

**RUSH PLANNING BOARD
REGULAR MEETING
MINUTES OF JUNE 21, 2016**

A regular meeting of the Rush Planning Board was held on June 21, 2016 at the Rush Town Hall, 5977 East Henrietta Road and was called to order at 7:00 PM.

PRESENT: John Felsen, Chairman
John Morelli, Vice Chairman
Scott Strock, Member
Rick Wurzer, Member
Pamela Bucci, Town Clerk

EXCUSED: Don Sweet, Member
Shivaun Featherman, Deputy Town Clerk

OTHERS PRESENT: Jillian Coffey, Councilperson, Town Board Liaison
Glenn Thornton, Land Surveyor
Phil D'Alessandro, Building Inspector
Britta & Bill Stambaugh, Residents
Christine Nothnagle, Resident
David & Karen Knotowicz, Residents
John & Mary David, Residents
Korey Buzzell, Attendee
Richard & Carole Otterstatter, Residents
Mary Eileen Walter, Attendee
Erin & Nathanael Nelson, Residents
Jana Delibert, Resident
Kristopher & Amy Clark-Stasiw, Residents
Joseph Stasiw, Attendee
Jeanne Morelli, Resident
Maureen Herbstsommer, Resident
Joel & Lori Basa, Residents
William Vannoy, Resident

Chairman Felsen welcomed all to the June Planning Board meeting.

APPROVAL OF MINUTES:

The Minutes of May 17, 2016 were reviewed.

Chairman Felsen made a Motion to accept the Minutes of May 17, 2016 as written.

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

Roll:	Scott Strock	aye
	John Morelli	aye
	John Felson	aye

Board Member Rick Wurzer arrived at 7:15 pm.

PUBLIC HEARING:

Application 2016-04P by Glenn Thornton of Thornton Engineering, agent for William and Britta Stambaugh, requesting Site Plan Approval to construct a single family dwelling on 5.9 acres (Lot 2) of the David Subdivision. Property is located at 902 Rush West Rush Road and is zoned Residential-30.

Mr. Thornton explained that the Stambaughs purchased Lot 2 of the David Subdivision and are proposing to construct a single family home as their residence with septic, public water, gas and electric. The size and location of the proposed house are code compliant. The septic system has been reviewed by the Monroe County Department of Health and they will sign the Mylar once the Stambaughs obtain the approval of the Planning Board.

Mr. Thornton stated that they will be granting a 15' easement across the frontage to satisfy the Monroe County Water Authority. They are awaiting approval from the New York State Department of Transportation regarding the driveway location but do not anticipate any issues to correct. Chairman Felsen noted that when Jim Missell, Land Surveyor, was working on the David Subdivision, the Planning Board had requested that he show the location of all future driveways on the map.

Mr. Thornton advised the Board that he has addressed all comments from the Monroe County Development Review Committee (MCDRC) and Town Engineer Todd Ewell.

Chairman Felsen noted that Monroe County mentioned the wetlands which are part of the David Subdivision. Mr. Thornton stated that the Stambaugh's hired a wetland delineator to provide an opinion of the likelihood of impacting a wetland, and they determined that the building site is several hundred feet from the wetland and the buffer so there will be no impact.

Chairman Felsen noted the comments of Town Engineer Ewell and Mr. Thornton's response letter have been reviewed by the Board Members. Chairman Felsen stated that the Board of Fire Commissioners does not have any concerns or issues regarding the application. The Conservation Board is inquiring if the property has an Agricultural Exemption and who will be contacted that the property is of archeological significance? Chairman Felsen stated that Land Surveyor Jim Missell had already completed the study prior to Mr. Thornton's completion. The Conservation Board also noted that there are woodlands to the south of the property not checked on the Planning Board Application.

Chairman Felsen inquired about the size of the water service. Mr. Thornton replied that as the Monroe County Water Authority will not accept 1 ¼" water main, they will be using 1 ½" water main and installing a 15" culvert which exceeds the required 12" culvert. Vice Chairman Morelli inquired about the flow of a 15" culvert. Mr. Thornton replied the flow is 7 to 8 cubic feet per second.

Board Member Strock inquired about the excavating and positioning of the dirt as the temporary topsoil stockpile is something they don't usually see. Mr. Thornton replied that the Department of Environmental Conservation (DEC) typically requires that to be shown on the map along with the kind of erosion control they will be using.

Vice Chairman Morelli asked that "The Town of Rush" be added to # 9 of the General Notes on page 2 of the Site Plan map.

