

RECEIVED AND FILED: July 24, 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. II

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, June 11, 2013 at 7:00 pm.

IN RE: 13-25 Petition of TONY NGUYEN, 220 Norfolk Street, Quincy, MA, for a Variance from Sec .27, Table 1, Building Department stipulates that ZBA approval for this parcel requested because of garage razing permit- use proposed entirely conforms to all of the dimensional requirements of the R-3 Zone, located at PLOT 77- 0 SPRING STREET.

PETITIONER'S STATEMENT: The petitioner Tony Nguyen, who is the prospective purchaser of Plot 77-0 Spring Street, presented to the board Exhibit A, Site Plan, Exhibit B, Floor Plan and Exhibit C, Buildable Lot Determination. James Morrissey, who is the general contractor was present and along with the petitioner is before the board seeking permission to construct a single family dwelling, on a parcel that was determined non-buildable by the Building Department. Mr. Morrissey stated that the proposed dwelling will be a 26'x34', 2 1/2 story colonial style home, with a lot size of 11,348 square feet. The house will have 104 feet of frontage from Spring Street and 124 feet of frontage from Newbury Street. The home will contain 3 bedrooms, 2 1/2 bathrooms and a full basement, with 1,800 square feet of living area. The house will also have a farmer's porch and a deck. Mr. Morrissey stated he decided to place the driveway on Newbury Street because in comparison to Spring Street, the traffic will be less. Mr. Morrissey presented to the board visual illustrations of new home projects, which have previously gone to the Zoning Board of Appeals. Mr. Morrissey stated that Mr. Nguyen intends to sell the home, so it will become owner occupied. Mr. Morrissey also stated that he nor Mr. Nguyen do not intend to have living quarters in the attic, located on the 3rd floor.

OPPOSITION: None.

DECISION: Granted with the stipulation of placing a 6 feet stockade fence on the back of the property due to safety reasons. There shall be no living quarters on the 3rd floor.

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: Stephen Bernard
Seconded by: Paul Merian

IN FAVOR: (4)

Atty. Anthony Eonas, Chairman

Richard Francis, Fire Chief

Stephen Bernard

Paul Merian

OPPOSED: (1)

Susan Nicastro

ANY APPEAL MUST BE MADE WITHIN 20 DAYS FROM THIS DATE JUL 03 2013 PURSUANT TO M.G.L.C. 40A SECTION 17.

Anthony Eonas
Richard Francis
Stephen F. Bernard
Paul Merian

Susan J. Nicastro

James M. Casieri
James M. Casieri, Clerk

A true copy. Attest:

Anthony J. Zeoli
Anthony Zeoli, City Clerk

2013 JUL -3 A 11:03

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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, June 11, 2013 at 7:00 pm.

IN RE: 13-26 Petition of SCOTT SCIPIANE, 24 Riverdale Road, Dedham, MA, for a Variance to construct a two (2) family dwelling in a C-2 C Zone, located at 396 MONTELLO STREET.

PETITIONER'S STATEMENT: The petitioner Scott Scipiane presented to the board Exhibit A, Site Plan, Floor Plan, Elevation View and Framing. Mr. Scipiane, who is part owner of 396 Montello Street, is before the board seeking permission to construct a 2 family dwelling in a C-2 Zone. Mr. Scott Scipiane stated that he is within the required setbacks and the abutting parcels have residential dwellings. Abutting 396 Montello Street on one side is a 3 family and the other a 2 family. Mr. Scipiane stated he did not want to construct a commercial building, which would comply to the zone, because it would disrupt the abutters.

OPPOSITION: None.

DECISION: Granted with the stipulation of approval of plans by the Building Inspector.

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: Stephen Bernard
Seconded by: Richard Francis, Fire Chief

IN FAVOR: (4)

Atty. Anthony Eonas, Chairman

Richard Francis, Fire Chief

Stephen Bernard

Paul Merian

OPPOSED: (1)

Susan Nicasto

Anthony Eonas
Richard Francis
Stephen Bernard
Paul Merian

Susan J. Nicasto
James M. Casieri
James M. Casieri, Clerk

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Anthony Zeoli
Anthony Zeoli, City Clerk

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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, June 11, 2013 at 7:00 pm.

IN RE: 13-27 Petition of **THOMAS B. WILLARD**, 18 Patricia Lane, Brockton, MA, for a Variance from Sec 27-9, to construct a farmers porch which is needed to keep weather away from main entrance. The proposed porch will not encroach any closer to the property line in an R-1C Zone, located at **18 PATRICIA LANE**.

