

**Moultonborough Zoning Board of Adjustment
P.O. Box 139
Moultonborough, NH 03254**

Regular Meeting

June 15, 2016

Minutes

Present: Members: Bob Stephens, Russ Nolin, Bob Zewski, Robert St. Peter
 Alternates: Nick DeMeo, Richard Jenny, Paul Onthank
Excused: Member: Ken Bickford
 Alternate: Jerry Hopkins
Staff Present: Administrative Assistant, Bonnie Whitney

I. Call to Order

Chairman Stephens called the meeting to order at 7:00 PM and led the Pledge of Allegiance. He then introduced the members of the board to the public. Mr. Stephens appointed Richard Jenny to sit on the board with full voting privileges in place of member Ken Bickford.

II. Pledge of Allegiance

The Agenda items were taken out of order this evening.

IV. Hearings

V. Correspondence

1. Mr. Stephens noted the board was in receipt of a Request for Rehearing concerning the May 4th denial of a Variance Application of Leon Haydon for a 24' x 24' proposed Garage on Tax Map 252, Lot 23, Winaukee Road at Ben Ayers Road, Moultonborough, submitted by Christopher L. Boldt, Esq. The Chairman stated the Boards only action this evening is to determine whether or not the information provided by the applicant's attorney justifies the board granting a rehearing. He stated he would like to read an excerpt regarding rehearing's, noting that coming to light of new evidence is not a requirement for granting a rehearing. The reasons for granting a rehearing should be compelling ones. The Board has no right to reopen a case based on the same set of facts, unless it is convinced that an injustice would otherwise be created, but a rehearing should be seriously considered if the moving party has persuasive that the Board has made a mistake. Don't reject a motion for rehearing out of hand merely because there is no new evidence. To routinely grant a rehearing request would mean that the first hearing of any case would lose all importance and no decision of the Board would be final until two hearings have been held. The rehearing process is designed to afford local zoning boards of adjustments an opportunity to correct their own mistake before appeals to the court. He summarized that the gist of that effectively is, does the Board after reviewing Attorney Boldt's citation, feel as though there was an error made on the part of the Board in applying the information provided by the Applicant to the statutory criteria. Mr. Stephens noted it was up to the board to decide by a vote, as to whether or not they grant a motion for a rehearing.

Mr. Nolin stated that personally before he made a decision, and cautioned the Board prior to making a decision, to seek council's opinion on the request submitted from Attorney Boldt. As noted, the Town is currently without council at this time and Mr. Nolin made a motion to table this request until such time

that as a Board, they can meet and discuss with council and discuss the information provided, and get an opinion. There was no second on the motion.

The board discussed this request and was in agreement to grant the request for rehearing.

Motion: Mr. St. Peter moved to grant the Applicants request for a rehearing to enable the Board to seek Town Council due to the fact that there currently is no Town Council available at this time to discuss the Applicant's request prior to the 30-day statutory period, seconded by Mr. Zewski, motion passed, four (4) in favor (Stephens, Zewski, St. Peter, Jenny) and one (1) opposed (Nolin).

VI. Unfinished Business

1. Review and possible authorization for the Chairman to sign the formal Notice of Decision for the May 18th, 2016 granting of a variance for Mark & Kathy Nai, for a parcel located at 16 Connector Road (Tax Map 223 Lot 11).

The Board reviewed the draft Notice of Decision prepared by staff, as directed by the Board at the hearing on May 18th. There were no changes made to the draft.

Motion: Mr. Zewski moved to approve the formal Notice of Decision as written for Mark & Kathy Nai, Tax Map 223, Lot 11 and to authorize the Chairman to sign and staff to mail said notice to the applicant or applicant's agent, seconded by Mr. St. Peter, motion passed, five (5) in favor (Stephens, Nolin, Zewski, St. Peter, Jenny), and none (0) opposed.

III. Approval of Minutes

Motion: Mr. Zewski moved to approve the Zoning Board of Adjustment Minutes of May 18th, 2016, as written, seconded by Mr. St. Peter, carried unanimously.

VII. Adjournment

Motion: Mr. Zewski made the motion to adjourn at 7:33 PM, seconded by Mr. St. Peter, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant