

**ZONING BOARD OF APPEALS MEETING PLACE: HEARING ROOM 2,  
MARSHFIELD TOWN HALL MARCH 8, 2017 7:00 P.M.  
MEETING MINUTES**

*Members Present:*

*Joseph Kelleher, Chairman  
Mark Ford  
Francis Hubbard  
Lynne Fidler  
Heidi Conway  
Brian Murphy, Associate  
Richard Murphy, Associate*

*Also Present:*

*Jerry O'Neill, Bldg. Commissioner  
& Code Enforcement Officer  
Atty. Robert Galvin, Town Counsel  
Edward Pesce, Consulting Engineer*

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2017 MAR 8 AM 10:55

Mr. Ford called the meeting to order and announced that the meeting was being recorded on MCTV. He stated that he would be the hearing officer and the other members are identified by their nameplates. Mr. Ford said that the Board would hear five (5) new hearings and at approximately 7:30 would continue with the 40B Matlin hearing.

**NEW HEARINGS**

**#17-01: 7:05 P.M. Natalie Nerger:** The Petitioner is seeking a Special Permit in accordance with Article X, Section 10.12 of the Marshfield Zoning Bylaws to replace an existing solarium with an approximately 12' x 27' sun room addition to the existing dwelling which will remain a single family dwelling within the required setbacks on the property located at **167 Ferry Street** which is further identified on the Assessors' Maps as parcel G11-01-01C and is located in an R-1 zoning district.

Mr. Ford stated that the first hearing they would start with would be #17-01, Natalie Nerger. Ms. Fidler recused herself and left the Hearing room. Mr. Ford read the petition, stated that he would be the hearing officer and that the other Board members were signified by their nameplates. With that said, he asked for the Applicant and/or Agent to identify himself/herself and to tell the Board what they want to do. Robert Nerger identified himself as the son of the property owner, Natalie Nerger. He said that the current sunroom is a glass contemporary style and they want to remove it and put in something that is more in line with the age of the house which goes back to the 1700s. The only thing they would be doing as far as expanding the footprint is adding approximately four feet (4') to the back away from the street; he said that the addition is marked "proposed sunroom" and is the additional area and square footage on the space. He said that rest was already currently conditioned space. Mr. Ford asked what the existing nonconformity was and Mr. O'Neill replied that 25.4' was the existing frontage. Mr. Hubbard said that it needs to be thirty feet (30'). Mr. Nerger stated that he thought he was before the Board because of the historical aspect of the house but Mr. O'Neill replied that he was not. Mr. Ford stated that this would not impede any further in the nonconforming setback and would just extend further on the other side. Mr. Ford asked Mr. O'Neill if he had any questions but he did not; he asked the Board if they had any questions and they did not. He moved to close the hearing, Ms. Conway gave the second and all were in favor. Mr. Ford then made a motion to grant the Special Permit and Mr. Hubbard gave the second. Mr. Ford, Mr. Hubbard, Ms. Conway, Brian Murphy and Richard Murphy all voted in favor. Mr. Ford explained that the Board has fourteen (14) days to file the Decision and that it has to be on file for twenty (20) days.

**#17-02: 7:10 P.M. Tim and Elaine Shanahan:** The Petitioners are seeking a Special Permit in



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accordance with Article X, Section 10.12 of the Marshfield Zoning Bylaws to add a 12'x13' screened porch with a 13'x14' roof deck above and stairway to the side to the existing dwelling which will remain a single family dwelling within the required setbacks on the property located at **34 Marginal Street Rear** which is further identified on the Assessors' Maps as parcel M05-10-15 and is located in an R-3 zoning district.

