

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL JUNE 22, 2021 6:30 P.M.
MEETING MINUTES**

Members Present:

*Lynne Fidler, Chair
Brian Murphy
Heidi Conway
Mark Stiles
Larry Keane
Christopher Belezos
Stephen Feeney*

Also Present:

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

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Ms. Fidler explained there was a brief delay due to MCTV technical difficulties. She stated that they would begin with an update by Mr. Edward Pesce on the Modera project and then move on to Case #21-28, American Towers, and then Case #21-41, 25 Sekonnet Avenue. The new hearings will follow after that. Mr. Pesce had asked if he could brief the Board without MCTV but Ms. Fidler had advised that they would prefer the updated be on record for the public.

MCTV returned at 6:44 P.M. and Ms. Fidler called the meeting to order and advised everyone that if they were calling in to the Zoom meeting by phone they will need to use *6 to mute and unmute. Ms. Fidler took roll call for attendance and all members were present in the Board of Selectmen Chamber with the exception of Stephen Feeney who joined via Zoom. She noted that images and files would be part of the record.

Mr. Pesce stated that Mr. Jeff Riley was also in attendance and began his Modera update by stating that it is almost complete and is partially filled. Mr. Riley said that the start date was April 25, 2019. Mr. Pesce showed drone pictures from the beginning and said the townhouses were done first in Phase 1 and the apartments were done in Phase 2. He said that this was one of the smoothest projects with which he has been involved. He said there were a couple of punch-list items left like sweeping, etc. and they have received four (4) pages of As-Built plans; they are close to closing this out. They can provide a check to the Town for escrow until the list has been done. Mr. Riley said that as of last Thursday (June 17th), the project was 70% occupied. Mr. Pesce said that there are three (3) wells on site because one (1) well wasn't productive enough. Ms. Fidler stated that we didn't have much snow so there were no stockpile issues. Mr. Pesce stated again that when Covid hit, they had hired a nurse to screen everyone who came to the site. They had the workers drive their own cars and they sent people home if they carpooled. Mr. Stewart echoed that and said he was impressed with how they handled the pandemic when he did inspections and he has shared that with other towns. Ms. Fidler said this Board and Boards in the future will have this as a template. She stated that there were a lot of waivers and Mr. Pesce had the town, citizens and Modera residents in mind. She asked if there were any questions from the Board or public and there were none. Ms. Fidler asked how many units and Mr. Riley said there were townhouses and 235 apartments. The update then ended.

#21-28: American Towers, L.L.C.: In accordance with §305-10.11 of the Marshfield Municipal Code the Petitioner is seeking a Variance for relief from §305-5.04, Table of

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Use Regulations, Retail and Service #23b, §305-6.05, §305-6.10, §305-11.12.B(1), §305-11.12.B(2), §305-11.12.B(3), a Special Permit under §305-5.04.22 and 23, Accessory Communications Tower to a Nonresidential Use, §305-10.10 and §305-11.12 and Site Plan approval under §305-12.02 to construct a self-supporting one hundred and twenty foot (120') Monopole Tower, the ground space of which will be surrounded with a six foot (6') high chain link fence with a twelve foot (12') wide locked entrance gate which will house the telecommunications tower, equipment cabinets and generator of Verizon Wireless and the equipment for future co-locators on the property located at **0 Snow Road** which is further identified on the Assessors' Maps as being on parcel H07-04-25A and is located in a B-1 zoning district.

Ms. Fidler said she had mentioned earlier that there were changes in the Agenda and said they were going straight to American Towers. She said that the Board had asked Mr. Pesce to represent them on this project. Attorney Daniel Klasnick represented the Petitioner and he said that Mr. Brian Lanier and Mr. Keith Valente were also available. Ms. Fidler explained that she had done a site visit with Mr. Keane and Mr. Belezos and they had some concerns; there was an abundance of information beyond their scope and she gave the floor to Mr. Pesce.

