

**ZONING BOARD OF APPEALS MEETING PLACE: HEARING ROOM 2,
MARSHFIELD TOWN HALL FEBRUARY 13, 2018 7:30 P.M.
MEETING MINUTES**

Members Present:

*Lynne Fidler
Brian Murphy
Richard Murphy
Mark Stiles*

Also Present:

Robert Galvin, Town Counsel

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Ms. Fidler called the meeting to order and advised that the meeting, voices and images were being recorded by Marshfield Community Television (MCTV). Ms. Fidler said that there were currently three (3) members in attendance and one (1) was on the way.

#18-08: William Last, Jr./VRT Corporation: The Petitioner is seeking Site Plan approval in accordance with §305-12.02 of the Marshfield Municipal Code to construct a 75' x 50' office building on the property located at **Enterprise Drive**, which is further identified on the Assessors' Maps as being on parcel D09-01-21 and is located in an I-1 zoning district.

Ms. Fidler read the petition into the record again and advised that the Petitioner was not present. She moved to continue the hearing to a date certain of February 27th, 2018. The motion was seconded and all were in favor.

#18-11: Richard Burchill: 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 two (2) story 24' x 39' single family dwelling on wood piles that will be less non-conforming than the existing dwelling on the property located at **333 Plymouth Avenue**, which is further identified on the Assessors' Maps as being on parcel L09-09-16A and is located in an R-3 zoning district.

Ms. Fidler stated that Associate Member Mark Stiles would be a voting member; she advised Mr. Richard Burchill, the Petitioner, that there would be four (4) voting members. She read the petition into the record and asked Mr. Burchill to explain the project. Mr. Burchill said that he was the General Contractor on the project and the house has already been torn down; it had been on a neighbor's property. Ms. Fidler stated that it was a corner lot with Plymouth Avenue frontage and asked if there were any conditions from the Conservation Commission. Mr. Burchill said that they had a lot to do; Ms. Fidler advised to submit everything to Ms. Porreca for the record. Mr. B. Murphy asked why the Petitioner was before the Board because the lot is 10,000 square feet; the house was torn down already. Mr. Burchill said that they were increasing volume. Mr. Galvin said that it had been a nonconforming structure; it will not increase the nonconforming structure according to Section 6. He stated that the Petitioner just needed a finding from the Board that it will not increase the nonconformity. Mr. R. Murphy stated that if there were no structure to begin with, the Petitioner could just get a Building permit. Mr. Galvin said that the proposed alteration will not increase the nonconformity. Ms. Fidler asked if they needed ConCom and Mr. Galvin said that the Board just needed to do a finding. He said that the Petitioner's proposal shows the lot that will be in compliance and the Special Permit should be denied as moot. Ms. Fidler asked Mr. Burchill if he understood and he replied that it would be a

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conventional permit and he can go forward. There were no further comments or questions from the Board or the public. Ms. Fidler made a motion to close the hearing which was seconded; all

were in favor. Ms. Fidler made a motion to deny the Special Permit as moot because it was not required. Ms. Fidler made a motion that the Board make a Section 6 finding that what was shown will not increase the nonconforming nature of the lot. The motion was seconded and all were in favor.

#18-12: Brixmoor Webster Square, L.L.C./The Dispatch, L.L.C.: The Petitioners are seeking Site Plan approval in accordance with §305-12.02, §305-8.01, §305-8.06 and §305-8.07 of the Marshfield Municipal Code for a change in use from "Retail and Service (2) Retail establishment selling general merchandise" to "Retail and Service (3) Eating and drinking places not including drive-in establishments" to open a take-out sandwich restaurant on the property located at **Unit #9, Snow Road**, which is further identified on the Assessors' Map as parcel H07-04-37 and is located in a B-1 zoning district.

