

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

**ZONING BOARD OF APPEALS held a meeting in the GAR ROOM, 2ND FLOOR
City Hall, Brockton, Massachusetts, on Tuesday, September 14, 2010, at 7:00 pm.**

IN RE: 09-36 Request for an Extension: Petition of **ANDREW CHIRAS**, 30 Brentwood Road, Chelmsford, MA, for a Variance from Art. III, Sec. 27-9 for lot frontage, Art. III, Sec. 27-9 for lot area, & Art. III, Sec. 13A for lot width to combine 2 plots and redivide to equal lots and construct 2 single family dwellings in an R-1-C Zone, located at **PLOTS 4 & 5 DOUGLAS AVENUE**.

PETITIONER'S STATEMENT: Attorney John McCluskey went before the board asking for an extension relative to the above named petition. Attorney McCluskey mentioned the economy as the reason for his return to the board.

OPPOSITION: None

DECISION: A one (1) year extension is granted.

BASIS: As per Zoning by laws, an extension may be granted upon petition.

VOTE:

Motion to Grant by: Stephen Bernard
Seconded by: Richard Francis

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Richard Francis

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 GAR ROOM, 2ND FLOOR City Hall, Brockton, Massachusetts, on Tuesday, September 14, 2010, at 7:00 pm.

IN RE: 09-44 Request for an Extension: Petition of **WALTER & PATRICIA BALCHUNAS**, 11 Stearns Avenue, Brockton, MA, for a Variance from Art. III, Sec. 27-9, Art. III, Sec. 13A, to create two buildable lots and construct 2 single family dwellings lacking lot frontage, lot area & lot width requirements in an R-1-C Zone, located at **11 STEARNS AVENUE & 25 GRANITE STREET.**

PETITIONER'S STATEMENT: Attorney John McCluskey went before the board asking for an extension relative to the above named petition. Attorney McCluskey mentioned the economy as the reason for his return to the board.

OPPOSITION: None

DECISION: A one (1) year extension is granted.

BASIS: As per Zoning by laws, an extension may be granted upon petition.

VOTE:

Motion to Grant by:
Seconded by:

Vahan Boyajian
Richard Francis

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Richard Francis

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 GAR ROOM, 2ND FLOOR City Hall, Brockton, Massachusetts, on Tuesday, September 14, 2010, at 7:00 pm.

IN RE: Postponed from August 10, 2010 hearing:

10-39 Petition of **NANCY McCLUSKEY**, 932 Main Street, Brockton, MA, for a Variance from Art. III, Sec. 27-9, lacking lot area, lot frontage, rear setback requirements, Art. III, Sec. 27-13(a), lacking lot width in an R-1-C Zone, located at **301 QUINCY STREET**.

PETITIONER'S STATEMENT: Attorney John McCluskey presented to the board Exhibit A, Memorandum in Support, Exhibit B, Site Plan, Exhibit C, Floor Plans and Exhibit D, Picture of Home. Attorney is before the board for his wife Nancy seeking permission to sub-divide the above named property and construct a single family home on the new lot. The proposed home will have frontage on Whitman Street. The existing home is under renovations. A fence will run along the rear of both homes to separate the two. The hardship is that the existing condition of the land would improve if this petition is granted. The drainage issues will be determined by the Brockton Conservation Commission. Attorney McCluskey was also notified that if granted the petitioner would also need to apply with the Brockton Planning Board. Ward 5 Councilor Dennis DeNapoli is in support of the petition.

OPPOSITION: None

DECISION: Granted unanimously with the stipulation that a hydrant is to be installed by the petitioner with the fire department having control as to where it shall be installed.

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 above listed stipulations are incorporated by reference herein. All representations in petitioner's statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:

Paul Merian

Seconded by:

Richard Francis

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Richard Francis

Kenneth Galligan

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 GAR ROOM, 2ND FLOOR
City Hall, Brockton, Massachusetts, on Tuesday, September 14, 2010, at 7:00 pm.**

IN RE: 10-42 Petition of **LYNN ASHFIELD REALTY TRUST, MICHAEL KEITH, TRUSTEE**, 85 Plymouth Street, Bridgewater, MA, for a Variance from Art. III, Sec. 27-12, Art. III, Sec. 27-13, Art. III, Sec. 27-9 (Table 1), and to challenge the decision by the Building Inspector on July 24, 2009, or in the alternative, to request a Variance to build a single family dwelling lacking in lot size, width and lot frontage requirements in an R-1-C Zone, located at **PLOT 1 ASHFIELD DRIVE.**

PETITIONER'S STATEMENT :

OPPOSITION:

DECISION: The petition is postponed until November 9, 2010 at the request of the petitioner prior to being heard as a matter of right.

