



Office of
The Zoning Board of Appeals
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RECEIVED
AUG 10 2023
TOWN OF TOWNSEND
TOWN CLERK

William Cadogan, Chairman (2026)
Vicky Janicki, Member (2027)

David Chenelle, Clerk (2023)
Vacancy, Associate Members (2023)

Darlene Sodano, Vice Chair (2025)
David Funaiole, Member (2024)

ZONING BOARD OF APPEALS

MINUTES

Wednesday, May 31, 2023 at 7:00 pm

remote access ONLY via TCAM hosted Zoom

1 PRELIMINARIES: votes may be taken.

- 1.1 Call the meeting to order and roll call. Chair Bill Cadogan opened the meeting at 7:00pm. Present: Darlene Sodano, Bill Cadogan, David Funaiole, Vicki Janicki (joined at: 7:05pm). Absent: David Chenelle. Others present: Beth Faxon, ZBA Administrative Assistant, Eric Slagle, Town Administrator, Alisa Struthers, Chair, Historic District Commission, Anthony Barbati.
- 1.2 Chairman's additions or deletions. Meet Anthony Barbati, candidate for ZBA associate membership.
- 1.3 Approval of meeting minutes 4-12-2023. upon a motion made by D. Sodano and seconded by D. Funaiole, It was voted: to approve the minutes of April 12, 2023. A roll call vote was taken as follows: YES – D. Sodano, D. Funaiole, B. Cadogan. The motion carried.

2 PUBLIC HEARINGS: votes may be taken.

- 2.1 **7:10 pm** - on the application of **Sallie Thurber** under Zoning Bylaw §§145-33 C (5), & 145-66. The applicant is requesting a variance from Bylaw §145-33 C (5) parking area design and location for the placement of one ADA compliant handicapped parking space within the required front yard setback. The property

is located at **22 Main Street** (Assessor's Map 41, Block 6, Lot 0) in the Outlying Commercial District.

D. Funaiolo read the legal notice, and the public hearing was opened upon a motion made by D. Funaiolo and seconded by V. Janicki, it was voted: to open the public hearing per the legal notice read. A roll call vote was taken as follows: YES – D. Sodano, D. Funaiolo, V. Janicki, B. Cadogan. Frank McPartland, Dillis & Roy Civil Design Group, Inc. was present representing the applicant, Sallie Thurber.

Discussion ensued as to the reason for the requested variance, which is the handicap parking spot is encroaching into the required front yard setback. Mr. McPartland described the reason for the variance request. He stated a variance is needed to have the proposed accessible parking space located in the front of the building. He further stated that the front of the building is the only accessible entrance to the existing building. The accessible parking space is labeled "van" with the standard accessible symbol on the approved site plan. He added that a required blue placard parking sign and a van accessible sign will be installed so it will be obvious that it is not for not for normal parking. All the standard parking spaces (7) are proposed to be located at the rear of the building.

Board members discussed the reasoning to grant a variance for the proposed project, including the fact that the building is impossible to move back on the lot to accommodate the front yard setback.

Eric Slagle, Town administrator offered some insight during the public hearing. He stated that this proposal could very well be seen as reasonable accommodation for an **Americans with Disabilities Act** (ADA) compliant parking space and that handicap accessibility can supersede property line setbacks for handicap ramps that go into setbacks. The Board may be able to grant a variance to this proposal as a reasonable accommodation for the ADA.

An alternative 90-degree reorientation of the proposed van accessible parking space was suggested. Mr. McPartland then expressed significant safety concerns about this change. He provided some calculations on the proposed reorientation and contended that due to safety concerns this was not a feasible alternative.

The board determined by review of documents, plans and testimony of Mr. McPartland, that the placement and orientation of the ADA compliant handicapped parking space according to the approved site plan is the most suitable option for the site. That public safety in maneuvering handicapped equipped vehicles, equipment and persons is the preeminent factor and the proposed design is the most appropriate option. That the setback required in the Outlying Commercial District is 30 feet, and 21 feet is provided by the proposed location. And that the location of the parking space in front of the building and a 9-foot encroachment to the front yard setback is the variance requested from the requirement of the Bylaw.