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

Application 2016-05P by Erin & Nathanael Nelson requesting a Special Permit to operate a dog training facility in an existing barn. Property is located at 220 Honeoye Falls Five Pts. Road and is zoned Residential-30.

Vice Chairman Morelli stated that being an adjacent property owner to the Nelson property, he has a conflict of interest regarding Application 2016-05P and recused himself from the proceedings.

Both Erin and Nathanael Nelson were present. Mrs. Nelson explained that they are in the process of renovating their existing 1,500 square foot barn to use as a dog obedience training facility. The size of the barn will not change and it will be climate controlled. The facility is not a kennel; no dogs will be boarded there.

Classes would be held 2-3 times a week from 5:30 pm – 9:00 pm and Saturday from 8:00 am – 12:00 pm. Because Mrs. Nelsen was asked to present any possible future expansion, she extended that the possibility of expanding would include 3-4 evenings from 5:30 pm – 9:00 pm and Saturday from 8:00 am – 12:00 pm. At present, they are proposing 2 nights of group training with 6-12 dogs. A 3rd night may include a private lesson. Days of the week would include Mondays, Tuesdays and Thursdays, never on Wednesday. Class levels 1, 2, and 3 will be taught.

They are proposing a 4' chain link fenced area to temporarily hold dogs for a maximum of 15 minutes. A parking area of no more than 12 cars in a 40' x 50' area is proposed. The driveway has 2 entrances connecting each other.

Mrs. Nelsen referenced the following from the Rush Town Code:

- Chapter 28 - Animals
- Chapter 58 - Fences and Walls
- Chapter 120 - Zoning
- Chapter A125 – Design Criteria and Construction Specifications

Answers to all chapters were provided verbally and distributed to the Board. Pictures of the property and materials to be used in the barn flooring were circulated. Key points addressed included barking, climate control of the facility and leashed dogs. Feces will be scooped every other day. Dogs are trained not to bark because they disrupt training. Dogs that bark for more than 20 seconds will not be tolerated and the owner and dogs will be asked to vacate the premises.

Mrs. Nelsen views her facility as a private school of dog obedience training and stressed it is not, and never will be, a dog kennel or a dog boarding facility. Mrs. Nelson added that her dog obedience training will not be a full time operation. She isn't going to operate the facility for financial gain but merely loves helping people and believes having trained dogs creates better neighborhoods.

Letters were submitted against and in support of allowing the dog obedience training facility in a residential area. Letters from an appraiser and a realtor addressed sales in the area and stated that neighboring property values are not diminished. A list of 19 signatures was presented in support of the special permit.

Chairman Felsen read into the record the comments of:

- Town Engineer Ewell
- The Rush Board of Fire Commissioners
- The Rush Conservation Board
- Monroe County Department of Transportation
- Monroe County Department of Planning & Development

Board Member Strock congratulated Mrs. Nelson on being very well prepared and enthusiastic. He believes calling her facility a training school is a stretch however, he did note it is not a kennel.

Councilwoman Coffey asked about liability insurance. Mrs. Nelson replied that for liability purposes, they will be obtaining insurance up to \$500,000 and creating an LLC. In addition, all customers will be required to sign a waiver.

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

Resident Jeanne Morelli is an adjacent property owner. The lot they own is currently vacant but it is a prime lot to build a home. She is concerned that the Nelson's barn is only 26.9' from the Morelli's western property line. While she appreciates the Nelson's passion, Mrs. Morelli is in opposition of the special permit and cited the zoning code and the area being zoned residential. Her opinion is that it will impact their property value and disrupt the harmony of the neighborhood. A full scale operation is not appropriate in a residential zone and is too close to two of their property lines. The town has zoning for a reason.

Resident Karen Dolan Knotowicz read a lengthy letter opposing the special permit because the area faces their property. They have lived there for years and like the harmony. She believes this proposal will decrease property value, ruin the rural character of their neighborhood, create a safety hazard, damage the water well supply and emit offensive odors. In addition, she is concerned about increased noise. Currently they are able to hear their neighbors voices as well as voices from the Rotary Sunshine Camp.

Resident David Knotowicz stated that their property is near Oak Openings which is a unique and pristine area. Mr. Knotowicz asked who will be patrolling to make sure the residents are following their permit? Mr. Knotowicz is not in favor of the facility; a commercial enterprise does not belong in an area zoned residential.

Chairman Felsen replied that neighbors are the best patrol of a property. They provide complaints followed by a Code Enforcement Officer visit.

Mr. Nelson responded by stating that just the mere fact of all the research he and his wife have done regarding the Town Code reflects that they desire to be compliant.

