

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-84 Petition of **418 COUNTY ROAD LLC**, 380 Turnpike Street, South Easton, MA, to request a Variance from Sec. 27-48 & 27-51, petitioner seeks to overturn zoning enforcement officers determination or in the alternative issue a variance for a buildable lot in an R-1-C Zone, located at **PLOT 1-1 BANGOR STREET**.

PETITIONER'S STATEMENT: Attorney James Burke presented to the board Exhibit A, Memo in Support and Exhibit B, Site Plan. Attorney Burke is seeking permission to overturn the building enforcement officers decision that this above named address is not building lot or be granted a Variance to construct a single family home. The plot is not on a paved road so it lacks the frontage needed but the other setbacks have been met. The city has a pumping station in the right away on Bangor Street which makes frontage on this plot difficult. The driveway will be twenty (20) ' wide and will be constructed to hold fire and emergency vehicles.

OPPOSITION: Ward 5 Councilor Anne Beauregard read a letter from an abutting neighbor on Lewiston Street that was in opposition.

DECISION: Variance was unanimously granted with the stipulations **1.** The driveway will be 20' wide and it will be constructed to hold fire and emergency vehicles and **2.** Only one (1) home will be built on Plot 1-1 Bangor Street.

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 pumping station constructed by the City of Brockton within the right of way on Bangor Street created an impediment to the petitioners required frontage to the site from Bangor Street thereby creating a hardship precluding the petitioners access to the site. Access was granted to the site via a twenty (20) foot right of way via an access easement from Alger Street via Lot 4 Alger Street. The unique access situation to the 12.66 acre site allowed for the Variance with the stipulation that the access driveway from Alger Street shall be paved for the full twenty (20) foot width and shall be constructed to support the weight of no less that the weight of a Fire Department pumping engine. This Variance is granted specifically for the construction of only one (1) single family dwelling on the site with no increase in water run-off from the site. The decision of the Building Inspector that the property does not have sufficient frontage on a paved or constructed road (Sec. 27-13) is affirmed. The request for a Variance from Sec. 27-9, Table 1 due to the stated hardship is granted. Granting will not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. The listed stipulations are incorporated by reference herein. All representations in petitioners statement shall be incorporated by reference as stipulations recorded herewith. No opposition was presented at the public hearing.

1ST VOTE TO OVERTURN THE BUILDING INSPECTORS DECISION WAS DENIED.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Craig Pina

IN FAVOR: (0)

OPPOSED: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Craig Pina

Jeffrey Thompson

Doryce Smith

Con't
18-84

2nd VOTE TO GRANT VARIANCE TO CONSTRUCT HOME WAS GRANTED

VOTE:

Motion to Grant by:
Seconded by:

Jeffrey Thompson
Stephen Bernard

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Craig Pina

Jeffrey Thompson

Doryce Smith

OPPOSED: (0)

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-85 Petition of **ANJELLA PERKINS**, 338 Centre Street, Brockton, MA, seeking permission to change a mixed use property into a two (2) family in a C-1 Zone, located at **338 CENTRE STREET**.

PETITIONER'S STATEMENT: The petitioner Anjella Perkins presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. Ms. Perkins is seeking permission to change her mixed use property into a legal two (2) family home. The home was constructed in 2000 and has a one (1) unit living space on 2nd floor and a hair salon on the lower level. Mr. Perkins is now a nurse and would like to make another living unit in the lower level taking out the hair salon. The rear of the home has two (2) sheds and a swimming pool which exceeds the two (2) accessory structure limit without zoning approval. The site plan was eighteen years old and didn't show the new parking area for the proposed two (2) family home. Ward 5 Councilor Anne Beauregard stated no opposition.

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 petitioner failed to demonstrate a hardship at the site and submitted site plans for the locus that were eighteen (18) years old that did not accurately depict the current build out and configuration of the current site. Granting of a Variance to create a two (2) family dwelling based upon the information provided to the Board was denied.

VOTE:

Motion to Grant by:
Seconded by:

Doryce Smith
Stephen Bernard

IN FAVOR: (3)

Stephen Bernard

Craig Pina

Doryce Smith

OPPOSED: (2)

Kenneth Galligan, Chairman

Jeffrey Thompson

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-86 Petition of **JAMES AND LYNN MORRISSEY**, 338 Maple Street, Bellingham, MA, Sec. 27-9, 27-13A, Plot 1 Vesey Street meets all criteria of Sec. 27-12, existing lot of record deemed non buildable for assessment purposes need ZBA approval in a R-1-C Zone, located at **PLOT 2 VESEY STREET**.

