

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, September 9, 2020 at 6:00 p.m.**

IN RE: 20-62 Petition of FENTON ASSOCIATES, LLC., 135 Elliot Street, Brockton, MA, for a Variance from Art. III, Sec. 27-13A & 27-11(3), to construct three residential units and requires relief from frontage, width & side setback standards on Lot B and relief for the side yard setback for Lot C in an R-2 Zone, located at 135 ELLIOT STREET.

PETITIONERS STATEMENT: Attorney John E McCluskey, Surveyor Scott Faria and John Channell of Fenton Associates, LLC presented to the Board, Exhibit A-Memo in Support, Exhibit B- Floor and Elevation plans, Exhibit C-Site plan and Exhibit D-Letter from the Planning Dept. They seek a Variance to construct three (3) residential units which will consist of three (3) bedrooms each. Lot C has an existing industrial building and has sufficient off street parking.

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 Plot 35-1 located at 135 Elliot Street has a unique shape, size and topography relative to other properties in the surrounding neighborhood. Plot 35-1 has a City Sewer Easement that bisects the west end of the plot and Trout Brook with wetlands that affect the plot at the east end of the 114, 156 square foot property. The proposed development of the newly created Lot A and Lot B that are currently located in the multi-family residential R-2 Zone will be consistent with other homes on the street and on substantially larger lots. The requested relief from frontage, width and side setback requirements for Lot B and the requested side yard setback for Lot C would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the established neighborhood. The subdivision of Plot 35-1 to allow for the construction of a two (2) family dwelling on Lot A and a three (3) family dwelling on Lot B will be of such location, size and character that, generally, it will be in harmony with the appropriate and orderly development of the zone in which the use is situated and will not be detrimental to the existing neighborhood or orderly development of adjacent properties nor inconsistent with any officially adopted master plan for the City.

All representations in petitioner's statement, including parking layout and green space as shown on plans presented and dated 6/13/20, shall be incorporated as stipulations recorded herewith.

VOTE:

Motion to Grant by: Stephen Bernard
Seconded by: Craig Pina

IN FAVOR: 4

Michael Williams, Fire Chief

Stephen Bernard

Craig Pina

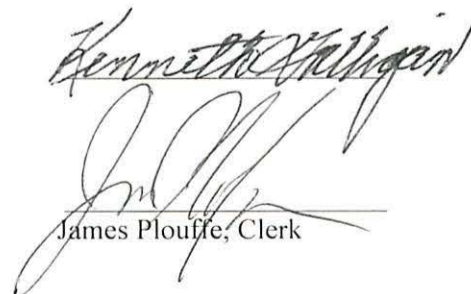
Steve Lainas

OPPOSED: 1

Kenneth Galligan, Chairman



Anthony Zeoli, City Clerk



James Plouffe, Clerk

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE SEP 23 2020 PURSUANT
TO M.G.L.C. 40A SECTION 17.

City Clerk

RECEIVED AND FILED: October 14, 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, Brockton, Massachusetts, on Wednesday, September 9, 2020 at 6:00 p.m.

IN RE: 20-64 Petition of BRAD CARTWRIGHT, MGR., 845 Washington Street, Braintree, MA, for a Variance from Art. III, Sec. 27-24 2a, for relief from the city's setback for vegetative screening when abutting a park in an C-5 Zone, located at 609 & 627 PLEASANT STREET.

PETITIONERS STATEMENT: Attorney John E McCluskey and Brad Cartwright, Mgr., present to the Board, Exhibit A-Memo in Support, Exhibit B-Photograph of Building and Exhibit C-Site plan. They are seeking relief from setbacks for vegetative screening. The property is abutting DW Field Park. Parking spaces were removed as the Board requested.

OPPOSITION: One (1) abutter and two (2) letters of opposition.

DECISION: Unanimously 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 proposed development of the site for its intended C-5 Zoning use is severely restricted relative to setback requirements to D.W. Field Park, ref. Chapter 27, Section 24. A hardship exists on the subject property owing to circumstances relating to the soil conditions, shape, topography, unique location relating to the D. W. Field Park property and unique setback requirements relative to the adjacent park land such that a literal enforcement of the provisions of the ordinance would involve substantial hardship, financially and the inability to fully utilize the potential build-out of the parcel.

The Board found that the requested relief from the Park setback requirements to allow for a ten (10) foot restrictive vegetative buffer zone by way of a Variance to allow for a C-5 use at the locus will be of such location, size and character that, generally, it will be in harmony with the appropriate and orderly development of the zone in which the use is situated and will not be detrimental to the existing neighborhood or orderly development of adjacent properties nor inconsistent with any officially adopted master plan for the City. The Brockton Park Commission supports relief from the one hundred (100) foot buffer requirement by remedial actions specified in a written and approved site agreement between all parties as testified to by the petitioner at the hearing. The petitioner has consulted with the Brockton Traffic Commission and has received support and approval of the proposed traffic scheme for access and exit to the property. There shall be no access to the site from Pennsylvania Avenue.

