

**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, February 9, 2016 at 7:00 p.m.**

**IN RE: 16-10** Petition of **JOSE S. MOREIRA, TRUSTEE**, 63 Glendale Street, Brockton, MA, for a Special Permit from Art. IV, Sec 27-2A, 3a & Variance from Art. III, Sec 27-9, (off street parking ) to convert one commercial unit to residential and for joint occupancy of commercial and residential. Relief from off street parking and to establish additional parking on adjacent property in a C-2- Zone, located at **1150 MAIN STREET**.

**PETITIONER'S STATEMENT:** Attorney John McCluskey along with the petitioner Jose Moreira presented to the board Exhibit A, Site Plan and Floor Plans. Mr. Moreira is before the board seeking permission to convert the commercial portion of the building into commercial/residential on the first floor. The second and third floor has one (1) apartment units each. This property has four (4) parking spaces. Attorney McCluskey submitted a lease agreement from the abutting neighbor, Laura Andrade to give five (5) parking spaces to the petitioner for additional spaces for his tenants. Downtown Manager Gary Leonard spoke of being in favor of this and mentioning the city has a parking lot behind Gas Depot to lease if needed.

**OPPOSITION:** None

**DECISION:** Denied. Did not carry.

**BASIS:** After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found that the location is in C-2 commercial zoned area with commercial occupancy on the ground floor (first floor) with two residential units, one (1) on the second floor and one (1) on the third floor. The board found that to create an apartment on the first floor by subdividing the first floor to include both a residential apartment and commercial use together on the same first floor would derogate from the intent of the zoning by-laws and will negatively impact the orderly development of the commercial zoned C-2 neighborhood. Concern surrounding the layout and adequacy of the on-site plan submitted to the board prompted questions of accessible access to parking spaces whereas dimensional informational information was not provided

**VOTE:**

Motion to Grant by:  
Seconded by:

Stephen Bernard  
Gary Keith

**IN FAVOR: (2)**

Jeffrey Charnel

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Gary Keith

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**OPPOSED: (3)**

Kenneth Galligan, Chairman

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Stephen Bernard

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Robert Pelaggi

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James M. Casieri, Clerk

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Anthony Zeoli, City Clerk

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**ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, February 9, 2016 at 7:00 p.m.**

**IN RE: 16-11** Petition of **JOAO VAZ LOPES**, 875 Randolph Street, Canton, MA, for a Special Permit from Art. IV. Sec. 27-29, under Art. V., pursuant to Art. VII, 3f, petitioner is requesting a Special Permit to extend the hours of operation from 11 pm until 2am, 7 days a week and request to increase the occupancy load from 350 people to 450 people only when the function is just seating no tables for convention type functions in a C-2- Zone, located at **684 CRESCENT STREET**.

**PETITIONER'S STATEMENT:** Attorney John Creedon and the petitioner Joao Lopes presented to the board Exhibit A, Plans of Property. Mr. Lopes has been before us in the past to get approval of a function hall. The hall is used for parties, weddings and after funerals gatherings. He is now in front of the board seeking permission to increase the occupancy load to 450 people for lectures and changing the time of being opened from midnight until 2:00 am, seven (7) days per week . The hall has a 250 capacity. These lectures need no tables just seats lined across in rows. Mr. Lopes has a five (5) year lease on this property. Mr. Lopes had patrons speak of the positive parties they have attended at the function hall. Ward 5 Councilor Anne Beauregard and Councilor at Large Moises Rodrigues are in favor.

**OPPOSITION:** None

**DECISION:** Granted with the stipulations that **1.** 350 is the maximum capacity of no table conventions and **2.** the new hours of operation are from 11:00 am until 2:00am, seven (7) days per week.

**BASIS:** After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found the use will be in harmony with the orderly development of the zone and will not negatively impact the neighborhood. The granting of the Special Permit to extend the hours of operation until 2 am, seven (7) days per week is granted with the final approval of the License Commission for the requested hours of operation. The request for the increase in the occupancy load from the current 250 persons is allowed for a new occupancy load not to exceed 350 persons only when the site is used for convention type functions without the use of tables. When the site is used as the previously permitted function facility requiring the use of tables, the maximum occupancy load shall not exceed 250 occupants. All mandates of previously granted relief stipulated in zoning board hearings 14-13,14-31,14-79 shall remain as basis for the granting of this 16-11 Special Permit with the exception of the request for hours of operation and occupancy not to exceed 250 when used for "stadium" type seating with no tables. All representations in petitioners statements shall be incorporated by reference as stipulations recorded herewith including signed and recorded parking agreement. Support for the Special Permit was offered by several citizens and two (2) City Councilors.