PETITIONERS STATEMENT: The petitioners Jim and Lynne Morrissey presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plan. They are seeking permission to construct a single family home on Plot 2 Vesey Street. The home will be a Colonial with three (3) bedrooms, two (2) bathrooms and farmers porch. The driveway will be on the left side of the home. The property was deemed non buildable years back since the land was used as a garden by the previous owner. The property has a box culvert which extends multiple streets making the choices of the location of the home limited.

OPPOSITION: None

DECISION: Granted unanimously with the stipulations **1.** The home will only have three bedrooms and two bathrooms **2.** City of Brockton will have access to the culvert on the proposed property and **3.** Greenspace will not be reduced.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the dimensions of Plot 2 Vesey Street is substantially similar in area and dimensions with other lots in the area and that the proposed three (3) bedroom, two (2) story single family colonial style dwelling meets the required setbacks (Sec. 27-9). A hardship exists at the site with the presence of a City of Brockton drainage enclosed culvert that bisects the property thereby creating limited options for the development of the site. The hardship Variance is granted (Sec. 27-48(2) with the stipulations that the City of Brockton shall have right of access to the underground drainage culvert for maintenance, etc., that the culvert shall not be disturbed within the fifteen (15) foot “no construction area” as shown on submitted site plan dated July 20,2018. Driveway and greenspace shall be as shown and not reduced. The board allowed for the developer to relocate the dwelling to not less than twenty five (25) foot front setback to be in conformance with the surrounding dwelling setbacks. No opposition was presented at the public hearing.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Craig Pina

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Craig Pina

Jeffrey Thompson

Doryce Smith

OPPOSED: (0)

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-87 Petition of **PHILIP SMITH**, 73 Southland Terrace, Brockton, MA, for permission to rebuild house in the same footprint in an R-1-B Zone, located at **19 DIGBY AVENUE**.

PETITIONER'S STATEMENT: The petitioner Philip Smith presented to the board Exhibit A, Site and Floor Plans previously granted by the zoning board. This address was previously granted to have an addition and complete renovation. The contractor, Mr. Smith is before the board stating that when the project was under construction the home was lifted to repair the foundation which caused the home to collapse. He is now seeking permission to construct a new home using the granted site and floor plans which the Zoning Board had granted.

OPPOSITION: None

DECISION: Unanimously granted with the stipulation that the home is to be construct using the originally approved Site and floor plans.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that while the petitioner was rebuilding and altering an existing dwelling at the locus in conformance with a Variance from Sec. 27-9 granted in 2016 for the site and associated work, that the original older section of the dwelling was found to be beyond remodeling and suffered a structural collapse. This Variance is granted in conformance with the 2016 granting and all of the stipulations and construction dimensions shall remain as granted with no prior Variance. The location of the new existing foundation creates a hardship and conforms to the layout and location granted in the previous Variance. No opposition was presented at the public hearing.

VOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Jeffrey Thompson

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Craig Pina

Jeffrey Thompson

Doryce Smith

OPPOSED: (0)

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-88 Petition of **TONY NGUYEN**, 30 Colts Crossing, Canton, MA, for a Variance from Art III, Sec. 27-9 & 27-13A, applicant requests the board to either overturn the negative buildable lot determination or grant a variance to allow the petitioner to build a single family home in an R-3 Zone, located at **86 WINTHROP STREET**.

PETITIONER'S STATEMENT: Attorney John McCluskey along with Tony Nguyen presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. Attorney McCluskey is seeking permission to either have the board overturn the negative determination of a buildable lot or be granted to construct a single family home at the above location. The proposed home meets all required setbacks in the R-3 Zone.

OPPOSITION: The original home was demolished by the prior owner, Tom Kennedy in 2009. The garage was not razed and is the only structure on the property. Tom Kennedy owned the abutting plot which has two (2) separate multi family structures. Plot 12 is being used in conjunction with Plot 13 for parking.

