

**ZONING BOARD OF APPEALS MEETING PLACE: HEARING ROOM 2,  
MARSHFIELD TOWN HALL NOVEMBER 14, 2017 7:30 p.m.  
MEETING MINUTES**

*Members Present:*

*Mark Ford  
Lynne Fidler  
Francis Hubbard  
Heidi Conway  
Brian Murphy  
Mark Stiles*

*Also Present:*

MARSHFIELD TOWN CLERK  
RECEIVED  
2017 MAY 23 PM 3:39

Mr. Ford called the meeting to order and advised that the meeting was being recorded by Marshfield Community Television (MCTV) and voices and images were being recorded. Mr. Ford stated that he would be the Hearing Officer and that other members were signified by their nameplates.

**#17-68: Kathy Smith:** The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 35' x 6' covered front porch on the single family dwelling and a Variance in accordance with §305-10.11 for relief from §305-6.01 Applicability of Dimensional and Density Regulations and §305-6.02 Table of Dimensional and Density Regulations to encroach into the conforming front setback on the property located at **26 Rayfield Road**, which is further identified on the Assessors' Map as parcel H06-02-16 and is located in an R-1 zoning district.

Mr. Ford read the petition into the record. Mr. Phillip Murphy represented the Petitioner and said that they would like to put a farmer's porch on the front of the house. Mr. Ford said that the house is forty-one feet (41') from the street and the porch would bring it to thirty-five feet (35'). The setback is forty feet (40') so the porch would encroach into the setback. Mr. Hubbard asked the elevation and Mr. Murphy replied that it was one foot (1'). Mr. Hubbard said that they could encroach two feet (2') into the setback because the elevation was less than four feet (4'). He said that it was covered so it was considered a storm enclosure. Mr. Ford asked how long the applicant lived at the location and Mr. Murphy said at least fifteen (15) years. Mr. Ford stated that he does not immediately see reasons to grant a Variance. Mr. B. Murphy said that he does not have a problem with this. Mr. Hubbard said that in theory he does not have a problem but he does have a problem when he applies the criteria for a Variance. Ms. Fidler and Ms. Conway also stated that this doesn't meet the criteria of a Variance and Ms. Conway asked if there was another way of doing this. Mr. P. Murphy said that there was another porch off to the side that was within the guidelines and asked if everything with a roof needed a Variance. Mr. Ford replied No and said that the Variance was needed in this case because they would be encroaching into the setback by more than two feet (2'). Mr. P. Murphy said that the building inspector said that he would need to apply for a Variance to do anything because the house is not up to code; Mr. Hubbard said that he disagreed with the inspector about a Variance. Mr. Ford said this is a nonconforming structure and that it may be likely that the Board would grant a side porch but not a front porch. He said that if the rules say forty feet (40') and they start eroding that to thirty-five feet (35') and then thirty-four feet (34'), where would it end. Mr. P. Murphy asked why he applied for a Variance if the Board doesn't grant them. Mr. Ford said that they don't meet the

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criteria of a Variance. Mr. Ford moved to close the meeting; it was seconded and all were in favor. Mr. Ford stated that they would take this under advisement.

**#17-70: Michael Solimando:** The Petitioner is seeking a Special Permit in accordance with §305-10.12 and §305-9.02.c of the Marshfield Municipal Code to raze and rebuild a 60' x 34' single family dwelling on wood pilings and a Variance in accordance with §305-10.11 for relief from §305-6.01 Applicability of Dimensional and Density Regulations and §305-6.02 Table of Dimensional and Density Regulations to locate egress stairs and landing on the right side of the property located at **1180 Ferry Street**, which is further identified on the Assessors' Map as parcel I15-24-17 and is located in an R-3 zoning district.

Mr. Ford read the petition into the record. Mr. Dick Rockwood spoke for Mr. Solimando who was also present. Mr. Rockwood said that Mr. Solimando was buying this property but it didn't meet the Flood Zone criteria. They want to raze the existing house and build a new one on pilings with elevation to the proper FEMA height. The new house will be pretty much in the same footprint, maybe a little more forward in the front. Mr. Rockwood said that it will not be any more nonconforming than the existing house. He said the reason they are asking for a Variance is that because of the parking in front, they would like to have a side entry with stairs. Mr. Ford said that Mr. O'Neill had the numbers for egress and ingress; Mr. Hubbard said that Mr. O'Neill said that the stairs should be no wider than forty-eight inches (48"). Mr. B. Murphy said that if it is a means of egress they are allowed to go into the setback.

