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**Via Fedex Overnight**

July 6, 2018

Mr. Douglas W. Lyon, Chair  
 Zoning Board of Adjustment  
 Town of New London  
 375 Main Street  
 New London, NH 03257

Re: Application of Spec Bowers  
 ZBA #18-02

Dear Chairman Lyon,

Enclosed please find a Motion For Rehearing in the above referenced matter for filing with the board. A duplicate original is being sent to Nicole Gage, Zoning Administrator, via first class mail.

Please contact me if you need anything further or have any questions.

Very truly yours,

John P. Rab

CC: Spec Bowers

CC w/enclosure: Nicole Gage, Zoning Administrator via First Class Mail



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STATE OF NEW HAMPSHIRE

Merrimack County  
ZBA #18-02

New London  
Zoning Board of Adjustment

MOTION FOR REHEARING PURSUANT TO RSA 677:2

NOW COMES Spec Bowers, of PO Box 323, Georges Mills, New Hampshire 03751, by and through counsel, John P. Rab, Esq., and says as follows:

1. This Motion is related to property located at 1876 Newport Road, New London, New Hampshire.
2. On June 11, 2018, the Board of Adjustment considered an application for a variance from Article xx, Sections B.1.a and B.5.a of the New London Zoning Ordinance to permit a vertical expansion of a structure damaged by fire and an increase in the number of bedrooms.
3. The June 11<sup>th</sup> hearing was a result of a previously filed Motion For Rehearing which was related to a denial of a variance by the board solely on the grounds that it failed “to satisfy the requirements of the unnecessary hardship provision.” (April 17, 2018 hearing)
4. At the June 11<sup>th</sup> hearing the board denied the variance solely on the grounds that it violated the spirit of the ordinance.
5. The draft minutes of the meeting stated:

**IT WAS MOVED (Doug Lyon) AND SECONDED (Michael Todd) to deny the variance request for the reasons discussed, that primarily, the consensus is that the spirit of the ordinance was violated that that related to three criteria, Public Interest, Spirit of the Ordinance and Substantial Justice. Also some members felt the hardship criteria has been met. THE MOTION WAS APPROVED UNANIMOUSLY 5-0.**

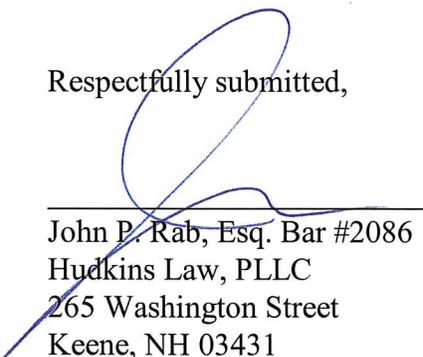
6. The vote to deny the variance solely on the basis of violation of the spirit of the ordinance comports with the recollection of the applicant and his counsel.
7. For reasons presently unknown to the applicant and counsel, the board subsequently met on June 26, 2018 for “Clarification of Motion/Decision from June 11<sup>th</sup> rehearing.”
8. The board then made material changes to the original motion that was approved by the board on June 11, 2018.
9. The board issued a Notice of Decision on the matter on June 27, 2018 which expanded the

stated grounds for denial over and above the basis for denial at the April 17, 2018 hearing and what was voted at the June 11, 2018 hearing. Therefore, the filing of this Motion for Rehearing is required. See, Dziama v. City of Portsmouth, 140 N.H. 542 (1995).

10. The action of the Board of Adjustment was unlawful and unreasonable and it is respectfully requested that the board grant a rehearing for the following reasons:
  - a. The second meeting was unlawfully held and resulted in an improper and unlawful revision of the record and of the original vote of the board.
  - b. The board's decision was unlawful and unreasonable in that it used incorrect legal standards and put additional burdens of proof on the applicant over what is required by law and statute.
  - c. The board's decision dated June 27, 2018 was inconsistent with its deliberations and vote of June 11, 2018.
11. The applicant reserves the right under RSA 677:2 to amend this Motion For Rehearing, including the grounds therefor, within 30 days after the date the decision was actually filed which was June 27, 2018.

Respectfully submitted,

Dated: July 6, 2018

  
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