

**RUSH PLANNING BOARD
REGULAR MEETING
MINUTES OF SEPTEMBER 15, 2015**

A regular meeting of the Rush Planning Board was held on September 15, 2015 at the Rush Town Hall, 5977 East Henrietta Road and was called to order at 7:30 PM.

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

EXCUSED: Rick Wurzer, Member

OTHERS PRESENT: Councilwoman Jillian Moore, Town Board Liaison
Gerry Kusse, Code Enforcement Officer (CEO)
Todd Ewell, Town Engineer
David Matt, Land Surveyor, Schultz Associates
Phyllis Wickerham, Resident
Nick Montanaro, Land Surveyor

Chairman Felsen welcomed all to the September Planning Board meeting.

APPROVAL OF MINUTES:

The Minutes of August 18, 2015 were reviewed. Board Member Strock made a Motion to accept the Minutes of August 18, 2015 as written.

Board Member Sweet seconded the Motion and the Board polled:

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

TABLED APPLICATION:

Application 2015-11P by David Matt of Schultz Associates, agent for Yoruk Development, LLC, requesting Subdivision and Site Plan approval to subdivide an existing 19.9 acre parcel into 5 lots. A single family dwelling is proposed for each lot. Property is located on Rush Henrietta Town Line Road, 2033 feet west of Middle Road and is zoned Residential-30.

Mr. Matt explained they are proposing a 5 lot subdivision on Rush Henrietta Town Line Road near I390. One lot will access Rush Henrietta Town Line Road directly, and the other 4 lots will use the Town detail for a private road and share a common driveway.

Mr. Matt stated that just before their original public hearing at the August 18, 2015 Planning Board meeting, the New York State Department of Transportation (NYS DOT) advised him that most of the frontage is taken by the I390 right-of-way, so its right-of-way is without access for the property. The state left the applicant a 100' strip on the east corner, so Mr. Matt redesigned the private road to utilize that portion.

Mr. Matt further stated that he has added wetland markers on the site plan to delineate where the future home owners can and cannot develop, and has addressed Town Engineer Todd Ewell's comments.

With no further questions or comments, Chairman Felsen declared the Public Hearing closed.

PUBLIC HEARING:

Application 2015-14P by Glenn Thornton of Thornton Engineering, agent for Elizabeth Heisig, requesting Subdivision and Site Plan approval to subdivide 10.876 acres from parcels located at 1 and 4 Chapman Road for construction of a single family dwelling. Property is zoned Residential-30.

Nick Montanaro explained that the Heisig Farm consists of approximately 79 acres and two tax parcels. One parcel is 76 acres and the other is 3 acres. They are proposing to subdivide 10.876 acres from the parcels to construct a new home. Mr. Montanaro stated he has addressed the comments of Town Engineer Ewell, the Monroe County Water Authority and Monroe County's Department of Public Health.

Chairman Felsen stated he would like the applicant to add "not approved for building" on the remaining lands portion of the site map.

Chairman Felsen read into the record that the Rush Conservation Board does not find any aspect of the project to significantly impact the environment, and the Rush Board of Fire Commissioners does not have any concerns or issues with the application. Chairman Felsen also read into the record the comments of the Monroe County Department of Planning and Development.

With no further questions or comments, Chairman Felsen declared the Public Hearing closed.

BOARD BUSINESS:

Chairman Felsen stated for the record that regarding Application 2015-13P by Bruce Howlett that is being done administratively; Howlett Farms has decided not to separate the woods from the agricultural land, so there is only the separation of the house from the agricultural land. The land surveyor has to go to the DEC and find out if there is a classified stream on the property. If so, he will need to propose an easement for the stream and put that on the plan.

Chairman Felsen stated that CEO Kusse had a meeting on September 9, 2015 with Charles Bliss, Senior Building Construction Engineer of the NYS Department of State, regarding the claim that the Fire Code of NYS requires that a hydrant be installed within 1000' of the front door of any new residential dwelling.

Chairman Felsen stated that the code does not require that a hydrant be installed within a 1000' of a new house on a private drive. However, a new home on a dedicated road (fire apparatus access road), a hydrant within 1000' of a new home is required if a water main is available.

Chairman Felsen added that Mr. Bliss stated that the Fire District and Fire Department can make recommendations regarding fire sprinkler systems, but the Planning Board shouldn't be putting their recommendations into the Minutes.

Vice Chairman Morelli disagreed, stating that he believes that if the Fire Commissioner recommends that something be done, it is totally appropriate for the Planning Board to mention it during public hearings.

