

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, April 9, 2013 at 7:00 pm.

IN RE: 13-12 Petition of **ROBERT PIMENAL**, 780 Highstone Street, Taunton, MA, for a Special Permit (Art. IV sec 27-28, 3c & Art IV sec 27-29, 3a), Variance Article III sec 27-9, Article II sec 27-3, Article IV sec 27-36, Article IV sec 27-36 4a, Article 27-36 4b as amended on May 28, 2012. Special Permit to operate a restaurant with take out and drive thru window, Variance to access commercial property over strip of residential property and Variance for construction in a flood zone in a R1C & C-2 Zone, located at **PLOT 231, PLEASANT STREET**

PETITIONER'S STATEMENT: The petitioner Robert Pimental along with Attorney John McCluskey presented to the board Exhibit A, Memo in Support, Exhibit B, Floor & Elevation Plans and Exhibit C, Site Plan. Mr. Pimental is before the board seeking permission to construct a Honey Dew Donut Shop at the above location. Mr. Pimental has an existing Honey Dew down the street on a piece of property which is leased. The new owners have decided to not to renew the lease. The building will be on Pleasant Street with entrances on Pleasant and Prospect Street and exits only on Pleasant Street. The size of the building will be 2,200 sq.ft with 500 sq.ft. to be used as a rental unit. The number of parking spaces will be eleven (11) including one (1) handicap space and sixteen (16) seats. Hours of operation will be seven days per week from 5:00 a.m. until 8:00 p.m. Fields Avenue will not be used. The owner will have to meet with the City's Planning and Conservation office if this petition is granted.

OPPOSITION: No one spoke in opposition.

DECISION: Granted with the stipulations 1. That the building is to be at least 10' from the sidewalk, 2. The landscaping will be either dense plantings or fencing, 3. Field Avenue is not to be used and 4. The lighting on the property shall be downward facing.

BASIS: Granting would not derogate from the intend 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. There is adequate ingress and egress to parking and will not interfere with traffic on the abutting streets.

VOTE:

Motion to Grant by:

Kenneth Galligan

Seconded by:

Stephen Bernard

IN FAVOR: (4)

Atty. Anthony Eonas, Chairman

Richard Francis, Fire Chief

Stephen Bernard

Kenneth Galligan

OPPOSED: (1)

Susan Nicastro

Anthony Eonas

Richard Francis

Stephen Bernard

Kenneth Galligan

Susan J. Nicastro

James M. Casieri

James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli
Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE MAY 08 2013 PURSUANT TO
M.G.L.C. 40A SECTION 17.

CITY CLERK'S OFFICE
BROCKTON, MA

2013 MAY - 8 A 8:46

RECEIVED

RECEIVED AND FILED: May 29, 2013
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

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, April 9, 2013 at 7:00 pm.

IN RE: 13-13 Petition of GRANT MICHAEL OF N.H. SIGNS. 60 Old Derry Road, Londonderry N. H., for a Variance from Art. IV, Sec. 27-65, for LED price digits for safety and Special Permit for LED display for store and Sec 32-5(c) 100' from residents in a C-5 Zone, located at 409 PLEASANT STREET.

PETITIONER'S STATEMENT : The petitioners Peter March and Grant Michael from New Hampshire Signs presented to the board Exhibit A, Addendum to Present Variance Request and Exhibit B, Pictures of Signs. They are before the board seeking permission to erect two (2) LED signs for Prestige Gas Company. One sign is for the changing of gas prices and the other for advertising what's for sale inside the convenience store. The sign is less than 100' from a residential area and it will be placed 10' from the street.

OPPOSITION: None

FIRST VOTE IS VARIANCE FOR THE LED GAS PRICE SIGN

DECISION: Granted unanimously

BASIS: The existing sign is on municipal property and creates a hardship at the locus. Granting would not derogate from the intent of the zoning by-laws. The above listed stipulations in petitioner's statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

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

- IN FAVOR: (5)**
- Atty. Anthony Eonas, Chairman
- Richard Francis, Fire Chief
- Stephen Bernard
- Susan Nicastro
- Kenneth Galligan

Anthony Eonas
Richard Francis
Stephen Bernard
Susan J. Nicastro
Kenneth Galligan

OPPOSED: (0)

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 2013 MAY 08 8:47
 BROCKTON CITY CLERK'S OFFICE

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Anthony J. Zeoli

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SECOND VOTE IS A SPECIAL PERMIT FOR THE LED DISPLAY SIGN

DECISION: Denied unanimously

BASIS: Granting would negatively impact the orderly development of the neighborhood. Egress and exit along with parking access would create dangerous traffic patterns. The intersection is congested and additional moving signage would raise safety issues.

