

**RUSH PLANNING BOARD  
RESCHEDULED REGULAR MEETING  
MINUTES OF JULY 30, 2013**

A regular meeting of the Rush Planning Board was held on July 30, 2013 at the Rush Town Hall, 5977 East Henrietta Road and was called to order at 7:30 PM.

**MEMBERS PRESENT:** John Felsen, Chairman  
John Morelli, Vice Chairman  
Rick Wurzer  
Scott Strock  
Meribeth Palmer, Deputy Town Clerk  
John Mancuso, Town Attorney

**Excused:** Don Sweet

**OTHERS PRESENT:** Councilman Bill Riepe, Town Board Liaison  
Gerry Kusse, Code Enforcement Officer, Resident  
John Kearney, Attendee  
Carmine Simone, Attendee  
Fredric Calev, Resident  
David Sluberski, Resident

Chairman Felsen welcomed all to the official July Planning Board meeting.

**APPROVAL OF MINUTES:**

The Minutes of May 21, 2013 were reviewed.

Vice Chairman Morelli made a motion to accept the minutes of May 21, 2013 as corrected.

Board Member Strock seconded the motion and the Board members polled:

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

**PUBLIC HEARING:**

**Application 2013-06P** by John Kearny, potential purchaser of the property located at 5970 East Henrietta Road, requesting a special permit for the outdoor storage of vehicles as required in Rush Town Code 120-69D. Property is zoned commercial.

Mr. Kearney submitted a notarized document with signatures from the owner and the owner's attorney stating that he has entered into a contract to purchase the property located at 5970 East Henrietta Road. Additionally Mr. Kearney has permission from the owner to seek a special permit for his proposed business.

The Board discussed Mr. Kearny's application and the number of vehicles to be stored outside overnight including 1 tow truck, employee vehicles, patron vehicles and sale vehicles. The Board advised Mr. Kearney to request the maximum number of vehicles that would potentially be on the lot to avoid any code issues. Mr. Kearney stated that 30 vehicles to be stored outside overnight would be the maximum.

Chairman Felsen read all correspondence. The Monroe County Department of Planning and Development stated that application 2013-06P is a local matter. The Rush Fire District Board of Commissioners has no concerns regarding the Application 2013-06P at this time. The Rush Conservation Board commented that any future car wash should not discharge in the current septic system and asked if the applicant currently has a business that should be reviewed for appropriate business practices. Mr. Kearney stated that he does not currently have a business.

Vice Chairman Morelli clarified that the servicing and selling of vehicles is an allowable activity in a commercial zone. The above said application is for the request of outdoor overnight storage of vehicles only. It was also determined that the daytime outdoor display rack for tires would require a variance from the Zoning Board. Any future plans for an addition to the rear of the building would be reviewed by Code Enforcement Officer (CEO) Kusse. If the proposed structure does not comply with the required commercial setbacks, Mr. Kearney would be required to apply for a setback variance.

With no further comments Chairman Felsen declared the hearing closed.

#### **INFORMAL DISCUSSION:**

Carmine Simone appeared to inquire about site plan and subdivision requirements. Mr. Simone explained that he is looking at vacant property located at 6800 East River Road. Mr. Simone asked if it would be possible to place 2-3 houses on the parcel. Currently the road frontage of the lot is 62 feet. This provides enough frontage to accommodate a road. The Board informed Mr. Simone that there are specific construction requirements for roads that are intended to be dedicated public roads and construction is very costly. Private roads also have construction requirements and have been approved by the Planning Board for up to 2 houses in the past. The minimum required lot size for that zone is 30,000 square feet. Percolation tests for the septic system also become a factor. Another consideration is water. Depending on the number of

lots, a public water main may be needed and overall development could be very costly. With 1 or 2 houses and water line could be run rather than a main.

Resident Fred Calev submitted a 4 page letter expressing many concerns regarding the property located at 2500 Rush Mendon Road. This property is owned by Kyle Stevens and is located directly next to Mr. Calev's property. Mr. Calev has observed and informed the Board of many violations to the Special Permit granted on January 15, 2013 in addition to the Short Environmental Assessment Form. In addition to the letter Mr. Calev also submitted photographs and information regarding Mr. Stevens' business web site.

Mr. Calev's letter, photos, and documents have been entered into the record and can be viewed by the public at the Town Clerk's Office during regular businesses hours.

