

FINGER LAKES TIMES

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Sunny side down



Spencer Tulis / Finger Lakes Times

Volunteers assembled Saturday to build a new chicken co-op at the Geneva Peeps location on State Street in Geneva.

City taking Henderson to court over egg co-op work

By **DAVID L. SHAW**

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GENEVA — The city is taking Jeff Henderson to court.

In a move rumored to be coming and made official Monday, the city:

- Has obtained an order to show cause why Henderson should not be required by the court to seek a ruling from the city Zoning Board of Appeals on zoning code compliance of his egg cooperative and solar panel project at 48-50 State St.
- Seeks the issuance of a stop-



Henderson

City Court Judge Stephen Aronson, serving as acting city court judge,

work order.

- Seeks the removal of the 23 or so hens on the industrially zoned site until compliance is determined.

Arguments in the matter are scheduled for 12:15 p.m. Thursday in city court. Canandaigua

will preside over the matter.

Henderson said Monday afternoon he had not yet heard of the development. This morning he confirmed that police served him with the show-cause order.

The order listed two addresses for Henderson: 55 Sherrill St. and 399 S. Main St., Apt. 5. Henderson said authorities spent time trying to find him at a Sherrill Street address, which he called incorrect.

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EGG

Cooperative has nearly 100 members

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Henderson said he will begin the process of finding a lawyer.

"I was really hoping it wouldn't come to that," he said. "I concluded my last message to City Council and staff with a request for dialogue. I stated that the only way forward would be engagement by all parties."

Henderson said not a single recipient of that message replied.

"Permission for the project to proceed was given, based on thorough and lawful review, but now that that permission has become political," he said. "It's profoundly disappointing that this is how we do business in this city. How much time and energy have now been spent, with countless more to be wasted, by hand-wringing over two dozen chickens?"

Henderson said although the lawsuit is aimed at him, it will affect an egg cooperative with close to 100 members.

"The city's actions are

destructive to the very community building we are trying to achieve," he said. "I held out hope for reason and proper procedure to prevail. Now, I am prepared to defend this project vigorously and to the last."

City Attorney David Foster drafted the show-cause order and Aronson signed it. The cover page states it was "duly served upon the defendant."

The city's statement in support of the show-cause order asks Aronson to:

- Direct that any and all work on the 48-50 State St. project stop immediately and that Henderson be directed to cease any further work on the project, such as electrical hookup and power generation, pending a proper zoning determination.

- An order for removal of the chickens present on the property.

- An order directing that any collateral use of the property for solar energy generation and usage stop and cease immediately pending proper zoning determination.

- An order directing that the project be submitted to the city ZBA by a proper and timely application.

- An order to discontinue operations within 72 hours of the order, and each day the site remains non-compliant with the order, a fine of \$200 be levied against Henderson.

- Any further relief the court may seem just and proper.

Foster states that Henderson received letters from the city Aug. 20 and Sept. 3 asking him to delay the operation of the chicken cooperative project and discontinue any operations on the property that conflict with the current zoning requirements.

He submitted a copy of Henderson's written response, dated Aug. 21, indicating his intention to proceed with the project, citing unanimous approval from the city Planning Board July 21.

The Planning Board approval did not require Henderson to seek any further approval from the ZBA. It was later determined by Planning and Zoning Coordinator Neal Braman that there was a zoning code issue to resolve.

Foster said at the time of the city's Aug. 20 letter, the

State Street project was incomplete. However, he noted that in succeeding weeks work progressed daily and rapidly with the addition of fences, solar panels and egg-laying hens.

"Mr. Henderson has no intention of addressing the zoning issues inherent in this project to a board or commission charged with adjudicating such issues," Foster wrote.

He attached photographs of the site, noting the parcel is zoned industrial and abuts a residential zone. The industrial zone allows chickens.

He said Braman has told Henderson the Planning Board's approval is incomplete in the absence of ZBA approval on buffers, setbacks, composition and height of fences requirements of the zoning code.

"The property values of adjacent land and home owners is at stake, as are the legitimate and reasonable expectations of quiet property enjoyment by neighboring landowners," he states.

He said the ZBA is the proper venue for determining zoning issues.

Braman made the actual complaint that Henderson was violating the city code, Section 350-26.