

**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, August 12, 2014 at 7:00 pm.

IN RE: 14-49 Petition of **KARL F. SCHULER, JR.**, P. O. Box 864, Brockton, MA, for a Variance from Sec 27-65 (11) setback & Sec. 27-67, to construct a free standing sign in an R-1C Zone, located at **930 CRESCENT STREET**.

PETITIONER'S STATEMENT: The petitioner Karl Schuler presented to the board Exhibit A, Site Plan and Exhibit B, Picture of Proposed Sign. Mr. Schuler is before the board seeking permission to erect a new sign on the property in front of the building that he has since purchased. The sign will be on the edge of the property line leaving a 0' setback. The sign will be internally lit. The fence on the property will also be removed. Mr. Schuler is asking relief from the 100' setback requirement for the sign since the property is in a residential area.

OPPOSITION: None

DECISION: Granted unanimously with the stipulations **1.** The front edge of the sign will be a 1' setback off the property line **2.** No LED signs allowed **3.** Internal lighting shall be off between the hours of 11:00 p.m. to 7:00 a.m. and **4.** The fence is to be removed.

BASIS: Petitioner requested relief from sign setback requirements, Article XIV, Section 27-65 (11), due to parking configuration, width of open space between parking area and lot line at sidewalk and sight line visibility of the proposed sign. Granting of the requested relief by allowing a one foot setback relief from the front property line will not derogate from the intent of the zoning by law. All representations of in the petitioners statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:
Seconded by:

Jeffrey Charnel
Gary Keith

IN FAVOR: (5)

Kenneth Galligan, Chairman

Richard Francis, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

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, August 12, 2014 at 7:00 pm.

IN RE: 14-50 Petition of **INNA CHUDNOVSKAYA**, 143 W Brookline Street, Suite 403, Boston, MA, for a Variance from Art. IV, Sec. 27-29, Art. III, Sec 27-9 and 27-10: Art. IX, Sec. 27-54, to have a mixed use: 1st floor Commercial Office Space with Early Education School, Gym Facility and top floors proposal for 12 Residential Condominium units with parking spaces in a C-2 Zone, located at **69 N MONTELLO 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

Richard Francis, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

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, August 12, 2014 at 7:00 pm.

IN RE: 14-51 Petition of **FRANKLIN SCHOOL, LLC, C/O MCCLUSKEY**, 932 Main Street, Brockton, MA, for a Variance from Art. III, Sec. 27-9 & Sec. 27-13A, to create 9 single family lots in a R-2 Zone, located at **PLOT 54 SAWTELL AVENUE**.

PETITIONER'S STATEMENT: Attorney John McCluskey along with the petitioner Michael Juliano, presented to the board Exhibit A, Memorandum in Support and Exhibit B, Site Plan of Land. Mr. Juliano was before the board back in 2012 seeking approval for thirteen (13) lots which was denied. They are before the board now seeking permission to have nine (9) lots all for single family homes. The homes will be fronting Arthur Street and Bellevue Avenue. Styles for the homes will range from the traditional New England Colonials and front entrance Colonials all with double driveways. The home prices will be around \$299,000.00. The petitioner stated that the three (3) lots facing Sawtell Avenue will be developed at a later date. The neighbors like the project as does Councilor Robert Sullivan.

OPPOSITION: None

DECISION: Granted with the stipulations 1. Greenspace as shown on plan not to be reduced and 2. No double driveways shall be side to side with neighbors.

BASIS: : Petitioner submitted a revised set of plans to develop single family homes at Plot 54 Sawtell Avenue, site of the former Franklin School, that reduced the number of house lots to a total of twelve (12) house lots as shown on a plan dated June 28, 2014 by J. K. Holmgren Engineering, Inc. The relief granted by the Board included only a total of nine (9) house lots, three (3) of which front on Bellevue Avenue and six (6) of which front on Arthur Street. Three (3) potential house lots that are located on Sawtell Avenue between Arthur Street and Bellevue Avenue were not included in this decision. A financial hardship was demonstrated to the Board by the petitioner due to the cost of removing/demolishing the vacant former Franklin School building and resulting site preparation as related to a sale and site development agreement with the City of Brockton. The Board found that granting the requested relief for nine (9) single family house lots would not derogate from the intent of the zoning by-laws, will be in conformance with the surrounding build-out of the neighboring properties, will not negatively impact the orderly development of the neighborhood and will eliminate a hazardous vacant building that is causing an unacceptable eyesore to the surrounding neighborhood. All representations in the petitioners statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:
Seconded by:

Gary Keith
Stephen Bernard

IN FAVOR: (4)

Kenneth Galligan, Chairman
Richard Francis, Fire Chief
Stephen Bernard
Gary Keith

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 August 12, 2014 at 7:00 pm.

