

**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 8, 2012, at 7:00 pm.

**IN RE: 12-25** Petition of **SOUTH SHORE ADHC**, 189 Belmont Street Brockton, MA, for a Special Permit & Variance from Sec. 27-26 & 27-36, for a Variance to operate an Adult Educational Day Care Center in the existing building and a Special Permit to use the building in a flood zone for said purpose in an R-2 Zone, located at **144 BELMONT AVENUE**.

**PETITIONER'S STATEMENT:** Attorney Wayne Matthews and Lilly Baptiste presented to the board Exhibit A, Memo in Support, Exhibit B, Variance Plan and Exhibit C, Floor Plan. They are before the board seeking permission to open an Adult Day Care Center in the basement of the church at the above named address. The center will care for approximately 100 adults with disabilities. Ages for the center are 18 years of age and older. Hours of operation will be 8:00 a.m. until 5:00 p.m. Monday through Saturday. Total amount of staff workers will be 17-20 every day including 1 nurse for rehabilitation, social worker and therapist. The clients will have physical activities, classroom activities and food will be served daily. Transportation will be provided by using 5 school buses for all pickups and drop offs. The church has a circular driveway and 89 parking spaces. All doors will be locked for safety and a camera will be installed as well. Ward 1 Councilor Timothy Cruise is in favor stating this center will be subject to paying taxes. State Representative Michael Brady is also in favor of this petition.

**OPPOSITION:** None

**DECISION:** Granted with the stipulation that the hours of operation will be Monday through Friday 8:00 a.m. until 5:00 p.m.

**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. 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: Stephen Bernard  
Seconded by: Susan Nicaastro

**IN FAVOR: (5)**

Atty. Anthony Eonas, Chairman \_\_\_\_\_

Stephen Bernard \_\_\_\_\_

Susan Nicaastro \_\_\_\_\_

Kenneth Galligan \_\_\_\_\_

Sean D. Noonan \_\_\_\_\_

**OPPOSED: (0)**

\_\_\_\_\_  
Frank Gazerro, 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, May 8, 2012, at 7:00 pm.

**IN RE: 12-26** Petition of **DAVID ELMAN, MANAGER, DEC, LLC**, 1330 Main Street, Brockton, MA, for a Variance from Sec. 27-29, to permit 11 2-bedroom residential units in a C-2 Zone, located at **1330 MAIN STREET**.

**PETITIONER'S STATEMENT:** Attorney Robert Reed, Land Surveyor Bruce Malcolm and the petitioner David Elman presented to the board Exhibit A, Site Plan. Mr. Elman owns the building at the above location. The property was originally a home and then years later became commercial. Mr. Elman is before the board seeking permission to change the property use from commercial to residential use. The market is very slow for commercial rentals. The hardship is the existing foundation. The new proposal will be 11 units. Each unit will have 2 bedrooms and 2 parking spaces. The front exterior will have more detail added on. Green space in the front will include new plantings. The distance to the train station is 2 blocks. Lighting on the property will face downward and a gate for the walkers going to the train station will make the property safe for the tenants. Abutters Gary Leonard, Mark Comboy, Geoffrey Anatole and Robert Bishop are in favor of this petition. Ward 4 Councilor Paul Studenski and State Representative Michael Brady are also in favor.

**OPPOSITION:** None

**DECISION:** Granted with the stipulation 1 light parking be downward facing Montello Street and 2. Dumpster not to be close proximity to building.

**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:

Kenneth Galligan  
Sean D. Noonan

**IN FAVOR: (4)**

Atty. Anthony Eonas, Chairman

Stephen Bernard

Kenneth Galligan

Sean D. Noonan

**OPPOSED: (1)**

Susan Nicastro

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Frank Gazerro, 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, May 8, 2012, at 7:00 pm.

**IN RE: 12-27** Petition of **CASPER REALTY TRUST**, 24 Garden Park, Suite 4, Braintree, MA, to overturn the Building Inspector's Determination on a Buildable Lot in an R-1-C, located at **PLOT 24 JACOB STREET**.

**PETITIONER'S STATEMENT:** Attorney Richard Wainwright presented to the board Exhibit A, Buildable Lot Determination. Attorney Wainwright is before the board seeking permission to overturn the Building Inspector's determination in which he stated the above address is not a buildable lot. The property had a garage constructed in 1919 and had since been taken down. Attorney Wainwright represented that the facts in this petition were the same as the Land Court Decision of Corriea vs. Massachusetts.

**OPPOSITION:** The neighboring abutters James and Ann DeMestico, Brian Tonelli are in opposition stating the heavy traffic. Ward 5 Councilor Dennis DeNapoli is in opposition.

**DECISION:** Granted unanimously.

**BASIS:** The board determined that the facts in this petition were similar to the Land Court case of Corriea vs. Massachusetts and that the Building Inspector's determination of the lot not being buildable should be overturned.

