

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 Wednesday, October 14, 2015 at 7:00 pm.

IN RE: 15-51 Petition of **MASS ADH C/O LUANN HAPENNY, 30 Eastbrook Road, Dedham, MA**, for a Special Permit from Sec. 27-32, C-5, to have an Adult Day Health Center in a C-2 Zone, located at **583 CENTRE STREET**.

PETITIONER'S STATEMENT: Attorney George Asack along with the petitioner and Vice President of Operations from the Mass Adult Day Health, Luann Hapenny presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plan. Ms. Hapenny is before the board seeking zoning relief in the form of a Special Permit to have an Adult Day Health Center in a C-2 Zone. ADH currently has eight operating facilities. One of the operating centers is located in Brockton on 764 N. Main Street. The current ADH Brockton location is full to capacity and can no longer accept anymore clients. The proposed location for the Adult Day Health Center will be located at 583 Centre Street at Eastway Plaza along Route 123. The proposed location is a 12,000 square foot single story building, which 7,000 square feet would be utilized for the dining area. There will be 42 parking spaces dedicated to the proposed Adult Day Health Center and the hours of operation will be Monday thru Friday 8:00 am to 4:00 pm. The proposed facility will have no more than 150 clients and seven vans, which will be stored, overnight on the premises. ADH provides nursing care, exercise, feeding and activities to the increasingly growing elderly population. Ms. Hapenny stated that ADH's clients are elderly people who are capable to live on their own, therefore there are no on site physicians. Employees will be licensed with 40 hours of training similar to a Nurse's Assistant, CPR certified, AED trained, screened for drugs and alcohol and Cori/background checks will also be performed. ADH receives most of their referrals through physicians and hospitals. Clients will be transported to and from the proposed facility by licensed and certified drivers via ADH vans with front door drop off and pick-up. Ms. Hapenny stated that transportation back to the client's homes occurs approximately during 2:00 pm and clients will not be on the vans any longer than 45 minutes during the commute. Ms. Hapenny also stated that The Department of Public Health strictly regulates that the proposed ADH location shall not exceed no more than 150 clients, cannot operate during the weekend and must apply for a waiver if the facility can prove to the Department of Public Health, that clients who reside more than 30 miles within the proposed facility are in need of ADH's services. ADH has a tight lease under agreement with the landlord of 583 Centre Street, with the option to renew every 5 years and to potentially buy the proposed facility. Main Street Manager, Gary Leonard was present and in favor of the petitioner's proposal.

OPPOSITION: None.

DECISION: Granted unanimously with the stipulations **1.** The site shall not exceed no more than 150 clients **2.** The Adult Day Health Center shall operate within all of the Department of Public Health required regulations.

BASIS: The Board found that the use of their location for an Adult Day Health Center in a C-2 Zone will be in harmony with the orderly development of the zone and will not negatively impact the neighborhood. There is adequate off street parking, adequate ingress and egress to parking and will not interfere with traffic on the abutting street. Specific stipulations that shall be incorporated as part of the granting of the Special Permit include the limitation of no more than 150 clients at the site and that the Adult Day Health Center shall at all times operate within the Department of Public Health regulations for Adult Day Health Center operations. All representations in petitioner's statement shall be incorporated by reference as stipulations recorded herewith.

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE **OCT 28 2015** PURSUANT TO
M.G.L.C. 40A SECTION 17.

RECEIVED AND FILED: NOVEMBER 18, 2015
I, ANTHONY J. ZEOLI, CITY CLERK OF BROCKTON, MASSACHUSETTS HEREBY CERTIFY THAT THE AFORESAID IS A TRUE COPY AND THAT TWENTY DAYS HAVE LAPSED AND NO APPEAL HAS BEEN FILED. CHAPTER 40A SEC. 11

2015 OCT 28 AM 11:02
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APPEAL HAS BEEN FILED. CHAPTER 40A SEC. 11

VOTE:

Motion to Grant by: Gary Keith
Seconded by: Michael Williams, Fire Chief

IN FAVOR: (5)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

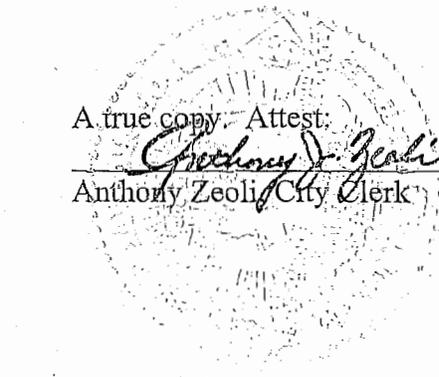
Gary Keith

OPPOSED: (0)

Kenneth Galligan
Michael Williams
Stephen F. Bernard
Jeffrey Charnel
Gary Keith
James Casieri
James Casieri, Clerk

A true copy. Attest:

Anthony J. Zeoli
Anthony Zeoli, City Clerk



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CITY OF BROCKTON'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 Wednesday, October 14, 2015 at 7:00 pm.

IN RE: 15-52 Petition of C & S DEVELOPMENT, 11 Aspen Road, Sharon, MA, for a Variance from 27-25, for a proposed CVS store located in a C-2 & R-1-C Zone, located at 1267 MAIN STREET.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION: The petition was withdrawn prior to the meeting by written notice to the Board as a matter of right.