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 a three (3) family dwelling that was formally located at the locus was torn down and removed by the former owner in 2009 thereby creating open space adjacent to the same former owner at Plot 13. Plot 13 contains two (2) principal multiple family dwellings that currently use Plot 12 for off-street parking. The current vacant Plot 12 and the adjacent Plot 13 containing two (2) multifamily dwellings are under common ownership. The prior owner, Kennedy Family Irrevocable Trust, requested a buildable lot determination from the Building Inspector and received a determination letter dated November 8, 2017 indicating that Plot 12 was not a buildable lot and did not enjoy "grandfather status". The current owner purchased Plot 12 and Plot 13 on March 12, 2018 knowing or should have known of the status of Plot 12. The applicant requests to overturn the decision of the Building Inspector that Plot 12 is not a buildable lot is denied and the decision of the Building Inspector is affirmed. The request to build a dwelling on Plot 12 by Variance is denied. No hardship dealing with the locus was found by the Board. Granting would derogate from the intent of the zoning by-laws would negatively impact the current use of the site for off street parking for the two (2) principal multifamily dwellings currently occupying the adjacent Plot 13 under the same common ownership and will negatively impact the orderly development of the neighborhood.

1ST VOTE TO OVERTURN NEGATIVE DETERMINATION

VOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Jeffrey Thompson

IN FAVOR: (0)

OPPOSED: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Craig Pina

Jeffrey Thompson

Doryce Smith

Con't
18-88

2nd VOTE TO GRANT A VARIANCE TO CONSTRUCT SINGLE FAMILY HOME

VOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Doryce Smith

IN FAVOR: (1)

Stephen Bernard

OPPOSED: (4)

Kenneth Galligan, Chairman

Craig Pina

Jeffrey Thompson

Doryce Smith

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-89 Petition of **SEAMUS COYNE**, 1325 Belmont Street, Brockton, MA, for a Variance, Art. III, Sec. 27-12 & Sec. 27-9,13,13A, to create a buildable lot to construct a single family home in an R-1-C Zone, located at **PLOT 41 HAWLEY STREET**.

PETITIONER'S STATEMENT: Attorney Christopher Veale and Engineer Scott Faria presented to the board Exhibit A, Memo in Support, Exhibit B, Site Plan and Exhibit C, Floor Plan. They are returning to the Zoning Board since being denied. They are before the board with a new City approved drainage concept. Attorney Veale is seeking permission to construct a single family home on Plot 41 Hawley Street. The detention basin was approved by the Planning Board .

OPPOSITION: Abutters Cynthia Brown and Orlando Stallworth stated flooding is an issue and adding another home will make the problem greater.

DECISION: Unanimously granted with the stipulation that **1.** plans submitted are to be used and **2.** greenspace not to be reduced.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that a hardship existed at the site due to the location of a drainage retention ditch that was constructed adjacent to the front of the Plot 41 thereby reducing the useable frontage access to Plot 41. The petitioner met with the Planning Board to alter the impact of the drainage basin as it affects the front of Plot 41 and received concordance with the Planning Board. The plot has a unique size, topography and frontage challenges that without a Variance under 27-48 would land lock the site and qualifies for a hardship. An adjacent abutter expressed concern about water standing near the Plot 41 that appeared to be trapped water and not associated with any wetlands. 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 petitioners statements, location of driveway and green space as shown on the Holmgren Engineering Plan dated March 13, 2018 shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:

Craig Pina

Seconded by:

Jeffrey Thompson

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Craig Pina

Jeffrey Thompson

Doryce Smith

OPPOSED: (0)

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

COMMONWEALTH OF MASSACHUSETTS

CITY OF BROCKTON
ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-90 Petition of **MICHAEL HAIKAL**, 149 Mill Street, Brockton, MA, for a Variance from Art. III, Sec. 27-9, Sec. 27-13A, to construct a single family home on a lot previously determined buildable by the City of Brockton but later acquired additional land which increase the lot size but decreased the frontage in an R-1-C Zone, located at **PLOT 4-1 SEWELL STREET**.

PETITIONER'S STATEMENT: Attorney Christopher Veale along with the petitioner, Michael Haikal presented to the board Exhibit A, Memo in Support, Exhibit B, Site Plan and Exhibit C, Floor Plans. They are again before the board since being denied. The new plan is a smaller four (4) bedroom home and without the attached garage as previously shown. The new home will fit with the styles in the neighborhood.

