

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 14, 2013 at 7:00 pm.

IN RE: 13-18 Petition of RONALD CRISONA, 221 Oak Street, Brockton, MA., for a Variance from Sec 27-65, for relief from street setback requirements and relief from size restrictions to replace existing signage in a C-5 Zone, located at **1136 N. MAIN STREET**

PETITIONER'S STATEMENT: The petitioner Ronald Crisona, who is the owner of the Dairy Queen located at 1136 N. Main Street, presented to the board Exhibit A, Site Plan of Land, Exhibit B, Pylon Sign with Reader Board, Exhibit C, Current and Proposed Building Signage, Exhibit D, Dairy Queen Master Brand Product Sheet and Exhibit E, Front Elevations. Mr. Crisona is before the board seeking permission to replace an existing sign on double poles with a 9 inch over hang to three new signs on a single pole, that will be located 5 ½ feet from the sidewalk, and with a 18 inch over hang from the sidewalk. The existing sign has been on the premises since 1953. The proposed signs will be internally lit, from the hours of 11:00 a.m. to 10:00 p.m. The colors of the signs will be red, white and blue with no flashing lights and the sign will include a manual reader board. The new sign in the front of the building will be a smaller Dairy Queen logo. Mr. Crisona stated that he will be in compliance with Dairy Queen's national brand image and with the required upgrade to modern standards. Abutter, Frederick Mullins of 1150 N. Main Street, stated he was in favor of the petitioner's proposal.

OPPOSITION: None.

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: D. Sean Noonan

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Stephen Bernard

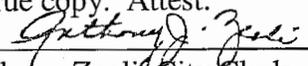
Susan Nicastro

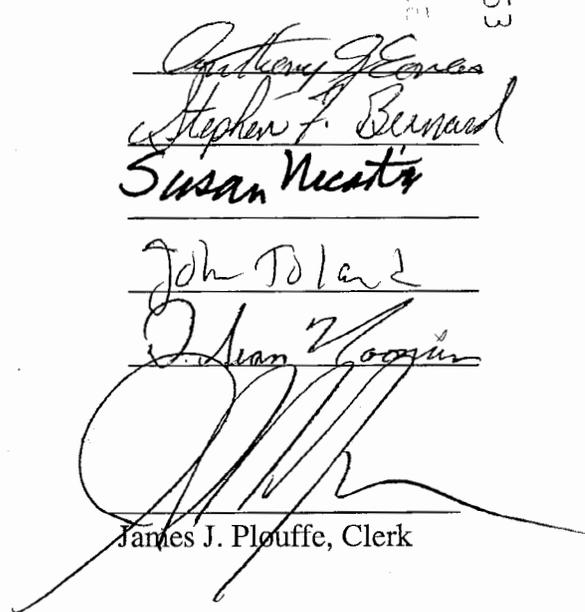
John Toland

D. Sean Noonan

OPPOSED: (0)

A true copy. Attest:


Anthony Zeoli, City Clerk


James J. Plouffe, Clerk

ANY APPEAL MUST BE MADE
WITHIN 20 DAYS FROM THIS
DATE JUN 07 2013 PURSUANT TO
M.G.L.C. 40A SECTION 17.

RECEIVED AND FILED: June 28, 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

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REGISTRAR'S OFFICE

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 14, 2013, at 7:00 pm.

IN RE: 13-19 Petition of **COLBEA ENTERPRISES, LLC., c/o ALAN J. MICALE, P.E., AYOUB ENGINEERING, INC.**, 414 Benefit Street, Pawtucket, R.I., for a Special Permit from Sec. 27-65, for LED Panel, canopy fascia modifications including illuminated red band and new canopy signs in a I-1 Zone, located at **955 BELMONT STREET**.

PETITIONER'S STATEMENT: The petitioner Steven M. Pedro, who is the architect for the Shell gas station located at 955 Belmont Street, presented to the board Exhibit A, Architectural Drawings of Proposed Canopy Modifications and LED Signs. Mr. Pedro is before the board seeking permission to modify the existing free standing sign and canopy signs. Mr. Pedro stated there will be two new LED price panels, one will be red, displaying the price for Regular gas, and the other will be green, displaying the price for Diesel gas. There will be three additional new sign panels on the existing free standing sign. There will no message boards and the LED panels will only change at the time of a gas price change. Mr. Pedro stated the new canopy will consist of a white and yellow panel with an illuminated red bar. Mr. Pedro also stated, all the proposed changes are required for the upgrade of the Shell signage package.