Mr. Pesce stated he was the consulting engineer and acknowledged to the applicant that he got the review letter today and hadn't had much time. Mr. Pesce said the 120 foot tower was explained in an extensive brief and mentioned that some Verizon Wireless equipment will add three (3) feet. He reviewed that the applicant was asking for three (3) permits: a Special Permit, Site Plan approval and Variance relief. Mr. Pesce said a thorough explanation of each are of relief is requested. He said that there was no offense but he was not sure that he agrees that there is a potential hardship for Verizon. He said that there are a ton of towers around and said he wasn't sure if Verizon was in Marshfield. He asked if there was a service gap. Mr. Pesce said this was a good use for this location because there were not a lot of abutters and that he believes it serves public interest and safety.

He said he couldn't get the math to work regarding the calculations of the fall radius. He said it might be higher than 63 feet and might be close to 80 feet and he needs that clarified. Mr. Pesce said it could be shifted to the east away from Tea Rock Gardens and still be 100 feet away from the wetland resource area. He said he received an email from Mike (Plahovinsak, P.E.) today at 4:23 P.M. He said he had the math correct but 76 feet in the air is designed to break off but due to cabling it is designed to fall. He said the 63 foot fall radius is correct. He said the distance from the pole to the property line is 122'11" and is 25 feet away from the 100 foot buffer. He said they could shift it 40 feet more for noise attenuation and separation from the neighbors. Ms. Fidler said the Conservation Restriction limits their ability. Mr. Pesce said he meant 122 feet from a dwelling, not the property line and he pointed out the area where he would like to see it moved. He said they were being conservative stating away from the wetlands but didn't see flagging.

Mr. Pesce said #3 was about sound assessment and talked about decibels and sound. The limit is 50 and this says 49; he recommends a sound check after at the daytime level. Mr. Keane asked if it tests over 50 and Mr. Pesce said there were ways to attenuate and remedy that and that they

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might be working on that now. **Mr. Pesce recommends this as a condition for the decision.** For #4, Mr. Pesce recommends that they provide a grading plan and show that runoff will not run into the parking lot. It should be in an area where it will drain or grade it away. For #5, Mr. Pesce recommends that all 16 conditions of Case #17-32, 1204 Union Street, be incorporated into this decision. He said that there was an extensive amount of material submitted. Ms. Fidler said that for the purpose of the decision they would keep Conditions 1-16 as a draft decision and include #3 where it refers to 49 decibels in daytime as Condition 17; comment #4 would be Condition 18; A would be Condition 19; B would be Condition 20 and C would be Condition 21. Mr. Pesce said he would request the grading plans before; his recommendations are under #5.

Ms. Fidler said they would give the applicant a chance to speak, continue the hearing and have a draft decision at the next meeting. Mr. Keane thanked Mr. Pesce and asked if he was okay with the fall radius; Mr. Pesce replied that he was. Mr. Keane said he would like to see it moved over and they had discussed that at the site visit. Mr. Belezos said another thing discussed at the site visit was the drop zone where cars go by. Mr. Pesce said they think about this with the fans and power turbines and it wouldn't hurt to put yellow lines so nobody parks there.

Mr. Pesce said there would be periodic noise during the day when they do maintenance and the Board needs to get conformation of the noise level after construction. He said they have spent a lot of effort since last August and it shows they tried to find the right site. Mr. Keane said it was an appropriate location and they presented a lot of information. Ms. Fidler said that maybe they could put striping on the asphalt. She asked Mr. Klasnick if he had any questions and said her intent was to continue this and work through Mr. Pesce's comments.

