

**ZONING BOARD OF APPEALS MEETING PLACE: HEARING ROOM 2,
MARSHFIELD TOWN HALL MAY 29, 2018 7:00 P.M.
MEETING MINUTES**

Members Present:

*Francis X. Hubbard
Brian Murphy
Richard Murphy
Mark Stiles
Stephen Feeney*

Also Present:

*Jeffrey Chandler, Building Commissioner
Robert Galvin, Town Counsel*

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Mr. Hubbard called the meeting to order at 7:00 P.M. and advised that he would be the Acting Chair for the night. He also advised that the other Board members were signified by their nameplates and that the meeting was being recorded by Marshfield Community Television (MCTV).

100 Enterprise Drive L.L.C./William Last, Jr.: The Petitioner received Site Plan approval at the January 24, 2017 meeting. The plan submitted at that time showed a 20'4" setback but when the exterior brick was installed the setback is now 19'8". The Petitioner is asking the Board to determine if this would be considered a minor modification to the plans for 100 Enterprise Drive.

Mr. Hubbard said that they would take one item out of order and after reading the above Petition into the record, he turned to Mr. William Last, Jr. Mr. Last said that this was the new building on Enterprise Drive. When the exterior brick was laid out, the detail of the brick came out from the structure; it was supposed to be flush with the structure but it encroaches. Unfortunately, it was an oversight and there is plenty of room on the other side. He touched base with the Building Commissioner and the Building Commissioner felt it more appropriate to go to the Zoning Board so that the Board could take a look at it and give some guidance about how they can resolve this. Mr. Last said that the gentleman was trying to sign a potential lease and he is helping him get occupancy.

Mr. Hubbard asked if they were conforming to the required setback with the 19.4'. Mr. Last said no, that it was 20' and that was the problem. He asked if this was an architectural detail thing and if not, he thinks this needs a Variance. Mr. Hubbard asked Mr. B. Murphy what he thought and Mr. Murphy said that Mr. Chandler had a good question: are they 19'8" or 19.8' (nineteen feet, eight inches or nineteen and eight tenths feet); Mr. Last said they were 19.8' (nineteen and eight tenths feet). Mr. Last said that the Building Commissioner wants the +/- removed and they agree. Mr. B. Murphy asked Mr. Galvin if there was wiggle room for decorative brick. Mr. Galvin said no but this may be resolved with a Variance. He said it complies at 20.4' but not at 19.8'; it's into the side setback where it wasn't before. He said they could be .4' closer but when it goes over another 4 inches then it is into the setback. Mr. Galvin said that then it is not decorative and they would have to apply for a Variance to correct it. He said it isn't the worst thing in the world but you don't want to encourage people to make mistakes. Mr. Last said that he just wanted to get clarification. Mr. B. Murphy asked if the resolution would be to apply for a Variance and Mr. Galvin said, yes. Mr. Hubbard said that they were just giving their opinions and they would not be making a decision tonight; Mr. Last said that was all he was looking for. Mr. Galvin asked if this was in the Industrial district and Mr. Last said that it was. Mr. Chandler

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said that they have the address as 120 Enterprise and asked if it were 100 or 120 Enterprise. Mr. Last said that there was some confusion. The original application came in with 100; he said that they had two (2) Site Plan approvals going at the same time – 100 Enterprise was for the brewery and the one for 120 Enterprise. Ms. Porreca said that the first one under Holstein was filed with 100 Enterprise Drive in January 2017 and the brewery was this year. Mr. Last asked if he should put the corrections on the plans; Ms. Porreca said that the Town has them at 100 Enterprise. Mr. Last said it was 120; Mr. Chandler said that everything he had shows 100 Enterprise. Mr. B. Murphy said that this needed to be corrected at the Assessor's office. Mr. Last again said the other one is under construction now at 100 and this should be 120 Enterprise.

Mr. Galvin asked if they had staked out the building foundation when they did this. Mr. Last said it was too bad because they have so much room on the other side. Mr. Galvin said if they don't get a Variance and he tries to sell the building and someone does a plot plan, they will have a major problem. He said they should apply for a Variance. Mr. Last said this was the exact opposite of a minor modification; Mr. Galvin said it was new relief.