OPPOSITION: None.

DECISION: Granted unanimously.

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: John Toland
Seconded by: Susan Nicastro

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Stephen Bernard

Susan Nicastro

John Toland

D. Sean Noonan

OPPOSED: (0)

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CITY CLERK'S OFFICE
2013 JUN - 17 A 8:53
Anthony Eonas
Stephen Bernard
Susan Nicastro
John Toland
D. Sean Noonan
James J. Plouffe
James J. Plouffe, Clerk

A true copy. Attest:
Anthony J. Zeoli
Anthony Zeoli, City Clerk

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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 14, 2013 at 7:00 pm.

IN RE: 13-20 Petition of RUTLAND SQUARE REALTY TRUST, 3 Farrington Lane, Canton, MA, for a Variance to convert an existing warehouse into a 42 unit apartment building in a R-2 Zone, located at 15 RUTLAND SQUARE.

PETITIONER'S STATEMENT: The petitioner Edward Franco along with George Gilford, presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plan. Mr. Franco is before the board seeking permission to construct a 42 unit apartment building. Mr. Gilford and Mr. Franco stated the current structure located on 15 Rutland Square is a eye sore and they have been in front of the Zoning Board of Appeals numerous times, and have been denied. Mr. Gilford and Mr. Franco stated that they have addressed all the previous concerns regarding snow removal, traffic flow, on street parking and density. The property will consist of 93 bedrooms, mainly 1-2 bedrooms. Mr. Gilford and Mr. Franco stated, the apartments would attract are professional people within the community. The new constructed apartments would improve the look in the area and it would be costly to take down the existing structure. As proposed, there will be new sidewalks, landscaped premises and a courtyard for social gatherings. Mr. Franco stated he has owned the property for a decade and it was previously a warehouse. There would also be a 24 hour management staff on site. A representative of BKA Architects, illustrated to the zoning board members, the residents would have access to 91 parking spots, 4 of which would be parallel parking. In addition, there will be a split entry egress added with double access aisles for entrance and exit. Mr. Franco and Mr. Gilford stated that they have conducted several neighborhood meetings, along with Ward 4 Councilman, Paul Studenski, in order to have the abutters express their concerns and address any questions they may have. Attorney John F. Creedon and Land Surveyor Bruce Malcolm were present and in support of the petitioner's proposal.

OPPOSITION: Numerous abutters were present along with Ward 4 Councilman, Paul Studenski, in opposition of the petitioner's proposal. The abutter's expressed concerns of traffic congestion, lack of parking, snow removal and density.

DECISION: Denied unanimously.

BASIS: The petitioner's request for a variance is denied for the following reasons:

Firstly, the petitioner is requesting a variance under Section 27-48(2) of the Revised Ordinances of the City of Brockton Appendix C - Zoning to convert a commercial warehouse building located in an R-2 Zone into 42 units of residential housing. Although not specified on his application, it appears as though petitioner seeks a variance from Section 27-36, "NONDWELLING STRUCTURES", which provides that "no commercial or manufacturing structure originally designated for other than residential use shall be converted to a dwelling structure unless such structure is in an R-3 District and conforms to all provisions of subsection b, above." As the structure at issue in this conversion is a non-conforming factory/warehouse building located in an R-2 Zone, the requested conversion is clearly prohibited by the ordinances. Furthermore, it appears that petitioner also seeks a variance from Section 27-26, which sets forth both the principal permitted uses and permitted special uses for an R-2 Zone, none of which allow for multi-family residential dwellings, which are only permitted in an R-3 Zone.

In this instance, petitioner has shown neither that the special circumstances relating to the soil conditions, shape or topography of the property or structure in question, nor sufficient evidence of a substantial hardship necessitating the proposed 42-unit multi-family dwelling. Furthermore, granting the requested variance would be both substantially detrimental to the public good and substantially derogate from the intent and purpose of the ordinance provisions in question. At the hearing, numerous abutters and Ward 4 Councilor Paul Studenski expressed concerns relative to snow removal, lack of parking, density and traffic congestion. The proposed conversion would create serious

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public safety concerns for an area already blighted by congestion, traffic, difficult snow removal and narrow streets. Although petitioner stated that a traffic study had been performed and completed, no study was submitted to the board. Finally, as Section 27-36 clearly prohibits the requested conversion in any but an R-3 Zone, granting the requested variance would substantially derogate from the intent of this ordinance.

