

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, March 10, 2022 at 6:00 p.m.

IN RE: 22-18 Petition of **HERC RENTALS INC.**, 27500 Riverview Center Blvd, Bonita Springs, Fl. For a Variance from Sec. 27-29, to allow the sale and leasing or renting of construction equipment and contractor tools, together with a showroom and related offices and garage in a C-2 Zone, located at **1675 MAIN STREET**.

PETITIONER'S STATEMENT: Attorney Philip Nessralla presented to the board, Exhibit A Floor plans and Exhibit B Plot plan. The attorney stated the company operates a full-service, well-maintained businesses throughout Massachusetts. The petitioners would like to operate their business of rentals, sales and leasing of construction equipment, between 7am – 5pm, Monday – Friday. No Structural changes will be done to the existing building and construction vehicles will be displayed out front.

OPPOSITION: None

DECISION: Granted with stipulations. 1. All repairs to equipment, etc. shall be inside of the garage with no outside repair operations. 2. Yard lighting shall be downward with no spill-over onto adjacent properties. 3. A fence shall be erected around the rear of the property and green space shall be maintained at the front of the property along the sidewalk property line.

BASIS: After reviewing the application, plans, information submitted, individual site visitations and giving due consideration to testimony given at the public hearing, the Board found the locus to be a vacant former auto dealership in a C-2 Zone surrounded by many varied commercial uses. Granting of a variance to allow for the sale, leasing or renting of construction equipment and contractor tools with showroom, garage and related offices would not derogate from the intent of the zoning by-laws allowing similar uses and will not negatively impact the orderly development of the neighborhood. The petitioner stated the hours of operation shall be 7am to 5pm, Monday through Friday with no Saturday or Sunday operating hours. All repairs to equipment, etc. shall be inside of the garage with no outside repair operations. Yard lighting shall be downward with no spill-over onto adjacent properties. A fence shall be erected around the rear of the property and green space shall be maintained at the front of the property along the sidewalk property line. The above listed stipulations are incorporated by reference herein. All representations in petitioners' statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by: Steven Lainas
Seconded by: Brian Nardelli, Fire Chief

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE MAR 24 2022 PURSUANT
TO M.G.L.C. 40A SECTION 17.

IN FAVOR: 5

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

OPPOSED: 0

Kenneth Galligan
Brian Nardelli
Steven Lainas
James Sweeney
Iolando Spinola
CITY CLERK'S OFFICE
BROCKTON, MA.
James Plouffe, Clerk
2022 MAR 24 A 11:32

RECEIVED

Timothy J. Cruise
Timothy Cruise, City Clerk

RECEIVED AND FILED: April 14, 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. 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, March 10, 2022 at 6:00 p.m.

IN RE: 22-19 Petition of ELEVATION FINANCIAL GROUP, LLC, 201 East Pine Street, Ste 200, Orlando, Fl., for a Variance from Sec. 27-29, 27-53, to allow the continuity of residential use since 1987 wherein the original use was for 55 + thereafter transitioning to Assisted Living and now intending to revert to its original use of 55+, and to allow the parking configuration per the previous Variances in a C-2-Zone, located at 25-27 EAST NILSSON STREET.

PETITIONER'S STATEMENT: Attorney Philip Nessralla and Engineer Scott Faria, presented to the Board, Exhibit A Plot plan, Exhibit B Floor plans and Exhibit C Memo in Support. They are seeking to convert the use back to an age over 55+ living use. The existing building will not have any structural changes, but will have upgrades within the building. The current residents will have the opportunity to stay with a lease or residents who choose not to will have transitioning assistance from Attorney Burke.

OPPOSITION: None

DECISION: Granted with stipulations. 1. Granted relief is specifically for the over age 55 residential use with maximum of eighty-six (86) units and ninety (90) bedrooms.

BASIS: After reviewing the application, plans, information submitted, individual site visitations and giving due consideration to testimony given at the public hearing, the Board found that granting a modification to previously granted Variance for the locus to allow for a minimum of eighty (80) regulation 180 sq. ft. parking spaces and transitions from a previously granted "Assisted Living" use to a new proposed "over 55" living use consisting of eighty-size (86) units with ninety (90) bedrooms would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. In conformance with Section 27-53 (3), the Board considered the prosed new use of the locus and determined that eighty (80) parking spaces of not less than 180 sq. ft. each would be adequate for the site. A hardship exists at the site due to the current "Assisted Care" use to the building that does not allow for the most viable and useful use that creates an untenable financial burden for the continued use of the residential structure. The Variance is granted with the expressed stipulation that the granted relief is specifically for the over age 55 residential use with maximum of eighty-six (86) units and ninety (90) bedrooms. Parking and easement arrangements rights established with First Evangelical Lutheran Church shall remain in effect. All representation in petitioner's statement shall be incorporated by reference stipulations recorded herewith. Ward Councilor Susan NiCastro was recorded in support of the "over age 55" building conversion.