Mr. Ford asked if there were any questions from the Board or the public. Mr. Bruce Hayes, 77 Keene Road, asked Mr. Rockwood if the new building would essentially be in the same footprint and would it be a single story structure. Mr. Rockwood said that it would be two (2) stories. Mr. Hayes asked if the Board considers that this would block his view. Mr. Ford said that they take that into consideration in terms of adverse impact of the neighborhood but the Board generally allows people to build second stories. He said that it's not abnormal in Marshfield or the area and that type of abutter's interest in views hasn't overridden the property owner's ability to build to what the zoning laws allow. Mr. Hayes said that he begged to differ because his home will be directly impacted; it will block all of his ocean view and some of his river view; that affects his property value. Mr. Hayes said that he doesn't have a huge ocean view, it's straight out front. Mr. Hubbard said that unfortunately, Massachusetts law does not guarantee or preserve a person's right to a view; the right to a view does not exist under Massachusetts law. Mr. Ford made a motion to close the hearing; this was seconded and all were in favor. Mr. Ford made a motion to grant the Special Permit; this was seconded and all were in favor. Mr. Ford made a motion to deny the Variance as moot without prejudice since granting the Special Permit provide the relief that was sought; this was seconded and all were in favor.

**#17-60: Thomas Pugliese and Mary Ellen Gleason:** The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 5' x 14' deck on the front of the existing single family dwelling on the property located at **26 Ninth Road**, which is further identified on the Assessors' Map as parcel L10-15-06 and is located in an



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R-3 zoning district.

Mr. Ford stated that this was a continued hearing and asked Mr. Pugliese if he had submitted additional paperwork. Mr. Ford said that when they left off at the last meeting, the Board had explained that for Mr. Pugliese to do what he wanted to do, the deck had to be no more than four feet (4') high and Mr. Pugliese was going to modify his plans. Mr. Ford said that at four feet (4') it could go into the setback five feet (5') and that the plan looks fine. Mr. Ford moved to close the hearing which was seconded; all were in favor. Mr. Ford moved to grant the Special Permit; this was seconded and all were in favor. Mr. Ford wanted it noted for the record that the Applicant revised the plans that were originally submitted so that the deck on the front portion of the house is four feet (4') high and encroaches into the front setback by five feet (5') so that it complies with zoning requirements.

**#17-65: Extra Space Properties Twenty-Six, LLC:** The Petitioner is seeking a Variance in accordance with §305-10.11 for relief from §305-8.01 of the Marshfield Municipal Code to reduce the number of parking spaces from 77 to 44 to allow for expansion of the building on the property located at **634 Plain Street** which is further identified on the Assessors' Maps as parcel E10-02-07 and is located in a B-2 zoning district.

Mr. Ford stated that this matter had been closed and taken under advisement. He noted that the Planning Board had approved the modification and the only issue before the Board was to grant a Variance to allow just forty-four (44) parking spaces. Mr. B. Murphy said that he drives by there all of the time and rarely sees even one (1) car. Mr. Ford said the Applicant had submitted data on the number of cars parked and it was eleven (11) at most on an auction day; one Thursday there were six (6) cars there but usually there are at most two (2) to three (3) cars there. He asked about the Variance requirements – unique property, soil, topography, shape of the land. Mr. B. Murphy said that he is good with this. Mr. Hubbard agreed with Mr. B. Murphy and said that he believes this is a poorly drafted Bylaw. He also said that as he goes through the application, the criteria for a Variance are laid out fairly well. Mr. Ford said that it would be because they are in the Furnace Brook aquifer and there are restrictions on impervious surface of 60%. He said that although there is plenty of acreage to do what they want to do and still comply with the parking spaces, he can't if he wants to comply with the 60%. To comply with the 60% they need to reduce to forty-four (44) spots which causes no impact on the community because the spaces were never needed.

Ms. Fidler said that he is asking to be excused from eleven (11) spaces; that he has seventy-seven (77) existing spaces, is required to have fifty-five (55) and is proposing forty-four (44). She said that she doesn't mind eliminating the spaces but expressed concern about traffic and talked about the new buildings. Mr. Ford said that they weren't in front of the Board for Site Plan approval. Ms. Fidler said that by adding the new buildings they are affecting their Site Plan. Mr. B. Murphy asked if the Board was approving the Site Plan and Mr. Hubbard said that there is no application for Site Plan. Mr. Ford said that they would address those issues when they came back for the Site Plan. Mr. Hubbard said that as a commercial building they would come back for the Site Plan after the Variance was granted; they wouldn't ask for Site Plan approval unless

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the Board granted the Variance. Mr. Hubbard said that he has clients that would do the same thing; why spend the money until you know you have a next step to go to. Mr. Stiles asked why they didn't apply for a Site Plan and Mr. Hubbard said that it was not unusual to do it this way. Mr. Ford made a motion to grant the Variance; this was seconded and all were in favor.

Mr. Ford asked about the meetings for the remainder of the year and advised that the December 26, 2017 meeting would be cancelled. He made a motion to adjourn which was seconded; all were in favor.

Meeting adjourned at 8:10 P.M.

Respectfully submitted,

Nanci M. Porreca  
Zoning Administrator

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

May 29, 2018 meeting by a 5-0 vote.

Signed: \_\_\_\_\_

[Signature] Date: JUNE 1, 2018