

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL NOVEMBER 23, 2021 6:30 P.M.  
MEETING MINUTES**

*Members Present:*

*Lynne Fidler, Chair  
Heidi Conway (remote)  
Mark Stiles  
Stephen Feeney  
Larry Keane  
Christopher Belezos*

*Also Present:*

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

MARSHFIELD TOWN CLERK  
RECEIVED  
2023 MAY 25 PM 2:57

Ms. Fidler called the meeting to order at 6:34 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 stated that the Board would stick to the Agenda and will hear Case #21-82 (2121 Ocean Street) and Case #21-83 (274 Foster Avenue); Case #21-72A has already been read into the record and has requested to continue to February 8, 2022. The Board will deliberate Webster Point Village. They will outline the points for Case #21-59A (Harbormaster) and deliberate at the next meeting.

Ms. Fidler stated that there are eight (8) new hearings scheduled for the next hearing on December 14<sup>th</sup>. She asked Ms. Porreca if that was the last meeting for 2021 and Ms. Porreca replied that the last meeting will be on December 28<sup>th</sup>. Ms. Fidler asked if the Board had any conflicts with the last meeting and Mr. Stiles said that he would be on vacation but could join via Zoom.

**#21-82: McDonald's USA, L.L.C.:** The Petitioner is seeking a Variance in accordance with §305-10.11 of the Marshfield Municipal Code for relief from §305-7.04.B and §305-7.04.C to add one (1) wall sign to the side of the restaurant which will match the size, color and style of the existing wall sign on the front of the building on the property located at **2121 Ocean Street** which is further identified on the Assessors' Maps as being on parcel G08-04-01 and is located in a B-2 zoning district.

Ms. Fidler read **Case #21-82A** into the record. William E. Lucas, III of Bohler Engineering represented the Petitioner and stated that McDonalds was rebranding this and many other sites and they want to add an additional wall sign; they currently have one (1) free standing sign and one (1) wall sign on the front of the building. He explained the existing wall measurements and stated they would like to add an "M" on the side wall above the entry point to direct customers to the door for entry. Ms. Fidler said it was cut and dried as to why they were here and asked if the Board had questions. She said that they have had this with other applicants and have pretty much stayed with the Bylaw. Mr. Keane said that he went by there tonight and you can't miss the big "M" already there and he doesn't see the need for the additional sign. Mr. Belezos said that he didn't understand how they met Variance Condition #1. Mr. Lucas asked if he could speak after the Board and Ms. Fidler said yes and that the public would also speak. Mr. Stiles asked if "McDonalds" was there before and Mr. Stewart said it was not just an "M". Mr. Stiles

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL NOVEMBER 23, 2021 6:30 P.M.  
MEETING MINUTES**

asked if there was one (1) on the front, one (1) on the said and the “M” in front and Mr. Stewart said yes. Mr. Stiles asked if they had outlined the reason for the Variance and Ms. Fidler asked for the Variance application to be displayed on the screen.

Mr. Stiles asked if the front pole sign would change and Mr. Lucas said it would remain as is. Ms. Fidler said the argument is that the lot is uniquely shaped. Mr. Keane asked if there was a sign below the McDonalds sign and Mr. Lucas said he was not aware. Mr. Keane said he was by there tonight and there was a sign that said “coffee and muffin \$2”; Mr. Lucas asked if it was temporary and said that someone may have taking initiative. Mr. Keane said he understood that they are just rebranding and Mr. Lucas said absolutely.

