

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, May 10, 2016 at 7:00 p.m.

IN RE: 16-32 Petition of KEN KOSTKA, 318 Manley Street, West Bridgewater, MA , for a Variance from Art III, Sec 27-9, 27-13A, to build a 2 story Colonial home on the existing lot that was deemed not buildable in an R-1-C Zone, located at PLOT 39 aka 0 MYRTLE STREET.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION: The petition was withdrawn prior to the hearing as a matter of right.

BASIS:

VOTE:

Motion to Grant by:  
Seconded by:

IN FAVOR: (4)

Kenneth Galligan, Chairman  
Michael Williams, Fire Chief  
Jeffrey Charnel  
Gary Keith

OPPOSED: (0)

*Kenneth Galligan*  
*Michael F. Williams*

*Jeffrey Charnel*

*James M. Casieri*

James M. Casieri, Clerk

*Anthony J. Zeoli*  
*Anthony J. Zeoli*  
Anthony Zeoli, City Clerk

RECEIVED AND FILED: June 16, 2016  
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

CITY CLERK'S OFFICE  
BROCKTON MA

2016 MAY 26 PM 2: 59

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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 Tuesday, May 10, 2016 at 7:00 p.m.

IN RE: 16-33 Petition of MICHAEL HAIKAL, 149 Mill Street, Brockton, MA, for a Variance from Art. III, Sec. 27-9 & 27-13A, to subdivide and construct one (1) single family home in an R-1-C Zone, located at 54 ECHO STREET.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION: The petition was withdrawn prior to the hearing as a matter of right.

BASIS:

VOTE:

Motion to Grant by:  
Seconded by:

IN FAVOR: (4)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Jeffrey Charnel

Gary Keith

OPPOSED: (0)

*Kenneth Galligan*  
*Michael Williams*  
*Jeffrey Charnel*  
*Gary Keith*  
*James M. Casieri*

*Anthony Zeoli*

Anthony Zeoli, City Clerk

CITY CLERK'S OFFICE  
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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 Tuesday, May 10, 2016 at 7:00 p.m.

**IN RE:** 16-34 Petition of STEVE TORREY, Arlington Street, Brockton, MA, for a use Variance from Art.III, Sec. 27-9 & 27-13A, to construct three (3) single family homes in an R-1 and R-2 C Zone, located at PLOTS 30 & 30-1 LEACH AVENUE AND PLOT 31 LEACH aka 110 MARKET STREET.

**PETITIONER'S STATEMENT:** Attorney John McCluskey along with Steve Torrey, Land Surveyor Bruce Malcolm and the owner of the property Manuel Bugginga presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. They are in front of the board seeking permission to reconfigure three (3) lots in order to construct three (3) single family homes. The site presently houses heavy equipment for his business with a structure falling down. This site is also across from South Middle School. Mr. Torrey will improve the roadway for the new owners of these homes. The middle home with no garage will have four (4) bedrooms and the homes with the garage will have three (3) bedrooms. Jeannie Holmes supports the cleanup of this area. Councilor Ward 3 Dennis Eaniri along with Councilors Rodrigues and Sullivan support this project.

**OPPOSITION:** None

**DECISION:** Granted unanimously with the stipulation 1. The middle home has no more than four bedrooms and the homes with garages have no more than three 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 the Plots are partially located in both R-1 and R-2 Residentially Zoned district that have been used for commercial purposes for many years and as a result of that use has caused a unique detrimental use to the surrounding residential uses and adjoining land. The continued use of the land in its current use causes a detrimental and negative impact on the R-1 and R-2 adjoining zones and as a result of the restricted use in its current configuration causes a hardship at the site. The proposed residential development of the site would not derogate from the intent of the zoning by-laws will remove an unsightly contractor construction yard that currently negatively impact the surrounding neighborhood and adjacent school and will enhance the orderly development of the surrounding neighborhood. All representations in petitioners statements shall be incorporated by reference as stipulations recorded herewith, including the agreed stipulation that the three (3) dwellings to be constructed that two (2) dwellings shall contain no more than three (3) bedrooms and one dwelling shall contain no more than four (4) bedrooms. The proposed construction of the three (3) dwellings received strong City Councilor support.