As second basis for denial, petitioner has not submitted sufficient evidence of necessary parking spaces. As the proposed conversion is not permitted by the ordinances, pursuant to Section 27-9, petitioner must provide two off-street parking spaces per housing unit. Although petitioner's plan for proposed conversion provides for parking spaces on two adjacent lots, petitioner failed to submit any proof of ownership of the lots in question or a purchase and sale agreement for said lots conditioned upon zoning approval. Furthermore, the lot directly adjacent to the property in question is located in an R-2 Zone and would therefore require a use variance, as parking is neither a principal permitted nor permitted special use in an R-2 Zone. Because a variance is required for parking on this lot, petitioner was required to provide abutters with proper notice. No such notice was made.

Additionally, Section 27-53(4) provides that required off-street parking located off-site must in the same ownership as the use to which they are accessory, must be within 250 feet from the lot lines of the property on which the primary use is located and must be subject to deed restrictions of record, binding the owner and his heirs, successors and assigns to maintain the required number of spaces available through the life of the use. As petitioner does not own the parcels upon which the proposed parking is located, no such deed restriction exists.

VOTE:

Motion to Deny by: D. Sean Noonan
Seconded by: John Toland

IN FAVOR: (0)

Atty. Anthony Eonas , Chairman
Stephen Bernard
Susan Nicastro
John Toland
D. Sean Noonan

Anthony Eonas
Stephen Bernard
Susan Nicastro
John Toland
D. Sean Noonan

OPPOSED: (5)

[Large signature]
James J. Plouffe, Clerk

A true copy. Attest:
Anthony J. Zeoli
Anthony Zeoli, City Clerk

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

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2013 JUN -7 A 9:53

A TRUE COPY, ATTEST
Anthony J. Zeoli

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 14, 2013 at 7:00 pm.

IN RE: 13-21 Petition of **CRUISE PROPERTIES**, 120 Torrey Street, Brockton, MA, for a Variance under Sec. 27-9, lot area front and Sec. 27-13, frontage and Sec. 27-13, width to construct a new single family home in an R-1-C Zone, located at **11 MOORE STREET**.

PETITIONER'S STATEMENT: The petitioner David Cruise, presented to the board Exhibit A, Site Plan of Land of the existing conditions, Exhibit B, Site Plan of Land of the proposed variance, Exhibit C, Floor Plan and Elevations and Exhibit D, Assessors Map of the specified plot. Mr. Cruise is before the board seeking permission to construct a front to back split single family home with three bedrooms. Mr. Cruise expressed to the board that the existing trailer on the plot has been deemed unfit by the City of Brockton. The property is an eyesore and has been vacant for a few years. Mr. Cruise stated that with the proposed plans, the new home would have a 27 feet and 40 feet side set back. As Mr. Cruise stated, a retaining wall will be put up, in order to fix the current water drainage issue. Residents of 29 Moore Street, 15 Moore Street and Ward 4 Councilman, Paul Studenski were present and in favor of the petitioner's proposal.

OPPOSITION: None.

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: John Toland

IN FAVOR: (5)

- Atty. Anthony Eonas, Chairman
- Stephen Bernard
- Susan Nicastro
- John Toland
- D. Sean Noonan

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RECEIVED

Anthony Eonas
Stephen Bernard
Susan Nicastro
John Toland
D. Sean Noonan

[Signature]
James J. Plouffe, Clerk

OPPOSED: (0)

A true copy. Attest:
Anthony Zeoli
Anthony Zeoli, City Clerk

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M.G.L.C. 40A SECTION 17.

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 14, 2013 at 7:00 pm.

IN RE: 13-22 Petition of **GEORGE & SOPHIA MOURATIDIS**, 413 Crescent Street , Brockton, MA, for a Special Permit from Art. IV, Sec. 27-28 (c), to expand the existing restaurant area into immediate adjoining unit by approximately 750 square ft., in a C-2 Zone, located at **391 CRESCENT STREET**.

