

May 7<sup>th</sup>, 2009

A Special Meeting of the Town Board was held at the Town Hall on May 7<sup>th</sup>, 2009 at 7:35 PM with the following members present: Richard Rowland, Supervisor; Daniel Pemrick, Peter Coseo, Thomas Kinsella and Daniel Cochran, Councilman. Also present was Highway Supt. Walt Barss and 4 residents.

Violations at 113 Daniels Road - Supervisor Rowland advised that the Town Board had received a packet of information from the Code Enforcement Officer which included violation notices, Stop Work Order, violation inspection timeline and photos. Also included in the packet was a proposed resolution to authorize the commencement of a Saratoga County Supreme Court action to pursue preliminary and permanent injunctive relief. Board members reviewed the packet of information. Pemrick, C. asked when someone from the Town last spoke to Mr. Daniels. Supervisor Rowland stated that according to the timeline, the Code Enforcement Officer first met with Mr. Daniels and the property owners regarding the violations on 3/30/2009. On April 28<sup>th</sup> the Code Enforcement Officer met with Mr. Daniels, at the Town Hall, at which time he stated that he was not working on site. At that same time he received a complaint about the grinding operation running and a site inspection on 4/28/09 confirmed the complaint. Photos taken on 4/28/09 are included in the packet. Supervisor Rowland stated that he drove by the property this afternoon and observed a load of logs being unloaded on the site. The Code Enforcement Officer also made a site inspection and confirmed that a logging truck was on site and unloading in violation of the Stop Work Order of 3/25/09. Photos also included in packet. Coseo, C. stated that it was his understanding that a Special Use Permit was issued, possibly under the grandfather clause, and asked what it allowed. Supervisor Rowland stated that the Stop Work Order was issued for violations of Section 105-135 – C1 & C2 - Storage and Dumping; Section 54-7 – Building without a Building Permit; Chapter 85 – Stormwater Management; Section 105-13 – Commercial Timber Harvesting and for the expansion of the chipping operation. Supervisor Rowland referenced the Code Enforcement Officer's letter dated March 24<sup>th</sup>, 2009 which indicates that Mr. Daniels was in violation of his previously approved Special Use Permit. Supervisor Rowland also stated that he had asked the Code Enforcement Officer if DEC had issued any violations. The Code Enforcement Officer indicated that to his knowledge they had not, however he was not sure if they were aware of the situation. The owners of the property obtained a Special Use Permit for the installation of the 2<sup>nd</sup> mobile home, however they did not receive a building permit. The concrete pad for the mobile home was poured without a permit. Coseo, C. noted that the proposed resolution authorizes the Town Supervisor to arrange for payment of any Court and/or litigation costs and questioned what account that would be paid from. Coseo, C. added that he would like to request that the Town Attorney look into the possibility of seeking damages and recouping all costs incurred by the Town. He felt that the Town Board should support the Code Enforcement Officer with these on-going violations.

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RESOLUTION # 76 - Authorizing Commencement of Supreme Court  
Action in Connection with Property at 113  
Daniels Road

Motion: Coseo, C.

Seconded: Pemrick, C.

WHEREAS, The Greenfield Town Code Chapter 54 provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code, and

WHEREAS, Section 54-11 provides that, where work is conducted in violation of the provisions of the applicable Building Laws, Ordinances, Rules or Regulations or not in conformity with the provisions of an application or in an unsafe and dangerous manner, the Building Inspector may issue a Stop Work Order requiring the owner to suspend all work until the Order has been rescinded, and

WHEREAS, Charles Mabb, occupies the property located at 113 Daniels Road, Saratoga Springs, NY, in the Town of Greenfield (Tax Map No. 152.-2-4), and

WHEREAS, Earl and Florence Mabb are the record owners of the property but have been deceased for many years, and

WHEREAS, Rocky Daniels, of 91 Daniels Road, Lake Luzerne, NY 12846 is currently undertaking commercial/industrial development activities at the property, and

WHEREAS, the Zoning Administrator, performing his duties as Code Enforcement Officer determined that commercial/industrial activity at this property was proceeding in violation of the Code of the Town of Greenfield and issued a Stop Work Order, and

WHEREAS, contrary to the terms of the Stop Work Order, Charles Mabb and Rocky Daniels continue commercial/industrial activities, and therefore the Town's Zoning Administrator who is charged with enforcement of the Town's Code has recommended that the Town Board commence a Supreme Court Action against Charles Mabb and Rocky Daniels to require them to bring the property into conformance with the Town Code, and

WHEREAS, the Greenfield Town Court lacks injunctive power to require this action, and

WHEREAS, the Greenfield Town Board wishes to pursue preliminary and permanent injunctive relief requiring the property occupant and developer cease all commercial/industrial activities and cure all existing violations of the New York State Uniform Fire Prevention and Building Code and/or Town Code,

NOW, THEREFORE, BE IT RESOLVED, that the Greenfield Town Board hereby authorizes and directs the commencement of a Saratoga County Supreme Court action to pursue preliminary and permanent injunctive relief against Charles Mabb, Rocky Daniels and any other persons who may be determined to have an ownership interest in the property located at 113 Daniels Road, Saratoga Springs, Town of Greenfield (Tax Map No. 152.-2-4) as referenced in the preambles of this Resolution, and

BE IT FURTHER RESOLVED, that the Town Board authorizes and directs the Town Supervisor to arrange for payment of any Court and/or litigation costs

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related to this matter from the account(s) deemed to be appropriate by the Town Supervisor, and

BE IT FURTHER RESOLVED, that the Town Board authorizes and directs Town Counsel to file any necessary documentation to commence such proceeding and the Town Supervisor, Town Counsel and Zoning Administrator to take any and all action necessary to effectuate all terms of this Resolution.

Discussion: Warren Vicha, 131 Daniels Road - Mr. Vicha stated that he lives directly adjacent to the Mabb property and that he has expressed his objections to the grinding/chipping operations since 2007. He stated that the noise and fumes are unbearable. He added that the clear cutting of the property only made it worse. Coseo, C. stated that the action that the Board is looking to take will address several issues. Additionally, he believed that the Planning Board would revisit the Special Use Permit. Most likely there was a required buffer which is no longer there. He suggested that Mr. Vicha hold on to all his paperwork and present it to the Planning Board. Kinsella, C. stated that with the resolution that the Town Board was proposing, they were looking to stop all operations on the site. It would open up the review process again. Mr. Vicha stated that he would like to see the Special Use Permit removed all together. He stated that he has lived there since 1977. The Mabbs were always in the firewood business, however they were never in the business to make mulch. Coseo, C. noted that if the Town is successful in obtaining the injunction and they continue to operate, they would be in contempt of court. Mr. Vicha stated that he had called the Sheriff, however he was told that there was nothing that he could do. It was a Civil matter. The Sheriff suggested that he contact DEC regarding the fumes and noise. Kinsella, C. thought that it was a good idea and suggested that Mr. Vicha also ask them about the alleged Stormwater violations.

VOTE: Ayes: Rowland, Pemrick, Coseo, Kinsella, Cochran  
Noes: None

On motion of Coseo, C. and seconded by Cochran, C., the special meeting was adjourned at 7:55 PM.

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Town Clerk