

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

A regular meeting of the Rush Planning Board was held on July 21, 2015 at the Rush Town Hall, 5977 East Henrietta Road and was called to order at 7:30 PM.

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

EXCUSED: John Felsen, Chairman
Don Sweet, Member

OTHERS PRESENT: Councilwoman Jillian Moore, Town Board Liaison
Gerry Kusse, Code Enforcement Officer (CEO)
Loel Turpin, Resident
Terry Mahoney, Resident

Vice Chairman Morelli welcomed all to the July Planning Board meeting.

APPROVAL OF MINUTES:

Being that the Vice Chairman was not present at the May 19, 2015 meeting and a quorum was not present, approval of the May Minutes will be moved to the August 18, 2015 meeting.

PUBLIC HEARING:

Application 2015-10P by Loel Turpin requesting a Special Permit to operate a dog boarding facility in an existing outbuilding. Property is located at 474 Works Road and is zoned Residential-30.

Loel Turpin explained to the Board that she would like to use an existing 24' x 32' pole barn on her property as a boarding kennel, offering pet owners in the Rush and surrounding communities a quality dog boarding service. Ms. Turpin stated that Rush is a growing community in need of pet care options, for instance, Honeoye-Falls Veterinary Facility only offers dog boarding to their own clients. Ms. Turpin added that she can offer an excellent standard of care. She has 30+ years of experience in training and competing in many different venues such as obedience, breeding, raising puppies, and assisting people in training their own dogs.

Ms. Turpin explained that this will be an owner-operated, small, quiet and well maintained facility that will have approximately 10 indoor runs. To minimize noise, the following is planned:

- The indoor runs will be separated by isolation panels.
- There will be no outdoor kennels.
- A 6' privacy fence will be installed, safely containing pets and blocking them from outside stimuli that would cause them to bark.
- Trees will be planted between the properties.
- Pets will be supervised while outside and they will not be out after dark or before 8:00 am.
- A top of the line heating and cooling system will be installed, minimizing the need to open windows.
- The ceiling will be covered in sound dampening tiles to assist in noise control.
- Business hours will be by appointment only.

Ms. Turpin addressed Town Engineer Ewell's comment letter and submitted to the Board a drawing of the kennel layout. Vice Chairman Morelli read into the record that the Fire Commissioner does not have any concerns or issues regarding Ms. Turpin's application. Monroe County's Department of Planning and Development has determined the application to be a local matter, and the Rush Conservation Board has inquired about the proposed plan to dispose of dog waste, and the depth and location of the well. Ms. Turpin replied that dog waste will be bagged and taken out by her garbage disposal company. Ms. Turpin pointed out the location of the well on her site map and stated it is 125' deep. Vice Chairman read into the record that Mr. Irving Simmons of 1155 Honeoye-Falls Five Points Road is in support of Ms. Turpin's application, however, he wanted to ensure that barking is not an issue as he works different hours, and he is courteous during times the neighbors would prefer quiet.

Vice Chairman Morelli stated that Town Engineer Ewell determined the project to be an Unlisted Action pursuant to the State Environmental Quality Review Act (SEQRA), however, a coordinated SEQRA review is not required. Vice Chairman Morelli agrees that a coordinated SEQRA review is not required but disagrees with Town Engineer Ewell's findings that it's an Unlisted Action. Vice Chairman Morelli finds the project to be a Type II Action based specifically on SEQRA section 617.5 (c) (10), which identifies dog kennels as examples of Type II Actions when they are on residential properties incidental to the primary purpose of the property being the residence.

Board Member Strock advised Ms. Turpin that the Board has had two requests for Special Permits regarding dog kennels in the past. One was a dog breeding operation in the eastern part of the town that had a history of being unregistered. The Planning Board denied their application because the neighbors complained about the noise. The other was on Biondo Court, which is one of the more suburban areas in the town, and the applicants were requesting to have a small dog boarding facility with the special purpose of giving their disabled daughter something to do. The Planning Board denied the application because neighbors complained of the potential noise, especially in relation to the close proximity of homes. Board Member Strock believes Ms. Turpin's application is different because the lots have multiple acres and Ms. Turpin only has 5 or 6 neighbors within a quarter mile. The fact that Ms. Turpin plans to keep the dogs inside and supervised while outside is helpful because specifically, the biggest issue in these cases is the potential barking.