**NOTE:**

Motion to Grant by:

Seconded by:

**IN FAVOR: (4)**

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Jeffrey Charnel

Gary Keith

**OPPOSED: (0)**

Gary Keith  
Mike Williams

*Kenneth Galligan*  
*Michael Williams*

*Jeffrey Charnel*

*James M. Casieri*  
James M. Casieri, Clerk

*Anthony J. Zeoli*

Anthony Zeoli, City Clerk

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BROCKTON MA

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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 Tuesday, May 10, 2016 at 7:00 p.m.

IN RE: 16-35 Petition of IN GOOD HEALTH, INC., 1200 West Chestnut Street, Brockton, MA, for a Special Permit from Chp. 27, Sec 27-24.3, for modification to expand cultivation area within existing building in a I-1 Zone, located at 1200 WEST CHESTNUT STREET.

**PETITIONER'S STATEMENT:** Attorney John McCluskey along with David Noble presented to the board Exhibit A, Memo in Support and Exhibit B, Plans of Expansion. They are before the board seeking permission to expand the growth of marijuana plants at the above facility. They had originally been granted back on July 8, 2014. The additional space is already in the perimeter of the building. The sign will be relocated 10' from street to conform to zoning codes. Councilor Ward 3 Dennis Eaniri is in support of this expansion.

**OPPOSITION:** None

**DECISION:** Granted unanimously with the stipulations 1. All prior stipulations mentioned in previous zoning still are in effect and 2. The sign is to be moved to conform to zoning codes.

**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 a modification to the previously granted Special Permit at the site to expand the marijuana cultivation area into an adjoining area of the current building would not negatively impact the orderly development of the zone. All representations in petitioners statements, including those contained in the previous granting shall be incorporated by reference as stipulations recorded herewith. The current sign for the In Good Health business located adjacent to W. Chestnut Street shall be re-located to be in compliance with City of Brockton Zoning regulations.

**VOTE:**

Motion to Grant by:  
Seconded by:

Gary Keith  
Jeffrey Charnel

**IN FAVOR: (4)**

Kenneth Galligan, Chairman  
Michael Williams, Fire Chief  
Jeffrey Charnel  
Gary Keith

**OPPOSED: (0)**

*Kenneth Galligan*  
*Michael Williams*  
*Jeffrey Charnel*  
*Gary Keith*

*James M. Casieri*  
James M. Casieri, Clerk

*Anthony Zeoli*

Anthony Zeoli, City Clerk

CITY CLERK'S OFFICE  
BROCKTON MA

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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 Tuesday, May 10, 2016 at 7:00 p.m.

**IN RE:** 16-36 Petition of PAUL J. FUHS, 32 Loring Street, Brockton, MA, for relief from Art. IV, Sec. 27-29, to expand the seating on the existing outdoor deck to forty six (46) seats and to also include a service bar with seating in a C-2 Zone, located at 787 CENTRE STREET.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION: The petition was withdrawn prior to the hearing as a matter of right.

BASIS:

VOTE:

Motion to Grant by:  
Seconded by:

IN FAVOR: (4)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Jeffrey Charnel

Gary Keith

OPPOSED: (0)

*Kenneth Galligan*  
*Michael Williams*  
*Jeffrey Charnel*  
*Gary Keith*

*James M. Casieri*  
James M. Casieri, Clerk

*Anthony J. Zeoli*  
Anthony Zeoli, City Clerk

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BROCKTON MA

COMMONWEALTH OF MASSACHUSETTS  
CITY OF BROCKTON  
ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, May 10, 2016 at 7:00 p.m.

