

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL NOVEMBER 22, 2022 6:30 P.M.
MEETING MINUTES**

Members Present:

*Brian Murphy, Chair
Stephen Feeney
Larry Keane
Grover Hensley, Jr. (remote)
Mark Corwin
Brian Sullivan*

Also Present:

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

Absent: Heidi Conway

Mr. Murphy called the meeting to order at 6:35 P.M., read the disclaimers and explained to the public that Zoom was provided as a courtesy and advised callers to use *6 to mute and unmute. Mr. Murphy conducted roll call attendance as not all of the members were present.

#22-101: Marshfield Lodge of Elks 2494: The Petitioner is seeking Site Plan approval in accordance with §305-12.02 of the Marshfield Municipal Code to install an enclosed vertical wheelchair lift with a 36' x 54" platform, a Tower Height of 255" and a Travel Height of 148" to travel from the first floor to the second floor on the property located at **1321 Ocean Street** which is further identified on the Assessors' Maps as being on parcel J09-03-05 and is located in an R-2 zoning district.

Mr. Murphy and Mr. Corwin recused themselves from this hearing. Mr. Sullivan said that he would be the Hearing Officer for **Case #22-101** and he read the case into the record again. He said that since the last meeting, Rockwood Design has submitted proposed plans. Kevin Cantwell, representing the Marshfield Elks, said that he has a Site Plan from Brian Taylor that he did not have the last time. Mr. Sullivan asked if that shows that there are no encumbrances and Mr. Cantwell said no. Mr. Sullivan asked if the Board of public had any questions; Mr. Stewart said he was okay with the plan and that it was fine for the building permit; there were no other questions. Mr. Sullivan made a motion to close the hearing which was seconded and all were in favor. He made a motion to grant the Site Plan approval; Mr. Keane seconded the motion and the Board voted 4-0 to grant Site Plan approval Feeney, Keane, Hensley and Sullivan voting in favor.

#22-109: Robert Carmody: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 12' x 16' two (2) story addition with foundation and 117½ s.f. of additional space above the ½ bath/laundry room on the property located at **1329 Ferry Street** which is further identified on the Assessors' Maps as being on parcel I16-13-04 and is located in an R-3 zoning district.

Mr. Murphy recused himself from this hearing. Mr. Sullivan read **Case #22-109** into the record. Robert Carmody said that he is proposing an addition that will meet the setback on the back left side of the house; the basement will be a continuation of the existing basement. Mr. Stewart said that this is a pre-existing nonconforming lot and structure. Mr. Sullivan asked if there would be an intensification of the encroachment with the addition on the left side; Mr. Stewart said no, it

MARSHFIELD TOWN CLERK
RECEIVED
2023 NOV 20 PM 2:28

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL NOVEMBER 22, 2022 6:30 P.M.
MEETING MINUTES**

will be in back on the left and will meet the setback. Mr. Sullivan asked if the Board or public had any questions and there were none. He made a motion to close which was seconded and all were in favor. The Board determined that the Petitioner met §305-10.12 (1-10) requirements. Mr. Sullivan made a motion to grant the Special Permit; Mr. Feeney seconded the motion and the Board voted 5-0 to grant the Special Permit with Feeney, Keane, Hensley, Corwin and Sullivan voting in favor.

#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. Sullivan said that the applicant for 20 Dog Lane has requested to continue to the December 13th meeting. Mr. Murphy read **Case #22-110** into the record and made a motion to continue it to December 13, 2022 at 6:30 PM; Mr. Feeney seconded the motion and the Board voted 5-0 to grant the Special Permit with Feeney, Keane, Hensley, Corwin and Sullivan voting in favor.

#22-111: Waldo Eastman: The Petitioner is seeking a Special Permit in accordance with §305-10.12 and §305-9.02 of the Marshfield Municipal Code to raze the existing residential structure and replace it with a new 42' x 27.6' two (2) story dwelling on a pile foundation on the property located at **10 Marion Street** which is further identified on the Assessors' Maps as being on parcel M05-05-73 and is located in an R-3 zoning district.

