

**RUSH PLANNING BOARD
PUBLIC HEARING
APPROVED MINUTES
MAY 16, 2006**

A regular meeting of the Rush Planning Board was held on Tuesday, May 16, 2006, at the Rush Town Hall, 5977 East Henrietta Road and was called to order at 7:30 P.M.

MEMBERS PRESENT: John Felsen, Chairman
Jeff Werner
Al Simon
John Morelli

ABSENT: Don Sweet

OTHERS PRESENT: Todd Ewell, Engineer for the Town, Clough Harbour & Associates.
Gerald Kusse, Code Enforcement Officer.
Jim Glogowski, 1996 Spencerport Rd
Fred & Nancy Calev, 2516 Rush Mendon Rd
Dan & Jean Cornwall, 958 Martin Rd
Chuck Wolcott, 700 Five Points Rd
Paula Heininger, 5656 E. Henrietta Rd
Tom McHale, 6017 E. Henrietta Rd
Arnold Carmichael. 551 Lexington Avenue
Eric & Lori Gysel 500 Rush West Rush Rd
Jason DiPonzio, 25 E. Main Street
Christopher Karelus, 100 Liberty Pole Way
Al Lesnick, 1784 Middle Rd
Scott Lesnick, 1784 Middle Rd
Martha Zettel, 677 Five Points rd
Bill O'Neil, 677 Five Points Rd
Jim & Sharon Smith, 6590 E. River Rd
William Shattuck, 6373 E. River Rd
Ann Stevens, 6373 E. River Rd
John Remelt, 6303 E. River Rd
Terry Bastian, 6292 E. River Rd
Dale Humphrey, 6292 E. River Rd
Phillip Dagger, 6620 E. River Rd
Patrick Dishaw, 6550 E. River Rd

APPROVAL OF MINUTES:

The Minutes of April 18, 2006 were reviewed. Mr. Simon made a motion to approve the Minutes of April, 2006 as submitted. Mr. Morelli seconded the Motion and the Board Members were all in agreement.

PUBLIC HEARING:

Application 2005-21 P by Arnold Carmichael acting as Agent for Duane & Debbie Stevens for Site Plan approval to construct a retail / storage building, to renovate an existing building into office space, and to make utility improvements to the property. Property is located at 7272 West Henrietta Rd. Property is located in a Commercial Zoning District.

APPLICATION WAS PREVIOUSLY TABLED ON NOVEMBER 15, 2005

Mr. Carmichael and the Board Members had a lengthy discussion regarding the floor drains and the recycling system for the water coming from the car wash bay. The Board Members asked that the Applicants and Mr. Carmichael work together to come to an agreement for the overall design of this parcel.

Mr. Kusse had concerns about the fill that is being brought in for the proposed structure. There was a discussion regarding the footer depth and the construction of this structure.

Mr. Felsen had a question about the septic system. The Monroe County Health Department had reviewed the septic system plans and contacted Mr. Felsen to say that Mr. Carmichael had asked them to remove the house system lines and the retail system from the septic system plans. Mr. Felsen wanted clarification on this request. Mr. Carmichael stated that at this time his client had no plans for the house or the retail portion of the proposed structure; therefore they were not designing a septic system for both of the structures.

Mr. Kusse stated that he needed to inspect the white house to see what is needed to bring it into compliance. Mr. Stevens agreed to Mr. Kusse inspecting the existing white house.

There were no further comments and Mr. Felsen declared the hearing closed.

Application 2006-02 P by Joseph Nicolosi for Re-Subdivision / Site Plan approval to subdivide Lot #1 of the Country Acres West Subdivision containing 3.0 acres into 2 lots. There is an existing house on one of the lots. A single-family dwelling is planned for the new lot created. Property is located at 7925 West Henrietta Road. Property is located in an R-30 Zoning District. **APPLICATION WAS PREVIOUSLY TABLED ON MARCH 21, 2006**

Mr. Glogowski provided the Board Members with an updated map to showing the change in the swales, directing the water to the northwest. This was done to address the concern for the storm water drainage. Mr. Ewell stated that all concerns for this parcel have been addressed.

There were no further comments and Mr. Felsen declared the hearing closed.

Daniel & Margaret Cornwall for approval for Section 2, Lots #1 - #10 of the Fieldstone Estates Subdivision to be served by private water supply and private septic systems. Property is located on the southeast corner of Rush Henrietta Townline Road and East River Road. **PRELIMINARY APPROVAL WAS GRANTED TO APPLICATION 2004-12 P ON MARCH 15, 2005.**

Mr. Cornwall stated that he had previously been granted preliminary approval on the 10 lots subject to public water. He described his many attempts to do this. After one and a half years of research, he has not been able to achieve what the Planning Board had asked for. He provided the data calculations for each of the wells and the total draw down for the entire area. The Board Members discussed the submitted documents. Mr. Ewell was satisfied with the submitted documents.

The following Residents expressed their concern:

Mr. William Shadack, 6373 E. River Rd, concerned about wells going dry with the additional houses being built in the area.

Mr. John Remelt, 6303 E. River Rd, concerned about the loss of water.

