

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL MARCH 22, 2022 6:30 P.M.
MEETING MINUTES**

Members Present:

*Lynne Fidler, Chair
Heidi Conway
Stephen Feeney
Larry Keane
Christopher Belezos
Grover Hensley, Jr.*

Also Present:

*Andrew Stewart, Building Commissioner
Atty. Robert Galvin, Town Counsel*

MARSHFIELD TOWN OFFICE
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Ms. Fidler called the meeting to order at 6:35 P.M. and introduced herself. She explained that Zoom was provided as a courtesy and the meeting will not be suspended if there are technical issues. She gave the meeting ID information and advised callers to use *6 to mute and unmute. Ms. Fidler asked the Board to identify themselves.

#22-26: Joshua Gray: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 45' x 20' second story addition over the existing first floor of the nonconforming structure on the property located at **147 Cambridge Street** which is further identified on the Assessors' Maps as being on parcel I11-22-11 and is located in an R-2 zoning district.

Ms. Fidler read **Case #22-26** into the record and advised the Board that the Petitioner requested to continue to the May 10, 2022 meeting and made a motion to continue to that date certain. The motion was seconded by Ms. Conway and the Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor to continue.

#22-10: Robert Manchester: The Petitioner is seeking a Variance in accordance with §305-10.11 for relief from §305-6.02 and a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 14' x 24' three (3) season porch over the existing deck on the property located at **36 Everson Road** which is further identified on the Assessors' Maps as being on parcel L09-14-03 and is located in an R-3 zoning district.

Ms. Fidler stated that **Case #22-10** has already been read into the record; it was continued until tonight and the Petitioner has requested to continue to the May 10, 2022 meeting. She made a motion to continue to that date certain; the motion was seconded by Ms. Conway and the Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor to continue.

#22-24: Marshfield Commerce Way, L.L.C.: The Petitioner is seeking a Comprehensive Permit in accordance with M.G.L. Chapter 40B for the construction of seven (7) three-story buildings, seven (7) townhome buildings, and one (1) clubhouse building. This development will consist of one hundred and seventeen (117) one-bedroom units, one hundred and sixteen (116) two-bedroom units and sixty-seven (67) three-bedroom units, which will total 300 units in all, seventy-five (75) of which will be considered affordable according to the Boston Metropolitan Statistical Area Index, as

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL MARCH 22, 2022 6:30 P.M.
MEETING MINUTES**

determined by HUD, on the property located on an approximately 12.68 acre site off of **Commerce Way** which is further identified on the Assessors' Maps as D08-01-11A and is located in I-1 and R-1 zoning districts and within a PMUD – Planned Mixed Use Overlay District.

Ms. Fidler said that **Case #22-24** has also been read into the record and continued until tonight. Mr. Galvin stated that it had been continued to tonight for the purpose of selecting a new hearing date for peer review, traffic, etc. He said that if continued to May 3rd the peer reviewer would have the team review; Edward Pesce will work with Patrick Brennan. Mr. Galvin said that there should be time available for the public to speak. He suggested that the Board have the peer reviewer go first and then have the applicant's people respond. He also suggested a sign-in sheet and have the people in favor of the project speak first and then those opposed. Mr. Galvin will have an informational meeting on April 27th at 6:30 to review general 40B information for the Board and for those interested in the information.

Mr. Anand Boscha and Paul Momnie of Mill Creek stated that May 3rd works for them. Ms. Fidler made a motion to continue this hearing to a date and time certain of May 3, 2022 at 6:30 in the Ventress Auditorium at 76 South River Street. The motion was seconded by Ms. Conway and the Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor.

#22-25: Amelia English and Stephen Buckler: The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 10' x 15' first floor addition, an 18'3" x 20' addition above the existing first floor and a 5'4" x 12' addition above the proposed first floor addition on the property located at **138 Grandview Avenue** which is further identified on the Assessors' Maps as being on parcel H16-10-04 and is located in an R-3 zoning district.

