

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL SEPTEMBER 26, 2023 6:30 P.M.
MEETING MINUTES**

Members Present:

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

Also Present:

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

Absent: Grover Hensley, Jr.

Mr. Murphy called the meeting to order at 6:30 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. Feeney was in a remote location.

#23-78: 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 44' 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 #23-78** into the record and advised the Board that the Petitioner has requested to withdraw the petition without prejudice. He made a motion to withdraw which was seconded and the Board voted 5-0 with Murphy, Conway, Feeney, Keane and Sullivan voting in favor.

#23-74: Thomas and Lisa McDonough: The Petitioners are seeking a Special Permit in accordance with §305-10.12 and §305-9.02.3 of the Marshfield Municipal Code to raze the existing home and construct a new 30' x 44' flood compliant dwelling on wood piles with a 14' x 15' porch at the rear and deck areas on the front, left side and rear on the property located at **23 Richard Street** which is further identified on the Assessors' Maps as being on parcel K12-12-12 and is located in an R-3 zoning district.

Mr. Murphy read **Case #23-74** into the record. Rick Servant of Stenbeck & Taylor represented the McDonoughs. Mr. Servant said they will demolish the existing dwelling and construct a new home on piles. He said they will meet, exceed or improve the exiting setbacks, they will be under the 40% building coverage and they have received Conservation approval. Mr. Murphy asked if the Board, public or people online had any questions and there were none. The Board agreed that the Petitioner met 1-10 of §305-10.12. Mr. Murphy made a motion to close the hearing which was seconded and all were in favor. He 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 Mr. Sullivan and the Board voted 5-0 to grant the Special Permit with Murphy, Conway, Feeney, Keane and Sullivan voting

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in favor.

#23-75: Joseph Murphy: In accordance with §305-10.09 of the Marshfield Municipal Code, the Petitioner is seeking an Appeal of the Building Commissioner's determination that there are no violations of any Town of Marshfield Bylaw or Ordinance on the property located at **359 Forest Street** which is further identified on the Assessors' Maps as being on parcel E11-01-05 and is located in the R-1 zoning district.

Mr. Murphy read **Case #23-75** into the record. Joseph Murphy, 371 Forest Street, stated that he had filed requests for zoning enforcement in April 2023 and received a letter from Mr. Stewart in August of 2023 that said 359 Forest Street was not in violation of any Bylaw. He said when he filed his complaint there were eight (8) unregistered vehicles there. Mr. Murphy submitted several pictures and stated that pictures 1-4 showed five (5) unregistered vehicles; picture #5 is the view that he sees every day. Mr. Sullivan asked Mr. Murphy if the vehicles in the foreground were his vehicles and he said the white vehicle is his; he said the tractor in the back and the car are what he is talking about. Mr. B. Murphy asked if the fence was the property line and Mr. Murphy replied yes. Mr. Murphy identified the submitted pictures as an HVAC unit with junk on a trailer; he said another picture shows three (3) unregistered vehicles. Mr. Keane said that there appeared to be license plates on them. Mr. Murphy identified other pictures as an unregistered vehicle in the back and junk; an unregistered pickup truck with orange lights; unregistered jet skis or skidoos; junk and debris in the side yard, air conditioners and an HVAC. Mr. Murphy said he waited two (2) months and nothing was done. He called and asked to speak to Mr. Stewart but he was on vacation until after July 4th; he left detailed messages but Mr. Stewart didn't call him back. Mr. Murphy wrote a letter on August 14th asking for an update and an in person meeting but didn't get a reply. Mr. Murphy said that Mr. Stewart said that he and the Building Inspector were out on several occasions. Mr. Murphy gave the Board an additional picture that had not been submitted. He said the grey SUV has expired Mass. Plates from 2020 or 2021; a New Hampshire plate expired over five (5) years ago. A large white vehicle with a tractor in front and trailer in back has been there for over five (5) years. Mr. Murphy said the truck is a violation because of its size; it can't be more than a half ton. He said that Mr. Stewart told him that Mr. Roffey has a Class II license to sell used vehicles. Mr. Murphy said a Class II license in Marshfield allows you to use your home to find cars like Carvana. He said Mr. Stewart referred to a junk permit and suggested that he contact the Select Board and ask if a junk license was issued; he was told no junk permit was issued. Mr. Murphy feels that Mr. Stewart blew him off because he could have checked that. Mr. Murphy said he has documented ten (10) violations in his mind and each violation should be fined \$100 a day. All Mr. Murphy wants is to get rid of the junk; it's an eyesore. He said that truck shouldn't be there according to the Bylaw. He found out that the Town has fined Mr. Roffey two (2) other times.

