

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, January 12, 2021, at 6:00 p.m.

IN RE: 21-01 Petition of JONATHAN AND KEMBERLY RODRIGUES, 19 Albert Avenue, Brockton, MA, for a Variance to convert a single-family home into a multi family home in an R-1-C Zone, located at 19 ALBERT AVENUE.

PETITIONERS STATEMENT: Owners, Jonathan and Kemberly Rodrigues presented to the Board, Exhibit A, site plan, Exhibit B, floor plans and signatures in support. The house was bought with an existing studio in basement. They want to finish the basement for another dwelling and make the parking spaces needed and that will not affect the green space.

OPPOSITION: None

DECISION: Denied unanimously

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found no hardship dealing with the locus. The dwelling was used, designed and constructed as a single-family dwelling. A lot size of 10,000 sq. ft. is needed to support a two (2) family dwelling. The petitioner reported that the locus was purchased with the "impression that the basement could be rented as a studio apartment". Safety concerns were noted by the Board with the basement proposed plans particularly regarding access, ingress and egress. No reference was made for lot size, topography or soil conditions at the locus relief. Granting would derogate from the intent of the zoning by-laws and will negatively impact the density and orderly development of the neighborhood.

VOTE:

Motion to Grant by: Stephen Bernard

Seconded by: Craig Pina

IN FAVOR: 0

OPPOSED: 5

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Craig Pina

Steve Lainas

James Plouffe, Clerk

Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE JAN 27 2021 PURSUANT
TO M.G.L.C. 40A SECTION 17.

RECEIVED AND FILED: February 17, 2021
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, January 12, 2021 at 6:00 p.m.

IN RE: 21-02 Petition of CLEMENTINE M. MACRINA, 49 Keswick Road, Brockton, MA, for a Variance from Sec. 27-9, 27-13A, 27-14, to divide the property into three (3) lots and making Lots 2 & 3 buildable in an R-1-C Zone, located at 49 KESWICK ROAD.

PETITIONERS STATEMENT: Attorney Matthew Costa and owner Clementine M Macrina, presented to the Board, Exhibit A site plan. The owner has owned and resided at this property since 1958. She is asking to divide her property into 3 lots. Lots 2 and 3 would have frontage on Marsden St. The lots she is proposing are similar to other lots in the neighborhood.

OPPOSITION: None

DECISION: Denied unanimously

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found no hardship dealing with the locus that has existed as a single lot since the development of the neighborhood in 1958. The petitioner reported that "it is difficult to monitor and maintain the rear portion of the lot fronting on Marsden St." The site of the proposed two (2) new lots is used in concert with the current house fronting on Keswick Rd as the rear yard for that house. The rear-yard setback of the rear of the current dwelling fronting on Keswick Rd was proposed to be only 14.7 ft. where thirty (30) feet is required, Sect 27-9, R-1-C. No hardship was demonstrated with shape or topography of the proposed two (2) lots and the construction of two (2) new dwellings at the locus would negatively impact the density of the surrounding neighborhood considering the proposed size of the two (2) new lots. No plans or renderings of the proposed dwellings were presented or offered to 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

Michael Williams, Fire Chief

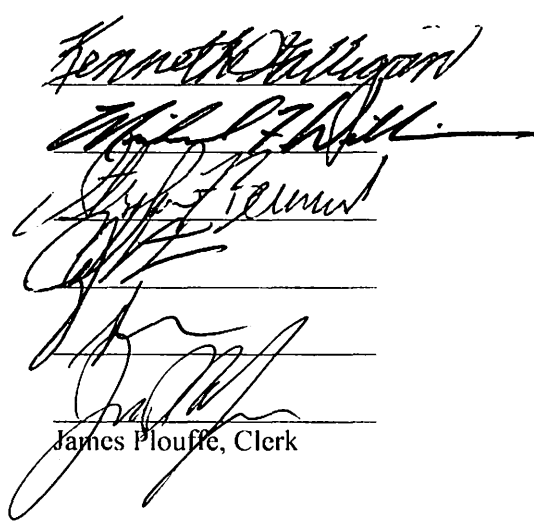
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Anthony Zeoli, City Clerk



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ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, January 12, 2021, at 6:00 p.m.

IN RE: 21-03 Petition of **RAYMOND TURNER**, 60 Baltic Avenue, Brockton, MA, for permission to have kennel license with residential boarding, training and commercial use in an R-1-C Zone, located at **60 BALTIC AVENUE**.

PETITIONERS STATEMENT: Owner, Raymond Turner, presented to the Board, Exhibit A drawing of the back yard and photos of the inside of home. He is asking to operate a home canine training business at his residence. He has operated this type of business at this property for eight (8) years. He would have no more than 2 dogs at one time and the training period would be two (2) weeks. He is asking for the business to be run from his home where the client's family dogs can be trained, walked and kenneled in a home setting.