Vice Chairman Morelli agreed that dog kennels can be very noisy, which is stressful to the dogs, workers, and neighbors. However, he believes the methods Ms. Turpin is proposing to minimize noise are state-of-the-art.

Vice Chairman Morelli stated that he visited Ms. Turpin's property and is concerned because he noted that there is approximately only 400' between her property and her neighbors at 500 Works Road. There is just open land between the properties, and the backyard of 500 Works Road faces the pole barn on Ms. Turpin's property where her proposed dog kennel will be. Any potential noise will be particularly sensitive to them.

Councilperson Jillian Moore inquired about possible signage on Ms. Turpin's property to identify her proposed business. Ms. Turpin replied that she plans to install a house number and her logo for the business. Board Member Strock advised Ms. Turpin that the town has sign laws.

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

Resident Terry Mahoney stated that he lives at 500 Works Road. He is very concerned about the potential noise of a dog boarding facility. His family likes to have their windows open. Their deck and backyard are the primary spaces to entertain and for their children to play. Mr. Mahoney stated that while Ms. Turpin has proposed measures in place to minimize noise, the reality may be very different than that. Mr. Mahoney bought his home in Rush because it's peaceful and quiet, and he wants to continue to enjoy those qualities.

Another concern that Mr. Mahoney has is he cannot foresee a way that this will not have a negative impact on his property value. He purchased his home for \$199,000 and he believes he would not be able to obtain a similar value if potential buyers see that there is a dog kennel 400' from the back of his home. He strongly opposes this proposal.

Ms. Turpin stated there are individual dogs in the neighborhood that she hears barking and Mr. Mahoney owns a dog that does his share of barking. A kennel properly managed is not non-stop barking.

Code Enforcement Officer Gerry Kusse stated that while he can appreciate Mr. Mahoney's concerns, he has lived next door to the biggest boarding kennel in the town of Rush for the past 20 years, and he has never heard the dogs at that boarding kennel. He cannot say that this will be replicated with Ms. Turpin's proposed facility; he can only say that has been his experience. He attributes the quiet of the kennel to the operators doing whatever they have to do to keep the noise down.

Board Member Strock pointed out that once a Special Permit is granted, there is not a way to rescind it barring a disaster; there can be no trial period.

Vice Chairman Morelli stated that this is a difficult situation. When the Board looks at these issues, they look at the benefit to the individual homeowner versus the cost to the

neighborhood or the town. In this case, the Board is looking at specifically one neighbor. Vice Chairman Morelli stated that putting himself in Mr. Mahoney's position, he would have the same concerns. It would be a change of the environment from which he bought his home.

Vice Chairman Morelli added that one way to solve debates is to ask, which came first? If one moved into a house with a kennel already next door and complained about it, that person would not have as much weight as if one had moved in before there was a kennel next door.

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

DECISIONS:

Vice Chairman Morelli made a Motion **WHEREAS**; this Board has examined **Application 2015-10P** by Loel Turpin requesting a Special Permit to operate a dog boarding facility in an existing outbuilding at property located at 474 Works Road, 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.

NOW, THEREFOR, upon due consideration by the Board of the Application by Loel Turpin and the other materials and comments received; it is

RESOLVED to **DENY** approval of **Application 2015-10P** by Loel Turpin requesting a Special Permit to operate a dog boarding facility.

Reasons for the denial are as follows:

1. Determined proximity is too near to neighboring home.

Board Member Wurzer seconded and the Board Members polled.

Roll:	Scott Strock	aye	
	Rick Wurzer	aye	
	John Morelli	aye	carried.

With no further business, it was agreed by common consent that the meeting be adjourned at 8:25 PM.

Respectfully submitted,

Shivaun Featherman
Deputy Town Clerk