#18-34: John Griffiths: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to attach to the existing deck a new 24' x 24' two (2) car garage addition with storage above on the property located at **47 Colonial Road**, which is further identified on the Assessors' Maps as being on parcel M08-25-04 and is located in an R-3 zoning district.

Mr. Hubbard said that they would move to the beginning of the Agenda and read Petition #18-34 into the record. Mr. Griffiths was in attendance with Dick Rockwood. Mr. Rockwood said that he had done the drawings and the application for Mr. Griffiths. He is in an R-3 zone; the existing house is nonconforming; he is on a corner lot which would require fifteen feet (15') in the front. Mr. Rockwood said that there is a large deck that comes out approximately twenty feet (20'); they want to cut a portion of the dock off and make a two (2) car garage. There would be no living space; there would be storage above. The garage would still be attached to the deck.

Mr. Galvin asked what the story with the shed was; Mr. Rockwood said the shed was there; Mr. Galvin asked if that was where it was situated today; Mr. Rockwood said, yes. Mr. Rockwood said they could still keep it 10'x10' if it was rotated; it would be further away from the building. Mr. Hubbard asked if they were moving from the dotted line to the solid line so it is less nonconforming; Mr. Rockwood said, yes. Mr. Griffiths said they could turn it and Mr. Rockwood said sheds are required to be ten feet (10') away. Mr. Chandler said that it needs to be ten feet (10') from the garage itself; Mr. Hubbard asked if that was a Code issue and Mr. Chandler said it was. Mr. Rockwood said if he attached it to the garage then it's not really attached because it isn't living space; it wouldn't be a zoning issue. Mr. Galvin said that it is supposed to be twenty feet (20') from a front yard setback. Mr. Rockwood said as an auxiliary building but this would be 8'x10'. Mr. Galvin said it needs to be twenty feet (20') from the front property line. Mr. B. Murphy asked if it had that; Mr. Galvin said, no. Mr. Griffiths said that if the Board gives him the garage, he would take down the shed; Mr. Rockwood said that was his call. Mr. Hubbard said that he couldn't see how to make it more conforming. Mr. Galvin said that even if they rotated it sideways, they couldn't squeeze it in at twenty feet (20'). Mr.

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Hubbard said plus the ten feet (10') it needs to be separated from the garage. Mr. Galvin said you could attach it to the garage but he doesn't think they can get it in there. Mr. Rockwood said if they rotated it, it would be fifteen feet (15'). Mr. Galvin said it had to be twenty feet (20') an accessory building had to be twenty feet (20') from a front yard. Mr. B. Murphy said that it would no longer be an accessory building if it was attached to the house and he asked if that was correct. Mr. Galvin said then it could be fifteen feet (15'). Mr. Hubbard asked what they were proposing as a change; anything other than removing the shed. Mr. Galvin said that it was going to be attached to the main dwelling, not attached to the shed. Mr. Rockwood said he would lose the shed. Mr. Hubbard made a motion to close the hearing which was seconded; all were in favor. Mr. Hubbard made a motion to grant the Special Permit with the condition that the shed be removed from the property; this was seconded and all were in favor.

#18-35: Virginia Trainor: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct an 8' x 12'6" shed on the property located at **20 Baker Terrace**, which is further identified on the Assessors' Maps as being on parcel K12-02-36 and is located in an R-3 zoning district.

