

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

*Members Present:*

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

*Also Present:*

*Andrew Stewart, Building Commissioner  
Anthony Riley, Esquire for Town Counsel*

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TOWN CLERK  
SEP 15 4:10:54

At 6:30 Ms. Fidler explained there were technical difficulties; she called the meeting to order at 7:05 P.M. when Zoom was set up and said there were changes to the Agenda. The Petitioner for **Case #19-81, DJ Sullivan Collision Center**, has requested to continue to the October 12<sup>th</sup>, 2021 meeting and Ms. Fidler made a motion to continue. The motion was seconded by Mr. Murphy and the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor to continue.

**#21-49: Thomas Hedin:** 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 16' x 41' single family home with a 10' x 16' deck on elevated wood piles on the property located at **9 Bryants Lane** which is further identified on the Assessors' Maps as being on parcel M08-51-03 and is located in an R-3 zoning district.

Ms. Fidler said that she had spoken to Mr. Stewart and he is in favor of re-opening the hearing to hear from the Conservation Commission. She made a motion to re-open **Case #21-49** which was seconded by Mr. Feeney. Terry McGovern of Stenbeck and Taylor, said they went to Conservation on 09-07-2021 and the issue of wood pilings vs. other methods of support were discussed. The Petitioner will use a vibrating system rather than drive the piles and every precaution will be taken to protect the abutters on either side. There were no additional comments from the Board or the public. Ms. Fidler made a motion to close #21-49 which was seconded by Mr. Feeney. The Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor to close. Ms. Fidler made a motion to grant the Special Permit which was seconded by Mr. Feeney. The Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos voting in favor with the additional conditions: vibratory compaction to set the piles; they will conduct a forensic survey prior to the start of work to document conditions and they will have a seismograph on site if necessary.

**#21-60: Kenneth Hay:** The Petitioner is seeking a Special Permit in accordance with §305-9.02.B, §305-9.02.C and §305-10.10 of the Marshfield Municipal Code to construct a 12'8" x 30' one (1) story addition on the property located at **19 Wilson Road** which is further identified on the Assessors' Maps as being on parcel L10-10-09 and is located in a B-3 zoning district.

Ms. Fidler said that this was another case that had been closed and brought the Board's attention to the site plan and the portico in the hatched area in front. She was told that the portico was

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

built into the setback, exceeds the 10 year period and was built without a building permit. The question for the Board is did these folks build the portico into the setback and are now going to be rewarded with the addition? Mr. Stewart said if you look at the neighbors' houses they are all pretty much the same. But one (1) house has a bump-out that created a nonconformity the others do not have; the other neighbors would require a Variance to get that extension. There were no additional comments from the Board or the public. Ms. Fidler made a motion to grant the Special Permit under §305-9.02.B, §305-9.02.C and §305-10.10 which was seconded by Mr. Feeney. The Board voted 5-0 in a roll call vote with Fidler, Conway, Feeney, Keane and Belezos 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. **Applicant has requested to continue until the September 14, 2021 meeting.**

Attorney Steven Guard started by saying that auto repair is an allowed use and an accessory use can't be more than 25%. Attorney Amy Kwesell represented Town Counsel and clarified that Attorney James Creed represented the condominium owners and not the other abutters. She said this is not an accessory use to towing, it is accessory repair. Accessory use needs to be incidental to the main use; repairing his own trucks would be incidental. Ms. Kwesell said that there cannot be two (2) principal uses. She also said that auto repair is not allowed as a principal use so it cannot be allowed as an accessory use. Mr. Murphy made a motion to grant the Special Permit for automotive towing and transportation use and to deny the accessory use for repair. The motion was seconded by Mr. Feeney and the Board voted 5-0 in a roll call vote with Murphy, Conway, Feeney, Keane and Belezos voting in favor. Mr. Murphy made a motion to grant a waiver of Site Plan approval which was seconded by Mr. Feeney. The Board voted 4-1 in a roll call vote to grant the waiver with Murphy, Feeney, Keane and Belezos voting in favor and Conway opposed.

Ms. Fidler made a motion for a three (3) minute recess. The motion was seconded by Mr. Murphy and the Board voted 5-0 for the recess with Fidler, Murphy, Conway, Feeney and Keane in favor.

**#21-69: Quirk Cars Inc. d/b/a Quirk Kia South:** The Petitioner is seeking Site Plan modification to renovate the exterior of the existing building and a *de minimus* modification of the parking configuration to allow for an open, covered canopy service reception area and updated exterior siding on the property located at **955 Plain Street**



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

which is further identified on the Assessors' Maps as being on parcel C10-02-04A and is located in the I-1 zoning district.