PETITIONER'S STATEMENT: The petitioner George Mouratidis, presented to the board Exhibit A, Plot Plan and Floor Plan. Mr. Mouratidis is before the board seeking permission to expand the existing restaurant area to an adjoining unit by approximately 750 square feet. Attorney John F. Creedon represented the petitioners, and stated to the board that Alexander's Restaurant has been servicing the Brockton community for years. There will be no change in the restaurant's hours of operation. Currently the restaurant has 68 seats, with the proposed expansion; there will be approximately 30 more available seats. Land Surveyor Bruce Malcolm stated the restaurant has ample parking with the existing 39 parking spaces in the front and 8 parking spaces in the rear. The businesses located in the same plaza have different hours of operation, compared to the restaurant, so parking will not be an issue. The proposed expansion will be used for private events, as well. A letter submitted from the abutter, Theresa Moses, read in favor and Ward 3 City Councilman, Dennis Eaniri was present, also in favor of the petitioner's proposal.

OPPOSITION: None.

DECISION: Granted unanimously.

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: Stephen Bernard
Seconded by: D. Sean Noonan

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Stephen Bernard

Susan Nicastra

John Toland

D. Sean Noonan

OPPOSED: (0)

Anthony Eonas
Stephen Bernard
Susan Nicastra

John Toland
D. Sean Noonan

James J. Plouffe
James J. Plouffe, Clerk

A true copy Attest:

Anthony J. Zeoli
Anthony Zeoli, City Clerk

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WITHIN 20 DAYS FROM THIS
DATE JUN 07 2013 PURSUANT TO
M.G.L.C. 40A SECTION 17.

CITY CLERK'S OFFICE
CITY OF 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 14, 2013 at 7:00 pm.

IN RE: 13-23 Petition of **RENU CORP., dba BD MART**, 96 Oak Street, Taunton, MA, for a Special Permit from Sec 27-4, to adjust the existing use of the store to put a deli section in a C-3 Zone, located at **95 MONTELLO STREET**.

PETITIONER'S STATEMENT: The petitioner Monzur Khan, presented to the board Exhibit A, Plot Plan of the existing condition and Exhibit B, Floor Plan. Mr. Khan is before the board seeking permission to open a deli in the back of the existing convenience store. Employers will make and sell cold sandwiches only and will be operating from 10:00 a.m. to 4:00 p.m., Monday thru Sunday. There will be no seating. Mr. Khan stated that his proposal, if granted, will attract more business to his convenience store.

OPPOSITION: None.

DECISION : Granted unanimously.

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: D. Sean Noonan
Seconded by: John Toland

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Stephen Bernard

Susan Nicasastro

John Toland

D. Sean Noonan

OPPOSED: (0)

Anthony Eonas
Stephen F. Bernard
Susan Nicasastro

John Toland
D. Sean Noonan

James M. Casieri
James M. Casieri, Clerk

A true copy. Attest:
Anthony Zeoli
Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE
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CITY CLERK'S OFFICE
BROCKTON, MA

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Anthony J. Zeoli

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 14, 2013 at 7:00 pm.

IN RE: 13-24 Petition of COLBEA ENTERPRISES, LLC, c/o ALAN J. MICALE, P.E., AYOUB ENGINEERING, INC., 414 Benefit Street, Pawtucket, R.I., for a Special Permit from Sec. 27-65, for LED Panel in a C-2 Zone, located at 253 E. ASHLAND STREET.

PETITIONER'S STATEMENT: The petitioner Steven M. Pedro, who is the architect for the Shell gas station located at 253 E. Ashland Street, presented to the board Exhibit A, Existing ID Sign and Proposed LED panel. Mr. Pedro is before the board seeking permission to modify the existing, free standing sign with an LED panel. Mr. Pedro stated there will be one new LED price panel, which will be red, displaying the price for Regular gas. There will be two additional new sign panels on the existing free standing sign. There will no message boards and the LED panel will only adjust at the time of a gas price change and will not be lit after the hours of operation. Mr. Pedro also stated all the proposed changes are required for the upgrade of the Shell signage package. An abutter was present and in favor of the petitioner's proposal.

OPPOSITION: None.

DECISION: Granted unanimously.

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: John Toland
Seconded by: Stephen Bernard

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Stephen Bernard

Susan Nicastro

John Toland

D. Sean Noonan

OPPOSED: (0)

Anthony Eonas
Stephen Bernard
Susan Nicastro
John Toland
D. Sean Noonan
James M. Casieri
James M. Casieri, Clerk

A true copy. Attest:
Anthony Zeoli
Anthony Zeoli, City Clerk

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2013 JUN - 7 A 8:54

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