Ms. Fidler read the petition into the record, advised that she would be the Hearing Officer and asked the Petitioner to explain the project. Mr. Ed O'Cain explained that he and his wife, Jennifer, were the owners of The Dispatch in Humarock and would like to open a second location in the former Mono Mono location. He said that it would be all take-out, no eat-in service. He said that they are an established business and are looking to add a year round opportunity. Mr. O'Cain said that there would be minimal renovations and no structural changes. Ms. Fidler asked Mr. O'Cain to describe the customer area. She asked if the area behind the counter would be for employees and work stations. She asked about two (2) means of egress, one (1) in front and one (1) in the rear. Mr. O'Cain said that, to his knowledge, the second egress was not required because of the size; he said that deliveries would be made in the back. Ms. Fidler asked about hours of operation and Mr. O'Cain said that they would be open from 7:00 AM to 4:00 PM. She asked about the estimated number of employees and Mr. O'Cain said that it would usually be six (6). Ms. Fidler asked about table and alcohol and Mr. O'Cain replied No to both questions. Ms. Fidler asked if there were questions from the Board and Mr. R. Murphy asked if signage would comply with the Bylaws and Mr. O'Cain said that it would. Mr. Galvin stated that he thought they had adequate parking and asked if there would be changes to the outside; Mr. O'Cain said that there would not be changes. Mr. Galvin said that they would need to obtain Board of Health permits and asked about a grease trap. Mr. O'Cain said that they do not have one installed on the property and he will talk to the DPW to ask about the requirements. He said that they did not cook with grease; they use prepared foods. Mr. Galvin said that the Board of Health and DPW would make those decisions. Ms. Fidler asked if there were any questions from the public and there were none. She made a motion to close which was seconded; all were in favor. Ms. Fidler made a motion to grant Site Plan approval under §305-12.02, §305-8.01, §305-8.06 and §305-8.07 and asked how the Board felt about moving forward with four (4) votes. The motion was seconded and all were in favor.

#18-13: Gregory and Shawna Hoole: The Petitioners are seeking a Variance in accordance with §305-10.11 of the Marshfield Municipal Code to request relief from the "Table of Use Regulations, Community Facilities (5)" to allow the operation of a kennel, which is not

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currently an allowed use in an R-2 zoning district, on the property located at **212 Main Street**, which is further identified on the Assessors' Maps as being on parcel G09-04-04A and is located in an R-2 zoning district.

Ms. Fidler read the petition into the record and asked the Petitioners to explain what they wanted to do and why it justified a Variance. Mr. Gregory Hoole explained that they wanted to have an overnight kennel and dog daycare during the week; he said that it is not currently allowed. He said that they purchased the property in September and ran into ConCom issues. He said that the map that is displayed on the screen was not all usable land. He said that to purchase or lease another property to do the kennel would be a financial hardship; they are trying to make do with the property that they have. Ms. Fidler said that the definition of the kennel according to the Bylaws is, "Commercial stables, kennels or veterinary hospital in which all animals, fowl or other forms of animal life are completely enclosed in pens or other structures"; it is not a permitted use in an R-2 zoning district. She said that the criteria for a Variance to allow them to have a kennel on the property was written by the Town and adopted at Town Meeting. Mr. Galvin said that the property is also in a Water Resources area. He said that this is a residential property and they are asking to add a use; not only is it not an allowed use, they will be adding a second use. Mr. B. Murphy said that there was a similar case down the street and asked if that was in the same zone. Mr. Galvin said it was a residential district but has the overlay with Water Resources.

Ms. Fidler said that in the application to the Board, Form 2B-Requested Findings of Fact-Variance, it talks about soil, shape and topography that affect the land in question; you said that these did not affect the land. Mr. Hoole said that he did not understand and Ms. Fidler said that he was saying to the Board that they have no evidence of the three (3) things that are required for a Variance. She said that they may have made a mistake in the application but they have not given the Board the information they need and support for that information. Ms. Fidler said the Petitioners needed to show the Board the soil, shape and topography of their lot; she said that they have explained verbally that they have a lot of property there but the application does not show that. She is assuming that the back of the property is wetlands. Ms. Shawna Hoole said that they had submitted a plot plan. Ms. Porreca said that she did not receive it so she printed the lot information from the GIS. Ms. Fidler said that it might be best to continue the hearing so that they could get more information that they would like to present to the Board. Mr. Hoole asked what type of information was required. Mr. B. Murphy said that #1 on the application talks about a problem and they should talk about how they are affected by the problem; he said the answer there now says there is no problem. Ms. Fidler said that they need to go back to the drawing board and understand what a Variance is and what they are required, as applicants, to bring to the Board so that they can evaluate their special circumstances are such that they would grant a Variance. She suggests that they leave the hearing open. Mr. Galvin said that it is allowed in the R-1 zone; Ms. Porreca said that they are R-2. Mr. R. Murphy explained that there are three (3) residential zones. R-1 is a larger zone with larger land area and bigger buffers. He said that when you get into the other zones, it gets tighter, the neighbors are closer. He stated that they would have a tough time with this application if it is not allowed and that it sounded like they purchased this property for this reason.