Ms. Fidler called the meeting back to order at 8:10 and read **Case #21-69** into the record. Attorney Steven Guard represented the Petitioner and stated this was a minor modification to the site plan as they are undergoing renovations. Ms. Fidler made a motion to close #21-69 which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane in favor to close. Ms. Fidler advised that they would need three (3) votes for a site plan. She then made a motion to grant the modification of the site plan to renovate the exterior of the building. Ms. Fidler made a motion to grant the Special Permit which was seconded by Mr. Feeney. The Board voted 3-2 in a roll call vote with Murphy, Feeney and Keane in favor and Fidler and Conway opposed.

**#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 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 stated that **Case # 21-28** has already been read into the record. Attorney Daniel Klasnick represented American Towers and said they want to install a 120' tower with Verizon equipment and space for co-locators. He also stated that based on feedback they relocated the tower forty feet (40') to the east. Resident Eric Kelly had some concerns about the tower, location and safety. There was no additional discussion by the Board, Attorney Klasnick or the public. Ms. Fidler made a motion to close the hearing which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor to close. Ms. Fidler made a motion to grant Site Plan approval under §305-12.02 subject to the 18 conditions that were discussed. Mr. Murphy seconded the motion and the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor. Ms. Fidler made a motion to grant the Special Permit under §305-5.04.22 and 23, Accessory Communications Tower to a Nonresidential Use, §305-10.10 and §305-11.12 subject to the 18 conditions that were discussed. Mr. Murphy seconded the motion and the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor. Ms. Fidler made a motion to grant the Variance for relief from §305-5.04, Table of 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) subject to the 18 conditions that were discussed. Mr. Murphy seconded the motion and the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor.



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

**#21-62: Chad Bennett:** The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to raise the second floor roof no more than seven feet (7.0') to construct a 12' x 24' bedroom on the property located at **139 Elm Street** which is further identified on the Assessors' Maps as being on parcel I15-04-05B and is located in an R-3 zoning district.

Ms. Fidler read **Case #21-62** into the record. Chad Bennet said that the footprint and foundation will remain the same. They are making the existing bedroom larger and they have updated the plot plan. Mr. Stewart said they are adding volume and are not increasing any nonconformity. There was a Zoom issue at 9:13 P.M. and the decision was made to continue with the meeting as Zoom is provided as a courtesy. Ms. Conway joined via speakerphone. There were no additional Board or public comments. Ms. Fidler made a motion to close the hearing which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor to close. Ms. Fidler made a motion to grant the Special Permit which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor.

**#21-63: Kathleen Fox and Terrance Power:** In accordance with §305-10.09 of the Marshfield Municipal Code the Petitioners are seeking an Appeal of the Building Commissioner's decision not to enforce the landscape buffer and screening conditions included in Special Permit #15-71 on the property located at **2205 Main Street** which is further identified on the Assessors' Maps as being on parcel E20-01-03 and is located in an R-1 zoning district.

Ms. Fidler read **Case #21-63** into the record. Ms. Fox would rather continue the hearing because of the technical issues as she has a presentation. Ms. Fidler made a motion to continue the hearing to October 12, 2022 at 6:30. The motion was seconded by Mr. Murphy and the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor to continue.

**#21-64: Erin Murphy:** The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 28' x 24' addition at the rear of the dwelling on the property located at **36 Saginaw Avenue** which is further identified on the Assessors' Maps as being on parcel M08-10-01 and is located in an R-3 zoning district.

Ms. Fidler read Case #21-64 into the record. Ms. Murphy said she is requesting a 28' x 24' addition for a first floor bedroom. The lot is nonconforming for size but it meets all setbacks. It was noted that some people still had Zoom access and Ms. Fidler stated that there were no members of the public in attendance. There were no Board or public comments. Mr. Galvin said this was an in person meeting, that remote was a courtesy as long as the Board members can participate. Ms. Fidler made a motion to close the hearing which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor. Ms. Fidler made a motion to grant the Special Permit with the conditions of an Ad-Built and Occupancy Permit. The motion was seconded by Mr. Murphy and the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor.



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

**#21-45A: Richard and Kathleen Doyle:** The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct an 8' x 12' roof over a portion of the existing deck 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. Conway recused herself from this hearing. Ms. Fidler advised the Petitioner, Mr. Doyle, that there were now four (4) members that would hear his case and that it was at his discretion to move forward. Mr. Doyle chose to go forward and Ms. Fidler read **Case #21-45A** into the record. Mr. Doyle is requesting an 8' x 12' roof extension; there will be no walls or utilities; it will basically be a rain shelter. Mr. Stewart said that Mr. Doyle is doing all of the right things and Mr. Stewart does not have a problem with this. There were no Board or public comments. Ms. Fidler made a motion to close the hearing which was seconded by Mr. Murphy. The Board voted 4-0 in a roll call vote with Fidler, Murphy, Feeney and Keane voting in favor. Ms. Fidler made a motion to grant the Special Permit which was seconded by Mr. Murphy. The Board voted 4-0 in a roll call vote with Fidler, Murphy, Feeney and Keane voting in favor.

