

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL DECEMBER 13, 2022 6:30 P.M.  
MEETING MINUTES**

*Members Present:*

*Brian Murphy, Chair  
Heidi Conway  
Larry Keane  
Grover Hensley, Jr. (Remote)  
Mark Corwin  
Brian Sullivan*

*Also Present:*

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

MARSHFIELD TOWN CLERK  
RECEIVED  
2022 MAR 28 AM 11:37

Mr. Murphy called the meeting to order at 6:33 P.M. and conducted roll call attendance as Mr. Hensley and Mr. Sullivan was on Zoom. He explained to the public that Zoom was provided as a courtesy and advised callers to use \*6 to mute and unmute.

**#22-102: James and Alys Covello:** The Petitioners are seeking a Variance in accordance with §305-10.11 for relief from §305-6.10, Table of Dimensional and Density Regulations, and a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct an 8' x 10' addition to the existing three (3) season porch at the rear of the dwelling on the property located at **34 Park Street** which is further identified on the Assessors' Maps as being on parcel M05-12-10 and is located in an R-3 zoning district.

Mr. Murphy said the Board would be taking a few things out of order and they would start with Park Street; he said that he understood Mr. Covello had some good news. Mr. Covello said that he had a new plan done to confirm the setbacks and he is at 29.5'. Mr. Murphy made a motion to close the hearing which was seconded by Mr. Corwin; Murphy, Conway, Keane, Hensley, Corwin and Sullivan were in favor. The Board discussed a building permit, an As-Built and a Certificate of Occupancy for conditions and noted that the plan was dated December 2, 2022. The Board believed that this application meets the requirements, numbers 1-10, of §305-10.12. Mr. Murphy made a motion to grant the Special Permit which was seconded by Mr. Sullivan; the Board voted 5-0 in a roll call vote with Murphy, Conway, Keane, Hensley and Corwin voting in favor.

**#21-09: Steven and Teresa Flavin:** Petitioners are requesting a six (6) month extension on the Special Permit and Variance approval that was granted at the February 9, 2021 meeting and stamped in the Clerk's office on February 22, 2021 due to unforeseeable delays in getting the gas line moved by Eversource.

Mr. Murphy read the notes regarding **Case #21-09** and stated it was a request for an extension on the Special Permit and asked about the tolling period. Mr. Stewart said that it was issued during and tolling did not apply. He also said that there have been a lot of Eversource complaints. Mr. Murphy made a motion to grant the extension which was seconded by Mr. Sullivan; the Board voted 5-0 in a roll call vote with Murphy, Conway, Keane, Hensley and Corwin voting in favor.

Mr. Murphy made a motion for a five (5) minute recess so that Ms. Porreca could go and display the electronic files; this was seconded by Mr. Sullivan; the Board voted 5-0 in a roll call vote

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL DECEMBER 13, 2022 6:30 P.M.  
MEETING MINUTES**

with Murphy, Conway, Keane, Hensley and Corwin voting in favor. Mr. Murphy called the meeting back to order at 6:44 PM.

**#22-84: James Marathas/TAJ Family Trust:** The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 5' x 16'4" covered bridge between the dwelling and existing garage and a Variance in accordance with §305-10.11 for relief from §305-6.02, Table of Dimensional and Density Regulations, if necessary, on the property located at **50 Ocean Street** which is further identified on the Assessors' Maps as being on parcel N06-07-08 and is located in an R-3 zoning district.

Mr. Marathas read the summary that he had submitted to the Board which explained his situation. He explained that he had been waiting to hear from Jack Sullivan and heard from him at 3:48 PM today; he then read Mr. Sullivan's email. Mr. Marathas stated that the email shows that he did not remove this voluntarily. Mr. Murphy asked if the Board had any questions. Mr. Sullivan said that Mr. Marathas still needed a Variance but he didn't see that he met the Variance requirements; Mr. Marathas respectfully disagreed. Mr. Keane said it was pre-existing and removed involuntarily; Mr. Sullivan said he lost his pre-existing status because of the two (2) years. Mr. Galvin said if Mr. Marathas connects the bridge then he needs to elevate the garage and spoke about an accessory structure needs to be ten feet (10') away from the principal dwelling. Mr. Galvin said that personal hardships are always compelling but he needs to meet the soil, shape and topography. Mr. Keane mentioned shape and Mr. Galvin said this is not a shape issue. He said it's not a size issue and that it needs to be unique; the shape of the lot is rectangular. He said that he doesn't meet the requirements of setbacks, size or accessory structure. He said there are also FEMA requirements. Mr. Galvin said that soil, shape and topography need to be related to this. He said if this is approved there will be an issue with the Town. Mr. Marathas said it was a repetitive loss property. Mr. Galvin said the garage can be connected but will need to be elevated.

