

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, November 10, 2020 at 6:00 p.m.

RE: 20-75 Petition of **MONICA FIGUERO**, 259 Ames Street, Brockton, MA., for a Variance to add a second means of egress stairway from the second-floor common area which requires stairway to encroach on side yard setback in a R-2 Zone, located at **259 AMES STREET**.

PETITIONERS STATEMENT: Monica Figuero, owner, and Architect, Jose Guzman presented to the Board, Exhibit A Plot plan, Exhibit B Building plans. There is no other way to put a second egress to the second floor. They do not want the egress exiting from the bedrooms on the second floor.

OPPOSITION: None

DECISION: Unanimously Granted

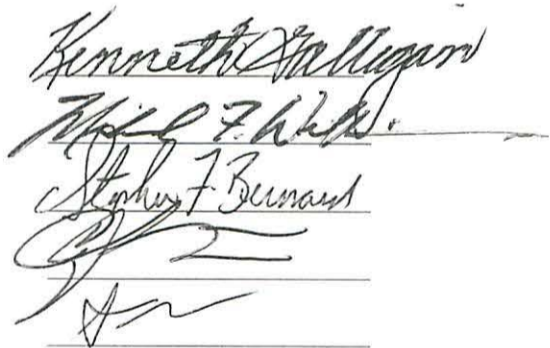
BASIS: After reviewing the application, plans and information submitted and giving due consideration to testimony given at the public hearing, the board found that a hardship exists at the locus due to the location of the house foundation and the inability to locate the proposed new stairway in any other location due to the interior configuration of the existing interior rooms. Granting of the requested side-yard setback would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. The side yard greenspace adjacent and surrounding the base area of the proposed exterior stairway shall be maintained as shown on plans submitted and dated October 14th, 2020.

VOTE:

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

IN FAVOR: 5

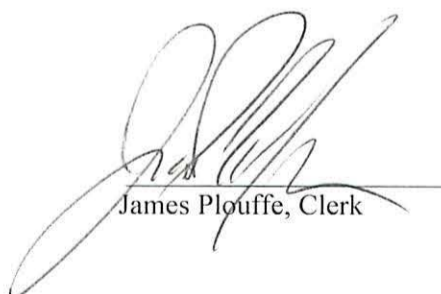
Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Craig Pina
Steve Lainas



OPPOSED: 0



Anthony Zeoli, City Clerk



James Plouffe, Clerk

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE NOV 24 2020 PURSUANT
TO M.G.L.C. 40A SECTION 17.

City Clerk

RECEIVED AND FILED: December 16, 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. 17

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, November 10, 2020 at 6:00 p.m.

IN RE: 20-77 Petition of **JAIRSON BARROS**, 70 Bank Street, Brockton, MA, to subdivide existing lot into two lots and construct a new single family home in an R-1-C Zone, located at **70 BANK STREET**.

PETITIONERS STATEMENT: Jairson Barros, owner, presented to the Board, Exhibit A plot plan and Exhibit B floor plans, Exhibit B petition showing eight (8) in favor of signatures from abutters. He is seeking to subdivide his parcel and construct a single-family home for his elderly parents. The cement pad will be removed to add more green space to the property.

OPPOSITION: None

DECISION: Unanimously 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 this locus was before the Board requesting a Variance to divide the current single lot into two (2) lots, one (1) containing the current two (2) family home and a proposed new lot to allow for the construction of a new four (4) bedroom dwelling. The previous request for a similar variance was denied at a hearing before the Board on January 11, 2011. Subdividing the lot will cause the current two (2) family home to reside on an undersize lot with unacceptable setbacks. No hardship dealing with the 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 neighborhood.

VOTE:

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

IN FAVOR: 0

OPPOSED: 5

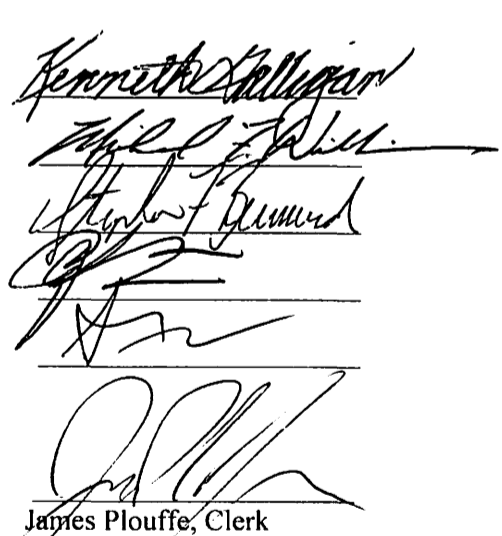
Kenneth Galligan, Chairman

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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, November 10, 2020 at 6:00 p.m.