BASIS:

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Richard Francis

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Richard Francis

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 GAR ROOM, 2ND FLOOR City Hall, Brockton, Massachusetts, on Tuesday, September 14, 2010, at 7:00 pm.

IN RE: 10-43 Petition of **DJENANN CALIXTE**, 210 Regency Lane, Abington, MA, for a Special Permit from Art. IV, Sec. 27-29, to sell beer & wine in an existing Cafe in a C-2 Zone, located at **793 CRESCENT STREET**.

PETITIONER'S STATEMENT: The petitioner Djenann Calixte presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. The petitioner owns a caribbean café and would like to sell beer and wine. The hours of operation are 10:00 a.m. until 10:00 p.m. but is allowed to stay open until midnight. She is open six (6) days a week. The beer and wine will be for the dinner hours. Mrs. Calixte is planning to have caribbean music on Friday and Saturday evenings. The café has seating for 36 people. Ward 5 Councilor Dennis DeNapoli is in support.

OPPOSITION: None

DECISION: Granted unanimously with the stipulation that the beer and wine is for table service only and no customer bar is allowed.

BASIS: The use 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 will not interfere with traffic on the abutting streets.

VOTE:

Motion to Grant by: Vahan Boyajian
Seconded by: Paul Merian

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Richard Francis

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 GAR ROOM, 2ND FLOOR
City Hall, Brockton, Massachusetts, on Tuesday, September 14, 2010, at 7:00 pm.**

IN RE: 10-44 Petition of **GAYLE HINCKLEY**, 23 Quincy Street, Brockton, MA, for a Variance from Art. VI, Sec. 27-39, to build an addition for a master bedroom and bath that is more than 50% of the existing structure in an R-1-C Zone, located at **23 QUINCY STREET**.

PETITIONER'S STATEMENT: Attorney Paul Clancy along with Mr. and Mrs. Hinckley and the contractor Joel Feldberg presented to the board Exhibit A, Site Plan and Floor Plans. The Hinckley's daughter lives in the home and she is expecting her third child. They are before the board seeking relief from the addition which is more than 50% of the existing structure and inadequate side setback to construct an addition to a home that is less than 800 sq.ft. The addition will consist of a master bedroom and bathroom. Ward 5 Councilor Dennis DeNapoli is in support of this petition.

OPPOSITION: None

DECISION: Granted unanimously with the stipulation that no 2nd kitchen be added.

BASIS: 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 statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:
Seconded by:

Paul Merian
Vahan Boyajian

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Richard Francis

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 GAR ROOM, 2ND FLOOR
City Hall, Brockton, Massachusetts, on Tuesday, September 14, 2010, at 7:00 pm.**

IN RE: 10-45 Petition of **LYNN ASHFIELD REALTY TRUST, MICHAEL KEITH, TRUSTEE**, 85 Plymouth Street, Bridgewater, MA, for a Variance from Art. III, Sec. 27-12, Art. III, Sec. 27-13, Art. III, Sec. 27-9, to challenge the Building Inspector's determination that this is not a buildable lot or in the alternative to request a Variance to combine lots & construct a single family dwelling lacking in lot size, frontage & width requirements in an R-1-C Zone, located at **248 LYNN ROAD.**

PETITIONER'S STATEMENT: Attorney John Creedon along with the petitioner Michael Keith presented to the board Exhibit A, Site Plan, Exhibit B, Floor & Elevation Plans. They are before the board to challenge the Building Superintendent's decision that this lot was not buildable. The original property was foreclosed by the city and the home was torn down. Mr. Keith purchased the property at the city's auction. He is before the board tonight seeking permission to construct a home on its original footprint which meets all the setbacks requirements.

OPPOSITION: None.

DECISION: Granted unanimously.

BASIS: The Building Superintendent's determinations was incorrect.

VOTE: **MOTION TO OVERTURN BUILDING SUPERINTENDENT'S DETERMINATION AND GRANT THAT THIS IS A GRANDFATHERED LOT.**

Motion to Grant by:

Vahan Boyajian

Seconded by:

Paul Merian

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Richard Francis

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 GAR ROOM, 2ND FLOOR
City Hall, Brockton, Massachusetts, on Tuesday, September 14, 2010, at 7:00 pm.**

IN RE: 10-46 Petition of **JEAN JACQUES & STANLEY ROUSSEAU**, 339 Hovenden Avenue, Brockton, MA, for a Variance from Art. III, Sec. 27-9, to construct a garage lacking side setback and lacking setback requirements to dwelling in an R-1-C Zone, located at **339 HOVENDEN AVENUE**.