Ms. Conway asked if Mr. Marathas received a grant when it was removed and he said that he did. She said he needs to provide that information; Mr. Marathas said he did with the letter from Mr. Sullivan and Ms. Conway said that Mr. Sullivan wasn't FEMA. Mr. Marathas said he went to Mr. Vogel and read Mr. Vogel's email. Mr. Keane asked who that was from and Mr. Marathas said it was the Building Commissioner assigned to his case. Mr. Galvin said he was right, that he was assigned a Building Commissioner. He also said that he was on a call with FEMA, he does feel bad for Mr. Marathas and he can elevate. Mr. Marathas said his choice would be to connect to the garage and he doesn't understand why relief can't be granted. Mr. Keane asked if the work he would do would be more compliant; Mr. Marathas said right now he is not compliant in FEMA's eyes and not compliant with the Town. Ms. Conway said the he does not meet the requirements for a Variance and it's unfortunate. Mr. Sullivan said if the standard was personal hardship then he would meet that. Mr. Marathas said he had a flood and had to elevate. Mr. Sullivan said there isn't anything unique and every lot on that street was affected. Mr. Keane said the Mannix house got wiped out and the house next door did not.

Mr. Murphy asked if he could put a lift in and Mr. Marathas said no. Mr. Galvin said that Mr. Marathas voluntarily took the connector down. Attorney Krowski who was with Mr. Marathas

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL DECEMBER 13, 2022 6:30 P.M.  
MEETING MINUTES**

said that this is within the Board's authority to do this. He said that as for sending a message we should be incentivizing people to improve. He said this is not a new structure and a breezeway was in place for seventy (70) years; he said they can't keep sending him to do things. He will put in a new, safer breezeway. Mr. Krowski said that unique doesn't mean it's the only one. Mr. Keane said that multiple losses on the property make it unique. Ms. Conway asked if had to go as high as he did; Mr. Marathas said he did in order to get the grant. Mr. Murphy said that if he could do this now at one inch (1"), why couldn't he have done it back then? Mr. Marathas said FEMA wouldn't allow him to renovate. Mr. Murphy said we don't have anything from FEMA; Mr. Marathas said he has the email from Mr. Vogel. Mr. Murphy said Mr. Vogel is not FEMA and asked why FEMA was saying that it's okay to do this now. If he had offered to pay for it, why didn't he do it? Mr. Krowski said that Mr. Vogel is an expert. Mr. Sullivan said he is making a call but he won't be there when Marshfield is in the soup and loses funding. Mr. Marathas said he talked to someone himself at FEMA. Ms. Conway said he still needed a Variance and he does not meet the criteria. Mr. Murphy said they have enough information and asked if the public had any comments or questions.

Cosmo Macero, 46 Ocean Street, said he joined to support Mr. Marathas and said he has complied with all regulations and this is beyond a personal hardship. He said it was untrue that 50 Ocean is like everything else; it's unique. Mr. Keane asked if they could condition FEMA approval and Mr. Murphy asked Mr. Galvin who said it's a 9'11" problem, not a 1" problem. He said that Mr. Marathas has to put flood vents in; he has to elevate if he connects to the house. He said this isn't a FEMA issue, it's a zoning issue. Mr. Keane said he was okay with the Variance but was concerned about FEMA. Mr. Sullivan asked if he meets the standards of a Variance and said the hardship is of his own creation. Mr. Murphy made a motion to close which was seconded by Mr. Keane. Mr. Murphy asked if they were doing this in the affirmative. Mr. Galvin asked who was voting on this. Mr. Murphy asked Mr. Hensley if he was on for all of the meetings and he said that he was; Mr. Murphy, Ms. Conway and Mr. Keane can vote. Mr. Galvin advised that someone could only miss one meeting and said that Mr. Sullivan can't vote. Mr. Krowski said his client was concerned because Mr. Sullivan was not here for a meeting; Mr. Galvin asked which one and was told the last one; Mr. Galvin said he did not remember Mr. Sullivan missing a meeting. It was determined that Murphy, Conway, Keane, Hensley and Corwin would vote.