IN RE: 14-52 Petition of **RALPH J. SMITH**, 1019 Crescent Street, Brockton, MA , for a Variance under Sec. 27-9, Sec. 27-13, to construct a new 28' x 26' single family home in an R-3 Zone, located at **PLOT 105 NORTH AVENUE**.

PETITIONER'S STATEMENT: Attorney John Creedon, petitioner Ralph Smith and Bruce Malcolm from Land Surveyors presented to the board Exhibit A, Packet for Zoning Members, Exhibit B, Proposed Home and Elevations and Exhibit C, Site Plan. Mr. Smith is before the zoning board seeking permission to construct a single family home at the above location which was denied back in 2008. The size of the new lot will be 7,765 sq. ft. The existing garage will be razed and an A- frame Colonial will be constructed. The driveway will be to the left of home. Stockade fencing will be erected around the property as well as many trees to be kept and all overgrown brush to be removed. Abutter Leslie Smith is in favor of this petition as is Gary Leonard from 21st Century, Councilors Shayna Barnes and Robert Sullivan. .

OPPOSITION: None

DECISION: Granted unanimously with the stipulations **1.** Stockade fencing along the property line **2.** Removal of brush on property **3.** Garage to be razed and **4.** All mature trees to be left in rear of property abutting Louis Street.

BASIS: Petitioner presented site plan to create a new house lot, designated at lot A, containing 7,765 sq. ft. of land to construct a new single family home on North Avenue. The hardship demonstrated was the current individual lot is larger in area of surrounding properties, has a unique shape and in its current condition is an unkept eyesore to the surrounding neighborhood. The board found that granting the requested relief would not derogate from the intent of the zoning by-laws, will be in conformance with the surrounding properties, will eliminate a neighborhood eyesore and will not negatively impact the orderly development of the neighborhood. The petitioner received support from a direct abutter to the rear of the proposed new dwelling and there was no opposition. All representations in the petitioners statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:
Seconded by:

Gary Keith
Jeffrey Charnel

IN FAVOR: (5)

Kenneth Galligan, Chairman

Richard Francis, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

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, August 12, 2014 at 7:00 pm.

IN RE: 14-53 Petition of **FATHER BILL'S AND MAINSPRING, INC.**, 430 Belmont Street, Brockton, MA, petitioner appeals the denial of two (2) building permits for two (2) buildings to be constructed in a C-2 Zone, located at **695 NORTH MAIN STREET**.

PETITIONER'S STATEMENT: Attorney Wayne Matthews presented to the board Exhibit A, Site Layout Plan and Exhibit B, Memorandum in Support. Attorney Matthews is seeking permission to overturn the denial of two (2) building permits. They purchased the property in May 2013 and would like to construct two (2) buildings, one as a two (2) family and the other one as a nineteen (19) units. They received a letter of denial in June 2014 stating a deed restriction on the above named property. The property is a parking lot which belongs with the Catholic Charities/Phaneuf Hospital building on 682 North Main Street. The petitioners stated they could not find a deed with a restriction, but did not bring any documentation with them for the board to review.

OPPOSITION: The abutter came out in opposition to this project. They stated clientele, traffic issues and flooding in the parking lot. They also claimed this property was a parking lot for Catholic Charities located at 682 North Main Street. The Montello Business Association members also stated the above complaints but also added that this area has been cleaned up with negative activity and they want to keep it that way for customers coming down to do business in their stores. A few abutters on Broad Street stated the property line of the parking lot may be on their property.

DECISION: Petitioners request to overturn the building inspectors decision was denied.

BASIS: Petitioner was before the Board to appeal the denial of two (2) building permits for two (2) buildings to be constructed at 695 North Main Street where the land in question was deemed not suitable for building due to its use as parking spaces for the former Catholic Charities Building or former Phaneuf Hospital Building. The petitioner cited Article 9, Sec 27-53 (4) where all permitted and required. Accessory off street parking spaces, open or enclosed, shall be located on the same lot at the use to which such spaces are accessory, except that such spaces may be provided within a radius of two hundred and fifty (250) feet from the lot lines. " Such spaces shall be in the same ownership as the use to which they are accessory and shall be subject to deed restrictions of record, binding the owner and his heirs, successors and assigns to maintain the required number of spaces available through the life of such use". The petitioner stated that there is no deed restrictions binding the parking on the subject property and therefore Section 27-53 (4) does not apply to the subject property. He also stated that there are two (2) separate deeds for both the property in question and the former Catholic Charities property but did not submit either document as evidence. A multipage petition with many names and addresses of persons in opposition to this project going forward was presented to the Board. A representative of the Montello Business Association spoke in opposition to losing the parking spaces citing the probability of further exacerbating an already congested parking situation in the area of North Main and Ames Streets.

