calev replied yes; a landscaping business and all the commercial services that go with it exist on Mr. Stevens property. Mr. Calev submitted multiple pictures of Mr. Steven's property to the Board.

Chairman Felsen explained to Mr. Calev that in the Town of Rush, agriculture is allowed in a residential district, and the Department of Agriculture and Markets also allows agritourism in a residential district as part of that operation. The Department of Agriculture and Markets in Albany has advised the Planning Board that Mr. Stevens' operation meets their definition of what is allowed, except for the 4 rides that he mentioned earlier; the cow train, the outpost slide, the duck races and the tire obstacle.

Mr. Calev stated that he believes agritourism doesn't qualify in this case because it's funded by a commercial business. Chairman Felsen asked Mr. Calev if he has submitted a complaint to the Department of Agriculture and Markets. Mr. Calev stated he has, but the Department of Agriculture and Markets has not responded.

Board Member Strock stated that it's his understanding that characterizing a farm includes gross sales; not profit.

A heated discussion from the audience occurred with irrelevant comments, ending with a question asked of the Planning Board if it is their job to entertain all comments. Chairman Felsen replied that the Planning Board listens to everyone.

Resident David Manning stated that he has known Mr. Stevens for many years. He has been to Mr. Steven's farm, supports his CSA and is a CSA member. His kids spend time there and have volunteered with the corn maze. Mr. Manning stated that Mr. Stevens brings the cow train to the town, supporting the Fall Festival and other town events. Mr. Manning believes what Mr. Stevens is doing is wonderful for the community and the town in general and he would like to see the town support Mr. Stevens.

Chairman Felsen asked Mr. Stevens if he would like to respond to any of the comments made from the audience. Mr. Stevens stated that clearly over the years there have been many changes to his property. His landscaping business was there for a time but now operates out of two facilities on West Henrietta Road. Mr. Stevens confirmed that he does primarily support the cost of operations for the farm from his construction company, otherwise he would never be able to do it; however that has no bearing on whether or not it's a farm. Port-a-potties are serviced every weekend, and at busier times; the following day. It is alarming to hear of Mrs. Calev experience with a hooded man on the trail.

Mr. Stevens stated that he is trying to be very sensitive to the Calevs' concerns. He did not have to move the activities back, but he did in the spirit of trying to be a good neighbor. He does appreciate the fact that there are occasional disturbances and perhaps they are more prevalent than he realizes and he apologizes for that. For instance, they do have pasture ground and rotate the animals quite a bit so there is some noise and disturbance but overall Mr. Stevens is trying to be respectful.

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

**Application 2015-08P** by Lee Hankins, agent for Thomas and JoAnn Gust, requesting a Special Permit to build two single family homes with in-law apartments. Property is located at 1658 Middle Road and is zoned Residential-30.

Lee Hankins, agent for Thomas and JoAnn Gust and Shaun and Laura Malone, explained he is seeking approval to build an accessory apartment in each of two proposed homes. Thomas and JoAnn Gust will be living in the proposed new home on lot R2-C which is 7.39 acres, and Shaun and Laura Malone will be living in the proposed new home on Lot R2-B which is 4.68 acres. Mr. Hankins submitted architectural drawings to the Board.

In reviewing the site map, Chairman Felsen stated that there are modifications to the plans which were previously approved, including driveway locations and the orientation

of the houses. Chairman Felsen advised Mr. Hankins that Land Surveyor Jim Glogowski will need to show the changes that are being proposing on the site map.

Board Member Sweet reinforced the fact that the site plan needs to accurately reflect the exact location of the houses and driveways.

Chairman Felsen read aloud #25 of the Town of Rush Notes on the Site Plan, “A change in the proposed structure foot print or site revision involving grading, drainage, driveway location, highway access, placement of utilities, placement of erosions/siltation measures or any other site revisions may require plan re-submission and re-approval by the Planning Board and/or Town Engineer. The Town Building Inspector shall determine plans requiring re-submittal and re-approval. All cost associated with the review or revised plans shall be the responsibility of the subdivider or lot owner.”

Chairman Felsen stated that once Mr. Glogowski revises the site plan, CEO Kusse and Town Engineer Ewell will need to review it and determine if it needs to come back to the Planning Board.

Chairman Felsen read through Section 120-61 of the Rush Town Code and explained to Mr. Hankins that he will need to show that all 14 of the restrictions concerning accessory apartments have been met.

In addition, Chairman Felsen advised Mr. Hankins that an accessory apartment affidavit is required, signed by the home owners, notarized, submitted to the Town and signed by CEO Kusse.