**#21-65: A & K Lomba Trust:** The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 19' x 16' one (1) story addition and a new 2'8" x 6'8" bulkhead entry on the rear of the dwelling on the property located at **95 Bradley Street** which is further identified on the Assessors' Maps as being on parcel M08-24-05 and is located in an R-3 zoning district.

Ms. Fidler read **Case #21-65** into the record. Dick Rockwood represented the Lomba family and said they would like to do a 19' x 16' addition plus building over the bulkhead. This is nonconforming on the southern side and the addition conforms to the setbacks. There were no Board of public comments. Ms. Fidler made a motion to close the hearing which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor. Ms. Fidler made a motion to grant the Special Permit with the conditions of an Occupancy Permit and an As-Built. The motion was seconded by Mr. Murphy and the Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor.

**#21-67: Steven Pollack:** The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct an 11.5" x 33" x 6.5' bump-out on the property located at **68 West Street** which is further identified on the Assessors' Maps as being on parcel M06-03-07 and is located in an R-3 zoning district.

Ms. Fidler read **Case #21-67** into the record. Mr. Banks who has the next case advised that he cannot hear through Zoom so Mr. Stewart called him on the phone. Mr. Pollack said that they are asking for a 5½" (five and a half inch) extension. Ms. Stewart said this falls under *Bellalta v. Brookline Zoning Board of Appeals*, 481 Mass. 372 (2019) which holds that a variance is not required where the home is pre-existing nonconforming as to a specific aspect of the bylaw and the property owner is seeking an increase in the same nonconforming aspect. He also confirmed that Mr. Pollack is not creating a new nonconformity. The Board determined that an As-Built would not be needed. Ms. Fidler made a motion to close the hearing which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and



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

Keane voting in favor. Ms. Fidler made a motion to grant the Special Permit which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor.

**#21-66: Jeffrey S. and Lucinda A. Banks:** The Petitioners are seeking a Special Permit in accordance with §305-13.02.C.01 and §305-10.12 and a Variance in accordance with §305-10.11 of the Marshfield Municipal Code for relief from §305-6.07 to construct a 4' x 172.9' pier, a 3' x 25' ramp and an 8' x 20' float/dock on the property located at **89 Bourne Park Avenue** which is further identified on the Assessors' Maps as being on parcel J10-08-06 and is located in an R-3 zoning district.

Ms. Fidler read **Case #21-66** into the record and advised that Mr. Banks was on via phone as was Ms. Conway. Mr. Stewart said that the dock is fully compliant and there had been an error on the Town's part. Ms. Fidler reviewed the conditions for docks and Mr. Banks said that he was aware. Ms. Fidler made a motion to close the Special Permit hearing which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor. Ms. Fidler made a motion to grant the Special Permit which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor. Ms. Fidler made a motion to close the Variance hearing which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor. Ms. Fidler made a motion to grant the Variance which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor.

**#21-68: Joseph Santos:** The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 31'11" x 19'11" addition on the existing footprint on the property located at **170 Meadowview Street** which is further identified on the Assessors' Maps as being on parcel K12-02-06 and is located in an R-3 zoning district.

Ms. Fidler read **Case #21-68** into the record. Mr. Santos said they want to put a second story on the house; Mr. Stewart said they are staying within the same footprint and are adding volume. Ms. Fidler made a motion to close the hearing which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor. Ms. Fidler made a motion to grant the Special Permit which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor.

**#21-61: Scott and Lisa Ripley:** The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to extend the existing deck by 26' x 14' on the property located at **57 Ireland Street** which is further identified on the Assessors' Maps as being on parcel I16-12-12 and is located in an R-3 zoning district.

Ms. Fidler began by saying at the previous hearing on August 10<sup>th</sup>, the Board requested plans. Mr. Stewart said he received plans from Rivermoor Engineering. Ms. Fidler discussed with the applicant about being vigilant and how important a Special Permit is; he agreed and apologized.

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

Ms. Fidler made a motion to close the hearing which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor. Ms. Fidler made a motion to grant the Special Permit which was seconded by Mr. Murphy. The Board voted 5-0 in a roll call vote with Fidler, Murphy, Conway, Feeney and Keane voting in favor. Mr. Stewart advised that he has an Ad-Built.

There was a short Board discussion about keeping the hybrid meetings. Mr. Galvin said that the new verbiage helps and he believes that more people are participating with the hybrid meetings.

Ms. Fidler asked Ms. Porreca if we had received a formal request from Webster Point Village and Ms. Porreca said she was advised it would be within 30 days. Mr. Galvin advised that once the Board denied the insubstantial change it was triggered. He said they agreed to the Conservation Restriction on the Marshfield side; they appealed it before and withdrew without prejudice.

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


Respectfully submitted,



Nanci M. Porreca  
Zoning Administrator

These minutes were approved by the Board on May 24, 2022 by a

5-0 vote.

Signed:  Date: 5/24/22