

**ZONING BOARD OF APPEALS MEETING PLACE: HEARING ROOM 2,
MARSHFIELD TOWN HALL OCTOBER 24, 2017 7:30 p.m.
MEETING MINUTES**

Members Present:

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

Also Present:

Robert Galvin, Town Counsel

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. After reading each petition, Mr. Ford stated that he would be the Hearing Officer and that other members were signified by their nameplates.

#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 R-3 zoning district.

Mr. Ford read the petition into the record. Mr. Pugliese explained the project and Mr. Ford asked how high the deck would be and stated that the Board would need dimensions of the proposed deck. Mr. Ford said that if the deck was over four feet (4') then Mr. Pugliese would have to comply with the setbacks and that he is already encroaching into the front setback; he wouldn't be able to go more than 9.85' without a Variance. Mr. Hubbard asked how many feet off the ground the deck was and Mr. Pugliese replied 5'4". Mr. Hubbard explained that once he was over four feet (4') that he could only encroach two feet (2') into the setback and suggested that Mr. Pugliese may want to come back with another set of plans and said that the Board could not go over four feet (4'). Mr. Pugliese asked if that was from the top of bottom of the deck and Mr. Ford said it was the floor of the deck. Ms. Conway and Mr. B. Murphy were okay with conditioning it to four feet (4'). Mr. Galvin said that the applicant needed to come back with new drawings anyway. Mr. Ford advised that Mr. Pugliese needed to decide if he wanted a deck that was four feet (4') or lower so that he could go halfway into the setback or if he wanted the height over four feet (4') which would only give him a two foot (2') deck into the setback. Mr. Ford asked Mr. Pugliese if two (2) weeks would be enough time for him to redo the plans and he replied that it was. There were no additional questions from the Board or public. Mr. Ford made a motion to continue the hearing until November 14th, 2017 which was seconded; all were in favor.

#17-61: Gerald and Susan Pieri: The Petitioners are seeking Special Permits in accordance with §305-9.02 and §305-10.12 of the Marshfield Municipal Code to reconstruct the existing 10.4' x 24.3' cottage on an elevated foundation in the same location and to extend the footprint of the secondary structure by six inches (6") in width away from the property line which would increase the footprint to 10.9' x 24.3' and to construct a 3.5' x 7' mechanical room with a second floor entry/egress and extend the structure with a second story addition on the property located at

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46 Bay Street, which is further identified on the Assessors' Maps as being on parcel M04-11-02A and is located in an R-3 zoning district.

Mr. Ford read the petition into the record. Mrs. Susan Pieri explained that she and her husband were reapplying for a Special Permit that they received in 2010. They recorded it at the Registry of Deeds but did not know that there was an expiration date so they are applying again. Mr. Ford said that they had the plans from 2010 which has all of the setbacks. He asked if they were doing any work on the house or if it would just be on the cottage and Mr. Pieri replied that it would only be the cottage. Mr. B. Murphy asked if they would be reconstructing in the same footprint and Mrs. Pieri said that they would like to move it further away from the house, further away from Bay Street. Mr. Ford asked if the Pieris also owned Lot 4 and they replied that they did. Ms. Fidler was concerned that if the Pieris were to ever sell Lot 4 that they had already encroached on it. Mr. Galvin said that for zoning purposes it is considered one lot if it is in common ownership which it is. There were no additional questions from the Board or public. Mr. Ford made a motion to close the hearing which was seconded; all were in favor. Mr. Ford made a motion to grant the Special Permit which was seconded; all were in favor.

#17-63: Laurence Huntley: The Petitioner is seeking a Special Permit in accordance with §305-11.09 of the Marshfield Municipal Code to create a Residential Accessory Apartment within the attached garage which will be 35' x 26' on the property located at **1574 Ocean Street**, which is further identified on the Assessors' Map as parcel I08-10-17 and is located in a B-2 zoning district.

Mr. Ford read the petition into the record. Mr. Huntley explained that he would like to convert the attached garage into an accessory apartment that he estimates will be 768 square feet. He would remove the garage doors and there would be no changes to the house. There were no additional questions from the Board or public. Mr. Ford made a motion to close the hearing which was seconded; all were in favor. Mr. Ford made a motion to grant the Special Permit which was seconded; all were in favor.

#17-64: Sheila Derby McLean: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code construct a 19' x 12' deck to replace the existing 19' x 6' deck on the property located at **66 Pownal Street** which is further identified on the Assessors' Maps as parcel K05-01-28 and is located in an R-2 zoning district.

Mr. Ford read the petition into the record. Ms. McLean explained that she put a chair on the existing deck so that the Board could see that she does not have enough room to put a table on the deck. She explained that the proposed deck would be under four feet (4'). Mr. Ford stated that it did not look to be any closer than halfway from the house to the street. There were no additional questions from the Board or public. Mr. Ford made a motion to close the hearing which was seconded; all were in favor. Mr. Ford made a motion to grant the Special Permit which was seconded; all were in favor.

