

**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, July 8, 2014 at 7:00 pm.

IN RE: 14-34 Petition of **EAGLE ADVERTISING LLC.**, 323 Manley Street, West Bridgewater, MA, for a Variance and Special Permit from Sec. 27-64(3), 27-65(1), 27-65(2), 27-65(9), 27-65(10), 27-66(2), 27-66(3), 27-66(6), to the extent necessary for Construction and Operation of Non-Accessory Sign: Variance requested to allow for Construction and Operation of Digital Advertising Billboard in Conformance with Industry and Safety Standards in a C-2 Zone, located at **405 WESTGATE DRIVE.**

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION: Withdrawn

BASIS: The petition is withdrawn prior to the meeting as a matter of right.

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

OPPOSED: (0)

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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, July 8, 2014 at 7:00 pm.

IN RE: 14-35 Petition of **TONY NGUYEN**, 220 Norfolk Street, Quincy, MA, for a Variance from Sec. 27-9, relief from frontage requirements to construct a two (2) family home in an R-2 Zone, located at **51 PROSPECT STREET**.

PETITIONER'S STATEMENT : The petitioner Tony Nguyen along with Jim Morrissey presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans and Elevation. They are before the board seeking permission to construct a two (2) family home at 51 Prospect Street. An original multi family structure was built in the 1890's which was demoed on 1997 due to a house fire. The proposed home will be a 2 ½ story home on a 11, 150 sq. ft piece of property. The petitioner stated that each unit will have a single 50' driveway. If granted, the petitioner will have to go Planning Board.

OPPOSITION: None

DECISION: Granted unanimously with the stipulations **1.** That 2 single driveways shall be installed and **2.** The amount of greenspace shown on plan shall not be reduced.

BASIS: Petitioner requested relief from frontage requirements to build a two (2) family home on the subject parcel that previously was the site of a multi family home that was destroyed by fire. The board found that granting the requested relief would not derogate from the intent of the zoning by laws, will be in conformance with surrounding build out of the surrounding properties and will not negatively impact the orderly development of the neighborhood as the site had been previously used in this manner without negative impact. The above 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:
Seconded by:

Stephen Bernard
Gary Keith

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

OPPOSED: (0)

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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, July 8, 2014 at 7:00 pm.

IN RE: 14-36 Petition of **ANGELA DEJESUS**, 248 Pleasant Street, Brockton, MA, for a Variance under Sec. 27-27, to allow joint occupancy use in an existing building in an R-3 Zone, located at **248 PLEASANT STREET**.

PETITIONER'S STATEMENT : Attorney Joseph Lutz along with Ronan Vale submitted to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. Mr. Vale owns and lives at the above named property which is a 2 family home and mixed use. The commercial portion of the property once housed a variety store and shoe repair shop. The petitioner is before the board seeking permission to open a variety store. The store will sell coffee, newspapers and other staples. Mr. Vale will not sell cigarettes. The store will be managed by the petitioners wife, Angela. The hours of operation will be Monday through Saturday 9:00 a.m. until 7:00 p.m., closed on Sunday. The side driveway will be used for customers as well as the street.

OPPOSITION: None

DECISION: Denied unanimously.

BASIS: No hardship dealing with the land was found by the board. Lack of sufficient off-street parking, potential hazardous on street parking and no loading or delivery area were serious concerns of the board. Granting would derogate from the intent of the zoning by laws and will negatively impact the orderly developments of the neighborhood due to the afore-mentioned hazards. .

VOTE:

Motion to Grant by: Jeffrey Charnel
Seconded by: Stephen Bernard

IN FAVOR: (0)

OPPOSED: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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 July 8, 2014 at 7:00 pm.

IN RE: 14-37 Petition of **DAVID HADLOCK**, 679 Worcester Road, Natick, MA, for a Variance from Sec. 27-9 and 27-13A, to construct a single family house on an existing grandfathered lot lacking lot size, frontage and minimum width. Existing garage to be demolished in a R-1-C Zone, located at **PLOT 26 BOYLSTON STREET**.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION: Withdrawn

BASIS: The petition is withdrawn prior to the meeting as a matter of right.

