

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL DECEMBER 14, 2021 6:30 P.M.
MEETING MINUTES**

Members Present:

*Lynne Fidler, Chair
Brian Murphy
Stephen Feeney
Christopher Belezos
Larry Keane (remote)*

Also Present:

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

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

Ms. Fidler introduced the Board, Mr. Stewart and Mr. Galvin; she took roll call attendance as Mr. Keane was on Zoom. She stated that there were eight (8) new hearings.

Ms. Fidler stated that **Case #21-59A** requested to be withdrawn without prejudice and that the Board had been working on that for some time. She made a motion to grand the withdrawal which was seconded by Mr. Murphy; Ms. Fidler, Mr. Murphy, Mr. Feeney, Mr. Keane and Mr. Belezos were in favor.

#21-84: Eric and Erin Trottier: The Petitioners are seeking a Variance in accordance with §305-10.11 for relief from §305-11.09.C.6 and a Special Permit in accordance with §305-11.09 of the Marshfield Municipal Code to create an Accessory Apartment within the recently constructed addition on the property located at **74 Bourne Park Avenue** which is further identified on the Assessors' Maps as being on parcel J09-08-22 and is located in an R-2 zoning district.

Ms. Fidler read **Case #21-84** into the record and said that the Petitioner had requested to continue this case to December 28, 2021. Ms. Fidler made a motion to continue this to December 28, 2021 at 6:30; the motion was seconded by Mr. Murphy; Fidler, Murphy, Feeney, Keane and Belezos were in favor.

#21-85: Junior/Dri-Seal Trust: In accordance with §305-10.09 of the Marshfield Municipal Code the Petitioner is seeking an Appeal of the Building Commissioner's decision that the Petitioner is in violation of the Town of Marshfield Bylaws with respect to the open storage of junk and junk automobiles on the property located at **605 Plymouth Avenue** which is further identified on the Assessors' Maps as being on parcel K10-19-01 and is located in a B-3 zoning district.

Ms. Fidler read **Case #21-85** into the record. Attorney James Creed, Jr. and Mr. Dana Junior were in attendance. Ms. Fidler made a motion to take a three (3) minute recess; this was seconded by Mr. Murphy and Fidler, Murphy, Feeney, Keane and Belezos were in favor. The Board returned at 6:52; Ms. Fidler did a roll call and advised this case has already been read into

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the record. Mr. Stewart said that he had received requests for enforcement; that the lot is in violation of storage of junk and boat storage. He said that he had sent a letter regarding the use and restrictions on boat yards and boat storage. Mr. Creed said that with all due respect to Mr. Stewart, and cited the Table of Uses where it says parking is a permitted use with a Special Permit; permitted use #24. He said that all of the boats are for sale and junk is not defined. All the vehicles left there had license plates and the unregistered ones have been removed. He said that they would like an explanation from the Zoning Enforcement Officer, Mr. Stewart, about what junk is. Mr. Creed said that other people leave junk. Mr. Junior removed a TV and furniture today; he isn't sure why they do it. They have cameras but they have been inactive since the storm. Mr. Junior will get them activated again and point them toward the front and look for license plates. This is the old Clark Phillips lot where the school buses were stored. Mr. Creed said there used to be a shed but when the shed fell part, Conservation would not allow a new one. He said this is a commercial parking lot and boat sales.

Ms. Fidler asked if it was his property outside the fence and Mr. Junior said that it was. Mr. Creed said that they can't require a Special Permit when it is permitted. Mr. Belezos said the question was more procedural and asked if the Public Hearing Notice was sufficient. Mr. Galvin said that it is sufficient notice. Ms. Fidler said that Mr. Junior claims that the boats and trailers that are there are for sale; Mr. Junior said for sale or registered. Ms. Fidler asked if that was in addition to what was outside the fence. Mr. Junior said it was inclusive and at the time of the notice there were more. Ms. Fidler said she was there today and saw the TV and a bag of flour; she wants to get into the history of the property as well and asked if the Board had any questions. She also asked if there was a Conservation Restriction. Mr. Junior explained that he bought the property from Clark Phillips and he had buses stored; he had about half to two-thirds of what is there today as a parking lot. He filled part of it in and Conservation said he shouldn't have but that he could keep it as it is; he was using the all paved area. Mr. Galvin said that was accurate; he said that the Conservation Restriction was filled illegally and he was allowed to keep it as is. He does not know if it was ever recorded.

