

**Village of Tannersville
Public Hearing for Variance
Tuesday, July 27th, 2004, 5:00 pm**

A Public Hearing was held on Tuesday, July 27th, 2004 at 5:00 pm in the Village Hall.

Present: Glenn Weyant, Mayor
Paul Morra, Trustee
Edward Legg, Trustee - Absent
Robin L. Castle, Clerk
Tal Rappleyea, Village Attorney
Keith Griffin, Village CEO and Building Inspector

Also Present: Loring and Anne Pratt, Donna Weyant, Greg Lubow, Jeff Prince.

The Mayor opened the meeting with the Pledge of Allegiance.

The applicant had not arrived at the public hearing at this time. The Village Attorney stated that the Board should allow 10-15 minutes before closing the public hearing or moving on to the next item on the agenda.

The Mayor then recessed the meeting until the applicant or their representative, Greg Lubow Esq.

The Meeting was reopened with a motion by the Mayor at 5:10 and seconded by Trustee Morra. All in favor motion carried.

The Mayor then turned the floor over to Greg Lubow, the attorney for TYC Land Corp.

Mr. Lubow stated the Village has all of the plans of the building that is up. The building is located within a foot of the property line. The application is for a variance on the 20 foot setback requirement.

He continued stating that they believe the building is a great asset to the Village of Tannersville and a substantial improvement to the building that was located there before and considered a fire trap. It is their position that the building is architecturally and structurally sound. He then asked the Village Board to grant a variance to the setback requirement so the building can stay there.

The Mayor then opened the floor to public comment.

Loring "Skip" Pratt stated that this process had been going on for at least six months and Mr. Hangarter showed him (Skip) around the building and told him he had nothing to comment on since he (Mr. Hangarter) was following the rules of the Village

Mr. Pratt Continued stating that at some point, Mr. Lubow and Mr. Hangarter had asked him for a letter to state that he approved of the construction. Mr. Lubow gave Mr. Pratt a copy of what he should write. Mr. Pratt stated that he felt the letter was nothing he could sign, and gave the Village and Mr. Hangarter a copy of what he could write. Since March, he has had no contact with Mr. Hangarter. He then stated that he and his wife were becoming disturbed with the construction of the deck which is basically right to the property line. Last weekend there was loud music playing and barbecue pits outside, some of which still remain on his (Pratt's) land. This is a fire trap to his land and his building. It is his feeling that the deck should be taken back to what ever the Village Board deems necessary.

The Mayor then explained what a set back was to clear up Mr. Pratt's unfamiliarity with it. He stated that there is a setback requirement by law that the Village has on the books stating that people can build only so far from the property line. What they (TYC) is requesting is a variance on that law so they can build their property up to or to one foot from Mr. Pratt's Property.

The Mayor continued stating in the Land Use Ordinance specifically states that there is a setback that must be maintained. However there is a variance clause that states if they want a variance, then they have to have public hearings and board meetings asking the Village Board for a variance.

The Mayor asked Mr. Lubow if the Village had a map where the property lines now exist with the structure and the deck.

Mr. Lubow stated that the Village did have a map of the property lines and structures, but it may not show the deck. At certain locations the deck is up to a foot from the property line.

Mr. Pratt stated that he received a map of where the 2 properties were and where they were going to be. Mr. Pratt also noted that a survey should be updated and certified to Mrs. Pratt and himself because they are the abutting parties.

Mr. Pratt continued stating that there is a new scene in that part of town – Slopes operation has moved to The Yacht Club. Mr. Pratt stated that he and his wife have operated residential units since 1972.

In addition to the survey being updated Mr. Pratt would like the deck, which he regards as a fire hazard and a noise hazard, to be removed. He also asked if the Village would consider a noise ordinance to be helpful. He stated that they (Mr. & Mrs. Pratt) do not support this request at this time.

The Mayor stated that the Village has a set of maps that shows the property lines and the deck, showing that it is one foot from the property line also.

Mr. Pratt stated that he had requested this map certified to him and his wife, but had no response from the applicant.

The Mayor stated to Mr. Lubow that at the last meeting that was held regarding this matter that TYC was to get in touch with Mr. Pratt to get his approval of this matter.

Mr. Lubow stated that what the board had suggested was that if they got approval from Mr. Pratt, then there would not be a need for the public hearing. However Mr. Pratt had indicated that he was not in favor of this project and they did not push for the letter, and therefore this public hearing is being held.

Mr. Pratt stated that he has seen where the party scene has moved up to the Yacht Club and also on to his (Mr. Pratt's) property.