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

OPPOSED: (0)

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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, July 8, 2014 at 7:00 pm.

IN RE: 14-38 Petition of **FREDERICK HEBSHIE**, 110 Fairview Avenue, Brockton, MA, for a Variance from Sec 27-9, to allow a non buildable lot to be built on in an R-1-C Zone, located at **PLOT 4 AUGUSTA AVENUE**.

PETITIONER'S STATEMENT: The petitioner Frederick Hebshie presented to the board Exhibit A, Letter from petitioner and plans. Mr. Hebshie is before the board seeking permission to have Plot 4 as a buildable lot. It had previously been denied a buildable lot buy the city. A Colonial style home will be built if granted. The subject property has a home next door. The petitioner did not have a certified site plan stating the measurements of the proposed home and distance of the existing home. The site has is being used as a dumping ground. The abutter Marie Geffrard and her daughter are in favor of this petition.

OPPOSITION: None

DECISION: Denied unanimously.

BASIS: No hardship dealing with the locus was presented by the petitioner nor was found by the board specifically relating to the soil condition, shape or topography of the land. No plans were presented regarding the development of the plot for a specific structure. "Grandfathered" status of the plot did not exist since the Plot 4 had been merged/combined with an adjacent plot in the latest deed dated June 28, 2010. Insufficient plans and an unprepared presentation contributed to the board's decision that granting would derogate from the intent of the zoning by-laws.

VOTE:

Motion to Grant by: Gary Keith
Seconded by: Stephen Bernard

IN FAVOR: (0)

OPPOSED: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

James M. Casieri, Clerk

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**COMMONWEALTH OF MASSACHUSETTS
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ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, July 8, 2014 at 7:00 pm.

IN RE: 14-39 Petition of **IN GOOD HEALTH, INC. C/O MCCLUSKEY**, 932 Main Street, Brockton, MA, for a Special Permit from Chapter 27, Sec. 27-24.3, for a Special Permit that is required in order to operate a Medical Marijuana Dispensary in the Overlay Zone in a I-1 Zone, located at **1200 WEST CHESTNUT STREET.**

PETITIONER'S STATEMENT: Attorney John McCluskey, John Holmgren, Engineer and the petitioners David and Linda Noble presented to the board Exhibit A, Packet with all pertinent information. They are before the board seeking permission to house the In Good Health dispensary for medical marijuana at the above named location. Legalize marijuana was voted by Massachusetts voters in 2012. The dispensary will be in the rear of the building. The petitioners have met with all city departments to discuss what is needed by the dispensary. They have changed the lot lines in order to keep a 500 ft distance from South Bay Medical Health since they deal with children. This facility will not be open to the general public, as you will need a doctors referral. The petitioner will be leasing the space so the owners will be paying taxes and the Nobles will be donating one million (\$1,000,000.00) dollars over a seven (7) period to the city. This facility will employ thirty (30) to forty (40) people. The ARC building which employs disabled people will be hired by In Good Health to make the labels for the marijuana. The whole building will have cameras all around with a 24 hour video surveillance and a six (6) foot fence will be closed after hours. The plants are weight everyday for security purposes. They are expecting thirty three (33) visits per day with each patient making two (2) visits per month. Security guards will be the only ones to open and closed the office. Open seven (7) days at 9:00 a.m with patient hours from 10:00 a.m. until 7:00 p.m. After being opened for six (6) months delivery service will start. The vehicle will have two (2) delivery people and a vaulted chamber for money and product. Benjamam Kravitz who has a business in the area and is also President of the Boys and Girls Club is in favor as well as William Stadelmann whose family's electrical business have been in the city since 1921. Councilors Dennis Eaniri and Michelle DuBois are in favor of location and how this project is coming together.