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#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 read the petition into the record. Walter Sullivan, Esquire, Stanley Jenness and Jesse Johnson were in attendance for Extra Space Storage. Mr. Jenness stated that the property includes 2.265 acres; they received a Special Permit in July 2000 to build what is currently there which is 75,900 square feet of self-storage; 1.15 acres of the property has storage and parking. The previous Special Permit approved 77 spaces for parking; the Petitioner is seeking to add 8100 square feet in buildings but they want to reduce the parking to 44 spaces. Mr. Jenness said that they have filed an amendment to the Special Permit with the Planning Board and he felt that the Planning Board thought this was a good idea. They would be able to treat the surface water runoff through the paved surface before it goes to the aquifer. Mr. Johnson said that they are trying not to increase the impervious surface; he said that they are held to no more than 60% and they are at 57%. They are taking advantage of the existing pavement and putting buildings on the outer perimeter; they can reduce the impervious surface slightly. The applicant said that they have provided support information for decreased parking; someone monitored the site for an extended period and the highest amount of cars parked was 11 and that was at an auction. Mr. Johnson said that they have tried to take away what is considered dirty water runoff where the cars are parked and replace it with clean runoff and that they have tried to improve storm water conditions.

Mr. Ford asked if they could walk through how the reasons for a Variance have been satisfied. Mr. Sullivan said that the reason for the expansion is economic, that literal enforcement is a hardship to his client. He said that it will not be a detriment to the public; it would improve quality by treating groundwater and will not be increasing the impervious surface. Mr. Sullivan said that strict application of the Bylaw is depriving the applicant of full use of the facility; that it will not be a special privilege because the public would benefit. Mr. Sullivan stated that Extra Space storage has three (3) other locations and their parking is as follows: Plainville-4 spaces, Dedham-11 spaces and Cohasset-13 spaces. He said that they would still have ample parking with 44 spaces. Mr. Ford asked Mr. Sullivan what was unique about Condition #1 and said that Mr. Sullivan would say that it was the location of the aquifer and the restrictions otherwise they would have plenty of land on the lot but can't use the full lot because the soil conditions are uniquely problematic. Mr. Sullivan said that he couldn't say it better. Mr. Ford stated that they were not going to decide tonight, that he needed to think about it. There were no additional questions from the Board or public. His sense is that he has all of the arguments and if the Board needed additional information they should speak up; his instinct was to close the hearing and deliberate at the next meeting because it was a Variance and it presented issues and arguments that he has not been considered during his tenure on the Board. Mr. Ford made a motion to close the hearing which was seconded; all were in favor.

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#17-66: Brian and Valerie Barry: The Petitioners are seeking a Special Permit in accordance with §305-9.02 and §305-10.12 of the Marshfield Municipal Code to demolish an existing single family dwelling and construct a new 32' x 38' single family dwelling with an 8' x 32' covered porch on the front and a 14' x 22' open deck on the rear with construction to be on pilings so as to elevate the new structure above the Base Flood Elevation on AE 16 on the property located at **78 Beach Street**, which is further identified on the Assessors' Map as parcel M05-05-83 and is located in an R-3 zoning district.

Mr. Ford read the petition into the record. Richard Servant of Stenbeck and Taylor represented the applicant. He said that they have an existing cottage on the site and propose to demolish it and replace it with a new structure on driven wood pilings. He said that it is an existing nonconforming lot with nonconforming setbacks. Mr. Servant said that the proposed house will increase all of the nonconforming setbacks with the exception of the rear line which will conform to the rear setback. They are proposing a 1470 square foot dwelling with parking to the rear and a rear deck that would be over four feet (4') but they would have the tow foot (2') overhang into the setback. He stated that they had received a letter from the Historical Society approving the demolition of the existing house. Mr. Ford reviewed the existing and proposed setbacks and there were no additional questions from the Board or public. Mr. Ford made a motion to close the hearing which was seconded; all were in favor. Mr. Ford made a motion to grant the Special Permit which was seconded; all were in favor.

#17-67: Grandview Investors, LLC: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 26' x 34' second story addition on to an existing nonconforming single family one story home on the property located at **40 Leverett Street**, which is further identified on the Assessors' Map as parcel L05-11-01A and is located in an R-3 zoning district.

Mr. Ford read the petition into the record. Richard Servant of Stenbeck and Taylor represented the applicant. He stated that they propose to add a second story addition which would be approximately 900 square feet. Mr. Servant said that the house is currently nonconforming to the front setback and they would be matching the existing rear setback and will not go any closer to the rear line. Mr. Ford confirmed that it was a second floor on an existing footprint. There were no additional questions from the Board or public. Mr. Ford made a motion to close the hearing which was seconded; all were in favor. Mr. Ford made a motion to grant the Special Permit which was seconded; all were in favor.