Mr. Stewart said an application for a sign permit prompted the Variance. The front sign is allowed and directional signage is allowed; the additional sign triggered the permit. Mr. Stiles asked if an argument could be made that the “M” was not a sign and Mr. Galvin said that a logo is a sign and explained the mortar and pestle at Walgreens. Mr. Belezos asked if they could wrap it around. Mr. Galvin said this is for a sign Variance, not Site Plan approval. Mr. Belezos asked if it would be okay if they put it inside and boxed it in; Mr. Galvin said yes. Mr. Keane asked if there was a distance for that and Mr. Galvin did not think they said it with Walgreen’s. Ms. Fidler asked Mr. Lucas if he could hear and he replied that he was writing things down, that inside would be permissible. Mr. Lucas asked if they would have to wait two (2) years to come back if they went forward tonight and weren’t approved. He said he did not want to inhibit McDonalds with a negative vote. Mr. Galvin said they would be out for two (2) years for a sign Variance; they would have to come back to the Board for Site Plan approval for a sign on the interior wall. Ms. Fidler asked Mr. Lucas if he understood they would need to approach the Board for Site Plan approval. He said that he did and requested that the Board vote tonight as McDonalds had instructed him.

Ms. Fidler asked for comments and Ms. Conway said she agreed that this wasn’t something they could do now. Ms. Fidler asked if there were any more Board comments or comments from the public and there were none. She asked if the Board was prepared to close the hearing and they were. She made a motion to close the hearing which was seconded by Mr. Keane; Fidler, Conway, Stiles, Feeney, Keane and Belezos were in favor of closing. Ms. Fidler said the Board would deliberate; this is for a Variance and the applicant is aware of the Board’s comments. It is her opinion that this would not apply and would be denied by the Board. Mr. Belezos said yes to deny. Mr. Stiles said he would approve it rather than have the extra work; he would give the benefit of doubt about the lot size. Mr. Keane said they wanted to be consistent with branding; he can see the iconic “M” a quarter of a mile up the road. Mr. Stiles said that he thought they just agreed to do the nuanced way and Ms. Fidler said she didn’t think they had all discussed it. Mr. Stiles said he didn’t see the harm and Mr. Keane said they were already at their limit and that this was pretty well lit. Mr. Belezos said he didn’t think they should treat them differently than Walgreen’s. Mr. Stiles said that’s why they went to Town Meeting for the Apartment Bylaw; Ms. Fidler said they were at the Zoning Board of Appeals and not Town Meeting; Mr. Stiles said it was anti-business. Mr. Keane said he didn’t want it to be like Route 1. He doesn’t think a third sign would affect their business; if it would he would think differently. Ms. Fidler



**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL NOVEMBER 23, 2021 6:30 P.M.  
MEETING MINUTES**

said they reviewed the Bylaw and Mr. Belezos said there wasn't a lot of wiggle room. Ms. Conway said that Wendy's wanted another sign but they were denied. She said if you go on the internet to find McDonald's you will find one. Ms. Fidler made a motion to close which was seconded by Mr. Keane; Fidler, Conway, Stiles, Feeney and Keane were in favor. Ms. Fidler made a motion to deny the Variance for relief from §305-7.04.B and §305-7.04.C with the argument that the shape of the lot is inconsistent with our Bylaw requirement of "unique". The motion was seconded by Mr. Keane and Fidler, Conway, Stiles, Feeney and Keane voted to deny.

**#21-83: Samuel Speakman:** The Petitioner is seeking a Special Permit in accordance with §305-6.08, §305-9.02, §305-9.04 and §305-10.12 of the Marshfield Municipal Code to raise the existing dwelling above the Base Flood Elevation, retain the same location on the lot and construct a 16' x 24' deck on the property located at **274 Foster Avenue** which is further identified on the Assessors' Maps as being on parcel L10-22-03 and is located in an R-3 zoning district.

Ms. Fidler read **Case #21-83** into the record. Paul Bakis of Grady Consulting presented on behalf of the applicant. He said the intent of the project is to elevate the building and not reduce any dimensional requirements. Ms. Fidler asked if the building would remain as is with only changes to windows; there wasn't a floor plan. Mr. Stewart said his understanding was that they are elevating and we are all in favor of that. He said they have been to Conservation and have been continued; Conservation will determine the type of foundation; they are elevating to conform with FEMA requirements. Mr. Bakis said the existing stairs don't meet building code and because of the elevation the new stairs won't meet it; its primary access and egress. Mr. Stewart believes there is a condition for elevation for egress. Mr. Bakis said the whole property is a barrier beach and coastal dune and there will be silt fence put down for erosion control. Ms. Fidler made a motion to close which was seconded by Mr. Keane; Fidler, Conway, Stiles, Feeney and Belezos were in favor. Ms. Fidler made a motion to grant the Special Permit and there was a discussion about "Bellalta"; each nonconformity stands on its own. The motion was seconded by Keane and Fidler, Conway, Stiles, Feeney and Belezos were in favor.