Mr. Galvin asked Ms. Porreca to pull up the Variance requirements; Ms. Porreca was not at a familiar computer and used the Variance application for reference. The Board agreed on #1. Mr. Keane said it mentions financial in #2 and Mr. Galvin said it was relating to the property; the Board agreed on #2; Keane, Hensley and Corwin agreed on #3 but Murphy and Conway did not agree; Keane, Hensley and Corwin agreed on #4 but Murphy and Conway did not agree; Keane and Hensley agreed on #5, Murphy, Conway and Corwin did not; Keane agreed on #6, Murphy, Conway, Hensley and Corwin did not; Murphy, Keane, Hensley and Corwin agreed on #7, Conway did not. Mr. Galvin said that they have taken the votes and four fifths (4/5) did not agree with the findings; this needs 4/5. He said that there are two (2) or more that disagree on all factors. Mr. Murphy asked if they should do it in the positive. Mr. Galvin said he can make a motion to approve but needed to make the findings. He said they can't find some and not the others; they have to find all. He advised Mr. Murphy to restate his motion in light of the f

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL DECEMBER 13, 2022 6:30 P.M.  
MEETING MINUTES**

findings. Mr. Murphy moved to grant the Variance subject to conditions; Mr. Galvin said they could vote on conditions if someone changes their mind. Mr. Keane gave a second. The Board voted 4-1 to deny the Variance with Murphy, Conway, Hensley and Corwin voting against granting the Variance and Keane voting in favor. Mr. Galvin noted that this fails by the 4-1 vote. Mr. Murphy made a motion to grant the Special Permit and Mr. Galvin asked him to hold on. He said that in looking at this, Mr. Marathas applied for the Special Permit first and then the Variance. It is his opinion that this should be denied because it's not the appropriate relief because a Variance is required; he suggested they deny the Special Permit. Mr. Murphy made a motion to grant the Special Permit which was seconded by Mr. Keane; the Board voted 4-1 to deny the Special Permit with Murphy, Conway, Hensley and Corwin voting against granting the Special Permit and Keane voting in favor. Mr. Galvin said the written decision would be available in fourteen (14) days.

Mr. Murphy made a motion for a five (5) minute recess so that Ms. Porreca could return to the hearing room.

**#22-119: Stephen Bjorklund:** The Petitioner is seeking a Special Permit in accordance with §305-10.10 and §305-10.12 of the Marshfield Municipal Code to construct a 30' x 58' two (2) story dwelling on the property located at **25 Lawrence Road** which is further identified on the Assessors' Maps as being on parcel G12-18-14 and is located in an R-1 zoning district.

Mr. Murphy read Case **#22-119** into the record. Mr. Bjorklund explained the nonconformities and the project; it will be 26' back and still meet the setbacks. Mr. Murphy asked if he was reducing the front yard setback and Mr. Bjorklund said they don't want it to sit up front. Mr. Keane said he did a site visit and the neighborhood is being renovated. Mr. Bjorklund said this was the most straight forward one he has ever done. Mr. Murphy asked if there were any questions or comments from the Board or the public. Ms. Conway had a question and Mr. Bjorklund said they would use silt sock and they "perked" it today. Mr. Murphy made a motion to close which was seconded by Ms. Conway; the Board voted 5-0 to close with Murphy, Conway, Keane, Hensley and Corwin in favor. Mr. Murphy made a motion to grant the Special Permit with conditions which was seconded by Ms. Conway. The Board discussed the following conditions - silt sock, standard erosion controls acceptable to the Building Department, building permit, As-Built, Certificate of Occupancy; the Board also noted that they were not endorsing the shed. The Board voted 5-0 to grant the Special Permit with Murphy, Conway, Keane, Hensley and Corwin in favor.

**#22-120: Robert L. Grey:** The Petitioner is seeking a Special Permit in accordance with §305-13.02 of the Marshfield Municipal Code to conduct dredging in the Coastal Wetlands District on the property located at **249 Bay Avenue** which is further identified on the Assessors' Maps as being on parcel M05-10-14 and is located in an R-3 zoning district.

