

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL JULY 11, 2023 6:30 P.M.
MEETING MINUTES**

Members Present:

*Brian Murphy, Chair
Stephen Feeney
Larry Keane
Grover Hensley, Jr.
Brian Sullivan*

Also Present:

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

MARSHFIELD TOWN CLERK
RECEIVED
2023 NOV - 7 AM 11:15

Mr. Murphy called the meeting to order at 6:34 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 advised that since all members were present there was no need for roll call attendance.

#23-56: Frozen 4 Corporation d/b/a South Shore Buds: The Petitioner is seeking to modify the existing Special Permit under §305-10.10 of the Marshfield Municipal Code to allow for a change in hours of operation to open at 8:00 AM Monday through Saturday with Senior Hours on Sunday from 10:00 AM to 12:00 PM and site plan modification for landscape enhancements and site access in anticipation of the installation and activation of the proposed signalized intersection at School and Plain Streets on the property located at **985 Plain Street** which is further identified on the Assessors' Maps as being on parcel M07-15-06 and is located in the I-1 zoning district.

Mr. Murphy read **Case #23-56** into the record. Attorney Steve Guard was in attendance with Ben Virga. Mr. Guard said the application was to amend the previously approved Site Plan and Special Permit. He said that the signalization is 75% with Massachusetts Department of Transportation (MassDOT) and they have a meeting with the Select Board on July 31, 2023. Mr. Guard said that their plan has been approved by the Planning Board. Mr. Guard introduced Deborah Keller, Professional Engineer, said that they will close the entrance at Lone Street and come and go through the lights which will be an extension of School Street. He said that he knows the front landscaping has been disappointing and they will change that. As for the change in hours, they want to enhance the ability of their customers to access the store. The last time they were asked to re-think this and they think this is a fair alternative to what they were asking for last time. Mr. Virga said the Board wanted the light approved and it's on its way; it's with MassDOT; hopefully the Select Board will approve it at their July 31, 2023 meeting. Mr. Guard said the {road} was essentially constructed by them on Town land and he wanted to empathize that it will be done after the activation of the light; the final closing of Lone Street will be after the light is in.

Mr. Murphy asked if the Board had any questions. Mr. Feeney asked if the Select Board had to approve this. Mr. Guard said yes because the Select Board needs to authorize them to do the work. He said that Mr. Virga has spent above and beyond what he said he would in the Host Agreement. The light will connect Martin, the automotive place and the Department of Public Works (DPW) plus the properties in back, storage and Industrial Communications. Mr. Keane said that it appeared that they have hit all of the benchmarks set up when they were approved. Mr. Virga said he has great people working there. Mr. Guard said they opened on time and it has

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL JULY 11, 2023 6:30 P.M.
MEETING MINUTES**

been good. Mr. Feeney said he was in favor of the change in hours last time; it's convenient and people coming here for the weekend. Mr. Murphy asked if there were any questions or comments from the public and there were none. He made a motion to close the hearing which was seconded and all were in favor. He made a motion to grant the Special Permit modification to allow the hours to change to 8:00 AM to 9:00 PM Monday through Saturday for retail. Mr. Feeney said 8:00 AM to 10:00 PM is correct. Mr. Murphy made a motion to grant the Site Plan modification and Mr. Sullivan seconded the motion (s). The Board voted 5-0 with Murphy, Feeney, Keane, Hensley and Sullivan voting in favor. Ms. Porreca asked if they did the motions separately and Mr. Murphy said they did them together.

#23-55: Old Allie L.L.C.: The Petitioner is seeking a Special Permit in accordance with §305-10.10 and §305-10.13.02 of the Marshfield Municipal Code to perform Maintenance Dredging of the Taylor Marine basin, approximately 113,375 s.f. which is the same footprint previously permitted for dredging, on the property located at **93 Central Street** which is further identified on the Assessors' Maps as being on parcel M06-10-01 and is located in R-3 zoning district.

Mr. Murphy read **Case #23-55** into the record. Attorney Steve Guard was in attendance with Mr. Taylor, owner of Taylor Marine. Mr. Guard explained that they were before the Board to get a Special Permit for dredging; it will be an entirely water-borne operation, there won't be anything on land. He said there was no magic to this, they did the same thing at the Green Harbor Marina. Mr. Guard said that the likely will not dredge for a year or so; it will take that long for approvals and they may have to come back for an extension. Mr. Keane asked if the spoils would go out to sea; Mr. Guard said yes, they will take test samples and the Army Corps will determine. Mr. Sullivan asked what they tested for. Mr. Guard said any kind of contaminant; they want to make sure that it's okay to bring to the location; it's expensive. Mr. Keane asked Mr. Taylor how long he has been doing this and Mr. Taylor said it was his 55th summer. Mr. Sullivan asked how often they had to dredge and Mr. Taylor said approximately every 15 years; he said the last time they did it was in 2010-2011. They plan to do it in early to mid-November 2024.

