

COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Wednesday, October 11, 2017 at 7:00 p.m.

IN RE: 17-68 Petition of PRETORIUS ELECTRIC AND SIGN CO. LLC, 267A South Main Street, W. Bridgewater, MA, for a Special Permit from Sec. 27-73, for a double face electronic message sign in a C-2 Zone, located at 71 MANLEY STREET.

PETITIONER'S STATEMENT: Richard Pretorius from Pretorius Electric and Sign, presented to the board Exhibit A, Picture of Sign. Mr. Pretorius is before the board seeking permission to have a double sided LED sign below the freestanding sign for Paramount Rug. The messages will be for sales and promotions. The size of the sign will be 16 in. x 94 in..

OPPOSITION: None.

DECISION: Granted unanimously with the stipulation 1. The LED sign message or color of display shall change no more than once every 10 seconds. The change shall be brief, instantaneous and shall not contain flashing, intermittent, or moving lights: or display animated, moving video or scrolling advertising.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that granting a Special Permit from Section 27-73, for a double faced electronic message sign in a C-2 Zone would be in harmony with the orderly development of the zone and will not negatively impact the neighborhood. The following electronic message sign stipulations are incorporated by reference herein: The LED sign message or color of display shall change not more than once every 10 seconds; the change shall be brief, instantaneous and shall not contain flashing, intermittent or moving lights nor display animated moving video or scrolling advertising. All representations in petitioners statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Michael Williams

IN FAVOR: (5)

- Kenneth Galligan, Chairman
- Michael Williams, Fire Chief
- Stephen Bernard
- Jeffrey Thompson
- Robert Pelaggi

Kenneth Galligan
Michael Williams
Stephen Bernard
Jeffrey Thompson
Robert Pelaggi

OPPOSED: (0)

James M. Casieri
 James M. Casieri, Clerk

Anthony J. Zeoli
 Anthony Zeoli, City Clerk

RECEIVED AND FILED: September 14, 2017
I, ANTHONY J. ZEOLI, CITY CLERK OF BROCKTON, MASSACHUSETTS HEREBY CERTIFY THAT THE AFORESAID IS A TRUE COPY AND THAT TWENTY DAYS HAVE LAPSED AND NO APPEAL HAS BEEN FILED. CHAPTER 40A SEC. 11

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE OCT 20 2017 PURSUANT
TO M.G.L.C. 40A SECTION 17.

CITY CLERK'S OFFICE
BROCKTON MA

2017 OCT 20 AM 8:39

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CITY OF BROCKTON
ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Wednesday, October 11, 2017 at 7:00 p.m.

IN RE: 17-69 Petition of REGINALD THOMAS, 161 Kevin Road, Brockton, MA, for a Variance from Sec. 27-9, Sec. 27-25 & 27-13A, to divide a parcel into three lots and to construct two new houses with existing home to remain in an R-1-C Zone, located at 738 NORTH CARY STREET.

PETITIONER'S STATEMENT: Attorney Wayne Mathews along with the petitioner Reginald Thomas presented to the board Exhibit A, Site Plan and Floor Plans. Mr. Thomas is before the board seeking permission to divide the above named parcel of land and construct two (2) new single family homes. The homes will be 58 x 26 Raised Ranch homes, with three to four bedrooms and two (2) car garages. The existing home will still stand. The homes may need to be sprinklered due to the length of the driveways. Abutter Kevin O'Gorman stated he was in favor as long as no more than two (2) homes and would like a promise the street will be repaved after all the utilities are installed. Abutter Joanne Laichoy is concerned with the spring on the property and Abutter John Buker mentioned the sharp curve on the street being an issue with the first driveway. It was also mentioned, the one driveway could connect with both homes and underground utilities. Councilor from Ward 6, Jack Lally is in favor, but also mentioned one driveway and the promise of repaving the road.