VOTE:

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

IN FAVOR: 5

Kenneth Galligan, Chairman

Brian Nardelli, Fire Chief

Steven Lainas

James Sweeney

Iolando Spinola

OPPOSED: 0

Kenneth Galligan
Brian Nardelli (KB)
Steven Lainas (KB)
J. Sweeney (KB)
I. Spinola (KB)

James Plouffe
James Plouffe, Clerk

Timothy J. Cruise

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, Massachusetts, on Tuesday, March 10, 2022 at 6:00 p.m.

IN RE: 22-19 Petition of ELEVATION FINANCIAL GROUP, LLC, 201 East Pine Street, Ste 200, Orlando, Fl., for a Variance from Sec. 27-29, 27-53, to allow the continuity of residential use since 1987 wherein the original use was for 55 + thereafter transitioning to Assisted Living and now intending to revert to its original use of 55+, and to allow the parking configuration per the previous Variances in a C-2-Zone, located at 25-27 EAST NILSSON STREET.

PETITIONER'S STATEMENT: Attorney James Burke and Engineer Scott Faria, presented to the Board, Exhibit A Plot plan, Exhibit B Floor plans and Exhibit C Memo in Support. They are seeking to convert the use back to an age over 55+ living use. The existing building will not have any structural changes, but will have upgrades within the building. The current residents will have the opportunity to stay with a lease or residents who choose not to will have transitioning assistance from Attorney Burke.

OPPOSITION: None

DECISION: Granted with stipulations. 1. Granted relief is specifically for the over age 55 residential use with maximum of eighty-six (86) units and ninety (90) bedrooms.

BASIS: After reviewing the application, plans, information submitted, individual site visitations and giving due consideration to testimony given at the public hearing, the Board found that granting a modification to previously granted Variance for the locus to allow for a minimum of eighty (80) regulation 180 sq. ft. parking spaces and transitions from a previously granted "Assisted Living" use to a new proposed "over 55" living use consisting of eighty-size (86) units with ninety (90) bedrooms would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. In conformance with Section 27-53 (3), the Board considered the prosed new use of the locus and determined that eighty (80) parking spaces of not less than 180 sq. ft. each would be adequate for the site. A hardship exists at the site due to the current "Assisted Care" use to the building that does not allow for the most viable and useful use that creates an untenable financial burden for the continued use of the residential structure. The Variance is granted with the expressed stipulation that the granted relief is specifically for the over age 55 residential use with maximum of eighty-six (86) units and ninety (90) bedrooms. Parking and easement arrangements rights established with First Evangelical Lutheran Church shall remain in effect. All representation in petitioner's statement shall be incorporated by reference stipulations recorded herewith. Ward Councilor Susan NiCastro was recorded in support of the "over age 55" building conversion.

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

ANY APPEAL MUST BE MADE WITHIN 20 DAYS FROM THIS DATE ~~MAR 24 2022~~ PURSUANT TO M.G.L.C. 40A SECTION 17.

IN FAVOR: 5
Kenneth Galligan, Chairman
Brian Nardelli, Fire Chief
Steven Lainas
James Sweeney

Iolando Spinola
OPPOSED: 0

Kenneth Galligan
Brian Nardelli
Steven Lainas
James Sweeney
Iolando Spinola

CITY CLERK'S OFFICE
BROCKTON, MA
James Plouffe, Clerk

2022 MAR 24 A 11:33

RECEIVED

RECEIVED AND FILED: April 14, 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. 11

Timothy J. Cruise
Timothy Cruise, City Clerk

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, March 10, 2022 at 6:00 p.m.

IN RE: 22-20 Petition of ANITA SMITH AND LISA CROWLEY, 250 Howard Street, Brockton, MA, to appeal the building inspectors determination relative to prior decision by the ZBA in a R-1-C Zone, located at PLOT 182-044 & 181-042 HOWARD STREET-ALLEGED SPORTS COMPLEX.