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Ms. Fidler said that she totally understood why they were before the Board; she said all of this was cumbersome when first getting into a Variance and the Zoning Board. She said that they usually don't do this, but they would continue this to a date certain and allow you to work on the argument as to why they think this should be a Variance. She said that she had a strong feeling that if she were to ask the Board to vote on this, it may not be in his favor; she said perhaps it would be beneficial to get the Board the information that was needed. Mrs. Hoole said that they had a plot plan. Ms. Fidler asked if anyone from the public wished to speak. Michael Capobianco, 225 Main Street, said that he was an abutter and was there to voice concern and disapproval for 1) having a business in a zone not zoned for business and 2) the hours of operation; there was no schedule, there would be barking. He said that a kennel was not appealing to a dense neighborhood and there were wetlands. He said that wildlife now comes through the watershed and it disturbs their animals; he doesn't know what it would be like with the disturbance of a kennel. Kate Regan, 215 Main Street, said they oppose a kennel across the street for the same reasons. Mrs. Capobianco, 225 Main Street, said that she has a daughter with a brain injury; this is a blind curve and there is difficulty getting in and out; it's a fire and ambulance route and she keeps hearing brakes in the curve. She also said that it was Conservation land. Chris Regan, 215 Main Street, said that noise was a consideration and he was concerned about waste; he said he was not sure about how it would affect the groundwater. Mrs. Capobianco said there were also Town wells. Ms. Fidler said that she was inclined to continue the hearing to give the applicant the benefit of the doubt; there was a lot of opposition from the neighbors. She made a motion to continue the hearing until February 27th, 2018. Mr. B. Murphy asked Mr. and Mrs. Hoole if they could get information by then. Ms. Fidler's motion was seconded and all were in favor. Ms. Fidler said that they would listen to arguments then. Mr. B. Murphy advised the public that this would be their only notice about the hearing.

#18-14: Theodore P.S. LeClair: The Petitioner is seeking a Variance in accordance with §305-10.11 for relief from §305-6.01 of the Marshfield Municipal Code, specifically minimum frontage requirements, and such other further relief pursuant to the Marshfield Municipal Code as necessary, to construct a single family dwelling on the vacant lot on the property located on **Holly Road**, which is further identified on the Assessors' Maps as being on parcel H16-04-11 and is located in an R-3 zoning district.

#18-15: Theodore P.S. LeClair: The Petitioner is seeking a Variance in accordance with §305-10.11 for relief from §305-6.01 of the Marshfield Municipal Code, specifically minimum frontage requirements and such other further relief pursuant to the Marshfield Municipal Code as necessary, for access from the lot on Holly Road (Parcel ID H16-04-11) to the single family dwelling on the property located at **165 Elm Street**, which is further identified on the Assessors' Maps as being on parcel H16-04-01A and is located in an R-3 zoning district.

Ms. Fidler read both petitions into the record and said that they would start with #18-14 which is Holly Road. Attorney Michael Hayes represented Mr. Leclair who was also in attendance. Mr. Hayes gave a history of the property. He said that Mr. LeClair originally purchased the house at 165 Elm Street; Lot 1 and Lot 2. His plan was to purchase 175 Elm and move his mother into 165 Elm Street but that did not come to fruition. In the course of purchasing 175 Elm, the bank