Mr. Klasnick thanked Mr. Pesce and said he wanted to expound on the selection of the site. He said with the wetlands, they wanted to be as far from the buffer as possible; they looked at the Bylaws and at Inland Wetlands. He said there is an existing swing gate and one (1) Conservation Commission condition in their deminimus determination is that they don't block that gate and Mr. Pesce has acknowledged that. He said it was important to note from the engineer's letter that the tower is properly constructed and addresses the Bylaw concerns. Mr. Klasnick said it would require a complete re-design to move it. They did an extensive review and they want to know what the Board wants to do. Mr. Pesce pointed out the swing gate on the plan and said it wouldn't be a lot of time involved to change the plans; pick up the equipment and move it 25 feet. He said that moving it 20 feet isn't the end of the world; it's some minor drafting. Ms. Fidler stated that at the site visit it was pointed out that the location was 17 feet from the asphalt. Mr. Pesce proposes that they slide it and asked if there was another technical reason that it couldn't happen. Ms. Fidler said that one of the first questions the Board asked was why this location. She stated that the Board has what it needs to move forward and resolve the responses. Mr. Murphy said they would need an extension of time for the Variance. Mr. Keane said it might be worth it to have them move the site of the pole by shifting it to the east the maximum amount feasible.

Ms. Fidler asked for questions from the public and Eric Kelley of 121 Peterson Path had questions. He said that he was asking for the lease agreement for over a month and just got it today; he wasn't sure why it took so long; it is dated 2018 so it should have been available

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sooner. He said numerous pictures were taken of how the tower will look. Mr. Kelley said Google Maps shows a rotary system in Tea Rock and asked why there weren't pictures from there. He said it appears the people taking pictures are being deceptive. He said pictures were taken when trees were in full bloom and asked why no pictures were taken when trees were leafless. Mr. Kelley said he wanted the attorney to answer what the proper setback was. Ms. Fidler asked Mr. Galvin but Mr. Kelley said he wanted Mr. Klasnick to respond. Mr. Stewart said the residential side is the west side; Mr. Klasnick said the south side has the Conservation Restriction. Ms. Fidler asked Mr. Kelley if he was referring to the west side, the residential side. Mr. Klasnick said the setback is 80 feet and said all setbacks are within requirements. Mr. Kelley said if he was hearing correctly the setback is based on the Town Bylaw. He asked what is considered close proximity and why would they avoid those areas.

Mr. Klasnick said that Verizon Wireless and American Tower started this process 5-6 years ago. After spending years they felt this was the only suitable location and it satisfies radio frequency. He said sometimes facilities are located right next to a residential structure. Mr. Kelley asked if Mr. Klasnick's volume could be turned up. Ms. Fidler recommended that the hearing stay open and Mr. Kelley could review the lease and information; he will have the opportunity to get answers. Mr. Kelley said he had more questions. Ms. Fidler said the Board has a lot to do tonight and she asked if Mr. Kelley could submit the questions in writing and they could get the answers for him unless his questions would be short. Mr. Kelley said some of his answers are long so he didn't know and that this has been kicked around. Ms. Fidler stated only once and mentioned July 13th. Mr. Kelley said that as a citizen of this town, the location where they want to put this, with due respect to Madam Chair instead of sending in questions now ahead of time (?). Ms. Fidler said it began May 11th and there was a site visit; then they got Mr. Pesce. Mr. Kelley said this was postponed several times. Ms. Fidler said she would like to move along and not monopolize things. Mr. Kelley said he is not monopolizing and he doesn't want to hold people up. Ms. Fidler said she would appreciate it if Mr. Kelley would take notes and provide his questions in an email. Mr. Kelley said he was insulted by this. Ms. Fidler said that it was 7:55 and asked if Mr. Kelley could pick an important question; he replied they all were. Ms. Fidler said she recommends an email and Mr. Kelley said he will be back on July 13th. Mr. Murphy said that Mr. Kelley knows the Board rules are five (5) minutes for the public. Mr. Kelley said he didn't know that, it's not stated and it's shutting out the public. He said five (5) minutes where you have an attorney giving a long answer is not fair. Ms. Fidler said that they will hear from him on July 13th and to put his questions in an email.