Mr. Murphy read **Case #22-120** into the record. Attorney Brodsky represented the Petitioner along with Thomas Pozerski from Merrill Engineering. Mr. Brodsky advised that they received approval from the Conservation Commission on September 9, 2022 and will also need approval from the Army Corps of Engineers. He stated that there would not be any adverse impact. Mr.

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL DECEMBER 13, 2022 6:30 P.M.  
MEETING MINUTES**

Pozerski stated that there were five (5) to six (6) dredging projects taking place in town. He said that they will work with the Harbormaster on shellfish mitigation. Mr. Sullivan said that Mr. Guard was in to get approval for the other channel and asked if they could coordinate with them and share equipment. Mr. Pozerski said that Mr. DeMeo was in charge and with dredging taking place at the same time they may not be able to share. Mr. Corwin asked if this had been dredged before and Mr. Pozerski said no. He asked where the disposal would be and Mr. Pozerski said that it would probably be the Cape Code disposal site. Mr. Keane said this was the end of an extensive permitting process; Mr. Brodsky said the start of an extensive process. Mr. Stewart said that they have an active Floodplain Permit and he sent this to review with FEMA and the state Floodplain person. He said there was nothing to add from a zoning perspective. Mr. Pozerski said that they file with approximately fifteen (15) agencies. Mr. Stewart said that his job as Floodplain manager for the Town was to make sure they are permitted through those agencies.

Mr. Murphy asked if the public had any comments or questions. Joseph Pecevich of Wilson Road asked what the property boundaries were for the owner. Mr. Pozerski said they were working in the federal waterway. Mr. Pecevich said, so there are no boundaries; Mr. Pozerski said there were coordinates. Mr. Pecevich asked if the black line was totally outside and asked if there was a Zoning Board permit to dredge. Mr. Murphy said they are giving relief from §305-13.02. Mr. Pecevich asked if that was Coastal Wetlands and Mr. Murphy said it was. Mr. Stewart said it wasn't in the Plymouth County Soil Survey of (unknown) and that it was titled marsh lands. Mr. Pecevich asked if it is covered by the average lunar high tide and what was the lower limit of the coastal tide time. Mr. Keane asked Mr. Pecevich what he was getting at and did he not think they need Zoning approval? Mr. Pecevich said if you look at the map this is not in the Coastal Wetlands. Mr. Stewart said there were two (2) definitions, water and land. Mr. Pecevich said that you can see the land areas on the map that are part of the green lines but it doesn't extend to 249 Bay Avenue. He is trying to find out how far it extends to the tide line. Mr. Stewart said it was the average of the monthly tides and the land is governed by the Zoning Board of Appeals. Mr. Pozerski said they fit that definition. Mr. Pecevich said according to the zoning rules and it's pretty straightforward, dredging is prohibited. You're not allowed to do any excavation in that district; he wanted to know how they would get around that; he said this area has never been dredged before. He said this is totally new and they will open the window to dredging the natural channels. Mr. Brodsky said they can which is why they are here. Mr. Sullivan asked Mr. Pecevich if he was saying that it doesn't fill with silt since it's never been dredged. Mr. Pozerski said they would end up with healthier water; Mr. Pecevich said that was all speculative. He wanted to know about the impact to the Cut River and the rest of the area. Mr. Pozerski said it would re-establish the natural flow.

Mr. Murphy made a motion to close the hearing which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley, Corwin and Sullivan were in favor. Mr. Murphy asked if everyone agreed with the Coastal Wetlands requirements and they replied that they did. He made a motion to grant the Special Permit, subject to conditions, which was seconded by Mr. Keane; the Board voted 5-0 in a roll call vote with Murphy, Conway, Keane, Hensley and Corwin voting in favor. Mr. Stewart said they need to comply with the Floodplain Bylaw.

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL DECEMBER 13, 2022 6:30 P.M.  
MEETING MINUTES**

**#22-121: Nicole and Donald McNeil:** The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 14'4 ½" full dormer on the property located at **11 Hancock Street** which is further identified on the Assessors' Maps as being on parcel M08-47-03 and is located in an R-3 zoning district.

