

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Tuesday, December 11, 2018 at 7:00 p.m.

IN RE: 18-97 Petition of **SHAWN MAHONEY**, 13 Birch Road, Brockton, MA, to request a Variance from Sec. 27-9, seeking relief to construct a deck in line with the existing home in an R-1-C Zone, located at **13 BIRCH ROAD**.

PETITIONER'S STATEMENT: Petitioner Shawn Mahoney presented to the board Exhibit A, Site and Deck Plans. Mr. Mahoney would like to construct a deck in the rear of the home. It will be an open deck with no plans to enclose the deck.

OPPOSITION: None

DECISION: Unanimously granted with the stipulation that the deck shall not be enclosed.

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 house foundation created a unique hardship at the location. 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 plans shall be incorporated as stipulations recorded herewith. The proposed deck shall remain as an open deck. There was no opposition presented at the hearing.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Craig Pina

IN FAVOR: (5)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Thompson

Craig Pina

OPPOSED: (0)

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Tuesday, December 11, 2018 at 7:00 p.m.

IN RE: 18-98 Petition of **TREVOR IVY**, 314 Bowdoin Street, Dorchester, MA, to request a Variance from Art. IV, Sec. 27-29, to allow the handling, fabricating and manufacturing of cured tobacco and similar agricultural products; assemble and packaging; wholesaling and distribution of finished product, together with incidental offices in a C-2 Zone, located at **16-22 COURT AVENUE**.

PETITIONER'S STATEMENT: Attorney John McCluskey along with the petitioner Trevor Ivy, presented to the board, Exhibit A Memo in Support and Site Plan. Mr. Ivy owns a Fronto King a tobacco facility in Boston and would like to expand in Brockton. The building located on Court Avenue will triple the size of the Boston location. Executive offices will also be housed at this location. Fifteen (15) employees for each of the two (2) shifts will be hand rolling tobacco for the consumer. No retail sales on the premises will outside sales. No noise from machines will be from this facility. Mr. Ivy will not be involved with any marijuana sales. Hours of operation will be from Monday through Saturday 8: 00 a.m. until 10:00 p.m. and will not be open on Sunday. Ward 5 Councilor Anne Beauregard is in favor of this petition. Director of Planning and Economic Development Robert May is in favor as is Brockton Community Television and the owner of the property Nick Anania.

OPPOSITION: None

DECISION: Unanimously granted with the stipulations **1.** Hours of operation will be Monday through Saturday 8:00 a.m. to 10:00 p.m. and no Sunday operations **2.** No retail sales at this location and **3.**no marijuana products of any kind at this facility.

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 for the use proposed would not derogate from the intent of the zoning by-laws and will not negatively impact he orderly development of the surrounding neighborhood. The unique location of the building on the deal end street does not lend itself practical for many of the allowed uses in a C-2 zone and creates a hardship for development of the parcel. The proposed use will alleviate the current undesirable conditions surrounding the site and the proposed use represents the best and most desirable use of the property. The processing and packaging of tobacco products shall not include any retail sales from the site and shall not include any form of processing or handling of marijuana. The petitioner proposed and agreed to the stipulation of hours of operation to be restricted to Monday through Saturday 8:00 a.m. to 10:00 p.m. and no Sunday operations. Support for the granting of the Variance included City Councilor Anne Beauregard, City Planner Rob May, current owner Mr. Anania and direct abutter Brockton Community Television. There was no opposition. The above listed stipulations are incorporated by reference herein. All representations in petitioners statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:

Craig Pina

Seconded by:

Michael Williams

IN FAVOR: (5)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Thompson

Craig Pina

OPPOSED: (0)

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

COMMONWEALTH OF MASSACHUSETTS

CITY OF BROCKTON
ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Tuesday, December 11, 2018 at 7:00 p.m.

IN RE: 18-99 Petition of **EDWARD JOHNSON**, 34 Blue Hill Terrace, Milton, MA, for a Variance from Sec. 27-9, to construct a two family dwelling in a C-2 Zone, located at **30 ENTERPRISE STREET**.

PETITIONER'S STATEMENT: The petitioner Edward Johnson, presented to the board Exhibit A, Site and Floor Plans. Mr. Johnson is before the board since being denied back in May of this year. Mr. Johnson would like to construct a two (2) family home that was destroyed by fire years ago. The new home will have driveways on each side with two (2) parking spaces each. No front yard parking will be allowed.

OPPOSITION: None

DECISION: Unanimously granted with the stipulation that no parking is allowed in the front lawn area.