**IN RE:** 16-37 Petition of HEZEKIAH PRATT, 454 Lowell Avenue, Newton, MA, for a Variance to use the building for an adult day care center on first floor and office on second floor in an I-2 Zone, located at 140 SCHOOL STREET.

**PETITIONER'S STATEMENT:** Hezekiah Pratt the architect for the owner presented to the board Exhibit Site Plan and Exhibit B, Plans of Building. Mr. Pratt is before the board seeking permission to house an Adult Day Care at the above location. The first floor will be for the adult day care and the second floor is office space for the owner. The hours of operation will be Monday through Friday 8:00 a.m. until 5:00 p.m. The facility can care for forty (40) seniors. The bathrooms will be handicap accessible. The front door will have a call button to get in and out for safety of clients. A nurses station and reception area will monitor the patients during the day. Transportation will be provided. Four to five staff members will be on premises at all times. Lunch will be catered daily and a new plan was submitted showing fifteen (15) parking spaces with two (2) for handicap parking. The dumpster will stay in the front corner. The hardship is financial stating the property was purchased before knowing if an Adult Day Care was allowed. Barry Koretz an abutter is in favor of this petition.

**OPPOSITION:** Councilor Ward 5 Anne Beauregard has concerns with this project being at this location and the traffic heavy during the day. Councilor Win Farwell is also in opposition due to the Planning board not recommending this. Jeannie Holmes stated it's not the right location.

**DECISION:** Denied unanimously.

**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 proposed use of this site as an Adult Care facility is not allowed in the I-2 Zone and that no hardship with the locus was found. There is inadequate ingress and egress for the associated Adult Care passenger vans on the site, and unacceptable and inadequate parking plan for onsite parking and associated traffic onsite that will negatively impact the traffic on the abutting street. There was opposition to the proposed use at this site by City Council members.

**VOTE:**

Motion to Grant by:  
Seconded by:

Jeffrey Charnel  
Gary Keith

**IN FAVOR:** (0)

**OPPOSED:** (4)

Kenneth Galligan, Chairman  
Michael Williams, Fire Chief  
Jeffrey Charnel  
Gary Keith

*Kenneth Galligan*  
*Michael Williams*  
*Jeffrey Charnel*  
*Gary Keith*  
James M. Casieri, Clerk

2016 MAY 26 PM 2:59  
CITY CLERK'S OFFICE  
BROCKTON MA

*Anthony J. Zeoli*  
Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE WITHIN 20 DAYS FROM THIS DATE MAY 26 2016 PURSUANT TO M.G.L.C. 40A SECTION 17.

A TRUE COPY, ATTEST  
*Anthony J. Zeoli*

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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 Tuesday, May 10, 2016 at 7:00 p.m.

**IN RE:** 16-38 Petition of RICKY DASILVA, 30 Sprague Street, Brockton, MA, for a Variance from Sec. 27-9 and 27-13A, to raze the existing dwelling and construct a new 2 story Colonial home in an R-1- C Zone, located at 55 GEORGE STREET.

**PETITIONER'S STATEMENT:** The petitioner Ricky DaSilva along with the Land Surveyor Bruce Malcolm presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. Mr. DaSilva is before the board seeking permission to raze the existing home and construct a two (2) story Colonial. The present home on the site is deemed inhabitable. The style of the new home will conform with the new homes constructed within the last year. The home will have four (4) bedrooms. The driveway will be double wide for four (4) vehicles to be parked off the street. Councilor Ward 5 Anne Beauregard is in favor of this petitioner.

**OPPOSITION:** None

**DECISION:** Granted unanimously with the stipulations 1. all greenspace shown on plan shall remain. 2. maximum bedrooms not to exceed four (4) and 3. the width of driveway not more than 24'.