Mr. Murphy asked if there were any questions from the Board or the public. Pam Keith, 73 Standish Street, asked if no testing was done how can they be sure. Mr. Guard said it wasn't on land. Mr. Hensley asked if it had ever been done on land. Mr. Guard said it has been done but it's hard to find a place to put the stuff. Mr. Keane said it was nature and it just keeps coming back. Ms. Keith said a report was done in fall 2021 and at that time 11,000 was put on the dredge spoils; she said she thought the Town was testing. Mr. Taylor said they didn't do it in 2021. Mr. Keane asked if this would be going out to sea; Mr. Murphy said the permit the Board would be giving would go out to sea. 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 standard conditions; Mr. Stewart said there weren't really conditions, just approvals. The Board determined that the Petitioner met the requirements of §305-10.10 and §305-13.02. Mr. Sullivan seconded the motion and the Board voted 4-0 with Murphy, Keane, Hensley and Sullivan voting in favor.

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL JULY 11, 2023 6:30 P.M.
MEETING MINUTES**

#23-57: Waldo Eastman: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct new stairs with a 5' x 5' platform on the left side of the dwelling on the property located at **10 Marion Street** which is further identified on the Assessors' Maps as being on parcel M05-05-73 and is located in R-3 zoning district.

Mr. Murphy read **Case #23-57** into the record. Waldo and Nancy Eastman were in attendance. Mr. Eastman said the original stairs would end up in the street because of the height of the building. Their general contractor suggested that they add a 5' x 5' platform which will still be five feet (5') away from the neighbor. It will provide easier access and be safer for their family. Mr. Hensley asked if the existing stairs would be removed and Mr. Eastman said they put those in the back. Mr. Murphy asked Mr. Stewart for comments and he said they will still have two (2) means of egress so that's not a problem. Mr. Stewart said this is in a Flood Zone and they have the most documentation of anyone. Mr. Murphy asked if there were any questions or comments from the Board and there were none. He made a motion to close the hearing which was seconded and all were in favor. The Board agreed that the Petitioner met §305-10.12 (1-10) of the Special Permit requirements. Mr. Murphy made a motion to grant the Special Permit which was seconded by Mr. Sullivan; the Board voted 4-0 with Murphy, Keane, Hensley and Sullivan voting in favor.

#23-58: Jesse Snell: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to construct a 16' x 25'4" second floor addition on the property located at **107 Standish Street** which is further identified on the Assessors' Maps as being on parcel K12-02-21 and is located in R-3 zoning district.

Mr. Murphy read **Case #23-58** into the record. Jesse Snell said they bought the beach cottage when he retired from the military; they don't want to rent it because it's their weekend escape. They would like to build a bedroom in the back with a pier and beam system. He took a bathroom out and the stairs will be in the corner. Mr. Keane asked if they were staying within the footprint and Mr. Snell said there would be no change. Mr. Sullivan said he noticed on the Assessor's field card that the house is 828 s.f. so he sees the need to expand. Mr. Stewart advised Mr. Snell to see him about the building permit. Mr. Murphy asked if there were any questions or comments from the Board and there were none. He made a motion to close the hearing which was seconded and all were in favor. The Board agreed that the Petitioner met §305-10.12 (1-10) of the Special Permit requirements. Mr. Murphy made a motion to grant the Special Permit with the conditions of a building permit, As-Built and Certificate of Occupancy. Mr. Stewart said an As-Built would not be needed because they are staying within the footprint. Mr. Murphy amended the conditions to a building permit and Certificate of Occupancy only. The motion was seconded by Mr. Sullivan and the Board voted 4-0 with Murphy, Keane, Hensley and Sullivan voting in favor.

#23-59: Eric Grubbs, Jr.: The Petitioner is seeking a Special Permit in accordance

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL JULY 11, 2023 6:30 P.M.
MEETING MINUTES**

with §305-10.12 of the Marshfield Municipal Code to construct a 12' x 12'10" lateral addition on the property located at **1081 Ocean Street** which is further identified on the Assessors' Maps as being on parcel K10-17-09 and is located in R-3 zoning district.

Mr. Murphy read **Case #23-59** into the record. The Petitioner was not in attendance and an abutter asked what would happen now. Mr. Murphy explained that this would be continued. He made a motion to continue the hearing to August 8, 2023 at 6:30 PM. The motion was seconded and the Board voted 4-0 with Murphy, Keane, Hensley and Sullivan voting in favor.