Mr. Creed said that if you looked at Exhibit G, it says it's below sea level, is registered land and can't build on it. Mr. Galvin said that he (Phillips?) had gone to Land Court to get it expunged but the request was rejected. Mr. Murphy asked if this were two (2) lots so there could be one (1) use on one (1) lot and another use on the other lot. Mr. Creed said that it was one (1) lot; the plan was to put three (3) houses there but the Town said two (2). Mr. Murphy asked if there was any jeopardy of two (2) uses on one (2) lot. Mr. Creed said that was the proposed plan and it was 11G in the Order of Conditions; Mr. Belezos said that wasn't before the Board. Mr. Galvin said the Conservation Commission would agree to two (2) house lots but Mr. Junior said he needed three (3) to make it work. Ms. Fidler asked how big the lot was and Mr. Junior said it was over two (2) acres but some are wetlands; three quarters to an acre.

Mr. Stewart said that "junk" is clearly defined. He said there are castoff Recreational Vehicles (RVs) outside and inside the fence; they are damaged and open to the elements; they are unregistered with flat tires and they meet the definition of junk. Mr. Junior said when they abandon them they start to pay storage and then stop; he needs titles to take things to the junkyard. He said one person dropped a camper off in the middle of the night and he called the

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police. The police said it was his because it was on his property. He said there is no recourse because he doesn't have titles; it takes time to find the people.

Mr. Stewart said the other issue comes down to use – is it a commercial parking lot or are they selling boats. Ms. Fidler said they were here for the junk and asked if they needed to come back. Mr. Stewart said that he feels it may be better to apply for two (2) uses. Mr. Junior said that when he got the notice he filed the appeal. Ms. Fidler asked if the Board had any comments or questions. Mr. Keane stated that Mr. Junior said he had security cameras that were knocked out and asked if he would get those back; Mr. Junior said it was slow with Verizon. Mr. Keane said that he went by today and also saw the TV and the flour. He said he took the liberty and went on the property and saw the privacy slats off the fence; maybe that's what the neighbors are mad about. Mr. Junior said they would be putting up new screening. Mr. Keane said people might stop if they neatened things up for themselves; park straighter; he said he was sure the neighbors would like him to clean it up. Mr. Junior said he would be putting up new screening. Mr. Keane asked Mr. Junior if any other use was planned. Mr. Junior said right now it has to be this unless he could make a deal for three (3) houses. Mr. Keane asked if he had initiated any contact with Conservation and Mr. Junior said he hasn't been back. Mr. Galvin said there was a lawsuit to have the Conservation Restriction expunged. There was a discussion about uses and it was agreed there could be two (2) residential lots from a Conservation perspective.

