

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, December 14, 2021 at 6:00 p.m.

IN RE: 21-102 Petition of DIEULIFAITE & BERLANGE JEAN, 30 Kennedy Circle, South Easton, MA, for a Variance from Art. III, Sec. 27-10, table 2 & Art IV, Sec. 27-29, for a mixed use to allow five (5) residential apartments, a Variance for green space and seeks to convert existing building into a 100 seat restaurant and lacks required parking spaces for same, but has in writing legal permission to have additional shared parking with the abutting church in a C-2 Zone, located at 1159 MAIN STREET.

PETITIONER'S STATEMENT:

OPPOSITION: None

DECISION: Allowed to withdraw

BASIS: The petitioner requested to withdraw from the scheduled hearing prior to the start of the hearing as a matter of right in order to allow for the engineer to modify the existing plans and agreements for presentations at the January, 2022 hearing.

VOTE:

Motion to Grant by:
Seconded by:

IN FAVOR: (5)

Kenneth Galligan, Chairman

Brian Nardelli, Fire Chief

Steven Lainas

James Sweeney

Rolando Spinola

OPPOSED: (0)

Kenneth Galligan
Brian Nardelli
Steven Lainas
James Sweeney
Rolando Spinola
James Plouffe
James Plouffe, Clerk

Timothy J. Cruise
Timothy Cruise, City Clerk

RECEIVED AND FILED: January 4, 2022
I, TIMOTHY J. CRUISE, 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 II

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CITY CLERK'S OFFICE

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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, Massachusetts, on Tuesday, December 14, 2021 at 6:00 p.m.

IN RE: 21-103 Petition of **RALPH J. SMITH**, 1019 Crescent Street, Brockton, MA, for a Variance from Sec. 27-12(1), to construct a single family home in an R-1-C Zone, located at **PLOT 37/O WINTER STREET**.

PETITIONER'S STATEMENT: Attorney, Creedon, Architect, Ed Jacobs on behalf of Ralph Smith presented to the Board, Exhibit A, Plot Plan. The petitioners would like to construct a single family home on an empty lot located on Winter St, which was subdivide by previous owners. The architect stated the dwellings design would be in harmony with the other dwellings in the neighborhood and help with visibility at the corner of the lot, once overgrown vegetation is cleared for construction of the new locus.

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 subject locus, lot 67, Plot 37 Winter St containing 5,103 sq. ft of area to be one of several lots owned by Charles Kazium located at the northeast corner of Winter St and Bourne St. The lot is totally overgrown with trees and underbrush, delapidated, collapsed sheds and a severe eyesore to the surrounding neighborhood. Due to the unique shape and radius of the lot, relief was granted to allow for the construction of a dwelling with a twelve (12) foot setback from Bourne St, section 27-17, Chapter 27. Granting would not derogate from the intent of the zoning by laws and will not negatively impact the orderly development of the neighborhood. A neighbor, Mr. Jason Miller provided the Board with a letter of support for the petitioner to construct a new dwelling at the locus. City Councilors Ward 6, Jack Lally and Ward 2 Councilor Thomas Monahan appeared before the Board and spoke in favor.

VOTE:

Motion to Grant by: James Sweeny
Seconded by: Brian Nardelli, Fire Chief

IN FAVOR: (4)

Brian Nardelli, Fire Chief

Steven Lainas

James Sweeney

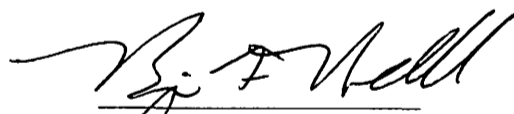
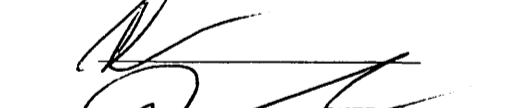
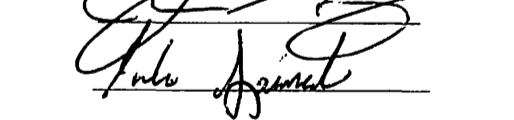
Iolando Spinola