And the circumstances that necessitate this petition for a variance are the shape of the property and the location of the existing building in that the lot is long and narrow with an existing building in the center. And, the main entrance, which is the only practical handicap accessible entrance to the building, is in the front.

And compliance with the Bylaw would involve substantial hardship to the applicant. Financially this petition/proposal allows for practical handicap access adhering to ADA requirements, without substantial renovations to or relocation of the building on the site.

Final considerations were the Board considered that the granting of this variance would not be substantially detrimental to the public good because this is a commercial area and is not dissimilar to adjacent properties.

And the addition of one handicap parking space and associated building access do not derogate from the intent or purpose of the Bylaw as this is a singular parking space with all other parking spaces being zoning-compliant.

The Board members then took the following vote:

David Funaiole made a motion to grant a variance to Sallie Thurber for the property located at 22 Main Street in accordance with G.L. c. 40A, §10, and Section 145-66 of the Bylaw for the placement of one handicap parking space within the required front yard, otherwise prohibited by Section 145-33 C (5) of the Bylaw, subject to the findings of fact noted herein. Seconded by Darlene Sodano. A roll call vote was taken as follows: YES: William Cadogan, Victoria Janicki, Darlene Sodano, David Funaiole. The motion carried, 4-0.

Darlene Sodano made a motion to authorize Board Chair William Cadogan to sign this Decision on behalf of the Board Members participating in the vote. Seconded by Vicki Janicki. A roll call vote was taken as follows: YES: William Cadogan, Victoria Janicki, Darlene Sodano, David Funaiole. The motion carried 4-0.

3 CORRESPONDENCE& ANNOUNCEMENTS: votes may be taken.

- 3.1 Memo from the Board of Selectmen re: Annual appointments and reappointments. D. Chenelle's term will expire June 30, 2023, and the Board is waiting to hear his final decision regarding reappointment for another 5-year term.
- 3.2 Review volunteer response forms received Associate Member. Anthony Barbati was present and introduced himself. Mr. Barbati is a Federal employee of the General Services Administration which is responsible for all real estate services for federal government agencies. He has extensive experience in property management and real estate knowledge and working with local municipalities. Admin stated that Mr. Barbati's appointment confirmation is scheduled on the Board of Selectmen's agenda for June 6, 2023.
- 3.3 Townsend MBTA communities compliance mission project update. Admin updated that the kickoff meeting occurred on May 8, 2023. The Town is designated as a small adjacent Town under Section 3A MGL c40A hereafter known as "MBTA communities". The Town has received a DLTA technical assistance grant from the regional planning commission MRPC to work on compliance with the criteria of the new State law. The Town is identifying areas that will presumably be an overlay district for MBTA multifamily as of right zoning

and working with MRPC who is running the feasibility model on potential sites selected.

- 3.4 Town of Townsend PermitLink online building permit service. The new system has been launched and is working well. All Building Department permits are available through this system.
- 3.5 Table of Principal use regulations. Noted as resource and a quick reference guide for the public and for project planning.
- 3.6 BIOMAP Tool – new, an online resource to help communities better understand biodiversity distribution and threats, and to strategically deploy limited resources to make real and lasting conservation impacts in Massachusetts. noted.

D. Sodano made a motion to adjourn at 8:00pm. V. Janicki seconded. A roll call vote was taken as follows: YES: William Cadogan, Victoria Janicki, Darlene Sodano, David Funaiolo. The motion carried 4-0.

Respectfully submitted,
Beth Faxon

Approved on: August 9, 2023

ZBA Administrative Assistant

Items on file:

- 1. Application 22 Main Street.
- 2. BIOMAP tool flyer
- 3. Table of Principal use regulations.
- 4. Town of Townsend Permitlink webpage [Welcome \(permitlinkusa-online.com\)](https://permitlinkusa-online.com)
- 5. Townsend MBTA communities compliance mission project information [MBTA Communities Compliance Mission | Townsend MA](#)
- 6. Memo from the Board of Selectmen re: Annual appointments and reappointments.