OPPOSITION: None

DECISION: Unanimously granted with the stipulations 1. The repaving of road openings to DPW standard and current condition 2. Fencing along the East of property 3. No more than two (2) homes to be constructed 4. No water runoff to adjacent properties and 5 underground utilities.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that granting a Variance to allow for a division as a large parcel to allow for the construction of two (2) new dwellings on the new lots would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. A hardship was demonstrated relative to the unique shape and large size of the current parcel that is also impacted by on-site wetlands. The following stipulations are incorporated by reference herein and are conditions agreed to by the petitioner as conditions to the granting: Underground utilities shall be installed from North Cary Street to the dwellings, maximum of two (2) new dwellings on the parcel, a fence for privacy proposed on the east property line and the development of the parcel shall not increase surface water run-off onto adjacent properties. All representations in petitioners statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Robert Pelaggi

IN FAVOR: (5)

- Kenneth Galligan, Chairman
- Michael Williams, Fire Chief
- Stephen Bernard
- Jeffrey Thompson
- Robert Pelaggi

Kenneth Galligan
Michael Williams
Stephen Bernard
Jeffrey Thompson
Robert Pelaggi
James M. Casieri
 James M. Casieri, Clerk

OPPOSED: (0)

Anthony Zeoli
Anthony Zeoli, City Clerk

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IN RE: 17-70 Petition of BERNKOPF GOODMAN, LLP, Two Seaport Lane, 9th Floor, Boston, MA, for a Variance from Sec. 27-9 & 27-15, for petitioner to subdivide her lot and convey 2,500 s.f. parcel currently exclusively used by her neighbor at 894 Centre Street to said neighbor in an R-1-C Zone, located at 13 BATES ROAD

PETITIONER'S STATEMENT: Attorney Laura Newcomb presented to the board Exhibit A, Petition and Site Plan. Attorney Newcomb is before the board seeking a Variance to convey 2500 s.f. of property legally from the above named address to her abutter on 984 Centre Street. When the owner of 13 Bates Road, Regina Hunter had an appraiser come out when the home was first purchased she was told she owned 10,000 sf of property not 7500 sf as was thought with a fence along the rear of her property. The previous seller of both properties divided it this way in order to sell Centre Street to a family who wanted a larger lot. With this Variance each owner will get the amount of land they originally thought they were purchasing with clear titles.

OPPOSITION: None

DECISION: Granted unanimously.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that granting a Variance to allow for the sub-division of the parcel to alleviate a unique land configuration that would benefit the petitioner and the adjoining parcel owner would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the current established neighborhood. The petitioner demonstrated a hardship relative to the unique size and shape of the lot and in its current configuration creates a financial hardship to the petitioner and a use hardship to the adjoining property on Centre Street. All representations in petitioners statement were considered in the granting and shall be incorporated by reference as recorded herewith. There was no opposition to the granting presented at the hearing.

VOTE:

Motion to Grant by:
Seconded by:

IN FAVOR: (5)

Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Jeffrey Thompson
Robert Pelaggi

OPPOSED: (0)

Robert Pelaggi
Jeffrey Thompson

Kenneth Galligan
Michael Williams
Stephen Bernard
Jeffrey Thompson
Robert Pelaggi

James M. Casieri
James M. Casieri, Clerk

Anthony J. Zeoli
Anthony Zeoli, City Clerk

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IN RE: 17-71 Petition of LUI SHUN LAU, 51 Waterston Avenue, Quincy, MA, for a Variance for insufficient setbacks in an R-2 Zone, located at 35 HOLBROOK AVENUE.

PETITIONER'S STATEMENT: The petitioner, Luishun Lau, who represents the homeowner presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plan and Pictures. Mr. Lau is seeking permission to construct an 80 sf. addition to the front corner of the home and a rear deck. The front steps will also have a cover deck above. A dormer will be constructed to the right side of home to have a staircase go up to the attic which will be used for storage.

OPPOSITION: None.