**VOTE:**

Motion to Grant by:  
Seconded by:

Stephen Bernard  
Jeffrey Charnel

**IN FAVOR: (4)**

Stephen Bernard

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Jeffrey Charnel

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Gary Keith

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Robert Pelaggi

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**OPPOSED: (1)**

Kenneth Galligan, Chairman

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James M. Casieri, Clerk

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Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS  
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**ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, February 9, 2016 at 7:00 p.m.**

**IN RE: 16-12** Petition of **STEVE TORREY**, 41 Arlington Street, Brockton, MA, for a Variance from Art. III, Sec. 27-9, and Sec. 27-13A, seeking relief from Art. IV. 27-29, relief to divide parcel into two lots lacking in frontage. Petitioner desires to build one new single family home in an R-2 Zone, located at **45 MULBERRY STREET**.

**PETITIONER'S STATEMENT:** Attorney John McCluskey along with Bruce Malcolm, land surveyor and the petitioner Steve Torrey presented to the board Exhibit A, Memo in Support, Exhibit B, Picture of Home, Exhibit C, Site Plan and Exhibit D, House Plans. Mr. Torrey has purchased the home on 45 Mulberry Street and would like to subdivide the land and construct a single family home. The proposed home will be a raised ranch with four (4) bedrooms. The original home will be a single family home from a two (2) family. The direct abutter Lakeisha Bryant came to the meeting to see the location of the proposed home and to speak with the petitioner. After the presentation, Ms. Bryant was satisfied.

**OPPOSITION:** None

**DECISION:** Unanimously granted with the stipulation that the existing home shall remain a single family home and the new home have no more than four (4) bedrooms.

**BASIS:** After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, 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 listed stipulations are incorporated by reference herein. The current dwelling at the location shall remain as a single family dwelling and the new proposed dwelling shall have no more than four (4) bedrooms. All representations in petitioners statement shall be incorporated by reference as stipulations recorded herewith.

**VOTE:**

Motion to Grant by:

Stephen Bernard

Seconded by:

Gary Keith

**IN FAVOR: (5)**

Kenneth Galligan, Chairman

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Stephen Bernard

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Jeffrey Charnel

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Gary Keith

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Robert Pelaggi

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**OPPOSED: (0)**

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James M. Casieri, Clerk

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Anthony Zeoli, City Clerk

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**IN RE: 16-13** Petition of **THOMAS THIBEALT, EXECUTIVE DIRECTOR OF BHA**, 45 Goddard Road, Brockton, MA, for a Variance from 27-9, area frontage side yard and front yard requirements and 27-13A, to construct a single family residence in an R-1-C Zone, located at **PLOT 16 LAFOYE STREET**.

**PETITIONER'S STATEMENT:** Attorney Thomas Plouffe from the Brockton Housing Authority and Kevin Harriman, Director of Affordable Housing presented to the board Exhibit A, Memo in Support, Site Plan and Drawings of home. The above named property was deeded to the Housing Authority back in 2005 from the city for non- payment of taxes. They are now before the board seeking permission to have a 2 bedroom modular home on the triangle shaped property. The home will be placed sideways. The home was given to the Housing Authority by a developer who was constructing a 55+ over community. The streets are now a child friendly neighborhood.

**OPPOSITION:** The neighborhood came out stating the piece of land is not large enough for a home and doubt if it's even a buildable lot. Ward 5 Councilor Anne Beauregard was also in opposition.

**DECISION:** Unanimously denied.

**BASIS:** After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found that the plans submitted by the petitioner were not the plans nor layout of the proposed dwelling as described by the petitioner at the hearing relative to the proposed site location front setback porch and entrance doors locations. There was considerable neighborhood and direct abutter opposition to the petition including Ward Councilor opposition. Granting would derogate from the intent of the zoning by-laws and will negatively impact the orderly development of the neighborhood.