OPPOSITION: None

DECISION: Granted unanimously with the stipulation that minimum of no less that all presentations stated at meeting either on the plans or stated orally.

BASIS: The Special Permit requested for permission to operate a medical marijuana dispensary in the designated medical marijuana overlay zone as created by the Brockton City Council was found to be in compliance with the Commonwealth of Massachusetts rules, regulations and operating requirements for the distributions of medical marijuana . The use was found to be in harmony with the orderly development of the medical marijuana overlay zone and will not negatively impact the neighborhood. There is adequate ingress and egress to off street parking and will not interfere with traffic on the abutting street. All representations in the petitioners statement given as well as all of the Commonwealth of Massachusetts, Department of Public Health and the City of Brockton. Regulations regarding the operation of medical marijuana growing and distributions facilities as presented to the board shall be incorporated by reference as stipulations recorded herewith.

14-39 continued

VOTE:

Motion to Grant by:
Seconded by:

Gary Keith
Robert Pelaggi

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

OPPOSED: (0)

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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, July 8, 2014 at 7:00 pm.

IN RE: 14-40 Petition of **352 WEST ELM STREET REALTY TRUST**, 15 Torrey Street, Brockton, MA, for permission from Mass. General Laws Chapter 40A, Sec 6, to add two (2) additional residential units in a R-1-C Zone, located at **352 W. ELM STREET**.

PETITIONER'S STATEMENT: Attorney Richard Wainwright and Bruce Malcolm presented to the board Exhibit A Site Plan and Exhibit B, Floor and Elevations. Attorney Wainwright is before the board seeking permission to add two (2) more units in the existing carriage house. Each unit will have two (2) bedrooms and will have a townhouse feel. The main house has five (5) units. The property will be repaved with a city curb cut in order to have fourteen (14) parking spaces. The petitioner would like to have the dumpster in the front corner of West Elm Street and Byron Avenue. Greenspace will be in the front and side of building.

OPPOSITION: The direct abutters stated that the petitioner is not neighbor friendly. The dumpster is always filled with trash, with the tenants outside being loud and drinking at all hours of the day. The driveway is on a incline which makes getting out of driveway in the winter months difficult and the smell of tires burning has an awful odor.

DECISION: Denied unanimously.

BASIS: Petitioner seeking relief from M.G.L. Chapter 40A, Section 6 to add two(2) residential units in a R-1- C Zone in an accessory barn or carriage house failed to establish that the existing non conforming structure, that never contained any housing units in it's past history, may be extended or altered and that such change, extension or alteration would not be substantially more detrimental than the existing non conforming use to the neighborhood. A five (5) units apartment building that was converted from a single family home currently resides on the subject plot at 352 West Elm Street. Converting the barn/carriage house to house two (2) additional housing units would result in two (2) separate dwelling buildings on one (1) plot in a R-1-C Zone that allows for one (1) principle dwelling and two (2) accessory structures, including a private garage. Section 27-19 specifically allows for only one (1) principal dwelling units. The conversion of the barn/carriage house into two (2) dwelling units that previously never existed in the barn/carriage house will not be of such location, size and character that it will be in harmony with the appropriate and orderly developments of the R-1- C Zone in which the proposed used is located and will be detrimental to the existing neighborhood and adjacent properties with regard to overcrowding of land, resulting in increasing congestion of traffic, value of surrounding properties and undue concentration of population. The parking proposal that required parking vehicles directly against an adjacent property within feet of an occupied dwelling on that adjacent property as well as creating additional parking by removing green space on the Byron Avenue side of the current five (5) unit building was not acceptable to the board. Relocating the dumpster to the side/front yard was not located in the accepted front and side yard setback and unquestionably created an unacceptable negative visial impact on the neighborhood. Neighbors in opposition to the proposed conversion of the barn/carriage house produced photos of the current rubbish strewed on the yard of the five (5) family property depicting the reportedly consistently unkept condition of the property

#14-40 continued

The board found no hardship dealing with the locus, that granting the relief would negatively impact the neighborhood, would derogate from the intent of the zoning by laws, would exacerbate an already overcrowding of land and would create a dangerous traffic pattern for egress and exit with the proposed parking access.