VOTE:

Motion to Grant by:
Seconded by:

Richard Francis
Susan Nicastro

IN FAVOR: (0)

OPPOSED: (5)

- Atty. Anthony Eonas, Chairman
- Richard Francis, Fire Chief
- Stephen Bernard
- Susan Nicastro
- Kenneth Galligan

Anthony Eonas
Richard Francis
Stephen F. Bernard
Susan J. Nicastro
Kenneth Galligan

James M. Casieri
 James M. Casieri, Clerk

A true copy. Attest:
Anthony J. Zeoli

Anthony Zeoli, City Clerk

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CITY OF BROCKTON
ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, April 9, 2013 at 7:00 pm.

IN RE: 13-14 Petition of BAYSTATE YOGURT, 20 Gloucester Street, Boston, MA, for a Variance from Art. IV, Sec. 27-29, to operate a restaurant with seating for 25 in a C-5 Zone, located at 1285 BELMONT STREET.

PETITIONER'S STATEMENT: Petitioners Skip and Kenny Connors presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plan. They are before the board seeking permission to have a self serve yogurt at the above location. They will have four (4) locations in Massachusetts. The customers choose their flavors and then add candy and treats if they would like. The yogurt is then weighed for the price. They will be open seven (7) days per week from 10:00 a.m. until 11:00 p.m. They will use the common dumpster.

OPPOSITION: None

DECISION: Granted.

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:
Seconded by:

Stephen Bernard
Richard Francis

IN FAVOR: (4)

Atty. Anthony Eonas, Chairman

Richard Francis, Fire Chief

Stephen Bernard

Kenneth Galligan

OPPOSED: (1)

Susan Nicastro

Anthony Eonas
Richard Francis
Stephen Bernard
Kenneth Galligan
Susan J. Nicastro
James M. Casieri
James M. Casieri, Clerk

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BROCKTON, MA

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ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on April 9, 2013 at 7:00 pm.

IN RE: 13-15 Petition of **NANCY CARRIGG**, 41 N. Cary Street , Brockton, MA, for a Variance under Art IV, sec 27-25, for a commercial use in a R-1-C Zone, which is not permitted without a variance, located at **388 COURT STREET**.

PETITIONER'S STATEMENT: Attorney John Creedon along with the petitioners, George and Nancy Carrigg presented to the board Exhibit A, Site and Floor Plans. The Carriggs own the Monument business next door in the home where they both live. They are seeking permission to use the home at the above location as a contact sales office. The business use has been in existence since 1919. Their nephew is taking over the sales portion of the business and would like to have the hours of operation from 9:00 a.m. until 7:00 p.m. with two (2) employees. The building will have three (3) exits along with a handicap ramp.

OPPOSITION: None

DECISION: The board determined that the use is grandfathered and there is no need to grant a variance.

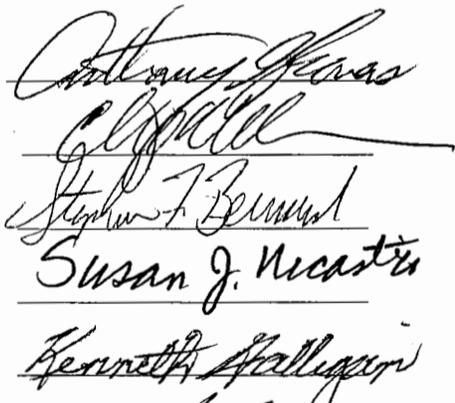
BASIS: The use being in existence since 1919 is grandfathered.