#23-60: Freedman Family Trust: The Petitioner is seeking a Special Permit in accordance with §305-10.12 and §305-9.02.C of the Marshfield Municipal Code to raze the existing structure and construct an approximate 40' x 35' single family dwelling with an attached 18' x 36' garage, a 10' x 20' mudroom with associated decks, porches and stairways and to change the use of an existing carriage house from an accessory structure/use to a principal residential structure/use on the property located at **26 Ames Avenue** which is further identified on the Assessors' Maps as being on parcel K11-31-06 and is located in R-3 zoning district.

Mr. Murphy read **Case #23-60** into the record. Attorney Adam Brodsky was in attendance with the trustees of the trust. Mr. Brodsky said they would like to rear down the existing structure and build a new one. The carriage house is the existing barn and is connected by a deck which will be converted to a mudroom. The existing dwelling will be razed and a new one constructed mostly in the same footprint. They are proposing a two (2) car garage underneath the house; it won't be a separate structure. There will be no changes to the carriage house; there will be a new stairwell to connect to the new dwelling. They will not be creating any new traffic issues or overloading the utilities and will be the same character as the neighborhood. Mr. Sullivan said that the existing structure is architecturally attractive and he appreciates the time they took with their architect. He asked if they were in a Flood Zone and Mr. Brodsky said they were not but would elevate approximately two feet (2') for the garage

Mr. Murphy asked if there were any questions or comments from the Board or public and there were none. He made a motion to close the hearing which was seconded by Mr. Sullivan and all were in favor. The Board agreed that the Petitioner met §305-10.12 (1-10) of the Special Permit requirements. Mr. Murphy made a motion to grant the Special Permit with the conditions of a demolition permit, a building permit, As-Built, a Certificate of Occupancy and to comply with the historical requirements. He noted that the Petitioner has already applied to the Historical Commission and that they should delete the language for the 18' x 36' garage. The motion was seconded by Mr. Sullivan and the Board voted 4-0 with Murphy, Keane, Hensley and Sullivan voting in favor.

#23-61: Paul DiBello: The Petitioner is seeking a Special Permit in accordance with §305-10.12 of the Marshfield Municipal Code to raze the existing structure and construct a new 39' x 30' two and a half (2½) story dwelling with a 10' x 17.5' deck on

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL JULY 11, 2023 6:30 P.M.
MEETING MINUTES**

the property located at **41 Parker Street** which is further identified on the Assessors' Maps as being on parcel J13-02-12 and is located in R-3 zoning district.

Mr. Murphy read **Case #23-61** into the record. Paul DiBello said that they are in Duxbury now but love Marshfield and will be downsizing with five (5) kids. They found this and want to build a home to retire and to pass on to their kids and grandchildren. Mr. Murphy asked if there were any questions or comments from the Board or public. Mr. Stewart said that he has worked closely with the DiBellos for some time and they are doing everything right; they have a Floodplain Permit. Mr. Murphy made a motion to close the hearing which was seconded by Mr. Sullivan and all were in favor. The Board agreed that the Petitioner met §305-10.12 (1-10) of the Special Permit requirements. Mr. Murphy made a motion to grant the Special Permit with the conditions of a building permit, As-Built, a Certificate of Occupancy and to comply with the Floodplain Bylaw. The motion was seconded by Mr. Sullivan and the Board voted 4-0 with Murphy, Keane, Hensley and Sullivan voting in favor.

#23-44: Train4Life: The Petitioner is seeking a Special Permit in accordance with §305-10.10 of the Marshfield Municipal Code to operate a gym under §305-5.04, Table of Use Regulations, Community Facilities #17, and a refreshment area for members under Accessory Uses #11 on the property located at **41 Rockwood Road** which is further identified on the Assessors' Maps as being on parcel D09-01-22A and is located in the I-1 zoning district.

Mr. Murphy said that **Case #23-44** had already been read into the record. Ed Mazzuchelli from Train4Life was in attendance. Mr. Murphy asked Mr. Stewart if the Board had everything it needed. Mr. Stewart said that he imagined so; this is just clearing up that they didn't get a Special Permit when they opened. It was brought to his attention when they were seeking a DBA accessory use. He said that there are a lot of places in the Industrial District in the last ten (10) years without permits; there will be more going forward. Mr. Sullivan said he had no questions and thanked Mr. Mazzuchelli for coming in. Mr. Murphy made a motion to close which was seconded by Mr. Sullivan and all were in favor. Mr. Stewart said that they had a condition on a previous memo and asked when this was first opened; Ms. Porreca said it was opened on June 13th. Mr. Stewart said a membership club requires a Special Permit and there were conditions for accessory use. He said the conditions should be that the accessory use be permitted for membership use only and compliance with the Zoning Bylaws. Mr. Murphy made a motion to grant the Special Permit with those conditions which was seconded by Mr. Sullivan; the Board voted 4-0 with Murphy, Keane, Hensley and Sullivan voting in favor.

