

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, February 11, 2020 at 6:00 p.m.

IN RE: 20-11 Petition of JAMES BERTARELLI, 65 Magnolia Avenue, Brockton, MA, for a (Variance) from Sec. 27-9, 27-13, & 27-13A, to construct a single family home in an R-1-B Zone, located at PLOT 8-24 STONEHILL STREET.

PETITIONER'S STATEMENT: David Cruise, Contractor and Eric Dias, Engineer submitted to the Board memos in support, Exhibit A Site Plan and Exhibit B Floor plans and elevations. They are seeking for a Variance to construct a single family home in an R-1-B Zone.

OPPOSITION: Eleven (11) neighbors with abutting neighbor, Mr. Kelly, as spokesperson.

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 granting the requested relief by Variance to Sections 27-9, 27-13 and 27-13 (A) would not derogate from the intent of the Zoning by-laws and will not negatively impact the orderly development of the neighborhood. Plot 8-24, individually owned, was part of a larger pre-existing subdivision created in 1966, prior to current Zoning regulations. A literal enforcement of the provisions of the current ordinance will involve unique hardships to the petitioner financially or otherwise due to the size, shape and unique topography of the lot that is in conformance with other lots in the subdivision. The house to be constructed on Plot 8-24 Stonehill St shall contain a maximum of four (4) bedrooms and shall be constructed in conformance with the plan submitted including green space and driveway as shown. The petitioner agreed and committed as a condition of the granting of the Variance to construct Stonehill Street in front of Plot 8-24 to the City of Brockton and Planning Board road construction standards. The above stipulations shall be incorporated by reference as stipulations recorded herewith. Adjacent neighborhood expressed concern with an increase in traffic on Stonehill St. and on Tiffany Dr. if the two streets are constructed as one (1) through thoroughfare. The intersection of Stonehill St. and Tiffany Dr. is fully plotted and designed to be constructed as approved in the original subdivision approval. The domestic sewer line from Plot 8-25 Stonehill St. shall be constructed through a fifteen (15) Sewer Easement through the locus.

VOTE:

Motion to Grant by:

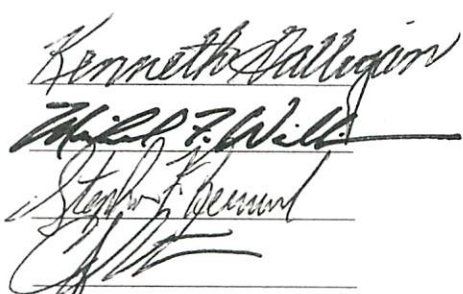
Craig Pina

Seconded by:

Stephen Bernard

IN FAVOR: 4

Kenneth Galligan, Chairman



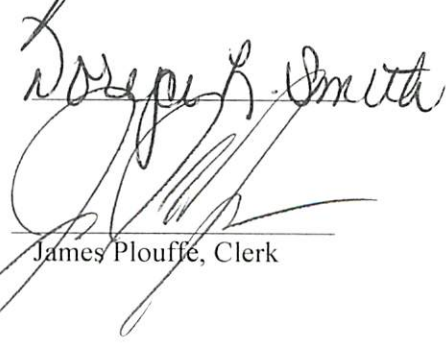
Michael Williams, Fire Chief

Stephen Bernard


Craig Pina

OPPOSED: 1

Doryce Smith



James Plouffe, Clerk


Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE FEB 11 2020 PURSUANT
TO M.G.L.C. 40A SECTION 17.

RECEIVED AND FILED: March 23, 2020
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 Council Chambers, City Hall, Massachusetts, on Tuesday, February 11, 2020 at 6:00 p.m.

IN RE: 20-12 Petition of JAMES BERTARELLI, 65 Magnolia Avenue, Brockton, MA, for a (Variance) from Sec. 27-9, 27-13, & 27-13A, to construct a single family home in an R-1-B Zone, located at PLOT 9 TIFFANY DRIVE.

PETITIONER'S STATEMENT: David Cruise, Contractor and Eric Dias, Engineer submitted to the Board memos in support, Exhibit A Site Plan and Exhibit B Floor plans and elevations. They are seeking for a Variance to construct a single family home in an R-1-B Zone.

OPPOSITION: Eleven (11) neighbors with abutting neighbor, Mr. Kelly, as spokesperson.