As a condition of the granting of this Variance for relief from setback requirements abutting D. W. Field Park, the petitioner has agreed and the Board has mandated that this granting shall nullify and shall supersede any and all previous zoning agreements associated for this site including the 2018 zoning approval for a C-2 use at the locus.

The total required parking spaces for the occupancies within the proposed building shall not exceed the parking spaces provided as shown on the plan submitted to the Board, dated July 10, 2020 and shall be constructed as shown on that plan..

The above stipulations are incorporated by reference herein. All representations in petitioner's statement shall be incorporated by reference and stipulations recorded herewith.

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Case 20-64, continued

VOTE:

Motion to Grant by: Craig Pina
Seconded by: Stephen Bernard

IN FAVOR: 5

- Kenneth Galligan, Chairman
- Michael Williams, Fire Chief
- Stephen Bernard
- Craig Pina
- Steve Lainas

OPPOSED: 0

Kenneth Galligan
Michael Williams
Stephen Bernard
Craig Pina
Steve Lainas

James Plouffe
 James Plouffe, Clerk

Anthony J. Zeoli
 Anthony Zeoli, City Clerk

City Clerk

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IN RE: 20-65 Petition of JAMES MORRISSEY AND KEVIN HARRIMAN, C/O 1325 Belmont Street, Brockton, MA, for a Variance from Art. III, Sec. 27-9 & 27-13(a), to construct a single family home on existing lot lacking frontage, lot size and width or a determination under Sec. 27-12, that the lot is buildable by right in a R-1-C Zone, located at PLOT 15/ 0 MILLER AVENUE.

PETITIONERS STATEMENT: Attorney, John E McCluskey, Surveyor, Scott Faria Contractor, James Morrissey and Kevin Harriman presented to the Board, Exhibit A, Memo in Support, Exhibit B, Memo from owner, Exhibit C, Plan to accompany zoning, Exhibit D, Floor plans and Exhibit E, History of property. They are seeking a Variance to construct a single family home. A walk out basement will not exacerbate the water conditions to the neighboring properties. They added a style of house that would fit well on the lot.

OPPOSITION: Direct abutters expressed concerns.

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 a hardship exists at the locus due to the unique shape, size and topographical slope of the land and therefore allowing for the construction of a single family home that would be in conformance with other neighborhood and area lots. An economic hardship exists where there is no adjacent vacant land in the same ownership to allow for a more conforming lot. Relief may be granted from Chapter 27, Sec. 27-9 and 27-13 (A) without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinances nor negatively impact the orderly development of the neighborhood of similar lots. All representations in petitioners statement and plans submitted to the Board dated 8/7/20, Holmgren Engineering, shall be incorporated by reference or stipulations recorded herewith. Driveway and green space shall remain as described on above referenced plans.

Any storm water runoff onto adjacent properties shall be controlled and shall not further exacerbate current conditions. Adjacent neighbors supported the development of this lot to alleviate unsightly conditions.

VOTE:

Motion to Grant by: Craig Pina
Seconded by: Chief Michael Williams

IN FAVOR: 4

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Craig Pina

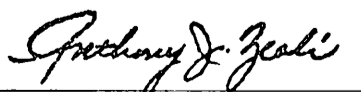
Steve Lainas

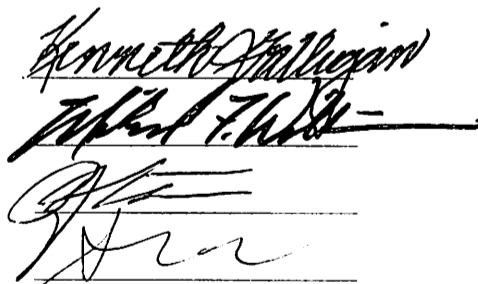
OPPOSED: 1

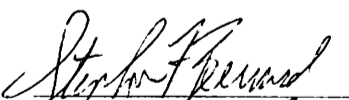
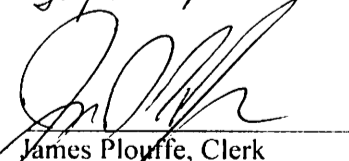
Stephen Bernard

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Anthony Zeoli, City Clerk





James Plouffe, Clerk

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IN RE: 20-66 Petition of JENGEO LLC, 1014 Pearl Street, Brockton, MA, for permission to erect an LED message board sign at JM Pet Resort in an I-1 Zone, located at 1014 PEARL STREET.

PETITIONERS STATEMENT: Jeni Mathers, owner of JM Pet Resort, presented to the Board virtually with Exhibit A, Site Plan submitted to the Zoning Board. She will be in compliance with the regulations set within an electronic LED message board.