Mr. Ford stated that the next hearing would be #17-02, Tim and Elaine Shanahan. Ms. Fidler returned to the Hearing room and Mr. Kelleher arrived at the meeting at 7:10 PM. Mr. Ford read the petition, stated that he would be the hearing officer and that the other Board members were signified by their nameplates. With that said, he asked for the Applicant and/or Agent to identify himself/herself and to tell the Board what they want to do. Tim Shanahan introduced himself and said that the majority of the plan was already approved by all the Boards. Mr. Shanahan said that they want to take roughly a 12' x 12' section of the already approved deck and make it a screened porch with the roof becoming a second floor deck with access from a spiral staircase at the rear. Mr. Shanahan stated that there would be no change in setbacks and no encroachment on the neighbors. He said that this was basically the same footprint that had previously been approved. Mr. Ford asked Mr. O'Neill if he had any questions or issues. Mr. O'Neill said that he did have one issue/question. He said that as they could see on the plan, the line he highlighted is parallel to Marginal Street and the setback is 9.6'. Mr. O'Neill said that with the proposal it will be ten feet (10') from the corner. Mr. Shanahan said that has already been approved; that they were only talking about the far right corner. He said that the whole thing had already been approved and recorded; that there was just a section of the deck that is going to be closed in as a screened porch on the opposite end from what Mr. O'Neill is concerned about. Mr. Ford said that the existing nonconformity was the 9.6'; Mr. Shanahan said that was a matter of record and already approved. Mr. Ford said that he was just stating that for the record, that this does not deal with that portion of the property. He said that he looked it over and it looks fine. Mr. Ford made a motion to close the hearing which was seconded; all were in favor. Mr. Ford then made a motion to grant the Special Permit which was seconded. All were in favor with Mr. Ford, Mr. Kelleher, Ms. Fidler, Mr. Hubbard and Ms. Conway voting.

**#17-03: 7:15 P.M. Margaret Gibbons:** The Petitioner is seeking a Special Permit in accordance with Article X, Section 10.12 of the Marshfield Zoning Bylaws to add a 27'x33' second floor to an existing dwelling which will remain a single family dwelling within the existing footprint on the property located at **8 Meadow Lane** which is further identified on the Assessors' Maps as parcel I15-20-05 and is located in an R-3 zoning district.

Mr. Kelleher read the next petition, #17-03 for Margaret Gibbons. He stated that he would be the hearing officer, that the other members were signified by their nameplates and asked the Applicant to identify herself and explain what they want to do. Mrs. Gibbons said that she bought this home and has seven (7) grandchildren. The house is only 834 square feet hence the reason to go up. She said that they are not changing the footprint of the house, there is no addition that will be added, and that it is strictly to put on a second floor. She said that they will reconfigure the first floor, take a bedroom out and add two (2) bedrooms upstairs. Mrs. Gibbons said that it will change from a ranch to a colonial to give them that second floor space. She said that she waited years to buy this house to come to Marshfield to live. She said that she has rented this house for three (3) summers and waited for the owner to let her know that they were



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ready to sell. Mr. Kelleher stated that the reason she was here was because the left side is nonconforming and asked if Mrs. Gibbons would be moving the house any closer. Mrs. Gibbons said that she will not be changing the footprint of the house. Mr. Kelleher asked if anyone had any questions. Mr. O'Neill said that it should be pointed out that the fencing for the outside shower should only be six feet (6') in height with no roof over it just to be consistent with all outside showers. Mr. Kelleher said that the Board would make that a Condition. Mr. O'Neill said that a stamped plot plan should also be submitted before the final inspection is done. He said that it is not changing; it's just to be consistent. Mr. Kelleher asked if anyone in the audience wished to speak. He explained to Mrs. Gibbons that this will not hold up the Decision, that there is the time to make a Decision and then there is an appeal period before she could start doing anything. He said that they would get the information in and it would not slow her down. Mr. Kelleher had a motion to close the hearing; it was seconded and all were in favor. He then made a motion to grant the Special Permit with the Conditions that were discussed. His motion was seconded by Mr. Hubbard and all were in favor. Mr. Kelleher, Mr. Ford, Ms. Fidler, Mr. Hubbard and Ms. Conway voted on the request.

Mr. Pesce arrived at 7:20 PM for the 7:30 PM hearing. Mr. Kelleher advised that the Board would probably take a break at the end of the new hearings and reorganize for the 7:30 hearing.