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 granting the requested relief by Variance to Sections 27-9, 27-13 and 27-13 (A) would not derogate from the intent of the Zoning by-laws and will not negatively impact the orderly development of the neighborhood. Plot 9 Tiffany Dr, individually owned, was part of a larger pre-existing subdivision created in 1966, prior to current Zoning regulations. A literal enforcement of the provisions of the current ordinance will involve unique hardships to the petitioner financially or otherwise due to the size, shape and unique topography of the lot that is in conformance with other lots in the subdivision. The house to be constructed on Plot 9 Tiffany Dr shall contain a maximum of four (4) bedrooms and shall be constructed in conformance with the plan submitted including green space and driveway as shown. The petitioner agreed and committed as a condition of the granting of the Variance to construct Tiffany Dr in front of Plot 9 Tiffany Dr to the City of Brockton and Planning Board road construction standards. The above stipulations shall be incorporated by reference as stipulations recorded herewith. Adjacent neighborhood expressed concern with an increase in traffic on Stonehill St. and on Tiffany Dr. if the two streets are constructed as one (1) through thoroughfare. The intersection of Stonehill St. and Tiffany Dr. is fully plotted and designed to be constructed as approved in the original subdivision approval. The domestic sewer line from Plot 8-25 Stonehill St. shall be constructed through a fifteen (15) Sewer Easement through the locus.

VOTE:

Motion to Grant by:

Craig Pina

Seconded by:

Stephen Bernard

IN FAVOR: 4

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Craig Pina

OPPOSED: 1

Doryce Smith

James Plouffe, Clerk

Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE WITHIN 20 DAYS FROM THIS DATE FEB 27 2020 PURSUANT TO M.G.L.C. 40A SECTION 17.

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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, February 11, 2020 at 6:00 p.m.

IN RE: 20-14 Petition of **XPRESS ENTERPRISES, INC.**, 15 Hayward Avenue, Brockton, MA, for a (Variance) from Sec. 27-13A, to construct a single family home in an R-1-C Zone, located at **63 LAFOYE STREET**.

PETITIONER'S STATEMENT: Attorney John McCluskey, Architect Bruce Malcolm and owner/contractor Mr. Andrade brought before the Board Site plan and Floor plan. They are seeking a Variance to construct a single family home in an R-1-C Zone.

OPPOSITION: Letter from neighbor and the Planning Department

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 the petitioner failed to demonstrate a hardship at the locus. The petitioner purchased the property as a single lot containing a single family dwelling and is before the Board to allow for a subdivision of the lot into two (2) undersize lots in order to construct a second single family dwelling. Granting would derogate from the intent of the zoning by-laws and will negatively impact the orderly development of the neighborhood. Ref. Chapter 27. Sec. 27-14, Sec. 27-15.

VOTE:

Motion to Grant by:
Seconded by:

Michael Williams
Craig Pina

IN FAVOR: 0

OPPOSED: 5

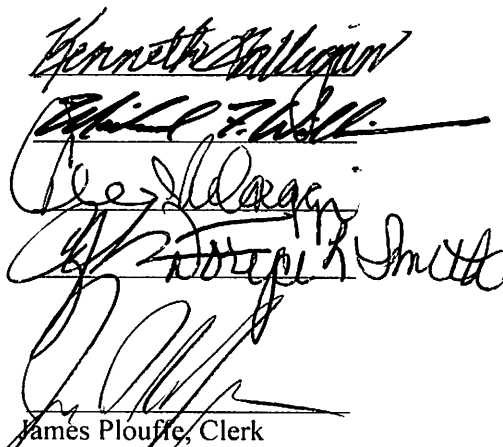
Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Robert Pelaggi

Doryce Smith

Craig Pina



James Plouffe, Clerk



Anthony Zeoli, City Clerk

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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 Tuesday, February 11, 2020 at 6:00 p.m.

IN RE: 20-13 Petition of **GREGORY HILLIARD**, 30 Dagmar Drive, Brockton, MA, for a (Variance) to convert a two (2) family home into a three (3) family home in an R-1-B Zone, located at **403/405 TORREY STREET**.

PETITIONER'S STATEMENT: Gregory Hilliard submitted to the board memo in support, Exhibit A exterior photo of home. Exhibit B Site plans and Floor plans. He is seeking a Variance to convert a two (2) family into a three (3) family in an R-1-B Zone.

OPPOSITION: Two (2) abutting neighbors

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 failed to demonstrate a hardship at the locus. The petitioner recently purchased the property with the knowledge that the dwelling was deemed a two (2) family dwelling following a prior zoning Board decision. Surrounding neighbors have expressed at prior hearings their extreme displeasure with the site when it was previously occupied as a multi occupancy dwelling. Granting of a Variance to allow for more than a two (2) family dwelling would derogate from the intent of the zoning in the surrounding single family, R-1-B zoned, neighborhood and would negatively impact the orderly development of the neighborhood.