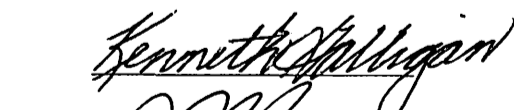
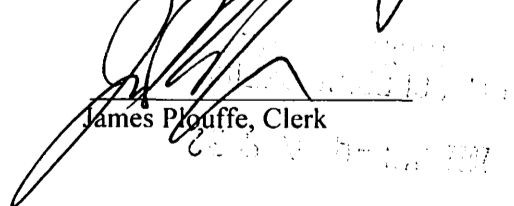
OPPOSED: (1)

Kenneth Galligan, Chairman



Timothy Cruise, City Clerk

James Plouffe, 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, December 14, 2021 at 6:00 p.m.

IN RE: 21-104 Petition of ALICIA FERNANDES, 56 Ford Street, Brockton, MA, for a Variance from Art.III, Sec. 27-9, & Art. IV. 27-29, to raze existing building and construct a two (2) family home in a C-2 Zone, located at 1449 MAIN STREET.

PETITIONER'S STATEMENT: Attorney, Creedon, Engineer, Azu Etoniru, on behalf of Owner, Alicia Fernandes presented to the Board, Exhibit A, Plot Plan. Attonery Creedon stated at the location of the locus there is no parking, which makes it difficult to use as a commercial business. The property has been vacant and could be a fire hazard. Proposed dwelling would have three (3) bedrooms on each floor and stack parking, two (2) parking spaces for each unit.

OPPOSITION: None

DECISION: Denied

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found the proposed plan to demolish an existing commercial structure to allow for the construction of a two (2) story, two (2) family dwelling with a total of six (6) bedrooms that the petitioners failed to demonstrate a hardship at the locus. The lot area was deficient in area and street frontage with unacceptable proposed off-street parking that requires "stacking" in the yard and backing out into a very busy thoroughfare. The petitioner did not present any evidence regarding elements of MGL Chapter 40-A, Section 10 which would relate to any unique soil conditions shape or topography of the land or structure in question which would affect generally the zoning district. There was an absence of evidence that would aid the petitioner's application, no hardship was found by the Board at the locus. Granting would derogate from the intent of the zoning by-laws and will negatively impact the orderly development of the neighborhood. Ward 4 City Councilor Susan NiCastor offered support for the petitioner.

VOTE:

Motion to Grant by: Steven Lainas
Seconded by: Iolando Spinola

IN FAVOR: (1)

Iolando Spinola

OPPOSED: (4)

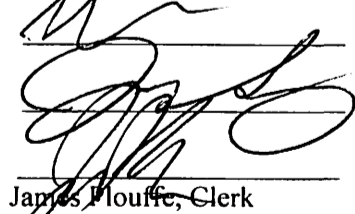
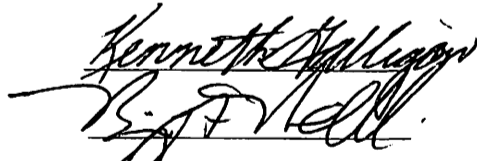
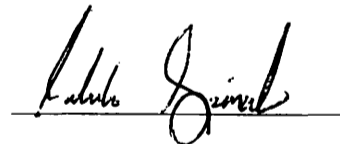
Kenneth Galligan, Chairman

Brian Nardelli, Fire Chief

Steven Lainas

James Sweeney

Timothy Cruise, City Clerk



James Moulffe, 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, December 14, 2021 at 6:00 p.m.

IN RE: 21-105 Petition of STEVENS STETSON TRUST- KATHERINE VAN TTEE, 664 North Cary Street, Brockton, MA, for a Variance from Art. III, Sec. 27-9, to convert a single family home into a 2 family with 2 parking spaces instead of 4 parking spaced required in an R-3 Zone, located at 6 STEVENS AVENUE.

PETITIONER'S STATEMENT:

OPPOSITION: None

DECISION: Allowed to withdraw

BASIS: The Petitioner was allowed to withdraw from the scheduled hearing prior to the start of the hearing following receipt of communication from the Inspector of Buildings, Mr. James Plouffe, that Zoning Board actions was not necessary at the above location whereas the locus was found to be a two (2) family dwelling.