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 was the site of a previous multi family dwelling that was previously destroyed by fire that uniquely was located on a site zone C-2 surrounded by multifamily dwelling with no reasonable C-2 uses creating a unique hardship. Granting would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. Construction of the proposed two (2) family dwelling will alleviate an unsightly vacant lot and will conform to adjacent multi family dwellings. The house shall be positioned on the lot as shown on revised plan by Architect David Choi and include four (4) off street parking spaces, two (2) on the North side and two (2) on the South side. The front yard shall be greenspace and shall not be used for off street parking. The above listed stipulations are incorporated by reference herein. All representations in petitioners statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:
Seconded by:

Jeffrey Thompson
Craig Pina

IN FAVOR: (5)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Thompson

Craig Pina

OPPOSED: (0)

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Tuesday, December 11, 2018 at 7:00 p.m.

IN RE: 18-100 Petition of **ROOPAL PATEL**, 65 Westgate Drive, Brockton, MA, for Variance from Art. IX, Sec. 27-54 and Art. XIV, to allow off street parking and to build and relocate signs in a C-2 Zone, located at **65 WESTGATE DRIVE**.

PETITIONER'S STATEMENT: Attorney James M. Burke, presented to the board Exhibit A, Site and Floor Plans. Attorney Burke is before the board seeking permission to ask for sign and parking relief for 65 Westgate Drive. The new owners are updating Westgate Lanes. The bowling league style entertainment has changed over the years with fun bowling, arcades, laser tag, escape rooms and bar/restaurant fun for the whole family. The roof sign will be moved to the left of the building. The stand alone sign will be moved since its standing on another property. The LED sign will not scroll, show animation and will not change less than ten (10) second intervals. The two (2) entrances will remain with the new plans. The parking lot will have 6' of greenspace in front of the granite curbing. The rear of the property will be lighted to see the parking area and adjacent D.W. Field Park for safety reasons. Ward 7 City Councilor Shirley Asack, Director of Planning and Economic Development Rob May and Chris Cooney from Metro South are all in favor.

OPPOSITION: None

DECISION: Unanimously granted with the stipulations **1.** 6' of greenspace in front with raised granite curbing **2.** LED sign with no scrolling, steady red and not to change in less than ten (10) seconds **3.** Relocation of standing sign pole **4.** Security lighting in the rear of building and **5.** Roof sign will stay.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that granting the requested relief for the on-site parking, LED signage and refurbishing and maintaining the current roof sign would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. Considering the report received from Brunswick Bowling Products regarding national trends for required parking where a transition from league based business to a combined business based venue, a literal enforcement of the provisions of the ordinance would involve substantial hardship, financial or otherwise to the petitioners and that requested relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinances. The proposed improvements to the current parking scheme will improve traffic flow and open up currently inaccessible parking areas providing not less than 261 on site/off street 180' sq.ft. individual parking spaces. The petitioners stated and agreed that all parking islands and barriers will be provided with vertical face granite curbing. The greenspace island at the street line at the front of the parking lot along Westgate Drive shall provide for no less than six (6) feet width of greenspace and landscaping faced with vertical faced granite. The current roof sign was reported to be upgraded with LED lighting that shall remain one (1) steady color with no animation, flashing or changing colors. The street sign LED and the proposed wall LED sign shall not display scrolling, movement or animation and shall not change in less than ten (10) second intervals. All LED signs shall conform to current industry standards, such as the Illuminating Engineering Society or North America (IESNA) for sign brightness and dimming technology. The above listed stipulations are incorporated by reference herein. All representations in petitioners statements shall be incorporated by reference as stipulations recorded herewith. Ward 7 City Councilor Shirley Asack, Director of Planning and Economic Development Rob May and Mr. Chris Cooney testified in favor of granting. There was no opposition.

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18-100

VOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Jeffrey Thompson

IN FAVOR: (5)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Thompson

Craig Pina

OPPOSED: (0)

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Tuesday, December 11, 2018 at 7:00 p.m.

IN RE: 18-101 Petition of **IRVING OIL MARKETING, INC.**, 190 Commercial Way, Portsmouth, NH, for a Special Permit from Art IV, Sec. 27-29, 3a & 3b, petitioner is seeking to modify a previously approved Special Permit which was appealed and now remanded by the court for the Board to consider elimination of an access easement for customer use in a C-2 Zone, located at **685 & 697 PLEASANT STREET**.

PETITIONER'S STATEMENT: Attorney John McCluskey presented to the board Exhibit A, Site and Floor Plans. Attorney McCluskey is returning to the zoning board since is the petition was appealed after being granted. This petition was remanded by the court after it was agreed to by both the plaintiff and defendant that the only access for this gas station is through Reynolds Highway and Pleasant Street. The prior access down the street that goes to St. Paul's Church will be eliminated to ease traffic. Employee only parking will be from the easement and the now closed egress will house the parking spaces that were moved. Director of Planning and Economic Development Rob May along with William Bearce are in favor.