VOTE:

Motion to Grant by: Jeffrey Charnel

Seconded by: Gary Keith

IN FAVOR: (0)

OPPOSED: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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, July 8, 2014 at 7:00 pm.

IN RE: 14-41 Petition of **GEORGE ARVANITIDIS**, 35 Torrey Street, Brockton, MA, for a Special Permit from Art. IV, Sec 27-29 3 (f), to have a restaurant with alcohol in a C-2 Zone, located at **104 TORREY STREET**.

PETITIONER'S STATEMENT: Attorney Jake Creedon along with the petitioner George Arvanitidis presented to the board Exhibit A, Floor Plans and Exhibit B, Site Plan. Mr. Arvanitidis is before the board seeking permission to open a sit down restaurant with alcohol at the above listed location. He already has two (2) other take out restaurants in Brockton. The proposed restaurant will have sixteen (16) bar stools and twelve (12) tables. The hours of operation will be as stated seven (7) days a week from 11:00 a.m. until 1:00 a.m. The restaurant will have a casual family pub atmosphere.

OPPOSITION: None

DECISION: Granted unanimously with the stipulation that no more than twelve (12) tables and sixteen (16) bar stools in the restaurant.

BASIS: The proposed restaurant with proposed alcohol license is located at the site of a previously allowed restaurant. The board found that granting would not derogate from the intent of the zoning by laws and the use will be in harmony with the development of the zone and not negatively impact the neighborhood. There is adequate onsite parking and egress to parking and ingress to parking will not interfere with traffic on abutting streets.

VOTE:

Motion to Grant by: Stephen Bernard
Seconded by: Robert Pelaggi

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

OPPOSED: (0)

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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, July 8, 2014 at 7:00 pm.

IN RE: 14-42 Petition of **MARK MINGELS**, 352 Winter Street, E. Bridgewater, MA, for relief from Sec 27-10, to construct a two story two family home in a C-2 Zone, located at **PLOT 69 MONTELLO STREET**.

PETITIONER'S STATEMENT: The petitioner Mark Mingels along with Jim Morrissey presented to the board Exhibit A, Proposed Site Plan and Exhibit B, Floor and Elevation Plans. Mr. Mingels is before the board seeking permission to construct a two (2) family home. The property was originally used as an accessory property for the Issam Mitchell employee parking. The proposed structure will go well in this area since the adjacent properties are residential homes. The parking area will have enough room for a turn around making it easier to get in and out of the property.

OPPOSITION: None

DECISION: Granted with the stipulation that the driveway and parking will be only on one (1) side of home specifically as shown on the plan presented.

BASIS: Petitioner requested a Variance to allow for construction of a two (2) family home in a C-2 Zone on a parcel containing 7,084 sq. ft. of unique shape that is completely surrounded by multifamily dwellings that does not lend itself as a desirable developable use for Commercial use. The board found that granting 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 stipulation, particularly locating the parking and driveway on the south side of the lot and dwelling, are incorporated by reference herein. All representations in petitioners statements shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by: Gary Keith
Seconded by: Stephen Bernard

IN FAVOR: (4)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: (1)

Robert Pelaggi

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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, July 8, 2014 at 7:00 pm.

IN RE: 14-43 Petition of **DAVID GANNON**, 346 Quinnipiac Street, Wallingford, CT, for a Variance from Art. XIV, Sec. 27-65 & Sec. 27-66 to install and erect a free standing sign (billboard) which exceeds the allowable height and size requirements in a C-2 Zone, located at **59 MILL STREET**.