VOTE:

Motion to Grant by:
Seconded by:

IN FAVOR: (5)

Kenneth Galligan, Chairman

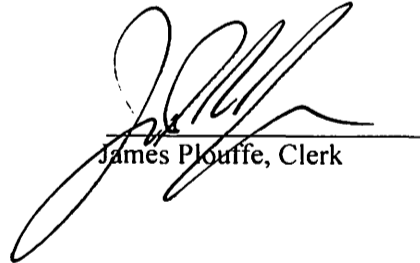
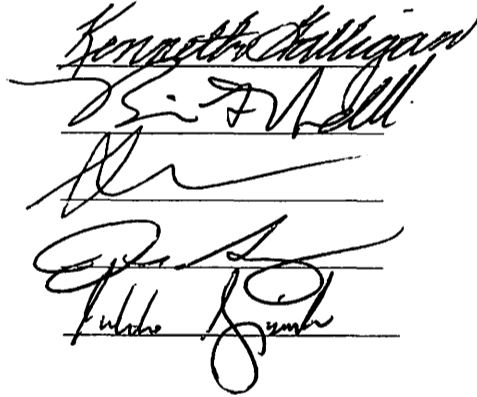
Brian Nardelli, Fire Chief

Steven Lainas

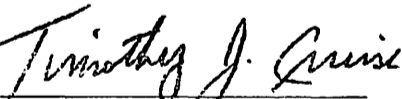
James Sweeney

Iolando Spinola

OPPOSED: (0)



James Plouffe, Clerk



Timothy Cruise, City Clerk

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CITY OF BROCKTON
MASSACHUSETTS
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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, December 14, 2021 at 6:00 p.m.

IN RE: 21-106 Petition of **RED'S DAIRY**, 18 Jefferson Street, Fall River, MA, for a Variance to develop commercial business, being a gas station and convenience store with drive through window. Also seeking curb cuts on Pleasant Street and Pennsylvania Ave, relief of buffer zone of 38 feet on the westerly side adjoining the entrance to D.W. Park in a C-5 Zone, located at **609 & 627 PLEASANT STREET**.

PETITIONER'S STATEMENT: Attorney Phillip Nessralla, Engerieer, Mathew leidner presented to the Board, Exhibit A, plot plan, Exhibit B, Site plans and Exhibit C Memo in support. The petitioners are seeking permission to construct a gas station, which is proposed to be a 4000sq feet convenience store, drive through widow establishment with 6 fueling stations.

OPPOSITION: Several abutters came forward in opposition, with concerns for safety and high traffic volume.

DECISION: Unanimously 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 petitioners proposal to develop the currently zoned C-5 locus to allow for C-2 type commercial business, including a gasoline station, convenience store and drive through widow establishment with access and curb cuts on the adjacent residential Pennsylvania Ave, curb cuts on Pleasant St and relief from the adjacent D.W. Field Park property was an unacceptable proposed use of the locus and the proposed will be of such location, use, size and character that it will not be in harmony with the appropriate and orderly development of the C-5 zone in which the proposed use is situated and will be detrimental to the existing neighborhood the adjacent D.W Field Park historical property, the severely stressed current traffic situations surrounding the locus and inconsistent with any officially adopted master plan for the city. The petitioner failed to present any agreement or mutual understanding with the City of Brockton Park Dept., D.W Field Park, regarding a proposed encroachment upon the park set-back requirements Chapter 27, Section 24. The traffic ameliation proposal submitted to be addressed in any zoning relief, such as re-timings of traffic signals signs and markings are beyond to control and prevue of the Zoning Board. Board members spoke with first-hand knowledge of the severe negative traffic situations as it currently exists and concerns for potential further traffic interruptions associated with the proposed use that presents many entering, existing and turning movements affecting traffic on Pleasant St. Strong opposition to the proposed use of the locus and the resulting negative impact on the surrounding neighborhood and the negative impact on the current and future traffic was presented by numerous surroundings and adjacent neighbors who strongly opposed any access to Pennsylvania Ave. The neighbors supported the use as a C-5 locus that would be in harmony with the surrounding neighborhood with minimal descripting to its residents. No hardship with proposed use of the locus was found by the Board and the proposed use will have an unusually detrimental effect on the neighborhood, the already stressed and overtaxed traffic and road systems and negatively affect the adjacent D.W Field Park property.