A member of the audience asked if this is a 5G town. Mr. Pesce said the information referred to 4G but maybe it will be 5G in the future. Mr. Klasnick said this is a 4G LT design for this location and Mr. Valente said it was Verizon Wireless' 4G LT network. Ms. Fidler advised that Ms. Porreca would reach out for an extension. Ms. Fidler made a motion to continue this until the July 13th meeting at 6:30 and it was seconded by Ms. Conway. Fidler, Murphy, Conway, Stiles, Keane and Belezos were in favor.

#21-41: Donna and Edward Martynowski: The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to demolish two

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(2) existing sheds and construct a 30' x 34' two (2) story addition with an upper deck and associated stairs and two (2) Variances in accordance with §305-10.11 seeking relief from §305-6.10, Table of Dimensional and Density Regulations, to allow the construction of an overhang 13' from the front lot line and the construction of an upper deck and associated stairs 12.6' from the left lot line on the property located at **25 Sekonnet Avenue** which is further identified on the Assessors' Maps as being on parcel M09-04-12 and is located in an R-3 zoning district.

Mr. Murphy recused himself from the hearing and Ms. Porreca advised that Mr. Leing from Grady Consulting had new plans. Ms. Fidler asked what the date was and Mr. Leing said that there was no revision box. Ms. Fidler asked Mr. Egan and Ms. Davis if they received it; Ms. Davis said she had but there was no chance to review it; Mr. Egan said that he received it from Ms. Porreca that day. Mr. Leing apologized and said he got in a pickle and did not send until today. Ms. Fidler said she reviewed it with the Building Commissioner today; she was looking at 16.1 and asked Mr. Stewart to explain it. Mr. Stewart said the plan wasn't in the file and Ms. Porreca left to scan the plan.

Ms. Fidler said that at the last meeting the public made comments on Mr. Leing's Zoning Data and she asked if that had been resolved; Mr. Leing said that it had. Ms. Fidler asked if there were any questions from the Board and Mr. Keane asked Mr. Galvin if he were satisfied with the Variance information. Mr. Galvin said that they don't need a Variance. Ms. Fidler said the applicant was on town sewer. The abutters questioned if this was a single family vs. an apartment but that is not before the Board tonight. Mr. Stiles asked if they could address it for the public and Ms. Fidler said they could. Ms. Fidler said if they do come back to the Board for an apartment, they do not have the square footage required. Mr. Leing said it does not have the square footage and said not to quote him.

Attorney William Egan representing Brian and Susan Donelan of 29 Sekonnet apologized to Mr. Leing for the late response and Mr. Egan asked for the architectural plans. Mr. Egan said that on page 2 of his letter had ten (10) conditions for a Special Permit. It appears to him that the only thing they did was take out the stove. Mr. Leing said they took out the 3D rendering because they didn't match the plans; there were no countertops or a stove on the plans but they were on the 3D rendering. Mr. Egan said that there was a stove and Mr. Leing said only on the 3D rendering. Ms. Fidler asked Mr. Egan to address the Board. Mr. Egan said he would like to have time to review. He asked what would prevent them from putting in the stove and more bedrooms. He said with the size of the addition this is the biggest building on the street; they could have another unit there and he heard the son, daughter and child will live there. Ms. Fidler said this lot has the building envelope for the size. Mr. Egan said it is still a nonconforming lot and it will affect the character of the neighborhood and that's the key element to issuing this permit. He said Mr. Murphy had mentioned removing the stove before and he asked if they could ask Mr. Murphy. Ms. Fidler said Mr. Murphy is recused from the case and is not a voting member on this. Mr. Egan asked if he should have done that before deliberation.

Mr. Leing said all 3D renderings were removed because they were causing confusion. Jackie Davis of 19 Sekonnet Avenue said that not all comments have been addressed. She said that Mr.

