

**RUSHVILLE VILLAGE BOARD MEETING  
PUBLIC HEARING  
June 15, 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: Reggie O'Hearn, Tawnee Badger, Bill Kenyon, Joseph Rosato, Maria Rosato, Laura Ninestine, Janet Landcastle, Pat Sawers, Jonette Keneston, Martin Close

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 9 Chapel Street. Mayor Bagley turned the floor over to Code Officer Reggie O'Hearn to present the case against the property owner, William Barker, and property occupants, Joseph and Maria Rosato. It was noted that the Mr. Barker could not be present for health related reasons.

RE: Property Maintenance & Code Violations: 9 Chapel Street

Code Officer Reggie O'Hearn presented the case for the property maintenance and code violation for 9 Chapel Street. The violations were issued to the property owner, William Barker of Rochester, NY and the property occupants, Joseph and Maria Rosato of 9 Chapel Street. Code Officer O'Hearn stated the violation notice was mailed on February 6, 2015, with an order of remedy date of March 9, 2015. Due to weather conditions the date of remedy was extended first to April 2, 2015 and then a second time to April 16, 2015.

The property at 9 Chapel Street is currently in violation of the following:

1. NYS Property Maintenance Code: Chapter 3 – Sections 301.2, 302.1 and 302.8.
2. Village of Rushville Local Law #2-2005: Property Nuisance Abatement Law
3. Village of Rushville Local Law #2-2011: Zoning Law

Code Officer O'Hearn reviewed and explained each violation in great detail, outlining the items in need of remedy for the individual violations. Additionally, a list of the vehicles on the property was examined by the Sheriff's Department and only one vehicle had a status of licensed and registered. On Friday, June 12<sup>th</sup>, Code Officer O'Hearn visited the property with Trustee John Sawers. Maria Rosato had given permission for an inspection and access to the property. During the visit, pictures were taken to document the current condition of the property, which showed the property to still be in violation. Code Officer O'Hearn continued by explaining what needed to be done in order to bring the property into compliance. Some cleanup had been done, however several items still needed to be addressed. A

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copy of the June 12<sup>th</sup> inspection report was provided to the Village Board members and to Joseph and Maria Rosato.

Mayor Bagley asked Code Officer O'Hearn if he had discussed the violations with the property owner, William Barker. Code Officer O'Hearn stated, yes, Mr. Barker had reviewed the violation notice and that he too would like to see the property cleaned up. Mr. Barker asked Code Officer O'Hearn to keep him informed and up to date of the status of the violations.

Mayor Bagley turned the floor over to the property occupants, Joseph and Maria Rosato to plead their case in opposition of the violations. Mr. Rosato detailed several items in the violation notice, stating what their purpose was.

- Much of the wood and metal on the property is for the barn he intends to build
- Vehicles are not stored in the lawn area; they are on a gravel driveway. An aerial map was provided for the Board to view.
- There is nothing illegal about having a bulldozer on his property
- Explained the purpose of the extra campers
- Snow plows are for business use.
- Claimed Code Officer O'Hearn accessed the property without his permission.
- Stated excess cars are registered at his father's business address and one of the cars identified is made of foam.
- One of the metal items is a pig roaster

Mr. Rosato went on to complain about the brush pile from the Mennonite farmer behind his house. He felt Code Officer O'Hearn should concentrate his efforts elsewhere and not single out 9 Chapel Street. Code Officer O'Hearn stated he has been in contact with the farmer and that he never enters a property without permission. He has always talked with at least Maria before entering 9 Chapel Street. Mr. Rosato continued to plead his case stating that he has 6 children and they require a lot of stuff. Additionally, his hobby is to fix-up cars. He said he does not strip cars or paint cars on the property. He keeps extra parts because old car parts are hard to find.

Mayor Bagley asked Mr. and Mrs. Rosato if brought any proof that the vehicles are registered. They answered no but an updated list was provided to Code Officer O'Hearn prior to the meeting. Code Officer O'Hearn stated he has not checked it against the Sherriff's data base. There was a dispute about Code Officer O'Hearn entering a camper on the property, because he knew there were car parts being stored in the camper. Code Officer O'Hearn stated he never enters a property or an accessory structure without permission. Mr. Rosato told him there were car parts in the camper. This is the third time this property has been in violation; he has talked with Mr. Rosato and visited the property numerous times in the past.

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Code Officer O'Hearn shared with the Board that he contacted the Town of Gorham Code Enforcement Office, and that there is no business legally operating out of the address where Mr. Rosato claims the vehicles are registered.

Resident Jonette Keneston stated she walked by the property and could not see anything due to the fencing and while on the property did not feel as if she was in danger or that there was a health hazard.

**RE: Closing the Public Hearing**

With both Code Officer O'Hearn and property occupant Joseph Rosato given ample opportunity to explain their positions and plead their cases, Mayor Bagley closed the public hearing. Mr. Rosato was informed that a decision would be made and he (and Mr. Barker) would be notified of such decision within 5 business days.

Jonette Keneston questioned why other properties are not being issued violation notices. She believes everyone has something that could under violation. Trustee Charles Elwell refuted her claim and stated that every property does not have violation issues. Mayor Bagley ended the questioning, stating that the public hearing had been closed.

**RE: Adjournment**

A motion was made by Trustee Charles Elwell and seconded by Trustee Timothy Jabaut to adjourn the meeting at 7:48pm. The motion was unanimously carried.

**RE: Decision Ruling**

Following the public hearing the Board convened to rule on the violations at 9 Chapel Street. Attorney Bill Kenyon reviewed the parameters with the members of the Board and stated their options.

Lengthy discussion took place regarding the violations at hand and what action the Board should take. Trustee John Sawers proposed ruling that one boat and one camper must be removed from the property and that Mr. Rosato must show good intentions that he will build his barn to house all of the items that are causing the violations. Further discussion took place regarding Trustee Sawers proposal that Mr. Rosato be ordered to build his barn. The remaining Board members did not agree this was within their legal authority. Additional discussion took place regarding the Village Zoning Law. What is the purpose of having a Zoning Law, if the Village Board does not follow through and enforce it? Trustee Charles Elwell presented an alternative proposal stating the Village Board must act on the facts in front of them. Again, further discussion took place.

A motion was made by Trustee Charles Elwell to rule as follows regarding the property maintenance and code violations for 9 Chapel Street:

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- A fine of \$500 is assessed against the property. This is due payable to the Village of Rushville by July 20, 2015. If such amount is not paid, it will be levied onto the 2016 tax bill.
- The violations are to be remedied and the property is to be brought into compliance, in accordance with your original violation notice, dated February 6, 2015. This must be completed by July 20, 2015; including complying with the number of boats and campers being stored on the property.
- If the violations are not remedied by July 20, 2015, the fine amount assessed against the property will increase to \$1,000.

The motion was seconded by Trustee Timothy Jabaut and carried with 3 ayes: Bagley, Elwell, and Jabaut. 1 Nay: Sawers.

The Board concluded their convening for ruling at 8:37pm.

Respectfully Submitted,

Jennifer Gruschow  
Village Clerk-Treasurer