

FINGER LAKES

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Judge signs order in city egg co-op dispute

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GENEVA — It remains uncertain when the ongoing dispute between Jeff Henderson and the city over his solar project and egg cooperative at 48-50 State St. will be settled.

Acting City Court Judge Stephen Aronson signed an order Nov. 24 stipulating the following:

“Ordered, that this action is stayed pursuant to general city law Section 81 (6).

“And it is further ordered that the defendant shall perfect his appeal to the city of Geneva Zoning Board of Appeals.”



Henderson

It doesn't say when the ZBA should consider the matter, nor whether Henderson is appealing decisions made by city officials or seeking a zoning variance for his project.

Henderson, who lives at 399 S. Main St., bought the property because his intended uses are allowed in that industrial zone. He received city Planning Board approval for the project in August, at which time he was told he did not

need ZBA review for the 200-foot setback requirement from nearby residences.

The Planning Board said the distance should be measured from the chicken coop structure, not the area where the hens roam. However, city officials and the Planning Board overlooked another code requirement that the industrial use be at least 100 feet from the boundary with the adjoining zoning districts.

They asked Henderson to seek a variance. He refused. When the stalemate persisted, the city took the matter to city court and filed an

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Issue not on ZBA's agenda for Dec. 16

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order to show cause Sept. 23. Henderson's lawyer, Donald Cheney of Canandaigua, responded with his own petition.

The two sides argued the matter in front of Aronson Oct. 9 in city court. City Attorney David Foster, who

filed the original show-cause order, represented the city.

Aronson issued his order from the bench after reading all the paperwork and hearing the oral arguments.

"The city has had my lawful request for an appeal, which is not a request for an area variance, since October," Henderson said. "David Foster had the judge's signed order in his possession for last Wednesday night's City Council meeting. Why he didn't brief the city manager beforehand, or make the contents of the order known during the meeting, is unclear to me. It's only a sentence and merely affirms what was said in court.

"Making this known would have alleviated the misconception and significant cause of confusion at the Council meeting, that the judge has required me to apply for an area variance. That's not what he has ordered."

Henderson maintained his continued operation of the cooperative is legal and will continue to be legal until the ZBA hears his appeal.

"The repeated characterization by the city that the co-op is operating out of compliance is not only incorrect, but an insult to all the well-intentioned citizens who are trying to do something good for their families and this community," he said. "I look forward to the hearing before the ZBA, whenever the city decides to place it on the agenda, and putting this whole mess behind us."

The ZBA meets Dec. 16, but the issue is not on that agenda.

"It was his counsel's request for time to return to the ZBA to present his position," Foster countered. "They have already missed one scheduled meeting. The court granted their request to make application. ... I am in the process of advising the court and counsel of the status and requesting a specific time and date."

City Manager Matt Horn said the order appears to leave open two possibilities: appealing the zoning officer's determination that a variance is required, or applying to the ZBA for an area variance.

He agreed Aronson's order does not give a return date or deadline to make an appeal to the ZBA.

"We assume that the court is just looking for a reasonable time frame in which to develop an appeal," Horn said. "We have afforded flexibility on this and can set a special meeting of the board when Jeff has provided his application, providing there is time for appropriate notice. ... We feel the order is in the spirit of the conversation and verbal order from the bench at the hearing. We stand ready to facilitate Jeff's appeal."