Mr. Murphy read **Case #22-111** into the record. John Zimmer of 61 Meetinghouse Lane, said that this is pre-existing nonconforming with respect to the side setbacks. He said that the proposed modular home will be on piles and will not be any close to the lot lines than the existing structure; it's closest on Marion Street but it still has a fifteen foot (15') setback. Mr. Zimmer said that they have been to Conservation. He said they will raise the structure above Flood Elevation and there will not be any living space underneath. Mr. Murphy asked if the Board had any questions. Mr. Sullivan asked where the house will be constructed; Mr. Zimmer said he wasn't sure, that it would be built off site and delivered; Mr. Gagnon said it was Pennsylvania. Mr. Sullivan asked if it's elevated, does it have to be built to handle the wind even in a Velocity zone. Mr. Zimmer said no but Mr. Stewart said he would answer the structural questions. Mr. Stewart said that we do live in a high wind area and these have been designed specifically for that municipality. Mr. Stewart said this will be built to Marshfield Code. Mr. Murphy asked if anyone had any questions and there were none. He made a motion to close which was seconded and all were in favor. The Board determined that the Petitioner met §305-10.12 (1-10) requirements. Mr. Murphy made a motion to grant the Special Permit with the conditions of a building permit, a Final As-Built, a Certificate of Occupancy, completion of a Non-conversion Agreement, a full elevation certificate (proposed, during construction and final), a foundation and deck/porch plan stamped by a registered design professional. The Board noted that they did not endorse the two (2) sheds located in the rear corners of the property line. Mr. Sullivan seconded the motion and the Board voted 5-0 to grant the Special Permit with Murphy, Feeney, Keane, Hensley and Corwin voting in favor.

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL NOVEMBER 22, 2022 6:30 P.M.
MEETING MINUTES**

#22-112: Pamela Taylor: The Petitioner is seeking a Special Permit in accordance with §305-9.02 of the Marshfield Municipal Code to construct an 11.3' x 11.6' addition to the existing non-conforming dwelling on the property located at **119R Pleasant Street** which is further identified on the Assessors' Maps as being on parcel F16-04-02 and is located in an R-1 zoning district.

Mr. Murphy read **Case #22-112** into the record. Pamela Taylor was on Zoom and Dick Rockwood was in attendance. Mr. Rockwood said he did the architectural work on the one (1) story addition. He said that he believes the rear of the house is nonconforming; he said they are 29 feet from the rear line and should be 40 feet; they meet the other setbacks. He said there was already a garage in that area and a patio and they will be filling that in. Mr. Murphy asked if the Board or public had any questions and there were none. He made a motion to close which was seconded and all were in favor. The Board determined that the Petitioner met §305-10.12 (1-10) requirements. Mr. Murphy made a motion to grant the Special Permit with the conditions of a building permit, a Final As-Built and a Certificate of Occupancy. Mr. Sullivan seconded the motion and the Board voted 5-0 to grant the Special Permit with Murphy, Feeney, Keane, Hensley and Corwin voting in favor.

#22-113: McDonald's Corporation: The Petitioner is seeking a Site Plan waiver or Site Plan approval if the waiver is not granted in accordance with §305-12.02 of the Marshfield Municipal Code to approve interior and exterior renovations that have already been completed including restroom upgrade, dining room décor and seating renovations, installation of a new front counter, installation of self-order kiosks, upgrades to the exterior finishes, updates for ADA compliance and updated to the drive-thru equipment 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.

Mr. Murphy read **Case #22-113** into the record. David Connolly of 28 State Street, Boston and Eric Dubril of Bohler Engineering were present for the Petitioner. Mr. Connolly asked for a waiver of site plan approval; he said they filed in good faith for a building permit and found out after that they needed approval two (2) ways. First a meeting for a sig; they have had discussions going back and forth; the work is not substantial. They respectfully request a waiver but they have also filed for Site Plan approval. Mr. Stewart said everything conforms and the only issue was the sign. He said the issue with the Zoning Board of Appeals is that they requested Site Plan approval over a year ago. Mr. Galvin said they think the Board should grant it; everything seems fine; the Board had an issue one time with Wendy's. Mr. Galvin thinks they should grant the approval and not waive it. Mr. Murphy asked if the Board or public had any questions and there were none. He made a motion to close which was seconded and all were in favor. The Board determined that the Petitioner met the requirements of §305-12.02. Mr. Murphy made a motion to grant Site Plan approval; Mr. Sullivan seconded the motion and the Board voted 5-0 to grant Site Plan approval with Murphy, Feeney, Keane, Hensley and Corwin voting in favor.