Mr. Dale Humphrey, 6292 E. River Rd, Stated that his well has gone dry many times.

Mr. Patrick Dishaw, 6550 E. River Rd, concerned that the well for the BOCES site will add problems for the existing wells in the area.

Ms. Ann Stevens, 6373 E. River Rd, concerned for this new proposal and the possibility of the loss of water.

Mr. Jim Smith, 6590 E. River Rd, Felt that there would be too much density (houses) for the area, is afraid of losing water.

The Board Members and Mr. Cornwall discussed the types of treatment systems available for maintaining private water wells.

There were no further comments and Mr. Felsen declared the hearing closed.

Charles & Cindy Wolcott to amend previously approved **Application 2005-07 P** for a Special Permit to park construction equipment at 700 Five Points Road. In addition, to add office space and rest room facilities in the existing pole barn. Property is located in an R-30 Zoning District.

APPLICATION WAS PREVIOUSLY APPROVED ON MAY 17, 2005

Mr. Wolcott stated that he would like to amend his Special Permit to adjust the number of company vehicles and pieces of equipment from 9 to 13. There was confusion as to the total number previously approved. There hasn't been any additional equipment parked at

this location, each piece is individually being counted. He would also like to add office space of approximately 640 square feet to east end of the existing pole barn.

Mr. Wolcott stated that he was seeking commercial property in which to re-locate his business. Mr. Felsen stated that Mr. Wolcott would need a Special Permit issued by the Planning Board for the outside storage of equipment in a Commercial Zoning District. The outside storage of gravel / stone is prohibited in any district, unless a variance was received from the Zoning Board of Appeals. Before Site Plan approval and a building permit could be issued, Mr. Wolcott would need to have the Zoning Board of Appeals review his plans to see if they meet the Zoning Ordinance. The Board Members discussed the type of business Mr. Wolcott operates and the permitted uses within a Commercial Zoning District. Amending the previously approved Special Permit was discussed.

Mr. Felsen read correspondence from Mr. Robert Cook, residing at 690 Five Points Rd.

Mr. Bill O'Neil, residing at 677 Five Points Rd, does not object to the parking area Mr. Wolcott has been using.

Mrs. Nancy Calev, residing at 2516 Rush Mendon Rd, stated that under normal circumstances a businessman would know when his operation had grown to the point of needing to relocate to a commercial location. It seems to her that this is the case for Mr. Wolcott; he is planning to move and expand his business within the appropriate zoning district.

There were no further comments and Mr. Felsen declared the hearing closed.

INFORMAL DISCUSSION:

Paula Heininger, 5656 East Henrietta Rd. Pet grooming business.

Ms. Heininger stated that she would like to open a dog grooming business from her home, operating 5.5 days a week from 8:00 AM – 5:00 PM Mon-Fri, Sat until 1:00 PM. She asked if she could operate the business out of a garage on her property or would it have to be from her home. Mr. Morelli read Section 120-7 A (5) a-f of the Code of the Town of Rush stating that if the occupation was conducted within the dwelling and not from an outside building it was an allowable use. A sign permit will be required from the Building Inspector.

Passero Associates acting as Agent for Rush Associates LLC, Conceptual Site Plan for property located at 7262 West Henrietta Road.

Mr. Chris Karelus and Mr. Jason DiPonzio presented on behalf of Mr. Rick Dorschel a proposal to develop the northeast corner of West Henrietta Road and Rush Scottsville Road. The proposal includes a motor-sports retail center (motorcycle, ATV, snowmobile

and jet-ski sales and service center) and a bank. This project will require the expansion of the existing Commercial Zoning on the property to accommodate the bank portion of the project. The Board Members and the Applicants discussed the vehicle access, uses for the remaining lands and the property re-zoning for this proposal.

Mr. Fred Calev, residing at 2516 Rush Mendon Rd, read a sworn statement of intent that was signed by Kyle Stevens on 12/18/2000. This letter stated his intentions for the business Mr. Stevens currently operates on the property located next to Mr. Calev. He felt that the business currently being operated at 2500 Rush Mendon Rd has nothing to do with growing trees as in this letter of intent. Mr. Calev submitted current photos of Mr. Steven's property. Mr. Calev described the daily business operation as he observes it. Mr. Felsen stated that they were waiting for a response from the Town of Rush Attorney before any further action is taken.

DECISIONS:

Mr. Felsen made a Motion to Table **Application 2005-21 P** by Arnold Carmichael acting as Agent for Duane & Debbie Stevens for Site Plan approval to construct a retail / storage building, to renovate an existing building into office space, and to make utility improvements to the property. Property is located at 7272 West Henrietta Rd. Property is located in a Commercial Zoning District.