**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 dwelling currently on the site is condemned and creates a negative impact on the neighborhood. The land has an unusual slope toward the rear of the property and the developer instructed the board that the proposed site grading of the new home will slope from the new foundation toward the street enhancing water runoff to be directed toward the street thereby reducing rear yard runoff. Granting would not derogate from the intent of the zoning by laws, enhance side yard setback, eliminate a current neighborhood eyesore and will not negatively impact the orderly development of the neighborhood. All representations in petitioners statements, including a maximum driveway width of twenty four (24) feet and no further reduction of site plan indicated green space shall be incorporated by reference as stipulations recorded herewith.

**VOTE:**

Motion to Grant by:

Seconded by:

Gary Keith

Jeffrey Charnel

**IN FAVOR: (4)**

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Jeffrey Charnel

Gary Keith

**OPPOSED: (0)**

*Kenneth Galligan*  
*Michael Williams*  
*Jeffrey Charnel*

*James M. Casieri*  
James M. Casieri, Clerk

*Anthony Zeoli*

Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE  
WITHIN 20 DAYS FROM THIS  
DATE MAY 26 2016 PURSUANT TO  
M.G.L.C. 40A SECTION 17.

CITY CLERK'S OFFICE  
BROCKTON MA

2016 MAY 26 PM 2:59

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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 Tuesday, May 10, 2016 at 7:00 p.m.

IN RE: 16-39 Petition of MARK EDWARDS, 57 River Street, Boston, MA, to open a Real Estate and Office space in an R-1-C Zone, located at 227 N CARY STREET.

**PETITIONER'S STATEMENT:** Mark Schriver presented to the board Exhibit A, Site Plan, Exhibit B, Floor Plans. The petitioner is before the board seeking a Variance to have a commercial business in a residential zone. Parking will be behind the building along with greenspace. Fencing along the south side for privacy between residential homes their business. The offices will include real estate and office space. The hardship is that the property has always been commercial structure. Councilor Ward 5 Anne Beauregard is in favor of this petition.

**OPPOSITION:** None

**DECISION:** Granted unanimously with the stipulation that fencing along residential homes will be erected to soften the landscape.

**BASIS:** After reviewing the application, plans, and information submitted and giving due consideration to testimony given at the public hearing, the board found a hardship existed on the land whereas the site has been developed for many years as a commercial use in an R-1-C Zone that has no prospective future possible use as a Residential lot. The proposed use as a Real Estate Office and Office Space within the current building lends itself to the most responsible use for the site. The petitioner agreed to develop a buffer zone with fencing and trees to buffer the adjacent residential use at the South property line to create a visual barrier between the two (2) uses, Residential and Commercial use. 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 stipulations are incorporated by reference herein.

**VOTE:**

Motion to Grant by:  
Seconded by:

Gary Keith  
Michael Williams

**IN FAVOR: (4)**

Kenneth Galligan, Chairman  
Michael Williams, Fire Chief  
Jeffrey Charnel  
Gary Keith

**OPPOSED: (0)**

*Kenneth Galligan*  
*Michael Williams*  
*Jeffrey Charnel*

*James M. Casieri*  
James M. Casieri, Clerk

*Anthony J. Zeoli*  
Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE  
WITHIN 20 DAYS FROM THIS  
DATE MAY 26 2016 PURSUANT TO  
M.G.L.C. 40A SECTION 17.

CITY CLERK'S OFFICE  
BROCKTON MA

2016 MAY 26 PM 3:00

RECEIVED

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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 Tuesday, May 10, 2016 at 7:00 p.m.

**IN RE:** 16-40 Petition of STEVE TORREY, 41 Arlington Street, Brockton, MA, for a Variance from Art. III, Sec. 27-9 & 27-13A, to divide parcel into two (2) lots lacking in frontage to construct a new single family home, seeking to modify the original appeal approved on February 9, 2016 in an R-2 Zone, located at 45 MULBERRY STREET.

