

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, February 26, 2019 at 7:00 p.m.

IN RE: 19-05 Petition of JAMES MORRISSEY & CHRISTIN HARRIMAN, 338 Maple Street, Bellingham, MA, to request a Variance from Sec. 27-10, to construct a two (2) family home in a C-2 Zone, located at 70 SPRING STREET.

PETITIONER'S STATEMENT: The petitioner James Morrissey along with his wife, Lynne Morrissey, presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. They are seeking permission to construct a two (2) family home at the above location. The home will be a New England Colonial style home. The existing fence will be replaced. The parking area will be moved away from the home as first shown on the plan which will add another parking space.

OPPOSITION: None

DECISION: Unanimously granted with the stipulation that the parking spaces will be away from the home not as shown on the plan submitted.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the vacant lot located at 70 Spring Street was the site of a previous dwelling that is located in a C-2 Zone. The immediate neighborhood is populated by single family and multi-family dwellings with no reasonable anticipation any further commercial use. The lot size is consistent with other lots in the surrounding neighborhood that have been developed with similar residential occupancies. The petitioner has demonstrated a hardship at the locus relating to size and shape of the lot especially affecting the land and that a literal enforcement of the provisions of the ordinance would involve substantial hardship, financial or otherwise. Granting would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood with the construction of a two (2) family dwelling at the locus. All representations in petitioners statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Jeffrey Thompson

IN FAVOR: (5)

Kenneth Galligan, Chairman
Tina Cardoso
Stephen Bernard
Jeffrey Thompson
Craig Pina

Kenneth Galligan
Tina Cardoso
Stephen Bernard
Jeffrey Thompson
Craig Pina

OPPOSED: (0)

James M. Casieri
James M. Casieri, Clerk

Anthony J. Zeoli

Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE MAR 28 2019 PURSUANT
TO M.G.L.C. 40A SECTION 17.

RECEIVED
MAR 15 11 3:57
CITY CLERK'S OFFICE
CITY OF BROCKTON, MA

RECEIVED AND FILED: April 10, 2019
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

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, February 26, 2019 at 7:00 p.m.

IN RE: 19-06 Petition of **DAVID TEXEIRA, MANAGER**, 31 North Manchester Street, Brockton, MA, to request a Variance and Special Permit from Section 27-29,27-49,27-49, and 27-54, to be allowed to renovate and operate a restaurant without off street parking in a C-2 Zone, located at **1151 MAIN STREET**.

PETITIONER'S STATEMENT: Attorney James Burke, David Teixeira and Bruce Malcolm from Land Surveyor presented to the board Exhibit A, Memo in Support, Exhibit B, Site Plan, and Exhibit C, Floor Plans . Mr. Teixeira is seeking permission to open a restaurant at the above location. On-street parking will be needed since the building does not have its own parking lot. The maximum amount of seats will be thirty (38) and the hours of operation were eleven (11) a.m. until eleven (11) p.m., seven (7) days per week. A city parking lot on South Street will be used for parking. Lynne Smith from the Keith Neighborhood Association is in favor, Ward 4 Councilor Susan Nicastro is in favor as is Ward 3 Councilor Dennis Eaniri.

OPPOSITION: None.

DECISION: Unanimously granted with the stipulations 1. Maximum seating allowed will be 38seats. 2. Hours of operation will be 11 a.m. until 11 p.m. , seven (7) days per week.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found the site to be the location of a previous restaurant that co existed with adjacent commercial enterprises that all were challenged by on-site parking for the occupancies. Owing to the circumstances relating to the location, existing structure and especially affecting such structures but not affecting generally the zoning district in which it is located a literal enforcement of the provisions of the ordinance would involve substantial hardships, financial or otherwise, to the petitioner and that the requested desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent on purpose of such ordinance. The use of the site as a restaurant with not more than thirty eight (38) seats and operating hours as requested will not negatively impact the orderly development of the neighborhood. The locus is in a section of the city that was developed without off-street parking onsite but has access to City of Brockton off street parking for business surrounding the locus. The use was found to be in harmony with the development of the zone, will not negatively impact the neighborhood and received support from the neighborhood and several elected officials.

NOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Jeffrey Thompson

IN FAVOR: (5)

Kenneth Galligan, Chairman

Tina Cardoso

Stephen Bernard

Jeffrey Thompson

Craig Pina

OPPOSED: (0)

Anthony Zeoli, City Clerk

James M. Casieri, Clerk

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE MAR 20 2019 PURSUANT
TO M.G.L.C. 40A SECTION 17.