CEO Kusse stated that his interpretation of Mr. Bliss's remark was that the Fire Department can provide suggestions. The Planning Board is under no obligation to yield to the Fire Department's suggestions.

DECISIONS:

Chairman Felsen made a Motion **WHEREAS**; this Board has examined **Application 2015-14P** by Glenn Thornton of Thornton Engineers, agent for Elizabeth Heisig, requesting Subdivision and Site Plan approval to subdivide 10.876 acres from parcels located at 1 and 4 Chapman Road for construction of a single family dwelling. Property is zoned Residential-30 for preliminary plot review of the proposed subdivision and;

WHEREAS, the maps and other materials which were filed 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; and

NOW, THEREFOR, upon consideration by the Board of the Application and the other materials submitted by Glenn Thornton, agent for Elizabeth Heisig, 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. 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.

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

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

Board Chairman Felsen made a Motion to grant preliminary Subdivision approval for **Application 2015-14P** by Glenn Thornton, agent for Elizabeth Heisig, conditioned upon:

1. The applicant adding a note to the plans that the remaining lands of the Heisig Farms is not approved for building.
2. That the legal meets and bounds for the drainage easements for Honeoye Creek be submitted to the Town Engineer and the Town Attorney for their review and approval.

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

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

Chairman Felsen made a Motion to waive final Subdivision hearing conditioned upon:

1. The applicant obtaining the approval of the Monroe County Department of Public Health, the Monroe County Water Authority and the Town Engineer.

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

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

Chairman Felsen made a Resolution **WHEREAS** on September 8, 2015, this Board had passed a Resolution revoking the Site Plan approval for the remaining vacant lot of the Nowak Subdivision. The Site Plan approval revocation was to become effective at 8:00 PM on September 15, 2015 if an Irrevocable Letter of Credit in the amount of \$42,500 as required by condition #4 of the Subdivision and Site Plan approval of the Nowak Subdivision was not presented to the Town; and

WHEREAS, the Town of Rush has not received an Irrevocable Letter of Credit in the amount of \$42,500 by 8:00 PM on this day, September 15, 2015. Chairman Felsen further made a Resolution that this Board require the Code Enforcement Officer to post

the vacant parcel of the Nowak Subdivision, indicating that the Site Plan approval for the lot has been revoked by the Town of Rush Planning Board.

Vice Chairman Morelli seconded the Resolution and the Board polled:

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

Board Member Sweet recommended the sign posted on the vacant parcel of the Nowak Subdivision reads as “Not Approved for Building” or “Not an Approved Building Lot”.

The Short Environmental Assessment Form (Short EAF) for Application 2015-11P by David Matt, agent for Yoruk Development, LLC, was completed by the Board at this time.

Chairman Felsen made a Motion **WHEREAS** this Board has examined **Application 2015-11P** by David Matt of Schultz Associates, agent for Yoruk Development, LLC, requesting Subdivision and Site Plan approval to subdivide an existing 19.9 acre parcel into 5 lots. A single family dwelling is proposed for each lot. Property is located on Rush Henrietta Town Line Road, 2033 feet west of Middle Road and is zoned Residential-30, and;

WHEREAS, the maps and other materials which were filed 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; and

NOW, THEREFOR, upon consideration by the Board of the Application and the other materials submitted by David Matt of Schultz Associates, agent for Yoruk Development, LLC, 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. 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.

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

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

Board Chairman Felsen made a Motion to grant preliminary Subdivision approval for Application 2015-11P by David Matt of Schultz Associates, agent for Yoruk Development, LLC, conditioned upon the developer installing the following items prior to any building permits being issued for any of the proposed 5 lots:

1. Evergreen trees between 8' – 12' in height, 15' on center, to be planted on the west lot lines for lots 2 and 3. In addition, the trees shall be maintained and replaced, if necessary, for a two year period.
2. All of the wetland markers shown on the subdivision plans be installed.
3. The complete construction of the proposed private road be installed as shown on the subdivision plans.
4. All of the storm water system components; ponds, swales, erosion and sediment controls, be installed as shown on the subdivision plans.

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

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

Chairman Felsen made a Motion to waive the final Subdivision hearing conditioned upon:

1. The applicant obtaining the approvals of the Town Engineer, the Monroe County Water Authority, Monroe County's Department of Transportation, and Monroe County's Department of Public Health.
2. The applicant complying with the Monroe County Department of Planning and Development comments.

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

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

RUSH PLANNING BOARD
SEPTEMBER 15, 2015

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