DECISION: Granted unanimously.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the location of the existing foundation creates a hardship at the site. Setbacks in the surrounding neighborhood comport with the requested relief from setback requirements at the site. Granting would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. All representations in petitioners statement and submitted construction plans shall be incorporated by reference as stipulations recorded herewith. There was no opposition to the granting presented at the hearing.

VOTE:

Motion to Grant by:
Seconded by:

Michael Williams
Kenneth Galligan

IN FAVOR: (5)

Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Jeffrey Thompson
Robert Pelaggi

OPPOSED: (0)

Kenneth Galligan
Michael Williams
Stephen Bernard
Jeffrey Thompson
Robert Pelaggi

James M. Casieri
James M. Casieri, Clerk

Anthony Zeoli

Anthony Zeoli, City Clerk

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IN RE: 17-72 Petition of MICHAEL & DONNA KELLEHER, 45 Dyer Street, Brockton, MA, for a Variance from Art. III, Sec. 27-13a & Art. III, Sec. 27-9, to build a 2 story colonial house on an existing lot of record in a R-1-C Zone, located at 45 DYER STREET.

PETITIONER'S STATEMENT: Attorney John Creedon, Land Surveyor, Bruce Malcolm and owner Donna Kelleher presented to the board, Exhibit A, Floor Plans and Site Plan. Attorney Creedon is before the board seeking permission to construct a single family home on an existing lot. The neighborhood has many different style homes which range from single to multi along with an old shoe factory.

OPPOSITION: None

DECISION: Granted unanimously with the stipulations 1. Onsite drainage on the property and 2. Not to reduce the green space that is shown on plan dated June 29, 2017.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that a hardship existed relative to the size and shape of existing lot of record that is in conformance with other lots in the neighborhood and that granting would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. All presentations in petitioners statements including maintaining green space as shown on the plan dated June 29, 2017 and provision for on-site drainage for storm water shall be incorporated by reference as stipulations recorded herewith. There was no opposition to the granting presented at the hearing.

VOTE:

Motion to Grant by:

Robert Pelaggi

Seconded by:

Jeffrey Thompson

IN FAVOR: (5)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Thompson

Robert Pelaggi

OPPOSED: (0)

Anthony Zeoli, City Clerk

James M. Casieri, Clerk

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IN RE: 17-73 Petition of 166 EAST ASHLAND STREET LLC, 500 Cochituate Road, Framingham, MA, for a Variance from Sec. 27-32.9, & 27-48, for petitioner to be allowed to construct and operate a small business unit complex in a C-7 Zone, located at 166 EAST ASHLAND STREET

PETITIONER'S STATEMENT: Attorney James Burke along with Scott Faria presented to the board Exhibit A, Site Plan. The petitioner was originally denied in August of this year and was then approved by the planning board to return to the ZBA with an amended plan. The petitioner would like again to have a small business sixty two (62) unit complex for small business owners that are in need of a commercial space. This will comprise of electricians, contractors, plumbers. The hours of operation will be seven days (7) per week from 6:00 a.m. until 9:00 p.m. The units will not be enlarged for companies with multiple employees. No automotive body work uses will be allowed at this property. At the entrance gate a key card will be needed and all guests must be announced. The parking along the units total 137spaces. A call button will be installed in each unit which will trigger a light above the door in case of emergency, in order for first responders to not waste time when entering. All units will be sprinkled. A stockade fence and trees will be along the seven (7) residential homes for privacy and sound barrier. All lighting will be downward.

OPPOSITION: None

DECISION: Granting unanimously with the stipulations 1. Lights are to be downward as to not interfere with the residents 2. A stockade fence and trees shall be along the front of the property abutting the seven (7) homes 3. Units only for small business 4. No more than sixty two (62) units 5. No body/auto shop in any units 6. The petitioner shall use the revised plan dated on Aug 9, 2017 which shows all the granted changes.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that a hardship existed at the locus where the unique size, shape and topography of the property combined with the unlikely probability of the site ever been developed as a C-7 Zoning Sports Convention Complex due to its location and its unique zoning surrounded by many mixed uses and zoning that granting a Variance to reestablish its commercial use would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. The establishment of a small business unit complex consisting of not more than sixty two (62) small business units would be an appropriate use of the site and would be in harmony with the surrounding mixed zoning uses, including commercial industrial and limited residential uses.