Tal Rappleyea stated that he wanted to clear up the issue as far as the variance is concerned. For properties on Main Street (with in 100 feet of the Main Street), which is NYS Route 23A, there is a 10 foot setback from the property line. If you are outside of this distance then the setback is 20 feet. Either way this variance would have to come into play because they are either looking for a 9 foot or a 19 foot variance.

Mr. Lubow stated that he was unaware of a 10 foot setback requirement. It was always his understanding that there was a requirement outside of the designated area from South Main down to the Stop light, perhaps the High School. In a commercial area of Main Street, it was his understanding that there was a zero foot setback. There was no setback other than the building code requirements. Outside of the main street area there was a 20 foot setback. In November of 2003, an artist submitted a drawing showing how the building was going to be laid out to the Village.

Mr. Lubow then asked the board to recess so he may go get his file on this matter.

The Mayor called the meeting to recess for 5 minutes to allow Mr. Lubow to get his files.

The Meeting was brought back into session upon Mr. Lubow's return.

Mr. Lubow showed the board the sketch he was previously referring to that was supposedly submitted to the Village back in October-November of last year when the original plans were submitted. It shows the property and the extent of the use as submitted by Rich Drao in 2003.

The Mayor stated that this drawing does not reflect what is up there now. It does not show where the deck zig zags out. The Mayor asked Keith Griffin if he had received this drawing and if it was in our possession.

Mr. Griffin said that he was asked by the person who drew that to withdrawal it from public record for what ever personal reason he had and it was sent back to him.

Mr. Lubow stated that the drawing shows the original intent of what this building was going to be and that was to have outside dining.

Mr. Lubow stated that he lives behind the Yacht Club, outside the Village (limits) but not that far from the Yacht Club. On Friday and Saturday nights, there would be music playing until sometimes 2:00 in the morning.

Mr. Pratt stated that he has been operating residential business since 1972 and is aware of what is in the Yacht Club, and he was under the impression that the operation had a stop on it. Last weekend the music was blaring, and the windows were open in the direction of Mr. Pratt's property. When this building gets into full operation it will be Slopes, East because that is what it's starting to be. They (TYC) are being arrogant enough to leave a barbecue pit on his (Mr. Pratt's) land which still sits there to this day.

Trustee Morra asked Mr. Pratt if there could be anything done to make him and his wife happy with this situation.

Mr. Pratt replied that they could remove the deck, provide them with a survey certified to Anne (his wife) and himself, and create a noise ordinance, or at least prohibit the speakers from being on the outside of the building.

Trustee Morra stated that the Village is in the process of creating a noise law to cover the entire Village. The Mayor added that it will be presented at the next board meeting.

Mr. Pratt again expressed his concern for the deck. Mrs. Pratt added that they would like to be able to rent their property to good tenants.

The Mayor stated that before they vote on the variance, if the two involved organizations, (TYC and Mr. & Mrs. Pratt) could get together and work out an agreement. It is in the best interest of the applicant to try and work things out with the abutting properties.

Mrs. Pratt asked if there could be a time the noise could shut down, not necessarily the bar. If not this may drive all tenants out of Tannersville, not just theirs.

The Mayor asked Mr. Lubow if he would take the lead in trying to work out an agreement between the two parties or if he would like to request the vote from the board.

Tal interjected and stated if they did want to work out an agreement with the two parties the Village would need consent from the applicant to postpone the vote. In accordance with our own law, a decision should be made today, unless the applicant wishes to extend the 45 day deadline. If they do not wish to extend the deadline, then the board must make a decision.

Mr. Rappleyea, Mr. Griffin, and Mr. Lubow discussed specific distances and locations on the map provided to the Village on May 10th, as well as pre-existing structures. Specifically in regard to the amount of setbacks and variances required. The Mayor then asked if this drawing reflected the roof line change. Mr. Griffin showed the location of the roof line change.

Mr. Lubow stated that wherever the Village feels that they (TYC) are in need of a variance, they are requesting a variance to the setback requirements.

Tal stated that in order for the variance to be approved, there has to be a unanimous vote from the board.

Jeff Prince stated that he was in support of the idea of the two parties trying to reach a compromise if it can be done. He asked if it was possible to recess after the public hearing so the two parties could work something out.

Tal stated that only upon their (the applicant's) consent can we recess for the two parties to try to reach an agreement on this matter, then we could either close the public hearing or leave the Village Board x number of days to reach a decision.

Mr. Rappleyea's recommendation is that the public hearing be held open then what further testimony that was wanted to be on the record, will be on the record for the decision of the Board.

Jeff Prince wanted to know if the location of the Yacht Club was considered Main Street or not. The interpretation of where these buildings are can make this decision on this variance.

Donna Weyant stated that the building was put up illegally with out any permits.