Mr. Murphy read **Case #22-121** into the record. Mr. and Mrs. McNeil were in attendance. Mr. McNeil said the project will create more room for the small bedroom that is there now. Mr. Stewart said everything was covered in his notes; Mr. Keane said it was pretty straight forward. Mr. Murphy asked if the public had any comments or questions and there were none. Mr. Murphy made a motion to close the hearing which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley, Corwin and Sullivan were in favor. Mr. Murphy asked if everyone agreed with the Coastal Wetlands requirements and they replied that they did. The Board agreed that it meets the 1-10 requirements. He made a motion to grant the Special Permit, subject to conditions, which was seconded by Mr. Keane. The Board discussed the following conditions: building permit, Certificate of Occupancy, standard erosion controls, submit building area and open space calculations; the Building Commissioner will also determine if the plans will require a stamp by a registered design professional because of the wind exposure. The Board also said they do not endorse the shed. The Board voted 5-0 in a roll call vote with Murphy, Conway, Keane, Hensley and Corwin voting in favor.

**#22-122: Dennis and Karen MacLeod:** The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a new 25'½" x 6'8" front porch deck with a 26'8" x 8' shed style roof above on the property located at **23 Baker Street** which is further identified on the Assessors' Maps as being on parcel K11-09-33 and is located in an R-3 zoning district.

Mr. Murphy read **Case #22-122** into the record. Dennis MacLeod said that they were rebuilding because of a fire in July and explained the project. He said it was nonconforming on the corner and the deck has shifted. Mr. Stewart said this was straight forward. Mr. Murphy asked if the Board or public had any comments or questions and there were none. Mr. Murphy made a motion to close the hearing which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley and Corwin were in favor. The Board agreed that it meets the 1-10 requirements. Mr. Murphy made a motion to grant the Special Permit subject to conditions which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley and Corwin were in favor.

**#22-123: Veronica and Howard Wright:** The Petitioners are seeking a Special Permit in accordance with §305-10.12 and §305-13.01 of the Marshfield Municipal Code to raise and rebuild a 57'2" x 38' two (2) story dwelling on the property located at **80 Ireland Street** which is further identified on the Assessors' Maps as being on parcel I16-07-01A and is located in an R-3 zoning district and the Inland Wetlands District.

Mr. Murphy read **Case #22-123** into the record. Veronica Wright said she wants to tear the house down and rebuild. She said it won't go over the current footprint except for the porch in the back. She asked if anyone went by the house and said it will definitely improve the neighborhood. Mr. Murphy asked if there were comments from the Board or public. Mr.

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL DECEMBER 13, 2022 6:30 P.M.  
MEETING MINUTES**

Stewart said there were comments from the Board of Health regarding the septic system. Mr. Corwin asked Mr. Stewart to elaborate on the number of bedrooms. Ms. Wright said they will be the same and that the septic system was repaired a year ago. Mr. Sullivan said typically they would ask for a deed restriction but Mr. Murphy said Mr. Russell didn't ask for that. Mr. Murphy made a motion to close the hearing which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley and Corwin were in favor. The Board agreed that it meets the 1-10 requirements. Mr. Murphy and the Board found that the plans submitted meet the requirements of §305-13.01. Mr. Murphy made a motion to grant the Special Permit subject to conditions which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley and Corwin were in favor.

**#22-124: Virginia Flynn:** The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to replace the existing nonconforming deck/front egress with a 33'6" x 6' front deck on the property located at **20 Mayflower Lane** which is further identified on the Assessors' Maps as being on parcel K10-14-10 and is located in an R-3 zoning district.

Mr. Murphy read **Case #22-124** into the record. Virginia Flynn wants to replace an existing nonconforming egress with a deck; it will come out one foot (1') more and run the length of the house. Mr. Murphy asked the Board and public if they had any questions or comments and there were none. He made a motion to close the hearing which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley and Corwin were in favor. The Board agreed that it meets the 1-10 requirements. Mr. Murphy and the Board found that the plans submitted meet the requirements of §305-13.01. He made a motion to grant the Special Permit subject to conditions which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley and Corwin were in favor. Conditions include a building permit, As-Built and Certificate of Occupancy.

**#22-125: Peter S. Rider and Judith C. Meredith:** The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 12' x 15.8' one (1) story addition on helical piles on the property located at **10 Idaho Street** which is further identified on the Assessors' Maps as being on parcel L04-01-92 and is located in an R-3 zoning district.

