

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, October 8, 2019 at 6:00 p.m.

IN RE: 19-64 Petition of SCOTT BURGESS c/o McCluskey, 1325 Belmont Street, Brockton, MA, for a Variance from Art. III, Sec. 27-9 and 27-13A, to combine two (2) lots to create a 12 lot subdivision for single family homes which lack frontage, size and width in an R-1-C Zone, located at 533 & 553 NORTH CARY STREET.

PETITIONER'S STATEMENT: Attorney John McCluskey, Architect Scott Faria and owner Scott Burgess presented to the board Exhibit A, Memorandum in Support and Exhibit B, Site and Floor Plans. Attorney John McCluskey is seeking a Variance to combine two (2) lots to create a 12 lot subdivision which was originally before the board for a 14 lot subdivision.

OPPOSITION: Neighbors from 78 Amark Rd and 64 Dagmar Dr were opposed due unfavorable water issues on their property during unfavorable weather.

DECISION: Granted unanimously.

BASIS: After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found the site of the proposed twelve (12) lot subdivision to be developed in an R-1-C zone to be unique in size and shape and much larger than all abutting properties in the area affecting subject land but not affecting generally the zoning district in which it is located. A literal enforcement of the provisions of the ordinance, Section 27-9, would involve substantial hardship, financial or otherwise to the petitioner, and that the requested relief for lot frontage, size and width to the unique parcel, plots 80 and 81 may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance. Development of this site requires significant drainage improvements, roadway and sidewalk construction including utilities, underground electrical services, overall topographical site grading to control and ameliorate any current site surface drainage issues as shown on submitted plans.

The Board determined that granting of the requested Variance would not derogate from the intent of the zoning by-laws with each of the twelve (12) lots having over 125 feet of frontage, (Section 27-13A) improved drainage and surface water control, a dead end cul-de-sac roadway with no through traffic to North Cary Street and all underground utilities will not negatively impact the orderly development of the neighborhood but rather will enhance the general area with twelve (12) new quality homes.

The development of the site shall not exacerbate any current surface water experiences. There shall be no vehicle access from Lots 6, 7 or 9 to North Cary Street. The above listed stipulations are incorporated by references herein. All representations in petitioner's statement and plans submitted dated 7/1/19, site plan shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: 5

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Tina Cardoso

Jeffrey Thompson

Craig Pina

OPPOSED:

Anthony J. Zeoli

Anthony Zeoli, City Clerk

Craig Pina

Jeffrey Thompson

Kenneth Galligan

Michael Williams

Tina Cardoso

Jeffrey Thompson

Kristine D. Brophy

Kristine D. Brophy

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

2019 OCT 24 AM 10:44

RECEIVED AND FILED: November 14, 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

COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Massachusetts, on Tuesday, October 8, 2019 at 6:00 p.m.

IN RE: 19-65 Petition of PAUL E. CLANCY, ESQ., 71 Legion Parkway, Ste 26, Brockton, MA, for a Variance from Sec. 27-28, to construct a two (2) family dwelling on a vacant parcel in a C-2 Zone, located at 755 NORTH MONTELLO STREET.

PETITIONER'S STATEMENT: Attorney Paul E Clancy, Esq, Architect Scott Faria and owner William Bragel presented to the board Exhibit A, Memorandum in Support and Exhibit B, Site and Floor Plans. Attorney Paul E Clancy, Esq is seeking a Variance to construct a two (2) family dwelling on a vacant parcel in a C-2 Zone which it meets the setbacks. This property is surrounded with residential parcels.

OPPOSITION: None

DECISION: Granted unanimously.

BASIS: After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found a hardship exists at the site where the location is located in a C-2 zone that consists of nearly all single or multi-family dwellings. The current vacant, trash strewn lot has no conceivable future use as a commercial site due to its unique size and shape. Commercial development of the small site would have a negative impact on the surrounding properties. The proposed two (2) family dwelling is in conformance with multi-family R-2 zone requirements. Granting of the Variance to allow for a two (2) family dwelling will not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. All representations in petitioner's statement and plans submitted, dated 07/09/19 shall be incorporated by reference as stipulations recorded herewith. There was no opposition presented at the hearing.