Mr. Rappleyea quoted the Local Law Number 71-01 regarding set back requirements:

“Setback requirements from the street: A: Main Street Center – No building shall be built on Main Street, also being Rout 23A, between the South Main Street on the East, and the Entrance to the High School on the West unless the same is set back at least ten feet from the street boundary. B. Main Street Outside –“

Mr. Lubow Interrupted that it is crystal clear that the setback is 10 feet from the street boundary and not the property line.

The Mayor stated that this is only one of the set backs.

Jeff Prince stated that his concern is not with the parties but with that the law itself needs to be understood.

The Mayor stated that he has read the law himself and the understanding that [the board] has is that Mr. Hangarter needs a variance for the work done on that property.

Jeff Prince stated that he would like Mr. Rappleyea to continue reading the passage from the law, and that he feels that Mr. Hangarter doesn't need a variance because his property doesn't seem to be on Main Street.

Trustee Morra stated that we are not here to pick the law apart, and Mr. Prince stated that we need to understand the law.

Mr. Lubow then stated that without waiving any of his client's rights, he consents to an extension of keeping the public hearing open until 6:00 before the next board meeting on August 12th, 2004.

Mr. Rappleyea began to read the section of the Land Use and Setback Law regarding commercial area:

‘The Following areas of the Village are to be classified as commercial or residential purpose at the discession of the land owner: All of the land with in 100 feet from either side of Main Street and Spruce Street.’

Mr. Rappleyea continued that this sets up an exception to the rule of 20 foot or 10 foot setback so there is no setback within that 100 foot area on Main Street and along Spruce

Street. Having said that this property (The Yacht Club) is greater than that 100 foot area from Main Street, regardless of how the property gets access to the Main Street.

Jeff Prince stated that if a piece of property has an address of Main Street for tax purposes then we should see that it is on Main Street.

The Mayor stated that this public hearing was to approve or disapprove a variance not to approve or disapprove the law. He also stated that the board is aware of where this situation will be going if they do not approve the variance, and the judges will tell them. The applicant personally came to the mayor and stated that this was going to be a long drawn out legal battle and cost a lot of money.

The Mayor stated that the Village wants to do things in the best interest of all of the property owners in the Village.

Jeff Prince stated that if this property sells he will want to know where this situation is going. The Mayor suggested that he follow the meetings and public hearings regarding the matter.

Mrs. Pratt stated that there are many disasters that could happen as a result of this matter. A person could get drunk and fall down and hit their head on their (Pratt's) railing because it is too close to TYC's railing – then who will be held liable. Mrs. Pratt also expressed concern because of the sewer line that runs between the two properties.

The Mayor asked Mr. Lubow if there was a letter from DEP stating they allowed the deck to be built over the sewer line.

Mr. Lubow stated that the DEP requested that they (TYC) send them a letter indicating that the outdoor deck is built on pallets and its pieced together with panels enclosed by railroad ties, and both are bolted together. It will take about an hour to take this deck apart to gain access to the sewer line. They (TYC) also stated that if the DEP needs to get into the sewer line in an emergency, they may take the deck apart and will not be held harmless for any damage caused. If the DEP gives TYC 2 hours notice they will have the deck apart within an hour.

The Mayor stated that the Village polices the sewer lines and its stated in a sewer ordinance.

Tal stated that he has a copy of the letter Mr. Lubow was referring to and he himself has been in contact with the DEP and a lady was looking into whether or not the DEP had responded to the letter.

Greg Stated that he dealt with Patrick Polesino in regards to sewer matters from the DEP.

The Mayor stated that he deals with Gail Buckman on a regular basis.

Mr Pratt stated that there is a lady from Lady Rooter video taping the sewer lines. The Mayor added that the DEP had just finished videotaping the sewerlines last year.

Trustee Morra stated that he would only agree to the postponement of the public hearing if MR. & Mrs. Pratt agree to it.

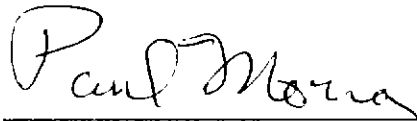
Mr. & Mrs Pratt have agreed to the extension.

Trustee Morra made a motion to extend the public hearing until 6:00 pm on August 12th, 2004. The Mayor seconded the motion. All in favor motion carried.

Trustee Morra made a motion to adjourn the public hearing until 6:00 pm on August 12th, 2004. The Mayor seconded. All in favor, motion carried.

Trustee Morra made a motion to close the special meeting. The Mayor seconded. All in favor, motion carried.

Glenn Weyant, Mayor



Paul Morra, Trustee

Edward Legg, Trustee - ABSENT