Ms. Fidler read **Case #22-25** into the record and asked Jessica Williams, representing the Petitioners, to explain the project. Ms. Williams and the Petitioners were on Zoom. Ms. Williams stated she hasn't presented in Marshfield before and asked if it was possible to share her screen and use her mouse to point; Ms. Fidler said that it was. Ms. Williams stated this was pre-existing, nonconforming on a small lot; the setback is 1.5' off the deck and 9.1' off the structure and the upper right is 3.7' off the structure. Ms. Williams displayed pictures of the home and the abutting homes. She said they would increase the area to 37.6% with a maximum building area of 40%. It is not nonconforming where they are building and there will not be any new nonconformity with the setbacks; she then discussed the plans. Ms. Fidler asked about the roof and stated the Bylaws state 35'; she said they look fine but wanted Mr. Stewart to comment. Mr. Stewart said that he has no problem with this project. Ms. Fidler asked if the Board had any comments and there were none. She stated it was a 4,200 square foot lot and asked what percentage of the lot was open space. Ms. Williams said that it was slightly over 60% as the coverage is 37.6%. Mr. Galvin said that they have to have at least 30% and they have 60%. Mr. Stewart said you would have to include sheds and decks but they still would be okay. Ms. Fidler asked if there were any comments and advised to use *6 to mute and unmute. She stated that the

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL MARCH 22, 2022 6:30 P.M.
MEETING MINUTES**

Planning Board did not have any comments.

Ms. Fidler made a motion to close which was seconded by Ms. Conway; the Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor to close. Ms. Fidler made a motion to grant the Special Permit with the condition that the Board will not endorse the existing shed. The motion was seconded by Ms. Conway; the Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor to grant the Special Permit.

#22-27: Kevin Sealund, Manager/120 Preston Terrace L.L.C.: The Petitioner is seeking a Special Permit in accordance with §305-9.02 of the Marshfield Municipal Code to extend the southeast dormer 15'5", the northwest dormer 12'6" and the southwest dormer 9'0" and remove the balcony on the north side on the property located at **120 Preston Terrace** which is further identified on the Assessors' Maps as being on parcel I16-14-14 and is located in an R-3 zoning district.

Ms. Fidler read **Case #22-27** into the record and asked the Petitioner, Kevin Sealund, to explain the project starting with the site plan. Mr. Sealund stated this was pre-existing, nonconforming and was built in the 1940s. He stated the previous owners redid the decks and the septic system; he is not sure of the date of the addition on the back. They aren't proposing any changes to the exterior footprint; it is currently a Cape with dormers on both sides. The Petitioners want to extend the east dormer back from the water to increase space on the second floor. They want to extend the dormer on the west side by adding two (2) shed dormers; there would be one (1) shed dormer on either side of the existing dormer. They will remove the existing balcony and replace it with a pitched roof. Mr. Sealund said the most severe nonconformity is only 6-9" from the property corner where there is a Town easement for drainage.

Mr. Sealund said there were streets in front and in back – Grandview and Preston. This is built with a slope and parking is about 12' above the house. Ms. Fidler asked if the frontage was on Preston and Mr. Sealund said that it was. He said that he has spoken with Mr. Stewart and they will have to fire rate this. He said they will remodel the inside with two (2) bedrooms upstairs and two (2) bedrooms downstairs. Mr. Sealund said that they were at an 11.8' elevation and they are in a 14' zone; there will not be any changes below the floodplain. Mr. Stewart asked about retrofitting and flood vents and stated that this may end up as a substantial improvement; there are options to install the vents. Mr. Keane said that he didn't see a lot of density and Mr. Sealund said it was about 20% of the building area. Mr. Stewart said the building area is the existing foundation; open space would include sheds and decks into the calculation. Mr. Stewart said they aren't changing anything; they are just adding volume.

