



Town of Hopkinton

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HOPKINTON ZONING BOARD OF ADJUSTMENT NOTICE OF DECISION JANUARY 5, 2012

Notice is hereby given that the Hopkinton Zoning Board of Adjustment held a meeting on Thursday, January 5, 2012, at 7:00 PM in the Hopkinton Town Hall. During the meeting, the Board made the following decisions:

- I. Motion for Rehearing** submitted by Attorney Stephan Nix on behalf of Jamie & Kathleen Schoch and Richard & Jayne Schoch, dated December 14, 2011, and received on December 15, 2011. Motion for Rehearing pertained to the Zoning Board of Adjustment decision of November 17, 2011, in which the Board denied the Applicant's (Case ZBA#2011-10) ADMINISTRATIVE APPEAL of the Selectmen's decision of September 12, 2011, granting Stuart Nelson a one-year extension of a previously granted building permit to construct a residence at 46 Bass Lane. The appeal was associated with Zoning Ordinance subsection 15.8.3 Variances and 15.10 Representations.

Motion by Toni Gray, seconded by David Brock, to vote on the Motion for Rehearing and if granted, the rehearing shall be limited to the issue of whether the discrepancy between the approximately 339' or 279' distance between the Schoch structure and the Nelson structure was an implied condition of approval based on subsection 15.10 of the Zoning Ordinance and whether it was relevant to the granting of the Variance requested by Nelson. With five members voting, three voted in favor (Gray, Brock and Krzyzaniak) and two voted in opposition (Rinden and Koontz). Motion for Rehearing granted.

Members Toni Gray and Janet Krzyzaniak voted in favor of granting the Motion for Rehearing as they believed that the ZBA erred in deciding that representations made as to the distance between the Schoch structure and Nelson structure was not material to the application for Variance approved on June 5, 2007 and on October 2, 2007. The provisions of Zoning Ordinance subsection 15.10 states, "Representations made at the public hearing or material submitted by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or use which are subject to regulation pursuant to subsection 15.8.2 or 15.8.3 shall be deemed conditions upon such special exception or variance."

Furthermore, members Toni Gray, Janet Krzyzaniak and David Brock agreed that holding a rehearing with a limited scope of review, as agreed upon by the two parties, will address any procedural discrepancies that may or may not have occurred during the Motion for Rehearing process.

II. Review of the Minutes and Notice of Decisions of December 6, 2011.

Review of the Minutes and Notice of Decision was deferred to the February 7, 2012 meeting.

III. Adjournment.

Motion made by Toni Gray, seconded by Charles Koontz, to adjourned at 8:20 PM. Motion carried unanimously.

Karen L. Robertson
Planning/Zoning Director

History:

1. *April 4, 2006, ZBA denied Variance (Nelson).*
2. *June 1, 2006, ZBA denied Motion for Rehearing (Nelson).*
3. *March 15, 2007, Merrimack County Superior Court remands to ZBA Substantial Justice Criterion.*
4. *June 5, 2007, ZBA approved Variance (Nelson).*
5. *August 15, 2007, ZBA approved Motion for Rehearing (Schoch).*
6. *October 2, 2007, ZBA approved Variance (Nelson).*
7. *September 14, 2009, BOS approved Building Permit (Nelson).*
8. *September 12, 2011, BOS approved a one-year extension of Building Permit (Nelson).*
9. *November 17, 2011 ZBA denied Administrative Appeal (Schoch).*
10. *January 5, 2012 ZBA approved Motion for Rehearing (Schoch).*