**VOTE:**

Motion to Grant by:  
Seconded by:

Stephen Bernard  
Kenneth Galligan

**IN FAVOR: (0)**

**OPPOSED: (5)**

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

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James M. Casieri, Clerk

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Anthony Zeoli, City Clerk

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**ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, February 9, 2016 at 7:00 p.m.**

**IN RE: 16-14** Petition of **FRANCIS S. MASAITIS**, 40 Edward Street, Brockton, MA, for a Variance from Sec. 27-25, 27-9 & 27-13A, to divide parcel into three (3) lots lacking in lot size, lot frontage and lot width and to construct a single family house on each lot in a R-1 C Zone, located at **PLOT 11 EDWARD STREET**.

**PETITIONER'S STATEMENT:** Attorney Wayne Mathews presented to the board Exhibit A, Brief in Support, Exhibit B, Site Plan and Exhibit C, Elevations and Drawings of home. Attorney Mathews is before the board for the petitioner Mr, Francis Masaitis who is ninety two (92) years old and unable to attend the meeting. The petitioner would like to create a cul- de- sac with three (3) single family homes. This property was a granted subdivision in 1965 four (4) houses. The homes will be raised ranches unless digging would determent the neighbors structures then ranches on slabs will be constructed. The homes will have no more than four (4) bedrooms. The abutting neighbors will have buffer zones which will not be built on and green space as shown on plan. Abutters Jean Gilbert and Ellen Edwards are in favor as is Councilors Anne Beauregard and Moises Rodrigues.

**OPPOSITION:** None

**DECISION:** Unanimously granted with the stipulations **1.** Green space as shown on plan and **2.** Maximum of four (4) bedrooms per home.

**BASIS:** After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found that the locus had been approved for four (4) house lots on an approved 1965 subdivision plan and the petitioner is before the Board seeking a Variance from Sec. 27-25, 27-9 and 27-13A to allow for the construction of three (3) dwelling at the locus rather than four (4) dwelling. A hardship was demonstrated relative to the soil conditions and topography and potential expense in developing the site. Granting of the Variance 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 petitioners statements shall be incorporated by reference as stipulations recorded herewith and Variance/Site Plan dated January 8, 2016 shall be the referenced plan. The three (3) proposed dwelling shall be single family dwelling with not more than four (4) bedrooms in each dwelling and all green space shall be provided as shown on the Plan without a reduction in area. Support for the proposed project was offered by abutting neighbors and officials with no opposition.

**VOTE:**

Motion to Grant by:

Gary Keith

Seconded by:

Jeffrey Charnel

**IN FAVOR: (5)**

Kenneth Galligan, Chairman

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Stephen Bernard

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Jeffrey Charnel

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Gary Keith

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Robert Pelaggi

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**OPPOSED: (0)**

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James M. Casieri, Clerk

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Anthony Zeoli, City Clerk

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**IN RE: 16-15** Petition of **IRIS D. PABON**, 212 Alger Street, Brockton, MA, to convert my home into a 2 family so my elderly mom can live on the lower level in a R-1-C Zone, located at **212 ALGER STREET**.

**PETITIONER'S STATEMENT:** The petitioner Iris Pabon presented to the board Exhibit A, Site Plan and Drawings. Ms. Pabon is before the zoning board to convert her single family into a two (2) family. The reason for this petition is so her mom can live with her and the apartment will be paid by Section 8. The top level will be for her husband and three children and the lower level will have a full bathroom, 1 bedroom, family room and kitchen for her mom. Ms. Pabon stated this will give her mom more independence/

**OPPOSITION:** None

**DECISION:** Unanimously denied.

**BASIS:** After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found that the board found that the petitioner failed to demonstrate a hardship at the locus pursuant to Section 27-48 to allow for a two (2) family dwelling in an area zoned for single family dwelling (R-1-C). Therefore, granting of the Variance would derogate from the intent of the zoning by-laws and would negatively impact the orderly development of the neighborhood.

