



**COMMONWEALTH OF MASSACHUSETTS  
TOWN OF NEW MARLBOROUGH  
OFFICE OF THE SELECT BOARD  
807 Mill River Southfield Road, Mill River, MA 01244-0099  
Phone: 413-229-8116 Fax: 413-229-8253  
E-mail: [nmbos@newmarlboroughma.gov](mailto:nmbos@newmarlboroughma.gov)**

Tara B. White, Chair  
Bill West  
Elizabeth Dean  
Select Board

**Minutes  
Board of Selectmen  
Special Permit Hearing**

**Monday, October 30, 2023  
7:00 p.m.**

**Board Members Present:** Tara B. White, Chair  
Bill West  
Beth Dean

**Applicant:** Benjamin A. Webster, applicant  
Neil Blackwell, architect

**Others Present:** Mari Enoch, Town Administrator  
Jennifer Greenberg, Administrative Secretary  
Joe Poindexter (NM5VN)

Tara White opened the hearing at 7:00 pm.

The notice of public hearing was read as follows:

**Notice of Public Hearing**

The Town of New Marlborough, acting through its Board of Selectmen as the Special Permit Granting Authority, will hold a Special Permit Hearing on Monday, October 30, 2023 at 7:00 p.m., to be conducted in a hybrid format in person at Town Hall, 807 Mill River Southfield Road and via Zoom (<https://us02web.zoom.us/j/5583864085>), Telephone number 1-646-931-3860, Meeting ID 558 386 4085; then and there to act upon the application of Benjamin A. Webster and Cornelia E. Webster of 173 Adsit Crosby Road, New Marlborough, MA 01230 under Section 3.4.1.14 of the Protective Bylaws of New Marlborough for the property located at 173 Adsit Crosby Road, New Marlborough (Assessors Map 401, Parcel 2) for the purpose of building a primary residence and converting an existing living space in a barn/garage into an accessory dwelling unit. For copies of the application, please email [nmbos@newmarlboroughma.gov](mailto:nmbos@newmarlboroughma.gov).

Tara B. White, Chair ~ Bill West ~ Elizabeth Dean

Mari confirmed that the abutters had been notified with written notification sent by certified mail, return receipt requested. The notice to Frances Steinert was returned by the Post Office. Mari also confirmed that the notice was published in the Berkshire Eagle for two successive weeks.

The Select Board held a site visit and viewed the property on October 19.

## **Public Portion of Hearing**

### **Presentation of the Application**

The applicants are seeking to build a new single level two bedroom primary residence near the existing barn/garage that currently includes a living space of approximately 1250 square feet (sf) on the second level. The existing living space would convert to an ADU and a new building will become the primary residence. The application includes a site plan prepared by Design Group, Inc dated April 28, 2023.

Mr. Webster explained that building the proposed primary house has been the intention since he and his wife built the barn in 2003/04. They have lived in the upstairs of the barn since that time and now wish to build the house.

The proposed 2100 sf earth shelter house is mainly subterranean with approximately 300 sf visible. The building will be built into the side of the hill and the south side of the home will have windows and sliders similar in design to a walk out basement. There is a flat roof with soil/planted vegetation on top of the roof. The building will be highly energy efficient and ecologically sustainable.

### **Findings:**

Tara read the written submissions from the following Boards:

Board of Health: They discussed this project at their last meeting on 10/17/23. Ben Webster has septic capacity and modification designs in and approved by the Bd of Health. Briefly, he had a 4-bedroom septic system (designed in 2002) installed when his initial structure was built. That existing garage/apartment structure was considered 2-bedroom, and the system passed a title 5 inspection earlier this year. The new planned structure is 2-bedroom, and has a septic design for its own septic tank and pump chamber to be installed to pump into the existing 4-bedroom leaching field.