Mr. Keane said he has been by there a few times and Mr. Junior should address the dumping; he should communicate with the Department of Transportation (DOT) for a process for the titles. Ms. Fidler had a question about use. She mentioned selling boats and boat accessories #7. She also informed the Board it was referred to as a boat marina or boat yard and they are two (2) separate uses. Mr. Galvin said he had to rely on Mr. Junior for the history; he doesn't know when boat sales occurred; growing up it was always a bus yard until he lost it. He said boat sales are a permitted use but not in the B-3 district. Mr. Stewart said parking lots have performance standards and there is no display of merchandise. Mr. Galvin said it's hard to hold them to performance standards; he thinks they should get into two (2) uses. Mr. Creed said that goes beyond what they are here for; Mr. Stewart said it doesn't because the notice says to apply for relief. Mr. Creed said the letter was not clear and Mr. Stewart said he could issue another letter. Mr. Junior said he would rather deal with it now. Mr. Galvin and Mr. Murphy said it has to be noticed. Mr. Galvin said they should deal with this now and come back. The Board read an email from an abutter. Ms. Fidler made a motion to close which was seconded by Mr. Murphy; Fidler, Murphy, Feeney, Keane and Belezos were in favor. Ms. Fidler asked how they should proceed and Mr. Murphy asked Mr. Stewart if he was satisfied with tonight; Mr. Stewart said it was up to the Board. Mr. Murphy asked if it was moot and Mr. Galvin said no, they have to vote on the Appeal; the secondary use was independent of that decision. Ms. Fidler made a motion to grant the Appeal. It was seconded by Mr. Murphy and the Board unanimously voted 5-0 with Fidler, Murphy, Feeney, Keane and Belezos in favor.

#21-86: Jerome Murphy: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 12'6" addition at the rear of the dwelling for an exterior elevator, a 12'6" x 18' screened porch and a 12'6" x

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26'11" deck on the property located at **200 Riverside Circle** which is further identified on the Assessors' Maps as being on parcel D19-01-14 and is located in an R-1 zoning district.

Ms. Fidler read **Case #21-86** into the record and turned it over to Jerome Murphy. Mr. Murphy said this started out of a need; he has lived here for four (4) years and wants to stay in his house. The basement level is where the driveway is. He said he is seventy (70) years old and he isn't sure how long he will be able to go to the bedroom on the third floor; he thought about an elevator and the best place to put it was at the back of the house where the deck is. He thought he would build a perimeter wall around the house and his niece said he should put in a screened porch. He has a landscape plan to take care of the groundwater. Andrew said he advised that the marked up plan would be sufficient for this meeting; it's only nonconforming for lot size. There were no questions from the Board or public. Ms. Fidler made a motion to close which was seconded by Mr. Murphy; Fidler, Murphy, Feeney, Keane and Belezos were in favor. Ms. Fidler made a motion to grant the Special Permit which was seconded by Mr. Murphy; the Board unanimously voted 5-0 with Fidler, Murphy, Feeney, Keane and Belezos in favor.

#21-88: Frozen 4 Corporation d/b/a South Shore Buds: The Petitioner is requesting a modification to Special Permit #20-49 that was granted at the September 22, 2020 Zoning meeting to establish senior hours and to allow for delivery from the premises on the property located at **985 Plain Street** which is further identified on the Assessors' Maps as being on parcel C10-02-05A and is located in an I-1 zoning district.

Ms. Fidler read **Case #21-88** into the record and turned it over to Attorney Steven Guard who was with Ben Virga, the owner. Mr. Guard said that they wanted to allow for senior hours a few days a week. He said the second item requested is that Condition #9 in their September 2020 Special Permit precludes delivery of cannabis which was not allowed at that time but it is now. He said the customer will order on line after they have set up an account at the store with their picture. There will not be any markings on the delivery vehicles. The recipient will need to show a picture ID to the delivery driver; it can't be given to anyone who hasn't ordered it. They won't deliver to housing complexes or college campuses, only private residences. Delivery will cut down on the number of cars driving to the site; deliveries are now allowed to towns that have dispensaries. There is a \$350,000 impact fee. Delivery would be through an app for the store and will go to the 3%; would get 3% on products delivered to other towns that have dispensaries. There are two (2) delivery licenses to obtain; one is a courier and the other is a delivery operator; they will be getting both. Mr. Guard said the deliveries need to be done by two (2) people with body cameras. Mr. Virga said there would be two (2) cameras in the car in addition to the body cameras. Ms. Fidler asked if there would be the same procedures when they transport. Mr. Virga said it is stricter for home delivery. Mr. Guard said wholesale deliveries would still be done inside; nondescript vehicles. Ms. Fidler asked about the accounts; Mr. Virga said they will put a government issued ID into a scanner and they can't order without an account. He said if you order and then have to go out, your husband can't take the order. Mr. Feeney asked about the benefits to the town to use a courier license. Mr. Virga said they have both and all of the revenue goes to the host store. They will have to pay other host agreement a few thousand; they