**#17-09: 7:20 P.M. The Chef's Table:** The Petitioner is seeking Site Plan approval under Article XII, Section 12.02 of the Marshfield Zoning Bylaws to construct a 6'x6' deck for loading and unloading on the property located at **1853 Ocean Street**, which is listed on the Assessors' Map as parcel H07-05-03 and is located in a B-1 zoning district.

Mr. Kelleher read the next petition, #17-09 for The Chef's Table. He stated that he would be the hearing officer, that the other members were signified by their nameplates and asked the Applicant to identify herself and explain what they want to do. Mark Ellis stated that he was the owner of The Chef's Table and said that one of the things they want to do is put in a loading dock. His application says a 6' x 6' dock but after further review they found out that it won't be quite adequate for loading. He said that he knew he couldn't make a change now but was hoping to focus on the generator which is the second part of the application. Mr. O'Neill said that it could be re-advertised to make the dimensions larger. Mr. Kelleher said that they have a 6' x 6' and they need a 10' x 10'. Mr. Ellis said that was correct; that after they filed they realized that it was not big enough. He said that he has a box truck. Mr. Kelleher said that unfortunately the statute requires that if the applicant expands it after they have filed the application, they need to re-advertise. He asked Ms. Porreca when the next hearing would be and replied that it would be April 11<sup>th</sup> with a March 15<sup>th</sup> deadline. Mr. Kelleher said that the Board can put this on for April 11<sup>th</sup> and re-advertise as a 10' x 10' dock; Mr. Ellis said that was totally fine but as far as the generator location...Mr. Ford asked if that was advertised and Mr. Ellis asked Ms. Porreca if it was. Ms. Porreca advised that the generator was not on the application and Mr. Ford said that he didn't see it. Attorney Galvin said to add the generator with the new 10' x 10' dock in the new ad. Mr. Ellis asked if he should come back on April 11<sup>th</sup> and was told, Yes. Attorney Galvin stated that the notice to the abutters had to be sent, too. Mr. Kelleher stated that the Board has to comply with the statute. He advised anyone in the audience who was here for this hearing that it



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would be continued to April 11<sup>th</sup>. He then made a motion to continue the hearing to April 11<sup>th</sup> which was seconded; all were in favor.

**#17-11: 7:25 P.M. Michael and Colleen Biviano:** The Petitioners are seeking a Special Permit in accordance with Article X, Section 10.12 of the Marshfield Zoning Bylaws to construct a 26'x47' addition to the existing single family home on the property located **128 Valley Path** which is further identified on the Assessors' Maps as parcel D16-02-17 and is located in an R-1 zoning district.

Mr. Kelleher read the next petition, #17-11 for Michael and Colleen Biviano. He stated that he would be the hearing officer, that the other members were signified by their nameplates and asked the Applicant to identify herself and explain what they want to do. Michael Biviano introduced himself and his wife, Colleen, and stated that they wanted to construct an addition and remain a single family house. He said that they will not be encroaching on any of the setbacks. Mr. Biviano said that the reason they are here is that they have fifty feet (50') frontage, they are in an R-1 zone so they don't have the required frontage but they are well within the rest of it. Mr. Kelleher asked if the only issue was because of the frontage and asked if there were setback issues. Mr. Biviano said that there were no setback issues and there is an extra forty feet (40') in that section. Mr. Ford asked if that was forty feet (40') from the edge of the addition to the side and Mr. Biviano replied, Yes. Mr. Biviano said that currently there is 88.2 feet and after the addition there will still be forty feet (40') on the sideline; the only issue is the fifty feet (50') that is nonconforming. Mr. Kelleher asked if anybody on the Board had any questions; they did not. He asked Mr. O'Neill if he had any questions; he did not. He asked if the audience had any questions; they did not. Mr. Kelleher made a motion to close the hearing which was seconded by Mr. Hubbard; all were in favor. Mr. Kelleher then made a motion to grant the Special Permit for the addition and Mr. Hubbard gave the second and all were in favor. Mr. Kelleher, Mr. Ford, Ms. Fidler, Mr. Hubbard and Ms. Conway voted on the request.

