

**RUSH PLANNING BOARD
REGULAR MEETING
MINUTES OF OCTOBER 18, 2016**

A regular meeting of the Rush Planning Board was held on October 18, 2016 at the Rush Town Hall, 5977 East Henrietta Road and was called to order at 7:00 PM.

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

EXCUSED: John Morelli, Vice Chairman
Jillian Coffey, Councilperson, Town Board Liaison
Phil D'Alessandro, Building Inspector

OTHERS PRESENT: Gerry Kusse, Councilperson, Acting Town Board Liaison
Nicola Montanaro, Land Surveyor
Ken Donaldson, Resident
Kristopher & Amy Clark-Stasiw, Residents
Joseph Stasiw, Attendee
Jim & Sue Roach, Residents

Chairman Felsen welcomed all to the October Planning Board meeting.

APPROVAL OF MINUTES:

The Minutes of August 16, 2016 were reviewed.

Board Member Sweet made a Motion to accept the Minutes of August 16, 2016 as amended.

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

Roll:	Scott Strock	aye
	Rick Wurzer	aye
	Don Sweet	aye
	John Felson	aye

PUBLIC HEARING:

Application 2016-07P by Kristopher Stasiw and Amy Clark-Stasiw requesting Site Plan approval to renovate an existing garage and bonus room into a 3-car garage with an

in-law apartment. Property is located at 290 Stonybrook Road and is zoned Residential-30.

Amy Clark-Stasiw explained to the Board that they currently have an unattached two-car garage with a bonus room above it and a workshop off the back. The building has been in existence since 1976. They would like to remove a portion of that building, maintaining 30% of the building as previously discussed with Building Inspector Phil D'Alessandro, and create a three-car garage with an in-law apartment above the garage.

Chairman Felsen stated for the record that the Stasiw's submitted a Zoning Board Application in September 2016 requesting a variance to tear down the existing building and build a new unattached three-car garage with an in-law apartment, and were denied by the Zoning Board. The Zoning Board had concluded "that the Applicant has not proven that it cannot realize a reasonable return, nor that lack of return is substantial as demonstrated by competent financial evidence; the hardships identified are not unique to the Property; and the alleged hardship has been self-created." Chairman Felsen explained that the Stasiw's are now requesting Site Plan Approval and a Conditional Use Permit from the Planning Board.

As the Stasiw's are proposing to tear down 70% of the existing building and keep 30%, Chairman Felsen explained that this Board needs to decide if this is a new building or an existing building. Chairman Felsen read aloud Section 120-61 C (2) of the Town Code:

"The accessory apartment may be located either in the principal dwelling or in an addition to the principal dwelling. It may also be located in an accessory building, provided such accessory building existed prior to June 1, 2002, and otherwise conforms with the requirement of this chapter."

Chairman Felsen stated the intent of the Code is that it's allowable to rehab an outbuilding if it's not changing the footprint of the building.

The Board discussed with the applicant the feasibility of retaining some of the existing building, advising that as per the Code, it's allowable to take an existing structure and convert it, further explaining the portion retained would need to be the actual in-law space. It was determined that was not feasible, as the current walls are made of 2' x 4' boards instead of 2' x 6' boards and would not support the second story in-law apartment.

There was discussion on the possibility of taking each wall down and rebuilding each one with a 2' x 6' board. Board Member Sweet stated the applicants would spend a lot of time and money to retrofit something that is standing there, when they could tear it down and rebuild the same thing.

Board Member Wurzer inquired about the possibility of the applicants tearing down the existing building but keeping the same footprint by changing the in-law apartment size

to 24' x 24'. Currently, the proposed plans include a bump out which changes the footprint.

The Stasiws agreed to that.

Board Member Strock stated, "Our explanation of this would have to be that the law allows an accessory apartment in an existing building. The existing building is structurally unsound; it really needs to be totally replaced. By doing so, we are maintaining the spirit of the law but we are also maintaining the same footprint of the land and the view from the street."

Chairman Felsen advised that the in-law apartment would be the 24' x 24' space, with storage rooms above the bump out area. The new construction above the bump out area cannot be used for living space.

Chairman Felsen noted that one of the comments of the Monroe County Department of Planning and Development's review of the project states: "The proposed project utilizes a private wastewater treatment system and will require approval by the Monroe County Department of Public Health." Chairman Felsen asked the applicants if they have room to expand the septic system if necessary?

