

## Tannersville Board Illegal, Judge Rules

A judge has found Tannersville in violation of a state law requiring villages to have a Village Board consisting of a mayor and four trustees, and a separate Zoning Board of Appeals.

In a ruling dated July 10, acting state Supreme Court Justice Cathryn M. Doyle ordered the village to "take whatever steps are necessary to bring both the Board of Trustees and the Zoning Board of Appeals in compliance with New York State Village Law."

The Tannersville Village Board currently consists of a mayor and two trustees who also serve as the Zoning Board of Appeals.

The court ruling was in response to a lawsuit filed by property owner Thomas Hangarter against former village Mayor Glenn Weyant; former trustees Paul Morra and Edward Legg; current Mayor Gina Legari, who was named as a trustee; and former Code Enforcement Officer Keith Griffin.

Hangarter sued the village amid a dispute over zoning issues related to his property. The filing date was not immediately available.

According to the judge's summary of the case, Hangarter owns property off Main Street in Tannersville and leases it to the Yacht Club restaurant and bar. Hangarter was granted a permit to build a deck on the premises, but Griffin issued a stop work order, cited him for exceeding the scope of the proposed work, violating building codes and a setback requirement, which resulted in a stop work order being issued.

Griffin alleged that Hangarter ignored the stop work order and not only built a new deck, but also expanded the business. Hangarter negotiated with the Village Board and then-Mayor Weyant to take steps to bring the project into compliance and also applied to the board for a variance and site plan review. The village then started an enforcement proceeding against Hangarter, which was moved to Halcott Town Court.

Doyle wrote that the state's Village Law requires each village to have a mayor and four trustees unless a permissive referendum is held to change that number. She said the defendants did not produce any proof that the village was in compliance with the law.

Village Law also prohibits trustees from simultaneously serving on a Zoning Board of Appeals. She said the mayor is obligated to appoint a separate zoning board, subject to the approval of the Village Board.

"Here, the record is clear that the Village Board of trustees has also been acting as the Village Zoning Board of Appeals contrary to statute," Doyle wrote. "By reason of the foregoing, the village's actions are unlawful."

Attorney Mathew Tully, whose firm Tully Rinckey PLLC represented Hangarter, said the original permit granted to Hangarter was based on a zoning law written and adopted by two village trustees. He said the zoning law should have been adopted by a majority of the Village Board, but because the village operates with less than the requisite number of

trustees, that didn't happen.

Additionally, Tully said, the reviewing agency is supposed to be a separate body.

"And it's our position that this has invalidated all prior village laws," said Tully, who has also filed a civil rights suit in U.S. District Court in Albany on Hangarter's behalf.

Hangarter could not be reached for comment Wednesday.

"We're looking into it at this point and we'll see what measures we'll have to take because of the decision," Legari said Wednesday. She said she believes the issue of the number of trustees has been addressed because the Village Board in April adopted a resolution to have a five-member board. Legari said that will take effect with the next village election in March.

Legari also said the village has taken Hangarter to court, but she would not elaborate.

Doyle had also been asked to determine whether Weyant was eligible to serve the village after purchasing property in Florida and residing there. She concluded that issue was moot because he resigned before the case was decided.