Chairman Felsen explained that if a Special Permit is approved, it will be issued to the homeowners and it becomes invalid if they sell the house.

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

Residents Floyd and Joyce Schlosser stated when they built their house a few neighbors came and brought their support to the project and they thought they would do the same. They look forward to new neighbors and welcomed the Gusts and Malones to the Town of Rush.

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

**Application 2015-09P** by Tom Rodak, agent for Maurice Stewart, requesting Subdivision approval to subdivide 5.0 acres from an existing 11.68 acre parcel. There is no development planned for the proposed 5.0 acre parcel. Remaining lands will retain existing home. Property is located at 200 Five Points Road and is zoned Residential-30.

Mr. Rodak explained that Mr. Aquino purchased 5.0 acres from Mr. Stewart. The land was transferred prior to Mr. Rodak receiving preliminary approval from the Planning Board.

Mr. Rodak submitted an updated site plan to the Board, and stated that he has made the changes requested by Town Engineer Ewell. Mr. Rodak is seeking preliminary and final approval so it can be filed with Monroe County and the two tax accounts can be combined into one.

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

### **DECISIONS:**

Chairman Felsen made a motion **WHEREAS**; this Board has examined **Application 2015-03P** by Kyle Stevens of Stevens & Sons, LLC requesting a Special Permit to operate a farm stand. Property is located at 2500 Rush-Mendon 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 Kyle Stevens, 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 the Motion and the Board Members polled:

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

Chairman Felsen made a Motion **WHEREAS**; this Board has examined **Application 2015-07P** by Kyle Stevens, requesting Site Plan approval for current farming operations and seasonal agritourism activities. Property is located at 2500 Rush-Mendon 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 Kyle Stevens, 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 Wurzer seconded the Motion and the Board Members polled:

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

Chairman Felsen made a Motion to grant Site Plan approval for **Application 2015-07P** by Kyle Stevens conditioned upon:

1. Any requirements for the rides not covered under the New York State Agriculture and Markets Law be inspected and approved by the New York State Department of Labor.
2. Any existing or proposed building structures on the Site Plan are submitted to the Building Department to determine whether a building permit is required.
3. The applicant complying with the comments by the Town Engineer.
4. The plan being stamped by a licensed professional is waived.
5. The hours of operation for the agritourism business are as described in the materials submitted by Kyle Stevens to the Planning Board.
6. There being no landscape retail business at the site and no landscape equipment stored at the site.

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

Roll: Scott Strock            aye  
      Don Sweet                aye

Rick Wurzer            aye  
John Felsen            aye    carried.

Chairman Felsen made a Motion **WHEREAS**; this Board has examined **Application 2015-08P** by Lee Hankins, agent for Thomas and JoAnn Gust, requesting a Special Permit to build two single family homes with in-law apartments. Property is located at 1658 Middle 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 Lee Hankins, agent for Thomas and JoAnn, 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 Wurzer seconded the Motion and the Board Members polled:

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

Chairman Felsen made a Motion to grant a Special Permit for the accessory apartments on the Site and Resubdivision conditioned upon:

1. The applicant revising the lot layout for both lots showing the correct driveway locations, the additional parking spaces, the layout of the houses and the reconfiguration of the driveways and the septic tanks.
2. The applicant showing that they have met all of the conditions for accessory apartments under Section 120-61 of the Rush Town Code.
3. Both proposed property owners for both houses submitting notarized affidavits to the Building Department.

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

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

Chairman Felsen made a Motion **WHEREAS**; this Board has examined **Application 2015-09P** by Tom Rodak, agent for Maurice Stewart, requesting Subdivision approval to subdivide 5.0 acres from an existing 11.68 acre parcel. There is no development planned for the proposed 5.0 acre parcel. Remaining lands will retain existing home. Property is located at 200 Five Points Road and is zoned Residential-30 and the maps and other materials which were filed with the applications, 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 polled:

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

Chairman Felsen made a Motion to grant preliminary approval for the resubdivision map of lots BR3A and BR3B being a resubdivision of the Stewart Resubdivision conditioned upon:

1. The applicant meeting the comments of the Town Engineer.

Board Member Sweet seconded the Motion and the Board polled:

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

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

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

Board Member Wurzer seconded the Motion and the Board polled:

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

RUSH PLANNING BOARD  
MAY 19, 2015

With no further business, it was agreed by common consent that the meeting be adjourned at 9:45 pm.

Respectfully submitted,

Shivaun Featherman  
Deputy Town Clerk