PETITIONER'S STATEMENT: Petitioners Anita Smith and Lisa Crowley presented to the Board Exhibit A Video of site and Exhibit B Memo in Support. They are seeking the over turn of the decision of the building inspector's prior determination in relation to plots 182-044 & 181-042. They stated the conditions of the site to be unsafe to the abutters and public. Petitioners spoke of concerns of mulch fires burning, large mounds of dirt causing water run off that flood abutters basements, grinding of asphalt, containing a ledge toxins and the constant noise of machinery and grinding of unknown materials into the night. Also, several abutters made the same statements supporting the petitioners.

OPPOSITION: Several abutters spoke in opposition

DECISION: Denied

BASIS: After reviewing the application, plans, information submitted, individual site visitations, giving due consideration to testimony and following a public hearing held on March 10, 2022, the Board found that the appeal to the City of Brockton Zoning Enforcement Officer's finding and decision relative to Plot 182-044 and Plot 181-042 that "there is no violation of zoning ordinances with these parcels", that the request to overturn that decision was submitted to Zoning Board of Appeals outside of the thirty (30) day appeal period as prescribed in Mass General Law (MGL) Chapter 40-A, Section 8 on the form as prescribed by the Brockton Zoning Board of Appeals, Article 2, Section 2.

The Board found that the Petitioner's January 21, 2022 filing was not an application as prescribed by Zoning Board regulations. The Zoning Board lacks jurisdiction whereas the Petitioner did not comply with the deadline for application on the prescribed form with filing fee pursuant to the Brockton Zoning Board of Appeals By- Laws, Article 2, Section 2.

The Board voted that the appeal application to the Board of Appeals received on February 9th 2022 referencing the notification of the decision of the Building Inspector / Enforcement Officers decision dated 12/23/21, was not timely and the Board lacks jurisdiction where the Petitioner did not comply with the submission deadline pursuant to MGL Chapter, 40-A and Brockton 2BA, Article 2, Section 2.

VOTE:

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

ANY APPEAL MUST BE MADE WITHIN 20 DAYS FROM THIS DATE MAR 24 2022 PURSUANT TO M.G.L.C. 40A SECTION 17.

IN FAVOR: 5

Kenneth Galligan, Chairman

Brian Nardelli, Fire Chief

Steven Lainas

James Sweeney

OPPOSED: 1

Iolando Spinola

RECEIVED

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Timothy Cruise, City Clerk

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, March 10, 2022 at 6:00 p.m.

IN RE: 22-21 Petition of **CHRIS WALSH**, 9 Timothy Drive, West Bridgewater, MA, for a Variance for relief from Art. VII, Sec. 27-46-50, to construct a garage in an R-1-B Zone, located at **27 SUMNER STREET**.

PETITIONER'S STATEMENT: Contractor, Chris Walsh on behalf of the Owners, presented to the Board Exhibit A Plot plan, and Exhibit B Building plans. Mr. Walsh stated the home owners were seeking a variance to construct a two (2) car garage to house two (2) vehicles due to outdoor off-street parking and to better secure both vehicles.

OPPOSITION: None

DECISION: Unanimously Granted

BASIS: After reviewing the application, plans, information submitted, individual site visitations and giving due consideration to testimony given at the public hearing, the Board found the petitioner presented elements of Mass General Law (MGL) Chapter 40-A, Section. 10 that evidenced unique soil conditions lot shape or topography of the land and the foundation of the current dwelling whereby 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 Variance is granted with the stipulation that the granting is restricted to the proposed two (2) vehicle garage with no second floor or living space all as described in plans submitted and dated 10/18/21 by Mr. Kenzie Engineering Group.

VOTE:

Motion to Grant by: James Sweeney
Seconded by: Iolando Spinola

ANY APPEAL MUST BE MADE WITHIN 20 DAYS FROM THIS DATE MAR 24 2022 PURSUANT TO M.G.L.C. 40A SECTION 17.

IN FAVOR: 5

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

OPPOSED: 0

Kenneth Galligan
Brian Nardelli
Steven Lainas
James Sweeney
Iolando Spinola

James Plouffe
 James Plouffe, Clerk

Timothy J. Cruise
Timothy Cruise, City Clerk

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CITY CLERK'S OFFICE
BROCKTON, MA.

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, March 10, 2022 at 6:00 p.m.