**VOTE:**

Motion to Grant by:  
Seconded by:

Jeffrey Charnel  
Gary Keith

**IN FAVOR: (0)**

**OPPOSED: (5)**

Kenneth Galligan, Chairman

Stephen Bernard

Jeffrey Charnel

Gary Keith

Robert Pelaggi

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James M. Casieri, Clerk

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Anthony Zeoli, City Clerk

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**IN RE:**

**PETITIONER'S STATEMENT:**

**OPPOSITION:**

**DECISION:**

**BASIS:**

**VOTE:**

Motion to Grant by:

Seconded by:

**IN FAVOR: ( )**

Kenneth Galligan, Chairman

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Michael Williams, Fire Chief

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Stephen Bernard

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Jeffrey Charnel

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Gary Keith

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**OPPOSED: ( )**

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James M. Casieri, Clerk

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Anthony Zeoli, City Clerk

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**PETITIONER'S STATEMENT:**

**OPPOSITION:**

**DECISION:**

**BASIS:**

**VOTE:**

Motion to Grant by:

Seconded by:

**IN FAVOR: ( )**

Kenneth Galligan, Chairman

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Michael Williams, Fire Chief

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Stephen Bernard

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Jeffrey Charnel

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Gary Keith

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**OPPOSED: ( )**

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James M. Casieri, Clerk

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**IN RE:**

**PETITIONER'S STATEMENT:**

**OPPOSITION:**

**DECISION:**

**BASIS:**

**VOTE:**

Motion to Grant by:

Seconded by:

**IN FAVOR: ( )**

Kenneth Galligan, Chairman

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Michael Williams, Fire Chief

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Stephen Bernard

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Jeffrey Charnel

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Gary Keith

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**OPPOSED: ( )**

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James M. Casieri, Clerk

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Anthony Zeoli, City Clerk

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**IN RE:**

**PETITIONER'S STATEMENT:**

**OPPOSITION:**

**DECISION:**

**BASIS:**

**VOTE:**

Motion to Grant by:

Seconded by:

**IN FAVOR: ( )**

Kenneth Galligan, Chairman

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Michael Williams, Fire Chief

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Stephen Bernard

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Jeffrey Charnel

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Gary Keith

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**OPPOSED: ( )**

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James M. Casieri, Clerk

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**OPPOSITION:**

**DECISION:**

**BASIS:**

**VOTE:**

Motion to Grant by:

Seconded by:

**IN FAVOR: ( )**

Kenneth Galligan, Chairman

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Michael Williams, Fire Chief

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Stephen Bernard

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Jeffrey Charnel

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Gary Keith

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**OPPOSED: ( )**

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James M. Casieri, Clerk

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**DECISION:**

**BASIS:**

**VOTE:**

Motion to Grant by:

Seconded by:

**IN FAVOR: ()**

Kenneth Galligan, Chairman

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Michael Williams, Fire Chief

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Stephen Bernard

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Jeffrey Charnel

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Gary Keith

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**OPPOSED: ()**

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James M. Casieri, Clerk

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**PETITIONER'S STATEMENT:**

**OPPOSITION:**

**DECISION:**

**BASIS:**

**VOTE:**

Motion to Grant by:  
Seconded by:

**IN FAVOR: ( )**

Kenneth Galligan, Chairman

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Michael Williams, Fire Chief

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Stephen Bernard

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Jeffrey Charnel

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Gary Keith

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**OPPOSED: ( )**

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James M. Casieri, Clerk

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**OPPOSITION:**

**DECISION:**

**BASIS:**

**VOTE:**

Motion to Grant by:

Seconded by:

**IN FAVOR: ( )**

Kenneth Galligan, Chairman

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Michael Williams, Fire Chief

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Stephen Bernard

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Jeffrey Charnel

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Gary Keith

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**OPPOSED: ( )**

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James M. Casieri, Clerk

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**OPPOSITION:**

**DECISION:**

**BASIS:**

**VOTE:**

Motion to Grant by:

Seconded by:

**IN FAVOR: ( )**

Kenneth Galligan, Chairman

\_\_\_\_\_

Michael Williams, Fire Chief

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Stephen Bernard

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Jeffrey Charnel

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Gary Keith

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**OPPOSED: ( )**

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James M. Casieri, Clerk

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Anthony Zeoli, City Clerk