PETITIONER'S STATEMENT: The petitioner Thomas B. Willard presented to the board Exhibit A, Plot Plan, Exhibit B, Home Visualization and C, Picture existing dwelling. Mr. Willard is before the board seeking permission to add a farmer's porch to cover the entrance of the home, on a non-conforming lot. Mr. Willard currently has two sheds and a pool, and only two accessory structures are allowed, therefore, Mr. Willard is requesting permission to allow a third structure. The proposed farmer's porch will continue around the edge of the house with a 5ft overhang. Zoning board members stated that if Mr. Willard is granted his request, he must meet with the Planning Board and approval by the Engineering Department, concerning the water runoff.

OPPOSITION: Abutter James Conley of 14 Patricia Lane, was present and not in favor of the petitioner's proposal. Mr. Conley stated that he is concerned with the proposal of the farmer's porch, due to past issues of Mr. Willard running water off his property onto Mr. Conley's property. Mr. Conley also stated, Mr. Willard's pool and rear shed is in violation of the set back requirements of an accessory structure.

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 Deny by: Stephen Bernard
Seconded by: Susan Nicastro

IN FAVOR: (0)

Atty. Anthony Eonas, Chairman

Richard Francis, Fire Chief

Stephen Bernard

Paul Merian

Susan Nicastro

OPPOSED: (5)

Anthony Eonas
Richard Francis
Stephen Bernard
Paul Merian
Susan Nicastro

James M. Casieri
James M. Casieri, Cler

A true copy. Attest:

Anthony 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 June 11, 2013 at 7:00 pm.

IN RE: 13-28 Petition of ANILDO BARROS, 259 Winter Street, Brockton, MA, for a Variance from Sec 27-9, for relief from rear setback for a new bedroom in a R-1 C Zone, located at 111 SUMMER STREET.

PETITIONER'S STATEMENT: The petitioner Anildo Barros, the contractor, presented to the board Exhibit A, Request to Return, and Exhibit B, Plot Plan. Mr. Barros is before the board again, seeking relief from required rear setbacks. Mr. Barros went before the Planning Board and was granted a request to return back to the Zoning Board of Appeals, due to the significant changes made to the prior plot plan submitted to board members. The request is due to the owner's family out growing the current square footage of the home. Currently, there are five bedrooms in total, for all three units. The first floor has one bedroom, and is tenant occupied. The second and third floor have 2 bedrooms each, with the second floor being occupied by the owners, Marcelino Depina and Angela Garcia and the third floor being occupied by Marcelino's mother. Marcelino and his spouse have two children and are currently expecting a third, therefore, are in need of more rooms.

OPPOSITION: None.

DECISION: Granted unanimously, with the stipulation that the property remains a 3 family dwelling.

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: Susan Nicastro

Seconded by: Stephen Bernard

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Richard Francis, Fire Chief

Stephen Bernard

Paul Merian

Susan Nicastro

OPPOSED: (0)

A true copy. Attest:

Anthony Zeoli, City Clerk

Anthony Eonas
Richard Francis
Stephen Bernard
Paul Merian
Susan Nicastro

James M. Casieri
James M. Casieri, 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, June 11, 2013 at 7:00 pm.

IN RE: 13-29 Petition of GRANITE AVE. REALTY TRUST, c/o BRAD CARTWRIGHT, 845 Washington Street, Braintree, MA, for a Variance from Art. III, Sec. 27-29, to divide a parcel into three buildable lots, all three of which lack required frontage. Two of which lack required square footage in an R-1-C Zone, located at 583 N CARY STREET.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION: Withdrawn.

BASIS: The petition is withdrawn prior to the meeting as a matter of right.

VOTE:

Motion to Grant by:
Seconded by:

IN FAVOR: ()

Atty. Anthony Eonas, Chairman

Richard Francis, Fire Chief

~~Susan Nicastro~~
~~Vahan Boyajian~~

Stephen Bernard

Paul Merian

OPPOSED: ()

Anthony Eonas
Clyde...
Susan Nicastro
Stephen Bernard
Paul Merian

James M. Casieri
James M. Casieri, Clerk

A true copy. Attest:

Anthony 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, June 11, 2013 at 7:00 pm.