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PHILLIP NESSRALLA
ATTORNEY
609 & 627 PLEASANT STREET
FALL RIVER, MA 01937
TEL: 508-675-1111

Con't
21-106

VOTE:

Motion to Grant by: James Sweeney
Seconded by: Brian Nardelli, Fire Chief

IN FAVOR: (0)

OPPOSED: (5)

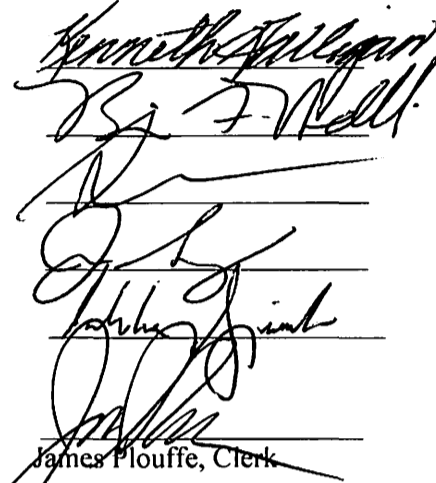
Kenneth Galligan, Chairman

Brian Nardelli, Fire Chief


Steven Lainas

James Sweeney

Iolando Spinola



James Plouffe, Clerk



Timothy Cruise, City Clerk

City of Lowell
Lowell, Massachusetts
01850

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, December 14, 2021 at 6:00 p.m.

IN RE: 21-107 Petition of JEFFREY VIZARRETA, 1183 Main Street, Weymouth, MA, for a Variance to convert a single family home into a two (2) family home in an R-2 Zone, located at 84 MYRTLE STREET.

PETITIONER'S STATEMENT: Attorney, Brian Palmucci and Owner, Jeffrey Vizarrta, presented to the Board Exhibit A Floors plans. The petitioner is seeking a variance to construct a two (2) story, two (2) family dwelling. An addition to the existing dwelling will be constructed to convert into a two (2) family.

OPPOSITION: None.

DECISION: Unanimously Denied.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found after hearing the applicants request to construct an addition to the structure and to then use the single family residence as a two (2) family dwelling, found that the Petitioner did not present any evidence regarding elements of MGL Chapter 40-A, Section 10 which would relate to any unique soil conditions shape or topography of the land or structure in question which would affect generally the zoning district. The Board did not find that maintain the aforementioned requirements would invoke a substantial hardship, financial or otherwise. There was an absence of supporting documents, proposed additions construction plan, setbacks, etc. that would aid the applicants petition. Other residences in the surrounding area are similar in nature as the single family dwelling in question which further negates any basis for relief before this Board. Considering the absence of evidence to Chapter 40 A and requirements needed to be submitted, the Board demies the request for a variance.

VOTE:

Motion to Grant by: James Sweeney
Seconded by: Steven Lainas

IN FAVOR: (0)

OPPOSED: (5)

- Kenneth Galligan, Chairman
- Brian Nardelli, Fire Chief
- Steven Lainas
- James Sweeney
- Iolando Spinola

Kenneth Galligan
Brian Nardelli
Steven Lainas
James Sweeney
Iolando Spinola
 James Plouffe, Clerk

Timothy J. Cruise
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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 Hal,
Brockton, Massachusetts, on Tuesday, December 14, 2021 at 6:00 p.m.

IN RE: 21-108 Petition of **ELEVATIONS, INC.**, 68 Hovendon Avenue, Brockton, MA, for a
Special Permit from Art. III, Sec. 27-24.4, on adult use marijuana for permission to operate a
marijuana establishment for retail sale in this building which requires approval in a C-3 Zone,
located at **156-160 MAIN STREET**.

PETITIONER'S STATEMENT:

OPPOSITION: None

DECISION: Allowed to withdraw.