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don't get the 3% for sales, they get 3% for cultivation. Mr. Guard said deliveries have to be returned to their location – empty – by 9:00 PM. Deliveries will be to 8:00 PM so nobody gets stuck. Mr. Guard went line by line in §305-12.02. Mr. Belezos asked if they would start with three (3) vehicles and Mr. Virga said yes. Mr. Belezos asked how far they think they would go and Mr. Virga said 5-10. He said they will go from Quincy to Plymouth and they can't go to towns where there are no locations. He said they came to Marshfield because the towns around it don't have it. Mr. Guard said they were approved for more parking than needed; they will be connected at the traffic light. They don't want to tie up their spaces with delivery cars. Mr. Stewart said the car goes into a secured shipping bay and there is plenty of room. Mr. Virga said they are committed to ten (10) with the courier license. Ms. Fidler said they need to understand that we aren't here for the money, that there are other reasons. Mr. Virga said they could do twenty (20) cars; approved for two, waiting for a third and will come back at ten (10).

Ms. Fidler said Condition #9 is the crux of why they are here; plus the 9:00-10:00 for the senior hours. She said everything else on the decision is ready to go. Mr. Stewart said if they are storing cars in another spot they need to be compliant. Mr. Virga said for senior hours they did outreach to senior housing from Quincy on down; they are wary about going to a dispensary because of the lines. They need one on one time with professionals. Senior hours maybe one week day and one weekend day from 8:00-10:00. Mr. Belezos suggested 9:00-10:00 to avoid traffic in the morning; Mr. Murphy said 8:00 was better for seniors. Mr. Galvin asked if they would only be opened for people 60+ from 8:00-10:00; Mr. Virga said yes and if someone who is twenty-five (25) comes in they will ask them to come back at 10:00. Ms. Fidler asked if there would be drive-up and Mr. Virga said absolutely no. He said that the Cannabis Control Commission allows curbside pick-up but they won't do it because the Town doesn't want it. Mr. Guard said they have two (2) express registers and people can be in and out in 45 seconds.

Ms. Fidler reviewed page 4 of the decision and stated they were closed on Christmas, Thanksgiving and Memorial Day; manufacturing was still the same; hours were 10:00-8:00 and 12:00 to 8:00 on Sundays. She asked if they were requesting senior hours on Tuesday and Saturday; Mr. Virga said two (2) hours, two (2) days for people 60+. Mr. Belezos said the decision should be clear as to what license they would be going under. Mr. Virga said they have two (2) licenses and the Board is allowing them to have a courier delivery partner under their Retail Host Agreement. Ms. Fidler asked if the public had any input and there was no response. She made a motion to close which was seconded by Mr. Murphy; Fidler, Murphy, Feeney, Keane and Belezos were in favor. Ms. Fidler made a motion to grant the Special Permit for a retail license with a courier partner; to add two (2) hours two (2) days a week from 8:00-10:00 for 60+; to delete #9 on page five (5) of eight (8) which states "no home delivery"; to allow delivery of home cannabis products; to limit the number of courier trucks to ten (10). The motion was seconded by Mr. Murphy and the Board unanimously voted 5-0 with Fidler, Murphy, Feeney, Keane and Belezos in favor.

#21-89: Dean M. Copeland: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 52' x 63' single family dwelling on the property located at the corner of **Ocean Street and Macker Terrace**

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which is further identified on the Assessors' Maps as being on parcel J08-05-14 and is located in a B-2 zoning district.