Mr. Stewart said that this goes back a long time; Mike Clancy and Bob Wiley had these complaints as well. He said the property has been in different stages; he has fined them in the past and the fines were rescinded because they cleaned it up and got their DBA updated. Mr. Stewart said he tried to direct Mr. Murphy to the right place. Mr. Stewart does not think that they have violated Bylaws. He said he doesn't know how big the truck is or what it weighs. He

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said he wouldn't want to look at it either but he doesn't think it meets the definition of substantial junk. He referred back to the Select Board to look at the license; there should be no display of vehicles; maybe the Select Board can rescind the license; he feels going to the Select Board would be most appropriate.

Mr. Murphy asked if the Board, public or people online had any questions. Thomas Roffey, owner of 359 Forest Street, said they have complied with and done everything the Building Department has asked them to do when they came out. He said he went to the Select Board awhile ago and has had a dealer's license since 1971. He said he wouldn't want to look at it either and if Mr. Murphy wants to pay to clean it up... Terry Murphy, 371 Forest Street, said the tractor trailer has been there over five (5) years and it brings down the value of all of the houses. Mrs. Murphy said Mr. Roffey took trees down and now they see the vehicles all of the time. Mr. Roffey said he took trees down in 1992; he would come out and a tree would be down and he couldn't get out so he took them down. He said the Murphys didn't like it and started complaining. Mr. Murphy said they have never complained about the trees because they were on Mr. Roffey's property. Mr. Murphy said that Mr. Stewart should look at the gross weight of the tractor trailer. Mr. Roffey said that if you look at the Class II permit, there is no display of vehicles from the street; there is no advertising, can't even put "for sale" signs. He said he did have authorization to put a sign in the front but he opted not to. He said that Mr. Murphy has never come over to him and he welcomes a court case.

Mr. Sullivan asked Mr. Stewart if he was in charge of looking at junk; Mr. Stewart said it was the Select Board or the Planning Board. Mr. Sullivan said that Mr. Roffey doesn't have a junk permit and said the Bylaw references junk and 75 pounds. Mr. Stewart said that is usually a Board of Health issue, a hoarding case or a lot of trash in the yard. Mr. Stewart said everything references the Select Board and Planning Board but it doesn't say who issues the violation; it says \$20. Mr. Stewart said that is why he is focusing on the Select Board issued license as it has conditions. He said if Mr. Murphy thinks Mr. Roffey is violating a condition, he should go to the Select Board. If not, this will just repeat. Ms. Conway said the neighbors are here and asked Mr. Murphy and Mr. Roffey if they could work something out, maybe move it to a different side or plan arbor vitae. She agrees that it is a Select Board issue. She hopes that they can work this out neighborly because they will see each other at the store. Mr. Murphy said he was okay with that. Mr. Stewart said he doesn't have a junk license and should go to the Select Board. He doesn't have an issue with the Class II, just with the junk. Mr. Murphy said he filed complaints before and two (2) other Building Commissioners fined him. He would be happy to go over and shake Mr. Roffey's hand; he just wants to get rid of the stuff out front; he's not pushing for fines. Mr. Murphy said he can't put it on the other side because that would be against someone else's property. He would like to start with moving the three (3) cars in front. Mr. Roffey said fines were issued; he disputed the definition and won. He said one man's junk is another man's treasure. Mr. Stewart asked to respond and said that this property was not issued a business license for auto sales. The person was issued a license for auto sales but not on site sales. The use of the property is residential, not commercial; the use is for a home office. Mr. Keane asked Mr. Stewart if the Board had anything to do with this license. Mr. Stewart said the Select Board issued the Class II license and the DBA has been issued by the Building Department since 2012.

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Mr. Keane said that he just wanted to be clear that the Board didn't have anything to do with it; he said the truck is not your average truck. He asked if the trailer/truck was registered and Mr. Stewart said that he couldn't see. Mr. Stewart said they can't hold him to a different standard than others in town. Mr. Murphy made a motion to close the hearing which was seconded and all were in favor. Mr. Keane said he wanted to confirm that the Zoning Board didn't do the license. He said that he thinks it should go to the Select Board because it's clear to him that he is in violation of his conditions – vehicles are on display. Ms. Conway thinks it is a Select Board issue but would rather see the neighbors call it a day and make different choices. He made a motion to deny the Appeal and affirm the decision of the Building Commissioner. The motion was seconded by Mr. Keane and the Board voted 5-0 to deny the Appeal with Murphy, Conway, Feeney, Keane and Sullivan voting in favor.

#23-76: Anthony W. Walker, Trustee: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code and/or a Finding under Massachusetts General Laws Chapter 40A, Section 6 for a proposed 13.1' x 11.2' addition and decks on the nonconforming property (two houses on one lot) located at **38 Raleigh Road** which is further identified on the Assessors' Maps as being on parcel K11-30-04 and is located in an R-3 zoning district.

