

Approved: \_\_\_\_\_

Approved with changes: \_\_\_\_\_

**Effingham Zoning Board of Adjustment**  
**Meeting Minutes**  
**September 28, 2021**

**Members Present:** Theresa Swanick (chair), Tim White (vice chair), Jim Pittman, Nate Williams (out of state, via conference call), and Mike Cahalane (alternate seated for absent Knute Ogren).

**Others Present:** Nate Fogg, Rebecca Boyden, Blair Folts, Tim Otterbach, and **Via Zoom:** Tara Schroeder, Robert Newton, Richard Fahy, Stephen Pelton, Matt Howe, Steve Robacher, Steven Nihan, David Smith, Lorie Dunne, Mark Hempton.

Call to order at 6:30pm

**Motion for Rehearing**

The chair introduced that the ZBA received a Motion for Rehearing (the Motion) from applicant Ransmeier & Spellman was received in the proper time frame for appeal, Sept. 2, 2021. This meeting is not to entertain anything new or hear any public comment. The Board must review the motion but only the contents of the motion, which must fully put forth every ground for challenging the decision. The Board reviewed the motion for justification for rehearing the case of the Meena LLC Variance.

Mr. Pittman said the Board would have to find that it had erred in its earlier decision.

Standing was reviewed – there are two abutters represented by the applicant – and found standing was met by the two abutters.

The background in the Motion was not entirely accurate but the Board moved to the Motion’s ‘argument’ to review point by point.

Chair pointed out the hardship provision cited in the Motion was not the one followed by the Board. The statute that governs variances, NHRSA 674:33,I(b) contains two alternative clauses that address hardship:(1) and (2). The motion states that the case failed to pass (1) which two board members pointed out during the Variance deliberation. The Board evaluated the variance based on (2).

The next point regarding public interest, mentions whether the use could alter the essential character of the neighborhood. The Board agreed that this was thoroughly discussed during deliberation.

The spirit of the ordinance argument alleged the Board was attempting to rewrite the zoning ordinance by considering a variance. Mr. Pittman reminded that variance is a required process inherent in having a zoning ordinance. The Board considered the literal enforcement of the ordinance in its deliberation and came to a different conclusion than is suggested by the Motion.

The board deliberated at length the substantial justice criteria. The board discussed the guiding rule suggested in the Motion: any loss to the individual not outweighed by a gain to the general public. The board’s analysis was not reviewed in the Motion.

Regarding the impact on values of surrounding properties if the proposed use of this property were approved, the Board discussed this criterion. The Motion does not address the board’s deliberation.

The issue was raised of potential conflict of interest with the chair also serving as chair of the planning board. There is no error of law regarding this, and this applicant has not been before the planning board for a ruling as yet.

Chair asked if there are any other issues that should be addressed that were not in the motion. The ZBA received request for abutter lists, notices and return receipts. No allegation addressed notice.

The Board reviewed all of the grounds set forth in the motion and concluded that it did not err in its initial decision, and that the Board's decision is neither unlawful nor unreasonable.

**Mr. Pittman motioned that the ZBA denies the motion for rehearing. Mr. Cahalane seconded. All were in favor, it's unanimous.**

Next meeting will be to hear a Special Exception re boat storage yard, on October 14<sup>th</sup> at 7pm.

Mr. Pittman asked to discuss at the next meeting the chairmanship of the ZBA. He wondered if there was merit to the current chair stepping down. She readily agreed there was. Mr. Pittman asked who might take over, and when others declined, offered to serve as chair until the next election. The chair welcomed the offer, to be addressed at the start of the next ZBA meeting.

**Adjournment:**

**Mr. Cahalane motioned to adjourn, seconded by Mr. Williams, all were in favor.**