IN RE: 20-78 Petition of DANIEL PINO, 57 Nilsson Street, Brockton, MA, to erect a garage 21 ½ w x 30' de x 30'h for storage that does not meet the 10' setbacks in an R-3 Zone, located at 57 NILSSON STREET.

PETITIONERS STATEMENT: Frank Pino, brother and spokesperson of owner, Daniel Pino, submitted to the Board Exhibit A Plot plan, Exhibit B building plans seeking to construct a 3-story garage since moving to Brockton to store his two (2) pick-up trucks and remaining space for storage.

OPPOSITION: None

DECISION: Unanimously 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 request of the Petitioner to construct a three (3) story garage/storage building on the current lot containing a multi-family dwelling greatly exceeded the allowable floor area considering the floor area of the dwelling, Section 27-25 (2), encroached on the setback yard requirements and was too close to the principal structure, 27-20 (1). The proposed structure was inordinately over size for the site. No hardship dealing with the 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 neighborhood.

VOTE:

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

IN FAVOR: 0

OPPOSED: 5

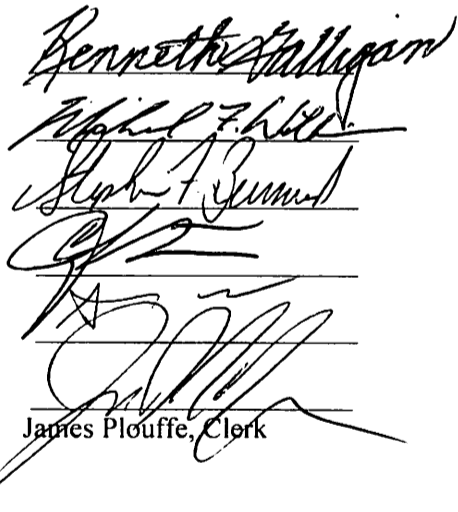
Kenneth Galligan, Chairman

Michael Williams, Fire Chief

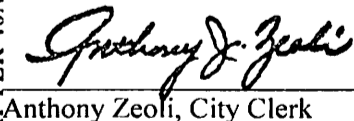
Stephen Bernard

Craig Pina

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James Plouffe, Clerk



Anthony Zeoli, City Clerk

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ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, November 10, 2020 at 6:00 p.m.

IN RE: 20-79 Petition of ELEVATION, INC., 68 Hovenden Avenue, Brockton, MA, for a Special Permit from Art. III, Sec. 27-24.4, for permission to operate a Marijuana establishment for retail sale in a C-3 Zone, located at 156-160 MAIN STREET.

PETITIONERS STATEMENT: Attorney, James Valeriani and Architect, Jerome Dixon, presented to the board Exhibit A Memo in Support, Exhibit B Site plan and Exhibit C Building plans. There will be no change in façade or underground utilities. There will be approximately eight (8) employees or more depending on need. The building takes up the majority of the lot. They state there is ample short-term parking in surrounding area.

OPPOSITION: An abutting business owner was in opposition.

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 in conformance with Article III, Section 27-24-4, the proposed Adult Use Marijuana Retail Sale establishment to be properly located above the first floor in a C-3 zoned location at 156-160 Main Street 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 the zone in which the use is proposed and will not be detrimental to the existing neighborhood or orderly development of adjacent properties and not inconsistent with any officially adopted master plan for the operation of Adult Use of Marijuana for the City.

The granting of the Special Permit is conditioned on the petitioner's full compliance with all mandates of the City of Brockton City Ordinance Section 24-24, 4 (3). Hours of Operation shall be no earlier than 8:00 AM and no later than 8:00pm and Section 27-24,6(i), no deliveries to and from any Marijuana establishment between the hours of 8:00 PM to 8:00 AM. Special notice was taken of the absence of a designated delivery location and the absence of current ADA compliant elevator inspections and certification issued by the State Department of Public Safety, Elevator License Division for the elevator at the location serving the proposed Marijuana Retail facility.

