

RUSH TOWN BOARD MINUTES
August 24, 2016

A regular meeting of the Rush Town Board, County of Monroe, was called to order by Supervisor Cathleen Frank at 7:00 PM on August 24, 2016, at the Rush Town Hall, 5977 East Henrietta Road, Rush, New York. Everyone present participated in the Pledge of Allegiance.

PRESENT: Cathleen Frank	----- Supervisor
Rita McCarthy	----- Councilperson, Deputy Supervisor
Daniel Woolaver	----- Councilperson
Jillian Coffey	----- Councilperson
Gerald Kusse	----- Councilperson
Pamela Bucci	----- Town Clerk
John Mancuso, Esq.	----- Attorney for the Town

RESIDENTS PRESENT:

Amber Corbin`	----- Resident, Zoning Board Chair
Dick Knapp & Mary	----- Resident
Al Sweet	----- Resident
Cecil Palmer	----- Resident
Dave & Sandra Sluberski	----- Residents
Joe	----- Not recorded
Robert Nesbitt	----- Resident
Robert Kraus	----- Resident
Bill Gaffney	----- Resident
Julia Lederman	----- Resident
Garry Koppers	----- Resident
Carol Barnett	----- Resident
Dave Coon	----- Resident
John Morelli	----- Resident, Planning Board Vice-Chair
Jean Morelli	----- Resident
Lee Hankins	----- Resident

I. PUBLIC COMMENT

Supervisor Frank opened the floor inviting anyone wishing to address the Town Board to come forward. All those speaking were asked, if able, to stand at the podium and to state their name and address for record keeping purposes.

No comments were received.

II. APPROVAL OF MINUTES
RESOLUTION #147-2016

Councilperson McCarthy moved to approve the August 10, 2016, Town Board Minutes as submitted by Town Clerk Bucci. Councilperson Woolaver seconded the motion.

Roll:

Councilperson Woolaver		aye	
Councilperson McCarthy	aye		
Councilperson Coffey	aye		
Councilperson Kusse	aye		
Supervisor Frank	aye		carried.

III. APPROVAL OF ABSTRACT

RESOLUTION #148-2016

Councilperson Kusse moved that having audited all the claims against the funds listed on Abstract 16 for #2016-810 through #2016-870, they be allowed for payment in the amount of \$90,218.88. Councilperson McCarthy seconded the motion.

Roll:

Councilperson Woolaver		aye	
Councilperson McCarthy	aye		
Councilperson Coffey	aye		
Councilperson Kusse	aye		
Supervisor Frank	aye		carried.

IV. CORRESPONDENCE

No correspondence.

V. REPORTS OF OFFICERS AND COMMITTEES

Councilperson Woolaver offered the following:

- As liaison, attended Zoning Board of Appeals meeting including a public hearing and two workshops, one including a use variance.

Councilperson McCarthy offered the following:

- No report.

Councilperson Coffey offered the following:

- As liaison, attended the Rush Fire District meeting wherein they requested continued use at the Rush Riverside Refuge. They wish to set up some walls for training.

Supervisor Frank will include their request on the next agenda.

- Attended Planning Board meeting. They reviewed an application and discussed the recusal process and standardizing a policy.

Councilperson Kusse offered the following:

- No report.

Town Clerk Bucci offered the following:

- No report.

Attorney for the Town offered the following:

- No report.

VI. OLD BUSINESS

A. Status Update on the energy saving options for 1911 Rush Scottsville Road
- Supervisor Frank stated that both Councilpersons Woolaver and Kusse met with Energy Audit Consultant Chris Burrell to review the building and options.

Councilperson Woolaver stated that in Consultant Chris Burrell's opinion, the windows were least of the problem. There is no insulation in the walls or attic. If those problems were resolved, there would be a decrease in energy cost. The approximate cost of insulation is \$1,400 to \$1,500 with a 5 year payback.

Councilperson Kusse stated that high quality windows would be at a greater cost and a 33 year payback. The manual labor cost in stopping air from seeping in the ceilings, basement and foundation is expensive. Previous boards have discussed the same issues, however, a future use plan for the building has not been established.

Councilperson Woolaver noted that additional estimates related to actual specifications should be collected from potential contractors.

Councilperson Kusse will create a specifications document.

Councilpersons McCarthy and Kusse were in agreement that currently the best avenue is making the building more energy efficient in order to conserve while collecting rental income. The audit of 2010 provided a few energy conservation measures. Once a concrete plan is established for the building, a final decision can be made.

