

**RUSH PLANNING BOARD  
SPECIAL MEETING  
MINUTES OF JULY 12, 2017**

A special meeting of the Rush Planning Board was held on July 12, 2017 at the Rush Town Hall, 5977 East Henrietta Road and was called to order at 7:04 PM.

**PRESENT:** John Morelli, Vice Chairman  
Scott Strock, Member  
Don Sweet, Member  
Rick Wurzer, Member  
Shivaun Featherman, Deputy Town Clerk  
John Mancuso, Esq., Town Attorney

**EXCUSED:** John Felsen, Chairman

**OTHERS PRESENT:** Dan Woolaver, Town Board Liaison  
Todd Ewell, Town Engineer  
Phyllis Wickerham, Resident  
Jerry Farrell, Resident  
Lee Hankins, Resident  
Ann Stevens, Attendee  
Pat Kraus, Resident, Conservation Board  
Marianne Rizzo, Resident  
Jim Wilkins, Resident  
Beth Hoak, Resident  
Carol Barnett, Resident  
Bill Riepe, Resident

Vice Chairman Morelli welcomed all to the Special Planning Board meeting.

**PUBLIC HEARING:**

**Application 2017-06P** by the Monroe County Fair Association, lessee of property owned by the Town of Rush, requesting a Special Permit to operate the Agricultural portion of the Monroe County Fair from August 4, 2017 to August 6, 2017. Property is located at 6565 East River Road and is zoned Residential-30.

Jerry Farrell of the Monroe County Fair Association explained the proposed activities that the Fair would like to have this year from August 4-6 at the Rush Riverside Refuge property. This year is a "Show and Tell" Fair with free admission to allow people to see where the Fair will be in the future. There will not be a midway. Activities would include animal shows, food vendors, small kiddie rides and games. They plan to use only Building #6 this year. A grant has been obtained which will be used to renovate other buildings for future use. Mr. Farrell pointed out the proposed location of the bandstand,

parking areas, and restrooms on the site map. A field along East River Road will be mowed and rolled by resident and farmer Bruce Howlett.

Vice Chairman Morelli explained that this meeting was scheduled specifically to review Application 2017-06P. It has been an interesting process and he has come to appreciate why bureaucracy can be good. Bureaucracy is a systematic and sometimes painstakingly slow method to making decisions, however, it's also important for a community to be able to respond quickly when there is an opportunity to be taken care of swiftly. Many aspects of this application have been reviewed by the Board so there is a good understanding of the proposal.

Vice Chairman Morelli read into the record the comments of:

- The Conservation Board
- Monroe County Department of Planning & Development
- Town Engineer Ewell

Board Member Strock would like a better understanding of the wetland location versus the actual project location.

Town Engineer Ewell explained there is a Federal wetland located on the parcel adjacent to 6565 East River Road, located to the west of the railroad tracks. The Fair project will not impact the wetland.

Vice Chairman Morelli inquired about secondary containment under the manure dumpster. Mr. Farrell explained that the manure dumpster will be placed on a plastic tarp with a berm located around it. A layer of sawdust and woodchips on the plastic tarp will absorb the liquid, which will then be collected and added to the manure. The manure will be trucked off site to a farmer's property and spread on fields.

Vice Chairman Morelli asked about drainage on site. Town Engineer Ewell advised that the site is grassy with no ponding. The Fair Association will do minor repairs to fix holes.

Attorney Mancuso stated that the State Environment Quality Review Act (SEQRA) Review classified the entire property as either "moderately well drained" or "well drained". There was no area on the property classified as "poorly drained".

Board Member Sweet asked if the proposed lighting will be adequate. Mr. Farrell explained that people will be leaving the grounds before dark.

Mr. Farrell asked if the Fair can install a sign off the road to advertise the Fair. Attorney Mancuso advised Mr. Farrell to consult with the Code Enforcement Officer (CEO) and follow the Town Law requirements for any signage.

Vice Chairman Morelli opened the floor for public comment. All those wishing to speak were asked, if able, to stand at the podium and to state their name and address for the record.

Resident Marianne Rizzo believes it's a good thing that the Fair is starting out small so any potential problems can be addressed. Ms. Rizzo stated that she has already addressed the Town Board with some of her concerns. One of her concerns is chemicals that the neighboring property owner has used on the soybean field. She believes there should be no chemical spraying during the Fair. Additionally, she is concerned that areas of the proposed project site may have been sprayed during the past year. There should be a scientific analysis of the soil to ensure it is safe.

Vice Chairman Morelli asked whether any of the area of the proposed project has been farmed.

Attorney Mancuso advised that last year the parking area was farmed, however, it has not been farmed this season, at least not by the Town intentionally.

Ms. Rizzo is also concerned about the presence of lead paint on the horse arena and is wondering if that issue has that been mitigated or considered, and asked if the soil in the horse arena area has been tested for the presence of lead. Someone may touch the soil. When inviting the public, the Town should make every effort to make it a safe experience. Ms. Rizzo is glad that the Fair Association is planning to fix the holes in the terrain so that people or animals do not get hurt. She is concerned about a thin electrical wire located by the road where the cows are pasturing and where people would be parking and potentially walking.