Mr. Hubbard read Petition #18-35 into the record. Ms. Virginia Trainor said that her Petition is to add a new shed to an existing shed so that they appear as one (1) shed. She said it will be 15' from one neighbor and 75' from another neighbor; there isn't enough space on the left, the back or the right side of the house to put the shed. It would go next to the existing shed and won't impede on any of the neighbors; it won't bother anyone and she checked with her neighbors before applying. Mr. Hubbard asked how long the existing shed has been in place; Ms. Trainor said it was there when they bought the house a year ago. Mr. Hubbard asked if any of the neighbors knew how long the shed had been there; a member of the audience said it has been there at least twenty (20) years. Mr. Hubbard asked if the Board members had any questions. Mr. Chandler asked what was preventing Ms. Trainor from moving the new shed ten feet (10') because she has an area to put it in. Mr. Hubbard said she would be getting closer to the deck; Ms. Trainor said it was in a spot where it is not impeding anything visually or in anybody's way. Mr. Feeney asked what was happening with the existing shed; Ms. Trainor said that it will stay where it is next to the new one. Mr. Hubbard asked if there were any questions from the Board and there were none. Mr. Chandler asked Ms. Trainor what was preventing her from putting it in front of the other shed because she would then meet all setbacks. Mr. R. Murphy said that the doors are in the front. Ms. Trainor said that it would be right in the middle of the yard and it would block the only way to get in the backyard; it's a sloped area.

Mr. Hubbard said that based on listening to the testimony, it appears that the shed has been there for twenty (20) years which is over the ten (10) year test for nonconformity. He said they are not making it more nonconforming; this has opened up a chance to get to the "0" point on the plot plan. Mr. B. Murphy asked if the sheds could touch each other; Ms. Trainor said that they could; Mr. B. Murphy said that he thought it would meet the statute. Mr. Chandler asked what the size was and Mr. B. Murphy replied, 5'x8'. Mr. Hubbard asked if there were any other questions and if there were comments from the public; there were none. Mr. Hubbard moved to close the hearing which was seconded; all were in favor. Mr. Hubbard made a motion to grant the Special Permit; this was seconded and all were in favor. Mr. Galvin asked if the Board was requiring the

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Petitioner to connect the buildings; Mr. B. Murphy said it should be as shown on the plan.

#18-36: Kellie and Steven Newcomb: The Petitioners are seeking a Special Permit in accordance with §305-10-11 and §305-13.02.c.1 of the Marshfield Municipal Code to construct and maintain a 3' x 18' ramp to a 4' x 130' pile supported pier with an attached 3' x 130' pier with an attached 3' x 30' ramp to a 12' x 30' pile held float in the South River and a Variance under §305-10.11 for relief from §305-6.07 which requires a 10' setback from a rear property line for an accessory structure as a section of the pier will be constructed within the setback, to provide access to the river during all tides on the property located at **1339 Ferry Street** and the lot across from the Petitioners' dwelling, which are further identified on the Assessors' Maps as being on parcel I16-13-06 and I16-15-04 and are located in an R-3 zoning district.

Mr. Hubbard read Petition #18-36 into the record and then turned it over to the Petitioners and/or their representative. Mr. Kevin Maguire said that he put together the plans and documents for the Newcombs who live at 1339 Ferry Street. Mr. Maguire said Mr. and Mrs. Newcomb were present at the meeting. He said if you went down Ferry Street, past the Bridgeway to where the pavement ends, that is where their house is located; they are proposing the pier, etc. across from the house. Mr. Maguire pointed out the house on the screen and said the structure starts 28' from the street. He said the reason that they are here for a Special Permit is because it is required when there is construction in the Coastal Wetlands. He said they are also here because the last 60' of the pier crosses over the property line. They will be 70' into the setback which is why they are looking for a Variance; they will be encroaching within ten feet (10') of the rear of the property line and will be going across the property. Mr. Maguire said that included with the application and the deed is a plan that shows the entire Ferry Hill area and he has a larger scale plan if anyone wanted to take a look. He said you can see the property where the dock is proposed. Mr. Hubbard asked if there were questions from the Board and there were none.

Mr. Galvin said that this has to be subject to Chapter 91 Waterways Licensing and Conservation approval. Mr. Hubbard said that he remembers a few years ago the Board dealt with a similar situation on Ferry Street; the property was located across the street from the dwelling and they granted it. Mr. Hubbard asked if there were any comments from the public. A woman in the audience said the neighbors were in total support. Mr. Hubbard said that since the pier will be across the street, would there be a gate to restrict access to the pier. Mr. Maguire said that it was a good question; they probably would since it is not in their backyard. Mr. Hubbard said it would be good for safety purposes and he knows that it was one of the requirements they had on the other Ferry Street project; the general public won't be able to go out there swimming or go out there to drink. Ms. Porreca brought up a previously approved decision that had a list of conditions. Mr. Hubbard asked if there would be any power or water at the dock. Mr. Maguire said they will have small solar lights wrapped around the railing; he does not think the Newcombs intend on putting water out there. Mr. Hubbard asked Mr. Maguire and the Petitioners to read the conditions that were displayed on screen that were part of another decision and asked if they found anything objectionable. Mr. Maguire said that he usually recommends that anything put in the water is 2.5 pressure treated and above the water is 1.5; he does not see anything objectionable.