OPPOSITION: The abutting neighbors came out in opposition with the narrow dead-end street as an issue and would like a longer driveway for the four (4) bedrooms home will have.

DECISION: Granted unanimously.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that a hardship was created at the locus when the City of Brockton abandoned the cul-de-sac radius in front of Plot 4-1, aligned the new property line with the layout of Sewell Street and thereby reduced the frontage of Plot 4-1. The abandoned cul-de-sac was deeded to Plot 4-1. The plot is a buildable lot with a setback from the original cul-de-sac. The petitioner desires to construct the new four(4) bedroom single family dwelling with no garage closer to alignments with other dwellings on the street that requires frontage relief Variances. Adjacent neighbors expressed concern with additional traffic on the dead-end street and possible access by emergency vehicles. Granting will not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. All representations in petitioners statement, driveway location and green space as shown on plan dated June 16, 2018 by Land Surveys, shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:

Craig Pina

Seconded by:

Stephen Bernard

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Craig Pina

Jeffrey Thompson

Doryce Smith

OPPOSED: (0)

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

COMMONWEALTH OF MASSACHUSETTS

CITY OF BROCKTON
ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-91 Petition of **BRAD CARTWRIGHT**, 845 Washington Street, Braintree, MA, for a Variance from Art. IV., Sec. 27-32 & Art. III, Sec. 27-24 2a, to construct a retail and or restaurant use and for relief from dimensions of screening when abutting a park in a C-5 Zone, located at **609 & 627 PLEASANT STREET.**

PETITIONER'S STATEMENT: Attorney John McCluskey along with Surveyor Bill Self and owner Brad Cartwright. Mr. Cartwright is seeking a Variance to construct a one story retail building in a C-5 Zone which is for medical use. The entrance and exit will be on Pleasant Street only. The exit closer to the Mall entrance will only have a right turn only allowed and no left turn allowed. The other egress location will have right and left turn. The street will have a "Don't Block the Box Zone" at the entrances letting drivers know they can't stop and block the entrance and exit. Parking spaces 60 through 63 will be removed making the flow of getting onto the property smoothly. Loading and unloading will be in the rear of property. Parking spaces 44 through 49 closer to Pennsylvania Avenue will also be removed. Snow will be trucked away. Lights will shine along the Park perimeter and will face downward along the Pennsylvania Avenue. A micro mesh fence will be erected along the abutting D.W Field property line. The petitioner has earmarked \$20, 000.00 for the cleanup of D.W. Field Park. Director of Planning & Economic Development Rob May stated Brad Cartwright has worked with the city finding an acceptable occupancy for this location. City residents who are on the D. W. Field Park Commission are in favor as is Ward 7 Councilor Shirley Asack.

OPPOSITION: The abutting neighbors came out in opposition stating the traffic issue, the number of hours of noise at this location having a retail facility compared to medical offices that tend to be closed on the weekends. Former Ward 7 Councilor Christopher MacMillan is in opposition, Ward 1 Councilor Tim Cruise is in opposition stating traffic and proximity to the Park. Letters in opposition from Councilors Robert Sullivan and Win Farwell due to traffic and neighborhood concerns.

DECISION: Granted unanimously with the stipulations **1.** Downward lighting by the homes **2.** Lights to be shown on the D.W Park side **3.** No units are to exceed parking provided.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that a hardship exists on the subject property owing to circumstances relating to the soil conditions, shape, topography, unique location relating to the D.W. Field Park property and unique setback requirements relative to the adjacent parkland that a literal enforcement of the provisions of the ordinance would involve substantial hardship, financially and the inability to fully utilize the potential build-out of the parcel. The board found that the requested desirable relief via a Variance to allow for commercial use may be granted without substantial detriment to the neighborhood or to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinances. The locus is in a C-5 Zone on which is located a vacant commercial building that has not been fully utilized as a C-5 use for many years. 609 and 627 Pleasant Street is uniquely surrounded by adjacent mixed uses consisting of Residential R-1-C Zone, general commercial C-2 Zone, shopping center C-6 Zone and the D.W. Field Parkland. Granting of a Variance to allow for Commercial C-2 use at the site would result in a harmonious use of other adjacent Commercial uses and would result in the highest and best use for this currently vacant property. The petitioner has consulted with the Brockton Traffic Commission and has received support and approval of the proposed traffic scheme for access and exit to the property. The Brockton Park Commission supports relief from the one hundred (100) ft. buffer requirement by remedial actions specified in a written and approved site agreement between all parties. City Planner, Mr. Rob May, representing the Planning Department spoke in favor and supported the Variance relief. City Councilor Shirley Asack spoke in favor and well as members of the Park Commission. Several neighbors located in the residential zone spoke in opposition, specially referencing traffic issues. The petitioner agreed with the zoning board and agreed to remove parking spaces numbered 60,61,62 and 63 for driveway traffic safety issues. Parking spaces numbered 44,45,46,47,48 and 49 shall be removed in order for the east parking area to be in compliance with the building setback line on Pennsylvania Avenue. There shall be no access to the site from Pennsylvania Avenue. All of the above referenced parking are shown on plan