IN RE: 22-22 Petition of **ROCK MILIEN**, 202 Summer Street, Brockton, MA, to construct a two (2) family home in an R-2 Zone, located at **PLOT 39 ARTHUR STREET**.

PETITIONER'S STATEMENT: Contractor Rock Milien, presented to the Board Exhibit A Plot plan and Exhibit B Building plans. The petitioner stated he wanted to construct a two (2) family on a vacant lot located on Arthur St. The proposed new two (2) unit building would consist of three (3) bedrooms and one (1) and half bathrooms per unit.

OPPOSITION: An adjacent abutter spoke in opposition

DECISION: Denied

BASIS: After reviewing the application, plans, information submitted, individual site visitations and giving due consideration to testimony given at the public hearing, the Board found the applicant did not present any evidence regarding elements of Mass General Laws (MGL) Chapter. 40-A, Section 10 which would relate to any unique soil conditions, shape or topography of the land in question to support the request to construct a two (2) family dwelling on the undersized lot. No hardship dealing with the locus was found by the Board. Granting would derogate from the intent of the zoning by-laws and would negatively impact the orderly development of the neighborhood. A rear yard abutter spoke in opposition. The Board denies the request for a Variance.

VOTE:

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

ANY APPEAL MUST BE MADE WITHIN 20 DAYS FROM THIS DATE MAR 24 2022 PURSUANT TO M.G.L.C. 40A SECTION 17.

IN FAVOR: 5

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

OPPOSED: 0

Kenneth Galligan
Brian Nardelli
Steven Lainas
James Sweeney
Iolando Spinola

 James Mousse, Clerk

Timothy J. Cruise
Timothy Cruise, City Clerk

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CITY CLERK'S OFFICE
BROCKTON, MA.

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, March 10, 2022 at 6:00 p.m.

IN RE: 22-23 Petition of **MICHAEL HAIKAL**, C/o Belmont Street, Brockton, MA, for a Variance from Art. III, Sec 27-29, to seek permission to construct a two (2) family residence in a C-2 Zone, located at **PLOT 231 PLEASANT STREET**.

PETITIONER'S STATEMENT: Attorney Chris Vale and Engineer Scott Faria, presented to the Board Exhibit A Plot plans and Exhibit B Floor plans Exhibit C Building plans. The petitioners stated they are seeking to construct a two (2) family on a vacant land surrounded by residential homes. The proposed new building consisting of seven (7) bedrooms, three on the first-floor unit and the second unit will have four (4) bedrooms. The façade of the dwelling will be consistent with other homes in the arear.

OPPOSITION: None

DECISION: Granted

BASIS: After reviewing the application, plans, information submitted, individual site visitations and giving due consideration to testimony given at the public hearing, the Board found the locus is vacant land located in a C-2 Zone and currently surrounded by residential homes of similar size and use. Construction of a C-2 use at the locus is very unlikely and a C-2 use would not be in the best interest of the neighborhood. The lot has unique, size, shape, Section 27-48, and granting for the requested use for two (2) family dwelling with seven (7) bedrooms represents the best use and would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood as developed as shown on plans submitted and dated 2/8/22, All representations in petitioner statement shall be incorporated by reference as stipulations recorded herewith including front yard and parking layout.

VOTE:

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


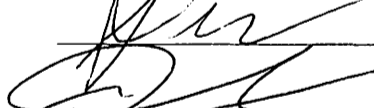
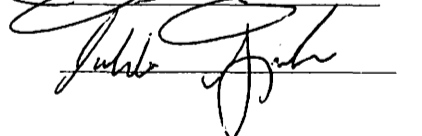
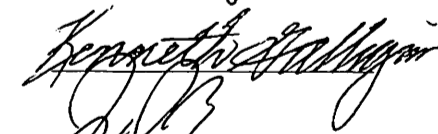
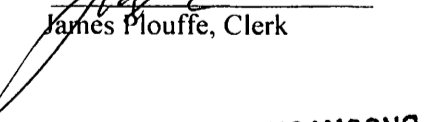
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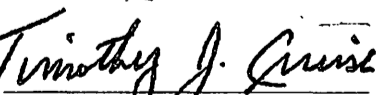
IN FAVOR: 4

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

OPPOSED: 1

- Kenneth Galligan, Chairman






James Plouffe, Clerk


Timothy Cruise, City Clerk

CITY CLERK'S OFFICE
BROCKTON, MA.

2022 MAR 24 A 11: 35

RECEIVED

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