Mr. Kelleher noted that it was 7:23 PM and the next hearing would begin at 7:30 PM. He made a motion to take a short break and the Board returned at 7:30 PM.

Mr. Kelleher opened the continued hearing for **Maitlin LLC** but before they got into the mechanics of what the Board was going to do tonight, he wanted to make a quick announcement. He said that some of the audience may know that he was a candidate for Selectmen and that last night he had a public event. At the end of the evening they noticed that three (3) signs were missing and that he had received a call that morning that one of his signs was in Mr. Armstrong's yard. Within a half hour of Mr. Kelleher learning of that, it was taken down. He said that no one on his behalf put that sign there nor did he direct anyone there. Mr. Kelleher said that it was his understanding that Mr. Armstrong did not put the sign there and he wanted to disclose that.

Mr. Kelleher stated that tonight they would hear from the applicant and that there was some new information. He said that they would hear questions from the abutters; if new information was presented the Board did not expect the abutters to digest it in five (5) minutes and then come up



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with questions on it. He said that this was not the last chance for the abutters to speak, that he expects one more meeting and it should be the last one. Mr. Kelleher stated that for those who did not know, Mr. Armstrong had signed an extension because under the statute the Board had to close by April 4<sup>th</sup>, 2017 but they now had until May 12, 2017. Mr. Kelleher read the names of the people who sent emails and the dates they were sent: Judy Crowley 03/01, Mrs. Crowley 02/24, Mrs. Crowley 02/23, Edie Barzelay 02/22, Mrs. Crowley 02/21; and a letter from Richard and Mary Taylor. Mr. Kelleher stated that those are all in the record and he assured the audience that they will all be read.

Mr. Kelleher advised that the Board did get truck routes from the applicant. However, he said that when the Board gets that they usually get a narrative with it. He said that he couldn't really figure out what percent was going one way, what percent was going the other way and he asked Mr. Armstrong to walk them through it. He said that three (3) pictures were forwarded to him and he just wrote 1, 2 and 3 on them. Mr. Armstrong said that he would do the first one which is the existing truck traffic; right now it is coming in (Route) 139 down Furnace Street to Clay Pit Road. There have been 500-600 yards per day that comes in to Clay Pit Road. Mr. Hubbard asked if it were all vehicles or just trucks; Mr. Armstrong said that it was just truck traffic. Mr. Armstrong said that there is also material that goes to Scituate, that also uses 139; he said that could be "perked" sand. He said that Scituate Concrete Pipe actually has washed sand and processed material that they use. He said the next one they have would bring extra material into Scituate and Marshfield itself using more than 600-700 yards. Using "bolt" records from different towns and even into Cohasset, the route they use to get "here" is right up 139 and (Route) 3A. The next one is the proposed traffic route which doesn't change. They have talked with Steve's Equipment who will actually grease and check oils and service the equipment in the afternoons. Mr. Armstrong said that they will pick the equipment up so that they will be able to park it there at night.

Mr. Armstrong said that the next one shows the net benefit of anywhere between 400 and 600 yards less per day on 139 for traffic because that material will be coming from Clay Pit Road and heading to Scituate. Mr. Hubbard asked Mr. Armstrong to repeat what he had just said. Mr. Armstrong said that the net benefit would be that anywhere from 400 to 600 yards that would be less on 139 because it is already going to be on the road from 3A all the way into Scituate. Mr. Kelleher asked if he could put that in a narrative and submit it. The abutters can look at it and digest it and it would be helpful for the Board, too. Mr. Pesce said that Mr. Armstrong said that all equipment would be parked and stored off site. Mr. Armstrong said they have changed the offsite phasing to the entrance area coming in from Ferry Street. It will be built right away and you can park on the other side of the mount if they wanted to visit the site. Mr. Pesce asked if it said Visitors now and Mr. Armstrong said no. Mr. Pesce said they could attach an 8½ x11 showing that and it would be good documentation to have. He said to put the address of the equipment parking location that Armstrong mentioned. Pesce said Armstrong was making statements about net benefits and changes to the route but he is the applicant; he said it would be possible to have someone else get that information. Pesce realizes that this is based on Armstrong's experience but if he had a discussion or a narrative that mentions who the contractors were and give a basis for his assumptions. Mr. Armstrong said that out of all the lists they have in Scituate/Cohasset/Marshfield, he has talked to a bunch of them; they all have



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accounts with Lopes where they will be able to buy the material at a better price. Mr. Pesce said he needs to back up his references.