Ms. Fidler asked if there were questions or comments from the Board of the public and there were none. She asked Mr. Sealund if the shed would remain and he replied yes; Ms. Fidler said that the Board will not endorse the existing shed. Ms. Fidler made a motion to close which was seconded by Ms. Conway; the Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor to close. The Board stated that an Occupancy Permit will be required but according to Mr. Stewart, they did not need an As-Built. Ms. Fidler stated the

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL MARCH 22, 2022 6:30 P.M.
MEETING MINUTES**

Board reviewed numbers 1 – 10 and made a motion to grant the Special Permit with the condition that the Board will not endorse the existing shed. The motion was seconded by Ms. Conway and the Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor to grant the Special Permit.

#22-28: Benjamin and Erika Joyal: The Petitioners are seeking a Variance in accordance with §305-10.11 of the Marshfield Municipal Code for relief from §305-11.09.C.6 and a Special Permit in accordance with §305-11.09 to create an Accessory Apartment which will be under 40% of the total living space in a soon to be constructed conforming dwelling on the property located at **32 Marginal Street** which is further identified on the Assessors' Maps as being on parcel M05-10-32 and is located in an R-3 zoning district.

Ms. Fidler advised that she would step out for this hearing and that Ms. Conway would be the hearing officer. Ms. Conway read **Case #22-28** into the record and asked the Petitioner, Benjamin Joyal, to explain the project. Mr. Joyal said that his mother couldn't be at the hearing tonight and explained this was originally his grandparent's house; they moved in there when his grandparents moved. He said he is getting married this summer and wants to live here with his mother. He said that it wasn't practical to modify the current structure which was originally built in 1864; they have received permission from the Historical Society to demolish it. He said the lot size was greater than 10,000 square feet and it was nonconforming on one side; the new structure will be conforming. Ms. Conway asked about the barn and Mr. Joyal said they were not touching the barn. Mr. Stewart said that most of his concern was that this has the appearance of a two (2) family and not an Accessory Apartment. He said it was separated by only a firewall which indicates two (2) family; there is no travel from one to the other. Mr. Galvin asked if there was any internal travel between the two and Mr. Joyal said there should be a door in the basement to go between. Ms. Conway asked Mr. Stewart about basement access and Mr. Galvin asked if the apartment would be less than 40% of the living space. Mr. Joyal said the apartment is 1,401.5 square feet and the main unit is 3,500 square feet. Ms. Conway asked if they needed an access on the main floor or was basement access okay. Mr. Galvin said it would be up to Mr. Stewart. Mr. Stewart said it was up to the Board to determine if this was a two (2) family or an apartment. He said the apartment side is on the right said. He asked if the left side was the only side with attic access and Mr. Joyal said that was correct. Mr. Galvin said it looks like the Accessory Apartment was the same size as the other unit. Mr. Stewart said if you consider the attic space and the basement space it would fall under 40%; Mr. Joyal said it was still under 40% without the basement space.

Ms. Conway said that the attic goes to the main part of the house and the basement has common space; Mr. Joyal said they can go between the two in the basement. Mr. Galvin said if the attic isn't finished it doesn't count because it's not living space. Mr. Stewart said that right now it has a walk-up staircase from below; it's now unfinished but it could be finished at any time. Mr. Belezos asked if the attic would be heated and Mr. Joyal said that he believed so; it will have heat coming up from the second floor rather than the basement. Mr. Galvin said the conditions will make it an apartment. Mr. Stewart said he was concerned about not having access between the two and having to go to the basement to get to the other side. With Accessory and In-law

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL MARCH 22, 2022 6:30 P.M.
MEETING MINUTES**

apartments there is a pass-through; he said there was a house on Nevada where they wouldn't let them have a door. Mr. Keane asked Mr. Joyal if he understood Mr. Stewart's point. Mr. Joyal said it was basically the same thing having a door in the basement or the first floor; they prefer the basement.