NOTE:

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

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IN FAVOR: 4

Michael Williams, Fire Chief

Stephen Bernard

Craig Pina

Steve Lainas

OPPOSED: 1

Kenneth Galligan, Chairman

James Plouffe, Clerk

Anthony Zeoli, City Clerk

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ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, November 10, 2020 at 6:00 p.m.

IN RE: 20-80 Petition of NATURE'S EMBRACE, INC., 221 Oak Street, P.O Box 148, Brockton, MA, for a Special Permit from Sec. 27-24.4(b), to amend the previous Special Permit to include all of its property within the authorized use as a result of the rear of the Applicant's property being rezoned Commercial in a C-2 Zone, located at 747 CENTRE STREET.

PETITIONERS STATEMENT: Attorney Patrick Sullivan, Joe Phiney, principle of the applicant, Gerard Patel, property owner and Eric Dias, Engineer, presented to the Board, Exhibit A Memo in Support, Exhibit B, Site plan and Exhibit C, Floor plans. They received a granted decision on a prior hearing of October 8, 2019. They are coming back to the Board since the abutting R-2 Zone was changed to C-2 showing their changes.

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 the area permits for a Retail Marijuana Dispensary granted on October 8, 2019, Special Permit, Case No 19-71 was confined to that portion of the parcel that was zoned C-2. That portion of the property shown as Parcel A, to the rear of the site, was zoned R-2, not available for the proposed use. Since the time of the original Special Permit granting, the City of Brockton on 8/27/20, has rezoned the original R-2 locus to a C-2 Zone, available for Marijuana Dispensary use. Since the entire property now lies within the C-2 Zoning District, the Board voted to amend the restrictions described in the 8/8/19, ZBA decision 19-71, Parcel A, to allow use of the entire parcel for Adult Marijuana Retail Establishment use and to incorporate fencing, driveway access, downward facing lighting, and parking as shown on plans submitted and dated 9/28/20. The previously required six (6) foot fencing between the original C-2 Zoned lot and the R-1-C Zoned lot is rescinded and the two (2) access driveways on Quincy Street are allowed as shown on the 9/28/20 plan. Ward 5 City Councilor, Jeffrey Thompson spoke in favor.

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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

Kenneth Galligan
Michael Williams
Stephen Bernard
Craig Pina
Steve Lainas

OPPOSED: 0

James Plouffe
 James Plouffe, Clerk

Anthony J. Zeoli

Anthony Zeoli, City Clerk

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IN RE: 20-81 Petition of **ABU B. COOMBER**, 338 West Elm Street, Brockton, MA, for a Variance to convert current garage into a three (3) bedroom apartment in an R-1-C Zone, located at **338 WEST ELM STREET**.

PETITIONERS STATEMENT: Abu B Coomber, owner, submitted to the Board, Exhibit A, plot plan, Exhibit B, building plans. Mr. Coomber lives with his mother, aunt and a relative with special needs. He is requesting to reconstruct a garage that was originally servant's quarters into a living space.

OPPOSITION: A neighboring abutter was in opposition.

DECISION: Unanimously 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 was proposing to establish a second primary residence on a single lot by converting an existing garage that is not allowed under Section 27-19- Number of Buildings restricted on lots. No hardship dealing with the locus was found by the Board. Granting the requested Variance would derogate from the intent of the zoning by-laws and will negatively impact the orderly development of the R-1-C Zoned neighborhood.

VOTE:

Motion to Grant by: Craig Pina
Seconded by: Steve Lainas

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IN FAVOR: 0

OPPOSED: 5

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

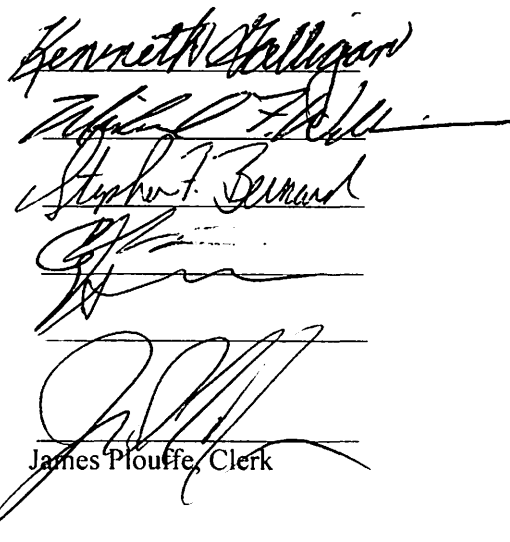
Stephen Bernard

Craig Pina

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Anthony Zeoli, City Clerk



James Plouffe, Clerk

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IN RE: 20-82 Petition of PETER HARRISON, C/O MCCLUSKEY, 1325 Belmont Street, Brockton, MA, for a Variance from Art. IV, Sec. 27-29, to allow residential use in a C-2 Zone & Art. III, Sec. 27-9, relief from parking, for permission to construct a 24-unit apartment building in a C-2 Zone, located at 1208 MONTELLO STREET.

