

**ZONING BOARD OF APPEALS MEETING PLACE: HEARING ROOM 2,
MARSHFIELD TOWN HALL SEPTEMBER 25, 2018 7:30 P.M.
MEETING MINUTES**

Members Present:

*Francis X. Hubbard
Brian Murphy
Lynne Fidler
Heidi Conway
Richard Murphy
Mark Stiles*

Also Present:

*Robert Galvin, Town Counsel
Jim Folkard, Building Commissioner*

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Mr. Hubbard opened the meeting at 7:06 P.M. and introduced himself and said that the other members were signified by their nameplates. He also stated that the meeting was being recorded by Marshfield Community Television (MCTV).

#18-42: Jetty, L.L.C./Richard Vaughn: The Petitioner is seeking Site Plan approval in accordance with §305-12.02 of the Marshfield Municipal Code to install an outdoor patio seating area that will contain 24 seats and a bag toss area to be located at the rear of the premises known as The Jetty Restaurant on the property located at **278 Ocean Street** which is further identified on the Assessors' Maps as being on parcels N07-01-34 and N07-01-35 and is located in an B-4 zoning district.

Mr. Hubbard advised that **Case #18-42** would be continued to the October 9th meeting.

#18-66: Samantha DeAssis: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to change one of the uses in a building with mixed uses and Site Plan approval under §305-12.02 of the Marshfield Municipal Code to establish an eating and drinking establishment on the property located at **1289 Ocean Street**, which is further identified on the Assessors' Map as parcel J09-04-07 and is located in a B-2 zoning district.

Mr. Hubbard read **Case #18-66** into the record. Ms. Porreca advised this plot plan was used for a previous hearing for a pizza place at that location. Mr. DeAssis said that he was representing for the Coffee Bar; Mr. Hubbard asked what type of establishment it would be and Mr. DeAssis said it would be coffee and sandwiches. Mr. Hubbard asked what the hours would be and Mr. DeAssis said they would be 5:00 or 6:00 AM to 3:00 PM. Mr. Hubbard asked if there would be indoor seating and Mr. DeAssis said there would be a table or two (2). Ms. Conway said it was a small space; Mr. Hubbard asked about adequate parking. He asked if there were any questions from the Board. Mr. Folkard said when you say a table or two (2), how many seats will they have. Mr. DeAssis said there would be two (2) seats at each table. Mr. Folkard said with four (4) seats they would only need one (1) parking space. Mr. Hubbard asked if they were occupying the last unit; Ms. Conway asked if it was Unit 1. Mr. DeAssis identified the location on a picture; it will be Unite 2, the unit second from the left. Ms. Fidler asked how many employees and Mr. DeAssis said two (2) or three (3), he and his wife and maybe one (1) more. Mr. Hubbard asked if there were any questions from the Board or public and there were none. He moved to close the hearing which was seconded and all were in favor. He made a motion to grant the Special Permit which was seconded and all were in favor.

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#18-67: Town of Marshfield: The Petitioner is seeking Site Plan approval in accordance with §305-12.02 of the Marshfield Municipal Code to install a fixed frame, shed style canopy measuring approximately 15'3"W x 2'8"H x 3'6" Projection with an additional 10"H fixed front valance on the property located at **870 Moraine Street**, which is further identified on the Assessors' Map as parcel H07-02-01 and is located in a B-1 zoning district.

Mr. Hubbard read **Case #18-67** into the record; Ms. Porreca stated that Mr. Maresco could not make the meeting so Mr. Folkard will present. Mr. Folkard said he was speaking for Mr. Maresco and the awning isn't just for a better look at Town Hall, all of the electronics are on the outside because of the low ceilings on the inside. He said with all of the new technology added and the constant repair of the existing stuff, the best way is to cover it up to prevent problems in the future. Mr. Hubbard asked if the Board had any questions and there were none. Mr. Folkard said any information on the awning would come in with the application for the Building permit. Mr. Hubbard asked if the public had any questions and there were none. He moved to close the hearing which was seconded and all were in favor. He moved to grant Site Plan approval; this was seconded and all were in favor.