The existing two (2) family dwelling shall remain a maximum two (2) family dwelling with off-street parking located at the rear of the dwelling with 10' X 18' paved parking spaces with sufficient turn around space to preclude the need to back out onto Torrey St. The Board took no action and is not authorized to negate any code to install a sprinkler system in the dwelling.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Craig Pina

IN FAVOR: 0

OPPOSED: 5

- Kenneth Galligan, Chairman
- Robert Pelaggi
- Stephen Bernard
- Doryce Smith
- Craig Pina

Kenneth Galligan
Robert Pelaggi
Stephen Bernard
Doryce Smith
[Signature]
 James Plouffe, Clerk

Anthony 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: 20-14 Petition of **XPRESS ENTERPRISES, INC.**, 15 Hayward Avenue, Brockton, MA, for a (Variance) from Sec. 27-13A, to construct a single family home in an R-1-C Zone, located at **63 LAFOYE STREET**.

PETITIONER'S STATEMENT: Attorney John McCluskey, Architect Bruce Malcolm and owner/contractor Mr. Andrade brought before the Board Site plan and Floor plan. They are seeking a Variance to construct a single family home in an R-1-C Zone.

OPPOSITION: Letter from neighbor and the Planning Department

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 the petitioner failed to demonstrate a hardship at the locus. The petitioner purchased the property as a single lot containing a single family dwelling and is before the Board to allow for a subdivision of the lot into two (2) undersize lots in order to construct a second single family dwelling. Granting would derogate from the intent of the zoning by-laws and will negatively impact the orderly development of the neighborhood. Ref. Chapter 27. Sec. 27-14, Sec. 27-15.

VOTE:

Motion to Grant by:
Seconded by:

Michael Williams
Craig Pina

IN FAVOR: 0

OPPOSED: 5

- Kenneth Galligan, Chairman
- Michael Williams, Fire Chief
- Robert Pelaggi
- Doryce Smith
- Craig Pina

James Plouffe, Clerk

Anthony Zeoli, City Clerk

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IN RE: 20-15 Petition of GEORGELYNN & ELIJAH WILKERSON, 40 Ithica Road, Brockton, MA, for a (Variance) from Sec. 27-28, to open an adult daycare in an R-1-C Zone, located at 40 ITHICA ROAD.

PETITIONER'S STATEMENT: Elijah and Georgelynn Wilkerson, owners, submit before the Board memo in support, Exhibit A, map of area. Exhibit B Floor plan, photos of house, street and neighborhood. They are seeking a Variance to open an adult daycare in an R-1-C Zone.

OPPOSITION: Abutting neighbor speaks not in opposition but of concern.

DECISION: Denied

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 failed to provide a site plan and other documents to allow the Board to make any informed decision. No hardship dealing with the R-1-C zoned locus was found by the Board. Granting would derogate from the intent of the zoning by-laws and will negatively impact the orderly development of the single family residential neighborhood. An adjacent neighbor expressed concern of the proposed use of the property for its proposed use.

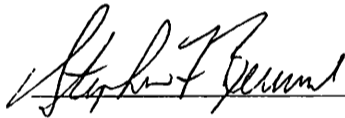
VOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Doryce Smith

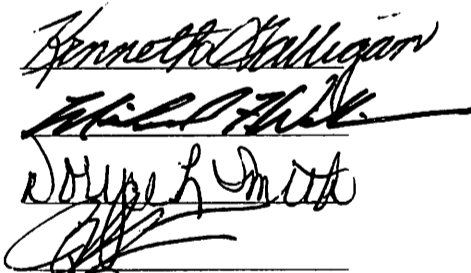
IN FAVOR: 1

Stephen Bernard



OPPOSED: 4

Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Doryce Smith
Craig Pina


James Plouffe, Clerk

Anthony Zeoli, City Clerk

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DATE FEB 11 2020 PURSUANT
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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, February 11, 2020 at 6:00 p.m.

IN RE: 20-16 Petition of **TINA CARDOSO**, 816 Pearl Street, Brockton, MA, for a (Variance) from Sec. 27-9, to construct an addition for an aging parent in an R-1-B Zone, located at **816 PEARL STREET**.