BASIS:

VOTE:

Motion to Grant by:

Seconded by:

IN FAVOR: (0)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: (0)

Kenneth Galligan

Michael Williams

Stephen Bernard

Jeffrey Charnel

James Casieri

James Casieri, Clerk

A true copy. Attest:

Anthony Zeoli
Anthony Zeoli, 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 Wednesday, October 14, 2015 at 7:00 pm.

IN RE: 15-53 Petition of JOYCE RILEY, 760 Ash Street, Brockton, MA, for a Variance from Sec. 27-9, to construct a farmers porch in the front of the home in a R-1-C Zone, located at 760 ASH STREET.

PETITIONER'S STATEMENT: Petitioner Joyce Riley presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plan and is before the board seeking permission to construct a 32 ft by 4 ft farmer's porch lacking side and front setback requirements in a R-1-C Zone. Ms. Riley stated that she would like a farmer's porch to protect the home and herself from inclement weather and would be an addition to the aesthetics of the existing dwelling. Ms. Riley also stated that there is a hardship due to the existing dwelling's foundation, which cannot be moved. The proposed farmer's porch will not exceed pass the existing stairs.

OPPOSITION: None.

DECISION: Granted unanimously.

BASIS: The Board found that the location of the existing foundation creates a hardship at the site. Granting would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. All representations in petitioner's statements shall be incorporated by reference as stipulations recorded herewith; specifically referencing the access stairway to the proposed front porch shall be from the end of the porch and not from the front of the porch so as not to further encroach on the granted front setback.

VOTE:

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

IN FAVOR: (5)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: (0)

A true copy. Attest:


Anthony Zeoli
Anthony Zeoli, City Clerk

Kenneth Galligan

Michael Williams

Stephen Bernard

Jeffrey Charnel

James Casieri
James 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 Wednesday, October 14, 2015 at 7:00 pm.

IN RE: 15-54 Petition of **J & P REALTY TRUST**, 339 Belmont Street, Brockton, MA, for a Special Permit and Variance from Art. IV. 27-28 3.c, to operate a take-out restaurant in a C-1 Zone, located at **339 BELMONT STREET**.

PETITIONER'S STATEMENT: Attorney John Creedon along with the petitioners and owners of 339 Belmont Street, Jonathan Moore and Peter Savage presented to the board Exhibit A, Site Plan. Mr. Savage and Mr. Moore are before the board seeking zoning relief in the form of a Special Permit and Variance to operate a take-out restaurant in a C-1 Zone. Attorney Creedon stated the proposed restaurant Papa John's is the second largest pizza company in the United States. The proposed Papa John's would be located in a 4,449 sq foot existing building providing take-out only with majority of orders being delivery. The 12,000 sq foot lot will have 15 parking locations, in which 6 is only required. Attorney Creedon stated that there is a hardship due to being located in a C-1 Zone and being surrounded by C-2 Zones with granted special permits. The proposed Papa John's would have 2-5 employees during one shift and the hours of operation would be 10:00 am to 1:00 am seven days a week. There would be 1-2 delivery vehicles on site as well as the two ADAH required handicap parking spaces, which will be located in front of the restaurant. Attorney Creedon stated with the granting of the proposed restaurant there will be no impact to traffic and would be non-intrusive to the neighborhood. The restaurant would be a step down from Tailor Rental, a prior business in the same location. Landlord's Mr. Savage and Mr. Moore stated that they would provide snow removal by having snow removed from the property. The signage will remain within code and would be on the existing pylon, so there would be no need for a variance or special permit for additional signage. The dumpster will be located in the furthest rear point of the property.

OPPOSITION: Numerous abutters were present and in opposition of the petitioner's proposal. The abutters all shared similar concerns, which were that the proposed restaurant would be detrimental to the neighborhood. Specifically, there were concerns of increased traffic, potential vehicle accidents increasing, late-night closing time, and the engineered drawing parking setup.

DECISION: Denied

BASIS: The Board found that no hardship was found dealing with the locus and that granting of the Variance and Special Permit for a takeout restaurant in the C-5 zone would derogate from the intent of the zoning by-laws and would negatively impact the orderly development of the neighborhood. The layout of the onsite parking pattern coupled with the difficult egress and exit and access to the site would create dangerous traffic patterns and hazard to pedestrians on and off the site. In adequate information was available to the Board regarding specific aspects to the operation of the proposed takeout restaurant. Opposition to granting was proffered by a direct abutter specifically regarding traffic and parking concerns negatively impacting the area.

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VOTE:

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

IN FAVOR: (0)

OPPOSED: (5)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

Kenneth Galligan
Michael F. Williams
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Gary Keith
James Casieri
James Casieri, Clerk

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RE: 15-55 Petition of BRAD CARTWRIGHT C/O MCCLUSKEY, 932 Main Street, Brockton, MA, for a Variance from Art. IV. Sec. 27-32 & Sec. 27-25, Art. III. Sec. 27-24-3a, to allow commercial retail/restaurant uses in a C-5 and R-1-C Zone, located at 609 & 627 PLEASANT STREET AND 14 PENNSYLVANIA AVENUE.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS: The petition was withdrawn prior to the meeting by written notice to the Board as a matter of right.

VOTE:

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

IN FAVOR: (0)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: (5)

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