**Webster Point Village, LLC:** Request to approve change(s) to the Comprehensive Permit issued to Webster Point Village, LLC by the Zoning Board of Appeals dated August 26, 2021 which the Zoning Board of Appeals has determined to be "substantial changes" after a September 8, 2021 Zoning Board meeting to consider the proposed changes. The property contains 26.33 acres, more or less, located off of Careswell Street in Marshfield, Massachusetts is located in the R-1 Zoning District, and is further identified as Parcel J02-05-01A on the Marshfield Assessor's Maps.

Ms. Fidler said they would go to the closed hearings and started with Webster Point Village. She said they have an existing Comprehensive Permit and the Board has determined that the change they want to make is a substantial change. Mr. Galvin said that Attorney Dennis Murphy

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL NOVEMBER 23, 2021 6:30 P.M.  
MEETING MINUTES**

submitted a draft and he emailed with the applicant's attorney to see if they could find middle ground and they can't. Mr. Galvin said Attorney Murphy said the condition was accepted as a condition; the 2015 Board denied a similar request; they appealed in August of 2015 but withdrew the appeal without prejudice. Webster Point Village has presented no new evidence and per Attorney Murphy they remain out of compliance. The October 15, 2019 ZBZ vote is currently under appeal and still pending. Attorney Bagley said they made good faith efforts to find a Conservation Restriction holder at a reasonable cost. He said he got an email from Attorney Cetrovic yesterday and Ms. Fidler said that the hearing is closed. Mr. Galvin said the Board doesn't have to accept or hear new evidence. His proposal is the Board approves it and his client will abide by the conditions.

Ms. Fidler said she was part of the original Comprehensive Permit process and thought it was very thorough. She said she hadn't seen a 40B go forward and now we have Modera. When Natural History has the grantee be the Home Owners Association that gives the Board a difficult task. The Conservation Restriction protects the town; she knows the other attorneys have a different opinion on the importance of a Conservation Restriction. Mr. Keane said they said they couldn't find anyone but have they presented any documentation? Mr. Galvin said the Board should make a decision tonight. Mr. Stiles said his understanding is there was an agreement with the abutters for a Conservation Restriction and they are saying it's too expensive. He said they need to find a holder and they shouldn't bend. Ms. Conway said that it was a long process that took forever and they dissected it every way that they could. If they didn't agree they should have appealed and they didn't. Mr. Galvin said the Board could approve the amendment as proposed, deny it or approve it with conditions. Ms. Fidler made a motion to deny the request which was seconded by Mr. Keane; Fidler, Conway, Stiles, Feeney and Keane were in favor of denying. Ms. Fidler said the attorneys would do the decision and they would have it within 40 days.

**#21-59A: Town of Marshfield/Harbormaster:** The Petitioner is seeking a Special Permit in accordance with §305-10.10, §305-10.12 and §305-13.02 for the extension and alteration of an existing nonconforming use and Site Plan approval under §305-12.02 of the Marshfield Municipal Code to regrade the Town's existing Dredge Spoils Area (DSA) to provide additional parking for a total of ninety-four (94) parking spaces and eighteen (18) trailer spaces for use by Harbor Park visitors and overflow parking for the Town Pier on the property located at **Joseph Driebeek Way** which is further identified on the Assessors' Maps as being on parcel M07-03-01 and is located in an R-3 zoning district.