OPPOSITION: None

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 the limited use of the locus for a training kennel with not more than two (2) dogs on the site for training purposes only at any one time, with visitation to the site on two (2) days per week and subject to inspection at any time by the City of Brockton Animal Control Department and operated within applicable canine and Animal Control Department regulations, that the use will be of such size and character that, generally, it will not be detrimental to the existing neighborhood or orderly development of adjacent properties nor inconsistent with officially adopted master plan for the City, Section 27-25.3 (F). Numerous adjacent neighbors appeared in favor of the petitioner and there were no objections offered. All representations in petitioner's statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

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

IN FAVOR: 4

Michael Williams, Fire Chief

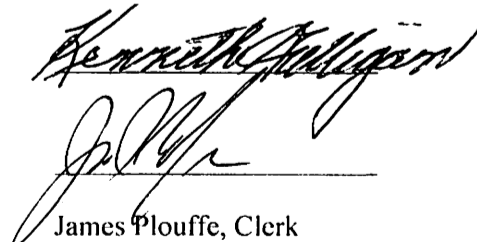
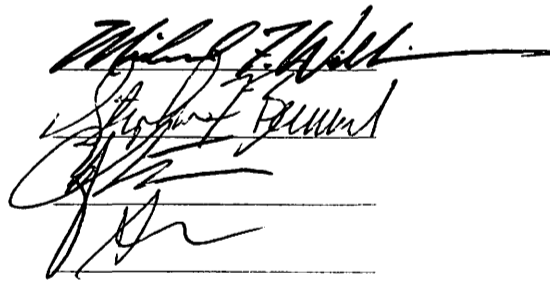
Stephen Bernard

Craig Pina

Steve Lainas

OPPOSED: 1

Kenneth Galligan, Chairman



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, January 12, 2021 at 6:00 p.m.

IN RE: 21-04 Petition of GARY LAWCEWICZ, C/O 1325 Belmont Street, Brockton, MA, or a Variance from Art. III, Sec. 27-9 & 27-13(a), to construct a single-family home or a determination under Sec. 27-12 that the lot is buildable by right in an R-1-C Zone, located at 33 RIDGE STREET (FORMERLY PART OF 25 RIDGE STREET).

PETITIONERS STATEMENT: Attorney John McCluskey, and owner, Gary Lawcewicz, presented to the Board, Exhibit A, Site plan and Exhibit B, Floor plans. The owner/contractor put the property under agreement. Due to the changed process of a Buildable Lot Determination, he had filed the permit and paid the fee. A letter came back from the Building Department stating it is not a buildable lot.

OPPOSITION: Abutting neighbors spoke in opposition

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 property in question has been continuously described by one singular metes and bounds and containing one single family home since at least 1950. The bounding description describes the property dimensions as 180 feet by 130 feet. Approximately six (6) months ago, the property was divided by deed to create a lot measuring 60 ft frontage by 130 ft depth to the north side of the original dwelling at the site. The opinion of the Supreme Judicial Court in Lindsay v. Board of Appeals of Milton. 362 Mass. 126 (1972) is an important source of guidance regarding this case. The deed in that case did describe the land as being lot 1 and 2 on a recorded 1903 plan, but the locus was described in the deed as "bounded and described by certain metes and bounds and with a single area according to said plan." The Lindsay court held that "the deed by which the plaintiff acquired the property does not entitle them to have it treated as multiple lots for zoning purposes. The recorded deed describing the entire parcel is the proper measure of what the owners purchased described in multiple deed transactions. The teaching of Lindsay is that the mere presence of smaller lots on an old record plan, and any subsequent passing reference to them in deeds describing a larger united parcel do not keep the old, small lots infused with zoning protection. In the instant case, the language, intention and effect of each of the recorded conveyance instruments was to unite, keep united and pass a united title to the entire 23,400 square foot parcel. For the aforesaid reason, the Board determined under section 27-12 that the proposed lot is not buildable by right and affirms the decision of the Building Inspector.

Regarding the request by the petitioner for a Variance from Article 3, Section 27-9 and 27-13 (A), the Board found that the petitioner failed to demonstrate a hardship owing to circumstances relating to soil conditions, shape or topography affecting such land; and that desirable relief may be granted without substantial detriment to the public good without nullifying or substantially derogating from the intent or purpose of such ordinances specifically where the newly created lot created a substantially deficient side yard setback with the existing dwelling on the original deed described lot. Additionally, the Building Inspector reported to the Board that any expenses incurred by the petitioner relative to City of Brockton fees will be returned to the petitioner if the requested Variance was not granted. Numerous surrounding neighbors and abutters spoke in opposition or by letter referencing the side yard setback issues, lack of City water supply pressure on the street and storm water run-off/water table issues.

Granting would derogate from the intent of the zoning by-laws and will negatively impact the orderly development of the neighborhood.