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Murphy made two (2) comments – remove the stove and reduce the size of the stairs. Ms. Fidler also stated again that Mr. Murphy was recused. Ms. Davis said there are maps on the Zoning Table and they still weren't updated; she asked about maximum building coverage and said they are off by one hundred something square feet; she asked where the 1400 square feet came from. GIS information shows discrepancies on the front; she can't go through Variance notes because it's now null and void. Ms. Davis said they said that two (2) sheds were demolished; one was demolished and one was moved. Ms. Davis went through some of the Bylaw. She said it was still a residential unit and asked why it was essential and desirable. With respect to creating undue traffic she said that there is normally a school bus, truck and an SUV parked there; the garage space is not actual space, there is a structural beam; usually it's 15 feet and a standard car is 6 feet; nobody can park in the garage. Number 4 is an increase in bedrooms; she noted two (2) in the principal house and one (1) in the addition; there will be an additional bathroom. Ms. Davis said the applicant had a discussion with the DPW but she hasn't seen anything; she said there were comments from the Planning Board. Ms. Davis said her family has owned her house for over 50 years and asked why the addition needs to be larger than the existing structure. With reference to #9, Ms. Davis asked why this is considered an old neighborhood. She said it was a beach area and asked why they were allowing these homes to be built. She said they aren't in the Flood Zone so why is there a need to elevate; she said it's like the Jersey Shore. Mr. Egan said that all ten (10) requirements must be met before a Special Permit is issued. He does not see information on the plans to allow the Board to issue it.

Ms. Fidler asked if there were other public comments and Donna Martynowski, the Petitioner, said that she has seven (7) spaces and she parks her bus in the yard at night. Mr. Keane asked if on-street parking was common there and Ms. Martynowski said that it was. She said this is what they think will be better for the neighborhood. A slide was displayed and Ms. Martynowski said the red squares were shed and she took two (2) sheds off; the red is what was removed and the purple is what she is building. She said the picture makes it look very big but she is within her envelope. She is sorry she isn't fitting in their lifestyle and thinks she should be able to build. She said not all are small cottages. Mr. Keane asked Ms. Martynowski how long she has lived there and said not that it matters. Ms. Martynowski said 50 years and an abutter said they had been there 53 years.

Mr. Stiles said the concern he is hearing is that they are setting this up for an accessory apartment or a two (2) family; Ms. Martynowski said she wasn't. Mr. Stiles asked if the Board were to condition this to remain a single family and Ms. Martynowski said she was okay with that. Ms. Fidler said that they would continue. Mr. Belezos said that the abutters should submit their questions and concerns by July 1st; the applicant will have seven (7) days for a response and then seven (7) days for the Board to review. Ms. Fidler said the applicant and abutters will work with the Board. Ms. Davis said the Board could put conditions in; last week Mr. Murphy said no stove and asked if that meant no full-size refrigerator. Ms. Fidler said they would deliberate. Mr. Stewart said a dwelling unit per the Building Code is a unit that provides conditions for living and eating; if one or more is removed then it is not considered a dwelling unit. He said you can't put gas or an electric outlet for the stove during construction; he won't allow them to put gas in and they would have to pull a building permit in the future. Ms. Fidler said it typically wasn't for the Board to condition it because it is handled with the Building Code.

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She recommended that hearing be continued to July 13th at 6:30 P.M. She said Ms. Davis and Mr. Egan should send their concerns to Ms. Porreca a week from today (June 29th) and seven (7) days for the applicant to respond; Ms. Porreca will then send them to the Board.

Ms. Fidler made a motion to continue which was seconded; Fidler, Conway, Stiles, Keane and Belezos were in favor

#21-45: Richard Doyle: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to create an 8' x 21' deck extension on the property located at **88 Marginal Street** which is further identified on the Assessors' Maps as being on parcel M06-05-01 and is located in an R-3 zoning district.

Ms. Fidler read **Case #21-45** into the record and apologized to the Petitioner for the wait. Mr. Richard Doyle said that he is requesting to extend his deck. He said both doors swing on to the deck and when there are people there mobility is difficult for people over 70 and 80. Adding to the deck will allow him to space out the furniture which will remove a safety hazard. Mr. Belezos said the application says Variance but this is a Special Permit; Ms. Porreca confirmed that it was a Special Permit which was in the notice. Mr. Doyle said that he has gone to the Conservation Commission and they have signed off on this. He said aesthetically the change won't be noticeable from what is seen today and there is a big open yard behind them.

