

TOWN OF MASON BOARD OF ADJUSTMENT
29 June 2015
Approved Meeting Minutes

Call to Order at 7:33pm

Tim Kelly, Chairman

Roll Call of Board Members

Vice Chairman Christine Brigham, Bob Bergeron, Bill Rendle

Alternates

Clerk Pat Letourneau, Mike Davieau

Board reviewed 1 June 2015 minutes

Motion: to accept the minutes as made by Christine Brigham. Seconded by Bob Bergeron. The motion **PASSED** unanimously.

Mike Davieau recused himself and left the table but stayed to listen to the proceedings.
Review of Board correspondence.

Letter from Ruggiero regarding decision of 25 May 2015 and a plea to rehear the case as a Special Exception rather than as a Variance. The Ruggieros gave no grounds for rehearing at last meeting therefore the request for rehearing had not been voted on.

Charley Moser asked that the Chair allow him to speak and when granted informed the Board that Town Counsel would review the file if the Board were to continue this meeting. The lawyer for Ruggiero informed the Board that the Ruggieros would have no problem with a continuance.

The Board felt that since this was a business meeting and not a hearing, that this effort should have been brought up long ago and that at this late stage, the suggestion was not timely.

The Board then proceeded to go over the grounds for rehearing as it pertained to the particulars of the letter.

There were three points made in the letter. It was suggested that a Special Exception would have allowed the use but the Board disagreed because the OEP, whom the Board consults, reminded the Chair that RSA 634:33 stated that unless a particular use is specified in the Ordinances the Board is powerless to accept an application for said use. The outdoor concert venue the Ruggieros are operating is not listed specifically in the Ordinances therefore the Board is unable to grant this request for Special Exception.

The Board also reiterated that there was “no issue” with Cruise Night. A Variance is not needed to continue this use. The Board reminded the Applicants that the concert music was the main concern for the Town and Abutters. The Board also reminded the Applicants that RSA 178:24 allows for expansion of a indoor area, even if expansion is with tents.

In any case, the Applicants would need a Variance for an outdoor concert venue, not a Special Exception.

The Board reiterated that the Variance criteria are unlikely to be met as the Town and Abutters have too many valid concerns with noise, safety, health and welfare during these outdoor concerts.

The Board also noted two errors in the letter: Article 13 should read “Article 8” and the previous meeting had been in 2015 not 2005.

Rehearing requests are generally granted on the grounds of procedural error or new evidence. An error by the Applicants, or lack of preparedness, are not valid reasons for a rehearing.

The Board also informed the Applicants that if they were to amend the Application, that would be a new Application and therefore subject to the repeating the entire process.

Motion: to vote on rehearing of 15-002 J-69-1 Ruggiero made by Tim Kelly. Seconded by Bill Rendle.

Christine Brigham: **NAY**

Bob Bergeron: **YAY**

Pat Letourneau: **YAY**

Bill Rendle: **YAY**

Tim Kelly: **YAY**

The Motion PASSED 4-1.

Christine Brigham abstained from further voting on this matter.

Motion: are you in favor of rehearing 15-002 J-69-1 Ruggiero made by Tim Kelly. Seconded by Pat Letourneau.

Bob Bergeron: **NAY**

Pat Letourneau: **NAY**

Bill Rendle: **NAY**

Tim Kelly: **NAY**

The Motion was DENIED unanimously.

The Board asked the Applicants to pursue something more reasonable and suggested trying to do something through the New Hampshire Liquor Commission Statutes 178 and 179 which allow for entertainment in bars and restaurants when authorized by a Town Official.

Invitation from FEMA for a conference next week. No one from the Board will be attending at such late notice.

Motion: to adjourn made by Christine Brigham. Seconded by Bob Bergeron. Motion **PASSED** unanimously.

Meeting Adjourned at 8.24pm