#17-62: TJX Corp./Marshalls HomeGoods: In accordance with §305-12.02 of the Marshfield Municipal Code, the Petitioner is seeking an amendment and modification to the existing site plan for the extension of the exterior nonstructural façade fascia to accommodate the replacement of the existing sign with new conforming signage for the business known as Marshalls Home Goods to extend the existing fascia on the Webster Street side of the building by 11'7" on the property located on **Snow Road**, which is further identified on the Assessors' Map as parcel H07-04-25A and is located in a B-1 zoning district.

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Mr. Ford advised that he was recused from this hearing, was not a participant in the following hearing and left the meeting. Ms. Fidler stated that she would be the Hearing Officer and read the petition into the record. Steven Guard, Esquire represented the applicant and stated that this was a request for a minor modification; that Marshalls had changed and was no known as Marshalls HomeGoods. He stated that the sign was okay on the Snow Road side of the building but needed approval for the Webster Street side. He said that this is a non-structural decorative piece but they have to increase the fascia board so that it would be large enough for the new sign. Ms. Fidler asked if they had already been to the Building Department and Mr. Guard said that they had. There were no additional questions from the Board or public. Mr. Fidler made a motion to close the hearing which was seconded; all were in favor. Ms. Fidler made a motion to grant the site plan modification which was seconded; all were in favor.

#17-58: Robert and Patricia Parsons: The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Code and M.G.L. c. 40a, §6 and §7 to alter a legal nonconforming single family dwelling with a 14' x 5' extension of the existing covered front farmer's porch which would thereby increase the nonconformity of the dwelling; the dwelling currently has a thirty-nine foot (39') front setback and with the extension of the porch, the setback would be reduced to thirty-eight feet (38'); and to relocate two (2) sets of stairs on an existing rear deck and construct an 8' x 10' pergola on said existing rear deck; and a Variance under §305-10.11 of the Marshfield Code for relief from §305-6.01 Applicability of Dimensional and Density Regulations and §305-6.02 Table of Dimensional and Density Regulations to decrease the nonconforming front yard setback by one foot (1') in connection with "squaring off" the existing covered front porch due to the angle of the house to the front lot line and the requested relief will not create any new nonconformities on the property located at **72 Dedham Road**, which is further identified on the Assessors' Map as parcel G12-14-01 and is located in an R-1 zoning district.

Ms. Fidler stated that **#17-58** was continued from the October 10, 2017 meeting. She advised that Ms. Conway was not in attendance at that meeting but has reviewed the information; Mr. Ford was not in attendance at that meeting; Mr. Stiles was not in attendance this evening but was recused from this hearing. Ms. Fidler said that there had been some discussion over Special Permit vs. Variance and that Mr. Hubbard was going to do some research. Mr. Hubbard said that the Board has applied §305-6.08E.3 in the past regarding open decks over four feet (4') in height. §305-6.08E.3 states, "Projections into required yards or other required open spaces are permitted only as follows: open decks, steps or stoops over four feet in height, windowsills, chimneys, roof eaves, fire escapes, fire towers, storm enclosures or similar architectural features, not more than two feet." Mr. Hubbard said that they have applied storm enclosures to include enclosures that have a roof on them and that a Variance was not needed for this. Ms. Fidler asked if he recalled what cases and Mr. Hubbard stated that he distinctly remembered one in Rexhame and Damons Point. Mr. Galvin said that it was a structure. Ms. Ford stated that it was Mr. Hubbard's argument and that of some of the Board that a Variance wasn't needed because

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the porch meets the requirements. Mr. Hubbard said that it does not encroach more than two feet (2')

Mr. Guard said that the Board could make a finding that the alteration does not increase the nonconforming nature of the house and that the one foot (1') encroachment was an intensification of an existing nonconformity. He asked that the Board make a finding that the front porch falls under §305-6.08E.3 so that it would be clear to the Building Department that this was approved. There were no additional questions from the Board or public. Mr. Guard said that as a point of order he was asking about the relocation of the rear deck steps. Ms. Fidler said that there had been several moving parts to this petition; she said that at the last meeting, the Board did not have any questions about the steps or the pergola. Ms. Fidler made a motion to close the hearing which was seconded and all were in favor. She asked the Board if they would like to deliberate that evening and they replied that they would. Ms. Fidler made a motion to deny the Variance as moot which was seconded and all were in favor. Ms. Fidler made a motion to grant the Special Permit which was seconded; all were in favor.

Meeting adjourned at 8:40 P.M.

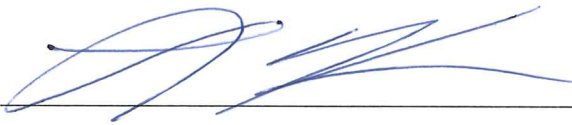
Respectfully submitted,



Nanci M. Porreca
Zoning Administrator

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

May 29, 2022 meeting by a 5-0 vote.

Signed:  Date: 5/29/22