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Mr. Maguire asked if the Board could condition the Special Permit up to two (2) years after all permits were obtained but not with the Variance. Mr. Galvin said that Variance conditions are perpetual. Mr. Maguire asked about the beginning of construction; Mr. Galvin said for a Variance they had one (1) year to construct, with a Special Permit it is two (2) years to construct. He said the Special Permit doesn't run until they are granted the Chapter 91 order of conditions; Mr. Maguire said they were one (1) year behind for the licensing. Mr. Galvin said that they would have to come back to the Board for an extension of the Special Permit if they are delayed with the order of conditions/Chapter 91 Waterways license; they have up to two (2) years and six (6) months. Mr. Maguire asked about the timeframe for the Variance. Mr. Galvin said the Variance was good for one (1) year and they can extend it for another six (6) months. Mr. Maguire asked if they had to come back for that; Mr. Galvin said they would because the Board did not have the authority to give them a year without coming back and asking for it.

Mr. Hubbard asked if there were any more comments or questions from the public or the Board; there were none. He moved to close the hearing which was seconded; all were in favor. He made a motion to grant the Special Permit in accordance with §305-10-11 and §305-13.02.c.1 of the Marshfield Municipal Code and to incorporate by reference all of the conditions that had been displayed on the screen including the Chapter 91 Waterways licensing and working with the Conservation Commission. This was seconded and all were in favor. Mr. Hubbard made a motion to grant the Variance under §305-10-11 for relief from §305-6.07, again incorporating by reference all of the conditions that were displayed on the screen; this was seconded and all were in favor.

#18-37: Kathryn M. Lyons-Campbell: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to raze the existing single family dwelling and construct a new 40' x 26' one and a half story dwelling with a 12' x 20' ell on the northeast side, a two (2) car garage under the south side, a 14' x 12' attached deck on the east side and a landing and stairs on the east and west sides on the property located at **3 Marion Street**, which is further identified on the Assessors' Maps as being on parcel M05-05-63 and is located in an R-3 zoning district.

Mr. Hubbard read Petition #18-37 into the record and called on the applicant or her representative. Mr. Robert Crawford represented the Petitioner along with Jeff Blondin, a relative. Mr. Crawford said they were before the Board because the existing lot is undersized at 7,567 square feet. He has had several people tell him several things about when a Special Permit is required. Mr. Crawford said that all of the setbacks conform to the setbacks set for the district. It is in an AE Flood Zone with an elevation 10 (ten). They will raise the structure and the first floor will be an elevation 18 and the garage floor will be about 8.75. They are proposing to put two (2) feet of fill around the lot so that the house will sit up higher. One of the Board members stated the lot was undersized. Mr. Hubbard said it was a difficult plot plan to read and asked if they were making any setback nonconforming and Mr. Crawford replied, no. Mr. Hubbard stated that they were relocating the shed so that it was 10'x10' away from the edge of the property and that the first level will basically be a garage. He asked if they had tear away walls and if not, what kind of walls were they using; Mr. Crawford said they would be concrete. Mr. Hubbard asked if they were okay with the Flood elevation and Mr. Crawford said that they would have flood vents. He asked if there were any questions from the Board or Mr. Chandler.

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Mr. Galvin asked Mr. Chandler if that was a Velocity Zone and Mr. Chandler said VE is velocity. Mr. Hubbard asked if there were any questions or comments from the public and there were none.