IN RE: 13-30 Petition of SUBWAY REAL ESTATE, INC., 930 Waterman Avenue, Providence, RI, for a Special Permit from Sec. 27-29, 3(a), 27-29 3 (f). 27-37, 27-49, 23-62 et seq. Applicant seeks to be allowed to operate a Subway restaurant with drive thru in a C-2 Zone as shown on plans submitted with signage, located at Petition of SUBWAY REAL ESTATE, INC., 930 Waterman Avenue, Providence, RI, for a Special Permit **666 OAK STREET**.

PETITIONER'S STATEMENT: Attorney Jim Burke presented to the board Exhibit A, Brief in Support of Petition, Exhibit B, Sign Drawing Proposals and C, Store Floor Plan and Exhibit D, Site Plan. Attorney Burke is before the board seeking permission to operate a Subway restaurant with drive-thru. Attorney Burke, along with the franchise owner spoke about the property's history and previous businesses that have occupied the space. Attorney Burke stated that 85% of Subway's business is take out, but there will be 28 seats available, along with 28 parking spaces. If additional parking is required, the adjacent property is available for parking. The drive thru and front of the building will remain the same. Attorney Burke stated the hours of business would be Monday thru Friday 7:00 a.m. to 12:00 a.m., Saturday 8:00 a.m. to 12:00 a.m. and Sunday 9:00 a.m. to 12:00 a.m. Attorney Burke affirmed there will be minimal impact on traffic and the restaurant will be a benefit to Oak Street, by giving more options to residents. There is existing signage on the location, and the new sign will be attached to the front, internally lit and no LED. The sign will be the simple basic franchise sign for Subway restaurants. The owner of the franchise stated he will use the same supports on the street sign and building. Ward 7 City councilor, Chris MacMillan was present and in favor of the petitioner's proposal, with the exception of having the restaurant change its Sunday hours of operation to 10:00 p.m. instead of until midnight or closing the drive-thru earlier than the restaurant, due to the respect of the neighborhood. License Commission will establish hours of operation.

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: Paul Merian
Seconded by: Richard Francis, Fire Chief

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

Richard Francis, Fire Chief

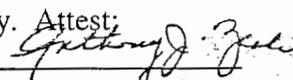
Stephen Bernard

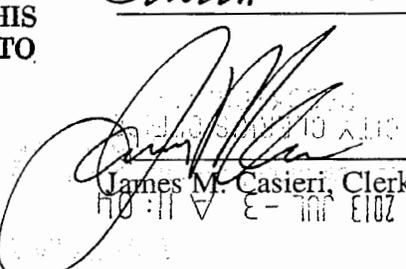
Paul Merian

Susan Nicastro
OPPOSED: (0)

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Anthony Zeoli, City Clerk


James M. Casieri, 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, Tuesday, June 11, 2013 at 7:00 pm.

IN RE: 13-31 Petition of **NEW ENGLAND PETROLEUM PROPERTIES, LLC**, 514 N Main Street, Brockton, MA, for a Special Permit from Art XIV, sec 27-64 (3), Art XIV, sec 27-65 (Sign) Art IV 27-29 3(a) Art IV 27-28, 3(c) Take Out Establishment. To allow digital signs to show price of gasoline and serve take-out food in a C-2 Zone, located at **514 N. MAIN STREET**.

PETITIONER'S STATEMENT: Attorney John McCluskey presented to the board Exhibit A, Mortgage Survey Plan, Exhibit B, Memorandum and C, Floor Plan and Elevations and Exhibit D, Image of Proposed Signage. Attorney McCluskey is before the board seeking permission to operate a take-out establishment with a digital LED sign for gas prices. Attorney McCluskey stated the current owner of 514 N. Main Street has complied with the city and is financially invested into the proposed project. The establishment has 1,000 square feet of retail space, which will be used as a convenience store that will sell brewed coffee and wrapped food. There will be no cooking, no deli or servicing vehicles in the establishment.

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: Paul Merian
Seconded by: Richard Francis, Fire Chief

