



CELEBRATING OVER 35 YEARS OF SERVICE TO OUR CLIENTS

Please respond to our Meredith office

November 17, 2021

Town of Barrington
Zoning Board of Adjustment
Ray Demarais, Chair
P.O. Box 660
333 Calef Highway
Barrington, NH 03825

Re: Case Number 220-54.16-GR-21-AMENDZBAVar

Dear Chair Demarais and Members of the Zoning Board.

The purpose of this letter is to briefly respond to the Motion for Rehearing submitted by Tory Bianchi regarding Case Number 220-54.16-GR-21-AMENDZBAVar.

As you know, a request for rehearing must “set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable.” RSA 677:3. In Mr. Bianchi’s letter, the only apparent ground alleged is that Mr. Bianchi did not avail himself of the opportunity to speak in opposition of the application. However, that is not an error of law that warrants rehearing.

The procedural requirements applicable to ZBA hearings require the Board to provide notice in advance of a hearing and to provide an **opportunity** for applicants, abutters, and the public to speak at that hearing. The Board has no obligation to ensure any particular abutter avails themselves of that opportunity.

The Board provided the required statutory notice prior to the October 20, 2021 hearing. Chair Demarais opened the hearing to public comment during the October 20, 2021 hearing. In doing so, Chair Demarais was very clear that the Board was hearing comment only on whether the Applicant satisfied the home occupancy criteria and not on whether the Applicant had satisfied the variance criteria. The Chair repeated this multiple times during the ensuing public comment period. Members of the public had the opportunity to speak for and against the issue of whether the Applicant satisfied the home occupancy criteria, and people did in fact avail themselves of that opportunity both in favor of and in opposition to the Application. That is all that the law requires.

DONAHUE, TUCKER & CIANDELLA, PLLC
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253
83 Clinton Street, Concord, NH 03301

LIZABETH M. MACDONALD
JOHN J. RATTIGAN
DENISE A. POULOS
ROBERT M. DE ROSIER
CHRISTOPHER L. BOLDT
SHARON CUDDY SOMERS
DOUGLAS M. MANSFIELD
KATHERINE B. MILLER
CHRISTOPHER T. HILSON
HEIDI J. BARRETT-KITCHEN
JUSTIN L. PASAY
ERIC A. MAHER
CHRISTOPHER D. HAWKINS
BRENDAN A. O'DONNELL
ELAINA L. HOEPPNER
WILLIAM K. WARREN
SAM M. GONYEA

RETIREE

MICHAEL J. DONAHUE
CHARLES F. TUCKER
ROBERT D. CIANDELLA
NICHOLAS R. AESCHLIMAN

The fact that neither Mr. Bianchi (who was present during the Hearing) nor his wife (who was present remotely through Zoom) took the opportunity to speak does not render the ZBA's decision unlawful or unreasonable. Similarly, the Bianchi's had notice of the hearing and an opportunity to submit comments via letters or e-mails, and they failed to avail themselves of this opportunity.

The Board complied with all applicable procedural requirements, and held a thorough, fair hearing on the Application. The Board's decision is lawful and reasonable, and the Applicant requests that the Board deny the Motion for Rehearing.

Thank you,

A handwritten signature in black ink, appearing to read "Brendan O'Donnell". The signature is written in a cursive, slightly slanted style.

Brendan O'Donnell