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, August 8, 2017 at 7:00 p.m.

IN RE: 17-50 Petition of KEITH HINZMAN, 47 Kenberma Street, Hull, for a Variance from Sec. 27-17.5, Table 1 to expand existing home to create additional bedrooms in an R-1-C Zone, located at 13 WESTON STREET.

PETITIONER’S STATEMENT: Attorney Christopher Veale, along with the Architect Keith Hinzman and owner George Brown presented to the board Exhibit A. Site Plan and Exhibit B, Floor and Elevation Plans. Mr. Brown has lived in the home for six (6) years. He is now before us seeking permission to add a bedroom making a total of three (3) bedrooms in the home. Mr. Brown is a retired serviceman who works at the Brockton Veterans Administration and wants to stay in the home. The additional space will be helpful with family visiting and with starting a family. The garage will also be enlarged for more space. Greenspace will be as shown on plan.

OPPOSITION: None

DECISION: Granted unanimously with the stipulations 1. The home will have the proper water run off system and greenspace shall be shown on plan.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the unique size of the lot and the location of the foundation of the current house created a hardship at the locus and that the proposed expansion and alterations to the property as shown on the site plan and building plan allows for the granting of a Variance that would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the similarly built out neighborhood. All representations in petitioners statement shall be incorporated by reference as stipulations recorded herewith. The greenspace as shown on the proposed plan submitted to the board dated March 25, 2017 by KWH Design shall be maintained and not reduced in size or scope. The petitioner stipulated to and agreed that provisions shall allow for on-site storm water retention. The petitioner submitted several letters from adjacent neighbors in support of the project and no persons appeared or spoke in opposition.

VOTE:
Motion to Grant by: Stephen Bernard
Seconded by: Michael Williams

IN FAVOR: (4)
Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Robert Pelaggi

OPPOSED: (0)

ANY APPEAL MUST BE MADE WITHIN 20 DAYS FROM THIS DATE, PURSUANT TO M.G.L.C. 40A SECTION 17.
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, August 8, 2017 at 7:00 p.m.

IN RE: 17-51 Petition of MICHAEL & DONNA KELLEHER, 45 Dyer Street, Brockton, MA, for a Variance from Art. III, Sec. 27-13a & Art. III, Sec. 27-9, to build a 2 story colonial house on an existing lot of record in an R-1-C Zone, located at 45 DYER STREET.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION: Withdrawn.

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

VOTE:
Motion to Grant by:
Seconded by:

IN FAVOR: 0
Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Robert Pelaggi

OPPOSED: 0

Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE WITHIN 20 DAYS FROM THIS DATE PURSUANT TO M.G.L.C. 40A SECTION 17.
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, August 8, 2017 at 7:00 p.m.

IN RE: 17-52 Petition of SANDRA WOODWARD, 172 Perkins Avenue, Brockton, MA, for a Special Permit to allow a fire escape for the apartments in an R-3 Zone, located at 170 MELROSE STREET.

PETITIONER'S STATEMENT: The petitioner Sandra Woodward presented to the board Exhibit A, Site Plan and Exhibit B, Drawing of Fire Escape. Ms. Woodward is before the board seeking permission to construct a fire escape in the rear of the home. Once the fire escape is complete, the homeowner will be able to rent the 2nd and 3rd floor apartments. The plans show the fire escape to the right of the home not in the rear as discussed.

OPPOSITION: None.

DECISION: Unanimously denied.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found no hardship dealing with the locus as presented by the petitioner. The plans submitted for the proposed wooden fire escape and landings were not accurate whereas the plans showed the proposed structure located at the side of the structure rather than the petitioner's statement that the structure would be located at the rear of the current dwelling. The Variance was denied due to incomplete and inaccurate building plans upon which the board could not make an informed and accurate finding.

VOTE: Motion to Grant by: Seconded by:

IN FAVOR: (0)

OPPOSED: (4)
Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Robert Pelaggi

Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE WITHIN 20 DAYS FROM THIS DATE PURSUANT TO M.G.L.C. 40A SECTION 17.
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, August 8, 2017 at 7:00 p.m.

IN RE: 17-53 Petition of SOUTHEASTERN MASS. AFFORDABLE HOUSING CORP., 45 Goddard Road, Brockton, MA, for a Special Permit from Art. IV., Sec 27-29 3 a, or alternative relief: to overturn negative determination of zoning enforcement officer to seek triple occupancy in a C-2 Zone, located at 932 MAIN STREET.

PETITIONER'S STATEMENT: Attorney John Cannavo along with Kevin Harriman presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. They are before the zoning board to overturn the Building Commissioners decision that zoning is required to change what was previously granted. The prior granting had two (2) apartments and one (1) office with new garage at the above location. They would like to take out the office and then construct one (1) handicapped apartment. Plans for the garage will not go forward as previously stated. Mr. Harriman stated he will work with the abutting church for the style of the fence along the property.

OPPOSITION: None

DECISION: Granted unanimously with the stipulations 1. The new first floor apartment will remain a handicapped apartment for the disabled 2. Sprinkler system to be by state code 3. Garage not to be constructed 4. The handicapped apartment will have two (2) means of egress 5. Window(s) will not be a means of egress for the first floor.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that granting a Variance to allow the addition of one single handicapped first floor apartment to a previously zoning granted two (2) unit apartment building located in a C-2 Zone would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. The residential use of the building is the best use of the property and will be in harmony with uses in the surrounding neighborhood. The following stipulations are incorporated by reference herein: The previously granted office space is eliminated, the previously granted motor vehicle garage at the rear parking area is eliminated, the entire building shall be equipped with a code compliant fire sprinkler system and the newly constructed handicapped apartments located at the first floor rear of the structure shall be provided with not less than two (2) handicapped accessible doorways constructed to current building code. A window shall not be considered as an acceptable means of emergency exit for a handicapped individual. The request of the petitioner to overturn the decision of the Building Inspectors requirement that the third (3) apartment addition requires Zoning Board approval was denied. The Zoning Board supported the decision of the building Inspector and denied the request of the petitioner. All representations in petitioner's statement and submitted plans shall be incorporated by reference as stipulations recorded herewith.

VOTE: TO OVERTURN THE BUILDING INSPECTORS DECISION THAT ZONING WAS REQUIRED:

VOTE:

Motion to Grant by: Robert Pelaggi
Seconded by: Michael Williams

VOTED UNANIMOUSLY

ANY APPEAL MUST BE MADE WITHIN 30 DAYS FROM THIS DATE AUG 28, 2017 PURSUANT TO M.G.L.C. 40A SECTION 17.

RECEIVED AND FILED: September 14, 2017
ANTHONY J. ZEOLLI, 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.

RECEIVED: 2017 AUG 24 AT 9:03
2nd Vote: To Grant a Special Permit

Vote:
Motion to Grant by: Stephen Bernard
Seconded by: Michael Williams

In Favor: (4)
Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Robert Pelaggi

Opposed: (0)

In Favor:
Kenneth Galligan
Michael Williams

Opposed:

Signature:
Frank Giaccio, 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, August 8, 2017 at 7:00 p.m.

IN RE: 17-54 Petition of NEAL VAN REESCH, 35 Carleton Avenue, Brockton, MA, for a Variance from Art. III, Sec. 27-9, to construct a garage in an R-1-C Zone, located at 35 CARLETON AVENUE.

PETITIONER'S STATEMENT: Petitioner Neal Van Reesch presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans of Garage. Mr. Reesch is before the board seeking permission to construct an attached garage with storage space above with a new single width driveway. The existing driveway will be removed for more green space. The petitioner's father in law, Mr. Bob Wisgirda mentioned the home was in disarray and both Neal and Kristin have worked very hard bringing back the home to life.

OPPOSITION: None.

DECISION: Unanimously granted with the stipulation that the original driveway is to be removed and replaced with green space.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the location of the existing foundation creates a hardship at the site. Granting of a Variance for side yard setback from Article III, Sec. 27-9 to construct an attached single car garage would not derogate from the intent of the zoning by-laws, will be similar to other side yard setbacks in the neighborhood and will not negatively impact the orderly development of the neighborhood. All representations in petitioners statements shall be incorporated by reference as stipulations recorded herewith including the following board stipulations: there shall be a single width driveway from the garage to the street: the current driveway as shown on the submitted plan shall be removed and replaced by green space and there shall be no living space above the garage-storage space only.

VOTE: Motion to Grant by:
Seconded by:

IN FAVOR: (4)
Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Robert Pelaggi

OPPOSED: (0)

Michael Williams
Robert Pelaggi

Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE WITHIN 20 DAYS FROM THIS DATE, AUG 24, 2017 PURSUANT TO M.G.L. C. 40A SECTION 17.
COMMOMWEALTH 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, August 8, 2017 at 7:00 p.m.

IN RE: 17-55 Petition of IN GOOD HEALTH, INC., 1200 West Chestnut Street, Brockton, MA., for a Special Permit from Chapter 27, Sec. 27-24-3, for modification of Special Permit to change hours of operation in a 1-1 Zone, located at 1200 WEST CHESTNUT STREET.

PETITIONER'S STATEMENT: Attorney John McCluskey along with David Nobles are before the board seeking permission to extend the hours of In Good Health, Inc., The current hours are open seven days per week from 8:00 a.m. until 7:00 p.m. The hours they are asking for are seven day per week from 7:30 a.m. until 10:00 p.m. The clientele comes from all over the Commonwealth of Massachusetts so the extra hours will help. In Good Health also delivers from 8:00 a.m. until 6:00 p.m.

OPPOSITION: None

DECISION: Denied. Did not carry.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the Humanitarian Medical use of Marijuana Ordinance as created by the Brockton City Council in Chapter 27, Sec. 27-24 (3) is very specific to Medical Marijuana treatment center, medical marijuana manufacturer(s) and medical marijuana dispensaries that shall only be located in marijuana overlay district as created by the Humanitarian Medical use of Marijuana Ordinance and only sited within that overlay district as a Special permitted use granted by the Zoning Board of Appeals subject to numerous restrictions. Sec. 27-24.3 (21) specifically designates the hours of operation for a medical marijuana use that provides, shares, exchanges, sells or dispenses medical marijuana are no earlier than 8:30 a.m. and no later than 7:00 p.m. The ordinance, 27-24.3, further stipulates that in order to lawfully engage in the business of selling, cultivating or manufacturing medical marijuana in the City of Brockton on or after the date of passage of the ordinance from which this section derives, any person must qualify for and obtain a Special Permit and licensure in accordance with the requirements of this section. When the City Council of the City of Brockton endorsed and approved the Medical Marijuana Ordinances, all of the various sections and stated restrictions together constitute the whole of the Ordinance. All of the restrictions are considered inter-dependent and not stand-alone independent entities. Any alteration to any one of the restrictions has the potential to affect other sections of the ordinance as a whole including specific licenses associated with ordinance. Any modification to the Medical Marijuana Ordinance must be viewed not only in how the individual modification effects one specific restriction but rather how one modification effects the ordinance as a whole. The specific body politic to review any modifications to the ordinance as a whole should be the Brockton City Council who created and endorsed the Medical Marijuana Ordinance. The ordinance should not be modified by another body politic in piecemeal fashion. The request for an alteration to the Medical Marijuana Ordinance Chapter 27, Sec. 27-24 (3) by way of a Special Permit is denied.

VOTE:
Motion to Grant by: Stephen Bernard
Seconded by: Robert Pelaggi

IN FAVOR: (3)
Michael Williams, Fire Chief
Stephen Bernard
Robert Pelaggi

OPPOSED: (1)
Kenneth Galigan, Chairman

Antony Zeoli, City Clerk

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

RECEIVED

7/24/2017
3:09 PM
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, August 8, 2017 at 7:00 p.m.

IN RE: 17-56 Petition of REV. AZ & ANN IGBO, 824 Ash Street, Brockton, MA, for a Variance from Art. III, Sec. 27-9, for bedroom expansion above one (1) car garage and in rear a three season porch with a deck in an R-1-C Zone, located at 824 ASH STREET.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION: Withdrawn

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

VOTE:

Motion to Grant by:
Seconded by:

IN FAVOR: 0
Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Robert Pelaggi

OPPOSED: 0

Anthony Zeoli, City Clerk

ANY APPEAL MUST BE MADE WITHIN 20 DAYS FROM THIS DATE PURSUANT TO M.G.L.C. 40A SECTION 17.
ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, August 8, 2017 at 7:00 p.m.

IN RE: 17-57 Petition of FULLER ARTS AND SCIENCES, INC., 478 Torrey Street, Brockton, MA, for a Variance from Sec. 27-54, Table 4: off street parking. Petitioner seeks Variance from the parking standards which requires 58 spaces. Actual number of spaces will be 54 so relief is requested for 4 spaces in a R-2 Zone, located at 470 TORREY STREET.

PETITIONER'S STATEMENT: Attorney John McCluskey along with a representative from Fuller Arts, Lisa Lipkoff, presented to the Board Exhibit A, All plans pertaining to this petitioner. Fuller Arts and Sciences are enlarging the school by 3500 sq.ft. for kitchen, classrooms, toddlers and office space. They are before the board seeking relief for the number of parking spaces needed. The number of spaces needed is sixty (62) but only fifty six (56) is provided. The front circular driveway is for drop off and pick up. The school also owns its buses for the students.

OPPOSITION: None

DECISION: Unanimously granted with the stipulation that 1. No parking along the front circular driveway and 2. no less than fifty (56) parking spaces on the property.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the request by Fuller Arts and Sciences, Inc. for a Variance seeking relief for off street parking for six (6) vehicles from Sec. 27-54, Table 4 that granting would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly developments of the neighborhood. The size, shape and topography of the lot influences the size of the parking area and expansion of the proposed parking area beyond that shown on the submitted plans would negatively impact desired greenspace. The daily demand for off-street parking can be satisfied with the proposed fifty six (56) regulation size parking spaces. The petitioner shall provide for not less than fifty six (56) off street parking spaces. The above listed stipulations are incorporated by reference herein. All representations in petitioners statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by: Robert Pelaggi
Seceded by: Michael Williams

IN FAVOR: (4)
Kenneth Galagan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Robert Pelaggi

OPPOSED: (0)

Robert Pelaggi
Michael Williams

Frank Gizzeri, Clerk
ZONING BOARD OF APPEALS held a meeting in the Council Chambers, City Hall, Brockton, Massachusetts, on Tuesday, August 8, 2017 at 7:00 p.m.

IN RE: 17-58 Petition of STEVE DALKOURAS, 4 Charles Way, N. Easton, MA, for a Variance from Art. III, Sec. 27-9, & Art. III, Sec. 27-13a, to divide a 5.6 acre parcel of land to construct four (4) new single family homes and to remove existing home in an R-1-B Zone, located at 343 LINWOOD STREET.

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION: Withdrawn

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

VOTE:
Motion to Grant by:
Seconded by:

IN FAVOR: ()
Kenneth Galligan, Chairman
Michael Williams, Fire Chief
Stephen Bernard
Robert Pelaggi

OPPOSED: ()

Anthony Zeoli, City Clerk

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