Mr. Kelleher asked if the Board had any comments and asked Mr. Pesce if he was saying that he wanted percentages, too, because that was what he was thinking; what percentage would be going this way and what percentage going that way; there should be some qualification for this. Mr. Pesce said it would be helpful for the traffic engineer to back up what Armstrong said; the Board needs something stronger than that. Assuming that it's an educated assumption or educated idea that a certain amount of traffic will go this way and that way, it would be helpful to have some professional back up for that; right now it's Armstrong's thoughts and ideas with no particular reference. Mr. Hubbard asked if there was anything that shows where they are going. Mr. Pesce said he had a couple of earth removal diagrams; the applicant presented traffic routes and photos today and he has a representative from G. Lopes. Mr. Armstrong said he had Dan from Lopes who will walk through the picture.

Dan from Lopes said they have a loader digging with a grizzly deck on top. It will go up to the screen deck and will come out the side; three quarters comes out one (1) side and the rest the other side. He said one (1) loader does the operation, not two (2); they won't see dust, just damp dust; it will be in a virgin state when it's pulled out of the bank. Mr. Kelleher asked how many pieces of this equipment and Dan said one (1); they might run two (2) but most of the time it will be one (1). Mr. Kelleher asked when they would have more than one (1) and Dan said when they were doing a large amount. They have to size the product to sell it; there would be one (1) plant and a water truck will spray on the back; it will cover a forty foot (40') wide area that they will maintain. Mr. Pesce asked if they had an active screener; the Board and abutters are concerned with noise. Dan said it is not noisy; it is sorting and sifting. Mr. Pesce said he needed an active site now because he has a noise meter and would like to check. Dan said EMSHA; Mr. Pesce asked if it was private and Dan said it was federal. He also asked the value of the screened material; Dan said \$5-\$8 per yard. Mr. Armstrong said from Landers it was \$9 a yard and \$7 a truck. Mr. Ford said that was Armstrong's price and asked what the market price was. Dan said \$9 and Mr. Ford said plus \$7 for transportation and that freight depends on distance. Mr. Armstrong said perked sand; the money he got for Lopes is \$3. Mr. Ford said Mr. Armstrong's take would be \$6 and asked if the value goes up is it still \$3 no matter what the price of sand is. Mr. Armstrong said if fuel goes up they eat it.

Mr. Kelleher stated EMSHA and asked if they had anything that shows decibel level. Dan said 85. Mr. Kelleher asked if that was a regulation and who establishes that. Mr. Pesce said he will have to do some research on this. He mentioned OSHA, worker health and safety. He said he wasn't concerned but wanted to know what it is at 100 feet, 200 feet, 300 feet to see if it complies with the Board's guidelines; he said he was talking 80 decibels now. Mr. Pesce said they need to go through this one more time. He said the Bylaw says March, April and May water levels and he is asking if they will do water level checks in the next three (3) months. He doesn't expect them to be high but he does expect them to be higher. Mr. Grady confirmed March, April and May with Mr. Pesce and Mr. Kelleher agreed. Mr. Armstrong said it was one of three (3) months; Mr. Pesce said he misread it; Mr. Kelleher said it is March, April or May. Mr. Grady said April and Mr. Hubbard asked Mr. Pesce if he would be back for that. Mr. Kelleher said Pesce was gone for the month and Pesce said he would be back on April 3<sup>rd</sup>. He