The Conservation Commission: As part of the Special Permitting process, you requested our review of the Benjamin A. & Cornelia E. Webster, for building a primary residence and convert the existing dwelling space in a barn/garage to an accessory dwelling unit. Property location is 173 Adsit Crosby Road; the parcel is identified as Assessors Map 401, Lot 2. The Commission findings are as follows: the applicate has already submitted a request for determination for this

project and has received a determination from us with the following conditions: permission for the commission to stop & site visit during construction, no heavy equipment in jurisdictional areas, erosion control in place.

The Planning Board: The Planning Board reviewed the application and relevant bylaw provisions regarding the Special Permit Application for the application of Benjamin A. Webster and Cornelia E. Webster to construct a primary residence and converting an existing living space in an existing barn/garage as an accessory dwelling unit. This would be under the New Marlborough Protective Bylaws pursuant to the Select Board's discretionary authority under Section 3.4.1.14 of the Protective Bylaws. At the Planning Board's meeting on October 11, 2023, all the members in attendance, comprising a quorum, found that the application meets the criteria for a permissible use. The Planning Board voted unanimously to recommend approval of the Special Permit Application to the Select Board.

#### **Abutters Comments**

There were no comments from abutters.

#### **Public Comments**

There were no comments from any members of the public.

The public portion of the hearing was closed.

#### **Deliberation**

The Board reviewed the relevant sections of the bylaws and made the following determinations:

3.4.1 The proposed Primary Residence is not injurious, noxious, or offensive and such use is consistent with the intent of the bylaw. Tara White-Yes, Bill West, Yes, Beth Dean, Yes

8.3.4.1. The special permit is in compliance with all other provisions and requirements of the Town of New Marlborough Bylaws and in harmony with its general intent and purpose.  
Tara White-Yes, Bill West, Yes, Beth Dean, Yes

8.3.4.2 The special permit is essential or desirable to the public convenience or welfare at the proposed location.  
Tara White-Yes, Bill West, Yes, Beth Dean, Yes

8.3.4.3 The special permit will not be detrimental to the adjacent uses or to the established or planned future character of the neighborhood.  
Tara White-Yes, Bill West, Yes, Beth Dean, Yes

8.3.4.4 The special permit will not create undue traffic congestion or unduly impair pedestrian safety.  
Tara White-Yes, Bill West, Yes, Beth Dean, Yes

8.3.4.5 The special permit will not overload any public water, drainage, sewer system or other municipal facility to such an extent that the proposed use or any existing use in the immediate area or any other area of the Town will be unduly subjected to the hazards affecting public health, safety, and general welfare..

Tara White-Yes, Bill West, Yes, Beth Dean, Yes

#### **Conditions**

**A motion was made by Bill, seconded by Beth, and so voted the following condition:**

**The applicants must install a septic tank and pump chamber for the new primary residence which will be pumped into the existing four bedroom leaching field, per the written findings of the Board of Health.**

<b>Tara B. White</b>	<b>Aye</b>
<b>Bill West</b>	<b>Aye</b>
<b>Beth Dean</b>	<b>Aye</b>

**A motion was made by Tara, seconded by Bill, and so voted to approve the application for the special permit for a Primary Residence for Benjamin A. Webster and Cornelia E. Webster of 173 Adsit Crosby Road, New Marlborough and convert the living space in the existing barn to an Accessory Dwelling Unit per Section 3.4.1.14 of the Town's Protective Bylaws.**

<b>Tara B. White</b>	<b>Aye</b>
<b>Bill West</b>	<b>Aye</b>
<b>Beth Dean</b>	<b>Aye</b>

Tara explained to the applicants that there is a twenty day waiting period and if the applicants wanted to begin the project before that period was up it would be at their own risk.

**A motion was made, seconded, and so voted to adjourn the hearing at 7:12 pm.**

<b>Tara B. White</b>	<b>Aye</b>
<b>Bill West</b>	<b>Aye</b>
<b>Beth Dean</b>	<b>Aye</b>

Date Approved: November 13, 2023