**VOTE:**

Motion to Grant by:  
Seconded by:

Kenneth Galligan  
Sean D. Noonan

**IN FAVOR: (5)**

Atty. Anthony Eonas, Chairman

Stephen Bernard

Susan Nicastro

Kenneth Galligan

Sean D. Noonan

**OPPOSED: (0)**

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Frank Gazerro, Clerk

A true copy. Attest:

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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, May 8, 2012, at 7:00 pm.

**IN RE: 12-28** Petition of **LYNN & JAMES MORRISSEY**, 115 Cypress Drive, Brockton, MA, for a Variance from Art. III, Sec. 27-9, to subdivide an existing lot into 2 lots, lacking in lot size and frontage, in an R-1-C Zone, located at **135 PINE STREET**.

**PETITIONER'S STATEMENT**: The petitioners Jim and Lynne Morrissey presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans & Elevations. The Morrisseys purchased the home from the City of Brockton back in January 2012. They have cleaned the site and razed the garage. The existing home is now being rehabilitated. They are before the board seeking permission to sub-divide Lots 5 & 6 which face Taylor Avenue and construct a single family home which will face Pine Street. The home will have three (3) bedrooms and the driveway will be on the left side of home. The original hedges will continue along Pine Street and Taylor Avenue in front of the existing home and in front of the new home the hedges will be gone. The petitioners have stated they will pay for another stop sign on Taylor Avenue.

**OPPOSITION**: The abutting neighbors came out in opposition. They stated the proposed new home will cause more crowding and the area has enough empty homes to purchase and renovate. Ward 5 Councilor Dennis DeNapoli is also in opposition.

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

**BASIS**: 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:

Sean D. Noonan

Seconded by:

Susan Nicastro

**IN FAVOR: (2)**

Stephen Bernard

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Kenneth Galligan

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**OPPOSED: (3)**

Anthony Eonas, Chairman

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Susan Nicastro

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Sean D. Noonan

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Frank Gazerro, 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 Tuesday, May 8, 2012, at 7:00 pm.

**IN RE: 12-29** Petition of **BROCKTON ADULT DAY CARE LLC**, 20 Linden Street, #202, Allston, MA, for a Variance for an Adult Day Care Use and waiver for possible parking spaces required and for configuration of open space required in a C-2 Zone, located at **764 NORTH MAIN STREET**.

**PETITIONER'S STATEMENT:** Attorney Melinda Kwart and the petitioner Edward Shapiro presented to the board Exhibit A, Memo in Support, Exhibit B, Floor Plans and Exhibit C, Daily Transportation Sheet. The adult day care has been in operation for five (5) years. In January 2012, the petitioner went to zoning seeking permission to have a fun center at the same address. They were denied that night then went to planning and was told that they needed zoning approval for the adult day care before planning would hear the request to return to zoning for the fun center. They are now before the board seeking permission to seek a Variance to continue operating the adult day care and a waiver for parking spaces needed. The adult day care will be in the front of the building. Hours of operation will be seven days a week with 23 employees and 100 clients in attendance. One nurse will care for every 25 clients. Total number of parking spaces given is 31. Green space will be along the building. Alex Montrone, Maria Martin, Jose Fonseca and Sonja Alves are all in favor.

**OPPOSITION:** None

**DECISION:** Granted unanimously with the stipulations 1. Appropriate inspections to be complete by the building department 2. Allowed 31 parking spaces and the Adult Day Care will need to apply for a new occupancy permit as soon as possible.

**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:

Stephen Bernard  
Sean D. Noonan

**IN FAVOR: (5)**

Atty. Anthony Eonas, Chairman

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Stephen Bernard

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Susan Nicastro

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Kenneth Galligan

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Sean D. Noonan

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**OPPOSED: (0)**

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Frank Gazerro, 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, May 8, 2012, at 7:00 pm.

**IN RE: 12-30** Petition of **PATRICIA TAYLOR**, 38 Sagamore Road, Brockton, MA, for a Special Permit from Art. IV, Sec. 27-25(3f), for a Kennel License for 4 dogs, in an R-1-C Zone, located at **38 SAGAMORE ROAD**.

**PETITIONER'S STATEMENT:** The petitioner Patricia Taylor presented to the board Exhibit A, Brief Statement to the Board, Exhibit B, Letter from the North Main Veterinary Clinic. Mrs. Taylor is before the board seeking permission to keep the four (4) dogs at the above named address. The petitioner originally had two (2) dogs and her daughter came home from Kentucky with her boyfriend who is a veteran and his two (2) dogs.

**OPPOSITION:** None

**DECISION:** Granted unanimously.

**BASIS:** Section 3-19 Ordinance for Kennel: That the dogs are for domestic use only not for "breeding, sale, show or sport" or for business purposes such as boarding, grooming. Reduce to 3 dogs upon expiration of 1 dog.

**VOTE:**

Motion to Grant by:  
Seconded by:

Sean D. Noonan  
Kenneth Galligan

**IN FAVOR: (5)**

Atty. Anthony Eonas, Chairman

Stephen Bernard

Susan Nicastro

Kenneth Galligan

Sean D. Noonan

**OPPOSED: (0)**

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Frank Gazerro, Clerk

A true copy. Attest:

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Anthony Zeoli, City Clerk