PETITIONER'S STATEMENT: Tina Cardoso, owner, submitted to the Board memo in support. Exhibit A Map of area and Floor Plan. Exhibit B Photos of house, street and neighborhood. She seeks a Variance to construct a single room addition to the house for an aging parent above a new attached garage in an R-1-B 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 a hardship was demonstrated regarding the location of the existing dwelling that cannot be altered. The side yard setback at the south property line will become more in conformance upon removal of the current garage. The Variance is specifically granted to allow for the construction of a new attached garage with a single bedroom/bathroom over the new garage. There shall be no kitchen facilities and when all of the construction is complete, the locus shall remain a single family dwelling. Granting 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 10/05/19, 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:

Craig Pina
Doryce Smith

IN FAVOR: 5

- Kenneth Galligan, Chairman
- Robert Pelaggi
- Stephen Bernard
- Doryce Smith
- Craig Pina

Kenneth Galligan
Robert Pelaggi
Stephen Bernard
Doryce Smith
Craig Pina

OPPOSED: ()

Elizabeth LaCombe
Elizabeth LaCombe, Clerk

Anthony Zeoli

Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE FEB 27 2020 PURSUANT
TO M.G.L.C. 40A SECTION 17.

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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, February 11, 2020 at 6:00 p.m.

IN RE: 20-17 Petition of KRISTI AMUNSON, 95 Royal Road, Brockton, MA, for a (Special Permit) and (Variance) from Sec. 27-25, to have an in home pet sitting business in an R-1-C Zone, located at 95 ROYAL ROAD.

PETITIONER'S STATEMENT: Kristi Amunson submitted to the Board Introduction from Petitioner, Exhibit A photos of dogs and Exhibit B Inspection Report from Animal Control. She is seeking to operate an in home pet sitting business in an R-1-C Zone.

OPPOSITION: One abutting neighbor spoke in opposition with a list of signatures from abutting neighbors.

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 the petitioner failed to demonstrate a hardship at the locus to allow for a home based pet sitting business or commercial kennel business Ref. Animals and Fowl, Article 1, Ref. Kennel, in an R-1-C Residential zone where upwards of twenty (20) dogs per day are boarded or cared for involving approximately one-hundred fifty (150) customers or clients. The Animal control Officer visited the site, found unacceptable concerns at the unlicensed site and issued a cease and desist order to the owner/operator including a District Court summons. An adjacent neighbor spoke in opposition and presented to the board a list of signatures in opposition to allowing the business in the residential neighborhood and the related traffic. No hardship was found by the Board. Granting would derogate from the intent of the zoning by-laws and will negatively impact the orderly development of the neighborhood.

VOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Stephen Bernard

IN FAVOR: 0

OPPOSED: 5

- Kenneth Galligan, Chairman
- Michael Williams, Fire Chief
- Stephen Bernard
- Doryce Smith
- Craig Pina

Kenneth Galligan
Michael Williams
Stephen Bernard
Doryce Smith
Craig Pina

 James Plouffe, Clerk

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, February 11, 2020 at 6:00 p.m.

IN RE: 20-18 Petition of JOAO MENDES, 56 West Chestnut Street, Brockton, MA, for a (Variance) from Art. IV, Sec. 27-32, to add/repair kitchen to the property to sell prepared foods to the public at the existing market in a C-5 Zone, located at 1041 NORTH MAIN STREET.

PETITIONER'S STATEMENT: Joao Mendes submitted to the Board memo in support. Exhibit A Floor Plans and Site Plan. Mr. Mendes is seeking a Variance to sell prepared foods to the public at the existing market located in a C-5 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 request to allow the installation of a small kitchen for preparing pre-packaged food products, such as wrapped sandwiches, etc. to be purchased at the locus and not for consumption at the site would not derogate from the intent of the zoning by-laws and 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 and will not negatively impact traffic on the abutting street. The current parking scheme as depicted on the submitted site plan shall be amended to prohibit parking on the Waldo St south sidewalk. All associated parking shall be parallel parking on Waldo St. Kitchen equipment associated with the food preparation operations shall be equipped with exhaust mechanisms that control and minimize cooking odors in the surrounding area. All representations in petitioner's statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Michael Williams

IN FAVOR: 5

- Kenneth Galligan, Chairman
- Michael Williams, Fire Chief
- Stephen Bernard
- Doryce Smith
- Craig Pina

Kenneth Galligan
Michael Williams
Stephen Bernard
Doryce Smith
Craig Pina

OPPOSED: ()

James Plouffe
 James Plouffe, Clerk

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, February 11, 2020 at 6:00 p.m.