VOTE:

Motion to Grant by:

Seconded by:

Jeffrey Thompson

Craig Pina

IN FAVOR: 5

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Tina Cardoso

Jeffrey Thompson

Craig Pina

OPPOSED: 0

Kenneth Galligan

Michael Williams

Tina Cardoso

KD Brophy
Kristine D. Brophy

Anthony J. Zeoli

Anthony Zeoli, City Clerk

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COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS

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IN RE: 19-66 Petition of GK BLUE HILLS BOSTON, INC., 3958 Park Avenue, Brooklyn, NY, for a Special Permit from Art. IV, Sec. 27-28, to open and operate a Caribbean restaurant in a C-2- Zone, located at 708 BELMONT STREET.

PETITIONER'S STATEMENT: Attorney John Cavanaugh of Simms and Simms, Architect Bruce Malcolm and owner Leroy Hawthorne presented to the board Exhibit A, Site plan and photos and exhibit B, Floor Plans from prior restaurant, Asia One. Attorney John Cavanaugh is seeking permission to open and operate a Caribbean restaurant.

OPPOSITION: None

DECISION: Granted unanimously.

BASIS: After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found the proposed use of the current site that was formerly a restaurant will be in harmony with the orderly development of the C-2 zone and will not negatively impact the neighborhood. There is adequate off street parking and ingress and egress to parking will not interfere with traffic on the abutting streets. The petitioner stated that there is no request for beer, wine or alcoholic use at the site. The petitioner also was instructed and agreed to remove the unpermitted roof sign currently at the site. The request for the Special Permit for a Caribbean style restaurant to be developed as described on the submitted plans dated 9/9/19 is granted.

VOTE:

Motion to Grant by:

Craig Pina

Seconded by:

Jeffrey Thompson

IN FAVOR: 5

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Tina Cardoso

Jeffrey Thompson

Craig Pina

OPPOSED: 0

Kenneth Galligan
Michael Williams
Tina Cardoso
Jeffrey Thompson
Craig Pina

Kristine D. Brophy
Kristine D. Brophy

Anthony Zeoli

Anthony Zeoli, City 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 Tuesday, October 8, 2019 at 6:00 p.m.

IN RE: 19-67 Petition of **FRANCISCO B. LECCA**, 330 North Main Street, Brockton, MA, for relief from Sec 27-29f, to expand the restaurant up to six (6) tables in a C-2 Zone, located at **326 NORTH MAIN STREET**.

PETITIONER'S STATEMENT: Owner Francisco B Lecca presented to the board Exhibit A, existing and proposed floor plans and Exhibit B, Site plan. Francisco B Lecca is seeking a permission to increase his seating.

OPPOSITION: None

DECISION: Granted unanimously.

BASIS: After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found that the petitioners request to expand the current restaurant to include the adjacent vacant retail space to allow for a total of eight (8) tables with three (3) tables in the existing restaurant and five (5) tables in the new expanded area will be in harmony with the orderly development of the zone and not negatively impact the neighborhood. There is adequate ingress and egress to off street parking and will not interfere with traffic on abutting streets.

VOTE:

Motion to Grant by:

Chief Michael Williams

Seconded by:

Craig Pina

IN FAVOR: 5

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Tina Cardoso

Jeffrey Thompson

Craig Pina

OPPOSED: 0

Kenneth Galligan
Michael Williams
Tina Cardoso
Jeffrey Thompson
Craig Pina

KD Brophy
Kristine D. Brophy

Anthony J. Zeoli
Anthony Zeoli, City 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 Tuesday, October 8, 2019 at 6:00 p.m.

IN RE: 19-68 Petition of KENSON JEAN-BAPTISTE, 257 Prospect Street, Brockton, MA, to renovate the garage/carriage house for parental living space on the 1st floor and in home office on the second floor in an R-1-C Zone, located at 257 PROSPECT STREET.