PETITIONER'S STATEMENT : The petitioner Stanley Rousseau presented to the board Exhibit A, Site Plan and Exhibit B, Pictures of Garage. Mr. Rousseau started to construct a garage in the rear of his home without a permit. When it was inspected by the city that's when it was first known that no permit had been applied for. He is before the zoning board seeking permission to keep the garage. The garage is lacking side and rear setbacks which needs relief from the board. Mr. Rousseau presented to the board a letter from his neighbor in favor of keeping the garage.

OPPOSITION: None

DECISION: Granted unanimously with the stipulations that 1. the garage floor be finished with cement and 2. doors on the garage are to be installed.

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 above listed stipulations are incorporated by reference herein. All representations in petitioner's statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:
Seconded by:

Paul Merian
Richard Francis

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Richard Francis

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 GAR ROOM, 2ND FLOOR
City Hall, Brockton, Massachusetts, on Tuesday, September 14, 2010, at 7:00 pm.**

IN RE: 10-47 Petition of **PHILLIP JENNINGS, VIP, COMMUNICATIONS, INC.**, 26 Himoor Circle, Randolph, MA, for a Special Permit from Sec. 27-65(1), Sec. 27-65(2), Sec. 27-65(3), Sec. 27-65(10), Sec. 27-66 (3) and Sec. 27-66(6), to construct a LED billboard for the purpose of outdoor advertising in a C-2 Zone, located at **385 WESTGATE DRIVE**.

PETITIONER'S STATEMENT: Petitioner Phillip Jennings along with his attorney and Jack and Neill Patel owners of the above named address presented to the board Exhibit A, Packet of all zoning information. They are before the board seeking permission to construct a LED billboard at the above location. The billboard will be for merchants to advertise. The static will change every 8 ½ seconds allowing for seven (7) advertisements each minute. The size of the billboard will be 14' x 48' and will have two (2) sides. The billboard will also be used for amber alerts. The colors will be safety neutral making traffic non hazard.

OPPOSITION: None

DECISION: Unanimously denied.

BASIS: Denial of Special Permit - 385 Westgate Drive (LED Sign)

Article VII, Section 27-49(g) of the Revised Ordinances provides this Board with the discretionary power to grant a special permit to erect a sign, and to control the number, location, size and lighting of signs. Correspondingly, Section 27-65 of Article XIV, which governs sign control, sets forth the general requirements for those signs the Board may approve by special permit. Pertinent to this particular application are those requirements established to regulate movement, illumination, interference with traffic control or other warning signals, height, proximity to limited access highway and square footage. The light-emitting diode (LED) advertising billboard sign at issue in this application exceeds all of the limitations established by the sign control ordinance in the above-listed areas.

More specifically, Section 27-65(1) of the City Ordinances, which regulates movement, limits image changes to not more than every ten (10) seconds. Applicant's LED billboard would change every eight and a half (8.5) seconds. Section 27-65(1) prohibits illumination of signs between the hours of 11:00 pm and 7:00 am. Applicant's LED billboard would be illuminated twenty-four (24) hours per day seven (7) days per week running advertisements not only for the hotel, but for other businesses in the area. These limitations on illumination and movement of signage are in place to protect the surrounding neighborhood. In this instance, surrounding property owners would be subject to the light emitted from the sign round the clock, not simply during business hours. In addition to running all day and night, the proposed billboard sign is fourteen (14) feet tall, and including supporting structure, would stand fifty-seven (57) feet in height. This is almost double the height limitation of thirty (30) feet established by Section 27-65(10). The proposed double-sided sign also has a surface area of six hundred seventy two (672) square feet. Again, this is almost double the area limitation established by the Section 27-63(3) of the Ordinance, which limits sign surface area to three hundred (300) square feet.

The requirement of a special permit for signs and the restrictions on signage established by the Ordinances provide a safe guard to ensure the orderly development of signage in the City, prevent any negative impact from signage on the neighborhood, and to preserve community values as a whole. Based upon the evidence presented and general purpose and intent of the Ordinances regulating signage in the City, this Board believes that granting applicant’s request for a special permit for a sign that so vastly derogates from the intent of the applicable zoning would not be in harmony with the purpose of the Ordinance and would negatively impact the surrounding neighborhood. There is also a concern on the part of this Board that a sign of the size, height and proximity to the highway requested, changing images every 8.5 seconds, could pose a potential traffic safety.

