RUSH PLANNING BOARD
REGULAR MEETING
MINUTES OF AUGUST 16, 2016

A regular meeting of the Rush Planning Board was held on August 16, 2016 at the Rush Town Hall, 5977 East Henrietta Road and was called to order at 7:00 PM.

PRESENT: John Felsen, Chairman
John Morelli, Vice Chairman
Scott Strock, Member
Rick Wurzer, Member
Don Sweet, Member
Pamela Bucci, Town Clerk

OTHERS PRESENT: Jillian Coffey, Councilperson, Town Board Liaison
Joel & Lori Basa, Residents
William Vannoy, Resident
Phil D'Alessandro, Building Inspector
Margarita & Manolo Basa, Non-residents

Chairman Felsen welcomed all to the August Planning Board meeting.

APPROVAL OF MINUTES:

The Minutes of June 21, 2016 were reviewed. Chair Felsen called for any amendments to the Minutes.

Member Scott Strock noted that Page 6, 2nd Paragraph of the Stasiw Informal; change from attached to unattached.

Chairman Felsen made a Motion to accept Town Clerk Bucci's Minutes of June 21, 2016 as amended. Member Strock seconded the Motion, and the Board polled:

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

Vice-Chair Morelli noted that he approved of the June 21, 2016, Minutes, however, had abstained approval of the portion of the Minutes related to

Application 2016-05P. He recused himself during the public hearing and decision-making process due to a conflict of interest.

PUBLIC HEARING:

Town Clerk Bucci read the following Public Hearing Notice into the record.

Application 2016-06P by Jose and Lori Basa requesting a Special Permit to operate a competitive dog agility training school in an existing barn. Property is located at 835 Five Points road and is zoned Residential-30.

Chair Felsen asked the Applicant to explain the reasons for their appearance before the Planning Board.

Mr. Basa requested the use of an existing pole barn located on the property for a competitive dog agility training school. Dog agility is much like a competitive equestrian horse sport. The handler directs the dog through an obstacle course. It is a growing sport within the area; however, there are not many agility trainers. Their golden retriever is rated within the top 10 gold retrievers in the nation. They are performance dogs unlike family pets. The market and the agility community are very small, however, the Basa's have been asked to teach. The Dog Obedience Club of Rochester is a sanctioned club much like the American Kennel Club.

Use of the building being proposed is to occur on Wednesday and Thursday evenings from 6 PM to 8 PM and a change from the original proposal is a Floater Day which will either be a Tuesday evening from 6 PM to 8 PM or Saturday morning from 10 AM to 12 noon. The town asked that we propose what could be a future training school daily schedule. At maximum a total of 3 days training will occur. Dogs can't work for 2 hours straight, therefore, it won't continue for more than that time. A maximum of 8 dogs are in a competitive dog training class. Joel and Lori will be the only instructors. The class is run much like a competition and the same rules apply. Those rules are cleaning up after your dog; the proper garbage bags and pails will be provided to each handler. Dog bags must be dropped in a designated area to be disposed of for refuse removal. Dogs will only be outside pottying purposes. Barking is not permitted in the competition nor will it be permitted in training. These types of dogs are trained not to bark and that is why during competitions, there may be hundreds of dogs and no barking is heard. The driveway on the property is gravel and has depth for ample parking for up to 10 cars. Personal vehicles are mostly parked in the personal home driveway. Mr. Basa pointed to the areas on the map provided.

Member Strock noted that there is a fence between the property and barn that includes a piece of agility equipment. Member Strock also asked if clients would be coming from out of the area.

Mr. Basa stated that the fenced area is a personal dog training space and clients are local.

Vice-Chair Morelli stated that as a member, people come before the Planning Board some speaking from the heart and some from another perspective. There is a potential for some manipulation, however, there is no accusation here. Over the last couple of months, this Board has reviewed the Nelson's application regarding their facility. It was learned that they were creating a business without a permit. During the course of the investigation, it was found that the facility was already built; compensation from 2 or 3 clients was not to be received; it's like a dog conspiracy. Vice-Chair Morelli asked if the Basa's were aware of or involved in any of the interchanging of information by both the current and previous Building Inspectors and the Nelsons.