IN RE: 20-19 Petition of CLAUDIE PHILEMOND, 179 Newbury Street, Brockton, MA, for a (Special Permit) to expand/upgrade the existing family childcare license to a childcare center for no more than thirty two (32) children in an R-3 Zone, located at 179 NEWBURY STREET.

PETITIONER'S STATEMENT: Claudie Philemond submitted to the Board memo for the Petitioner, Floor Plans, Site Plan and photos of the exterior property. She is seeking to open a licensed childcare center for not more than 32 children in an R-3 Zone.

OPPOSITION: Abutting neighbor spoke in opposition.

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 the parking plans submitted at hearing by the petitioner failed to provide sufficient "off street" parking for the proposed expansion of the existing family childcare facility to a thirty-two (32) child childcare facility in the R-3 Zone. The Board calculated that at least eleven (11) parking spaces are required for the proposed facility using child care parking calculations. On street parking is currently fully utilized by existing residential occupancies and any increase in parking demand will have a negative impact on the orderly development of the neighborhood parking access, as well as dangerous traffic patterns. An abutting neighbor to the north expressed concerns of the anticipated parking in the small front yard and of a disputed property line.

VOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Doryce Smith

IN FAVOR: 0

OPPOSED: 5

Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Doryce Smith
Craig Pina

Kenneth Galligan
Michael Williams
Stephen Bernard
Doryce Smith
Craig Pina
James Plouffe, Clerk

Anthony Zeoli

Anthony Zeoli, City Clerk

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IN RE: 20-20 Petition of PETER HARRISON TRUSTEE, 1325 Belmont Street, Brockton, MA, for a (Variance) from Art. IV, Sec. 27-29, and Art. III, Sec. 27-9, to construct a thirty two (32) unit apartment building in a C-2 Zone, located at 1208 MONTELLO STREET.

PETITIONER'S STATEMENT: Attorney John McCluskey, Engineer Scott Farria and owner Peter Harrison submitted to the Board memo in support. Exhibit A, site plan, Exhibit B floor and elevation plans and map of proposed project.

OPPOSITION: Abutting neighbor, of 42 Plain St, spoke in opposition. Ward 4 Councillor, Susan Nicastro, spoke not in opposition or in favor.

DECISION: Denied

BASIS: After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found the petitioner failed to demonstrate a hardship at the locus referencing the size of the lot. The number of parking spaces provided on-site, including the parking layout in the garage/parking areas was found to provide an inadequate number of spaces potentially needed for the thirty-two (32) apartments as shown on the submitted plans. A potential agreement for tenants to use the nearby MBTA commuter parking lot for the proposed apartment building lacked any specific agreement and was unacceptable to the Board. Ref. 27-53, Art. IX, Art.III, 27-9. A neighbor expressed concern regarding increased traffic, property valuation decline and referenced virtually no on-street parking throughout the immediate area. Granting of the requested Variance would derogate from the intent of the zoning by-laws and will negatively impact the orderly development of the neighborhood.

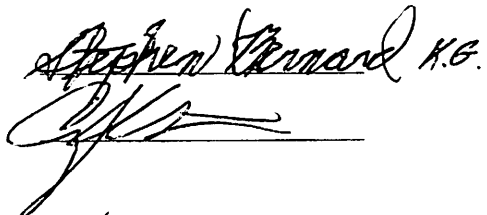
VOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Kenneth Galligan

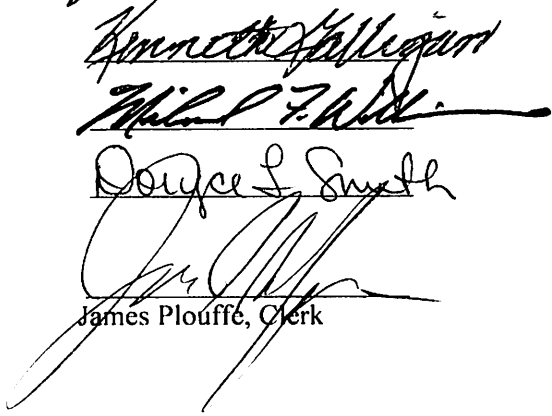
IN FAVOR: 2

Stephen Bernard
Craig Pina

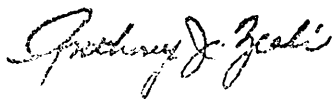


OPPOSED: 3

Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Doryce Smith



James Plouffe, Clerk



Anthony Zeoli, City Clerk

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