Ms. Fidler said it was getting late. Mr. Belezos said they basically took out a row of parking. Ms. Fidler said he was correct but it didn't change the scope of work. There were 94 car spaces and now there are 70. Ms. Fidler said they took off the second row. There is a longer area between the parked cars and the trailer spaces. Ms. Fidler advised the public that the hearing was closed. Mr. Galvin said there were originally 94 car spaces and 18 trailer spaces. Mr. Stiles said they were disturbing the same area. Ms. Fidler said it could be a better parking scenario now. Mr. Stiles asked if all cars had to take a right; Ms. Fidler said they could condition that.



**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL NOVEMBER 23, 2021 6:30 P.M.  
MEETING MINUTES**

Mr. Galvin said the only problem with the right is you can't get back. Ms. Fidler said this isn't a proposal to serve the Harbormaster but also to serve Harbor Park. Mr. Galvin said they can make another condition. Mr. Belezos said they could do a curb cut. Ms. Conway said it was very dangerous there, you can't walk there; they still haven't made changes to safety there. She said if they took out a couple of spaces it eliminates them going down Central but there's still a problem with pedestrians. Mr. Stiles asked how it was more dangerous with people parking; Ms. Conway said they will be idling while getting the boats in the water. Ms. Conway said if it's an accessory use to maritime it can't be used for something else. Mr. Keane said Ms. Conway had good points and asked if they could take comments from the public. Ms. Fidler said Ms. Conway was 100% correct. She said safety is under the purview of the police and thought it would be more of a priority. Mr. Feeney asked what was done for safety prior to this; he said there were safety issues before and now. Mr. Keane said that Ms. Conway pointed out they were making a major change and it should be addressed. Ms. Conway said this doesn't address pedestrian safety at all. She said the sight line with trucks and trailers waiting was a safety issue. Ms. Fidler said at the next hearing she would like to Board to pay attention to 13.02, 1 through 4 particularly. She said it was 8:15 now and they still had more to discuss. She said the applicant came before the Board before and then came back which is why there is an "A" after the case number. She asked if there were other issues to delve into. Mr. Stiles asked if they were destroying wetlands and was there any scientific proof. Ms. Fidler said there is information from Jason Zimmer that says an upland is not a wetland. Mr. Belezos said that one issue that was brought up by Ms. Keith was what is the Board actually approving, just parking or DSA? Ms. Fidler said she understood the BPW/DPW could do soil samples if the Board approves this. She said there were several submittals from Mr. Cusick and he understands they are not all accurate. They need to determine if they are and if they are important to the Board. She said they talked about a traffic study but they Bylaws don't mandate that they do one. Mr. Stewart wanted to clarify one thing – the lot is not in a FEMA Flood Zone. He isn't sure who asked but he said we are here because he said it's not in a Flood Zone but is in a Coastal Wetlands District. Mr. Galvin said they should look at this for what it is – a request for a parking lot that they amended to be smaller. He said to review the standards of 10.12 and Coastal Wetlands and either approve, deny or approve with conditions. Ms. Fidler made a motion to continue to the December 14<sup>th</sup> meeting which was seconded and all were in favor.

Mr. Stewart said he had one more thing to discuss. He was asked to make a minor modification to a dock that was approved. They had to put the dock out 3 feet and had to go back to Chapter 91 to modify. He needs to sign that he thinks it was a minor modification. Mr. Galvin asked what address and Mr. Stewart said 1354 Union Street. Mr. Galvin said they would need a Public Hearing when asking for different relief from what was approved. The float is the same size. He will sign the form for Chapter 91; Mr. Galvin said he could approve that but subject to Army Corps.

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, Stiles, Feeney and Keane voting in favor.

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL NOVEMBER 23, 2021 6:30 P.M.  
MEETING MINUTES**

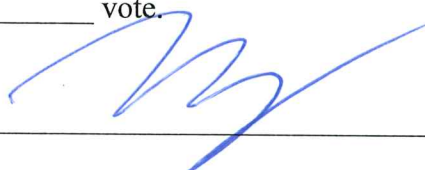
The meeting adjourned.

Respectfully submitted,



Nanci M. Porreca  
Zoning Administrator

These minutes were approved by the Board on April 11, 2023 by a

5-0 vote.  


Signed: \_\_\_\_\_ Date: 04/11/2023