Mr. Hubbard read an email from Sandy Fricke into the record; Ms. Fricke has a concern. She said that she has looked at the plans and thinks the house has a nice design except for the three (3) story height. She said she realizes that it is a flood area and there is a minimum height for the first floor. Ms. Fricke isn't sure if it is so high as to allow a garage underneath; lower overall height would be more attractive; most cottages don't have a garage, they use the driveway; this would be more acceptable. Mr. Stiles asked what the overall height was and Mr. Crawford said the foundation is 16.5' which is three inches (3") higher than the flood elevation according to the latest map from November, 2016. Mr. Stiles asked what it would be from there and Mr. Blondin said that it will be less than the 35' limit. Mr. Galvin said that the minimum they have to be is 15' but they are electing to go to 16'. Mr. B. Murphy said he thought it was required to be 16'. Mr. Galvin was not sure if the requirement was 16' and asked Mr. Chandler if he knew; he did not. Mr. Crawford said it was 16' to get the living space out of the flood zone. Mr. B. Murphy said that you would start Elevation 16 and then measure 35' to the mean average roof. Mr. Stiles asked if it was 35' and Mr. Blondin and Mr. Crawford said, no. Mr. Crawford said that it was basically a 1 1/2 story cape on a raised foundation. Mr. Galvin asked how much higher it was being built up before they put the foundation in. Mr. Blondin asked if he meant the home itself; Mr. Galvin asked if they had said that the lot would also be elevated. Mr. Blondin said the street was 7.5 so they would want it about a foot higher to grade it away; right now the water runs into that lot. Mr. Hubbard said just to be clear, the drawings didn't show what the height is for the building. He asked what the height of the building was given what is allowed for flood elevation. Mr. Blondin said there was an eight foot (8') wall on the first floor and then about 2/3 of the pitch; he estimates 28' or 32'. Mr. Hubbard said that it was still under 35' and that they should put that in as a condition since it isn't shown. Mr. B. Murphy said they should make sure that it meets the building standards. Mr. Galvin asked if it was just a concrete wall all around and Mr. Crawford and Mr. Blondin said, yes. Mr. Galvin asked if they would see about an eight foot (8') concrete wall and the house would sit on top of that with some flood vents. Mr. Crawford said that there would be about seven feet (7') of concrete showing. Mr. B. Murphy asked if it was like the one by the Ranch House; Mr. Blondin said it was but decks plants around it would knock that down. Mr. Hubbard asked if there were any comments from the Board, the Petitioner or the audience and there were none. Mr. Hubbard moved to close the hearing which was seconded; all were in favor. Mr. Hubbard made a motion to grant the Special Permit with the condition that it meets all building requirements of the Marshfield Zoning Bylaws, including the height of the building. This was seconded and all were in favor.

#18-38: Keith Robinson: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 14' x 18' second story addition over the existing kitchen on the property located at **197 Old Main Street**, which is further identified on the Assessors' Maps as being on parcel E17-02-04 and is located in an R-1 zoning district.

Mr. Hubbard read Petition #18-37 into the record and called on the applicant or his representative. Keith Robinson said that they would like to go up and over an existing kitchen

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that is 14'x18' one what is now a single story house. Mr. Robinson said the main part of the house is only set back thirteen feet (13') so it does not meet the front setback requirement. He said the house was built around 1720 so it was probably there before the street. He wants to build over the kitchen to add a bedroom. He said this started as a three (3) bedroom and it will stay a three (3) bedroom. He said the existing small third bedroom will become a bathroom. They will not be increasing any bedroom or the footprint; they are just increasing the volume. Mr. Hubbard asked if they were staying within the confines of the existing footprint and Mr. Robinson said, yes. Mr. Hubbard said that was his major concern. Mr. Robinson said that there would not be an additional footprint; the section they are going over does meet the setbacks but the main part of the house does not. Mr. Hubbard asked if there were any comments from the public and there were not. He moved to close the hearing which was seconded; all were in favor. He made a motion to grant the Special Permit which was seconded; all were in favor.

#18-17: Francis and Rachel Sturgis: The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct an 18' x 12' addition to the front of the existing single family dwelling on the property located at **246 Canal Street**, which is further identified on the Assessors' Maps as being on parcel M04-03-12 and is located in an R-3 zoning district.