PETITIONER'S STATEMENT : Attorney John F. Creedon along with David Gannon presented to the board Exhibit A, Site Plan. Mr. Gannon who is with ION the Ball Sign is before the board seeking permission to erect a LED Billboard Sign, two (2) sided and 100' in height and 14' x 48' in size on the above named location. The sign will advertise national products leaving space for free thirty hours of city announcements and amber alerts. It will have down lighting with a ten second delay before the next advertisement. The owners of the property were present and in favor.

OPPOSITION: None

DECISION: Denied unanimously

BASIS: Petitioner requested a Variance for the erection of a free standing billboard on a parcel that had no specific unique circumstances relative to shape, soil conditions or topography of the land other that it was lower thatt he Route 24 elevation for which the signs were intended to face. Plans were vague and incomplete and the requested relief did not address other sections of Chapter 27 that needed relief in order to allow the billboard. Distance from the proposed sign location to an already existing electronic sign on the east side of Route 24 were not known to be in compliance with Mass DOT regulations regarding the location of billboard. Concern was expressed by the board regarding motorist safety, particularly with driver distraction as the proposed location is immediately adjacent to the Route 24 and Route 123 interchange where vehicle lane changes and turning movements would be occurring on a regular basis. No specific hardship was found with the locus by the board. Granting would derogate from the intent of the zoning by laws especially with regards to sign and will negatively impact the orderly development of the neighborhood.

VOTE:

Motion to Grant by	Stephen Bernard
Seconded by:	Jeffrey Charnel

IN FAVOR: (0)

OPPOSED: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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, July 8, 2014 at 7:00 pm.

IN RE: 14-44 Petition of **STEVE TORREY**, 41 Arlington Street, Brockton, MA, for a Variance from Sec. 27-9 & Sec. 27-13A, to construct a new single family residence in a R-2 Zone, located at **24 RUTLAND SQUARE**.

PETITIONER'S STATEMENT: Attorney Richard Wainwright along with the petitioner Steve Torrey presented to the board Exhibit A, Site Plans and Exhibit B, Floor and Elevations. They are before the board seeking permission to construct a single family home at the above named address. The existing home had been destroyed. The home will be a New England Colonial with three (3) bedrooms with no attic expansion.

OPPOSITION: None

DECISION: Granted.

BASIS: Petitioner requested relief from frontage and lot area requirements to build a single (1) family home on the subject parcel that previously was the site of a single family home that was destroyed by fire. The unique shape and size of the lot was similar to the surrounding neighborhood lots. The board found that granting the requested relief would not derogate from the intent of the zoning by laws, will be in conformance with surrounding properties, will eliminate a neighborhood eyesore and will not negatively impact the orderly development of the neighborhood as it was previously used in this manner without negative impact and its current condition is an unkept eyesore.

VOTE:

Motion to Grant by: Robert Pelaggi
Seconded by: Stephen Bernard

IN FAVOR: (4)

Kenneth Galligan, Chairman

Stephen Bernard

Gary Keith

Robert Pelaggi

OPPOSED: (1)

Jeffrey Charnel

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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, July 8, 2014 at 7:00 pm.

IN RE:14-45 Petition of **YUN CHAI LU**, 208 Somerset Avenue, Taunton, MA, for a Special Permit from Art. IV, Sec. 27-29 3 (f) to allow a Hibachi Sushi Buffet Restaurant and to serve full liquor in a C-2 Zone, located at **688 CRESCENT STREET**.

PETITIONER'S STATEMENT: Attorney John F. Creedon and along with Yun Chai Lu presented to the board Exhibit A, Plans. Mr. Lu is before the board seeking permission to have a Hibachi Sushi Buffet style restaurant with a full alcohol license. The petitioner has a restaurant in Raynham which he runs with his family for the last seven (7) years. Hours of operation will be Sunday through Thursday 11:00 a.m. until 9:30 p.m. and Friday through Saturday 11:00 a.m. until 10:30 p.m. The restaurant will have eight (8) to ten (10) employees and 227 seats.

OPPOSITION: None

DECISION: Granted unanimously.