#22-114: Steven and Kristen Herget: The Petitioners are seeking a Special

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL NOVEMBER 22, 2022 6:30 P.M.
MEETING MINUTES**

Permit in accordance with §305-10.12 and §305-13.01 of the Marshfield Municipal Code to construct an 11' x 25'10" second floor rear addition and an 8' x 28'2" covered front farmer's porch on the property located at **36 Musket Road** which is further identified on the Assessors' Maps as being on parcel K09-03-11 and is located in an R-3 zoning district.

Mr. Murphy read **Case #22-114** into the record. Dick Rockwood presented and said he did the architectural work; he believes it is nonconforming on both sides. He said they won't get any closer than the existing nonconforming setbacks but they will have an overhang. Mr. Sullivan asked if they had been to Conservation and Mr. Rockwood said they aren't putting a hole in the ground. Mr. Sullivan asked if it was cantilevered. Mr. Stewart said they do need Conservation approval for the porch and they need a Floodplain Permit. Mr. Rockwood said it was in the works but he doesn't think they will have a problem with Conservation. Mr. Stewart said that is why they need a Floodplain Permit. Mr. Sullivan asked if they were premature coming to Zoning before Conservation; Mr. Rockwood said usually Conservation wants Zoning first. Mr. Stewart said the Floodplain Permit helps with this. Mr. Rockwood asked if this was in the Inland Wetlands; Mr. Galvin said the property is but the house is not. Mr. Rockwood asked if this was in a Flood Zone; Mr. Stewart said yes, the entire property is in an AE9, all of Musket Road. Mr. Rockwood said he wasn't putting a hole in the ground; Mr. Stewart said that he was with the porch. Mr. Stewart said the best thing to do would be to do a floodplain application so they know what they need or don't need. Mr. Rockwood said this slipped through the cracks. Mr. Stewart said an actual expansion of the footprint shouldn't matter. If there is substantial improvement after the approval he will come back for a modification. He said the existing structure is outside of the Inland Wetlands. Mr. Galvin asked if it would be better to grant it; it would benefit if the Board wants to approve it; Mr. Stewart agreed. Mr. Murphy made a motion to close which was seconded and all were in favor. Mr. Murphy said they would start with the Inland Wetlands; the Board agreed that they meet the Inland Wetlands requirements and that they meet the §305-10.12 (1-10) requirements. Mr. Murphy made a motion to grant the Special Permit with the conditions of a Floodplain Permit, a building permit, a Final As-Built and a Certificate of Occupancy. Mr. Corwin seconded the motion and the Board voted 5-0 to grant the Special Permit with Murphy, Feeney, Keane, Hensley and Corwin voting in favor.

#22-115: Stan Kusy and Maura Kiefer: The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 17'4" x 13' unenclosed carport with a 2' eave and a 16' x 16' open deck on the property located at **747 Ocean Street** which is further identified on the Assessors' Maps as being on parcel L09-10-17 and is located in an R-3 zoning district.

Mr. Murphy read **Case #22-115** into the record. Maura Kiefer of 747 Ocean Street said this is similar to her previous application. This is a nonconforming lot; they have submitted a Floodplain Permit application and said they can't get a building permit until November 2 of 2023. There is an unenclosed deck and they have included a sketch of the carport that will meet all setback requirements. Mr. Stewart said that they have filed for the Floodplain Permit and aid they are waiting to file for the building permit because they recently did some work; this is phased construction. Mr. Galvin said he couldn't see the setbacks on the plan but he can see

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL NOVEMBER 22, 2022 6:30 P.M.
MEETING MINUTES**

them now. Mr. Murphy asked if there were any questions from the Board or the public. Michael Kiely of 743 Ocean Street said that he abuts the south side and that they are currently engaged in a land dispute with the Petitioner about a problem on the south side; part of his house is on their property. Mr. Kiely has hired an attorney for the land dispute and as of an hour ago, his attorney had not heard back from them. Mr. Kiely said they are challenging this on both properties. Mr. Murphy asked Mr. Kiely if he had the land surveyed and he said that he did. Mr. Kiely said there was obviously some tension. Mr. Sullivan asked Mr. Kiely if he was at 743 Ocean and he said that he was. Mr. Sullivan said that in terms of what is proposed, the work is on the other side of the property; Mr. Kiely said that it was. Mr. Murphy asked if there was anything else and Mr. Kiely said he wanted to go on record. Mr. Galvin said the Board is not in a position to adjudicate a land dispute; they should avoid any consideration of that issue. Mr. Murphy made a motion to close which was seconded and all were in favor. The Board determined that the Petitioner met §305-10.12 (1-10) requirements and that this will not be substantially more detrimental. Mr. Murphy made a motion to grant the Special Permit with the conditions of a Floodplain Permit, a building permit, a Final As-Built and a Certificate of Occupancy. Mr. Sullivan seconded the motion and the Board voted 5-0 to grant the Special Permit with Murphy, Feeney, Keane, Hensley and Corwin voting in favor.