Board Member Strock stated the wire is located off the site and sits back; it's not where people would be parking. Ms. Rizzo recommends flags around the wire so a child or animal does not run into it.

Regarding chemicals sprayed in the area, Board Member Sweet stated that he has worked in agricultural for the last 25 years making chemical recommendations. He believes roundup was used on the soybean crop and only sprayed once or twice. The spray would have been completed by now and there will not be any spraying near the Fair location. Board Member Sweet stated that he is more concerned with what people spray on their lawns than what was sprayed on the soybean field more than a year ago. He does not believe there is any danger to people. Most farmers are environmentalists and do not want to spray; it costs money and takes time. That is why they hire consultants to time their sprays and eliminate unnecessary sprays.

Attorney Mancuso stated that Mr. Howlett has hired a professional consultant for chemical recommendations. Mr. Howlett has already sprayed the property that surrounds the project site. Depending on the weather, they may spray in July but it would only be a fungicide with a restricted entry interval of 24 hours, just as the herbicide that was previously sprayed. The restricted entry interval of 24 hours is for the site where it's sprayed, which is not the property where the Fair location is. These finding were incorporated in the SEQRA Review that was done.

Vice Chairman Morelli asked if the parking area had been sprayed?

Attorney Mancuso replied that area has not been sprayed at all. Board Member Sweet advised it's been idle for over a year. It was farmed last year so there have been no chemicals sprayed on it this year.

Ann Stevens of Henrietta owns property that adjoins 6565 East River Road. She inquired as to what bands will be playing and if they have been hired, as she will most likely be able to hear the music from her home. Mr. Farrell explained that the Fair will have only country western music or a single singer. There will be no hard rock. No bands or singers have been hired as the Fair is awaiting Special Permit approval from the Planning Board.

Ms. Stevens asked if there is a calendar of daily events that has been created and what kind of advertising the Fair is planning. Mr. Farrell explained if their Special Permit request is approved, a list of events will be posted on their website, which is MCFair.com. Most of their advertising will be on their website.

Ms. Stevens asked for clarification of the number of days the Fair will be held. Mr. Farrell stated approximately a week to include set-up and tear-down time.

Ms. Stevens stated that when the property was used for BOCES, she applied to the New York State Department of Transportation (NYSDOT) to have the speed limit on East River Road by the property changed from 55 mph to 45 mph. At the time, the speed limit went from 45 mph at the town line to 55 mph, then within less than a mile, it changed to 45 mph again. The NYSDOT approved reducing the speed limit to 45 mph, but nothing happened. Then the property wasn't used for a school anymore, and people are speeding up and down East River Road. She would like the Board to know that approval from the NYSDOT is in the records for that stretch of road to be reduced to 45 mph. There is also a very dangerous corner just past the town line.

Resident Phyllis Wickerham asked how this property meets the criteria for a Special Permit?

Vice Chairman Morelli explained that the property is zoned Residential, as is most of the land in Rush. In a Residential zone there are uses that are allowed; one can build a house or farm. There are also uses that can be considered with the issuance of a Special Permit. Under those Special Permit conditions was provision for this type of recreational activity.

Resident Lee Hankins asked if grant monies could be used to build new buildings instead of renovating the current buildings. Renovations can be expensive.

Mr. Farrell explained that the buildings are structurally sound and new buildings are not required. The rafters in Building #6 are sound and there is no rot. There is a lot of history in these buildings. They could not build all of the buildings for what they will spend to have them renovated.

With no further questions or comments, Board Member Sweet made a Motion to close the public hearing. Board Member Wurzer seconded the Motion, and the Board polled:

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

**DECISIONS:**

Vice Chairman Morelli made a Motion **WHEREAS**, The Town of Rush Planning Board has received and reviewed Special Permit **Application 2017-06P** (the "Application") and other pertinent materials submitted by the Town of Rush ("the Town") and by the Monroe County Fair Association ("the Association") on behalf of and in conjunction with the Town of Rush, for use of the property at 6565 East River Road for the purpose of holding the annual Monroe County Fair (the "Project"); and

**WHEREAS**, the Planning Board acknowledges and specifies that the Town Board of the Town of Rush, acting as lead agency, conducted a full environmental assessment in accordance with the requirements of the NYS Environmental Quality Review Act and determined that this action will not result in any significant environmental impact, and on July 12, 2017 issued a Negative Declaration for the Project, which is incorporated herein by reference; and

**WHEREAS**, the Planning Board duly held a public hearing for the Application on July 12, 2017 in accordance with the requirements of the New York Town Law, and notice was posted as required by law; and

**WHEREAS**, all persons at the hearing desiring to speak on the matter were heard, all correspondence on the matter was read and these statements were considered by the Planning Board.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Board hereby approves Special Permit **Application 2017-06P** submitted by the Town of Rush and the Monroe County Fair Association for use of the property at 6565 East River Road for the purpose of holding the annual Monroe County Fair and other related activities, subject to the following conditions:

1. The duration of the intended overall use is from the date of approval until December 1, 2027, coterminous with the 10-year lease by and between the Town of Rush and the Association, approved by the Town Board on July 12, 2017 for operation of the fair (the "Lease"); provided, however, that the special permit shall expire and be null and void upon the expiration or early termination of the Lease;
2. The Fair event will run three to four days each year in the month of July or August. The Association will use the facilities for up to two weeks before the fair for set-up purposes and for up to two weeks after the Fair in order to clean up and secure the facilities;
3. The Fair event's "public" hours will run from 11 am until 10 pm on weekdays and Saturday, and from 11 am until 5 pm on Sunday; Activities associated with

closing up daily operations shall be completed by 11 pm on weekdays and Saturday and 6 pm on Sunday;

4. There will be no amplified music after 9 pm on weekdays and Saturday or after 5 pm on Sunday;
5. During operation of the Fair, the Association will provide three portable light towers, one in each parking area; Existing outdoor lights on Buildings 5, 6, 7 and 8 will be used; Lighting will be dark-sky compliant, faced inward, shielded above and in compliance with the Town Code;
6. Temporary water service will be provide through a connection to the Monroe County Water Authority system;
7. The Association will provide at least three portable toilets and one portable bathroom shower with a grey water tank during the operation of the fair;
8. Ingress and egress will be via the main driveway and will be facilitated with the assistance of one or more attendant(s) provided by the Association;
9. Parking areas and driveways, as indicated on the Site Plan submitted with the application, will be adequately prepared to accommodate vehicular traffic and parking in accordance with the requirements of the Town Code;
10. Up to ten overnight campers/tents will be allowed to accommodate animal/live-stock caretakers;
11. There will be a total of 200 parking spaces in three parking areas as identified on the Site Plan submitted with the application; At least six parking spaces will be designated for the convenience of handicapped visitors;
12. Subject to the terms of the Lease, Building #6, the Riding Arena, will be used to house livestock and other animals to be exhibited during the fair;
13. No other buildings will be used for the fair until such time as the Association constructs the improvements as are necessary for the buildings to be suitable for use by the Association and the public as determined by the Town Board of the Town of Rush in accordance with the terms of the Lease;
14. Exhibits, displays, vendors, farm market stands, and the portable bandstand will be located in tents in the area bounded by Buildings #5, #6, #7 and #8 as reflected on Exhibit B of the Lease;
  - a. The attractions at the fair are more fully described in the Lease but generally consist of:
    - i. Competitive exhibits include livestock, horse & small animal shows; fine arts & photography; food competitions; domestic arts & crafts; flowers & vegetables; pulling competitions; and talent shows
    - ii. Live music from local and regional acts
    - iii. Demonstrations and educational displays such as robotics clubs, gardening talks, craft demonstrations, etc.
    - iv. Petting zoos, pony rides, and similar animal interaction events
15. There will be no rides or "carnival-type" games;

16. Alcoholic drinks will not be available except as otherwise provided under the Lease;
17. Animal waste will be collected and stored in a dumpster to be located adjacent to the north side of Building 6; Secondary containment will be provided to capture and contain any runoff from the dumpster; Animal waste and captured runoff will be properly disposed of within three days of the end of the Fair.
18. There will be 24-hour on-site security with at least two security people at all times, including overnight; the Association will also provide an emergency medical technician during operation of the Fair and a first aid station located prominently next to the Fair office.
19. In addition to the Fair event, and subject to the terms of the Lease, the Association may hold two single-day fundraising events during other times of the year;
  - a. Examples of such events include: a pancake fundraiser during maple syrup season and a rabbit or poultry show during the winter;
20. While the understandings and specifications noted here represent what is being proposed specifically for the 2017 Fair event, approval of the activities set forth in paragraph 14 above will be permitted for the duration of the special permit (unless it shall otherwise expire as a result of expiration of early termination of the Lease). Notwithstanding the foregoing, it is expressly understood and acknowledged by the Association that in the event the Association intends to conduct additional future activities associated with Fair events beyond those described in this special permit approval and/or in the Lease, the Association to the extent required by applicable law shall submit a modified Special Permit Application indicating all additional activities that it may wish to pursue, together with obtaining any necessary approvals for such additional activities.
21. This Special Permit is subject to the approval of the Town Engineer, and subject to receipt of any necessary approvals from the Monroe County Development Review Committee, the Monroe County Department of Health, the Monroe County Water Authority, the Monroe County Department of Transportation, and the New York State Department of Environmental Conservation (Storm Water Pollution Prevention Plan).
22. The Association shall comply with all applicable federal, state, and local laws and regulations.
23. The Association shall comply with the terms and conditions of the Lease, as well as any other approvals from or agreements with the Town of Rush;
24. The Association shall submit an Agricultural Data Statement in accordance with Section 283-a of Town Law.

RUSH PLANNING BOARD SPECIAL MEETING  
JULY 12, 2017

Board Member Strock seconded the Motion, and the Board polled:

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

With no further business, it was agreed by common consent that the meeting be adjourned at 8:25 pm.

Respectfully submitted,

Shivaun Featherman  
Deputy Town Clerk