PETITIONERS STATEMENT: Attorney John McCluskey, Scott Faria, land surveyor and Peter Harrison presented to the Board, Exhibit A, site plan, Exhibit B, building plans. The Board had originally denied a 32 unit building at a prior hearing. They came before the Board with a new proposal of 24 units with 24 parking spaces, including a delivery space on Montello St. This project will have one (1) and two (2) bedroom luxury style units and will have more green space than the before proposed plan.

OPPOSITION: A local abutter was in 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 this locus located in a C-2 Zone to suffer a hardship for development of its zoned use due to the unique shape, size and topography to be developed for C-2 uses. The site contained a former multi-family dwelling that was destroyed by fire and all debris removed from the site. The locus is surrounded by multi-zoned parcels ranging from Industrial to Commercial to Residential uses. The proposed plan for twenty-four (24) luxury apartments with onsite parking represents the best and most reasonable use of the site where the site is immediately adjacent to the MBTA train/rail stations, is serviced by public transportation and conforms to support of housing in the immediate vicinity of Commuter Rail services. A similar residential development was recently approved for an adjacent location and together should enhance the livability and vitality to the area.

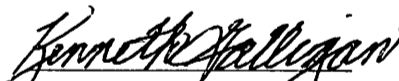
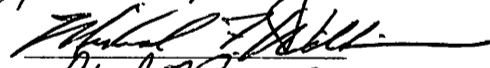
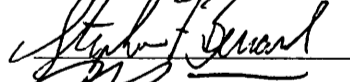
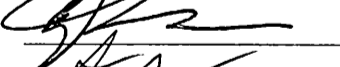
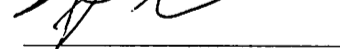
Granting would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. All representations in petitioner's statement and submitted plans dated October 14, 2020, shall be incorporate as stipulations recorded herewith.

VOTE:

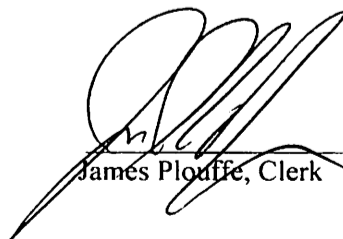
Motion to Grant by: Craig Pina
Seconded by: Steve Bernard

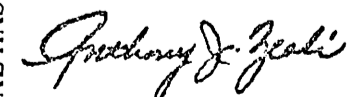
IN FAVOR: 5

- 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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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, November 10, 2020 at 6:00 p.m.

IN RE: 20-83 Petition of **FREDERICK HEBSHIE**, 110 Fairview Avenue, Brockton, MA, for a Variance from Art. III, Sec. 27-9 & 27-13 (a), to combine four (4) lots in order to create a subdivision consisting of thirteen (13) four (4) bedroom single family buildable lots in an R-1-C Zone, located at **PLOTS 4-8-18 AUGUSTA AVENUE & PLOT 36 PROSPECT STREET.**

PETITIONERS STATEMENT: Attorney, John McCluskey and Surveyor, Bill Self presented to the Board, Exhibit A, Site plan. They are seeking to subdivide the property. The average frontage of the lots would be approximately 123 feet. The Association will maintain Lot 4 due to this being a non-buildable lot and will be used for drainage purposes. The developer will add hydrants and there will be a guard rail barrier on Cross Avenue that will remain in place during the construction of the homes. They propose an easement on lots 4 and 7 for maintenance.

OPPOSITION: Denise Cahill abutting lots 6 and 7.