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attorneys looked at the property and title and discovered there was a tiny pie-shape piece of registered land running along Holly Road from Elm Street; it is three feet (3') wide at Elm Street and comes down 26.8' to the corner of Lot 1 where the pie ends. The question became, what to do about that. Since the pie-shaped land is registered, Mr. LeClair cannot try to acquire it through adverse possession. The pie-shaped piece of property was owned by Lauren Dwight (name unclear) who purchased a lot of property back in the 1930s and subdivided some lots. When she died in 1948 it was discovered that Plymouth Land Court made a mistake and did not include the pie-shaped land in a Certificate of Title. She had deeded away her property of registered land but the Land Court lost that triangle. What they should have done at that time in the 1940s was keep that on a Certificate of Title in Lauren Dwight's name but it just disappeared. Ms. Fidler asked who paid the taxes and Mr. Hayes said that Mr. LeClair does. He said that when Mr. LeClair bought 165 Elm, he bought a title insurance policy and was given a clear title insurance policy with no exceptions and no mention of the triangle. Until the attorney who was running the title for the purchase of 175 Elm, nobody knew this problem existed. 165 Elm Street was bought and sold many times but this didn't come up as an issue until after Mr. LeClair bought the property and the attorneys looked at the Land Court records. Mr. LeClair negotiated and fought with the title insurance company for years trying to fix the problem and eventually he ran into a brick wall. Title insurance companies don't like to fix things and they don't like to pay money and he gave up that fight. Mr. Hayes said that five (5) or six (6) lawyers came to him to see if he could help figure out the problem. When Laura Dwight died a trust was set up in her will. The trustee of the will was the Boston Safe Deposit Company which was taken over by Mellon Bank in New York. They did what they were supposed to do and sold her remaining property. Her nephew was the beneficiary of the trust and he has since died. Mr. Hayes spent one and a half to two years consulting with Mellon Bank to try and reopen the estate forty (40) years after it was closed to try to get the estate as the trustee so that they could petition the Land Court to unregister the triangle. Mr. Hayes said that the bank said that they would help but he never heard from them after he sent the documents to them. The next step was to petition Probate Court in Plymouth to have Mr. LeClair be a successor trustee to Lauren Dwight's estate; he felt that he had a legitimate right to be a successor trustee because he has an interest in the property. That did not work out because they could not find any living heirs and they would need to consent to that. Mr. LeClair has spent tens of thousands of dollars trying to eliminate the problem.

Mr. Hayes said that he suggested that Mr. LeClair come to the Zoning Board for a Variance and some relief. He said that he knows that Variances should be granted sparingly but this is a problem that nothing has been able to solve. He said that Mr. LeClair is not trying to be a land developer and create lots. He was initially going to put his mother into 165 Elm but it needed a septic system; the plan was to build the septic system on Lot 1 for 165 Elm; it would have been a pump system that is very expensive. ConCom and the Board of Health determined that he did not need to do that and said he could put it where it is now located. In an effort to recoup his losses, Mr. LeClair negotiated with the owner of Lot 696 on the plan and purchased another triangle of land (not the pie-shaped triangle previously discussed). He thought he had the frontage and the square footage but he didn't know about the little triangle until after he bought the house. 165 Elm was legally subdivided into Lot 2. Lot 2 was a conforming lot and it does

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have legal frontage on Elm Street and the required square footage. The house was built in 1728 and it is pre-existing, nonconforming. They thought Lot 1, Lot 696 and the tiny sliver at the top of Lot 1 created a buildable lot with the proper frontage and area. Ms. Fidler asked if the lot numbers were changed on the displayed Plan of Marshfield and Mr. Hayes said that they changed then and again a couple of days ago. He said that when the plan was done for Mr. LeClair, the Land Court tells you what lot numbers to use; at the time they used Lot 696 and Lot 695. Ms. Fidler asked if that was as of 2011 and Mr. Hayes said that it was. He said that the numbers were assigned by the Boston Engineering Department of the Land Court for Lot 697 and the little rectangle to the left of Lot 1 as well as Lots 696 and 695. When Mr. LeClair found a purchaser for 175 Elm, the deed had to be approved by Land Court. The Land Court determined that when the plan was done in 2011, Lots 695, 696, 697, 698 and 699 were in proper sequence of lot numbers but nothing was proposed between 2011 and last year. When Mr. LeClair sold 175 Elm, Land Court had given those lot numbers to someone else in the area so the lot numbers had to be changed. Ms. Fidler commented that it made it more confusing. Mr. Hayes said that on Friday he got a call from John Vitale in Land Court and upon further review, when they gave out Lot number 703, what is the top triangle on Lot 2, they noticed an older plan and those lot numbers had been given away. Lot 703 is now 705 and they are in the process of changing that.

