

**RUSHVILLE VILLAGE BOARD MEETING  
PUBLIC HEARING  
October 5, 2015**

TIME: 7:00 PM

PLACE: Rushville Village Hall

PRESENT: Mayor Jon Bagley

Trustees: Charles Elwell, Timothy Jabaut, and John Sawers

ABSENT/EXCUSED: None

ATTENDANCE: Code Officer Reggie O'Hearn, Pat Sawers

RE: Calling the Meeting to Order & Opening the Public Hearing

Mayor Jon Bagley called the meeting to order at 7:00pm and opened the public hearing for the property maintenance and code violations issued against 2 Pine Street and 9 Chapel Street. Mayor Bagley turned the floor over to Code Officer Reggie O'Hearn to review the cases against each property.

RE: 2 Pine Street – Property Nuisance Abatement Law Violations

Code Officer Reggie O'Hearn provided copies of the violation materials to each member of the Board and such materials were reviewed and discussed. O'Hearn explained that his last conversation with the property owner's son, Seth Hilts, was productive and he seemed willing to cooperate. It is noted, the owner of the property has health related complications therefore many discussions took place with the son versus the owner, Sandra Hilts. However, the last communication O'Hearn had with the son was over 1 month ago. Since that conversation, O'Hearn has not received any phone calls from Mr. Hilts, and Mr. Hilts has not returned any of O'Hearn's phone calls.

The property is under violation of the Property Nuisance Abatement Law because open drainage has been dug and water runoff is being allowed to adversely impact the neighboring properties. Drainage from one property must be diverted into an underground drainage system or drained properly to the roadway ditch or storm water system. The open drainage ditch either needs to be restored to its original condition or the drainage ditch needs to be connected to an existing drainage pipe that exists approximately 4 feet underground. Currently two neighboring properties have received some water runoff from the property. Trustee John Sawers commented that there does not appear to be any measurable amount of water running off the property right now but there is certainly the potential for the neighboring properties to receive a damaging amount of runoff during a rain storm event or in the spring when the snow melts.

Mayor Jon Bagley suggested the Board takes the same course of action that was carried out for issuing the first violation ruling against 9 Chapel Street. Give the owner 30 days to comply and if the property is not brought into compliance, then a fine be issued. A discussion ensued regarding a course of action if the property continues to be non-compliant. From previous discussions with the Village Attorney, O'Hearn and Bagley shared that the Board cannot impose futuristic fines.

**RUSHVILLE VILLAGE BOARD MEETING  
PUBLIC HEARING  
October 5, 2015**

They can only act to fine from the period of the first notice to today, the date of the public hearing.

A motion was made by Trustee Timothy Jabaut and seconded by Trustee Charles Elwell to act upon the zoning code violations against 2 Pine Street by granting a period of 30 days to bring the property into compliance. If the property is not brought into compliance by November 10, 2015, a \$1,000 fine will be assessed against the property. Any unpaid fine will be levied against the property and applied to the June 1, 2016 tax bill. The motion was unanimously carried.

RE: 9 Chapel Street – Property Maintenance & Zoning Code Violations

O'Hearn provided materials to the Board for their review regarding the continued violations at 9 Chapel Street. Bagley explained to the other members that the inspection agreement approved by the Village Attorney still had not been signed. The agreement needs to be signed by the adult occupants of the property, Joseph and Maria Rosato and Laura Ninestine. They were instructed to come into the office to sign the agreement months ago so the Clerks could witness the signatures. The property owner, William Barker provided his own hand written permission letter, not the agreement approved by the Village Attorney. Discussion ensued about why the Village needs the approval of the occupants to inspect the property if permission from the owner has been received. O'Hearn explained that the Landlord Law of NYS gives extensive rights to the occupants of a rental property. Tenant have the right to occupy the property and the law even states that the landlord cannot bring people on the property without the tenants permission. The landlord has little control over the property without the necessary legal actions.

The Village Clerk shared with the Board a letter she received from Mr. Barker. He provided copies of the permission agreement signed by himself and the occupants along with his itinerary to Wisconsin, which is why he was not present at the hearing. The materials Barker asked the Clerk to share with the Board, minus the itinerary, were already provided by O'Hearn to the Board. Additional copies were not distributed.

Trustee John Sawers suggested that the Board continue the fines. The Village has no other course of action for enforcing compliance. The Board reviewed the actions they took at the July public hearing. The fine issued at that public hearing covered from date of first violation notice until the hearing in July. The actions from tonight's public hearing would cover from July until today, October 5<sup>th</sup>. At the July public hearing, Joseph Rosato stated he did not want O'Hearn on the property therefore he can no longer walk up to the front door in an attempt to communicate with them. He can only look at the property from the road and attempt to communicate in writing.

A motion was made by Trustee Timothy Jabaut and seconded by Trustee John Sawers to issue a fine in the amount of \$2,500 to property owner William

**RUSHVILLE VILLAGE BOARD MEETING  
PUBLIC HEARING  
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Barker for the continue zoning and code violations taking place at 9 Chapel Street. The motion was unanimously carried.

Final discussion took place regarding the safety concerns for O'Hearn and the two Clerks in the office. After Mr. Rosato's last visit the Clerk contacted Mayor Bagley due to Rosatos behavior and irrational allocations. Attorney Kenyon provided a letter for a Yates County Sheriff Deputy to deliver to Mr. Rosato stating he is no longer allowed on Village property and is only to enter the Village Hall if he has a scheduled appointment with Code Officer O'Hearn.

RE: Closing the Public Hearing and Adjournment

With no further comments from the Board and no public attendance the public hearing was closed.

A motion was made by Trustee Timothy Jabaut and seconded by Trustee Charles Elwell to adjourn the meeting at 7:29pm. The motion was unanimously carried.

Respectfully Submitted,

Jennifer Gruschow  
Clerk-Treasurer