

**RUSH PLANNING BOARD  
REGULAR MEETING  
MINUTES OF SEPTEMBER 17, 2013**

A regular meeting of the Rush Planning Board was held on September 17, 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  
Don Sweet  
Scott Strock  
Meribeth Palmer, Deputy Town Clerk

**EXCUSED:** Rick Wurzer

**OTHERS PRESENT:** Councilman Bill Riepe, Town Board Liaison  
Gerry Kusse, Code Enforcement Officer, Resident  
Todd Ewell, Town Engineer  
Daniel Stanford, Town of Rush Assessor  
David Manning, Resident  
Karis Manning, Resident  
Lee Hankins, Resident  
James Glogowski, Land Surveyor  
Duane Stevens, Resident  
Debbie Stevens, Resident  
James Kolb, Resident  
Fredric Calev, Resident  
Anthony Mugnolo, Resident  
Thomas Gust, Resident  
Joann Gust, Resident  
Matthew Schwasman, Resident

Chairman Felsen welcomed all to the September Planning Board meeting.

**APPROVAL OF MINUTES:**

The Minutes of August 20, 2013 were reviewed.

Vice Chairman Morelli made a motion to accept the minutes of July 30, 2013 as corrected.

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

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

## **PUBLIC HEARING:**

**Application 2013-07P** by David and Harold Manning requesting Re-Subdivision approval to convey approximately .473 acres from Lot 19E to Lot 19D of the Rush Hills Subdivision. Property is located at 2481 Pinnacle Road. Property is zoned residential 30.

Applicant David Manning explained that they have a buyer for the above said parcel and they are asking for an additional 100 feet in depth be added to the lot.

Chairman Felsen explained that Mr. Manning will be required to file a re-subdivision map. The Board confirmed that location of the house and septic system indicated on the original site plan will remain the same.

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

## **INFORMAL DISCUSSION:**

**Duane and Debbie Stevens and tenant Jim Kolb appeared before the Planning Board to present an updated site plan for property located at 7272 West Henrietta Road.**

Mr. Kolb began with the proposed plans for a new septic system that has been submitted to Monroe County Department of Public Health (MCDPH) for review and is subject to change. Mr. Kolb explained that the new proposed septic system will be comprised of a 2000 gallon septic tank and a 3000 gallon septic tank. Flow is regulated by a pressurized pump station and holding tank that distributes to one of three raised septic beds. This system will service all buildings located on the property.

The general site plan shows the location of the barn/banquet facility and the area that will be used for banquet parking. A 20' x 20' foot gazebo that will be used for wedding ceremonies and photos is missing from the plan. Mr. Kolb will have Engineer John Sciarabba add the gazebo to the plans.

The barn is 40' x 80' in size and Mr. Kolb explained the inside layout of the barn to the Board. A handicap accessible covered porch is proposed for the west entrance of the barn and an open deck has been proposed for the back of the barn with 2 sets of stairs for access.

The plan also includes indoor handicap accessible, separate men's and women's bathrooms. For guest convenience, an L-shaped bar and hand washing sink will also be located inside the barn. There is an existing water line that leads up to the barn and the Stevens' will seek plan approval prior to installing the water line to the barn facility.

Electric has been installed to code and has been inspected by a certified electrical inspector.

The Stevens' and Mr. Kolb are also requesting music venues such as DJ's and 3 piece bands for event entertainment. Proposed hours of operation for the barn will be from 9 AM to 11 PM.

Mr. Kolb has addressed the structural concerns by having an engineer inspect and evaluate the barn for structural soundness. There are 3 beams that will need repair. Once completed, repairs will be inspected by Code Enforcement Officer (CEO) Kusse.

Chairman Felsen inquired about structures that are shown on the site plan and not constructed or on the property at this time.

Chairman Felsen also noted that the drainage pond is located on the neighbor's parcel and the gravel parking lot has been pushed onto state property. Mr. Kolb did not realize that he had encroached onto state property and the gravel can be pushed back to correct the issue. Mr. Kolb stated that he has been in contact with neighbor Mr. Marks and Mr. Feinstone and hopes to work out an agreement or solution to keep the pond in its current location.

The proposed ATM that has been discussed during previous meetings is not indicated on the plan. Chairman Felsen stated that a road way will be needed and will cause more storm water run-off that will have to be taken into consideration.

Mr. Stevens stated that he would like to have the pond evaluated to see if it is actually necessary. Mr. Stevens stated that he has never seen water in the pond and cuts the grass and weeds in it on regular basis. Chairman Felsen informed Mr. Stevens that the pond has an outlet and to leave the weeds and cattails. The pond is most likely there for infrequent or 100 year rain events.

Mr. Kolb is requesting to change the use of the ice cream/bake shop to a general restaurant. There will be no change to the floor plan or seating, standard hours and small music events geared for families from 6 PM to 9 PM during the summer.

Board Member Strock stated that he would like to review the New York State Uniform Fire Code regarding allowable capacity of non-sprinkled buildings. Also in question is the issue of how the code is governed should there be an additional tent to accommodate larger groups.

The Board informed the Stevens' and Mr. Kolb that there will be additional revisions needed to the proposed site plan presented prior to approval. The site plan is also pending the septic system approval from MCDPH. Chairman Felsen stated that Mr. Kolb will also need to indicate how he will correct gravel that was placed on state property.