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said there are a number of public documents and he wants to make sure he understands; he said there are different numbers in them. The latest letter dated February 7<sup>th</sup> mentions revisions provided for 355,000 but the Construction O&M shows 372,000; the traffic engineer says 372,000. He isn't pointing fingers but he and Mr. Armstrong need to talk about the volume. He asked if the calculations for removing are in situ; they seem to have done the right calculations but they need to agree on the swill back. Mr. Pesce said dry sand 12% and said he would need the number of days and they would need to go through it together to clarify. Mr. Grady asked if they could use truck trip calculations and Mr. Pesce said yes. Mr. Pesce said there are a number of conditions that he would recommend the Board go through. They talked about visitor parking. He said an hour together and they can knock out a list. Mr. Kelleher said there were a number of waivers that Mr. Galvin put together. Mr. Galvin said that Mr. Armstrong could generate more money than necessary and they had talked about escrow or a trust. He said the Board should give Mr. Armstrong a list of proposed conditions.

Mr. Kelleher said they could start with the two (2) big ones – earth removal. Mr. Ford said he always had concerns about granting a waiver or a permit for earth removal; he said it was basically a means of capital. He said the Town Planner has suggested the earth removal could be less than half. Mr. Ford said he hasn't been convinced that 355 is necessary and he understands it is necessary for funding. This is the applicant's source of capital, a 40B, and it sets a bad precedent; it's a slippery slope. He is leaning toward not in favor of granting a permit for earth removal. Mr. Armstrong said per the Bylaw and by code he should be able to take out several hundred thousand yards and he isn't going to do that. He said the Town grants a permit to Biagini every year. Mr. Ford said he understands the Bylaw was changed several years ago at Town Meeting; the public enacted this change and the public decided no earth removal in a residential area. He is for it if it is necessary but isn't if it is Mr. Armstrong's preferred source of capital. Mr. Kelleher said he is convinced they can get to the figure of what is really necessary.

Mr. Hubbard said that Armstrong came up with a plan or several plans, and he has cut back on units as well as cubic yards. He said if they were to issue a decision that the applicant feels isn't fair or accurate, he could appeal to the state and the state has already approved 40 units; the state can come back and say he gets the 40 units; it's a balance. Mr. B. Murphy did not have a comment. Mr. R. Murphy agreed with Mr. Hubbard about balance; there is a need for affordable housing. He knows Mr. Ford said it was not permitted and there are other waivers. Mr. Ford said the other waivers were necessitated by the project not for income; he could get a partner. Mr. Ford said his job is to be faithful to the Bylaws and do what is best for the Town; it's a clear mandate in the Bylaw. He appreciates that Mr. Armstrong has tried to work with the Board but he thinks he has to be faithful.

Mr. Hubbard said the Town Planner has stated that he is not an engineer; the 40B negates Bylaw. Mr. Ford said they should place conditions that they wouldn't put a market rate; if this was market rate it would be dead on arrival but a 40B. Mr. Hubbard said they did it on Webster Point; a Board member replied that was necessary for the project. Mr. Ford said they are using the 40B mechanism to negate the Town Bylaw when you don't need to negate the Bylaw to build; they could get a bank loan. Mr. Armstrong said it was equity. He said the Bylaw changed because of him; when he bought this property; he was in the middle of permitting when it changed. Mr. Ford asked how many people voted for the Bylaw change; he doesn't want to



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discount that because it passed and it wasn't the five (5) members of this Board.

Mr. Armstrong said he had this piece of property and it wasn't a winning operation; it was a get out from under and appreciate where you're coming from. He is between a rock and a hard place and he can't develop this without earth removal. Mr. Ford said Mr. Armstrong has not persuaded him. Mr. Armstrong said if the Town Planner said they needed trees, trees are dangerous – a woman in Arlington was hurt by a falling tree and another guy died from being hit by a tree. The Town Planner is not an engineer. Mr. Galvin said the way it works is that you can remove an amount of earth that would be necessary for construction. Mr. B. Murphy asked about what Mr. Guimond mentioned, 180-200,000 and Mr. Galvin said they would still need a waiver. Mr. Ford said that is more in line. In a subdivision you could remove it from the site because you can't put a road in any other way. Mr. B. Murphy asked about Walgreen's. Mr. Galvin said the front was at grade, the back was a slope and they proposed to take out the slope and extend the existing building. If you had to dig a foundation could you remove earth? Yes. That's not what this is – removing a few hundred thousand yards for equity. Mr. B. Murphy said what Mr. Guimond did confused him and he wished he was here tonight.