Mr. Basa stated that they do not know the Nelsons and did not know that they lived on Five Points Road but did see that their application was on the July agenda. Having seen their application on the agenda, they thought it best to appear informally at the meeting. It is logical to know similar history in order to prepare for this meeting. In the aftermath of the July meeting, it was discovered that we have a mutual friend. Our plan was to have at least 2 to 3 dog clients.

Vice-Chair Morelli asked if it was planned without compensation.

Mrs. Basa stated that compensation equals the sharing of knowledge.

Mr. Basa stated that they have had a business outside of having the building. They have an LLC but had previously gone to residences and train. Their dream was to build a facility themselves. The history is that they now have a beautiful facility, the community and friends are catching wind of it and the next natural question was if they were going to offer classes.

Vice Chair Morelli stated so that it was merely a coincidence that homeowners near each other would be involved in a dog training business.

Chair Felsen inquired about lighting and its location.

Mr. Basa stated that the lighting is only to illuminate the driveway and provide safety. The lighting is what is typically found on pole barns. Additionally lighting is on the property, however, the lighting shown on the plan is for the pole barn itself.

Vice-Chair Morelli stated that the light was stadium bright from the road.

Member Wurzer stated that the light was not that bright and he did visit the inside of the barn which is impressive.

Member Sweet asked if the light overlapped another property. Mr. Basa stated that it did not.

Mr. Basa showed the Board pictures of the facility from his phone and noted that they are very conscious of dog and people safety. The flooring in the barn is comprised of concrete, an underlayment like a shock absorption pad and 4 inches of concrete sand for drainage and cleanliness. The pole barn is not heated but it is fully insulated. There is no cooling; however there is a small area that could be heated in the future. The property is on a well and water is not available in the building.

Vice-Chair Morelli stated that after review of the SEQRA the Conservation Board inquired connection to wastewater facilities; you mentioned no water.

Mr. Basa stated that dog waste will be picked up and placed into garbage containers.

Chairman Felsen read into the record all comments presented as follows:

- The Rush Conservation Board – comments regarding type of facility to be used to connect to the waste water utility
- As of July 26, 2016, Monroe County Department of Planning and Development viewed the application as a local matter with no additional comments.
- The Rush Board of Fire Commissioners – no concerns or issues
- Comments received from Engineer Todd Ewell of CHA were read aloud as follows:
    1. The project appears to be a Type II action pursuant to SEQR; a coordinated SEQR review is not required.
    2. Applicant should explain the intended hours of operation for the dog agility training. Weekend hours are assumed to be 10 AM until 12 PM and 6 PM until 8 PM during the week in the winter.
    3. Applicant's survey is cut off and does not include the date of completion or surveyor who completed the map.
    4. Applicant should explain the maximum number of cars to be parked within driveway at any one time.
    5. Are there any intentions to allow dogs outside the pole barn creating a potential for barking or disturbance to adjoining residence?

6. Is the pole barn heated, contain lights, or restroom facilities? Is there ample site lighting for pedestrians outside the pole barn? Any site lighting should be in accordance with Town Code.
7. Will there be a need for a sidewalk or path from driveway to the pole barn?
8. How does the applicant intend to accommodate clients with disabilities? ADA accessibility?

Mr. Basa stated that the school will continue year round. There is no need for a sidewalk and the entire facility is level thus approachable for persons with disabilities.

Vice-Chair Morelli requested assurance that there would be no lighting spillage onto other properties.

Member Strock noted that there were no complaints, written or verbal.