Ms. Fidler asked if there were any questions from the Board or public and there were none. She asked if Mr. Stewart was okay with this and he replied that he was. Ms. Fidler made a motion to close which was seconded; Fidler, Murphy, Stiles, Keane and Belezos were in favor. Ms. Fidler made a motion to grant the Special Permit and stated that #1 through #10 in §305-10.12 had been satisfied. The motion was seconded and the Board voted 5-0 to grant the Special Permit with Fidler, Murphy, Stiles, Keane and Belezos voting in favor. Ms. Conway was recused.

#21-46: Brian O'Donnell: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to raze the existing dwelling and construct a new 52' x 30' two and a half (2½) story house on the property located at **32 Surf Avenue** which is further identified on the Assessors' Maps as being on parcel L10-05-01 and is located in an R-3 zoning district.

Ms. Fidler read **Case #21-46** into the record and stated that Mr. Keane will take this vote and Mr. Belezos would take the next one. Mr. Dick Rockwood represented the Petitioner and said there was an existing one (1) story structure. The owners will be making this a permanent residence and are proposing to demolish this and build a 2½ story dwelling with a garage underneath. They are in an AE Flood Zone but they are allowed to use this area for parking and storage but it cannot be habitable space. It will be under 35 feet and will have Smart Vents. They have been to the Conservation Commission and have satisfied their concerns. He said the garage is on the left side and they can walk up into the house from there and the storage area is there; he thinks that he is okay with the elevation because it shows as a 9. Ms. Fidler asked Mr. Stewart about the elevation and he said that it is an AE9 and the minimum height in Marshfield will be 11 feet

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to the bottom of the first floor. They are using the enclosure below for garage access and storage which is allowed under FEMA regulations. He said the finished floor is 15 so they are 4 feet above requirements. Ms. Fidler asked if the applicant was the owner and Mr. Rockwood said yes. She asked if there was a deed and there was. She went back to the site plan and asked if there was open space on the lot and said she is sure they are fine. Mr. Rockwood said it should be on the plan.

Ms. Fidler asked Mr. Stewart and the Board if there were any comments and there were not. She asked if this had been sent to the Planning Board and the answer was yes. She asked if there was a need for special conditions and stated that #1 through #10 in §305-10.12 had been satisfied; Murphy, Conway, Stiles, Keane and Belezos agreed. Ms. Fidler asked if there was a driveway and Mr. Rockwood said there was enough room to park in front of the garage and still be off the pavement; it's on a corner lot and they now park on the side of the house. Ms. Fidler asked if this was on town sewerage and Mr. Stewart said that it was. She asked if there were any comments from the public and stated they should use *6 to unmute if they were calling in on Zoom; there were no comments. Ms. Fidler made a motion to close which was seconded; Fidler, Murphy, Conway, Stiles, Keane and Belezos were in favor. Ms. Fidler made a motion to grant the Special Permit and stated that #1 through #10 in §305-10.12 had been satisfied. The motion was seconded and the Board voted 5-0 to grant the Special Permit with Fidler, Murphy, Conway, Stiles, and Keane voting in favor.

#21-44: CJV Automotive & Towing, Inc.: The Petitioner is seeking a Special Permit and a waiver of Site Plan Approval in accordance with Marshfield Municipal Code §305-10.10 SPECIAL PERMIT and §305-5.04 Wholesale Transportation and Industrial section 10, "Other Transportation Services" and waiver of site plan approval under §305-12.02 for automotive towing and transportation use with repair as accessory thereto under subsection 7 of Accessory Uses permitted therein and such other further relief pursuant to the Marshfield Municipal Code as necessary on the property located at **847 Webster Street, Unit 6**, which is further identified on the Assessors' Maps as being on parcel H07-04-43 and is located in a B-1 zoning district.