Ms. Fidler said for the purposes of this hearing she will refer to the sliver triangle as Lot 705. Mr. Hayes said that what they are here for is a Variance on Holly Road; he went through the history to explain how Lot 1 combined with Lot 705 up top and the rectangle on the left side (Lot 697) gives Mr. LeClair the required 10,000 square feet and frontage on Holly Road. Ms. Fidler asked if the triangle had a Parcel ID and Mr. Hayes replied that it did not. Ms. Fidler asked what parcel number was on the tax bill and Mr. LeClair said that there was no Parcel ID; it says 2 Holly Road. He said that he gets that with the tax bill for 165 Elm and the sliver has never been singled out. Ms. Fidler said it was visible from Google Earth. Mr. Hayes said that was the history and they have come to the Board to seek relief from the minimum lot frontage on Lots 1, 697 and 705. He said there is legal frontage on Holly Road without including the tiny triangle of 28.8'. Mr. B. Murphy asked how many feet they had without the triangle and Mr. Hayes said 76'. Mr. B. Murphy asked if they were looking for a Variance of four feet (4') and Mr. Hayes said they were looking for a Variance up to 70'; 28.8' abuts Holly Road but the remainder of Lot 1 does not because the triangle ends at a point on the lower left point on Holly Road. Mr. LeClair said the sliver is three feet (3') wide at its widest point and zero feet (0') at the other end. Mr. R. Murphy asked where the grudge strip stated and asked what the distance was for Lot 697; was that the 74.71'? Mr. LeClair said that when he bought the house it had clear title and none of this was explained. The only reason he cannot take it by adverse possession is because it's registered land. Ms. Fidler stated that he had attempted to make it unregistered but to no avail. Mr. LeClair said that he would like to sell the house but will have to disclose that it's not a clear title; the house has changed hands many times since the 1940s; the house was built in the 1720s. The people who bought the house before Mr. LeClair bought it lived there one (1) year and then it was the Roths and they are good people. Mr. LeClair said that this is not an issue that he created.

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Ms. Fidler said that this was a lot of information for the Board to digest and she did not think they could go much further tonight. Mr. LeClair said that he is stationed in Texas now, has been married for five (5) years and wanted to let the Board know that if he is not here it does not show a lack of interest. Ms. Fidler asked if there were any questions from the public. Laurie Reney said that she lives in Lot 696 (32 Holly Road) and her father sold that strip of land with the understanding that Mr. LeClair was not going to do anything with it. She said that they had offered her father more money than Mr. LeClair did but her father said that he and Mr. LeClair had an agreement. She said that she is confused because that was over five (5) years ago and now all of a sudden this little triangle of land that Mr. LeClair has been paying taxes on...she is confused and not trusting. Ms. Reney said that she had a question about 175 Elm Street which has been sold and is no longer Mr. LeClair's property. She wanted to know what Mr. LeClair's intentions were and asked if he was planning on building a single family dwelling; he has also asked for an easement through Lot 1; did he want to develop land that he no longer owns. Ms. Fidler said that was a lot and asked Mr. LeClair if he wanted to rebut or leave it alone; he said to leave it alone. Ms. Fidler stated that Mr. LeClair's intent with what he was proposing to do with the property, right now, is not part of the Board's authority. She said that it is to a degree but at this particular time, the Board was just trying to get through all of this information. Mr. LeClair spoke to Ms. Reney and said she was not around when things happened but her parents had asked to cut down trees to improve their property value; he then had to clean it all up; his point was that he has been a good neighbor to these folks. Ms. Fidler stated that they would probably be continuing this to a later date; she has taken note of Ms. Reney's specific questions and they will be addressed. She asked Ms. Reney if she was okay with that answer and Ms. Reney replied that she was.