#18-50A: St. Mary & St. George Coptic Church: The Petitioner is seeking Site Plan approval in accordance with §305-12.02 of the Marshfield Municipal Code for a change in use from "Community Facilities #1, Church or other religious purposes" to "Community Facilities #2, Educational purposes which are religious sectarian, denomination or public", both of which are allowed uses, on the property located at **255 Furnace Street** which is further identified on the Assessors' Maps as being on parcel F10-05-04 and is located in an R-1 zoning district.

Mr. Hubbard said they will hear **Case #18-50A** which has already been read into the record; he turned it over to the applicant or the applicant's representative. Hazem Dani said he was here on behalf of the applicant for the Peace and Grace Daycare Center project at 255 Furnace Street. He said the building is currently being used as a Church and owned by the St. Mary and St. George Coptic Orthodox Church. Peace and Grace will lease the property from the Church and the parking lot and playground located at 490 Main Street. They would like to clarify a question that came out about the existing parking spaces. They had indicated at the last meeting that there were 85 spaces; the issue was with the unstriped area and they counted ten (10) spaces. They have revised the plan to correct the number of parking spaces and there are 75 which comply with the previously approved Site Plan about two (2) years ago; they will stripe that area for nine (9) additional spaces. They are also proposing to relocate the handicapped spaces from adjacent to the building and moving them across the driveway aisle because they are installing a handicapped ramp and opening a door on the first floor to make it handicapped accessible. They will also remove two (2) parking spaces to allow for more traffic circulation. The total proposed parking will be 81 spaces rather than the existing 75. They are also proposing to renovate the existing playground and bring it up to code and the requirements of the Department of Early Education and Care.

Mr. Hubbard asked if they had a lease yet and Mr. Dani said he dropped one off; Mr. Hubbard said no, a signed one or an executed lease. A gentleman with Mr. Dani said it would be subject

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to zoning approval. Mr. Hubbard asked if he had other copies or just the one; the other gentleman said just the one. Mr. Hubbard said they would pause the hearing while copies were made because they only had the original; the applicant's other representative said that the Board could keep the original. Mr. Hubbard said that on the application they said the hours would be 8:00-5:00 but the lease says 7:00-6:00. The other gentleman said that they had changed that and it is now 7:00-6:00. Mr. Hubbard said it wasn't in writing but now we do have it in writing so it will be 7:00-6:00. Mr. Hubbard asked about days of operation and a woman with the applicant's group said it would be Monday to Friday excluding holidays and weekends. Mr. Hubbard said the Board can put that as a condition, Monday to Friday excluding holidays and weekends. Mr. Hubbard turned the meeting over to Mr. Galvin to talk about issues with the property itself. Mr. Galvin said that unless there is a connection between the rectory and the business, they would have two (2) principal uses on one lot because it is in common ownership now. They have a residence that was formerly the rectory and he thinks it's going to continue to be a rectory of some type and the daycare business is not affiliated with the Church. The other gentleman said that they would be leasing from the Church. Mr. Galvin said on one case they have a Church or religious use or a single family residence depending on how they viewed it; either one is allowed by right but the daycare is an educational facility which is exempt from zoning. But you can't have two (2) principal uses on a lot. This was two (2) lots before; he doesn't know if there is anything that prevents them from dividing the lots so they can use each lot the way they are proposing. The other gentleman said they would be doing that in the future; Mr. Galvin said that it may be necessary for them to do it sooner so they can operate the way they want. They can always combine them together in the future because there was a residential lot that conformed, he thinks, to the zoning requirements and the former Church property conformed to zoning requirements; it met the area and frontage requirements, lot depth and width. Mr. Galvin said that he thinks, technically, they need to have two (2) lots there to do it. The other gentleman said they weren't changing the lot, they were just renting. Mr. Galvin said the problem is that they can't have two (2) independent uses on one (1) property. Mr. Galvin asked if the property was all owned by the Church now and said the Church can't rent out a use that is not associated with the Church. If there was a connection between religious use they would be okay but they have a potential issue because of the two (2) uses. He would recommend dividing the house lot from the daycare lot and then he thinks they can do what they are proposing.