PETITIONER'S STATEMENT: Homeowner, Kenson Jean-Baptiste, and spouse, presented to the board, Exhibit A, Photos and Exhibit B, Floor Plans. They are seeking a special permit to have a parental living space in the carriage house/garage in an R-1-C zone.

OPPOSITION: None

DECISION: Denied unanimously.

BASIS: After reviewing the application, plans, and 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/office occupancy within a former garage type structure in violation of Chapter 27, Section 27-19 in an R-1-C zone on a lot that currently contains a single family dwelling. The site is located in a densely populated and built-out neighborhood. The petitioner failed to demonstrate a hardship at the site and failed to provide sufficient documentation, i.e. site plan, interior dimensions, to make any informed decisions. Granting would derogate from the intent of the zoning by-laws and will negatively impact the orderly development of the neighborhood. The request for a Variance is denied.

VOTE:

Motion to Grant by:

Jeffrey Thompson

Seconded by:

Craig Pina

OPPOSED: 5

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Pina Cardoso

Jeffrey Thompson

Craig Pina

IN FAVOR: 0

Anthony J. Zeoli

Anthony Zeoli, City Clerk

Kenneth Galligan
Michael Williams
Pina Cardoso
Jeffrey Thompson
Craig Pina

KD Brophy
Kristine D. Brophy

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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 Tuesday, October 8, 2019 at 6:00 p.m.

IN RE: 19-69 Petition of **FRANCISCO ANDRADE**, 15 Hayward Avenue, for a Variance from Sec. 27-48, to convert a single (1) family home into a two (2) family home in a C-2 Zone, located at **15 HAYWARD AVENUE**.

PETITIONER'S STATEMENT: Owner, Francisco Andrade presented to the board, Exhibit A, Floor Plans and Exhibit B, Plot Plan. He is seeking a Variance to convert a single (1) family home into a two (2) family home located in an C-2 Zone.

OPPOSITION: None

DECISION: Granted

BASIS: After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found that the locus has been the site of a two (2) family dwelling located in a C-2 zone for many years and that a hardship exists whereby the locus is in a section of mixed C-2 and R-1-C zoning that was developed primarily as a Residential neighborhood predating current zoning. The lot is of unique size and shape that allows for adjacent off street parking. Prior owners of the site were granted residential two (2) family zoning relief and at a later date was granted single family Variance. Granting a Variance to re-establish a two (2) family dwelling would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the existing neighborhood.

VOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Jeffrey Thompson

IN FAVOR: 4

Michael Williams, Fire Chief

Tina Cardoso

Jeffrey Thompson

Craig Pina

OPPOSED: 1

Kenneth Galligan, Chairman

Anthony J. Zeoli

Anthony Zeoli, City Clerk

Michael Williams

Tina Cardoso

Jeffrey Thompson

Craig Pina

Kenneth Galligan

KD Brophy
Kristine D. Brophy

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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 Tuesday, October 8, 2019 at 6:00 p.m.

IN RE: 19-70 Petition of **FRANCISCO ANDRADE**, 15 Hayward Avenue, Brockton, MA, for a Variance from
Sec. 27-48, to convert a single (1) family home into a two (2) family home located in an R-1-C Zone,
located at **20 JAMES STREET**.

PETITIONER'S STATEMENT: Owner, Francisco Andrade, presented to the board, Exhibit A, floor
plans and Exhibit B, Site Plan. He is seeking a Variance to convert a single (1) family home into a two
(2) family home located in a C-2 Zone.

OPPOSITION: None

DECISION: Granted unanimously.

BASIS: After reviewing the application, plans, and information submitted and giving due
consideration to testimony given at the public hearing, the board found that the proposed two (2)
family dwelling is located in a neighborhood developed with numerous surrounding two (2) family
dwellings that appear to pre-date current zoning and is one of few single family dwellings. The current
owner and petitioner purchased the vacant dwelling that had been previously reconfigured into a two (2)
family dwelling. A hardship was demonstrated whereas the dwelling exists as a two (2) family
constructed in an R-1-C zone. To allow for the hazardous condition of the structure and an eyesore to the
neighborhood to be upgraded to current building codes and enhance the surrounding neighborhood would
not derogate from the zoning by-laws and will not negatively impact the orderly development of the
existing neighborhood. No oppositions to granting the Variance were presented at the hearing.