Joseph Stasiw replied that expanding the septic is a possibility. The only advice he received from the Department of Health, other than that it is possible to use the current septic tank for the accessory apartment, was that considering the age of the system, they may need to replace lines.

Todd Ewell noted the SEQR form the applicants submitted with their application is incorrectly filled out. Mrs. Stasiw stated she will submit a corrected SEQR.

Chairman Felsen advised the applicants that the Board will be tabling their application until the December 20, 2016 Planning Board meeting for more information. The Board will require revised plans, a corrected SEQR form, and a determination from the Monroe County Health Department regarding if the applicants can proceed with the current septic or if a new system is needed. Chairman Felsen asked for this information by December 1, 2016 so Board Members have time to review it before the meeting.

Chairman Felsen further advised the applicants to go through the requirements of an accessory apartment listed in the Code before the December meeting. After the Planning Board's approval, Building Inspector D'Alessandro will require a notarized Accessory Affidavit.

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

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

Application 2016-08P by Nicola Montanaro, agent for Kenneth Donaldson, requesting Subdivision approval to subdivide an existing 62.96 acre lot into two lots. Proposed Lot 1 will contain 7.0 acres with existing home and proposed Lot 2 will contain 55.96 acres of remaining land. There is no building proposed. Property is located at 350 Five Points Road and is zoned Residential-30.

Mr. Montanaro explained that property owners Kenneth Donaldson and his wife have owned the 62.96 acre parcel since 2000 and built their home in 2001. They have accepted a purchase offer for their house along with 7.0 acres, which is why they are requesting to subdivide 7.0 acres from the 62.96 acre parcel. There are no plans to build on proposed Lot 2 and current farming on that land will continue.

Mr. Montanaro stated he has received Town Engineer Ewell's comment letter and would like to discuss comment # 2 which states: "Applicant should prepare a drainage easement to the Town of Rush over the classified stream on Lot 2. Applicant should also define the limits of the classified stream and explain why it appears to terminate within the woods on Lot 2." Mr. Montanaro stated there is no definition to that area and no defined banks; it's basically just a low area. He has a map that shows the same classification but in a different area and believes one map is inaccurately labeled.

The Board determined an easement is not required as there is no defined stream.

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 Planning & Development

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

Jim and Sue Roach live at 398 Five Points Road and inquired if Mr. Donaldson owns the property behind their home. Mr. and Mrs. Roach viewed the Subdivision map with Mr. Donaldson and the Board members. It was determined that Mr. Donaldson's property is not behind the Roach's home.

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 2016-08P** by Nicola Montanaro, agent for Kenneth Donaldson, requesting Subdivision approval to subdivide an existing 62.96 acre lot into two lots. Proposed Lot 1 will contain 7.0 acres with existing home and proposed Lot 2 will contain 55.96 acres of remaining land. There is no building proposed. Property is located at 350 Five Points

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 Sweet seconded the Motion, and the Board polled:

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

Chairman Felsen made a Motion to grant preliminary approval of examined **Application 2016-08P** by Nicola Montanaro, agent for Kenneth Donaldson, requesting Subdivision approval to subdivide an existing 62.96 acre lot into two lots conditioned upon:

1. The applicant labeling Lot 2 as "Not Approved for Building".
2. The applicant will not be required to obtain a town wide drainage easement for the intermittent stream by the east property line.

Board Member Strock seconded the Motion and the Board polled:

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

Chairman Felsen made a Motion to waive the final subdivision hearing for **Application 2016-08P** by Nicola Montanaro, agent for Kenneth Donaldson, conditioned upon:

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

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

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

Chairman Felsen made a Motion to table **Application 2016-07P** by Kristopher Stasiw and Amy Clark-Stasiw requesting Site Plan approval to renovate an existing garage and bonus room into a 3-car garage with an in-law apartment. Property is located at 290 Stonybrook Road and is zoned Residential-30. The Board is to receive the following from the applicants:

1. A revised SEQR Form.
2. Proposed construction drawings for the proposed in-law apartment building showing the existing dimensions, and the existing layout and the proposed layout for the accessory apartment.
3. The requirements outlined in the Zoning Law for accessory apartments.
4. Either an approval letter from the Monroe County Department of Health or show that plans have been reviewed and approved for the upgrading of the septic system to handle the proposed accessory apartment.
5. A copy of the Accessory Affidavit (it does not have to be notarized at this time) for the accessory apartment.

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

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

With no further business, it was agreed by common consent that the meeting be adjourned at 9:25 pm.

Respectfully submitted,

Shivaun Featherman
Deputy Town Clerk