

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL MARCH 8, 2022 6:30 P.M.
MEETING MINUTES**

Members Present:

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

Also Present:

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

MARSHFIELD TOWN CLERK
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2022 MAR 25 PM 1:27

Ms. Fidler called the meeting to order at 6:35 P.M. and introduced the Board. 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. \

#22-23: Elizabeth and John Lake: The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to replace the existing 10.3' x 7.5' shed with a 12' x 16' shed which will improve the northerly setback and maintain the read setback on the property located at **69 Standish Street** which is further identified on the Assessors' Maps as being on parcel K11-09-15 and is located in an R-3 zoning district.

Ms. Fidler read **Case #22-23** into the record and advised the Board that the Petitioners requested to continue to the April 12th meeting. She made a motion to continue to April 12, 2022 at 6:30 P.M. which was seconded by Ms. Conway; the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane Belezos voting in favor to continue.

#22-11: Jay Robichau and Siobhan Durkin: The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 12' x 12' second floor addition for a home office on the property located at **5 Columbia Road** which is further identified on the Assessors' Maps as being on parcel I16-06-02 and is located in an R-3 zoning district.

Ms. Fidler stated that **Case #22-23** had been continued to tonight and the Petitioners requested to continue to the April 12th meeting. Ms. Fidler made a motion to grant the continuance to April 12, 2022 at 6:30. Ms. Conway seconded the motion and the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor.

#19-29: Manuela and Edward Barrett, 205 Bay Avenue: Petitioners request a one (1) year extension from 07/18/2022; 03/11/2020 to 06/17/2021 equals 396 days to be added due to state of emergency.

Ms. Fidler said that the Board had discussed this at the last meeting; the state of emergency due to COVID. She made a motion to grant the extension to July 18, 2023 which was seconded by Ms. Conway; the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor.

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#18-82: Scott Ryder, 3 Preston Terrace: Petitioners request a one (1) year extension to include the tolling period due to the state of emergency.

Ms. Fidler said that this was another extension request as a result of the state of emergency due to COVID. Mr. Galvin said they didn't need to do it, that it could be done at the end of the tolling period.

#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 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 read **Case #22-24** into the record. Anand Boscha and Paul Momnie and the design team were in attendance for Mill Creek. Mr. Boscha said they would give a high level overview of the project and the 40B process but would not cover everything tonight. Mr. Momnie explained that once a community gets to 10% of affordable housing they would get Safe Harbor; Marshfield is at approximately 8.3%. Mr. Anthony Donato reviewed the preliminary site plan. Mr. Galvin asked if the site was developed according to this site plan, would storm water discharge affect the development of other sites. Mr. Donato said when the master plan was done it was designed for the zoning maximum.

Mr. Ed Pesce said that he did the peer review for the other site and he has looked at the preliminary plans for this site. He said a key item would be to document what Mr. Galvin said that developing this site would not affect other sites; they will need to document what is allowed to be discharged and what will be discharged. Mr. Pesce said they should document the Title 5 flow. He also said they would need information from the Water Department on their letterhead that says they have the capacity.

Ms. Fidler asked if Parcel D08-01-12 was intended to be a buffer between the two (2) developments; Mr. Boscha said that they wouldn't call it a buffer zone and said they aren't going to build on it. Mr. Galvin asked who owns it and Mr. Boscha replied VRT and that he wasn't sure if the grading was done. Mr. Pesce said he thinks it is a temporary grading easement for the other project.

Mr. Feeney asked what information they had that the census would go down. Mr. Momnie said it was based on the number of total units in town. He said that the units from the first project have not shown up yet and those 240 units will be added to the total housing inventory. Ms. \

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Fidler asked it was Mr. Momnie's opinion that the 300 units would put the Town at 10%; Mr. Momnie said the 2021 census was already done. Mr. Keane asked if he knew exactly how many units would get us over 10% and Mr. Momnie said that the 2020 census number will be used for calculation. Mr. Guimond said that the total number of units changes every ten (10) years. The Town isn't expecting it to drop to 8.1%; he thinks we will drop lower than that. Mr. Keane asked Mr. Guimond if he thought the 300 units would get us to 10% and Mr. Guimond said that he did not. He said that he needs the numbers from DCHD; they used occupied housing. Mr. Murphy said the first project started at 270 and ended at 248. He asked if they could get a bed count for that and Mr. Momnie said yes.