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

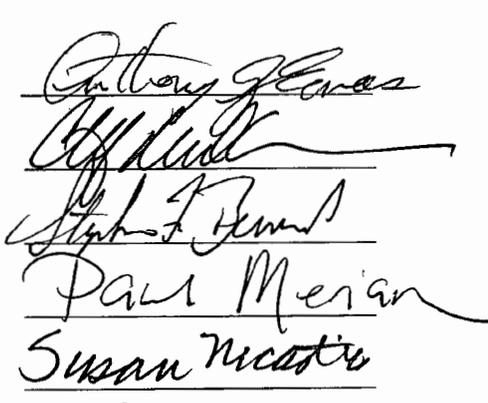
Richard Francis, Fire Chief

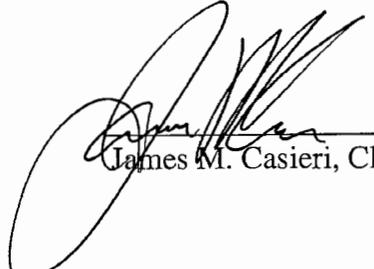
Stephen Bernard

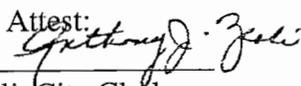
Paul Merian

Susan Nicastro

OPPOSED: (0)




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COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS

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IN RE: 13-32 Petition of **PRESTIGE CARE WASH REALTY LLC**, 13 Cape Road , Taunton, MA, for a Special Permit from Art. IV, Sec. 27-29 (3b). Special Permit needed to operate a four (4) pump (8 fuel dispensers) gasoline station with two (2) underground storage tanks 15,000 gallons each in a C-2 Zone, located at **245 N. PEARL STREET**.

PETITIONER'S STATEMENT: Petitioner Ronen Drory along with Attorney John F. Creedon, Esq., presented to the board Exhibit A, Proposed Modifications. Attorney Creedon is before the board seeking permission to operate a four pump (8 fuel dispensers) gasoline station with two underground storage tanks, 15,000 gallons each. Mr. Drory stated he's been having difficulties with his business, due to the lack of customers. Throughout the year, Mr. Drory stated he goes 100-120 days without any business and his revenue is down by 15%. Mr. Drory has opened gas station/car washes in Canton and Taunton, in which have been successful. Attorney Creedon gave the example of abutting gas station Hess, of containing the almost the exact same square footage as the proposed location. The gas station would operate 24 hours a day with an onsite attendant. The four gas stations will replace the existing 4 vacuum stations. There will be a 40 foot wide access for the ingress and egress. There will be no changes to the existing building, but the existing signs will be replaced, therefore, not exceeding the maximum signage allowed. Engineer Halim Choubah was present and stated to the board that there will be a one way direction to pull into the station, with the exit going off onto the plaza or N. Pearl Street. The aisles will be 22 ft wide and there is 39 ft of clearance between the gas pumping stations and the building. The stacking lane will be located on the west side of the building. There will be no expansion done to the building. The convenient store will occupy 200 sq ft of retail space, of which food will be sold i.e. bread, milk. There will be 5 parking spaces available, including one for the attendant, and if needed, Mr. Drory has an agreement with the adjacent owner to use 5 more parking spaces, which must be recorded at the Registry of Deeds. The LED lighting on the premises will be in compliance and shall be downward facing, so as not to overflow onto the adjacent properties. Mr. Drory stated he will be removing the artificial turf and replace it with grass seed, in addition to a 1% increase of grass space. Attorney Creedon stated that the proposed gas station will be in harmony with the rest of the area.

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.

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Motion to Grant by: Stephen Bernard
Seconded by: Paul Merian

IN FAVOR: (5)

Atty. Anthony Eonas, Chairman

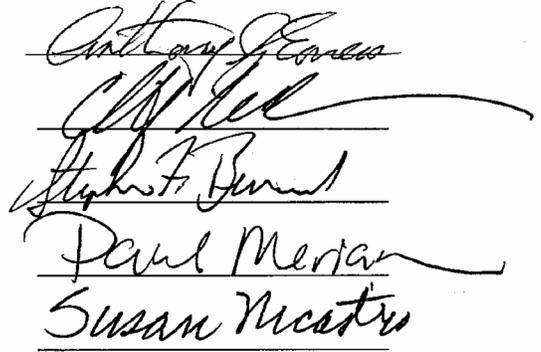
Richard Francis, Fire Chief

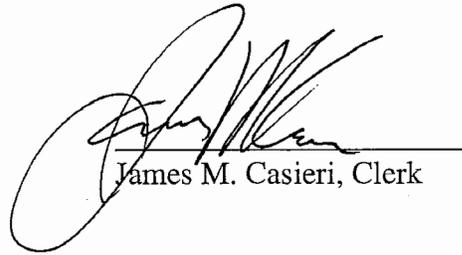
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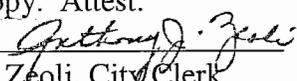
Susan Nicastro

OPPOSED: (0)




James M. Casieri, Clerk

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Anthony Zeoli, City Clerk

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