Further conversation will continue.

PUBLIC HEARING - 7:15 PM LOCAL LAW AMENDING THE TOWN OF RUSH ZONING CODE

Town Clerk Bucci read the legal notice into the record as follows:

LOCAL LAW NO. __ OF 2016 TO AMEND THE ZONING
LAW OF THE TOWN OF RUSH, CHAPTER 120 OF THE
CODE OF THE TOWN OF RUSH, BY ADDING CERTAIN

NEW DEFINITIONS, AND MODIFYING, CLARIFYING
AND ADDING TO THE PROVISIONS OF THE ZONING
LAW REGARDING SETBACKS, AGRICULTURAL USES,
SIGNS, AND OUTDOOR PARKING.

PLEASE TAKE NOTICE, a public hearing will be held by the Rush Town Board, at the Rush Town Hall, 5977 East Henrietta Road, Rush, New York, on the 24th day of August at 7:15 PM, local time, for the purpose of providing various revisions to the text of the Zoning Law of the Town of Rush so as to clarify and update the sections set forth in this Local Law, thereby updating the Zoning Law to reflect current trends in the development of the Town of Rush.

Copies of the proposed Local Law #__ of 2016 are available for inspection at the Town Clerk's Office during normal business hours.

At such hearing any person may be heard in favor of or against the revisions to the Rush Town Code as proposed at the above time and date.

Town Clerk Bucci stated that notifications of the public hearing, as required, were satisfied.

VII. PUBLIC COMMENT

Supervisor Frank opened the floor for comments to the Board.

Councilperson Woolaver is the liaison to the Zoning Board of Appeals and the liaison to the Zoning Board Advisory Citizens Committee.

Resident Dave Sluberski had a question on §120-20 regarding an accessory structure and a minimum set-back; 5' in an R-20 and 15' in an R-30. What defines an accessory structure? Is 15' to 5' proposed in an R-20 district?

Councilperson Woolaver acknowledged that 15' to 5' in an R-20 is proposed.

Attorney Mancuso stated that an accessory structure is anything that is ancillary or supportive of the main structure. Commonplace would be a shed, for example. The committee's intent is that the Zoning Board faces many applications pertaining to a shed that often times do not meet the side set-back requirements but do meet the front and rear set-backs.

Resident Amber Corbin, stated that she is the Zoning Board of Appeals Chair, however, speaking solely as a citizen. Mrs. Corbin further thanked the Town Board and Zoning Citizens Advisory Committee for their tedious work in reviewing the zoning code. As a recommendation, a side-by-side comparison of the zoning code and proposals would be beneficial.

Resident Corbin had many questions related to definitions and differences in reference to farm, seasonal, seasonal farm stands, farm stand, frontage, lot line and front yard used within the proposed changes. An understanding of the reasoning for changing minimum set-backs, excluding requirements for sign permits in some instances, addition of adding sandwich signs when they were previously deleted from the Code, deleting prohibited sign section, changes in accessory requirements. Farmers spraying up to the lot line instead of within 300 feet of another parcel presents a safety concern. Parking of large vehicles in front of the front lot line is a concern to the character of town. Consistency in terminology and full title of Zoning Board of Appeals is recommended and additional definitions be included.

Resident Corbin, as Chair of the Zoning Board of Appeals, disagreed with the reference made by the town attorney regarding structures located less than 10 feet from a lot line.

Resident Garry Koppers, the Vice-Chair of the Zoning Board of Appeals, stated that side setback should be reviewed further, especially a 10 foot limit. Changing the setback requirement will take away a citizen's right to appeal it and totally disagrees with parking of motorhome or travel trailers on lots as 3 month living quarters on the property. There is no control of who is living in a motorhome and there should be a limitation on parking in the driveway.

Resident Marianne Rizzo thanked the Zoning Citizens Advisory Committee's work. Resident Rizzo noted that she preferred spraying staying at 300 feet. On Page 3 under Signage, recommended that clearer terminology and the length of time be presented for farm stand signs being allowed and why exempt from the chapter. She also opposed fencing be allowed and exempt from any requirements for farming/agriculture. Rules should be consistent for all residents. Page 4 - opposed the changes in storage on commercial. On Page 5 - 5 feet is too close; recommended being more conservative. Too many signs can also be trashy and recommended the current code stand.