#22-116: Dish Wireless, L.L.C.: The Petitioner is seeking a Special Permit in accordance with §305-11.12 and Site Plan approval in accordance with §305-12.02 of the Marshfield Municipal Code to place equipment within an existing multi-user carrier equipment building and attach antennas to the tower on the property located at **40 Lone Street** which is further identified on the Assessors' Maps as being on parcel C10-01-01C and is located in an I-1 zoning district.

Mr. Murphy read **Case #22-116** into the record. James Valeriani of 10 Arthur Road, Wakefield presented for the Petitioner who was on Zoom. Mr. Valeriani said they would roll out to compete with Verizon, AT&T and T-Mobile and will start construction in 2023; they are taking the space previously occupied by T-Mobile. Mr. Murphy asked Mr. Stewart if he had any questions and he did not. Mr. Galvin said this was pretty straightforward; this is what we want people to do, to go where there already is a tower. He said that they meet the requirements of §305-11.12. Mr. Murphy asked if the Board or public had questions and there were none. He made a motion to close which was seconded and all were in favor. The Board determined that the Petitioner met the requirements of §305-11.12 and §305-12.02. Mr. Murphy made a motion to grant the Special Permit and Site Plan approval. Mr. Galvin said they usually require a removal bond which is usually 1.25 the cost of the equipment removal. The motion was seconded and the Board voted 5-0 to grant the Special Permit and Site Plan approval with Murphy, Feeney, Hensley, Corwin and Sullivan voting in favor.

#22-117: Cordelia J. Tallman: The Petitioner is seeking a Special Permit in accordance with §305-11.03 of the Marshfield Municipal Code to allow fill, in excess of 500 C.Y. and within an area greater than 10,000 S.F., to be brought on to the site for the construction of a new 125' x 72' indoor riding arena accessory structure on the property located at **1067 Union Street** which is further identified

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL NOVEMBER 22, 2022 6:30 P.M.
MEETING MINUTES**

on the Assessors' Maps as being on parcel B17-01-12A and is located in an R-1 zoning district.

Mr. Murphy read **Case #22-117** into the record. Dana Altobello of Merrill Engineer was in attendance with Jill Tallman, the owner. Mr. Altobello said the property was located on the westerly side of Union Street, one parcel with a single family home with a pool and several barns; it slopes south to north. He said the applicant is proposing a 72' wide, 125' long riding arena and the horses would be led from the barns. Mr. Altobello said that it meets the requirements of §305-11.03. There will not be any change of use to the several barns and accessory structures. He said it will be consistent with the current use and will still have a rural feel. Mr. Altobello said there is a proposed contiguous line of erosion control and there will be a subsurface infiltration system; they have incorporated the existing catch basins. He said that no portion of the fill will exceed 10 feet.

Mr. Murphy asked if the Board, Mr. Stewart or the public if they had any questions or comments. Mr. Stewart said they will need a building permit for the arena and for doing the retaining wall. Mr. Galvin said there were no issues. Mr. Murphy made a motion to close the hearing which was seconded and all were in favor. Mr. Galvin said the statute requires approval from the Board of Selectmen, the Department of Environmental Protection and the Department of Transportation. Mr. Galvin said that there is a truck ban on Union Street. Mr. Keane asked if the truck ban was on Union Street or the Union Street bridge. Mr. Galvin said it was Union Street; he think they are allowed to do it because there isn't another way. The Bylaw requires Select Board approval; the only other time they dealt with this was with the golf course. Mr. Murphy made a motion to close which was seconded and all were in favor. He made a motion to grant the Special Permit per §305-11.03 with the conditions of a building permit and approval from the Select Board, Department of Environmental Protection and Department of Transportation. The motion was seconded by Mr. Corwin and the Board voted 5-0 to grant the Special Permit with Murphy, Feeney, Keane, Hensley and Corwin voting in favor.