DECISION: Granted

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that due to the unique size, irregular shape and topography of the locus, a hardship exists in the development of the site to allow for the construction of single-family homes. The site as it currently exists is an eyesore to the surrounding neighborhood, is the location of illegal dumping and the location of illicit activity and is an unattractive nuisance. Development costs to a developer to construct thirteen (13) single family homes presents a challenge for drainage remediation and an overall challenging financial outlay. Topography and drainage issues obviate the need to grant Variances to allow for irregular shape and size of lots. Development of the location will be a benefit to the surrounding neighborhoods and individual lot sizes will be larger than nearly all of the surrounding area lots. The petitioner shall place a six (6) foot stockade fence along the property line on the easterly side of Lots 5, 6 and 7 which shall be a stipulation to the granting. Granting of the requested variance for lot size, area, frontage and width would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. The above listed stipulations are incorporated by reference herein. All representations in petitioner's statement and site plans submitted and dated October 13, 2020 shall be incorporated by reference as stipulations recorded herewith.

NOTE:
Motion to Grant by: Craig Pina
Seconded by: Steve Lainas

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IN FAVOR: 4

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

OPPOSED: 1

- Kenneth Galligan, Chairman

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IN RE: 80-84 Petition of PAUL E. CLANCY, JR, ESQ., 71 Legion Parkway, Brockton, MA, for a Variance from Sec. 27-29, to combine Plots 114 & 114-2, creating three separate lots to build three (3) two (2) family homes in a C-2 Zone, located at 370 NORTH MONTELLO STREET.

PETITIONERS STATEMENT:

OPPOSITION:

DECISION:

BASIS: The Petitioner requested to withdraw from the scheduled hearing as a matter of right prior to the start of the hearing

VOTE:

Motion to Grant by:
Seconded by:

IN FAVOR: 0

Kenneth Galligan, Chairman

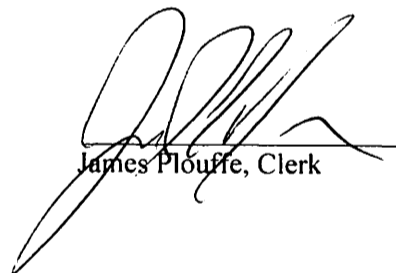
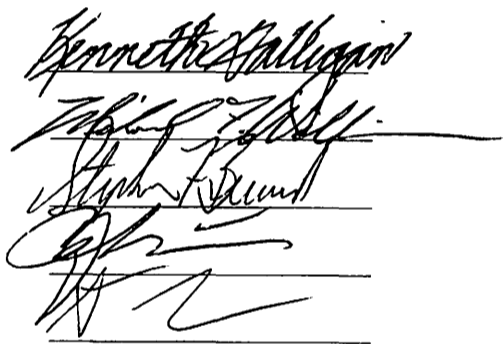
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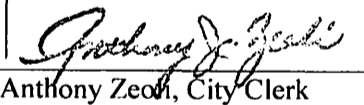
Craig Pina

Steve Lainas

OPPOSED: 0



James Plouffe, Clerk



Anthony Zeoli, City Clerk

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IN RE: 20-85 Petition of PAUL E. CLANCY, JR, ESQ., 71 Legion Parkway, Brockton, MA, for a Variance from Sec. 27-29, to combine Plots 114 & 114-2, creating three separate lots to build three (3) two (2) family homes in a C-2 Zone, located at 380 NORTH MONTELLO STREET.

PETITIONERS STATEMENT:

OPPOSITION:

DECISION:

BASIS: The Petitioner requested to withdraw from the scheduled hearing as a matter of right prior to the start of the hearing

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: 0

Kenneth Galligan, Chairman

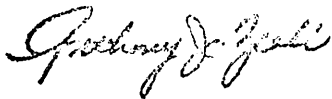
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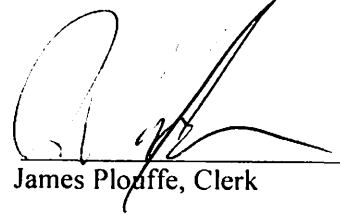
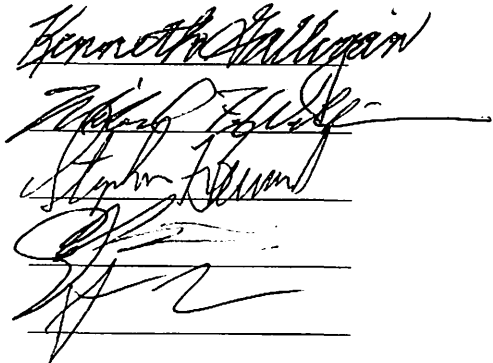
Craig Pina

Steve Lainas

OPPOSED: 0



Anthony Zeoli, City Clerk


James Ploffe, Clerk