

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL OCTOBER 24, 2023 6:30 P.M.
MEETING MINUTES**

Members Present:

*Brian Murphy, Chair
Heidi Conway
Stephen Feeney
Larry Keane
Grover Hensley, Jr.
Brian Sullivan (R)
Jean Lee*

Also Present:

*Andrew Stewart, Building Commissioner
Robert Galvin, Esquire (R)*

Mr. Murphy called the meeting to order at 6:43 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 Mr. Sullivan was in a remote location.

#23-85: Ben LaMora: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct two (2) 1'11" x 7'11" extensions, replace the existing 6'6" x 7' covered side porch and construct a 6'6" x 7' second floor addition above it, and a 30' x 7'11" second floor addition on the property located at **12 Foster Avenue** which is further identified on the Assessors' Maps as being on parcel M09-06-02 and is located in an R-3 zoning district.

Mr. Murphy read **Case #23-85** into the record and said that the Petitioner had requested to withdraw the application without prejudice. He made a motion to accept the withdrawal which was seconded by Ms. Conway; the Board voted 5-0 to accept the withdrawal with Murphy, Conway, Feeney, Keane and Hensley voting in favor.

#23-78A: Stephen and Shelley Eardley: The Petitioners are seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to raze the existing house and construct a new 52' x 28' two (2) story dwelling on the property located at **15 Newport Street** which is further identified on the Assessors' Maps as being on parcel K12-15-10 and is located in an R-3 zoning district.

Mr. Murphy read **Case #23-78A** into the record. Karli Tobias, project manager at Rockwood Design, said the Petitioner is proposing to raze and rebuild to meet FEMA (Federal Emergency Management Agency) requirements. It will be built on pilings and has been approved by the Conservation Commission. Mr. Murphy asked if there were any questions from the Board or the public and there were none. Mr. Stewart said this was a nonconforming lot and structure and they are proposing to demolish it and rebuild. He said that the new house will conform to all

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Floodplain regulations and will be less nonconforming. Mr. Galvin agreed with Mr. Stewart. Mr. Murphy made a motion to close the hearing which was seconded and all were in favor. The Board agreed that the Petitioner met 1-10 of §305-10.12. Mr. Murphy made a motion to grant the Special Permit subject to conditions of compliance with the Floodplain Bylaw, a building permit, an As-Built and a Certificate of Occupancy. The motion was seconded by Ms. Conway and the Board voted 5-0 to grant the Special Permit with Murphy, Conway, Feeney, Keane and Hensley voting in favor.

#23-84: SCM Realty, L.L.C.: The Petitioner is seeking a Special Permit in accordance with §305-11.09 of the Marshfield Municipal Code to create a 20' x 20' Accessory Apartment within the new single family dwelling under construction on the property located at **769 Ocean Street** which is further identified on the Assessors' Maps as being on parcel L09-06-04 and is located in an R-3 zoning district.

Mr. Murphy read **Case #23-84** into the record. John Cashman of 185 Colonel Hunt Drive in Abington, is the owner of the property and is requesting permission to build an Accessory Apartment in the single family house he is building. The house meets Zoning requirements. The main house will be 24' x 44' and the apartment will be 20' x 20' so it meets the size regulation. He hopes to start in January or February of next year. Mr. Murphy asked Mr. Stewart if he had comments and he said the apartment will be under 40% of the house which will be elevated. Mr. Stewart said it comes down to the ZBA. Mr. Murphy asked if there were any questions from the Board or the public and there were none. Mr. Galvin said he gave a couple of draft motions. Mr. Murphy made a motion to close the hearing which was seconded and all were in favor. Mr. Murphy made a motion to grant the Special Permit subject to conditions of compliance with the Floodplain Bylaw, a building permit, an As-Built, Certificate of Occupancy, all of the requirements of §305-11.09 as well as the other standard apartment conditions. The motion was seconded by Ms. Conway and the Board voted 5-0 to grant the Special Permit with Murphy, Conway, Feeney, Keane and Hensley voting in favor.

#23-86: Amy Guillemain: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to modify the previously approved Special Permit (#20-20) to construct a 66' x 30' breezeway and attached garage and a Special Permit under §305-11.09 to create an Accessory Apartment within the proposed addition on the property located at **556 Pleasant Street** which is further identified on the Assessors' Maps as being on parcel E17-04-25 and is located in an R-1 zoning district.