Mr. Murphy read **Case #22-125** into the record. Peter Rider said that they were trying to create more space and explained the project. Mr. Sullivan asked why helical piles and not wooden; Mr. Rider said the builder recommended that; Mr. Hensley said it was a quick turnaround. Mr. Murphy asked the Board and public if they had any questions or comments. Dana Junior, 26 Idaho Street, said that he is in favor of this project and Mr. Rider has done a good job. Mr. Murphy made a motion to close the hearing which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley and Corwin were in favor. The Board agreed that it meets the 1-10 requirements. Mr. Murphy made a motion to grant the Special Permit subject to conditions which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley and Corwin were in favor. Conditions include a building permit, As-Built and Certificate of Occupancy.

**#22-126: Peter Dion:** The Petitioner is seeking a Special Permit in accordance with

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL DECEMBER 13, 2022 6:30 P.M.  
MEETING MINUTES**

§305-10.12 of the Marshfield Municipal Code to construct a 12' x 12' half (½) story addition on the existing two (2) story dwelling on the property located at **54 Kent Avenue** which is further identified on the Assessors' Maps as being on parcel K11-27-10 and is located in an R-3 zoning district.

Mr. Murphy read **Case #22-126** into the record. Scott Murphy of 36 Bradford Street represented the Petitioner and explained they want to put a 12' x 12' addition on top of the house; he hasn't done the second story as yet but it has been approved (Case #22-12). Mr. Sullivan asked if there would be a change to the footprint and Mr. Scott Murphy said no. Mr. Murphy asked the Board and public if they had any questions or comments. The next door neighbor (name unknown) asked for someone to explain the Special Permit. Mr. Scott Murphy explained that it will be 30" higher. Mr. Keane asked if there would be any concern with the height requirement; Mr. Stewart said the lowest floor has to be underground or ½ exposed. He said going by the architectural drawing, they have the topography. He said it was 18' here and 14' there but didn't know if they had the full drawings. Mr. Scott Murphy said they didn't have it and it goes out to the retaining wall. Mr. Stewart said they need to have documentation that this is covered 50%. Mr. Scott Murphy said it only drops in the back and the architectural drawings are not accurate. Mr. Brian Murphy asked Mr. Scott Murphy if he heard Mr. Stewart's comments and he replied that maybe he should say it again. Mr. Brian Murphy said they need to verify six feet (6') in depth, the elevation of dirt, etc. Lynne Fidler, Brook Road, said the question was answered in previous comments. Mr. Murphy asked if there were any more comments or questions and there were none. He made a motion to close the hearing which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley and Corwin were in favor. Mr. Stewart said a Certificate of Occupancy was required for the last project but not submitted. He is asking the Zoning Board of Appeals to have this Certificate of Occupancy take care of both projects. Mr. Brian Murphy asked about a certified plot plan and Mr. Stewart said that was a condition of the last decision and nothing has changed. The Board agreed that it meets the 1-10 requirements. Mr. Murphy made a motion to grant the Special Permit subject to conditions which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley and Corwin were in favor. Conditions include a building permit, As-Built and Certificate of Occupancy.

**#22-127: Paul Sagristano/DISH Wireless:** The Petitioner is seeking Site Plan approval in accordance with §305-12.02 of the Marshfield Municipal Code to add three (3) proposed antennas, install three (3) antenna sector frames, install proposed jumpers, install six (6) proposed RRU's and install one (1) proposed hybrid cable on the property located **Off Eames Way** which is further identified on the Assessors' Maps as being on parcel F15-01-04 and is located in an R-1 zoning district.

Mr. Murphy read **Case #22-127** into the record. Paul Sagristano from Old Lyme, Connecticut represented DISH Wireless via Zoom. Mr. Murphy asked Mr. Sagristano if he wanted to do this tonight because he also needs a Special Permit; Mr. Sagristano said that wasn't what he was told and Mr. Galvin said it was up to the Board. Mr. Sagristano explained the project and Mr. Sullivan said he would have no problem with a Special Permit. Mr. Galvin said they could proceed with Site Plan approval; Mr. Sagristano asked where it said they need a Special Permit;

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL DECEMBER 13, 2022 6:30 P.M.  
MEETING MINUTES**