Mr. Murphy said that Brian Taylor had a question for the Board. Ms. Porreca said that the Board could not hear Mr. Taylor because he was not on the Agenda and it would violate the Open Meeting Law. She said she didn't want to hold things up but this needed to be added to the Agenda by last Friday. She said Mr. Murphy should check with Attorney Riley. Mr. Riley said if it was not on the Agenda it would violate the Open Meeting Law because the property or

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL JULY 11, 2023 6:30 P.M.
MEETING MINUTES**

project wasn't noticed. Mr. Murphy asked if Mr. Taylor could just ask a question and Mr. Riley said not at the meeting because it would be a violation. Mr. Murphy asked if Mr. Taylor could ask Mr. Stewart a question and Mr. Riley said Mr. Taylor could go see Mr. Stewart. Mr.

Murphy asked if Mr. Taylor could ask Mr. Stewart a question and Mr. Stewart could confirm it for the Board and Mr. Riley said he should go to Mr. Stewart and leave it there.

#23-45: Brian O'Callaghan: The Petitioner is seeking a Variance in accordance with §305-10.11 of the Marshfield Municipal Code for relief from §305-6.02, Table of Dimensional and Density Regulations, to construct a 10' x 12' shed on the property located at **29 Malden Avenue** which is further identified on the Assessors' Maps as being on parcel J11-01-36 and is located in an R-2 zoning district.

Mr. Murphy asked if there was anything else and Ms. Porreca said that the gentleman with the shed, **Case #23-45**, was continued to this meeting but she had not heard from him. She said that he was going to speak Casey Dam in the Building Department and Gary Russell, Director of the Board of Health; she asked Mr. Stewart if he had an update. Mr. Stewart said he had comments on this and said he went back and watched the last meeting and was pretty discouraged. He said his office, his staff and the Board of Health worked with the applicant to figure out exactly what the regulations for the state of Massachusetts Title V say as to where he could place the shed and put it in a place that would work for him. To do that, he needs ZBA approval for a Variance. He was given inaccurate information; you can't put a shed on a septic system. The ZBA should not be giving advice saying that they can put structures on a septic system; you aren't qualified to do that. The Board of Health Director was insulted and discouraged by the comments made at the last meeting. The request was for a Variance; the Board can either grant it or not; that's really the question. Mr. Stewart would appreciate it if the Board would listen to the advice of Town officials. Ms. Porreca asked if they could go forward and discuss the Variance; Mr. Murphy asked Mr. Riley if they were all set. Mr. Riley said he wasn't at the last meeting and asked if the Board had continued this; if it's on the Agenda the Board can discuss. Mr. Hensley said the applicant came to the Board for relief because he can't put it on a leeching field. Mr. Keane said that he appreciated that the applicant came forward to request the Variance. Mr. Stewart said the neighbor has an illegal shed five feet (5') from the property line but it's beyond the statute of limitations; he said that that applicant is trying to put it in the same area as the neighbor. Mr. Murphy asked how long the Board had to decide this. Ms. Porreca said there was plenty of time but if they move him to the August 8th meeting there needs to be time to write and file the decision plus the appeal period; it would be the end of August until he can do the shed. Mr. Sullivan said that he doesn't meet the requirements for a Variance; Mr. Kean said that he thinks he does and he is doing the right thing. Mr. Murphy made a motion to continue this to the August 8, 2023 meeting which was seconded and Murphy, Keane, Hensley and Sullivan were in favor.

Mr. Murphy asked if there was anything else and Ms. Porreca said the minutes from June 13, 2023. Mr. Kean made a motion to accept the minutes with Scrivener's errors which was seconded and Murphy, Keane, Hensley and Sullivan were in favor.

**ZONING BOARD OF APPEALS MEETING PLACE: LIVE AND ZOOM MEETING,
MARSHFIELD TOWN HALL JULY 11, 2023 6:30 P.M.
MEETING MINUTES**

Mr. Murphy made a motion to adjourn. The motion was seconded by Mr. Sullivan and the Board voted 4-0 with Murphy, Keane, Hensley and Sullivan voting in favor.

Meeting adjourned at 7:20 PM.

Respectfully submitted,



Nanci M. Porreca
Zoning Administrator

These minutes were approved by the Board on September 12, 2023 by a
5-0 vote.

Signed:  Date: 9/12/23