OPPOSITION: None

DECISION: Unanimously 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 request for a digital accessory sign to be free standing at the locus will be in harmony with the development of the I-1 Industrial Zone and granting the Special Permit will not negatively impact the neighborhood. The digital message board shall not change display in less than every ten (10) seconds, shall not be flashing, animated or scrolling and shall conform to mandates of Chapter 27, Sec 27-65. The EMC shall be equipped with a light sensor device which detects the ambient light level and adjusts the signs brightness accordingly. Industry standards recommend brightness level of 0.3 foot candles above ambient light conditions

VOTE:

Motion to Grant by:
Seconded by:

IN FAVOR: 5

Kenneth Galligan, Chairman

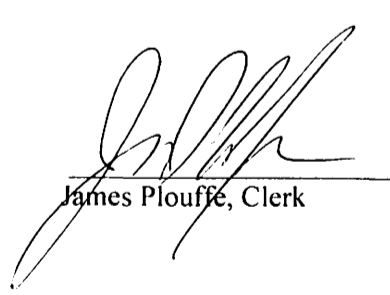
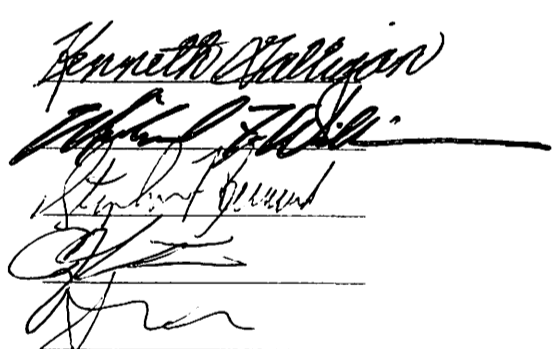
Michael Williams, Fire Chief

Stephen Bernard

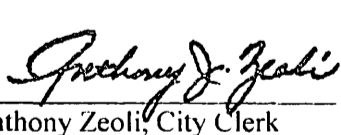
Craig Pina

Steve Lainas

OPPOSED: (0)



James Plouffe, Clerk



Anthony Zeoli, City Clerk

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IN RE: 20-67 Petition of ERNESTO MONTEIRO, 21 Union Street, Brockton, MA, for a Variance from Sec. 27-27, 27-12, to have Plot 10 as an independent buildable lot meeting dimensional requirements and has been merged with Plot 9, which was under common ownership and considered by the city as one (1) plot and would now like it to revert back to its own in an R-3 Zone, located at **21 UNION STREET**.

PETITIONERS STATEMENT: Attorney, Philip Nessralla and Ernesto Monteiro presented to the Board, Exhibit A, Memo of Fact and Law, Exhibit B, Deed of property, Exhibit C, Plan to Accompany Zoning and Exhibit E, Letter from Planning.

OPPOSITION: None

DECISION: Granted

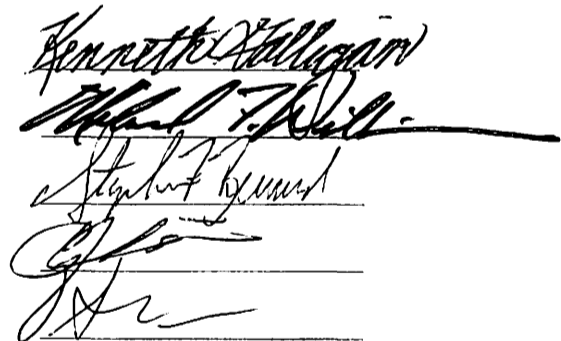
BASIS: After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found that the locus is similar in size and shape from all other lots in the neighborhood and was merged with Plot 10 in 1953, maintained its dimensional requirements similar to other lots and all subsequent deeds refer to both lots. The petitioner also proffered a financial hardship where the vacant lot is taxed, has little use and is not utilized to its highest and best use. Granting of a Variance 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 shall be incorporated by reference as stipulations recorded herewith in conformance with plans submitted and dated 08/11/20.

VOTE:

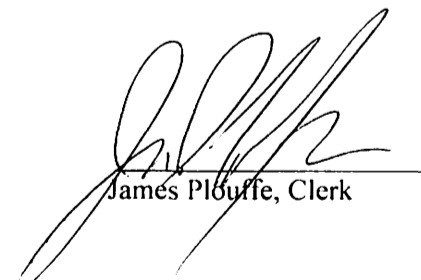
Motion to Grant by: Chief Michael Williams
Seconded by: Stephen Bernard

IN FAVOR: 5

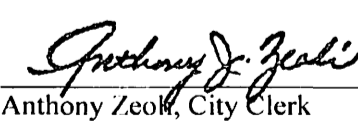
Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Craig Pina
Steve Lainas



OPPOSED: 0



James Plouffe, Clerk



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