Kenneth Roth, 3 Holly Road said that this was a smokescreen and there was a lot of information given at once. Mr. Roth said that the Board needed to look at the triangle and that right now it was a he said/she said situation. He said that the only frontage he sees on Holly Road is the little sliver that he purchased from her (Ms. Reney's) parents. Does that give him the frontage if they marry them? He said that it's a really narrow road that can't handle it; needs to widen street and do drainage. Ms. Fidler said that they were getting ahead of themselves. Mr. Roth said there is one little sliver with Holly Road frontage and asked how long Mr. LeClair has been paying taxes as a buildable lot. Ms. Fidler advised Mr. Roth that he needed to address the Board; Mr. Roth said that he knew that but Mr. LeClair was turning around so he addressed him. Ms. Fidler said that it was a lot of information for Town Counsel to digest; a lot of recordings and back and forth. Mr. Roth said that his other point is that it's a very narrow road and a dead end street. The driveway that is there now was on Elm Street before Mr. LeClair put a driveway in. Mr. Roth said that he didn't know if the Board recalled but Mr. LeClair was looking for an easement when he was here two (2) to three (3) weeks ago to put another driveway in; that will be three (3) off that. Ms. Fidler said that they did not read any of that into the record; this is the first time this has been read into the record; tonight is the real deal. Mr. Hayes said that he had made a clerical error describing the parcel when he filed the application.

Ms. Fidler asked if anyone else wished to speak and Steve Lakatos said that he lives kitty corner across the street on Elm. He said that with all of the Lot numbers, what was happening with the 175 Elm property. Because he is on the other side he is concerned with the septic flow. Mr. B.

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Murphy said that he thought that property was sold. Mr. LeClair said that he bought it years ago and hired Rockwood; started a plan about six (6) to seven (7) years ago but then he met someone, got married and moved to Texas. He said that he just sold this house; doesn't own it. He said that he didn't want to develop it; he has a permit from the Town to tear the house down. When he bought the house it had an approved septic plan; when he went to sell the house the septic flunked and the Board of Health said that he needed a new system which would cost about \$25,000. He said that whatever runoff problems Mr. Lakatos thinks are there, the Board of Health has already approved the system. Mr. LeClair said that he sold the house and took a significant loss and that has no bearing here with the Board. Ms. Fidler said that is what Mr. LeClair said at the beginning of the hearing. Mr. LeClair said that the only thing that was discussed was that the driveway was very dangerous for the house. There was a discussion at one point about seeing if he could get an easement to make that driveway go away. The roads (Holly and Elm) are very dangerous when you try to pull in and out; cars fly over the hill. Mr. LeClair said that he is not pursuing that; he is not asking anybody to do that; that is the new owner's issue. He said that had been a consideration for him for safety reasons; he's not trying to put a 40B development in there.

Ms. Reney said that she had one more question; Ms. Fidler advised to direct it to the Board and they will determine if the applicant answers. She said she was home when they were perking Lot 1 and she wants to know if there is any intention to develop Lot 1. Mr. Stiles said that was what he was trying to do; build a house on Lot 1. Mr. LeClair said not necessarily; Ms. Fidler said that he could just be selling it. Mr. LeClair said that he doesn't want to build a house; if someone wanted to buy the land they can buy it. For clarification, Mr. Stiles asked with property Mr. LeClair owns now and Mr. LeClair pointed out the lots. Mr. Hayes said that the Planning Board subdivided the original unregistered parcels into Lot 1 and Lot 2; the plan was originally done in 2011. Mr. Stiles said that the subsequent purchase of Lot 697 would arguably give him enough to build a house. Mr. B. Murphy said that all of the "stuff" with the funky numbers was in Land Court; Mr. Hayes added the triangle on Holly Road; Mr. B. Murphy doesn't understand why that doesn't have an ID. Mr. Stiles said that the grudge strip runs all the way up into Lot 1 which makes it seem like he doesn't have frontage. Ms. Fidler said that it starts at three feet (3') and goes to zero feet (0'); it's a de minimus piece of property. Mr. R. Murphy asked if the only frontage Mr. LeClair had was the 26.8' when you combine Lot 1 and Lot 697; Mr. Hayes said that was correct.

Ms. Fidler said they were here for a Variance for relief on Holly Road and on Elm Street. Mr. Hayes said that they were looking at two (2) specific grants of relief; one is Lot 1, Lot 697, Lot 705 (703) from minimum frontage requirements on Holly Road. She said this was like a Rubik's cube. Mr. B. Murphy said that Lot 1, Lot 697 and Lot 705 combines would make the 10,000 square feet; Mr. Hayes said that was correct. Mr. Stiles stated that he owned the sliver of 705; Mr. Hayes said yes. Ms. Fidler said that she thought everyone understood this now. She said for a Variance for this situation, her feeling is that the Board needs to look at this, evaluate the information and take into account what the public has said and move this to another date certain. Mr. B. Murphy asked if the Board or Ms. Fidler needed more information. Ms. Fidler said there was quite a bit of information here; if they go through the deeds, she will be confused. She said that Mr. Hayes had spent hours trying to understand this and Mr. Hayes said he spent years. Ms.