Continued #14-53

Several adjacent business owners as well as local residents spoke of the current difficult parking scenarios and expressed serious concerns that any development of the former Catholic Charities building without the parking on the subject lot poses the probability of making an already strained parking situation worse for the local business and residents. Eliminating parking spaces that were formerly used by the former Catholic Charities Building as off street as own accommodations for the occupants of the Catholic Charity Building has the potential to create a derogatory and negative parking impact on the surrounding homes and businesses encompassed the opponents concerns regarding parking. Granting of the relief from off street parking would negatively impact the orderly development of the neighborhood.

VOTE: A yes vote would be overturning the building inspectors decision.

Motion to Grant by: Jeffrey Charnel
Seconded by: Gary Keith

IN FAVOR: (2)

Kenneth Galligan, Chairman

Stephen Bernard

OPPOSED: (3)

Richard Francis, Fire Chief

Jeffrey Charnel

Gary Keith

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, August 12, 2014 at 7:00 pm.

IN RE: 14-54 Petition of **MARIA DEPINA ALVES**, 66 Wayland Street, Brockton, MA, for a Special Permit from Sec. 27-29, to seek permission to have a beer and wine license at her grocery/convenience store and take out restaurant in a C-2 Zone, located at **274 NORTH MAIN STREET**.

PETITIONER'S STATEMENT: Attorney Kristopher Stefani along with the petitioner Maria Alves presented to the board Exhibit A, Packet for Zoning. Ms. Alves is before the board seeking permission to sell beer and wine at her convenience store at the above named location. She purchased the store in 2005 as a restaurant then a grocery store with take- out food 2007. Beer and wine was available when the restaurant was open She will have a walk in cooler. Hours of operation are Monday through Saturday 9:00 a.m. until 9:00 p.m. and Sunday 9:00a.m.until 7:00 p.m. with at least two (2) employees working at all times. City Planner and Economic Development Director Robert May is in favor.

OPPOSITION: None

DECISION : Granted.

BASIS: Petitioner requested a Special Permit to sell beer and wine at the grocery/convenience store located at 274 North Main Street. The petitioner requested operating hours of 9:00 a.m. to 9:00 p.m., Monday through Saturday and 9:00 a.m. until 7:00 p.m. on Sunday. Hours of operation shall be further regulated by guideline of the Brockton License Commission. The board found that the use wil 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 will not negatively impact traffic on the abutting streets.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Jeffrey Charnel

IN FAVOR: (4)

Richard Francis, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: (1)

Kenneth Galligan, Chairman

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
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ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, August 12, 2014 at 7:00 pm.

IN RE: 14-55 Petition of **JULIO MONTEIRO**, 7 Virginia Avenue, Brockton, MA, for permission to construct a car port on the side of home in an R-1-C Zone, located at **7 VIRGINIA AVENUE**.

PETITIONER'S STATEMENT: The petitioner Julio Monteiro presented to the board Exhibit A, Site Plan and Exhibit B, Picture of Carport. Mr. Monteiro is before the board seeking permission to keep the carport which he erected without a building permit and not up to code. Mr. Monteiro is also in violation having exceeding the two (2) accessory structures per property allowed.

OPPOSITION: None

DECISION: Denied unanimously.

BASIS: The petitioner requested permission, a Variance, to build a carport onto the side of this house that would extend to within eight (8) feet of sideline of his property line. Upon investigation, it was discovered that the carport has already been constructed without a Building Permit or any required inspection. A site plan submitted failed to show additional structures and outbuildings that were in excess of zoning regulations already in place. The petitioner failed to present sufficient evidence to the board to support circumstances related to soil conditions, shape or topography of the land at the locus that would literally involve substantial hardship, financial or otherwise that would allow desirable relief be granted without substantial detriment to the public good and without mollifying or substantially derogating from the interior of the ordinance.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Jeffrey Charnel

IN FAVOR: (0)

OPPOSED: (5)

Kenneth Galligan, Chairman

Richard Francis, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

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:

OPPOSITION:

DECISION:

2

BASIS:

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: (0)

Atty. Anthony Eonas, Chairman

Richard Francis, Fire Chief

Vahan Boyajian

Stephen Bernard

Paul Merian

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: PETITION

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

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: PETITION

PETITIONER'S STATEMENT :

OPPOSITION:

DECISION:

BASIS:

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: ()

Atty. Anthony Eonas, Chairman _____

Richard Francis, Fire Chief _____

Vahan S. Boyajian _____

Stephen Bernard _____

Paul Merian _____

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

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: PETITION

PETITIONER'S STATEMENT:

OPPOSITION: NONE

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

A true copy. Attest:

Anthony Zeoli, City Clerk

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CITY OF BROCKTON
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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

A true copy. Attest:

Anthony Zeoli, City Clerk

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CITY OF BROCKTON
ZONING BOARD OF APPEALS

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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, Cler

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 _____ 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

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

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 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