Ms. Fidler recused herself from this hearing and said Mr. Murphy would be the Hearing Officer. The Board took a five (5) minute recess. When the meeting was called back to order, Mr. Murphy took a roll call vote and Mr. Feeney joined the meeting via Zoom. Mr. Murphy asked Mr. Feeney if he was alone working remotely and Mr. Feeney replied that he was. Mr. Murphy then read **Case #21-44** into the record. Attorney Steven Guard represented CJG Automotive & Towing and said that Colby Vining was also in attendance at the meeting. Mr. Guard said there were six (6) bays in a steel building in a mixed-use district. He said that the applicant wants to "permit" a use that has been there for approximately ten (10) years. They have two (2) spaces out front and there are five (5) common spaces available. The hours are 8:00-5:00 but they need 24 hour access for emergencies. Mr. Guard said that he had submitted eight (8) letters of support from the abutters. He said they are asking for a waiver of site plan approval because there will not be any changes to the structure. Mr. Murphy said the main question was how do they get

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around the two (2) principal uses. Mr. Guard said it was $\frac{3}{4}$ use; the main company is the towing which falls under Section 10; accessory to that is Section 7, repair. Mr. Guard said there aren't two (2) principal uses – there is one (1) principal use and one (1) accessory use.

Ms. Conway asked about the transportation and Mr. Keane aside if they do police towing yet. Mr. Vining said they tow in Duxbury but not often; they would like to be here. Mr. Keane asked if it was retail repair and Mr. Vining said it was usually his own repairs. He said the space doesn't permit tearing an engine out; it's brakes and tires for about ten (10) years. Mr. Vining said he purchased the unit in January and didn't have problems before but then ownership changed. Mr. Keane asked if he kept a nice, clean place and Mr. Vining said he prided himself on the; he's third generation Marshfield. He said that Joe Parsinello said it was the cleanest shop he was ever in and his customers would say the same. He said that the neighbors and abutters support him and say the same thing – he is clean.

Mr. Guard said this is a very narrow side street off Webster Street; there are homes on Sinnott Lane and he has letters from them. Mr. Keane asked about a 21E and Mr. Vining said a 21E was not required. Mr. Guard said there was no outside debris and no outside storage. Mr. Belezos asked about cars and Mr. Guard said they are inside when working on them. Mr. Belezos asked how many spaces were dedicated for the cars. Mr. Vining said there was no overnight parking and four (4) inside; he said they are easy jobs, in and out. Ms. Conway asked how this came about out of the blue. Mr. Guard said that he doesn't think that Mr. Vining realized that he needed a permit; he thought it was in the business district and allowed. Mr. Stewart said he received a zoning complaint for enforcement; Mr. Belezos asked about the nature of the complaint. Mr. Stewart said they were operating a motor vehicle repair business in a B-1 zone from someone with a unit further down. The next door unit had Mr. Stewart go down and check the emissions because there was some soot that came through. Mr. Belezos asked if that was addressed; Mr. Stewart said it was addressed by either cease operation or go to the ZBA. Mr. Vining doesn't believe carbon monoxide causes soot and there was none on his side. He said the other unit had a diesel vehicle and it probably came from that. Mr. Stewart said he did not see soot on Mr. Vining's side. Mr. Vining said he didn't want to aggravate anyone and always tries to stay out of the neighbors' way.

Ms. Conway asked if repair related to towing cars and if they had any records to show that repair is 25%. She said it really isn't an accessory use to towing. Mr. Guard said he tows cars to get repaired. Ms. Conway understands the towing but it doesn't necessarily need to be towed there. Mr. Vining said a lot of other tow places do repairs like one stop. Mr. Murphy said so they are a towing business who does some repair work. Mr. Vining said his insurance rates are by how much towing is done vs. repair; before Covid it was 80%. Ms. Conway said she sees the towing, she sees the repair but doesn't see the connection. She asked if there was a lift inside and Mr. Vining said there was. He said he uses the back 25% for repair and Mr. Murphy asked Mr. Stewart for comments. Mr. Stewart said that there isn't a lot when he has gone there. For him, the use wasn't allowed without a Special Permit. As for repair, he isn't sure where they could go with that; at the very least get the Special Permit for the towing business. Mr. Guard said repair was allowed as an accessory use without a permit and Mr. Stewart could rule on that. Mr. Stewart said it was a conundrum, accessory repair and any consumer retail sales. He felt it

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should go to the Zoning Board for a determination.