Ms. Conway asked what it would take just to do the project – not what Mr. Guimond said, not for equity – just to do it. Mr. Armstrong said the elevation was 68 and someone else said it was 74. Mr. Galvin said it would flatten it out, take from the high side. Mr. Armstrong said then one (1) side won't be buildable; Mr. Kelleher asked what side and Mr. Armstrong said the area where they would compact. Mr. Hubbard asked if it would be closer to Ferry Street and Mr. Armstrong said yes. He also said it was all handicap accessible.

Mr. Kelleher said they would go to the public but asked that they not bring up old stuff. John Feeney said he was the person who wrote the change to the Bylaw and it said existing permits wouldn't change. The Biagini family is a small operation; they take out about 1,000 per year. He wrote the change and the applicant said the same. Mr. Feeney had a question for the contractor from Lopes and Mr. Kelleher advised him to ask it through the Board. Mr. Feeney asked if they had contracts for this; he said he talked to multiple people who said they won't be buying from the applicant, they will be buying from Landers; they have to have it inspected because of state jobs. When the applicant first started there was not going to be any processing on site; now they are talking about grizzle racks and million dollar equipment. They said they will store equipment off site but they aren't going to move that equipment every night. Mr. Armstrong stated that Mr. Feeney has harassed him; Mr. Feeney said he had a comment because the applicant said he harassed people. Mr. Kelleher said it wasn't going anywhere with the Board. Mr. Feeney said three (3) of the members were lawyers plus Mr. Galvin. He mentioned Reynolds v. ZBA and Mr. Kelleher asked him if he had a citation. Mr. Galvin said he has the case and will copy it; it's an Appeals Court opinion.

Mrs. Little said she had a few things. She said that Mr. Hubbard mentioned fewer units; first it was 58, then 40 and now 20. She said it can't be more than 20 because of the nitrogen; it doesn't mean to overturn Town Bylaws. Mrs. Little said this is the second time she has been here for this property – in the 80s, environmental safety. Mr. Armstrong bought this after an earth removal project was denied. She mentioned 1984 and said this was before he bought it; then there was the change in the Bylaw. They put together a petition of 245 signatures; not abutters



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just people against it, Plymouth Avenue, Careswell Street. Mr. Kelleher asked Mrs. Little to give the petition to Ms. Porreca. Mrs. Little said she and her husband worked on Habitat for Humanity and they are not against affordable housing. If he puts twenty (20) units in maybe four (4) will be affordable. There are no sidewalks, no shoulder; it's a windy, curvy road and a car crashed into their driveway; they moved the power pole to the other side; jeep was flipped upside down. She was talking to a friend at Clay Pit Road and had to stop many times because of the trucks. It's not a great place for heavy duty traffic.

Mr. Kelleher called on Robert Jackman, Ruggles Road who said he would have to disagree with the Board and said that Mr. Guimond went to the DPW to calculate. Mr. Jackman said Mr. Armstrong submitted a letter to the Board for \$9/yard; he buys hundreds of thousands of yards, there is a difference with wholesale and retail. Mr. Armstrong says \$9 which is the retail rate. Mr. Ford asked what they are to gather from that; his rate is fixed at \$3. Mr. Jackman said they were presented with different figures; Dan from Lopes quoted wholesale and Mr. Armstrong quoted retail. He said the Tim Connors land will be coming up for sale and will be developed. Mr. Kelleher said they can't take into account what happens to other properties and Mr. B. Murphy asked how that correlates. Mr. Jackman said Mr. Ford said he didn't want a slippery slope. He talked about glacial fill, Avalon granite and oil shell/shale. He wants to be careful not to repeat what he said last week. He said he was very concerned about the oral application – it wasn't in black and white. He said if someone presents an application they need to confer with the Board. Mr. Jackman thinks this business of accepting oral presentations...he agrees with Mr. Ford; he thinks his legal statements hold water.

