



**Town of Plymouth**  
**ZONING BOARD OF ADJUSTMENT**  
**January 3, 2023 MINUTES**

Approved 2/7/23

**Call to order**

The meeting was called to order at 7:00 pm on Tuesday, January 3, 2022.

**Roll Call of Members:**

Members: David Kent (Chair), Stephanie Halter (Vice Chair), Tom McGlaufflin, Peter Julia, and Malik Hammond (Alternate).

Absent/Excused: Butch Cushing

Town Staff: Joseph Perez, Community Planner.

**Pledge of Allegiance**

**Review of Minutes:**

The board reviewed the minutes of the November 1, 2022 Zoning Board Meeting. No board members had any proposed corrections to the minutes, so Halter motioned to approve with a second by Hammond. All voted in favor.

**APPLICATIONS and PUBLIC HEARINGS:**

A request was received from Eric Bouchard on behalf of Eric Bouchard, Joseph Miller, and John Machell for Special Exception in accordance with Section 304 and Section 1204 of the Zoning Ordinance for to convert an existing parking facility at 2 and 4 Gould Terrace (110-042 & 110-043) into an off-site parking facility for 42 Main Street. A variance is requested from the 300' maximum distance requirement of Section 1204.3(D). This property is in the Village Commercial zoning district.

Kent suggested that there were some areas on the application where the applicant had missed filling in the Ordinance section. He asked if any Board members had opposition to moving forward even with the missing information, and there were no objections. Eric Bouchard, the applicant, was present and requested Richard Gowen speak to the Board on his behalf. He explained that 42 Main Street is a mixed-use building which does not have adequate on-site parking. Currently, tenants park off-site on Railroad Square. The applicant desires to grant an easement to allow the tenants of 42 Main Street to park in an existing gravel parking facility on the properties of 2 and 4 Gould Terrace. Off-site parking facility is allowed by special exception, and a variance was requested due to the proposed parking being greater than 300' from the use it would serve.

McGlaufflin and Halter questioned the applicant to confirm that the parking would be on both properties, 2 and 4 Gould Terrace, which are under the same ownership. They also inquired how many spaces were available, and Gowen responded that there was a desire to provide parking for at least eight tenants at 42 Main Street, with four apartments the building could have up to 12 tenants. 2 and 4 Gould Terrace each have one single-family home, with three residents in each. Halter inquired about how tenants at 42 Main Street would access the proposed parking. Gowen responded that they could possibly use the stairs on the former Gould Terrace. It was confirmed that the Town no longer owned the right of way in the area of the steps. Kent asked about measuring distance in different manners. As

the crow flies, the proposed parking was somewhat over 300' as measured roughly via the tax maps. When looking at the shortest pedestrian route (which may cross private property), it was over 500' as measured roughly via the tax maps.

Julia stated that Mid-State, the owners of the former Community Guarantee Savings Bank Building, parking, and stairway, had stated during their prior application that the stairs would be maintained primarily for the use of their staff, and the Board didn't see permission from Mid-State for the use of the stairs. Upon question from the Board, staff confirmed that Mid-State was notified as an abutter to this request. Kent inquired about a fence on the property, and the applicant responded that he believed it to be a few feet off from the property line, but wasn't the owner of the property when it was installed, or when the gravel parking area was originally constructed. Julia expressed concern that the lots have not been surveyed recently, and that lot coverage by impervious surface could merit further review. The applicant expressed that the parking area is existing, and wasn't proposed to be changed. Julia stated that gravel still constituted impervious surface. The Board clarified that the variance was needed from the 300' requirement of the special exception criteria found in section 1204.3(D).

Kent asked if any members of the public wished to speak on this case. With none, the public hearing was closed at 7:32.

The Board discussed the application amongst themselves.

With that, the board moved into findings of fact, as listed below.

#### Findings of Fact

1. Proponent is seeking a special exception to create an off-site parking facility;
2. Proponent is seeking a variance based on the distance from the use the parking would serve, which is greater than the 300' allowed by the ordinance;
3. The property at 42 Main Street does not have sufficient parking for the number of people residing there;
4. 42 Main Street is being sold which is the basis for the request;
5. Pedestrian access from Main Street to Gould Terrace in the shortest manner requires crossing private property;
6. To the north of Gould Terrace is a developed parking area;
7. To otherwise access the parking lot, access would need to be from Russell Street to Gould Terrace;
8. All of the parcels are similarly zoned;
9. None from the public spoke for or against the case;
10. Historically, the site has been used as a parking area.

The Board considered the variance criteria, first discussing each item:

1. Granting the variance will not diminish the value of surrounding properties.

Kent noted that the property has been used as a parking lot in the past, Julia and Halter expressed that due to similar surrounding uses it would likely not have an impact.

2. The variance will not be contrary to the public interest.

Julia expressed a belief that it would be contrary to the public interest for safety, access, and drainage concerns. Kent noted that the standard in the ordinance was 300’.

3. Denial of the variance would result in unnecessary hardship to the applicant upon proof that:
  - a. The Zoning Restriction as applied to the applicant’s reasonable use of the property, considering the unique setting of the property in its environmental
  - b. No fair and substantial relationship exists between the general purposes of the Zoning Ordinance and the specific restriction on the property; and
  - c. The variance would not injure the public or private rights of others.

Kent suggested that the property on Main Street was being used currently in a reasonable way, and also noted that the walking distance was at a minimum over 500’. He expressed a belief that there was a fair and substantial relationship. Julia noted a concern about injury to the rights of the owner of the stairway connecting Main Street and Gould Terrace. (Mid-State Community Development) Kent noted that a financial issue is not a hardship itself.

4. Granting the variance would do substantial justice.

Kent noted that he was unsure how many other properties used off-site parking. Julia noted that the new owner of the Mid-State Building at 28 Main Street had mentioned allowing the Panther Pub to use the parking facility next door, but that this was a different situation since the access was in question.

5. The use will not be contrary to the spirit and intent of the ordinance.

Kent said that spirit and intent was to relieve some parking pressure, which the proposed use could do.

With that, the Board voted on whether each of the variance criteria were met as follows:

Criteria 1: True – 3, False – 0, Abstain -2. Passes.

Criteria 2: True – 1, False – 4. Fails

Criteria 3: True – 0, False - 5. Fails.

Criteria 4: True – 1, False 4. Fails.

Criteria 5: True – 0, False – 5. Fails.

With a failure to find that the five variance criteria were met, the requested variance was not approved.

In light of the findings of fact and review of criteria, and considering the failure of the variance criteria, McGlaufflin moved to deny the Special Exception for lack of adequate information. The motion was seconded by Halter. All members voted in favor.

**Unfinished Business:**

**New Business**

**Other Business**

McGlaulin expressed that the study materials and newly created ZBA test were appreciated. Hammond asked for clarification about the denial of the variance, and whether another application could be submitted in the future. It was clarified that filing a separate application for a similar request would have to show why the facts of the situation are materially different, as the Board shouldn't make a different decision using the same facts. Kent stated that if he wished to, the applicant could have made a point of order, then asked to withdraw, but that it was on the applicant and not the Board. Kent also stated that the Board could ask the chair to reopen the hearing, but it wasn't a guarantee. Kent stated that it's the applicant's job to propose to the Board, and that the Town should set a higher standard.

**Adjournment**

Upon a motion by McGlaulin and a second from Hammond, the Board unanimously voted to adjourn the meeting.