Jeffrey Dirk from Vanasse and Associates did the previous traffic study and said the traffic counts were done in September 2021; they evaluated the same study area – Route 139 from School Street to the intersection of Forest and Proprietors. COVID had an effect but schools were back; they compared this study to 2019 and it was 5% lower in September 2021. He said that 2019 is considered existing traffic. Mr. Vanasse reviewed the existing conditions and said that with the previous project the Board focused on pedestrians and bikes; they filled in the gaps with sidewalks and crosswalks. He said that Route 139 accommodates 30,000 cars per day and the numbers on the slide will be added to that. Mr. Vanasse said they were 24' in width and they were walkable and bikeable. He said he found the only need at the intersection of Route 139 and Enterprise Drive was a need to retime the signal as they did with Modera. Ms. Fidler said that location has been the topic of other projects. Mr. Guimond said they have been pushing for an additional left turn lane and they could get the same result without signaling. Mr. Murphy asked if the study included the Rockwood Road ballfields and said he knew they had been shut down for awhile. Mr. Vanasse said he would get background information to see what was going on then.

Ms. Fidler asked Mr. Vanasse to explain the studies being based on pre-COVID. Mr. Vanasse said all traffic counts were done in September 2021. To see if they needed to make an adjustment for COVID, they looked at 2019 and saw that it was 5% down. They look forward seven (7) years from the date the traffic study was published. It was done in January 2022 so it will be through January 2029. Ms. Fidler said it was a lot of information but they will have peer review to help them. Mr. Pesce said Mr. Vanasse knows the corridor very well and he knows there was a safety audit done near Roche Brothers; he asked Mr. Vanasse if a signal optimization effort was done. Mr. Vanasse said the road safety audit had several recommendations for Modera including improvements on Proprietors Drive. Ms. Fidler reminded Mr. Vanasse that the public will have a lot to say; Mr. Vanasse said he remembered and that makes for a better project.

Andrew Stebbins, architect with TAT, reviewed the flats buildings and said they were all three (3) stories. He said a few would have a walk-out depending on the grade. He said the town houses will be similar to the Modera project; he said they had groups of five (5) and decided to switch to groups of six (6). Ms. Fidler asked Mr. Stewart to bring up the architectural. She said they needed tweaking and asked the Board if they were in favor of an architectural review. Mr. Stebbins said that 2D are always tough. Mr. Galvin said they reduced the height last time. He also advised that one group that is used is Davis Square Architects. Mr. Pesce said the Board

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benefits with a 3D rendering view from the street. Ben LaFrance discussed landscaping and said the goal is to develop the plan similar to Modera; he said there would be a lot.

Mr. Galvin asked them to explain the trash. Mr. Boscha said it wasn't detailed yet but there will be a trash area in the back of the building and will probably be emptied two (2) times per week. Mr. Belezos asked if it would be private trash and Mr. Boscha said yes. Mr. Belezos asked if there was an industry standard per dumpster and Mr. Boscha said there probably is but they haven't gotten there yet. Ms. Fidler asked about street names and Mr. Boscha said they could work on that.

Ms. Fidler said the MassHousing letter was included in the presentation book. She said the book would be available to the public in the Zoning office and Mr. Stewart would also have one. Attorney Deborah Horwitz said that it would also be on their website. There was a discussion about peer review and the Board determined that Edward Pesce and Patrick Brennan would be the reviewers for engineering.

Ms. Fidler stated that there would be a hearing just for Mill Creek and the Board would ask for comments from those in favor of the project and from those who are opposed. Ms. Horwitz asked if the peer reviewers would be hired before March 29th and would they have time to review. Mr. Galvin said that they don't want to exclude the public but they are just getting started and no peer review has been done yet; the peer reviewers may see something that should be changed. He suggested that this meeting be 45-60 days out to give the peer reviewers time. Ms. Fidler said during the last time that the Board designated two (2) members to be liaisons; Ms. Fidler made a motion that Ms. Conway and Mr. Belezos be the liaisons. The motion was seconded and the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor. Ms. Fidler made a motion to continue the hearing to March 22, 2022 for the purpose of determining a new hearing date at the Seth Ventress Auditorium. Ms. Conway seconded the motion and the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor.

At 8:05 Mr. Stewart requested a five (5) minute recess so they could go back to the 3 Preston Terrace extension. Ms. Fidler called the meeting back to order at 8:12 P.M.

#18-82: Scott Ryder, 3 Preston Terrace: Petitioners request a one (1) year extension to include the tolling period due to the state of emergency.

Ms. Fidler said that during the recess Mr. Stewart worked on this and Mr. Stewart said that the Board had not voted on the extension. He explained the tolling period and said the extension would put Mr. Ryder at February 27, 2023. Ms. Fidler made a motion to grant the extension to February 27, 2023 and the motion was seconded by Ms. Conway; the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor.