The reason for tabling this Application is that the Site Plan still is incomplete, lacking the determination by the Applicant and his Agent as to exactly what buildings will be constructed on the property. The Agent shall note this decision on the plans. The Rush Planning Board recommends that the Applicant and the Agent get together with the final determination on the Site Plan including the ultimate proposed uses for the site. This shall include:

1. The proposal for the future septic system.
2. The construction of the recycling car wash system.
3. The location of the bay in the existing garage for the future wash bay.
4. The site drainage report shall be submitted to the Town of Rush Engineer along with the Storm Water Pollution Prevention Plan. This is to be submitted before returning to the Planning Board to continue with the Application.
5. Since the Applicant has indicated that they do not know the use of the current white farm house, the Applicant will be required to comply with the Code Enforcement Officers request to bring the structure up to New York State Property Maintenance Code specifications.

Mr. Werner seconded the motion and the Board polled:

Roll:	Mr. Felsen	aye	
	Mr. Morelli	aye	
	Mr. Werner	aye	
	Mr. Simon	aye	carried.

Mr. Felsen made a Motion **WHEREAS:** this Board has examined **Application 2006-02 P** by Joseph Nicolosi for Re-Subdivision / Site Plan approval to subdivide Lot #1 of the Country Acres West Subdivision containing 3.0 acres into 2 lots. There is an existing house on one of the lots. A single-family dwelling is planned for the new lot created. Property is located at 7925 West Henrietta Road. Property is located in an R-30 Zoning District, for preliminary approval of the proposed subdivision and the maps and other materials which were filed with the Application, 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 this Board.

Mr. Simon seconded the motion and the Board polled:

Roll: Mr. Felsen aye
 Mr. Morelli aye
 Mr. Werner aye
 Mr. Simon aye carried.

Mr. Felsen made a Motion to grant preliminary approval to the Re-Subdivision of Lot #1 of the Country Acres West Subdivision condition upon:

1. The Applicant submitting an Agricultural Data Statement.
2. Showing the Drainage Easement for Lot #1 if it currently exists.

Mr. Morelli seconded the motion and the Board polled:

Roll: Mr. Felsen aye
 Mr. Morelli aye
 Mr. Werner aye
 Mr. Simon aye carried.

Mr. Felsen made a Motion to waive the final Public Hearing for Country Acres West Re-Subdivision of Lot#1 condition upon:

1. The Applicant obtaining the approval of the Town of Rush Engineer.
2. The Applicant obtaining the approval of the New York State Department of Transportation.
3. The Applicant obtaining the approval of the Monroe County Department of Public Health.

Mr. Morelli seconded the motion and the Board polled:

Roll: Mr. Felsen aye
 Mr. Morelli aye
 Mr. Werner aye
 Mr. Simon aye carried.

Mr. Felsen made a Motion **WHEREAS;** this Board has examined **Application 2004-12 P** by Daniel & Margaret Cornwall for Subdivision / Site Plan approval to subdivide a

parcel containing 17 acres into 10 lots, known as Section 2 of the Fieldstone Estates Subdivision. The 10 lots in Section 2 are being proposed with private water supply and private septic systems, and the maps and other materials which were filed with the application, including the Environmental Assessment form and **WHEREAS**, the proposed action is an unlisted action under the State of New York SEQRLaws, **BE IT RESOLVED**, that upon its examination and study of the Environmental Assessment Form and the maps and plans submitted with the Application, this Board determines that the proposed action will not have a significant effect on the environment. 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.

Mr. Werner seconded the motion and the Board polled:

Roll:	Mr. Felsen	aye	
	Mr. Morelli	aye	
	Mr. Werner	aye	
	Mr. Simon	aye	carried.

Mr. Felsen made a Motion to grant Final Subdivision approval for Section 2 of the Fieldstone Estates Subdivision Lots #1 -#10 condition upon:

1. The Applicant adding a note to each lot on the plans stating that the owner will be responsible for the operation and maintenance of a water treatment system.
2. The Applicant obtaining the approval of the Town of Rush Engineer.
3. The Applicant obtaining the approval of the Monroe County Department of Public Health for the septic systems and the private wells for both quantity and quality.
4. A note be added to the plans, should public water become available for any of the Lots in Section 2 the owners or applicant shall connect to the public water supply.
5. Should a petition to form a Water District be proposed in the future, the owners of the lots shall participate in this process.

Mr. Werner seconded the motion and the Board polled:

Roll:	Mr. Felsen	aye	
	Mr. Morelli	aye	
	Mr. Werner	aye	
	Mr. Simon	aye	carried.

Mr. Morelli made a Motion **WHEREAS**; after examining the request from Charles & Cindy Wolcott to amend previously approved **Application 2005-07 P** for a Special Permit to park construction equipment at 700 Five Points Road, this Board denies the request to:

1. Increase the number of construction vehicles permitted to be stored outside.
2. To add office space and rest room facilities in the existing pole barn.
3. And rescinds permission to store any construction materials outside.

All other provisions and restrictions of the Special Permit issued on May 19, 2005 shall remain in force.

Mr. Felsen seconded the Motion and the Board polled:

Roll:	Mr. Simon	aye	
	Mr. Morelli	aye	
	Mr. Felsen	aye	
	Mr. Werner	nay	carried.

There were no further comments and the meeting was adjourned at 12:45 A.M.

Respectfully submitted,

Darlene Pilarski
Deputy Town Clerk