Resident John Morelli, member of the Planning Board agreed with all that Resident Amber Corbin stated. Boards work hard to protect the needs of the community in making decisions. The Zoning Board of Appeals members should review the changes prior to being approved so that when requests are presented, they have a clear understanding of the requirements prior to making decisions. Resident Morelli was unaware that as a Board they did not previously review the proposal in its entirety.

RESOLUTION #149-2016

Supervisor Frank motioned to close the Public Hearing. Councilperson Woolaver seconded the motion.

Roll:

Councilperson Woolaver		aye	
Councilperson McCarthy	aye		
Councilperson Coffey	aye		
Councilperson Kusse	aye		
Supervisor Frank	aye		carried.

VIII. NEW BUSINESS

A. Resolution regarding the proposed re-zoning of 7262 West Henrietta Road, Rush, New York - Supervisor Frank asked for any comment regarding the Findings statement of the Proposed Re-zoning of 7262 West Henrietta Road, Rush, New York.

RESOLUTION #150-2016

RESOLUTION ADOPTING FINDINGS STATEMENT FOR RUSH ASSOCIATES, LLC
REZONING OF 7262 WEST HENRIETTA ROAD

Councilperson Coffey moved, WHEREAS, on November 13, 2013, the Town Board of the Town of Rush (the "Town Board") accepted an application from Rush Associates, LLC to rezone 5.8 acres of an approximately 25 acre parcel located at 7262 West Henrietta Road, Town of Rush from residential (R-30) to commercial (C) (the "Petition"); and

WHEREAS, the Petition is subject to an environmental impact assessment pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and its implementing regulations at 6 NYCRR Part 617 (collectively referred to as "SEQRA"); and

WHEREAS, on November 27, 2013 the Town Board declared itself Lead Agency in order to complete a coordinated review of the Petition pursuant to SEQRA; and

WHEREAS, on July 23, 2014, the Town Board issued a Positive Declaration for the Petition; and

WHEREAS, on January 13, 2016, the Town Board accepted a Draft Environmental Impact Statement ("DEIS") for the Petition; and

WHEREAS, both a thirty (30) day public comment period and public hearing were conducted for the DEIS; and

WHEREAS, on May 11, 2016, the Town Board accepted a Final Environmental Impact Statement ("FEIS") for the Petition; and

WHEREAS, on July 27, 2016, the Town Board accepted an addendum to the FEIS for the Petition.

THEREFORE, BE IT RESOLVED, that the Town Board accepts and adopts the Findings Statement as submitted and prepared for the Petition pursuant to 6 N.Y.C.R.R. § 617.11; and be it further

RESOLVED, that the Town Board, pursuant to 6 N.Y.C.R.R. § 617.11(d), certifies that the requirements of SEQRA have been met; and be it further

RESOLVED, that the Findings Statement shall be filed, distributed and maintained, as necessary, pursuant to 6 N.Y.C.R.R. §§ 617.11 and 617.12.

Councilperson McCarthy seconded the motion.

Roll:

Councilperson Woolaver		aye	
Councilperson McCarthy	aye		
Councilperson Coffey	aye		
Councilperson Kusse	aye		
Supervisor Frank	aye		carried.

Supervisor Frank stated that the next step in the process is to vote on proposed Local Law to amend the zoning map. Supervisor Frank asked for the Town Board's input.

Supervisor Frank stated that two acres of the parcel are zoned commercial and the previous owners had a commercial business on the property. The other three sections of the corner are commercial and located at an access to NYS Route 390; therefore, it should be zoned commercial. It was left behind when the other three corners were zoned commercial because nobody fought for it and it is located in the commercial corridor. The need for services should be within the commercial areas of the town with access to NYS Route 390 in order to keep businesses viable.

Councilperson McCarthy stated that over the course of the last three years she has conducted many conversations with residents, reviewed numerous documents and spoke with persons outside of Rush regarding the proposal. Most people agree that housing would not be successful on the parcel and high density housing is not recommended on that corner. The services proposed would be a benefit to the townspeople and to businesses already located in that vicinity of West Henrietta Road (NYS Route 15). The DOT is the authority on safety of roads.

Councilperson Kusse stated that he agrees with both Supervisor Frank and Councilperson McCarthy. He added that residents have approached him regarding the intersection being an unsafe traffic area. Having traveled extensively throughout the country on many four lane highways going both

directions, he stated that he fails to see the speculated unsafe condition. It would be a welcome addition to the town.

