

**RUSH PLANNING BOARD
REGULAR MEETING
APPROVED MINUTES
NOVEMBER 21, 2006**

A regular meeting of the Rush Planning Board was held on Tuesday, November 21, 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
John Morelli
Al Simon
Richard Anderson

EXCUSED: Don Sweet

OTHERS PRESENT: Gerald Kusse, Code Enforcement Officer.
Tom Doupe, Town Board Member
Lisa Sluberski, Town Board Liaison
Dave Sluberski, 69 Rush West Rush Rd
Fredric Calev, 2516 Rush Mendon Rd
Barb Bock, 1 Pheasant Run
Chris Karelus, 100 Liberty Pole Way
Jason DiPonzio, 25 E. Main Street
Hans Schmitthenner, 119 Rush West Rush Rd
Jack Mould, 6542 Rush Lima Rd
Bob Pearce, 6009 East Henrietta Rd
Pat Kraus, 2729 Pinnacle Rd
Matt Schwasman, 1426 Rush Scottsville Rd

APPROVAL OF MINUTES:

The Minutes of September 19, 2006 were reviewed. Mr. Morelli made a motion to approve the Minutes of September 19, 2006 as amended. The following change was made:

On Page #2 second paragraph, change the word "dead" to read deed.

Mr. Simon seconded the Motion and the Board Members were all in agreement.

TABLED APPLICATION:

Application 2006-14 P by David & Barbara Bock for a Special Permit to build an in-law apartment onto the existing house. Property is located at 1 Pheasant Run, south of Jeffords Road. Property is located in an R-30 Zoning District.

Application was previously tabled on 8/15/06

Mrs. Bock described their proposal to be a one story, approximately 665 square foot in-law addition. Mr. Felsen asked Mrs. Bock to note on the drawings the two (2) additional parking spaces required by §120-C10 of the Code of the Town of Rush. Mrs. Bock stated that they had a two lane driveway and a turnaround that could accommodate at least 3 cars. She would indicate this on the drawing.

Mr. Felsen stated that if the Planning Board approved the application for an Accessory Apartment, Mrs. Bock would have to sign a notarized Affidavit upon the issuance of a Building Permit.

After discussing the Application, the Board Members asked Mrs. Bock to indicate on the drawing, the measurements of the addition, the driveway showing the turnaround for the additional parking and the set back measurement from the addition to the property line.

There were no further comments on this Application.

INFORMAL DISCUSSION:

Mr. Fredric Calev submitted to the Board Members copies of an ad from the Penny Saver and pictures taken from a web site for a retail commercial business owned by Mrs. Margie Stevens. The business is located at 2458 Rush Mendon Rd. Mr. Calev had concerns with the hours of operation stating that the business is open longer than the hours stated in the ad. There was a concern with the additional traffic/ parking on the street and that the commercial business is being conducted in a Residential Zoning District.

Mr. Kusse stated that he would visit Mrs. Stevens's art studio and report back to the Board Members the status of her business.

Mr. Robert Pearce, 6009 East Henrietta Rd. Mr. Pearce is planning to open his woodworking shop to the public. This property is located in a Commercial Zoning District.

Mr. Pearce stated that he had a woodworking shop in his barn and would like to put up a sign indicating that he was a woodworker with his phone number. Mr. Pearce would take orders by phone request only. The shop would not be open to the public as a retail store. There were no concerns with Mr. Pearce's request. A sign permit would have to be obtained from the Building Inspector.

INFORMAL DISCUSSION WORKSHOP:

Chris Karelus, of Passero Associates acting as Agent for Mr. Richard Dorschel for: **Application 2006-17 P** by Rush Associates LLC. for Subdivision / Site Plan approval for the construction of two commercial uses, parking areas, private septic systems, and a storm water management area on commercial zoned & rezoning sited areas on the subject

property. Plans involve the construction of an 18,000 sq. ft motorsports retail store and a 7,825 sq.ft. bank. Property is located at 7262 West Henrietta Rd. Property is located in an R-30 Zoning District and a Commercial Zoning District.

Mr. Karelus and Mr. DiPonzio updated the Board Members on the steps that have taken place with the proposal to date. Mr. Karelus stated that the New York State Department of Transportation has determined that no curb cut would be allowed onto West Henrietta Road. Property access would be from Rt. 251. At this time the Applicant is not pursuing a curb cut onto West Henrietta Road. The Applicant has no plans for the remaining R-30 Zoned portion of the property. The Board Members and the Applicant discussed traffic issues, the septic system and storm water management for the proposal. Mr. Karelus asked the Planning Board for their recommendation to the Town Board to rezone the property. Mr. Karelus asked to have the Application sent to the County of Monroe Department of Planning and Development for their review and comments.