RECEIVED AND FILED: April 10, 2019
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. 17

RECORDED
MAR 20 2019

RECORDED

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, February 26, 2019 at 7:00 p.m.

IN RE: 19-07 Petition of MARIA D. DASILVA, 26 Leyden Street, Brockton, MA, for a Variance from Art. III, Sec. 27-9, to convert an existing two (2) story garage into a single family home in an R-1-C Zone, located at 26 LEYDEN STREET.

PETITIONER'S STATEMENT: Attorney Christopher Veale along with the petitioner, Maria DaSilva, presented to the board Exhibit A, Memorandum in Support and Exhibit B, Site and Floor Plans. Ms. DaSilva is before the board seeking permission to renovate her existing garage into a single family home. The main structure at the above location is a two (2) family home. This home is in a residential one family (R-1-C) zone and if approved, the 9,500 sq.ft. lot will be a three(3) family home. Abutting neighbor, Jose Duarte, is in favor stating they are good neighbors.

OPPOSITION: Ward 4 Councilor Susan NiCastro is in opposition of having a second building as living space.

DECISION: Denied.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the petitioner was requesting the ability to create an additional residential structure within a former out building or garage type structure on a lot that already contains a two (2) family dwelling in violation of Chapter 27, Section 27-19, in an R-1-C Zone. The site is located in a densely populated and built out neighborhood with no similar build-out residential occupancies presented. The proposed off-street parking sceme described on the site plan appeared unreasonable; ineffective and was found unacceptable to the board. The petitioner failed to demonstrate a hardship at the site. Granting would derogate from the intent of the zoning by-laws and will negatively impact the orderly development of the neighborhood. Family members and a direct neighbor appeared in favor while the Ward Councilor presented testimony in opposition to granting the Variance.

VOTE:

Motion to Grant by:
Seconded by:

Jeffrey Thompson
Craig Pina

IN FAVOR: (1)

Tina Cardoso

Tina Cardoso (KB)

OPPOSED: (4)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Thompson

Craig Pina

Kenneth Galligan

Stephen Bernard

Jeffrey Thompson

Craig Pina

James M. Casieri

James M. Casieri, Clerk

Anthony J. Zeoli

Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE 2019 2 26 PURSUANT
TO M.G.L.C. 40A SECTION 17.

2019 2 26 3:57

RECEIVED

RECEIVED AND FILED: April 10, 2019
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

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, February 26, 2019 at 7:00 p.m.

IN RE: 19-08 Petition of HERBERT JOSEPH, 263 Court Street, Brockton, MA, for a Variance and Special Permit from Art. IV, Sec. 27-27, to re-establish a commercial retail/food take out business that has been abandoned and has no off street parking in an R-3 Zone, located at 3 BRYANT STREET/263 COURT STREET.

PETITIONER'S STATEMENT: Attorney John F. Creedon along with Herbert Joseph presented to the board Exhibit A, Site Plan. Mr. Joseph is before the board seeking permission to have a take-out restaurant at the above listed location. The main structure is a two (2) family home with the adjoining building an abandoned store with take-out food for many years. The restaurant will service a variety of food for customers to choose from. No seating will be available. Hours of operation were requested Monday through Saturday from 8:00 a.m. until 11 p.m. and on Sunday 11 a.m. until 6:00 p.m. Greenspace will be along Court Street. Ward 5 Councilor Anne Beauregard is in favor of this petition.

OPPOSITION: None

DECISION: Unanimously granted with the stipulations 1. Take-out food only with no customer seating allowed 2. No store products to sell and 3. Hours for operation requested will be Monday through Saturday from 8:00 a.m. until 11 p.m. and on Sunday 11 a.m. until 6:00 p.m.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found the site to be the location of a previous commercial food handling business that coexisted with adjacent residential occupancies and that utilized on street parking. Owing to the circumstances relating to the location existing structures and especially affecting such structures 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, financial, or otherwise to the petitioner and that the requested 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 use of the site as a take-out restaurant with no interior seating and operating hours requested will not negatively impact the orderly development of the neighborhood. The locus is in a section of the city that was developed without off-street parking on site. The use was found to be in harmony with the previous commercial use, to be in harmony with the development of the zone and will not negatively impact the neighborhood.

NOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Jeffrey Thompson

IN FAVOR: (5)

- Kenneth Galligan, Chairman
- Tina Cardoso
- Stephen Bernard
- Jeffrey Thompson
- Craig Pina

OPPOSED: (0)

Bennett Galligan
Tina Cardoso
Stephen Bernard
Jeffrey Thompson
Craig Pina
 James M. Casieri, Clerk

Anthony Zeoli
Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE WITHIN 30 DAYS FROM THIS DATE WED 26 FEB 2019 PURSUANT TO M.G.L.C. 40A SECTION 17.

RECEIVED AND FILED: April 10, 2019 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. 17

RECEIVED
FEB 26 2019 11:57

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, February 26, 2019 at 7:00 p.m.

IN RE: 19-09 Petition of JEAN B. MILIEN, 350 Spring Street, Brockton, MA, for permission to renovate the building to downsize from a five (5) to a three (3) family home in a C-2 Zone, located at 703 NORTH MAIN STREET.

PETITIONER'S STATEMENT: Attorney Mernaysa Rivera-Bujosa along with the petitioner, Jean B. Milien presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plan. Mr. Milien is seeking permission to renovate the existing five (5) family home into a three (3) family home. Each unit will have four (4) bedrooms and two (2) bathrooms. Eight (8) total parking spaces are shown leaving two (2) parking spaces for guests. The existing garage will not be used for living space. A chain link fence will be erected along the property. Greenspace will be planted along North Main Street and Broad Street for a residential scheme

OPPOSITION: None

DECISION: Unanimously granted with stipulations 1. Greenspace shall be planted along the North Main Street and Broad Street property line 2.Storage building not to be use as living space and 3. No commercial use allowed at this location.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the petitioner demonstrated a hardship at the locus whereby the circa 1925 three story, three (3) family dwelling is located in a C-2 Zone, has been vacant for a considerable period of time and is surrounded by commercial and multi-family uses. The petitioner proposes to return the occupancy use to a three (3) family, four (4) bedroom each residential use. Granting will not derogate from the intent of the zoning by-laws, will not negatively impact the orderly development of the neighborhood, will remove a vacant and abandoned residential building from the landscape of the area and enhance the surrounding neighborhood. The following stipulations are incorporated as a basis for granting of the Variance allowing the site to be re-established as a three (3) family residential site: the greenspace shall encompass the area along North Main Street and along Broad Street as depicted on the site plan eliminating parking areas, parking to be established as per plan dated 12/12/2018 by Spink Design and current outbuilding shall not be developed into commercial or residential use. The above listed stipulations are incorporated by reference herein. All representations in petitioners statement shall be incorporated by reference as stipulations recorded herewith.

NOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Stephen Bernard

IN FAVOR: (5)

- Kenneth Galligan, Chairman
- Tina Cardoso
- Stephen Bernard
- Jeffrey Thompson
- Craig Pina

OPPOSED: (0)

Kenneth Galligan
Tina Cardoso (C)
Stephen Bernard
Jeffrey Thompson
Craig Pina

 James M. Casieri, Clerk

Anthony J. Zeoli
Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE 24 Feb 2019 PURSUANT
TO M.G.L.C. 40A SECTION 17.

RECEIVED AND FILED: April 10, 2019
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. 17

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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: 19-10 Petition of SCOTT BURGESS, 1325 Belmont Street, Brockton, MA, for Variance from Art. III, Sec. 27-9 & 27-13A, to create a subdivision with fourteen (14) single family homes seeking relief for lot frontage, size and width in an R-1-C Zone, located at 533 & 553 NORTH CARY STREET.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION: The petition has been moved to the March 12, 2019 meeting.

BASIS: The petitioner requested by letter the hearing prior to the start of the hearing as a matter of right be postponed to the March meeting of the Zoning Board of Appeals.

VOTE:

Motion to Grant by:
Seconded by:

IN FAVOR: 0

Kenneth Galligan, Chairman

Tina Cardoso

Stephen Bernard

Jeffrey Thompson

Craig Pina

OPPOSED: 0

Kenneth Galligan

Tina Cardoso (15)

Stephen Bernard

Jeffrey Thompson

Craig Pina

James M. Casieri

James M. Casieri, Clerk

Anthony J. Zeoli

Anthony Zeoli, City Clerk

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

RECEIVED AND FILED: April 10, 2019
J. ANTHONY J. ZEOLI, CITY CLERK OF BROCKTON, MASSACHUSETTS
APPEAL HAS BEEN FILED. CHAPTER 40A SEC. 11