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18-91

submitted dated August 20, 2018, Curley and Hanson Surveyors. In consideration of granting a Variance, the required parking spaces for the occupancies within the proposed building shall not exceed the parking spaces provided as shown on the plan dated August 20, 2018, minus the ten(10) parking spaces as previously referenced. Storage on-site of snow shall not negatively impact the on-site parking required for the proposed occupancies. 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 petitioners statement shall be incorporated by reference as stipulations recorded herewith.

VOTE:

Motion to Grant by:
Seconded by:

Craig Pina
Jeffrey Thompson

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Craig Pina

Jeffrey Thompson

Doryce Smith

OPPOSED: (0)

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-92 Petition of **VICTOR DEPINA**, 1 Water Street, Fall River, MA, seeking a Variance from Sec. 27-29, 27-48, to be allowed to construct and occupy an office/warehouse facility to collect and deliver for shipping consumer goods and products outside of the United States and similar activities in a C-2 Zone, located at **456 MONTELLO STREET**.

PETITIONER'S STATEMENT: Attorney James Burke along with the Engineer Scott Faria and the petitioner Victor Depina presented to the board Exhibit A Memo in Support, Exhibit B Site Plan and Exhibit C, Floor Plans. Mr. Depina owns Atlantic Shipping which ships containers full of consumer goods to Cape Verde. Site Plan approval has been complete and when a permit for construction was applied for Mr. Depina was notified that the C-2 Zone this property is located in is not the correct zone and needs zoning approval. Atlantic Shipping has been in the City of Brockton for the last eighteen (18) years. Ward 4 Councilor Susan Nicaastro worked with Mr. DePina relative to this project. City Councilor Rodrigues and Beauregard as well as City Planner Rob May spoke in favor of the proposed development of the site.

OPPOSITION: None

DECISION: Granted Unanimously.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that a hardship existing at the locus whereby the site is located in a C-2 Zone that is surrounded by mixed uses in the immediate area. The proposed use of the site as an office/warehouse facility closely parallels those uses allowed in a C-2 zone and is an appropriate use of this location. Due to the unique shape, location and access to the immediate area, the type of occupancy usually found in the C-2 Zone would be a challenge to develop at this site that has remained vacant for many years. Granting would not derogate from the intent of the zoning by-laws, will enhance and develop a site that has been vacant for years and will not negatively impact the orderly development of the neighborhood. City Councilor Rodrigues and Beauregard as well as City Planner Rob May spoke in favor of the proposed development of the site.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Craig Pina

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Craig Pina

Jeffrey Thompson

Doryce Smith

OPPOSED: (0)

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-93 Petition of **JOSEPH SAVINO**, 1325 Belmont Street, Brockton, MA, seeks a Variance from Art. III, Sec. 27-13A, to create three (3) new lots with three (3) family dwellings on each new lot in a R-2 Zone, located at **130 ELLIOT STREET**.

PETITIONER'S STATEMENT: Attorney John McCluskey along with the Engineer Scott Faria and the petitioner Joseph Savino presented to the board Exhibit A, Memo in Support and Exhibit B Site and Floor Plans. Mr. Savino is before the board since being denied in August 2018. The new plans show the spaces from the front door and parking spaces giving emergency responders access to the homes. Nine (9) parking spaces with each three (3) family dwelling. Ward 5 Councilor Anne Beauregard stated her concerns of this size project.