#22-118: Darryl Wehmeyer: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a new 30' x 12' dormer in the rear of the dwelling to match the existing dormer in the front on the property located at **37 Farragut Road** which is further identified on the Assessors' Maps as being on parcel L10-03-05 and is located in an R-3 zoning district.

Mr. Murphy read **Case #22-118** into the record and asked if anyone was in attendance to present; there was not. Mr. Galvin said that it was straightforward and it was too bad that someone wasn't there. Mr. Stewart said that he would present. He explained that this is a result of a Stop Work Order; they did the work inside and then did the dormer. Once they applied, Mr. Stewart let them continue. They are asking for an after-the-fact approval; this is a nonconforming lot and structure. Mr. Stewart said they did not expand the footprint. Mr. Murphy made a motion to close which was seconded and all were in favor. He made a motion to grant the Special Permit which was seconded by Mr. Corwin. The Board voted 5-0 to grant the Special Permit with the conditions of a building permit, a Certificate of Occupancy and a plot plan with Murphy, Feeney, Keane, Hensley and Corwin voting in favor.

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL NOVEMBER 22, 2022 6:30 P.M.
MEETING MINUTES**

#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.

The Petitioner has requested to continue this to the December 13, 2022 meeting. Mr. Murphy made a motion to continue to December 13, 2022 which was seconded by Mr. Corwin. The Board voted 5-0 to continue with Murphy, Feeney, Keane, Hensley and Corwin voting in favor.

#19-55: Health Circle, Inc.: Petitioner is requesting a six (6) month extension on the Special Permit and Site Plan approval that was granted at the November 10, 2020 meeting and stamped in the Clerk's office on November 24, 2020 to complete construction on the dispensary.

Mr. Murphy stated that Health Circle, Inc. is requesting a six (6) month extension on their Special Permit and Site Plan approval. Mr. Westort said that they are almost done but need the extension of the permit due to issues. He said that six (6) months should do it. Mr. Sullivan asked when Mr. Westort acquired the property and Mr. Westort said March of 2022. Mr. Sullivan asked if they will be ready in May of 2023 and Mr. Westort said they are having a hard time with the cameras. Mr. Sullivan said he has no knowledge of this so he isn't challenging him and asked if they could open without the cameras. Mr. Westort said they would have to go back to the Cannabis Control Commission. Mr. Galvin said that if they construct this according to plan they should be okay. Mr. Stewart said that with the other facility, they issued a temporary Certificate of Occupancy because they met all of the Town requirements. They got their full Certificate of Occupancy after they met all of the Cannabis Control Commission requirements. They can submit things to Cannabis Control to move them along; Mr. Westort said that works for him. Mr. Murphy said they got this permit in November 2020 and they just got in March 2022. Mr. Westort said the previous person (Rich) couldn't move out because his building façade had collapsed. They started building out their grow in Rockland. Mr. Murphy asked if they changed plans and Mr. Westort said yes, the entrance will be in front and deliveries on the side. Mr. Galvin said they will need approval for changes on the outside. Mr. Stewart said the only thing changing on the outside is the exits; they will utilize the existing set up and not eliminate the bay in the back. Mr. Galvin said the Select Board has been asking about this and asked Mr. Westort if he could get this done in six (6) months. Mr. Westort said he would get it done for the Board but not sure of Cannabis Control. Mr. Stewart displayed the building with the collapsed façade on GIS and said that this had delayed them. Mr. Murphy said he was okay with six (6) months and made a motion to grant the six (6) month extension from November 24 to May 24, 2023. The motion was seconded by Mr. Corwin and the Board voted 5-0 to grant the extension with Murphy, Feeney, Keane, Hensley and Corwin voting in favor.

Mr. Murphy asked if there was anything else and Ms. Porreca said only the approval of minutes from the September 19, 2019 remained. Mr. Murphy made a motion to approve the minutes

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL NOVEMBER 22, 2022 6:30 P.M.
MEETING MINUTES**

which was seconded and the Board voted 5-0 with Murphy, Feeney, Keane, Hensley and Corwin voting in favor.

Mr. Murphy made a motion to adjourn. The motion was seconded and the Board voted 5-0 with Murphy, Feeney, Keane, Hensley and Corwin voting in favor.

Meeting adjourned at 7:46 PM.

Respectfully submitted,

Nanci M. Porreca
Zoning Administrator

These minutes were approved by the Board on November 14, 2023 by a
5-0 vote.

Signed: _____

Date: 11/14/23