Mr. Galvin replied §305-11.12.D.2. Mr. Galvin asked when information would need to be submitted for the next Public Hearing and Ms. Porreca replied by 10:00 tomorrow and said she would email the application to Mr. Sagristano that night. Ms. Conway said they can do the Site Plan tonight; Mr. Murphy said they could do it tonight but they won't be able to pull a permit until January. Mr. Sagristano said this was the smallest, least intrusive way for the town and said he didn't have a lot to add. Mr. Murphy asked the Board and public if they had any questions or comments and there were none. He made a motion to close the hearing which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley and Corwin were in favor. The Board agreed that it meets the 1-10 requirements. Mr. Murphy made a motion to grant the Special Permit subject to conditions which was seconded by Mr. Keane; Murphy, Conway, Keane, Hensley and Corwin were in favor. Conditions include a building permit, As-Built and Certificate of Occupancy.

**#22-110: Elizabeth Barrett, Trustee:** The Petitioner is seeking a Variance in accordance with §305-10.11 for relief from §305-6.02, Table of Dimensional and Density Regulations, to facilitate the construction of a single family dwelling on the property located at **20 Dog Lane** which is further identified on the Assessors' Maps as being on parcel G16-02-06 and is located in an R-1 zoning district.

Mr. Murphy said that **Case #22-110** was a continued case and that Ms. Conway was recused. Dana Junior explained that there was an intermittent stream that runs parallel to Pleasant Street. They could build a house that would be within 100' of wetlands; he said this has been continued several times with Conservation but it's okay with them. Mr. Junior said it was on a sensitive slope and would be somewhat behind 36 Dog Lane. He is here to see if he can move the house and will comply with all setbacks; he said the flat portion of the lot narrows to 90 feet at the rear building line. He said they only have a Dog Lane address for 911; the official frontage is on Pleasant Street. He said that it was more next to 36 Dog Lane and not behind it. Mr. Junior believes that he meets soil, shape and topography that is needed for a Variance and said that it consistently slopes all the way down and has a unique shape.

Mr. Murphy asked if there were any questions or comments from the Board. Mr. Sullivan asked Mr. Junior if he had created the lot and he replied that he did. Mr. Sullivan said that he can't get a Variance if he created the issue. Mr. Junior said he could build the house; Mr. Sullivan said he would need a Variance to move it and that Mr. Junior had created this dimensionally nonconforming lot but now does not want to abide by the Bylaws. Mr. Sullivan said there is no point in having Bylaws if you can create the problem and then ask for relief. Mr. Creed said he didn't think he created the hardship; he created a lot that has wetlands; that's the hardship, the wetlands. Mr. Sullivan said the wetland exists and the house could have shifted over to the left. Mr. Junior said there was a septic system for 36 Dog Lane so he couldn't have moved it. Mr. Sullivan said that Mr. Junior does not meet the standards for a Variance; he said he could have moved 36 Dog but he created a hardship. He said that Mr. Junior could have a house, he just can't have it where he wants it.

Mr. Keane said that where Mr. Junior is proposing to put this will be in line with the neighbors. He asked if the Board is benefitting the Town and Mr. Sullivan said they were by upholding the Bylaw. Mr. Keane asked if Mr. Sullivan went to see this and asked if he had seen Adelaide. Mr.

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL DECEMBER 13, 2022 6:30 P.M.  
MEETING MINUTES**

Sullivan said that he drove around there. Mr. Keane said he doesn't see who it benefits and they are here to provide relief when able. He said Mr. Junior has frontage and setbacks and he is moving away from the wetlands. Mr. Sullivan said he understood what Mr. Keane was saying and asked how they could get past the supposed hardship of the applicant's own making. Mr. Galvin said that the lot complies with Zoning; he can build it as proposed and will get Orders of Condition; he doesn't need relief. He disagrees with Mr. Keane and said Mr. Junior created the hardship. Mr. Keane said they throw out Variances with docks and asked how many other towns enforced that. Mr. Galvin said Wareham. Mr. Keane said that if he lived at 36 Dog he wouldn't want to look out at this; they aren't doing anyone justice by saying no.