Mr. Calev asked about revocation of Mr. Stevens' Special Permit. Town Attorney Mancuso addressed Mr. Calev's question stating there has been an appearance ticket issued to Mr. Stevens for many of the violations that Mr. Calev mentioned. Due to conflicts of interest with both of the Rush Town Court Judges, therefore the court appearance has been moved and will be in the Town of Mendon. Court dates and times are outside of the control of the Rush Town Board and the Rush Planning Board. Assignment of the appearance in the Town of Mendon is currently pending. Attorney Mancuso explained that under New York State Law there are only so many things that a municipal Board has authority to do. Immediate revocation is not one of them unless they follow appropriate protocol. In addition to violations the Town has the ability to issue a stop work order or a cease and desist order. At this point the Town is in the process of issuing a cease and desist order to Mr. Stevens. Attorney Mancuso stated that he would review Mr. Calev's statements and make any necessary changes to the order. Attorney Mancuso stated that the above items need to be played out in accordance with deadlines given. There are other civil remedies, however, those remedies must await the proper process and procedure.

Mr. Calev requested to be notified when the cease and desist order has been served to Mr. Stevens. Attorney Mancuso stated that CEO Kusse could inform Mr. Calev of this event. Mr. Calev also asked to be provided with regular monthly updates. Attorney Mancuso stated that he could appear before the Town Board or Planning Board and request a status report during their open forum.

Mr. Calev asked if the Board had any comments regarding his statements. Chairman Felsen reiterated that the Attorney Mancuso has explained on behalf of the Planning Board actions that are being taken at this time.

**DECISIONS:**

Vice Chairman Morelli made a motion: **WHEREAS**, the Board has examined the Application 2013-06P by John Kearney requesting a Special Permit for the outdoor storage of vehicles at the property located at 5970 East Henrietta Road, property is zoned commercial; and

**WHEREAS**, maps and other materials were filed along with the Application, including the Short Environmental Assessment Form ("Short EAF"), pursuant to the New York State Environmental Quality Review Act ("SEQRA"); and

**WHEREAS**, the Board has referred the application to the Town of Rush Conservation Board for its review and has considered its recommendations; and

**WHEREAS**, this Board has not found any aspect of the proposed action to be environmentally significant.

**NOW, THEREFOR**, upon consideration by the Board of the Application and the other materials submitted by Mr. Kearney, including the Short EAF, and the Board having given the submitted documentation matter due consideration; it is

**RESOLVED**, that the Board declares itself Lead Agency for purposes of conducting an Uncoordinated Review of the Application pursuant to SEQRA; and it is further

**RESOLVED**, the Board classifies the Application as an Unlisted Action, as that term is defined pursuant to SEQRA subject to uncoordinated review under 6 N.Y.C.R.R. § 617.6; and it is further

**RESOLVED**, that upon its examination and study of the Short EAF and the maps and plans submitted with the Application, and upon the advice and recommendations of the Conservation Board, the Board determines that the Application will not present a potential significant adverse environmental impact and thus issues a Negative Declaration concluding the SEQRA process.

Board Member Wurzer seconded the motion and the Board Members polled:

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

Vice Chairman Morelli made a motion to grant approval of Application 2012-06P by John Kearny for the outside overnight storage of vehicles located at 5970 East Henrietta Road in the Town of Rush with the following conditions:

1. The outdoor overnight storage at 5970 East Henrietta Road, Town of Rush is for the purpose of customer and employee parking and the parking and selling of motorized vehicles including cars, trucks, boats etc...
2. The maximum number of vehicles allowed to be stored outside overnight at 5970 East Henrietta Road, Town of Rush shall be no more than 30, including one tow truck.

Board Member Strock seconded the motion and the Board Members polled:

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

**EXECUTIVE SESSION:**

Chairman Felsen made a motion to move into Executive Session at 8:45 PM to discuss an attorney-client privileged matter. Vice Chairman Morelli seconded the motion and the Board was all in agreement.

The Board returned to regular session at 9:19 PM.

**ADJOURNMENT:**

With no further business, a motion was made by Vice Chairman Morelli and agreed by common consent that the meeting be adjourned at 9.20 PM.

Respectfully Submitted,

Meribeth Palmer  
Deputy Town Clerk