VOTE:

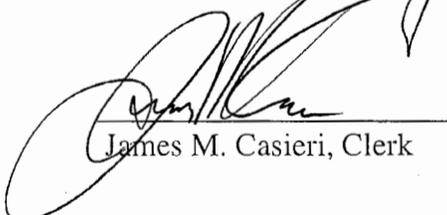
Motion to Grant by: Kenneth Galligan
Seconded by: Richard Francis

IN FAVOR: (5)

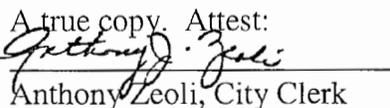
- Atty. Anthony Eonas, Chairman
- Richard Francis, Fire Chief
- Stephen Bernard
- Susan Nicastro
- Kenneth Galligan



OPPOSED: (0)



James M. Casieri, Clerk

A true copy. Attest:

Anthony Zeoli, City Clerk

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IN RE: 13-16 Petition of ANTHONY J. PUSATERI, JR., 142 Patricia Drive, Abington, MA, for a Variance from Art. IV, Sec. 27-34, for a commercial use which is not permitted in an Industrial zone without a Variance in an I-2 Zone, located at 200 N. CARY STREET.

PETITIONER'S STATEMENT: Attorney John Creedon along with the petitioner Anthony Pusateri presented to the board Exhibit A, Site and Floor Plans. Mr. Pusateri would like to transform the existing office building into a Zumba studio. A maximum of fourteen (14) clients per class will be allowed. Hours of operation will be Monday through Friday 4: p.m. until 8:00 p.m. and Saturdays 9:00 a.m. until 12:00 p.m.

OPPOSITION: None

DECISION: Granted unanimously with the stipulation that the Zumba studio needs to conform to all building codes.

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:	Richard Francis
Seconded by:	Kenneth Galligan

IN FAVOR: (5)

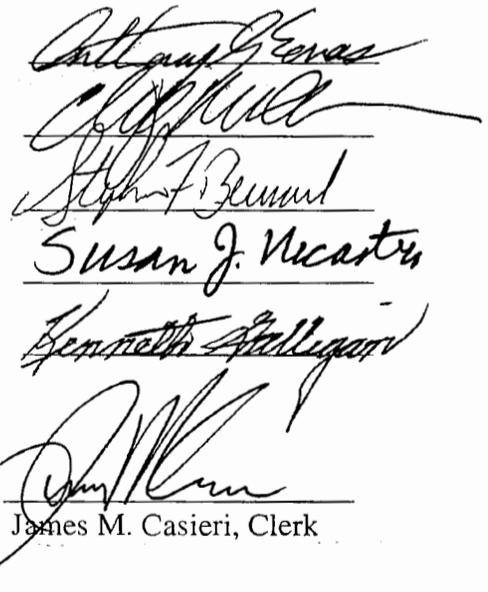
Atty. Anthony Eonas, Chairman

Richard Francis, Fire Chief

Stephen Bernard

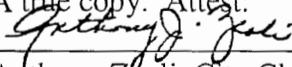
Susan Nicastro

Kenneth Galligan



OPPOSED: (0)

A true copy. Attest:


Anthony Zeoli, City Clerk

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IN RE: 13-17 Petition of **LARS W. & MARGARET C. JOHNSON-TRUSTEES**, 277 School Street, Whitman, MA, for a Variance from Sec 27-9, originally 3 lots which later became 1 lot due to shape, topography & soils. Relief would not derogate from intent of zoning in an R-1-C Zone, located at **Plot 107-NORTH CARY STREET & THAYER STREET**.

PETITIONER'S STATEMENT: The petitioner Lars Johnson along with his engineer S.W. Garvey presented to the board Exhibit A, Memorandum and Exhibit B, Site Plan. Mr. Johnson is before the board seeking permission to divide one (1) lot into two (2) lots and construct two (2) single family homes. The lots will each have 15, 000 sq. ft. of land. Planning Board approval is needed if granted.

OPPOSITION: The McWilliams and Claire Harrington are opposed to two (2) homes but not one (1) home.

DECISION: Denied.

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: Stephen Bernard
Seconded by: Kenneth Galligan

IN FAVOR: (3)
Atty. Anthony Eonas, Chairman

Stephen Bernard
Kenneth Galligan

OPPOSED: (2)
Richard Francis, Fire Chief

Susan Nicastro

Anthony Eonas
Stephen Bernard
Kenneth Galligan

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Susan J. Nicastro

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