Mr. Felsen stated that the Applicant had not addressed the recommendation of the Town of Rush Comprehensive Plan where it stated that to gain access to the Applicants property it should come in from the Laraby property located east of property address 1426 Rush Scottsville Road for safe ingress and egress. Mr. Karelus stated that at one time Mr. Dorschel had an option to obtain the Laraby property; to date this has not happened. The Comprehensive Plan was discussed. Safe access to this parcel has always been a concern of the Town and still is. The Board Members and the Applicant's Agents discussed this matter.

Mr. Felsen asked the Applicant's Agents what was being proposed for the remaining land and how they would gain access for future development of this property. Mr. DiPonzio stated that there were no plans for the remaining land. Mr. Felsen stated that the traffic study should include the future plans for this land as well as the current proposal. Mr. Morelli read from the Executive Summary of the Comprehensive Plan where it stated that there were severe limitations to development in the proposed area. There are concerns for safe access for any future development of the land. The types of the proposed businesses to be located on the property as well as any future changes in these businesses were discussed. Any changes could affect traffic in the area.

Mr. Karelus asked for a copy of the tape from the May 16, 2006 meeting to clarify statements made at that meeting. The Clerk stated that if the tape was available she would send a copy of it to him.

The following Residents stated their concerns for the proposed rezoning of the property located at the intersection of West Henrietta Road and Rush Scottsville Road.

Mrs. Pat Kraus, residing at 2729 Pinnacle Rd stated that on behalf of the Conservation Board they have concerns for ingress & egress to the property as well as the rezoning of the property. Mr. Dorschel knew the zoning of the property before he purchased it. She felt that it would be unfair to the neighborhood to change the zoning.

Mr. Matt Schwasman, residing at 1426 Rush Scottsville Rd stated that he has lived next to Mr. Dorschel's property for the past 5 years and has concerns with the access to his property. He has waited up to 45 minutes just to get out of his driveway to turn onto Rush Scottsville Road. He has been in 2 accidents and 5 near misses going and coming from his property. Adding more traffic to the area would make it harder to get in and out of his driveway. He has concerns with any future development of the property behind him.

Mr. Hans Schmitthenner, residing at 119 Rush West Rush Rd stated that he supports all of the work put into creating the Comprehensive Plan. Mr. Dorschel knew he was buying residential property and his plan was to try to convert it to commercial. He felt that it would set a precedent where another powerful businessman could buy another piece of R-30 or R-20 land and try to convert that to commercial. Several years ago when Mr. Dorschel came before the Planning Board, a traffic study was requested. At rush hour this is a horrendous intersection which makes this property an unfortunate location. Mr. Schmitthenner felt that Mr. Dorschel should sell the property and find business elsewhere.

Mr. Felsen stated that they would be making their recommendations to the Town Board regarding their concerns. Most were heard at this meeting, accessing the property safely is a concern. What has been proposed is not a safe access. Mr. Felsen stated that he would like to see what the remainder of the property is going to be used for and how it will be accessed.

DECISION:

Mr. Felsen made a Motion **WHEREAS**; this Board has examined **Application 2006-14 P** by David & Barbara Bock for a Special Permit to construct an Accessory Apartment onto the existing house, on the northeast corner of Pheasant Run and Pinnacle Road in the Town of Rush. **WHEREAS** the Board has examined the Application for the Special Permit to construct an Accessory Apartment at 1 Pheasant Run and **WHEREAS**, this Application is a Type II action under the State of New York SEQRL laws requiring no further action by this Board.

Mr. Anderson seconded the motion and the Board polled:

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

Mr. Felsen made a Motion to grant the **Special Permit Application 2006-14 P** by David & Barbara Bock conditioned upon:

1. The Applicant labeling the 18' x 38' addition on the east side of the house as the proposed addition by showing the outside dimensions of the 3 sides of the addition.

2. The Applicant indicating that the proposed addition complies with the minimum side setback requirements. Show the distance measurements of the side setback to the property line on the map.
3. The Applicant labeling the driveway turnaround to indicate that there is adequate parking for two (2) additional cars.
4. The Applicant supplying the Code Enforcement Officer with a completed signed and notarized Town of Rush Accessory Apartment Affidavit when applying for a building permit for the Accessory Apartment.

Mr. Simon seconded the motion and the Board polled:

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

The Board Members discussed their recommendation to the Town Board for the rezoning of Mr. Dorschel's property. They discussed the traffic egress & ingress, the lack of safe access to the property. The Board Members need to know the uses for the remaining lands so they can determine how it will affect traffic and safe access. At the suggestion of the Attorney for the Town of Rush, the Planning Board at the December 19, 2006 meeting will make their recommendation to the Town Board that the petition to rezone the property at the intersection of West Henrietta Road and Rush Scottsville Road, be denied based on the lack of safe access and lack of information regarding the uses for the remaining lands.

There were no further comments and the meeting was adjourned at 10:00 P.M.

Respectfully submitted,

Darlene Pilarski
Deputy Town Clerk