Mr. Murphy asked if anyone from the public wished to speak. David Gould said that he owns the unit adjacent to CJV and he gets along with him. He said there was diesel fuel a couple of times. He said this winter he had some time and cleaned his unit; he found soot that drifted through and the units might not be properly sealed. His concerns are that there is an adequate fire stop between their units and for the safety of everyone in the complex. Ms. Conway asked

Mr. Gould what he did there and he said he is a building contractor in Unit 5; he uses it to park trucks, some equipment and a small office. Mr. Steven Vining said his son Colby has been here his whole life and that he is going in the right track with his business. He said people in town depend on him, even the police. He is an asset, was born and raised here and he is proud of him. Mr. Murphy went to the people on Zoom and Attorney Jay Creed said that he represents the Old Colony Depot Condo Owners Association. He said his clients oppose the application submitted because it is not appropriate as submitted. He said his clients have a hard time seeing how it is a retail consumer use and it is hard for him to see the accessory use. Mr. Creed sees it as a principal use, #16 gasoline sales, auto repair which are not allowed in the B-1 district. He said it should be a use Variance for the Board to consider two (2) principal uses but there is no Variance before the Board. Mr. Creed said he doesn't see how a size 12 foot fits into a size 7 shoe.

Mr. Keane asked Mr. Vining if he could provide proof of service if the case gets continued; he said that Mr. Vining said it was 25%. Mr. Vining said it is retail and consumer; that anyone who walks into a store that is retail then you have a consumer. He said every pie is cut differently; he is providing service to consumers. He also said that Covid was different' Mr. Keane said they will take 2018 and 2019 information. Mr. Vining said he knows it is there because he had to fight with insurance.

Mr. Keane said that an abutter was concerned with the fire wall; Mr. Vining said the plans say the walls are fire rated. Mr. Keane asked how old and Mr. Vining said early 2000s. Mr. Keane asked if Mr. Vining ever had any fire inspections and Mr. Keane said they were not required. Mr. Keane asked if they would come by and give him something if he made a request. Mr. Stewart said it was very clean and organized there. Ms. Conway said she has been there and it's clean, there are no questions on that. Her concern is that there are Bylaws and she doesn't see how they are gelling; they have to tie it all together. Mr. Vining said the consumer makes a call, he goes out to tow and they ask if he can repair it, too; they can write one (1) check instead of four (4). Mr. Murphy asked for more comments and Mr. Feeney said that he agrees with Ms. Conway and Mr. Creed's thinking; it's difficult to understand. Mr. Murphy asked the Board how they felt about continuing this and get legal help from Attorney Jon Witten. Ms. Conway said that was fair. Mr. Belezos agreed with what Mr. Keane said about providing documentation about how many cars in and out in a year. Mr. Vining said he could provide that from Quick books; 2018 and 2019 would be a good interpretation. Mr. Murphy said that he hated to push it out but Mr. Witten said they had to make the correlation. He made a motion to continue which was seconded; Murphy, Conway, Feeney, Keane and Belezos were in favor.

Mr. Murphy made a motion to adjourn and the motion was seconded; Murphy, Conway, Feeney,

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Keane and Belezos were in favor.

The meeting adjourned at 10:00 P.M.

Respectfully submitted,

Nanci M. Porreca

Nanci M. Porreca
Zoning Administrator

These minutes were approved by the Board on May 24, 2022 by a
5-0 vote.

Signed:  Date: 3/24/22