Mr. Hubbard said the parking spaces will not be needed when the property is divided. Mr. Galvin said when the Church wanted to expand they didn't have enough parking so they used a portion of the former residential lot and combined it. They can have a home daycare but this isn't that; this is an independent childcare facility exempt from zoning but you can only have one (1) use per lot. Mr. Galvin said if they could carve it out the way it was before nobody can deny them that right. Mr. Hubbard said they won't need 81 spaces for daycare. Mr. Galvin said he would have them modify what they already have; he would leave it as is in case they combine and sell it in the future. Mr. Hubbard said they don't need access to these other spaces; Mr. Galvin said they/we don't have to be so technical in case they decide to use them. He said they should divide the lots with an ANR Plan with the Planning Board so there is only one (1) principal use per lot. Mr. Galvin asked the applicant's representatives if they knew what an ANR was and they said they did. He said if the ZBA approves this it would include a condition with an Approval Not Required process. He does not see any other issues. Mr. Hubbard asked the Board if anyone

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wanted to look at the lease and Ms. Fidler took it to review. He asked if the Board had any questions and Ms. Conway asked if they would be fixing the front of it on 3A because it looks terrible. Mr. Hubbard said that was part of the plan submitted last time; Ms. Conway said it hadn't been done; Mr. Hubbard said it would be a condition.

Ms. Fidler said their lease will probably need to be revised and they would need to provide the Board with the revised lease and this will be a condition. Mr. Galvin said whatever the divided lot is, that's the land they would lease; so the Board could condition it to provide a revised lease once the plan is prepared. Ms. Conway asked if it mattered if they were dividing the lots and the playground is on a separate lot; it won't be on the lot they will be leasing for the daycare. Mr. Galvin thinks the pastor will still live there and he can designate parking in front for anyone coming to visit him there. He doesn't think it's illegal to do that; they can designate what spaces are to be used for child care. Ms. Conway said the playground is down there and asked if it was near the basketball courts. Mr. Dani said the playground was up closer to the Church; Ms. Fidler said there used to be swing sets.

Mr. Galvin said they don't have to tell us but is the plan to ultimately sell off the house. Mr. Dani said he didn't know; the plan is to renovate it and use the existing playground. If the house is sold and it is not okay with the buyer they would come back for Site Plan approval. Mr. Galvin said they wouldn't get too technical, it could also be viewed as religious exemption. Ms. Fidler asked Mr. Folkard if he reviewed the ramp and the way it come into the parking lot for ADA compliance; Mr. Folkard said he hasn't seen details on the ramp. He said they changed the parking and he doesn't have a problem with the parking; it's located on the side with the handicapped accessible entrance. Ms. Fidler asked if they had switched the back and Mr. Dani said they are trying to make the building more handicapped accessible so they are adding an additional ramp in the front. Ms. Fidler stated they were going to do interior remodeling in the altar area, set up some new classrooms and the configuration of the bathrooms was being altered. She asked if there office space was as they came in on the left and Mr. Dani said yes. Ms. Fidler asked about the handicapped spaces being further away from the building. Mr. Dani said they preferred to leave that area with no parking spaces in the event of a fire; the building is accessible on three (3) sides. Ms. Fidler said that she hasn't been in the building but you would go downstairs and there are two (2) egresses; Mr. Dani said the two (2) egresses will remain the same; they are remodeling and proposing a chair lift. Mr. Folkard said the rooms were already small downstairs; Mr. Dani said they are taking most of the walls down and it will be divided into five (5) rooms with an administration area and bathrooms. Ms. Fidler asked if their licensing required them to go through a protocol for the set ups of the room; Mr. Dani said it dis and they are still in the process with the state for permits; the first step was to get Site Plan approval. Ms. Fidler asked if they had a set plan for drop off and pick up; Mr. Dani said they will park and walk the children into the building and the when they come back they will walk them out. Ms. Fidler stated that they aren't going to meet parents at their cars and take the children out of the cars; she didn't want people coming up the hill. Mr. Folkard asked if the space between the handicapped spaces and the building were for drop off and pick up; Mr. Dani said it could be used that way. Ms. Conway said there were issues with two (2) other daycares in town with kids running; for safety purposes everyone should be going in the same direction; Mr. Dani said they won't change much other than arrows. Mr. Galvin said he would recommend