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Case 20-04 continued

VOTE:

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

IN FAVOR: 1

Craig Pina

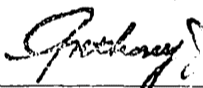
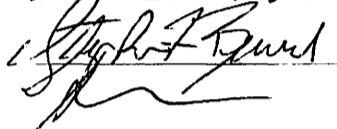
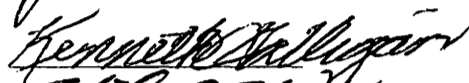
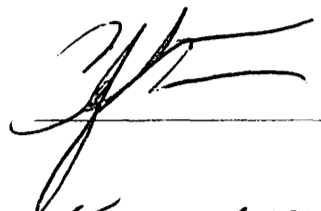
OPPOSED: 4

Kenneth Galligan, Chairman

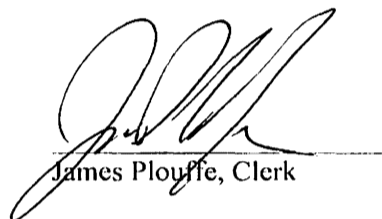
Michael Williams, Fire Chief

Stephen Bernard

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James Plouffe, Clerk

COMMONWEALTH OF MASSACHUSETTS
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ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, January 12, 2021, at 6:00 p.m.

IN RE: 21-05 Petition of PHILIP SMITH, 73 Southland Terrace, Brockton, MA, for a Variance to change the home from a one (1) family into a two (2) family in a R-3 Zone, located at 11 BRETT STREET.

PETITIONERS STATEMENT: Attorney Brent Warren and owner/contractor Philip Smith presented to the Board, Exhibit A plot plan and Exhibit B floor plans. The owner purchased this property in 2020 believing it was a as of right use. They are short on lot frontage being 8270 sq. ft. with a 700 sq. ft. easement. The width of the easement is 7 (seven) ft and would be used as access to the rear parking area. The houses are multi-family on Brett St.

OPPOSITION: None

DECISION: Granted

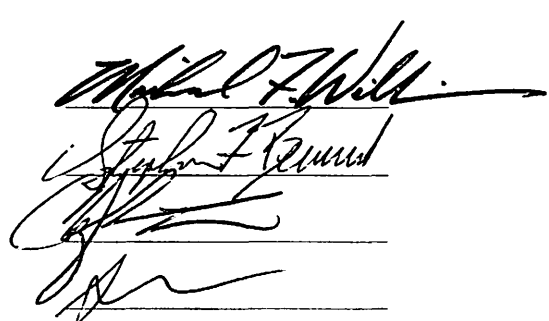
BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the structure to be currently vacant and a neighborhood eyesore. The large single-family dwelling is surrounded by multi-family dwellings and does not economically present itself to be improved as a single-family structure. As a result, the proposed use as a two (2) family dwelling as proposed on the drawings submitted and dated 8/28/20, Spink Design, will be of such location, size and character that generally, it will be in harmony with other dwellings in the neighborhood in which the use is situated and will not be detrimental to the existing neighborhood nor inconsistent with any officially adopted master plan for the city. All representations in petitioner's statement shall be incorporated by reference as stipulations recorded herewith. Green space and paved parking shall be developed as presented on the submitted site plan.

VOTE:

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

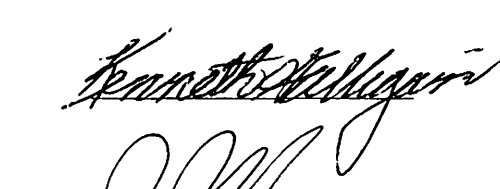
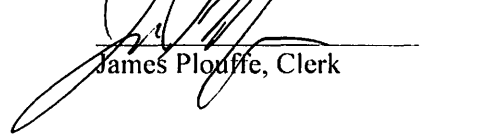
IN FAVOR: 4

- 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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IN RE: 21-06 Petition of AFFORDABLE PROPERTIES, LLC, STEPHEN F. TORREY, MGR., 33 Dover Street, Suite 124, Brockton, MA, seeks to build a three-family townhouse on the lot by a Variance from Art. III, Sec. 27-9 & Sec. 27-13A or by overturning the negative buildable lot determination in an R-3 Zone, located at 944 WARREN AVENUE.

PETITIONERS STATEMENT: The petitioner requested to withdraw from a hearing prior to the start of the scheduled hearing as a matter of right. The Building Inspector/Zoning Enforcement Office determined there were no circumstances at the locus requiring Zoning Board action.

OPPOSITION:

DECISION:

BASIS: No action by the Zoning Board required.

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: ()

Kenneth Galligan, Chairman

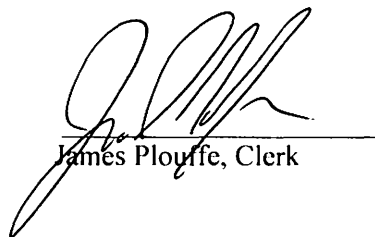
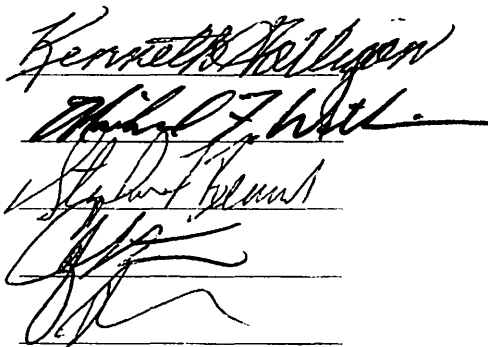
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OPPOSED: ()



James Plouffe, Clerk



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