DECISIONS:

Chair Felsen made a motion WHEREAS; this Board has examined **Application 2016-06P** by Jose and Lori Basa requesting a Special Permit to operate a competitive dog agility training school in an existing barn. Property is located at 835 Five Points Road and is zoned Residential-30; and

WHEREAS, the proposed is a Type II Action under the State of New York SEQRA laws requiring no further environmental review by this by this Board. Member Wurzer seconded the Motion and the Board polled:

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

Chair Felsen made a Motion to grant a Special Permit for **Application 2016-05P** by Jose and Lori Basa conditioned upon:

1. No agility training of clients' dogs to occur outside of the existing pole barn with the exception of pottying the dogs.

2. Ample parking for up to and including 10 cars be provided.

3. Clean-up of all dog feces shall be picked up and disposed of on sight during all training classes with provided bags and picked up through the applicant's waste hauler.

4. The maximum number of classes to be held will be three times per week, two being Wednesday and Thursday from 6 PM – 8 PM and one other floating day being the other days of the week except Saturday and Sunday. On Saturday and Sunday, the hours of operation shall be 10 AM to 12 PM.

5. Lighting to comply with §120-47 through §120-53. It is a low activity operation.

6. There will be no overnight stay of clients' dogs.

7. There shall be no kennel operation.

Vice-Chair Morelli seconded the Motion and the Board polled:

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

BOARD DISCUSSION:

Chair Felsen motioned that due to the lack of September application submissions, the September 20th meeting be cancelled. Member Strock seconded the motion.

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

Vice-Chair Morelli stated that he wished to discuss the matter involving his conflict of interest and being asked to recuse him from the meeting room during the public hearing and the decision-making process. Vice-Chair Morelli stated that it was not something that he was aware of and previous board members having a conflict were not asked to leave. Additionally, he does not consider it a closed issue. Vice-Chair Morelli stated that he may choose to revisit it if there turns out to be an argument down the road that he was denied his right to speak as a resident; it was wrong.

Chair Felsen stated that Town Clerk Bucci had contacted the town attorneys for clarification on the matter prior to the meeting, however, they were unavailable.

A NYS attorney review instrument regarding conflict of interest and recusal were provided to the Chair that included a recommendation for those having a conflict of interest leave the proceedings entirely. Chair Felsen and Vice-Chair Morelli discussed the issue outside of the meeting room prior to it commencing.

Town Board liaison Councilperson Coffey stated that Attorney Mancuso's message strongly suggested that a member leave the public hearing and decision-making altogether.

Chair Felsen added that it was strongly suggested.

Member Sweet asked if Vice-Chair Morelli was given the opportunity to state his opinion before he left. Chair Felsen noted that his wife, Mrs. Morelli did speak at the public hearing.

Chair Felsen would like the opportunity to again review Attorney Mancuso's response. Chair Felsen stated that his recollection was that members could sit in the audience. They could not speak both verbally or gesture with body language, but it was strongly suggested that members with a conflict leave entirely.

Vice Chair Morelli stated that he would challenge the decision further because he believed his rights as a citizen were removed.

Chair Felsen offered anyone to read the Dorschel final draft of the Final Environmental Impact. Vice Chair Morelli stated that an opportunity exists to voice an opinion at the public hearing.

Councilperson Coffey noted that the period of verbal and written public comment ended, there is not a public hearing and the Town Board would be voting. The rezoning of property rests in the Town Board's decision.

Town Clerk Bucci noted that when the application to rezone was proposed and presented to the Town Board, all Boards were asked to provide an opinion to the Town Board regarding the proposed rezoning.

Vice-Chair Morelli stated that he had not heard any response from the Town Board. He believed that people were waiting for a response in terms of suggestions of a new zone or limited commercial zone which considers the traffic situation, however, have not heard a response or suggestion.

Councilperson Coffey stated that the Town Board meeting is open and all are welcome.

With no further business, Chair Felsen made a Motion to adjourn the meeting at 7:35 pm. Board Member Strock seconded the Motion and the Board polled:

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

Respectfully submitted,

Pamela J. Bucci
Town Clerk