Ms. Conway stated the Accessory Apartment entrance was on the side. Mr. Keane said that it gave the appearance of a single family and asked what the parking was like; Mr. Joyal said there was a single driveway. Mr. Stewart said that he didn't think the issue of a two (2) family is from the look of the outside; the door is on the side. He feels this is something the Board should consider. Mr. Galvin said they need to put in a condition that access to the attic is only accessible for the main unit. Ms. Conway asked if there were any questions and Stephen Bjorklund, a resident, said that he has no stake in this; he thinks it's great to help the elderly and it keeps them in the house. Ms. Conway made a motion to close the hearing which was seconded by Mr. Feeney; the Board voted 5-0 in a roll call vote with Conway, Feeney, Keane, Belezos and Hensley voting in favor. Ms. Conway made a motion to grant the Variance which was seconded by Mr. Feeney; the Board voted 5-0 in a roll call vote with Conway, Feeney, Keane, Belezos and Hensley voting in favor. Ms. Conway made a motion to grant the Special Permit with the following additional conditions: Accessory Apartment is proposed for the first and second floors on the right side and shall occupy no more than 40% of the total living area; the principal dwelling unit will be on the first and second floors on the left side with exclusive future living space in the third floor attic space and shall be designed according to the plans submitted; access to the third floor attic space shall only be from the second floor of the principal dwelling unit. The motion was seconded by Mr. Feeney and the Board voted 5-0 in a roll call vote with Conway, Feeney, Keane, Belezos and Hensley voting in favor.

#22-29: Anthony Durkin: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct an 18' x 6' front dormer and a 9'3" x 10'10" rear dormer to create a half story on the property located at **75 Marginal Street** which is further identified on the Assessors' Maps as being on parcel M06-03-08 and is located in an R-3 zoning district.

Ms. Fidler returned to the hearing room and read **Case #22-29** into the record and asked Stephen Bjorklund who was representing the Petitioner to explain the project. Mr. Bjorklund gave the Board a permission letter from the Petitioner allowing him to act on his behalf. Mike Farwell who may be the contractor was also with Mr. Bjorklund. Mr. Bjorklund said that there will not be any change to the first floor; he was brought into this late and he wasn't sure if the Board would make a decision tonight. He said Mr. Durkin wants a third floor. They came in and met with Mr. Stewart and they want to go a little larger than what was in front of the Board; over 300 square feet increase over what they applied for. They would like to sit with Mr. Stewart and re-advertise if they have to. Mr. Galvin asked if they would be creating a height issue and Mr. Bjorklund said that it won't be more nonconforming. Mr. Galvin said that it is a half story and the increase would make it a full story. Mr. Stewart said that once you add dormers the height is the mean roof height; Mr. Bjorklund said the height would not change with the new plan. Ms. Fidler said the plans the Board has in front of them are dated October 3, 2021 and now they will have a new plan. Mr. Bjorklund said that he thinks the owners are entitled to get what they want

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL MARCH 22, 2022 6:30 P.M.
MEETING MINUTES**

and he has the plans tonight. Ms. Fidler asked if it was 300 feet or 300 square feet; Mr. Bjorklund said that 706.3 on the plan is the total of what they would like to get. Mr. Galvin advised they should submit a new plan and meet with Mr. Stewart.

Mr. Stewart said he is not concerned with the height, it is with the third story. He said it is conforming to height but adding a third story it will make it nonconforming. Mr. Bjorklund read §305-9.02.C which says, "Any nonconforming one-or two-family residential structure may be altered, extended or reconstructed and the use extended through the extended, altered or reconstructed portion provided that any resultant alteration shall not cause the structure to violate the maximum building area...". He said they are not changing the foundation and he would call it a horizontal change under §305-9.02. Mr. Galvin said they don't interpret it that way; Mr. Bjorklund said the horizontal change gives them the power. Mr. Galvin advised Mr. Bjorklund to do the plans and it would make sense to meet with Mr. Stewart; Mr. Bjorklund said they just want to widen the dormer. Mr. Galvin stated this was similar to Ocean Street/Marathas and Mr. Stewart said they made them stick to the 2/3. Mr. Galvin advised Mr. Bjorklund that we had that situation on Ocean Street and Mr. Stewart will show it to him. Ms. Fidler asked if there were any comments or questions from the Board or public and there were none. She made a motion to continue the hearing to April 12, 2022 at 6:30 PM. The motion was seconded by Ms. Conway and the Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor.