OPPOSITION: None

DECISION: Unanimously granted with the stipulation that greenspace will be as shown on plan and not reduced.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found a hardship existed at the locus due to a 30 ft. sewer easement that bisects the plot making the development of the site a challenge. Relief from Sec. 27-3(A) to allow for one-hundred (100) feet of frontage would not derogate from the intent of the zoning by-laws, allow for the development of three (3) units of housing, improve a substandard use of the property and will not negatively impact the orderly development of the neighborhood. Plot 13 has a very unique size, shape and topography relative to other lots in the area and is properly zoned for the intended use.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Craig Pina

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Craig Pina

Jeffrey Thompson

Doryce Smith

OPPOSED: (0)

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-94 Petition of **LUCINDO T. SOARES**, 37 Johnson Street, Brockton, MA, for a Variance and Special Permit from Art. IV, 27-38, 3a, Art IX, 27-53 7 & 1 and Art. IV, Sec. 27-38 3c, a Variance to have a bar and restaurant (1) joint occupancy, (2) commercial use in part residential zone (3) relief from table requirements when abutting a residential area and landscape parking buffer and (4) also seeking special permit for sale of alcohol in an C-2 and R-3 Zone, located by **839/855 MAIN STREET**.

PETITIONER'S STATEMENT: Attorney John Creedon along with the petitioner Lucindo Soares presented to the board Exhibit A, Site Plan and Exhibit B, Building Plans. Mr. Soares is before the board since being previously denied. The proposed restaurant and bar will have reduced seating from the previous plans. The top floor will have two (2) residential units and four (4) reserved parking spaces. The bar and restaurant will not open on Sunday until 12 noon. The bar will be on lower level, restaurant on 1st floor and apartments on 2nd floor. Parking spaces will be in front of the building with additional parking through an easement next to car repair shop which plots on Denton Street. No egress from Denton Street will be allowed and the parking area will have new 6' fence. Snow will be removed off site. Lighting will be along the whole area.

OPPOSITION: Abutters Karl Schiler and Reverend from Holy Tabernacle Ministries are in opposition stating parking, congestion and the noise as an issue. Ward 4 Councilor Susan Nicastro support what the petitioner wants to do but not in this area.

DECISION: Granted.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that granting the requested Variance for a joint occupancy for a bar/restaurant and residential use in a divided Residential Zone R-3 and Commercial Zone C-2 and relief from parking area setback in a Residential with associated landscape buffer and the sale of alcohol associated with the restaurant 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 petitioners statements shall be incorporated by reference as stipulations recorded herewith. The use will be in harmony with the orderly development of the zone and there is adequate ingress and egress to parking from Main Street and will not interfere with traffic on the abutting streets. There shall be no access to parking associated with this site from Denton Street. Abutting neighbors including the immediately adjacent church spoke in opposition with concerns for possible illegal parking by patrons on adjacent and nearby properties. All exterior lighting shall be downward facing with no lighting spill-over onto adjacent properties. Due to the proximity of the adjacent church, the petitioner agreed that the restaurant/bar would not be open for business prior to twelve (12) noon on Sundays. Plowable snow shall be removed off-site in order to maintain all of the designated on-site parking. City Councilor Moises Rodrigues spoke in favor. Neighbor Karl Schuller and City Councilor Susan Nicastro spoke in opposition.

VOTE:

Motion to Grant by:
Seconded by:

Doryce Smith
Craig Pina

IN FAVOR: (4)

Stephen Bernard
Craig Pina
Jeffrey Thompson
Doryce Smith

OPPOSED: (1)

Kenneth Galligan, Chairman

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

COMMONWEALTH OF MASSACHUSETTS

CITY OF BROCKTON
ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-95 Petition of **DANNY AND JEMIN PATEL**, 120 Bergeron Way, Stoughton, MA, seeking relief from Art. IV, Sec. 27-25, seeking a Variance to sell beer and wine in an R-1-C residential zone and a Special Permit because alcohol is only permitted in a C-2 Zone, Art. IV 27-29, not a principal use in an R-1-C Zone, Art. IV, Sec 27-25 in a R-1-C Zone, located at **185 PERKINS AVENUE**.

PETITIONER'S STATEMENT: Attorney John F. Creedon along with the petitioner Danny Patel presented to the board Exhibit A, Site Plan, Mr. Patel is seeking permission to sell beer and wine and the above named location. Two (2) employees will always be working during the hours that sell beer and wine are sold. Ward 2 Thomas Monahan is in favor.