BASIS: The petitioner requested to withdraw from the scheduled marijuana Special Permit hearing prior
to the start of the hearing as a matter following the denial of a marijuana Variance for the same location.

VOTE:

Motion to Grant by:
Seconded by:

IN FAVOR: (5)

Kenneth Galligan, Chairman

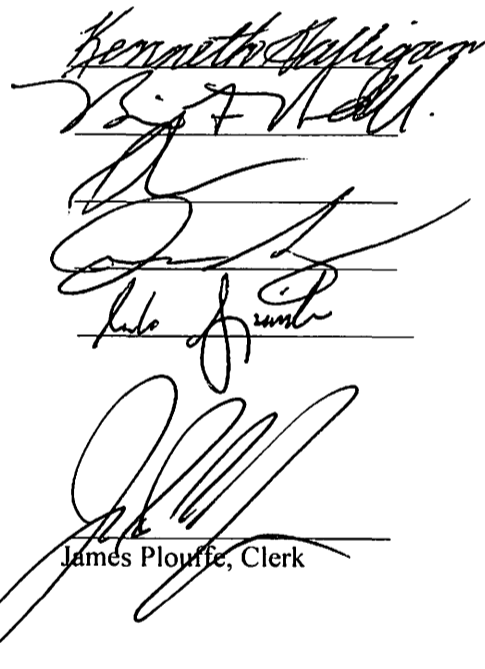
Brian Nardelli, Fire Chief

Steven Lainas

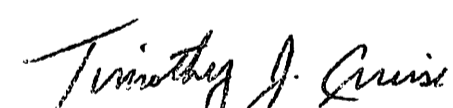
James Sweeney

Iolando Spinola

OPPOSED: (0)



James Plouffe, Clerk


Timothy Cruise, 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, December 14, 2021 at 6:00 p.m.

IN RE: 21-109 Petition of **ELEVATIONS, INC.**, 68 Hovendon Avenue, Brockton, MA, for a Variance from Art. III, Sec. 27-24.4, on adult use marijuana, Sec 3.b.(i)-marijuana retail operations shall not be conducted or located on ground floor in a C-3 Zone, located at **156-160 MAIN STREET.**

PETITIONER'S STATEMENT: Attorney Jim Valeriani, Business owners Elevations Inc and Engineer from North County presented to the Board, Exhibit A Floor Plan. The Petitioner reported that all information to be consistent with prior special permit granted in November 2020, which was to conduct the business on the second floor of the property. They are now seeking a variance to conduct a marijuana retail on the ground floor of the property which will be better for the business financially.

OPPOSITION: None.

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 petitioners failed to demonstrate a hardship at the locus that would allow for the overturning the ordinance amending Chapter 27 of the revised ordinance of the City of Brockton concerning the regulations and zoning of marijuana Section B, Special permitted uses in C-2 general commercial zone and C-3 central business zone that specifically directs that marijuana retail operations shall not be conducted or located on the ground floor in C-3 zone. Additionally, the Petitioner failed to provide marijuana retailer location required documents to support the petitioners request to relocate from the previously granted second floor location at the locus in conformance with ordinance requirements to the prohibited ground floor location. No official elected City official appeared to support the Variance request. Granting of the prohibited marijuana retail sales 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: James Sweeney
Seconded by: Brian Nardelli, Fire Chief:

IN FAVOR: (3)

Steven Lainas


James Sweeney


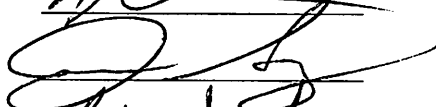
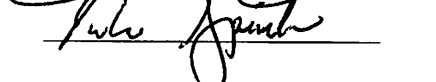
Iolando Spinola

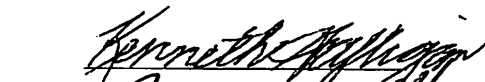

OPPOSED: (2)

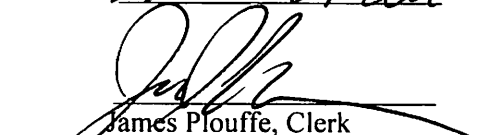
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