Councilperson Woolaver also agreed. The 5.8 acre addition of commercial property will not have a full day impact on traffic. There are busy traffic times at the beginning and ending of a workday; otherwise the roads are mostly clear.

Councilperson Coffey stated that the corner of Routes 251 and 15 are already significantly zoned commercial. In order for a business to be successful, having more than a couple of acres is necessary. That corner would complement the other businesses and a commercial corner will flourish in that location. The traffic concerns seem to be as mitigated as possible. Compared to previous proposals, it fits the town's needs.

RESOLUTION #151-2016

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF RUSH
ADOPTING LOCAL LAW NO. 1 OF 2016 TO AMEND THE
OFFICIAL ZONING MAP OF THE TOWN OF RUSH TO
REZONE A PORTION OF PROPERTY IN THE TOWN OF RUSH
LOCATED AT 7262 WEST HENRIETTA ROAD FROM
RESIDENTIAL (R-30) TO COMMERCIAL (C)

Councilperson McCarthy moved, WHEREAS, on November 13, 2013, the Town Board of the Town of Rush (the "Town Board") accepted an application from Rush Associates, LLC to rezone 5.8 acres of an approximately 25 acre parcel located at 7262 West Henrietta Road, Town of Rush from residential (R-30) to commercial (C) (the "Petition"); and

WHEREAS, the Petition is subject to an environmental impact assessment pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and its implementing regulations at 6 NYCRR Part 617 (collectively referred to as "SEQRA"); and

WHEREAS, on November 27, 2013 the Town Board declared itself Lead Agency in order to complete a coordinated review of the Petition pursuant to SEQRA and thereafter issued a Positive Declaration for the Petition; and

WHEREAS, a public hearing on the proposed local law was conducted by the Town Board on June 25, 2014, wherein the public was provided an opportunity to submit comments on the proposed local law; and

WHEREAS, on August 24, 2016, the Town Board accepted and adopted the Findings Statement as submitted and prepared for the Project pursuant to 6 NYCRR § 617.11, thus satisfying the requirements of SEQRA.

NOW, THEREFORE, BE IT RESOLVED that the Town Board adopts Local Law No. 1 of 2016 by roll call vote, a copy of which is attached and incorporated hereto, to amend the official zoning map of the Town of Rush to rezone a portion of real property located in the Town of Rush located at 7262 West Henrietta Road from Residential (R-30) to Commercial (C); and

BE IT FURTHER RESOLVED that the Town Board finds that the adoption of Local Law No. 1 of 2016 promotes the intent and purpose of the Zoning Law of the Town of Rush to promote the health, safety and welfare of the Town, and is consistent with the goals of the Town Comprehensive Plan because as more fully set forth in the SEQRA Findings Statement it provides commercial and use opportunities that are consistent with the residential and agricultural character of the Town; and

BE IT FURTHER RESOLVED that notice of this Resolution shall be filed and circulated to the extent required by any applicable provision of the Code and/or any relevant statute or regulation.

BE IT FURTHER RESOLVED that said Resolution and Local Law No. 1 of 2016 shall take effect immediately upon its filing in the Office of the Secretary of State in accordance with Section 27 of the New York Municipal Home Rule Law; and

Councilperson Woolaver seconded the motion.

Roll:

Councilperson Woolaver	aye	
Councilperson McCarthy	aye	
Councilperson Coffey	aye	
Councilperson Kusse	aye	
Supervisor Frank	aye	carried.

IX. PUBLIC COMMENT

Supervisor Frank opened the floor for anyone present to address the Town Board.

Resident Carol Knapp thanked the Town Board for voting to rezone the property located at 7262 West Henrietta Road and believed the town will benefit from it.

X. EXECUTIVE SESSION

Supervisor Frank made a motion to adjourn to executive session at 8:25 PM to discuss a potential litigation matter. Councilperson McCarthy seconded the motion.

Roll:

Councilperson Woolaver	aye
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Councilperson McCarthy	aye	
Councilperson Coffey	aye	
Councilperson Kusse	aye	
Supervisor Frank	aye	carried.

On the motion of Supervisor Frank, the meeting was returned to regular session at 8:50 PM.

XI. ADJOURNMENT

There being no further business to conduct, the meeting was ended by Supervisor Frank at 8:51 PM. The meeting was adjourned by common consent.

Supervisor Frank noted that after a short intermission, the second 2017 Budget Workshop would begin.

Respectfully submitted,

Pamela J. Bucci
Town Clerk