Mr. Hubbard read Petition #18-17 into the record and called on the applicant. Francis Sturgis said that they were looking to construct a 12'x18' addition and small entryway on the existing home. He said they raised the house in December and their intention was to do an addition but they ran into a little snag. There was a 6'x16' deck before that which was $\frac{3}{4}$ of the front of the house. The front of the house is 27' or 28' and it will be at and eleven foot (11') Base Flood Elevation. Mr. B. Murphy asked if they would be any more nonconforming than they are; Mr. Sturgis said no, they were adding to the existing nonconforming structure. Mr. Hubbard asked if there were any questions from the Board and there were none. He asked if there were any comments from the audience and there were none. Mr. and Mrs. Sturgis were the only audience members at that time. Mr. Galvin said that they would need a certified plot plan; Mr. Sturgis said that he had just received a new plot plan. Mr. Galvin asked if it was stamped by a surveyor and Mr. Sturgis said yes, it was stamped by Tom Sullivan. Mr. Galvin said that the new plan should be submitted to the Board and Mr. Sturgis said that he would email the plan. Mr. Galvin said they just need to know that the distances are what is shown on the plan. Mr. Hubbard moved to close the hearing which was seconded; all were in favor. Mr. Hubbard made a motion to grant the Special Permit with the condition that the Petitioners submit copies of the certified plot plan. This was seconded and all were in favor.

#18-32: Webster Point Village: The Petitioner is seeking a substantial Modification of that Comprehensive Permit pursuant to G.L. c. 40B issued by the Marshfield Zoning Board of Appeals on August 6, 2015 to Webster Point Village, LLC regarding the development known as "Webster Point Village", such that the requirement to record a Conservation Restriction pursuant to G.L. c. 184, s.31 as found in said Decision, including but not limited to, Condition No. 8 on page 3 – Compliance With State and Federal Requirements, and Condition No. 2 on page 6 – Conditions Precedent to Commencement of Project, be removed and substituted in its stead is a requirement to record a Restrictive Covenant pursuant to G.L. c. 184, s.23, or such other relief and

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findings as may be necessary or required for said substitution. The project is located off Careswell St., Marshfield, and partially in Duxbury (Duxbury Assessor's Map 170-002-003), is shown on the Town of Marshfield Assessor's Map J2-05-Lot 1A and has a total area of approximately 44.71 acres and the Marshfield portion of the project is located in R-2 zone.

Mr. B. Murphy asked Mr. Galvin if they would now hear this on June 12th; Mr. Galvin replied yes and said that they will be back in a couple of weeks. He said that they struck out in Duxbury; they asked the Duxbury Conservation Commission to hold the restriction and they said absolutely not. Mr. Hubbard asked who would hold the restriction; Mr. B. Murphy said that nobody wants it. Mr. Galvin said that there was a settlement agreement with the neighbors to require it to be granted to a third (3rd) party. He said if Duxbury won't hold it and if Marshfield does the same, he thought the neighbors could form a third (3rd) party organization and hold it themselves. Mr. Hubbard said that they could also grant it to another organization that exists. Mr. Galvin said they tried to sell the conservation restriction for \$2 million to the Wildlands Trust.

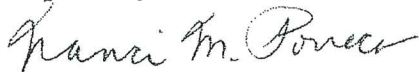
APPROVAL OF ANY MINUTES - from meetings dated March 27, 2018, December 12, 2017, November 28, 2017, November 14, 2017, October 25, 2017, October 24, 2017 February 28, 2017, December 6, 2016 and November 15, 2016.

Mr. Hubbard said that he had read the minutes, made some edits and said that they should be accepted. Mr. Hubbard said that he would read them by date and the Board could vote to accept them. He proceeded to read each date and made a motion after each one to approve the minutes. All were seconded after Mr. Hubbard made each motion and all were in favor.

Mr. Hubbard made a motion to close the hearing which was seconded; all were in favor.

Meeting adjourned at 8:15 P.M.


Respectfully submitted,



Nanci M. Porreca
Zoning Administrator

I attest the foregoing minutes were approved by the Zoning Board of Appeals at their

November 13, 2018 meeting by a 5-0 vote.

Signed:  Date: 12/13/2018