#22-08A: Maureen C.G. Cook: The Petitioner is seeking a Special Permit in accordance with §305-10.10, §305-9.02.B, §305-9.02.C and §305-13.01.C.1 of the Marshfield Municipal Code to construct an 8' x 45' and 8' x 32.1' L-shaped deck

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attached to the elevated single family dwelling on the property located at **125 Surf Avenue** which is further identified on the Assessors' Maps as being on parcel K11-24-07 and is located in an R-3 zoning district.

Ms. Fidler read **Case #22-08A** into the record and said that **Case #22-08** had previously been read into the record. Mr. Richard Servant of Stenbeck & Taylor was in attendance with Ms. Cook. He said they wanted to discuss the residential deck project and hopefully get some consent. Mr. Servant said the home has already been elevated which poses some challenges. If the deck was at ground level they could make it work but the issue is that it's now over four feet (4') off the ground. Mr. Servant said that the homeowner wants to connect the two (2) doorways on the house; she has an elderly mother that can access from one (1) area but not the other. They have addressed the Inland Wetland area. He said they need egress and landing and stairs. Mr. Stewart said they would need a minimum of 36" between the railing and the wall. Ms. Fidler said that this was before the Board before and they approved staircase and dormers; now we have a deck on pilings 4.3 feet from the street which isn't ideal. Mr. Keane said he was reading Mr. Galvin's memo and they need a Variance but haven't applied. Mr. Stewart said it was a corner lot with frontage on both. Mr. Galvin said that they will need a Variance on the Constitution Road side but may not need it on the Surf Avenue side. Mr. Stewart said that anything within five feet (5') of a lot line needs to be fire rated. Mr. Murphy asked if that was the original landing and did it have a roof; Mr. Stewart said no.

Mr. Belezos asked if they needed anything more than a Variance; Mr. Galvin said they could give a Special Permit on the Constitution side. Mr. Servant asked why it was okay on that side; Mr. Galvin said it would not be a new nonconformity. Ms. Cook said if they did two (2) landings she didn't think there would be enough room for her handicapped/disabled family to get in with walkers; that's why she thought they could connect. Mr. Murphy doesn't understand why they can't get some relief because they are elevated. Ms. Fidler asked why the deck couldn't be a patio and change the location of the door; Ms. Cook said they were opening the house for a bedroom. Mr. Stewart thought they wanted to have it done by July 3rd so Ms. Cook's mother could see the fireworks from the deck.

Mr. Murphy said they don't want to have to go up one side and back down the other side and asked about the width of the stairs; Mr. Stewart believes it is a four foot (4') landing. Ms. Conway asked if it was okay for a wheelchair and Ms. Cook said it she has a walker now. Mr. Murphy said he doesn't see the problem because they approved the landing; Ms. Fidler said before it was a landing but now it's a deck. Mr. Stewart said they need a Variance. Mr. Servant asked if it could be 13' off Constitution and said it was 16.8' now. Mr. Keane asked if there were any concessions for handicapped with the elevation; Mr. Stewart said for handicapped ramps. Mr. Stewart said that on the Surf Avenue side they could use the Bellalta decision; Mr. Galvin said they would need to see how close to the street they would be. Mr. Galvin said the Board has to decide policy – how close can you build to the street? Mr. Stewart said four feet (4') to the lot line and another ten feet (10') to the street.

Ms. Fidler recommended continuing the hearing and have Ms. Cook come back to the Board for a Variance. Mr. Stewart explained this started with a contractor who didn't have permits and he

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put Ms. Cook in a substantial improvement situation. Ms. Fidler made a motion to continue this hearing for Cases #22-08 and #22-08A to April 12, 2022 at 6:30 PM. Ms. Conway seconded the motion and the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor.

Mr. Stewart said that there was an Appeal (**Case #22-16**) at the last meeting (February 22, 2022) by 243 Standish Street. It was discussed during the meeting that they cut down to three feet (3') and keep the fence in place. The applicant came in and asked if they could leave three (3) panels at six feet (6') and start cutting back to three feet (3'). Mr. Stewart said the neighbors were not happy with cutting it down to three feet (3') and they want it out. Mr. Murphy said it wasn't a problem and asked how many fences were in the Right of Way. Mr. Stewart said if they are going to allow it to say it should be cut down to three feet (3'); if the Select Board or any Board wants it removed then they will have to remove it. He sent notice and advised may have need to remove it at their own expense. Ms. Fidler stated the Board had upheld Mr. Stewart's decision.

Ms. Fidler made a motion to close and 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.

The meeting adjourned at 9:00 PM.

Respectfully submitted,



Nanci M. Porreca
Zoning Administrator

These minutes were approved by the Board on August 9, 2022 by a

5-0 vote.

Signed:  Date: 8/9/22