VOTE:

Motion to Grant by:

Tina Cardoso

Seconded by:

Jeffrey Thompson

IN FAVOR: 4

Michael Williams, Fire Chief

Tina Cardoso

Jeffrey Thompson

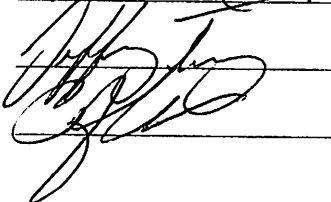
Craig Pina

OPPOSED: 1

Kenneth Galligan, Chairman



Tina Cardoso



KD Brophy

Kristine D. Brophy



Anthony Zeoli, City 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 Tuesday, October 8, 2019 at 6:00 p.m.

IN RE: 19-71 Petition of **NATURE'S EMBRACE, INC.**, 221 Oak Street, Brockton, MA, for a Special Permit from Sec. 27-24.4 3(b), to allow for a retail marijuana dispensary in a C-2 Zone, located at **747 CENTRE STREET**.

PETITIONER'S STATEMENT: Attorney Patrick Sullivan, Engineer Eric Diaz and Owner Joe Feeney, presented to the board, Exhibit A, Floor Plans and Exhibit B, Site Plan. Attorney Patrick Sullivan is seeking a Special Permit for a Retail Marijuana Facility in a C-2 zone

OPPOSITION: Four (4) oppositions from neighboring properties regarding traffic volume.

DECISION: Granted unanimously.

BASIS: After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found that in conformance with Article III, Section 27-24.4, the proposed Adult Marijuana Retail Establishment to be properly located in a C-2 zone at 747 Centre Street, General Commercial zone, and that the use will be of such location, size and character that generally it will be in harmony with the appropriate and orderly development of adjacent properties nor inconsistent with any officially adopted Master Plan for the operation of Adult Use of Marijuana for the City of Brockton.

The granting of the Special Permit is expressly conditioned upon the petitioners full compliance with all mandates of Section 27-24.4, Adult Use of Marijuana including hours of operation to be no earlier than 8:00 am and not later than 8:00 pm with no deliveries to or from the Marijuana Establishment between the hours of 8:00 pm to 8:00 am.

In consideration of the unique circumstances regarding the "Parcel A" adjacent paved parking lot in the same ownership at the south property line, a six (6) foot fence shall be erected between the above referenced paved lot and the C-2 zoned Lot 1 of the Marijuana Retail facility. Additionally, the access driveway to the paved "Parcel A" lot located in the R-1-C zone shall be closed to prevent the above referenced paved lot from being used as parking for or any access to the Retail Marijuana Facility property located on Lot 1 as described in site plans submitted at the hearing and dated 8/19/19

VOTE:

Motion to Grant by:

Seconded by:

FAVOR: 4

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Tina Cardoso

Craig Pina

OPPOSED: 0

Craig Pina
Tina Cardoso

Kenneth Galligan
Michael Williams
Tina Cardoso
Craig Pina

KD Brophy
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Anthony Zeoli

Anthony Zeoli, City Clerk

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ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, October 8, 2019 at 6:00 p.m.

IN RE: 19-72 Petition of RICHARD BREWER (RITEWAY CONSTRUCTION), 691 North Street, Randolph, MA, for a Variance from Art. III, Sec. 27-9, 13,13A, to seek relief from zoning ordinances to divide existing lot in order to construct two (2) single family homes in an R-1-C Zone, located at 973 CRESCENT STREET.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS: The petitioner requested by letter prior to the start of the hearing to withdraw from the scheduled hearing as a matter of right.

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: 0

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Tina Cardoso

~~Jeffrey Thompson~~

Craig Pina

OPPOSED: 0

Anthony Zeoli, City Clerk

Kenneth Galligan
Michael Williams
Tina Cardoso
Jeffrey Thompson
Craig Pina

KD Brophy
Kristine D. Brophy