Mr. Murphy read **Case #23-76** into the record. Rick Servant of Stenbeck & Taylor and Anthony Walker were in attendance for the Petitioner. Mr. Servant said this is a unique property with two (2) houses on one (1) lot; this pre-dates zoning. He said that the Building Commissioner agreed that this is a nonconforming use because of the two (2) houses. They are proposing two (2) small additions – renovate the wraparound porch and a second floor deck; all work will meet setbacks. Mr. Servant said that they are here for a Section 6 finding because the use is nonconforming. Mr. Murphy asked Mr. Stewart if he had any comments other than his notes. Mr. Stewart said the use is nonconforming; they looked at separating the lot but it wouldn't conform. He said this will not be more detrimental according to §305-10.12. Mr. Sullivan said it was an attractive design. Mr. Stewart said everything proposed is conforming. Mr. Murphy asked if the Board, public or people online had any questions and there were none. The Board agreed that the Petitioner met 1-10 of §305-10.12. Mr. Murphy made a motion to close the hearing which was seconded and all were in favor. He made a motion to grant the Section 6 finding under §305-9.02.C and deny the Special Permit as moot subject to the following conditions - a building permit, an As-Built and a Certificate of Occupancy. The motion was seconded by Mr. Sullivan and the Board voted 5-0 to grant the Special Permit with Murphy, Conway, Feeney, Keane and Sullivan voting in favor.

#23-77: Mary B. St. Pierre: The Petitioner is seeking a Special Permit in accordance with §305-11.09 of the Marshfield Municipal Code to create an 859 s.f. Accessory Apartment within the proposed addition on the property located at **425 Careswell Street** which is further identified on the Assessors' Maps as being

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on parcel L04-01-50 and is located in an R-2 zoning district.

Mr. Murphy began to read **Case #23-79** into the record which was out of order. He corrected himself and then read **Case #23-79** into the record. Mary St. Pierre said that she was asking to be allowed to build a small addition for an Accessory Apartment for her. Ms. Porreca said that Ms. St. Pierre does not need Zoning approval for the addition, just for the apartment and asked Mr. Stewart if that was correct. Mr. Stewart said that was correct as the lot and structure are conforming; she just needs the approval for the Apartment now that the three (3) year rule has been removed. Mr. Keane said that this was discussed at the Master Plan Housing update with Planning. He said every time these apartments are added it has a negative effect on the 10% requirement for affordable housing. Ms. Porreca said that it doesn't affect either of our numbers, not the number of apartments and not the affordable housing number. Mr. Stewart said that detached Accessory Apartments would affect the numbers. Mr. Murphy asked if the Board, public or people online had any questions and there were none. The Board agreed that the Petitioner met the requirements of §305-11.09. Mr. Murphy made a motion to close the hearing which was seconded and all were in favor. He made a motion to grant the Special Permit subject to the Accessory Apartment conditions as well as 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 Sullivan voting

#23-79: Robert J. McMorrow: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to raze the existing house and construct a new 42.7' x 28.5' dwelling on the property located at **44 Plymouth Avenue** which is further identified on the Assessors' Maps as being on parcel M08-44-04K12-15-10 and is located in an R-3 zoning district.

Mr. Murphy read **Case #23-79** into the record. Dana Junior was in attendance for Jed Hannon of Atlantic Coast as was Mr. McMorrow. Mr. Junior said that they are proposing to raze the existing house and construct a new one which will improve one of the setbacks by six inches (6"). He said that they are conforming to the front and rear setbacks but are nonconforming on the side setbacks. They are proposing to replace the existing house with a two (2) bedroom, two (2) bath one (1) story dwelling which will not be any more nonconforming on the side setbacks. Mr. Stewart said this is pretty standard for a raze and rebuild. Mr. Murphy asked if the Board, public or people online had any questions. Ms. Porreca said that Cindy Castro, Historical Commission and Beach Commissioner who said that they will need to go to the Select Board if the trailers transporting the pieces for the modular home need to be stored at the Dyke Road parking lot. The Board agreed that the Petitioner met 1-10 of §305-10.12. Mr. Murphy made a motion to close the hearing which was seconded and all were in favor. He made a motion to grant the Special Permit subject to the following conditions - compliance with the Floodplain Bylaw, a building permit, an As-Built, a Certificate of Occupancy and approval from the Select Board, if necessary, to store trailers on town property. Mr. Stewart said that the property is not located in a Flood Zone. The motion was seconded by Ms. Conway and the Board voted 5-0 to

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grant the Special Permit with Murphy, Conway, Feeney, Keane and Sullivan voting in favor.

Mr. Murphy asked if there was anything else and Ms. Porreca said the minutes from the September 12, 2023 needed to be approved. Mr. Sullivan made a motion to approve the minutes and the motion was seconded by Mr. Murphy; the Board voted 5-0 to approve the minutes with Murphy, Conway, Feeney, Keane and Sullivan voting in favor.

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

Meeting adjourned at 7:30 PM.

Respectfully submitted,



Nanci M. Porreca
Zoning Administrator

These minutes were approved by the Board on October 10, 2023 by a
5-0 vote.

Signed:  Date: 10/10/23