Mr. Murphy said the relief Mr. Junior is looking for is that he needs the building circle and the setbacks. Mr. Junior said he did not create the shape; he didn't place streams where they are and he didn't place the slopes there. He said he used existing rules and came up with the lot. Mr. Sullivan said his question was, did Mr. Junior create the lot and if he did, he is now asking for relief. Mr. Junior said that's the shape he came up with because of the rules. He is asking for a Variance because the end result will be better for the public; he said he is going to build it either way. Mr. Junior said the Variance process is for the Board to vote on whether it makes sense; they are just saying it doesn't follow our rules. Mr. Creed said another tenet is that there is a hardship by not moving the house. He asked if it could be moved given the parameters of the lot. He said there is no basis for the Board to say he could move the house. Mr. Sullivan asked if they should take his word that the septic system is where he says it is. He said getting the Variance is picking the low hanging fruit. Mr. Creed said if they deny this then it's on them.

Mr. Keane asked if anyone can show him how putting the house in the yellow circle makes the Town better. Mr. Dana said he proposed to by land from Chris Roberts, a neighbor. Mr. Roberts said he did approach him but that's his favorite part of his property. He said that he attended all of the Conservation meetings but nothing was resolved. There is nothing to say whether he can or cannot build in the yellow circle. Mr. Murphy asked Mr. Roberts if he was for or against the project. Mr. Roberts said he is all for people doing what they can by the law; he said they were Bylaws and not suggestions. Ms. Shannon Fullerton, 36 Dog Lane, said when she purchased she knew Mr. Junior was going to build another house; they both signed off on it with their attorneys that the house would be in the yellow circle. Mr. Junior said he never agreed to that, Ms. Fullerton said it was at the closing and she even signed a paper. She said now this house will be forty feet (40') from her bedroom. Mr. Murphy asked Ms. Fullerton if she had that document and she said it was with her closing papers. Mr. Junior said he didn't go to the closing, the Trustee did.

Mr. Murphy asked if there was anything from Conservation and Ms. Porreca said no. Mr. Galvin said it was normal for Conservation to be the last one. Mr. Murphy said he needs to see the setbacks on the plan that shows where the house can go and Mr. Junior said he had a plan. Mr. Murphy asked if he had a plan that shows the house in the circle and aid the circle isn't where he can build. Mr. Murphy said when they cut out 75', that's what he wants to see. Mr. Stewart did a quick drawing on the map. Mr. Galvin said if he stays in the circle he will have a smaller home. Mr. Murphy said he needed a little more time and Mr. Sullivan asked what would change because this does not meet the standards. Mr. Keane and Mr. Corwin said they were ready to vote and Mr. Hensley said this was an interesting one. Ms. Porreca said that there was a note

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,  
MARSHFIELD TOWN HALL DECEMBER 13, 2022 6:30 P.M.  
MEETING MINUTES**

from the Planning Board. Mr. Corwin stated that Mr. Junior would build in either space and won't live there; the two (2) abutting neighbors don't want it. Mr. Junior said if he doesn't get it here or at Conservation there won't be a house. Mr. Keane said that if he lived at 36 Dog he would want it further to the street; now she will be looking right at it. He said that he values the abutter's opinion highly. Mr. Murphy said if he got approved by Conservation you could clearly see the setback. Mr. Murphy said he needs time. He doesn't see how he is asking for the circle AND the setback; he said he could prove his circle but would build in setback. Mr. Keane said moving it forward meets the setback. Mr. Junior said he could twist the house so the right corner would be right at the twenty foot (20') setback. Mr. Murphy said nobody has proved the hardship yet; he said Mr. Junior is asking for relief from something that might not be buildable. Mr. Junior said he didn't know when the next Conservation meeting was; Mr. Murphy said they don't have the facts in front of them. Mr. Junior said he will go back and when they ask what the ZBA said, he now has something to respond with. Ms. Porreca advised Mr. Creed that they would need an extension. Mr. Junior said the meeting with Conservation is December 21, 2022. Mr. Murphy made a motion to continue the hearing to January 10, 2023 at 6:30 PM; this was seconded by Mr. Keane and all were in favor.

Mr. Keane made a motion to approve the minutes with Scribner's errors; Mr. Sullivan seconded and all were in favor. Mr. Murphy made a motion to adjourn; this was seconded by Mr. Keane and all were in favor.

Meeting adjourned at 9:44 PM.

Respectfully submitted,



Nanci M. Porreca  
Zoning Administrator

These minutes were approved by the Board on January 24, 2023 by a  
5-0 vote.

Signed:  Date: 01/24/23