Finally, while Article XIV, Section 27-64(3) of the Ordinances gives this Board the authority to grant a special permit for a sign according to the provision of Article VII, Section 27-49, the sign must be within the requirements set forth in Section 27-65. Any deviations from these requirements, such as additional height and square footage, would require applicant to apply to this Board for a variance. As noted above, in order to erect the desired sign, applicant not only requires a special permit for the sign, but also a variance for relief from the signage requirements imposed by the Ordinances. Although applicant has applied for a special permit for the sign, applicant has not formally applied for a variance pursuant to Chapter 40A, Section 10 of the Massachusetts General Laws and Section 27-48(2) of the City Ordinances for relief from the height, square footage and proximity to limited access highway requirements.

VOTE:

Motion to Grant by: Paul Merian
Seconded by: Richard Francis

IN FAVOR: (0)

OPPOSED: (5)

Atty. Anthony Eonas, Chairman _____
Richard Francis _____
Vahan Boyajian _____
Stephen Bernard _____
Paul Merian _____

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 GAR ROOM, 2ND FLOOR City Hall, Brockton, Massachusetts, on Tuesday, September 14, 2010, at 7:00 pm.

IN RE: 10-48 Petition of **ANTONIO MORISSET**, 211 W. Chestnut Street, Brockton, MA, to convert a legal two family house into a three family by creating another unit in the empty building attached to the house in an R-1-C Zone, located at **211 WEST CHESTNUT STREET**.

PETITIONER'S STATEMENT: The petitioner Antonio Morisset presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. He is before the board seeking permission to make the empty attached barn into a third (3) apartment. The barn will consist of kitchen, living room, bathroom, closet and two (2) bedrooms. The parking will be five (5) cars side by side on the Longwood Street side and one (1) parking space in the driveway. The plans weren't as detailed which made it confusing to understand. The building superintendant mentioned that a sprinkler system may need to be installed if granted as a three (3) family. Ward 3 Councilor Dennis Eaniri and Councilor at Large Jass Stewart are in favor. The abutter presented a petition with abutting neighbors that are in favor.

OPPOSITION: None

DECISION: Denied unanimously

BASIS: Inadequate petition information and documents were filed. No hardship dealing with the locus was found by the board. 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:

Vahan Boyajian
Richard Francis

IN FAVOR: (0)

OPPOSED: (5)

Atty. Anthony Eonas, Chairman

Richard Francis

Vahan Boyajian

Stephen Bernard

Paul Merian

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 GAR ROOM, 2ND FLOOR City Hall, Brockton, Massachusetts, on Tuesday, September 14, 2010, at 7:00 pm.

IN RE: 10-49 Petition of **KEN KOSTKA**, 318 Manley Street, W. Bridgewater, MA, for a Variance from Art. III, Sec. 27-12, Art. III, Sec. 27-9, to construct a single family dwelling lacking frontage and lot area & side setback requirements in an R-1-C Zone, located at **PLOT 6 CARLISLE STREET.**

PETITIONER'S STATEMENT: Attorney John McCluskey along with Ken Kostka presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. Mr. Kostka is before the board seeking permission to construct a single family home on the above named address. When Mr. Kostka purchased the property it had an inground swimming pool. When speaking with the previous superintendent Mr., Kostka misunderstood that the lot was not buildable even if the pool was taken out. The home will have three (3) bedrooms and two (2) bathrooms. Abutter Douglas Pitis is in favor.

OPPOSITION: Abutter John Donovan is opposed.

DECISION: Granted unanimously.

BASIS: 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 statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:	Stephen Bernard
Seconded by:	Richard Francis

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman	_____
Richard Francis	_____
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 GAR ROOM, 2ND FLOOR City Hall, Brockton, Massachusetts, on Tuesday, September 14, 2010, at 7:00 pm.

IN RE: 10-50 Petition of ANTONIO ALVES, TRUSTEE, 20 Bridge Street, Brockton, MA, for a Special Permit from Sec. 27-36(4)(b)(1) and (6)(d), 27-37(c), to add an extension to an existing single family dwelling in an R-1-C Zone, located **20 BRIDGE STREET.**

PETITIONER'S STATEMENT: Attorney Richard Wainwright, Land Surveyor Bruce Malcolm and the petitioner Antonio Alves presented to the board Exhibit A, Flood Picture, Exhibit B, Picture of Land, Exhibit C, Site Plan and Exhibit D, Floor Elevations and Picture of home. They are before the board seeking permission to construct an addition with a 2 car garage in a flood plain area. The addition will have a solid foundation no basement. If granted the petitioner will need to apply to the Brockton Planning and Conservation Commission before construction.

OPPOSITION: None

DECISION: Granted unanimously.

BASIS: 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 statement shall be incorporated by reference as stipulations recorded herewith

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Vahan Boyajian

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Richard Francis

Vahan Boyajian

Stephen Bernard

Paul Merian

OPPOSED: (0)

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, City Clerk