The following stipulations are incorporated by reference herein; the hours of operation shall be limited to 6:00 a.m. to 9:00 p.m. seven days per week, no motor vehicle repair or body shop use at the site exterior lighting shall not be directed toward or "spill over" onto adjacent residential uses, a maximum of sixty two (62) units shall be allowed and a fence and dense planting area shall be established to provide screening and privacy to the adjacent residences. All representations in petitioners statements and described on plan dated Aug 9, 2017 submitted to the board shall be incorporated by reference as stipulations recorded herewith. There was no opposition to the granting presented at the hearing.

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: (5)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Thompson

Robert Pelaggi

OPPOSED: (0)

Anthony J. Zeoli
Anthony Zeoli, City Clerk

Michael Williams

Robert Pelaggi

Kenneth Galligan
Michael F. Williams
Stephen Bernard
Jeffrey Thompson
Robert Pelaggi
James M. Casieri

James M. Casieri, Clerk

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COMMONWEALTH OF MASSACHUSETTS

CITY OF BROCKTON
ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Wednesday, October 11, 2017 at 7:00 p.m.

IN RE: 17-74 Petition of **MANUEL RAMÓS**, 551 King Phillip Street, Fall River, MA, for a Variance from Sec. 27-9 & 27-13, to sub-divide existing parcel into four lots and construct three additional single family dwellings in an R-1-C Zone, located at **PLOT 195 OAK STREET**.

PETITIONER'S STATEMENT: Attorney John F. Creedon along with Bruce Malcolm, Land Surveyor and the petitioner, Manny Ramos. Mr. Ramos was previously before the board for one home which was granted back in 2011. Mr. Ramos is now before the board to sub-divide the land and construct three (3) single family homes on a new culdesac at the above named address. The existing home is where the petitioner lives. The homes will have two (2) car garages and a porch and deck. Granite curbing and sidewalk will be along the newly construct street. A buffer of trees will be along the rear of property abutting Martland Avenue. The drainage issue was addressed and will have a recharge run off on property. Councilor Shirley Asack was fine with the new homes.

OPPOSITION: Councilor at Large Win Farwell was in opposition due to the high volume of traffic and having the school abutting this property that has many activities at all hours. An abutter on Martland Avenue and on Oak Street both stated concerns for traffic and congestion at all hours.

DECISION: Granted with the stipulations **1.** A recharge area is to be installed for drainage of property and **2.** And trees shall be along the north property line and **3.** Not more than three (3) new single family homes.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the unique size and shape of the locus in relation to all other surrounding properties and especially effecting the locus but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance would involve substantial hardship to the petitioner, financial or otherwise, and that granting would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. All representations in petitioners statement including plans submitted showing a maximum of three (3) new single family dwellings with deciduous trees planted along the north property line to establish a privacy area between the new homes and those homes to the north of the subject property shall be incorporated by reference as stipulations recorded herewith. Opposition and concern was presented at the hearing by a City Councilor and two (2) neighbors relative to anticipated additional impact from the three (3) lot subdivision to the current traffic on Oak Street.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Robert Pelaggi

IN FAVOR: (4)

- Kenneth Galligan, Chairman
- Stephen Bernard
- Jeffrey Thompson
- Robert Pelaggi

OPPOSED: (1)

- Michael Williams, Fire Chief

Stephen Bernard
Robert Pelaggi
Michael F. Williams
James M. Casieri

James M. Casieri, Clerk

Anthony Zeoli

Anthony Zeoli, City Clerk

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