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Fidler said that the nuts and bolts of this is whether the Variance has been met; they need to look at the shape of the three (3) lots because they combine into one (1). Mr. Hayes said they are asking for relief due to the shape of the lots for Lot 2 and one for the other, a combination of all three (3). Ms. Fidler said that they understood what they are asking for - the shape, soil and topography that they identified in their applications. Mr. Hayes said that he could discuss it at a continued hearing if it is a winning discussion from the Board's point whether they satisfy the requirements. Mr. B. Murphy asked if they wanted to leave the record open and Mr. Hayes and Ms. Fidler replied yes. Mr. Hayes said that he could provide deeds, documents from the last eleven (11) years from Land Court and Probate Court and copies of old plans to show this was part of a big plan of land that Laura Dwight owned eighty (80) years ago. The deeds and copies of Land Court certificates will show how the triangle on Holly Road got lost. Ms. Fidler said when they were establishing Holly Road and the private roads within Holly Hill, if there are soil issues then the Town made it as it is whether or not there is any recollection of soils or topography within those three (3) lots that the applicant identified on the applications. She asked Mr. Hayes if he wanted to reiterate anything to the Board. Mr. Hayes said that he did not think there were soil issues. When Holly Road was developed the layout of the road was assumed by all. With the buying and selling of 165 Elm, the Holly Road piece came out as unregistered. Mr. B. Murphy said that they were going to leave it open so that they can ask what they want.

Mr. Stiles asked what the applicant was looking for on Lot 2. Mr. Hayes said a Variance for relief from frontage along Holly Road. Mr. B. Murphy said so that they could sell the house and Mr. Hayes said it would make it easier to sell the house. He also said that there was frontage on Elm Street. Mr. Stiles asked if they thought they couldn't sell it like this and Mr. LeClair said that they would have to explain the issue. Mr. Stiles asked if it was because of the driveway. Mr. B. Murphy said that the Variance would give the driveway the access it needs. Mr. Stiles stated that the title insurance says that they have technical access. Mr. Roth said that the area is mapped out poorly. He bought his house six (6) years ago and the neighbors were saying that this line is here, you can't cut this tree, there is water here. He had it surveyed and the neighbor's shed is on his property; the neighbors don't talk to him because they are concerned about what he thinks his property line is. He said the lots are off by ten (10) or fifteen (15) feet and there needs to be a good way to figure this out or the Board will have this problem more often. Mr. Reney said that if the property is sold and off the table, is item E, the easement, also off? Ms. Fidler said that they were not here about an easement, they were there for a Variance from frontage. Mr. B. Murphy said that was the old application and that they were hearing the new one. Mr. Reney said he was confused and Mr. Hayes said his office had made clerical errors on the original applications. Ms. Fidler said that happens and that was why she didn't read the old application into the hearing. Annmarie Ross of 5 Holly Road said that she has lived there over seventeen (17) years and she thinks she has a plot plan that could help; she thinks it is dated 1920. Ms. Fidler thanked her and advised her to bring it to Ms. Porreca. Ms. Fidler said that they had been at this for a long time. She moved to continue #18-14 and #18-15 to February 27th. She also said that #18-08 was also moved to February 27th. The motion was seconded and all were in favor. Mr. B. Murphy advised the audience that this was the only notice that they would get. Ms. Fidler made a motion to adjourn which was seconded; all were in favor.

**ZONING BOARD OF APPEALS MEETING PLACE: HEARING ROOM 2,
MARSHFIELD TOWN HALL FEBRUARY 13, 2018 7:30 P.M.
MEETING MINUTES**

Meeting adjourned at 9:00 P.M.

Respectfully submitted,

Nanci M. Porreca
Zoning Administrator

I attest the foregoing minutes were approved by the Zoning Board of Appeals at their

March 27, 2018 meeting by a 3-0 vote.

Signed:  Date: 3/27/2018