Town of Rush Assessor Daniel Stanford asked Mr. Kolb if the banquet facility that was discussed tonight is the same as the wedding barn. Mr. Kolb stated that they are the same structure and that there will not be food preparation in the barn. Renters will use caterers to provide food.

Resident Dave Sluberski pointed out that for a successful business and looking to the future not to limit music/entertainment times or types of music venues. If issues arise sound pressure levels could be tested and addressed then.

**Lee Hankins and engineer James Glogowski appeared to discuss development of property located at 1650 Middle Road.**

Mr. Glogowski explained that they are proposing a 3 lot subdivision that includes an existing house and a low density dedicated road. The property would be served with septic systems and a 6 inch water main coming off of Middle Road. Mr. Glogowski further explained the configuration of the proposed dedicated road leading to the 3 lots. The existing driveway to the existing house will be removed. Utilities will be buried.

**Anthony Mugnolo appeared to discuss newly acquired Wildwood Country Club property.**

Mr. Mugnolo explained that there is currently undeveloped land on Thunder Ridge Drive. The previous owner brought a plan before the Planning Board for 6 building lots in 2006. It is unclear as to why the project did not move forward. Mr. Mugnolo would like to investigate the possibility of proposing another subdivision/site plan. Board members recalled issues with septic, drainage and neighbor objections. Mr. Mugnolo explained the current drainage flow. Chairman Felsen stated that review of the Wildwood files would be required in order to determine why there was no further action regarding the previous proposal.

Mr. Mugnolo stated that he would not develop the property himself, he would have a developer act on his behalf.

Mr. Mugnolo also addressed another portion of Wildwood land near Phelps Road that he would like to sell if he could obtain road frontage for accessibility. At this time that portion of land does not have road frontage.

**Resident Fredric Calev requesting an update on property located at 2500 Rush Mendon Road.**

Mr. Calev inquired about the status of the cease and desist order. He also stated that he requested a monthly status report. Mr. Calev told the Board that Mr. Stevens' activities have increased over the last month.

Chairman Felsen informed Mr. Calev that he no longer has a special permit from the Planning Board. The Planning Board has officially rescinded the permit.

CEO Kusse stated that he has provided the Board with a list of his observations from his recent visit to Mr. Stevens' property.

The Board stated that CEO Kusse's list should be reviewed by the Town Attorney in order to determine what is permissible under New York State Agriculture and Markets

law. The Town Attorney can also inform Mr. Stevens' if a site plan review is required by the Planning Board.

Vice Chairman Morelli explained to Mr. Calev that addressing the violations is a process. If violations continue, enforcement will be issued. Part of the process is Mr. Stevens' court appearance that is taking place tonight in Mendon Town Court.

Chairman Felsen advised Mr. Calev that if violations continue on Mr. Stevens' property, the town will have to take additional legal action. The Planning Board does not initiate that process.

**DECISIONS:**

Chairman Felsen made a Motion **WHEREAS**; this Board has examined **Application 2013-07P** by David and Harold Manning requesting Re-Subdivision approval to convey approximately .473 acres from Lot 19E to Lot 19D of the Rush Hills Subdivision. Property is located at 2481 Pinnacle Road. Property is zoned residential 30; and

**WHEREAS**, maps and other materials were filed along with the Application, including the Environmental Assessment Review Form, 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

**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. Manning, including the Environmental Assessment Review Form, and the Board having given the submitted documentation matter due consideration; it is

**RESOLVED**, the proposed action is a Type II action under the State of New York SEQRA laws requiring no further action by this Board.

Vice Chairman Morelli seconded the motion and the Board Members polled:

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

John Felsen made a Motion to grant preliminary subdivision approval of **Application 2013-07P** by David and Harold Manning.

Vice Chairman Morelli the motion and the Board Members polled:

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

John Felsen made a Motion to wave the final subdivision hearing for **Application 2013-07P** by David and Harold Manning.

Vice Chairman Morelli seconded the motion and the Board Members polled:

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

**BOARD BUSINESS:**

The Board reviewed the final draft of the Rush Town Wide Drainage District Standard Easement Agreement. The Board further discussed the section regarding owner indemnification and compared the current final draft to the agreement from 2005. The Board collectively agreed that section #6 is not acceptable and would like to use the original 2005 agreement with some small revisions.

Planning Board Comments to Town Board regarding rezoning request by Rush Associates LLC:

After review of the submitted rezoning request from Rush Associates LLC., the Planning Board as a whole is in favor of the rezoning. Chairman Felsen stated that the Board does have some concerns. Chairman Felsen stated that he would like to see LandTech resubmit their map in a larger format and in black and white for clarity purposes. This would provide clarity in viewing the outlined areas of the deep hole tests, perk tests and proposed septic systems. Chairman Felsen would also like to see the applicant provide the Town Board with a site map of the proposed ingress and egress including the left turning/queuing lane on Route 251 that was mentioned in the Stantech traffic report. It was also noted that there was no mention of water supply or screening of the residential property to the east of the proposed project site. Question number 12 on the environmental assessment form needs to be answered. The Planning Board also recommends that the Town Engineer review the rezoning request.

With no further business, a motion was made by Chairman Felsen and agreed by common consent that the meeting be adjourned at 9:48 PM.

Respectfully Submitted,

Meribeth Palmer  
Deputy Town Clerk