#22-30: Ryan and Lauren Depew: The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 12' x 18' addition at the front of the dwelling and a 12'10" x 10' covered porch on the property located at **23 Pheasant Lane** which is further identified on the Assessors' Maps as being on parcel J09-07-11 and is located in an R-3 zoning district.

Ms. Fidler read **Case #22-30** into the record. The Petitioner stated this is pre-existing, nonconforming because of the rear setback. They want to put an addition in the front and a covered porch which will not cause any further nonconformity. There are two (2) sheds, one was permitted and the other was existing. Ms. Fidler made a motion to close the hearing which was seconded by Ms. Conway; the Board voted 5-0 in a roll call vote Fidler, Conway, Feeney, Keane and Belezos voting in favor. Ms. Fidler made a motion to grant the Special Permit with the conditions of an As-Built, Occupancy Permit and the sheds are not endorsed. Ms. Conway seconded the motion and the Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor.

#22-21: Michael J. and Amy M. Dorsey: The Petitioners are seeking a Special Permit in accordance with §305-10.12 and §305-9.02 of the Marshfield Municipal Code to raze the existing structure and construct a 40' x 22' two (2) story dwelling, replace the existing 20' x 13' rear deck and construct a 22' x 6' front covered porch on the property located at **94 Marginal Street** which is further identified on the Assessors' Maps as being on parcel M06-05-08 and is located in an R-3 zoning district.

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL MARCH 22, 2022 6:30 P.M.
MEETING MINUTES**

#22-22: Michael J. and Amy M. Dorsey: The Petitioners are seeking a Special Permit in accordance with §305-10.12 and §305-9.02 of the Marshfield Municipal Code to construct a 32' x 22' second floor addition, replace the existing deck with a 20' x 16' deck and construct a 22' x 6' front covered porch on the property located at **96 Marginal Street (rear)** which is further identified on the Assessors' Maps as being on parcel M06-05-03 and is located in an R-3 zoning district.

Ms. Fidler stated that **Case # 22-21** and **Case #22-22** have already been read into the record. Jake Drohan, the builder, explained this is a pre-existing, nonconforming lot with three (3) individual dwellings. There was some discussion regarding the deeds because of the merging of the lots. Attorney Galvin stated that this is now one (1) lot for zoning purposes; he stated that there should be a "Z" somewhere on the plan. He said that none of the three (3) structures on the lot can be sold individually as that will create a major issue. Mr. Drohan noted that the Petitioners understand and said that they bought so that each of their three (3) kids would have a house. Ms. Fidler made a motion to close Case #22-21 which was seconded by Ms. Conway; the Board voted 5-0 in a roll call vote Fidler, Conway, Feeney, Keane and Belezos voting in favor. Ms. Fidler made a motion to grant the Special Permit for #22-21 with the following conditions: the deck will not be any closer to the lot line than the existing deck; the deck on the easterly side will be a one (1) story deck and the stairs will be removed; the decision should be recorded against both 94 Marginal and 96 Marginal Streets; an As-Built plan and a Certificate of Occupancy shall be submitted. Ms. Conway seconded the motion and the Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor. Ms. Fidler made a motion to close Case #22-22 which was seconded by Ms. Conway; the Board voted 5-0 in a roll call vote Fidler, Conway, Feeney, Keane and Belezos voting in favor. Ms. Fidler made a motion to grant the Special Permit for #22-22 with the following conditions: the decision should be recorded against both 94 Marginal and 96 Marginal Streets; an As-Built plan and a Certificate of Occupancy shall be submitted. Ms. Conway seconded the motion and the Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor.


Ms. Fidler made a motion to adjourn the meeting. The motion was seconded by Conway and the Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor.

Respectfully submitted,



Nanci M. Porreca
Zoning Administrator

These minutes were approved by the Board on May 24, 2022 by a
50 vote.

Signed:  Date: 5/24/22