BASIS: The proposed Hibachi Sushi Buffet Restaurant location in a large strip mall building was found by the Board to be a use that will be in harmony with the orderly development of the zone and not negatively impact the strip mall or the neighborhood. There is adequate off street parking and adequate ingress and egress to parking that will not interfere with traffic on abutting streets. The Board found no objection to the request for the ability to secure a full liquor license subject to the License Commission mandates.

VOTE:

Motion to Grant by:
Seconded by:

Robert Pelaggi
Jeffrey Charnel

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

OPPOSED: (0)

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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, July 8, 2014 at 7:00 pm.

IN RE: 14-46 Petition of **MICHAEL HAIKAL C/O MCCLUSKEY**, 932 Main Street, Brockton, MA, for a Variance from Art. III, Sec. 27-9 & Art. III, Sec. 27-13A, to combine two lots then divide the lots into two single family lots in a R-1 C Zone, located at **PLOTS 15 & 17 GEORGE STREET**.

PETITIONER'S STATEMENT : Attorney John McCluskey, Bruce Malcolm, Land Surveyor and the petitioner Michael Haikal presented to the board Exhibit A, Memorandum in Support, Exhibit B, Site Plan and Exhibit C, Floor and Elevation. They are before the board seeking permission to combine two (2) existing lots and then subdivide to construct two (2) single family homes. The new lots will be over 11,000 sq. ft. each. The homes will have four (4) bedrooms and 2 ½ bathrooms. The petitioner will make sure final grading is such that no additional water from the current conditions will negatively impact any additional water onto adjacent properties. If granted, the petitioner will have to go to the Planning Board.

OPPOSITION: The abutters came out stating water issues and traffic is a big concern for the little street. Mr. Haikal had previously built a home abutting Jeffrey Smith's home at 116 Jacob Street and the homeowner has had more water entering his property ever since. Mike Almeida from 60 George Street stated he tried to purchase the piece of land in 1995 and was told it was not a buildable lot.

DECISION: Granted unanimously with the stipulations **1.** No more than four (4) bedrooms and **2.** The yard is to be filled and graded so no additional water flow will negatively impact abutters property.

BASIS: Petitioner requested a Variance to reconfigure two (2) lots that were originally three (3) small lots into two (2) lots of 11, 743 sq. ft and 11,262 sq.ft., both with 93.85 ft. of roadway frontage. The lots are of unique topography in that they currently slope sharply towards the rear. Creating two (2) lots as proposed will result in both lots being considerably larger than nearly all of the neighborhood parcels. The engineer for the petitioner offered that developing the two (2) lots would result in land grading that would stop water runoff from George Street onto the parcels and diminish the current flow of storm water onto rear adjacent properties. The board found this testimony to be credible. Granting would not derogate from the intent of the zoning laws and would not negatively impact the orderly development of the neighborhood. The above listed stipulations, specifically not more than four (4) bedrooms per each dwelling and no additional or increase of water runoff to the rear properties are incorporated by reference. All representations in petitioners statement shall be incorporated by reference as stipulations recorded herewith.

14-46 continued

VOTE:

Motion to Grant by:

Stephen Bernard

Seconded by:

Gary Keith

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

OPPOSED: (0)

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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, July 8, 2014 at 7:00 pm.

IN RE: 14-47 Petition of **ALEX KRAVITZ**, 928 West Chestnut Street, Brockton, MA, for a Special Permit from Sec. 27-29, to allow a fast casual restaurant in a C-2 Zone, located at **27 WESTGATE DRIVE**.

PETITIONER'S STATEMENT: Attorney John McCluskey along with the owner Ben and Alex Kravitz presented to the board Exhibit A, Site Plan and Exhibit B, Floor & Elevation Plans. The petitioners are before the board seeking permission to have a Moe's Southwest Grill Restaurant at one side of the building. The restaurant will have fifty six (56) seats and fourteen (14) parking spaces. On the other side of the building a Five Guys Burger and Fries will be opening in July 2014. The seats for Five Guys have been lowered to fifty eight (58) seats per corporate office and eighteen (18) parking spaces.