Mr. Little said there has been a lot of talk about sand and gravel; drinking water comes from that area. Mr. Keane of 149 Cornell Street said he is also a candidate for Selectman and asked Mr. Kelleher if anyone was at his fundraiser; Mr. Kelleher said he wasn't going to answer; Mr. Keane said he brought it up at the beginning; Mr. Kelleher said contributions are public. Ms. Laura McDonough of 70 Ferry Street said she is not against affordable housing but she leans towards ownership instead of rentals. She would like to see a half a dozen there; she knows Mr. Armstrong is worried about trees; she doesn't like things built on a sand lot. Ms. McDonough mentioned 80% of median income and ownership would be better instead of putting all that money into rent. She said Dan O'Connor during the campaign discussed 40Bs but it wasn't a focus of his campaign; someone might want to make a phone call. She said they don't want to be held hostage and they should know what they are getting into. Mr. Hubbard said the state would usually grant it.

Mark Dunderdale of 69 Carolina Trail said he has lived here his whole life and never felt the need to come to a meeting before. He has lived with barking dogs on Clay Pit Road, trucks that were supposed to start at 7:00 but started at 5:30. And now being asked for an additional forty (40) trucks – he said they should vote to not allow this. This proposed project is exactly what disturbs the covenant of quaint enjoyment. When will the earth removal occur, when they are at work? No, it will be in the morning hours. He implored the Board not to let this happen.

Kevin Shea of 356 Ferry Street asked if they could look at the overhead view (the assessors map). He asked Mr. O'Neill to zoom to a certain area and he pointed out a pile of trees and stumps that are there. He looked out and saw Mr. Armstrong was burning there. He has an



**ZONING BOARD OF APPEALS MEETING PLACE: HEARING ROOM 2,  
MARSHFIELD TOWN HALL MARCH 8, 2017 7:00 P.M.  
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email from John Pano from the DEP that shows what an acceptable burning day is; that day was not acceptable. There were three (3) trucks, six (6) firemen and no fire. No call was placed to the Fire Department to see if it was a burning day. There was an accelerant used in the WRPD. As Mr. Little said, 39% of the water comes from there. He questions the size and scope of the earth removal project. Mr. Kelleher asked the date of the burning and Mr. Shea said it was April 10, 2011.

Robert Perry of 203 Grove Street said he can understand where he is coming from; he has had the land for a number of years. It changes the topography of the site and asked if it could be moved to another area where there would be buildable lots. He said they should keep the earth in Town. He said where Mrs. Little was talking about the road, if he is travelling east and has to turn left he has to slow down to take the turn; he thinks it should be widened there or another lane added to turn left safely. He said the last thing is the neighbor down the street moved from Marshfield a few years ago and came back to visit this summer. He said Mr. Perry has been there for twenty (20) years and asked why he didn't move when he heard about Mr. Armstrong building a 40B. Mr. Perry asked about permits and said Mr. Armstrong knows a lot of people.

Mr. Feeney asked to speak and Mr. Kelleher asked him if it was something new. Mr. Feeney said the applicant claimed he didn't want trees and Mr. Armstrong said trees were coming down and killing people. Joan O'Donnell from Summer Street thanked Mr. Ford for his articulate comments. She said her biggest concerns are the water and open space. There is a landfill there and she is concerned about the removal of sand and gravel from around that. When there was talk about the soccer fields, she thought the Town had hired a consultant who said they didn't need to take out gravel. They should look at all of those things especially the water.

Mr. Kelleher said with the Board's schedule and Town Meeting, they couldn't get this in until May 9<sup>th</sup>; Mr. Pesce said he would be in Germany. Mr. Kelleher asked about May 2<sup>nd</sup> and advised this would be continued until then and there would not be any Public Notice.

Respectfully submitted,



Nanci M. Porreca  
Zoning Administrator

These minutes were approved by the Board on May 24, 2022 by a  
5-0 vote.

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

Date: 5/24/22