Resident Richard Otterstatter stated that he lives next to Oak Openings and there are many cars that visit the area during hunting season. There are currently businesses in the nearby residential area with special permits which cause additional traffic including Rush Gravel and the Rotary Sunshine Camp. Traffic generated by the Nelson's business would be minimal and not noticeable. All residents should be allowed to use their property the way they see fit. Mr. Otterstatter added that the Knotowicz's own dogs that bark all the time.

Corey Bazel is not a resident of Rush but is present to support the Nelson's. He is Mr. Nelson's brother-in-law and stated that the Nelson's have great character, a love for their community and a gift for training dogs. They have done extensive research in planning their business and have invested wisely in upgrading their barn in order to house their business. Mr. Bazel is interested in the history of the law and believes once a precedent is in motion that it's accepted – historically the law follows what's been done. Based on the precedence set in the past for horses, he believes there is no reason the Nelson's can't enjoy training dogs without too much interference.

Resident Janet Delibert is in support of the dog training facility. She understands the concerns of the neighbors, however, the property in question is 10 acres and the hours of operation are reasonable. The Nelson's business would be a valued added addition to the Town of Rush.

Resident Christine Nothnagle asked where special permits fit the rezoning of areas in town and why wouldn't the parcel be rezoned commercial?

Chairman Felsen replied that issuance of a special permit is allowable in residential areas under the Town Code. Rezoning an area is a matter addressed by the Town Board. Considerations of a special permit are hours of operation, extent of the

business, whether or not it is for profit, and the number of cars located in a residential area.

Resident Cheryl Otterstatter stated that regarding the potential of odors, smelling dog waste versus the horse stench that existed with the former owners of 220 Honeoye Falls is much more bearable. She believes Mrs. Nelson will take care of dog waste as she stated she would.

Mary Eileen Walter, Rochester resident, explained that she is a dog obedience trainer. She is delighted to see what Mrs. Nelson, who she trained with, has put together keeping in mind that Mrs. Nelson has provided the Board with a maximum amount of time that will be used in conducting training. Mrs. Nelson has a very pleasant and positive demeanor, and Ms. Walter believes the Nelsons will create an environment that is positive for Rush.

Board Member Strock reviewed the hours of operation and the lighting. Mr. Nelson stated that there would be 2 lights for parking and will not be intrusive. The lighting will be activated by a photo eye and turned off once class was over.

Mr. Nelson stated there seems to be a lot of concern over noise. He believes regulating noise in a town, as a whole, is difficult. There is a noise ordinance with times for a reason. People talking should not be a concern.

Chairman Felsen confirmed with the Nelson's that the proposed hours of operation will be 3 nights a week from 5:30 pm to 9:00 pm; 1 evening may be a private lesson and Saturday from 8:00 am – 12:00 pm.

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

Vice Chairman Morelli re-entered the meeting.

INFORMAL DISCUSSIONS:

Joseph Stasiw to discuss constructing a three car garage with a second story in-law apartment. Property is located at 290 Stonybrook Road and is zoned Residential-30.

Mr. Stasiw explained that there is an existing attached garage on the property with a second story game room that he would like to demolish and build an unattached three car garage with an above story in-law apartment.

Chairman Felsen read Chapter 120-61 C (2) / Accessory Apartments location from the Town Code. Based on what is written in the Code, one cannot build a new accessory apartment outside of the principle dwelling; it cannot be a stand-alone structure. Chairman Felsen asked Mr. Stasiw whether or not he would prefer the town attorney's interpretation of the Code.

The Board provided further Code information and options, and Building Inspector D'Alessandro added specific building code information.

Chairman Felsen stated that no building permit will be issued by the town until approval for an accessory permit has been given by the Planning Board. An Accessory Affidavit will be required along with the application. Chris Kassmann of the Monroe County Department of Public Health should be contacted regarding the septic system if records are not available in the Town Clerk's Office.

There will be no Planning Board meeting in July. Documentation for the August meeting must be submitted to Deputy Town Clerk Featherman on or before July 10th in order to be heard at the August meeting.

Joel and Lori Basa to discuss the possibility of a special permit to operate a dog agility training facility in an existing barn. Property is located at 835 Five Points Road and is zoned Residential-30.

Mr. Basa explained they would like to use an updated 80' x 70' portion of their barn as a small dog agility business. They are avid dog agility trainers and are ranked 20th within the nation for their golden retriever. They have taught and been a part of the American Kennel Club (AKC) for approximately 8 years and have built a network of people who have asked them to provide personal training.