Ms. Fidler read **Case #21-89** into the record and turned it over to Terry McGovern and Dean Copeland. Mr. McGovern said that they were here to renew a Special Permit from 2013; this will be similar in size and structure and they have the older plans. The setback to Macker Terrace will require two feet (2') of additional relief. Mr. Galvin asked if the size of the house was 53' x 62' because it looked more like 64' x 28'; Mr. McGovern said it is 62' long and 53' deep and that the old house was 64' x 28'. Mr. Murphy said that it says 32 on one side and 52 on the other. Mr. McGovern said the required setback is ten feet (10') with a Residential Lot of Record. He said the front side to Ocean Street and the rear are conforming; the setback to Macker Terrace will be 21.9' instead of 23.9'. They are asking for the renewal of the Special Permit with the two feet (2') relief on Macker; nothing else has changed. Ms. Fidler confirmed the setbacks and said that the driveway was changing. Mr. McGovern said that it is still on Macker Terrace and if you think of an L-shape it is turned. Ms. Fidler asked if it was a two (2) car garage and Mr. McGovern said it was and that it was two (2) previously. Ms. Fidler asked to see the architectural drawings and Mr. McGovern said that none were submitted. Ms. Fidler said that they should continue to another date. Mr. McGovern said they are changing from a two (2) story home to a one (1) story ranch; Ms. Fidler said that was considerably different from before. She said that the next meeting was on the December 28th and asked if they could get the plans to the Board.

Ms. Fidler asked if there were comments from the public. Jacklin Mason said she was an abutter and asked why it kept coming up as 1415 Ocean Street. She said that in 2013 she wasn't in the Flood Zone but she is now. She said Mr. Copeland's property is three feet (3') higher and wanted to know if that would affect the integrity of the land around it. This is the only access to the crosswalk that thirteen (13) kids are using; the crosswalk sign is located on his property. She also said she would like to see the placement of the driveway and Mr. Murphy asked where the driveway was on the proposed plan. Mr. McGovern said it was now further back on Macker, another ten feet (10') from the edge of pavement. He said the grading around the house goes to the east; starts with 13 by garage and tapers down to 8; there is less than a foot grade around the house. The water will go back towards Ocean Street. Mr. Stewart said that the house isn't in the Flood Zone and won't affect other houses that are in the Flood Zone. He said on the other side of the street the drains and contours show that it will flow away. Mr. Murphy asked if they could keep all runoff on the property and Mr. McGovern said it could be a condition. Mr. Stewart said any flooding will be coming from the back and not from that lot. Ms. Mason asked if once a residence goes in can it stop a business from going in. Ms. Fidler said if they choose residential they can't have business. Ms. Mason asked for a flashing light for the crosswalk and Ms. Fidler said she didn't think they would do it for one house. Ms. Fidler made a motion to continue the hearing to a date and time certain of December 28th at 6:30; the motion was seconded by Mr. Murphy and Fidler, Murphy, Feeney, Keane and Belezos were in favor.

#21-90: Gabriel and Helene Gomes: The Petitioners are seeking a Special Permit in accordance with §305-13.02.C.01, §305-10.10 and §305-10.12 and a Variance in

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accordance with §305-10.11 of the Marshfield Municipal Code for relief from §305-6.07 to construct a 4' x 390' dock/walkway and associated ramps and floats on the property located at **76 Carolyn Circle** which is further identified on the Assessors' Maps as being on parcel D20-01-25B and the abutting parcel D20-01-43 which are located in an R-1 zoning district.