**PETITIONER'S STATEMENT:** Attorney John McCluskey along with the petitioner Steve Torrey presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. Mr. Torrey had previously been granted to construct a home at the above named address this past February. The front setback will now be 45' from the street to foundation. Councilor Ward 5 Anne Beauregard is in favor of this new petition.

**OPPOSITION:** None

**DECISION:** Granted unanimously with the stipulations 1. Previous stipulations are to remain the same except for the new front lot line setback and 2. The setback will now be 45' from street.

**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 petitioners request to amend a previously granted Variance by relocating the foundation to allow for a new setback of forty five (45) feet would not derogate from the intent of the zoning by laws and will not negatively impact the orderly development of the neighborhood. All other mandates and stipulations mandated of the previously granted Variance shall remain in effect for this amended Variance and are reference herein.

**VOTE:**

Motion to Grant by:

Seconded by:

Gary Keith

Michael Williams

**IN FAVOR: (4)**

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Jeffrey Charnel

Gary Keith

**OPPOSED: (0)**

*Kenneth Galligan*  
*Michael Williams*

*Jeffrey Charnel*  
*Gary Keith*

*James M. Casieri*  
James M. Casieri, Clerk

*Anthony Zeoli*  
Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE  
WITHIN 20 DAYS FROM THIS  
DATE MAY 26 2016 PURSUANT TO  
M.G.L.C. 40A SECTION 17.

CITY CLERK'S OFFICE  
BROCKTON MA

2016 MAY 26 PM 3:00

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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 Tuesday, May 10, 2016 at 7:00 p.m.

**IN RE:** 16-41 Petition of STEVE TORREY, 41 Arlington Street, Brockton, MA, for a Variance from Art. III, Sec.27-9 & 27-13a, to subdivide and construct one (1) new single family home in an R-1-C Zone, located at 202 HOVENDON AVENUE.

**PETITIONER'S STATEMENT:** Attorney John McCluskey and Steve Torrey presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. Mr. Torrey is before the board seeking permission to subdivide the above named property and construct a three (3) bedroom home behind the existing home. The home will be fronted on Belcher Street. The rear lot line of the existing home to new property line will be 8.80'. The abutter Mike Boman requested that as many trees be saved.

**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 subdivision of the land as presented on the site plan would cause the current house to have an eight (8) ft. rear yard set back from the proposed new lot subdivision thereby making the current house severely deficient in rear set back requirements within R-1-C Zoning regulations. No hardship was demonstrated on the proposed subdivision. 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:

Jeffrey Charnel

Seconded by:

Gary Keith

**IN FAVOR: (3)**

Michael Williams, Fire Chief

Jeffrey Charnel

Gary Keith

**OPPOSED: (1)**

Kenneth Galligan, Chairman

*Michael F. Williams*

*Jeffrey Charnel*

*Kenneth Galligan*

*James M. Casieri*

James M. Casieri, Clerk

*Anthony Zeoli*

Anthony Zeoli, City Clerk

CITY CLERK'S OFFICE  
BROCKTON MA

2016 MAY 26 PM 3:00

ANY APPEAL MUST BE MADE  
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A TRUE COPY, ATTEST

*Anthony Zeoli*

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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 Tuesday, May 10, 2016 at 7:00 p.m.

IN RE: 16-42 Petition of DINES A. PATEL, 490 Pleasant Street, Brockton, MA, for a Variance from Sec. 27-32, for have a redemption center in a C-5 Zone, located at 490 PLEASANT STREET.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION: The petition was withdrawn prior to the hearing as a matter of right.

BASIS:

VOTE:

Motion to Grant by:  
Seconded by:

IN FAVOR: (4)

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Jeffrey Charnel

Gary Keith

OPPOSED: 0

*Kenneth Galligan*  
*Michael Williams*

*Jeffrey Charnel*  
*Gary Keith*

*James M. Casieri*  
James M. Casieri, Clerk

*Anthony Zeoli*  
Anthony Zeoli, City Clerk

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