Mr. Basa is currently using the pole barn for personal use and have friends that come by casually to train in the building, however, it's Mr. Basa's priority to train their own dogs. An agility dog training facility would be year round but not a full-time operation as both he and his wife have other full-time jobs. Mr. Basa stated they have created Five Points Training, LLC in order to protect their competitive training and personal property.

Board Member Strock advised Mr. Basa that residents are allowed to have hobbies in a residential area so training their own dogs is not an issue. Proceeding for a special permit will require a public hearing where neighbors can voice their opinions.

Chairman Felsen recommended that they obtain a Request for Special Permit from the Town Clerk's Office and include parking plans, hours of operation, lighting, waste management and happenings inside and outside of the pole barn.

Building Inspector D'Alessandro asked the Board for direction in issuing a Certificate of Compliance (C of C) for the Basa's pole barn which has been inspected and meets the standards as applied for in the permit, other than for the use factor currently being discussed. The Board determined that a Permanent C of C will be issued by Building Inspector D'Alessandro with the condition that it will be used as a non-commercial space until a special permit is approved.

Board Member Wurzer asked if all training would occur inside. Mr. Basa stated that there would be no outside training, however, there is currently no heat in the barn and they are on well water.

Mr. Basa asked if the pervious application would set precedence on their application. Chairman Felsen stated that there would be no precedence but merely factual information as it is referenced in the Town Code.

DECISIONS:

Chairman Felsen made a motion **WHEREAS**; this Board has examined **Application 2016-04P** by Glenn Thornton of Thornton Engineering, agent for William and Britta Stambaugh, requesting Site Plan Approval to construct a single family dwelling on 5.9 acres (Lot 2) of the David Subdivision. Property is located at 902 Rush West Rush Road and is zoned Residential-30; 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.

Vice Chairperson Morelli seconded the Motion and the Board polled:

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

Chairman Felsen made a Motion to grant preliminary approval of examined **Application 2016-04P** by Glenn Thornton of Thornton Engineering, agent for William and Britta Stambaugh conditioned upon:

1. The applicant complying with the comments of the Town Engineer and the Monroe County Department of Transportation.
2. The applicant adding "The Town of Rush" as approving body for changes in the General Notes # 9.

Vice Chairman Morelli seconded the Motion and the Board polled:

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

Chairman Felsen made a Motion to waive the final subdivision hearing for examined **Application 2016-04P** by Glenn Thornton of Thornton Engineering, agent for William and Britta Stambaugh conditioned upon:

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

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

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

At this time, Vice Chairman Morelli again recused himself from discussions and exited the meeting.

Chairman Felsen stated for the record that although Board Member Sweet is not present at tonight's meeting and will not be voting, he has no issues with granting a special permit for the dog business, especially because training dogs not to bark is part of the Nelson's proposal. Chairman Felsen acknowledged for the record that it will have no bearing on how the present Board Members will be voting.

Chairman Felsen made a Motion **WHEREAS**; this Board has examined **Application 2016-05P** by Erin & Nathanael Nelson requesting a Special Permit to operate a dog training facility in an existing barn. Property is located at 220 Honeoye Falls Five Pts. Road and is zoned Residential-30; 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 Strock seconded the Motion and the Board polled:

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

Chairman Felsen made a Motion to grant a Special Permit to the Nelson's to operate a dog training facility conditioned upon:

1. The applicant removing the parking area and any outdoor fenced-in area for the dogs.
2. The applicant agreeing to install a buffer between the back of the barn and lot 1 of the Beebe Subdivision or lands to be conveyed to John Morelli and that there be at least 12 plantings of evergreens 7' tall, 12' on center.
3. That the maximum number of dogs that can be at the training facility be 12.
4. That there be 2 sessions per week for 6-12 dogs from 5:30 pm to 9:30 pm and that there be no more than one additional private dog training class from 5:30 pm to 9:30 pm during the week, and that there be no greater than one

dog training class for 6-12 dogs on Saturday between the hours of 8:00 am and 12:00 pm.

5. That the only lighting for the outside of the barn be on the side of the barn towards the existing house or garage.
6. That dog feces be picked up daily.
7. That if a parking area is to be installed, that it be installed on the north side of the gravel drive near where it splits to go to the garage and or the barn.

Chairman Felsen called for a verbal vote to be taken.

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

With no further business, Chairman Felsen made a Motion to adjourn the meeting at 10:20 pm.

Board Member Strock seconded the Motion and the Board polled:

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

Respectfully submitted,

Pamela J. Bucci
Town Clerk