Ms. Fidler read **Case #21-90** into the record and asked Ms. Porreca if there were any comments. She said that Mr. Grafton, Conservation, spoke to her in the parking lot and said the Petitioner needs to produce an easement for the Myers property; he said that are three (3) parcels with two (2) owners who will be sharing the dock. Terry McGovern said that Mr. Grafton has that information. Ms. Fidler asked for the December 6, 2020 plan and Mr. Stewart said he has the November 4, 2021 plan. Mr. McGovern gave a brief history and said that this started at Conservation two (2) years ago with the intent of going into the tidal creek. They were advised by Mr. Grafton and Mr. DeMeo that it wasn't practical alternative. Mr. DeMeo suggested they extend the walkway out to the North River itself. He said that Mr. Gomes was doing it himself and the property to the left was being constructed. Mr. Gomes was interested and approached Mr. Myers and obtained an easement to build and maintain a dock for access to the North River. Mr. McGovern said they have been to the North River Commission. He also said that there are two (2) floats, etc. because it is a shared facility. Mr. Galvin asked if they (Myers) owned the marsh and Mr. McGovern said yes. Mr. Galvin asked where the implied easement was and Mr. McGovern said it was the heavy dash lines about ten feet (10') wide. Mr. McGovern said that Mr. Gomes made a \$1600.00 donation to the shellfish fund. Ms. Fidler asked for the standard conditions to be displayed and the Board and Petitioner reviewed them. Ms. Fidler said that they typically ask for the dock and ramp to be stored upland; Mr. Gomes said he has a place for it. Ms. Fidler asked if the Board was inclined to vote and advised the Petitioner that if anything happens at Conservation they would have to come back to Zoning. Mr. McGovern said things would have to change dramatically because Mr. Grafton and Mr. DeMeo were already out there. Ms. Fidler asked when they were going to Conservation and Mr. McGovern said it should be December 21. Mr. McGovern said that in addition to Mr. Grafton's comments that he gave to Ms. Porreca, he had an email from Eric at 4:00 with some questions and when he replied he got Eric's out of office memo. Ms. Fidler said that he requested that the Board wait but she thinks they have the same information. Mr. Stewart said he didn't think they needed to wait; their requirements are checked by Chapter 91. Mr. McGovern said their Orders of Conditions will be about five (5) pages long. Ms. Fidler asked if there were any comments from the public and there were none. She asked the Board if they were willing to close and they were. She made a motion to close which was seconded by Mr. Feeney; Fidler, Murphy, Feeney, Keane and Belezos were in favor. Ms. Fidler asked about the §305-13.02.C.1. She made a motion to continue the closed hearing to December 28, 2021 at 6:30 PM which was seconded by Mr. Keane; Fidler, Murphy, Feeney, Keane and Belezos were in favor.

#21-91: Thomas Corbo: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 28' x 37' two and a half (2½) story dwelling with a 24' x 28' attached garage and an 8' x 20' breezeway on the property located at the corner of **815 Ocean Street** which is further identified on the

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Assessors' Maps as being on parcel L10-11-06A and is located in a B-3 zoning district.

Ms. Fidler read **Case #21-91** into the record and Terry McGovern explained that he was here for the demolition of the old Daily Ketch which will be replaced by a single family house. There is a change in the business use from a B-3 to an R-3. He said they will meet the setback requirements, will be staying within the existing footprint, will be on wood pilings and the garage will have the required number of flood vents. He said this was closed last week at Conservation. Ms. Fidler asked if the driveway would be on Ocean Street and Mr. McGovern said yes. Mr. McGovern said that the pavement extends well past the property line on the right side and they will saw cut that. Ms. Fidler asked about height and Mr. McGovern said it meets the thirty-five feet (35') requirement; he said that because of the Flood Zone they get an allowance. Ms. Fidler asked the Board and public for comments or questions and there were none. She made a motion to close which was seconded by Mr. Feeney; Fidler, Murphy, Feeney, Keane and Belezos were in favor. The Board acknowledged that the Petitioner met the requirements of §305-10.12. She made a motion to grant the Special Permit which was seconded by Mr. Feeney; Fidler, Murphy, Feeney, Keane and Belezos were in favor.

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

The meeting adjourned at 9:10 P.M.


Respectfully submitted,



Nanci M. Porreca
Zoning Administrator

These minutes were approved by the Board on February 28, 2023 by a

5-0 vote.

Signed:  Date: 2/28/23