OPPOSITION: None

DECISION: Granted unanimously with the stipulations **1.** Five Guys will have not more than 58 seats **2.** Moe's will have not more than 56 seats and **3.** 32 parking spaces total for both restaurants.

BASIS: The board found that granting the requested Special Permit for Moe's fast casual restaurant and the stipulation by the petitioner that the parking requirements and parking spaces provided for the location encompassing both Five Guys and Moe's shall not exceed 32 parking spaces as specified in Brockton Zoning Code Chapter 27, Sec 27-54," one (1) parking space for each four (4) seats" will be in harmony with the orderly development of the zone and not negatively impact the neighborhood. There is adequate ingress and egress to parking and the use will not negatively interfere with traffic on the abutting streets.

VOTE:

Motion to Grant by:

Jeffrey Charnel

Seconded by:

Robert Pelaggi

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

OPPOSED: (0)

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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 July 8, 2014 at 7:00 pm.

IN RE: 14-48 Petition of **CUMBERLAND FARMS**, 100 Crossing Blvd, Framingham, MA for a Variance and Special Permit for permission to construct a 4,513 s.f. colonial style retail convenience store with gas sales along with new signage, parking and landscaping improvements in a C-2 Zone, located at **1813 & 1829 MAIN STREET**.

PETITIONER'S STATEMENT: Attorney John Smolak presented to the board Exhibit A, Site Plans. Attorney Smolak who represents Cumberland Farms is seeking permission to construct a new retail gas station with coffee shop at the above location. Cumberland Farms is purchasing the south abutting lot to allow for a new larger structure than the current building. Four (4) gas dispensaries will have a overhead canopy that can house eight (8) cars at the same time. Twenty one (21) parking spaces will be available for customers coming in and out of the store. An LED sign will be used for the changing of the gas prices. Landscaping will be along Hayward Avenue and the south side of Main Street. The abutting neighbors are in favor of this new project as long as it has some kind of sound barrier and no water runoff issues.

OPPOSITION: None

DECISION: Granted unanimously with the stipulations **1.** Shall be no water runoff from the petitioners property to 22 Hayward Avenue **2.** Sound barrier to be installed in rear of building for mechanical machinery located on the 2nd floor and **3.** A six (6) foot high privacy fence to be installed along the adjacent residential property lines and specifically adjacent to 22 Hayward Avenue and **4.** The LED sign message or color of display shall change no more than once every 10 seconds. The change shall be brief, instantaneous and shall not contain flashing, intermittent, or moving lights: or display animated, moving video or scrolling advertising.

BASIS: Granting would not derogate from the intent of the zoning by laws and will not negatively impact the orderly development of the neighborhood. The planned development of the two (2) parcels will improve the safety, landscaping, asthetics and topographic conditions of the parcels as they currently exist. Questions and concerns of two (2) abutting neighbors were addressed regarding potential noise and water runoff, whereupon both neighbors spoke in favor of this project. 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:

Robert Pelaggi

Seconded by:

Gary Keith

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Jeffery Charnel

Gary Keith

Robert Pelaggi

OPPOSED: (0)

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, 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, _____ at 7:00 pm.

IN RE:

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS:

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: ()

Atty. Anthony Eonas, Chairman

Richard Francis, Fire Chief

Vahan Boyajian

Stephen Bernard

Paul Merian

OPPOSED: ()

James M. Casieri, Clerk

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Brockton, Massachusetts, on Tuesday, _____ at 7:00 pm.

IN RE:

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION :

BASIS:

VOTE:

Motion to Deny by:

Seconded by:

IN FAVOR: ()

Atty. Anthony Eonas, Chairman

Richard Francis, Fire Chief

Stephen Bernard

Vahan Boyajian

Paul Merian

OPPOSED: (2)

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, City Clerk