OPPOSITION: Ward 4 Councilor Susan Nicastro stated the area his residential and densely populated.

DECISION: Granted

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that granting would not derogate from the intent of the zoning by-laws and will not negatively impact the orderly development of the neighborhood. The location reportedly had a license to sell beer and wine in the past and the use will be in harmony with the orderly development of the zone and not negatively impact the neighborhood. City Councilor Monahan spoke in favor and City Councilor Susan Nicastro spoke in opposition.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Craig Pina

IN FAVOR: (4)

Stephen Bernard

Craig Pina

Jeffrey Thompson

Doryce Smith

OPPOSED: (1)

Kenneth Galligan, Chairman

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 18-96 Petition of **LUIS SANTOS**, 76 Martland Avenue, Brockton, MA, relief from Art. IV, 27-27 & Art. III, Sec. 27-9, to seek a Variance to convert a single family home into a two (2) family home in an R-1-C Zone, located at **76 MARTLAND AVENUE**.

PETITIONER'S STATEMENT: Attorney John F. Creedon along with Bruce Malcolm and Luis Santos presented to the board Exhibit A, Site Plan and Exhibit B, Floor Plans. Mr. Santos would like to convert his single family home into a two (2) family home for his mother in law. Mr. Santos will live on the 2nd floor and the mother in law on the 1st floor. Four (4) parking spaces for each floor.

OPPOSITION: Previous owner Debra Garland stated the property is small and a two (2) family will not fit the property.

DECISION: Denied.

BASIS: After reviewing the application, plans, information submitted and giving due consideration to testimony given at the public hearing, the board found that the petitioner failed to demonstrate a hardship at the locus. The plans submitted depicted additions that appeared to overwhelm the scale of the house relative to the size of the lot, resulted in a substantial lose of green space. Plans failed to accurately depict the extent of intrusion onto side yard setback and failed to show the layout and dimensions of the proposed final build out onto the lot. The area is populated with some multifamily dwelling. This single family dwelling that is proposed to be converted into a two (21) family dwelling is abutted by single family dwellings. Granting would derogate from the intent of the zoning by-laws and will negatively impact he orderly development of the neighborhood.

VOTE:

Motion to Grant by:
Seconded by:

Stephen Bernard
Craig Pina

IN FAVOR: (1)

Doryce Smith

OPPOSED: (4)

Kenneth Galligan, Chairman

Stephen Bernard

Craig Pina

Jeffrey Thompson

April Sferrazza, Clerk

Anthony Zeoli, City Clerk

**COMMONWEALTH OF MASSACHUSETTS
CITY OF BROCKTON
ZONING BOARD OF APPEALS**

ZONING BOARD OF APPEALS held a meeting in the Little Theatre at the Arnone School, Brockton, Massachusetts, on Wednesday, November 14, 2018 at 7:00 p.m.

IN RE: 17-74 TO REQUEST A SIXTH MONTH EXTENSION: 17-74 Petition of **MANUEL RAMOS**, 551 King Phillip Street, Fall River, MA, for a Variance from Sec. 27-9 & 27-13, to sub-divide existing parcel into four lots and construct three additional single family dwellings in an R-1-C Zone, located at **PLOT 195 OAK STREET**.

PETITIONER'S STATEMENT: Request a six month extension.

OPPOSITION:

DECISION: Granted.

BASIS: The petitioner appeared before the board in reference to a previously granted Variance 17-74 at the location requesting additional time to begin the development of the site. The petitioner was granted a single six (6) month extension (Chapter 40-A, Section10).

VOTE:

Motion to Grant by:

Craig Pina

Seconded by:

Jeffrey Thompson

IN FAVOR: (5)

Kenneth Galligan, Chairman

Stephen Bernard

Craig Pina

Jeffrey Thompson

Doryce Smith

OPPOSED: (0)

April Sferrazza, Clerk

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, _____, 2016 at 7:00 p.m.**

IN RE:

PETITIONER'S STATEMENT:

OPPOSITION:

DECISION:

BASIS:

VOTE:

Motion to Grant by:
Seconded by:

IN FAVOR: ()

Kenneth Galligan, Chairman

Michael Williams, Fire Chief

Stephen Bernard

Jeffrey Charnel

Gary Keith

OPPOSED: ()

James M. Casieri, Clerk

Anthony Zeoli, City Clerk