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leaving the playground where it is and if the house is sold it could be relocated on to the other property or vice versa; it could be an additional condition. Ms. Fidler stated the lease must maintain the parking lot and playground but isn't sure how all of that works. Mr. Galvin said they can do what they want; the tenant or the landlord can be responsible; they Board doesn't have to worry about that. Mr. Hubbard stated that he thought the Board could vote but asked if they should leave it open and continue it to October 9th. The consensus was that they should vote subject to conditions.

Mr. Hubbard made a motion to close which was seconded and all were in favor. He made a motion to approve the Site Plan with input from the Board, Mr. Galvin and Mr. Folkard for conditions. Mr. Galvin said it should be granted with a condition that 1) the lot be divided, that the applicant obtain ANR approval for the two (2) uses or to two (2) conforming lots prior to the commencement of the use; 2) the owner shall agree to relocate the playground in the even the property is either sold or no longer in common ownership. Mr. Galvin mentioned that there were some outstanding conditions from the previous approval with some work that needed to be cleaned up but he wasn't sure exactly what it was; Mr. Hubbard said they would incorporate those from the previous decision. Mr. Galvin continued with the condition – 3) the owner shall agree to striping as identified and striping with arrows in the parking lot; 4) hours of operation 7:00 AM – 6:00 PM which means that if they decide to have a weekend event at the facility they can't have one; he asked if there was a reason that they needed a restriction. Ms. Conway said that daycare isn't usually open on weekends; Mr. Galvin agreed but said they might want to have an open house; Mr. Hubbard said that to him, an open house wouldn't be the operation of a daycare center. Condition 5) – fix the playground; 6) daycare may be open six (6) days a week. Mr. B. Murphy said he didn't think they needed to restrict the days. Ms. Fidler said if they did a fundraiser or something like it on a Saturday or an open house. Mr. Galvin said the daycare should be operated during the week but some places probably are open on the weekend. Ms. Conway said they need to restrict it because of the neighbor situation; Ms. Fidler suggested that the hours be 8:00 AM to 5:00 PM, Monday through Saturday. Ms. Conway said they couldn't do 8:00 because people going to work drop them off at 7:00 AM; Mr. Hubbard suggested 7:00 to 6:00. Mr. B. Murphy said it was formerly a church so people were there on weekends; he doesn't know why they are restricting anything. Mr. Hubbard said "operation of a daycare" but leave out Monday through Friday; Ms. Fidler said they definitely need a timeframe. The woman in attendance with the applicant asked if they would have to come back to the Zoning Board if they wanted to have an open house on a Saturday; Mr. Galvin said the condition could be the building may be used other than a weekday for "incidental purposes related to the business" but he wanted to use something that would not create a nightmare for Mr. Folkard in the event the neighbors are upset about a fund raiser. Ms. Conway said she is not saying that if they're not operating a daycare they can't use the facility. Mr. Hubbard referred to the May 26, 2017 Special Permit and Site Plan applications/decision to look at the conditions and incorporated the following conditions into the 2018 decision: "The Petitioner shall guarantee the viability of all landscape planting and shall replace any landscape plantings that do not remain viable in order to maintain a natural screening to abutting properties. The 35 arborvitae planting shown on the original Plan shall not be less than 10' in height at initial planting and shall be staggered when planted to provide for screening of the abutters off of Stacey Marie Drive, the private way shared between the Petitioner and abutters. Eight (8) additional arborvitae shall be added to the front of