OPPOSITION: None

DECISION: Unanimously granted with the stipulation that access to the Irving Oil property from the easement will be restricted to a single access only for employee parking and no parking spaces to be eliminated.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that in reference to an appeal of the granting of the Special Permit to Irving Oil Marketing, Inc. on April 11, 2017 referencing the use of an easement that the parties have come to an agreement wherein Irving Oil Marketing will relinquish use of the subject easement for use by customers and limit the use of the easement for employee parking access only. The board voted to modify the zoning relief granted on April 17, 2017 whereby the originally designated access driveway from the Irving property to the easement for Irving customers is eliminated in conformance with the agreement of all parties. The use of the easement by Irving Oil shall be limited to only one (1) single access driveway from the easement to employee parking as shown on the amended plans submitted and dated January 18, 2018. All other stipulations enumerated in the April 17, 2017 granting shall remain as stated.

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

Craig Pina

OPPOSED: (0)

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
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ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Tuesday, December 11, 2018 at 7:00 p.m.

IN RE: 18-102 Petition of **GEOFFREY ANATOLE**, 15 Torrey Street, Suite 3, Brockton, MA, for a Special Permit and Variance, from Art. IV, Sec. 27-30, 3b, and Art. III, Sec. 27-9, to construct forty four (44) apartment units in a C-3 Zone, located at **47 WEST ELM STREET**.

PETITIONER'S STATEMENT: Attorney John McCluskey along with the petitioner, Geoffrey Anatole presented to the board Exhibit A, Site and Floor Plans. Mr. Anatole is before the board seeking permission to construct a five (5) story luxury apartment building with parking on the first floor. Forty four (44) one (1) and two (2) bedroom apartments. These units will also be rentals and not owner occupied. The project will have forty five (45) parking spaces to include first floor parking and adjacent designated spaces. Mayor Bill Carpenter, Ward 5 City Councilor Anne Beauregard, Director of Planning and Economic Development Rob May, Metro South Chris Cooney are all in favor. Abutter Chip Yannone and Brian Droukas from Droukas Realty are also in favor.

OPPOSITION: None

DECISION: Unanimously granted with the stipulation that the units are to remain market rate only.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the proposed use of the site for the development of forty-four (44) luxury apartment units of market rate housing represent the highest and best use of the currently vacant lot. Owing to the circumstances relating to the location of the site and surrounding uses, size and shape of the lot and affecting such land on structures but not generally affecting the zoning district in which it is located the desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance. The proposed redevelopment of the area supports the intended use of this site. All representations in petitioners statement shall be incorporated by reference as stipulation recorded herewith and in reference with plans submitted. Testimony was received at the hearing in favor of granting from a direct abutter, appointed and elected City Officials including Mayor Carpenter, Brockton Redevelopment Authority, Mass Development and the Metro South Chamber of Commerce.

VOTE:

Motion to Grant by:
Seconded by:

Michael Williams
Craig Pina

IN FAVOR: (5)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Thompson

Craig Pina

OPPOSED: (0)

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
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ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Tuesday, December 11, 2018 at 7:00 p.m.

IN RE:

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS:

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: ()

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Thompson

Craig Pina

OPPOSED: ()

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Tuesday, January 9, 2018 at 7:00 p.m.

IN RE:

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS:

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: ()

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Thompson

Gary Keith

OPPOSED: ()

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**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 Tuesday, _____, 2016 at 7:00 p.m.**

IN RE:

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS:

VOTE:

Motion to Grant by:
Seconded by:

IN FAVOR: ()

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: ()

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**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 Tuesday, _____, 2016 at 7:00 p.m.**

IN RE:

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS:

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: ()

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: ()

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**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 Tuesday, _____, 2016 at 7:00 p.m.**

IN RE:

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS:

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: ()

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: ()

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**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 Tuesday, _____, 2016 at 7:00 p.m.**

IN RE:

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS:

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: ()

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: ()

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**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 Tuesday, _____, 2016 at 7:00 p.m.**

IN RE:

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS:

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: ()

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: ()

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**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 Tuesday, _____, 2016 at 7:00 p.m.**

IN RE:

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS:

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: ()

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: ()

James M. Casieri, Clerk

Anthony Zeoli, City Clerk

**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 Tuesday, _____, 2016 at 7:00 p.m.**

IN RE:

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS:

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: ()

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: ()

James M. Casieri, Clerk

Anthony Zeoli, City Clerk