Mr. Murphy read **Case #23-86** into the record. Amy Guillemain of 556 Pleasant Street said that she wants to construct a three (3) car garage. Mr. Stewart said her original plan (in 2020) was to build a detached garage. He said she would now like to build an addition for the garage that will be attached and the addition will have an Accessory Apartment in it. Ms. Conway asked if they were modifying the previous decision; Mr. Stewart said he was not sure if it was modifying it or

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if it was new and said they are still altering a structure. Christopher DeOrsay of 142 Old Main Street had a question about the original Special Permit and a condition required from three (3) years ago. He said Condition #1 said that prior to issuing a building permit, an As-Built should have been submitted and asked if the building permit had been issued and was a stamped plan received. Mr. Stewart said he believed Mr. DeOrsay was referring to was if the building was detached it would require an As-Built and said he would look. Mr. Murphy said we have a site plan; Mr. DeOrsay said it wasn't in the database and it looked like it was never provided. Mr. Murphy said we have an As-Built; Mr. DeOrsay said that As-Built was for the septic. Mr. Murphy asked Ms. Guillemain if this had been done. Ms. Guillemain said when the work was done to have it surveyed. Mr. Stewart said they didn't get an As-Built; you can't do an As-Built before something is built and they gave a plan beforehand. Mr. Murphy asked if they were looking at it; Mr. Stewart said we have the Septic As-Built with the proposed addition with the new garage; it was all proposed. Mr. Stewart said he wasn't going to require Ms. Guillemain to get an As-Built done until the ZBA decision; he doesn't like to see people spend additional money. Mr. Sullivan asked Mr. Stewart if based on his experience were they still within the setbacks. Mr. DeOrsay said it looks like the plan was done by Patrick Brennan, an engineer, not a surveyor. He said the Condition says an As-Built prior to the building permit. Mr. Murphy started to say if Mr. Stewart was comfortable when Mr. Keane asked Mr. DeOrsay if he was concerned this won't meet setbacks. Mr. DeOrsay said all applicants have stamped surveys but not this applicant.

Mr. Murphy asked who drew the red line and Mr. Stewart said that he did; he said he scaled the exact area where it would be and that it is proposed. He said you can tell by looking at the plan that it is not more nonconforming. Mr. Murphy asked if Mr. Stewart was comfortable and he said that he was. He said Ms. Guillemain is aware that she needs to hire a surveyor after this is built for an As-Built. Mr. DeOrsay asked for the date the building permit was issued. Ms. Conway asked if there was a cottage on the property that was connected to septic; Ms. Guillemain said there was a shed; Ms. Conway asked Mr. Galvin to comment. Mr. Galvin said he saw the plan and saw the septic and thought there was a connection to the cottage. Ms. Conway said so the cottage is a shed; Ms. Guillemain said there was no water or anything connected. Mr. Murphy said other than the As-Built, was Mr. Stewart comfortable and asked Mr. DeOrsay had other questions.

Mr. DeOrsay said also in the ruling, and it would be helpful if Mr. Stewart could put it up, it says the requirements of §305-10.12 have been fulfilled. He wanted to draw the Board's attention to #9 – will not be more detrimental or objectionable to the neighborhood; he asked the Board to consider that. Mr. Murphy said they aren't building an accessory garage, it will be a new addition. Mr. Stewart said instead of razing and rebuilding, this will be an attached garage with an Accessory Apartment above. He said we do this all of the time and it is not a special consideration. Ms. Conway asked Mr. Stewart to pull up the plot plan from before; Mr. Stewart asked if she wanted the original Special Permit and Ms. Conway said yes. Mr. DeOrsay asked if the Board was satisfied that Condition #1 has been met; to provide a stamped survey before the building permit. Mr. Keane said he was okay if Mr. Stewart is okay; he said that Mr. Stewart is looking at the site. Ms. Conway asked Mr. DeOrsay if he was concerned about the setbacks. Mr. DeOrsay said he was concerned about the authority of this Board. He said he has presented,

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others have presented and have had a highly developed plan. Mr. Sullivan said that he may be putting form over substance and said they provided a plan showing that they meet the setbacks. He said it's over a four and a half (4½) acre lot and they are well within the setbacks; he thinks this more than meets the 1-10 requirements. Mr. Sullivan said seeking to hold this person to a standard doesn't make sense. Mr. DeOrsay asked if the conditions had been met. Mr. Murphy asked Mr. Stewart to bring up Google Earth. Ms. Conway said, going back to the cottage, it's on the plan, it doesn't say shed and there's a septic cover. She asked Ms. Guillemmin if it had ever been connected. Ms. Guillemmin said no. Ms. Conway said the previous plan said cottage. Ms. Guillemmin said there is no water or septic and asked what the definition of a cottage was. Ms. Conway said it was up to her to figure out. Ms. Guillemmin said not sink, no water, no electric. Mr. Hensley asked if it is a cottage can they condition one (1) Accessory Apartment. Mr. Stewart said there is no cottage of secondary dwelling on this property; Mr. DeOrsay said there is. Ms. Conway asked Mr. Stewart to zoom out. John Giberti of 546 Pleasant Street which is next door said that there was a cottage there at one time; it had a chimney and was owned by the (name not captured) family. He said it became what it was before Ms. Guillemmin and John altered the back. Mr. Giberti said he would equate that separate building as a shed; he doesn't know if it ever had electric. He said that he came before the Board in 2013 and had to have a stamped plan and he would like to see this plan. Mr. Giberti said the neighborhood is all clay, there is no drainage and he said Ms. Guillemmin had a problem with the septic. Ms. Guillemmin said she didn't have a problem. Mr. Giberti said he is concerned about the elevation because this property awhile ago had ? scraped off the top for a tennis court and said they brought in fifty (50) trucks of fill; he does not have a problem with Ms. Guillemmin. He asked if material that is brought in will affect the drainage. He has questions about the building permit and asked if anyone had gone by the property. Mr. Keane and Mr. Murphy went by today. Mr. Giberti asked about the trailers and Mr. Keane said it was under construction. Mr. Giberti asked if the septic is going to support an apartment. Ms. Guillemmin said the house is a two (2) bedroom and it is approved as a five (5) bedroom. Mr. Stewart said the Board of Health would weigh in on that but he can confirm it is five (5) bedrooms.