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the property along Main Street in a line parallel to Main Street from the location at the center of the basketball court to the property line between 490 Main Street and 478 Main Street. Four (4) additional arborvitae shall be added to the area at the corner nearest Main and Furnace Streets in a manner that does not obstruct the exiting sign **and cross**. All plantings shall be located entirely within 255 Furnace Street or **490 Main Street, the combined property**, and not on any abutting property" (the Board removed the words "and cross" and the last reference to "490 Main Street" and "the combined property"); "All lighting in the parking lot shall be directed down, equipped with baffles to preclude visibility off site and shall be designed to preclude off-site migration of light from the parking lot lighting fixtures"; "The Petitioner shall direct all roof runoff into drywells to be installed on the Property and provide drainage calculations prepared by a Registered Professional Engineer to the Building Commissioner demonstrating the capacity to infiltrate or detain the 25 year storm event"; The slope along Main Street shall be stabilized and maintained with grass or other vegetation to prevent erosion of the slope as observed by the DPW".

Ms. Fidler asked who the Applicant was. Mr. Galvin said they are co-petitioners and the permit should issue to St. Mary Church AND Peace and Grace, Inc. Ms. Fidler asked Mr. Galvin if it doesn't work out for them, then somebody else would have to come back before the Board; Mr. Galvin said that was correct. Mr. Hubbard said that with the conditions, we moved that they grant Site Plan approval; this was seconded and all were in favor.

#18-63: Michael Lapomardo: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct an 18'6" x 12'6" addition on the existing single family dwelling by enclosing an existing porch and to raise the outside walls on the existing flat roof, reframe it and raise the peak which will not go outside the existing footprint on the property located at **24 Brighton Street** which is further identified on the Assessors' Maps as being on parcel M04-17-08 and is located in an R-3 zoning district.

Mr. Hubbard read **Case #18-63** into the record and turned it over to the applicant or his/her representative. Mr. Michael Lapomardo said he has an existing uncovered porch that has a flat, sloped roof; the rest of the roof is gable. His intent is to enclose the porch, construct outside walls to create a complete gable roof by changing the location of the ridge; he wants to get rid of the flat roof because of storm issues. He said that southbound does not meet zoning requirements but he will not be going outside the footprint of the existing house. Mr. Hubbard stated that Mr. Lapomardo did not submit a copy of the deed; Ms. Porreca said it was submitted late and she made copies. Mr. Folkard said he had a question about the little jog on the main part of the house – he asked if Mr. Lapomardo was saying that was where the flat roof was; Mr. Lapomardo said it was about a half pitch. Mr. Folkard asked if where the addition was going was just a first floor without a roof; Mr. Lapomardo said in 2006 he received Conservation approval and installed a concrete slab foundation with plans to eventually cover it. Mr. Folkard said he was good with this, there is no structure there now, just the foundation. Mr. Lapomardo said they had been using the concrete slab as a porch. Mr. Folkard asked if it was a two (2) story addition and Mr. Lapomardo said it was a story and a half (1½) but possibly two (2); he hasn't had the design done yet but he will submit it to the Building Department. Mr. Hubbard asked if

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the Board had any questions and there were none; there were no audience members at this time. Mr. Hubbard moved to close the hearing which was seconded and all were in favor. He moved to grant the Special Permit which was seconded and all were in favor.

Meeting adjourned at 8:05 P.M.

Respectfully submitted,



Nanci M. Porreca
Zoning Administrator

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

September 10, 2019 meeting by a _____ vote.

Signed:  _____ Date: 9/10/19