Ms. Conway asked about the trailers and Ms. Guillemmin said contractor and storage of things from the barn. She said the barn was hazardous; the building inspector was afraid to walk into it. Ms. Conway said she has some issues. She understands Mr. Stewart is okay but she thinks they need a stamped plan like everyone else; there is a lot happening on this property and she would like to see it. Ms. Lee said she agrees with Ms. Conway that they need a stamped plan. Mr. Murphy asked if it was too much to ask to have a plan addressing drainage. Mr. Stewart said he doesn't have a problem requiring stamped plans from anyone. He said if the Board requires it he will work with Ms. Guillemmin to get it. He said the last case was in the middle of the pandemic and that he and his staff have worked closely with Ms. Guillemmin to get this done. He said they have had some tough contractors they have had to let go and they have been trying to do everything correctly. Mr. Stewart said he knows it's an eyesore to the neighbors. He doesn't think anything they have done has been more nonconforming. He thinks everything they have done can be captured on an As-Built and he hasn't seen any drainage issues. Mr. Giberti asked for an explanation of As-Built; Mr. Murphy said it captures the work that was done. Mr. Stewart added it captures everything as it was built - walkways, septic, etc. Mr. Murphy said the neighbor's concern is runoff and it's captured on site. Mr. Stewart said he has not seen anything

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that it will be more detrimental. Ms. Conway asked Mr. Giberti if he had drainage issues and he said yes. She asked him if the issues are from Ms. Guillemain and he said no; his back lawn is about eight feet (8') higher. Ms. Conway asked if there was a grading plan anywhere. Ms. Guillemain said where the barn was is pretty much level with the house; they were going to keep it about the same. She said Mr. Giberti's property is higher. Mr. Giberti asked if there is anything they can do given the size of the structure and as long as it's conforming. Mr. Murphy stated coverage of the lot.

Stefano Santini, 534 Pleasant Street, asked if there was intent to remove the 18 wheelers and the cherry picker and could the Board put a timeline on that. Mr. Murphy asked if the containers ran with the permit; Mr. Stewart said some subdivisions have them for ten (10) years; they're covered by the Select Board. Mr. Murphy said they were allowed. Mr. Stewart said the detached trailers are being used for temporary storage. He said six (6) months was one thing but a year was something else. He said he runs into this all over town and he gets it, it's a disturbance and unsightly. He said it is difficult but he's doing his best to help Ms. Guillemain get the project completed; it's been tough. Mr. Stewart said that Ms. Guillemain has been in communication with the Building Department, probably more than others. She always asks what to do; he wasn't made aware of any problems and this is the first he is hearing these concerns. Mr. Murphy said Mr. Stewart would address these concerns with an As-Built. Mr. Stefano asked again if the trailers and cherry picker would be removed when the project is complete. Mr. Stewart said yes and told Mr. Stefano he will have every right to file a complaint. Mr. Hensley asked Ms. Guillemain if she was selling the trailers and she said she would be giving them away for free.

Ms. Conway asked how long Ms. Guillemain thought the project would take and she said about a year. Mr. Murphy asked about moving the trailers out of sight and Ms. Guillemain said she can't move them back and then build; Mr. Stewart said it wasn't feasible. Mr. Murphy said Ms. Conway would like to continue and do a site visit; Ms. Lee agreed. Ms. Porreca suggested that they continue this to the November 14, 2023 meeting and have a site visit on November 7, 2023. Mr. Galvin said the accessory trailers need to be twenty-five feet (25') from the front lot line and ten feet (10') from the other lot lines. He said he always wants a plan but he agrees with Mr. Stewart on this one – it doesn't look like it will be nonconforming. He said some people show them existing and proposed conditions. He said if the next door neighbor is higher that shouldn't be a problem. Mr. Giberti said he wasn't higher. There was a discussion about time due to Daylight Savings Time and the Board chose to meet at 3:00 PM. Mr. Murphy made a motion to continue the hearing to November 14, 2023 at 6:30 PM and to have a site visit at 3:00 PM on November 7, 2023. The motion was seconded by Ms. Conway and the Board unanimously voted to continue the hearing and for the site visit. The neighbor across the street was discussing the cherry picker on the sidewalk and Mr. Stewart said sidewalks were not under his jurisdiction and he would need to contact the police.

Mr. Murphy asked if there was anything else and Ms. Porreca said the minutes from the October 10, 2023 needed to be approved. Mr. Murphy made a motion to approve the minutes which was seconded; the Board voted 5-0 to approve the minutes with Murphy, Conway, Feeney, Keane and Hensley voting in favor.

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


Meeting adjourned at 7:45 PM.

Respectfully submitted,

Nanci M. Porreca

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