Zoning Board of Appeals
Woburn City Hall
City Council Chambers
February 19, 2020 – 7 p.m.

Present: Chairman Margaret M. Pinkham, Member Edward S. Robertson, Member John J. Ryan, Member Daniel Parrish, Member John Ray, and Alternate Member Richard Clancy

Also present: Ward 3 Alderman Jeffrey Dillon

1. **Pedro Da Costa Jr., 3 Harvard Street Extension, Woburn, MA 01801, Petitioner and Landowner, seeking a Variance from Section 5.3.2 of the 1985 Woburn Zoning Ordinances, as amended, to construct a 6-foot fence at 3 Harvard Street Extension, Woburn, MA, 01801 (continued from meeting of January 15, 2020):** Representing the petitioner were Pedro Da Costa Jr., Beatriz Da Costa, 3 Harvard Street Extension, Woburn, MA; and Trevor Turner, 225 Center Street, Allston, MA. Chairman Pinkham asked if the petitioner has just furnished the board with a revised plot plan. Mr. Turner said that is correct. Chairman Pinkham asked if the petitioner also wished to submit two pages of photographs, and a petition with signatures from neighbors in support of granting the variance. Mr. Turner said he does. Mr. Turner said the signatures reflect neighbors along Montvale Avenue and Harvard Street Extension, and that every resident who signed the form is in support of the fence. He said one of the photographs shows two people standing in the yard. He said the people are visible from the street even with the 6-foot fence. He said the yard is terraced, so people can look into the yard from the street. He said the two people in the photograph are five feet tall. Chairman Pinkham asked if the people in the photograph are standing on the ground. Mr. Turner said the back lot has multiple sets of retaining walls. Chairman Pinkham asked where the pool is located in the yard. Ms. Da Costa indicated the pool is an above-ground pool that is used in the summer and taken down in the winter. Mr. Turner said the new plot plan outlines and updates the petitioner's plans for the fence. He said the petitioner is willing to dig up the fence and move it back five feet from the property line. He said the number of panels from the house to the fence would be reduced from three to two. Chairman Pinkham asked where the lot line is. Mr. Turner said the property line is the retaining wall. Chairman Pinkham asked him which edge. Mr. Turner said the property line appears to be along the edge of the retaining wall closer to the street. Chairman Pinkham asked how wide the retaining wall is. Mr. Turner said the retaining wall is a foot wide. Chairman Pinkham asked if the petitioner is asking to set back the fence five feet from the property line. Mr. Turner said that is correct. Chairman Pinkham asked if the petitioner is still asking for a 6-foot high fence. Mr. Turner said that is correct. He said the petitioner will add landscaping to make the fence more visually appealing from the street. Referencing the photo of the side panels from the side of the house to the fence, Member Ryan asked if one of the panels will be eliminated. Mr. Turner said one of the panels will be eliminated. Member Ryan asked how wide the side panels are. Mr. Turner said the panels are four feet wide. Member Robertson asked Member Ryan if he had asked for one of the panels on the section of the fence parallel to Harvard Street Extension to be tapered down. Member

Ryan said he did make that request. Mr. Turner said the petitioner is willing to reduce the first two sections of the fence parallel to Harvard Street Extension to four feet and then taper the third section. He said the panels are eight feet wide. Member Robertson asked if that means the 4-foot high section of the fence facing Harvard Street Extension will be 16 feet wide. Mr. Turner said 16 feet of the fence would be 4-feet high and the subsequent panel will be tapered. Member Robertson asked the chair if the variance is needed for the height of the fence or for a reduction in the setback requirement. Chairman Pinkham said a variance is needed for the height. Chairman Pinkham asked if anyone in the audience wished to address the board about the petition. There were no respondents. Member Robertson said he indicated at the previous meeting that if the petitioner came up with a design for a fence that satisfied Member Ryan, he would go along with those suggestions. Member Robertson said that while the district is residential, Montvale Avenue is a very busy major street and he could see he way clear to varying the legal requirement for the fence. Member Ryan said he was hoping the petitioner would offer some alternatives. He asked about the height of the two panels facing Montvale Avenue. Mr. Turner said those two panels will be four feet high. Member Ryan said the second plan proposed by the petitioner is better than that first. Member Robertson said none of the this is in writing, and there are no distances on the new plot plan. Mr. Turner said the fence will be set back five feet from the lot line. Member Robertson said all of this is being done verbally. He Member Ryan said he is amenable to the petitioner's offer to move the fence back five feet and reduce the height of the panels that face Montvale Avenue. He said he likes the idea of installing some type of vegetation so the fence isn't as glaring. Chairman Pinkham asked if any member of the board wished to make a motion. She said the board could impose the following conditions on the fence: That it will be five feet from the lot line; that the height of the panels of the fence will be reduced to four feet for the two panels perpendicular to the house, and the first two panels of the fence parallel to Harvard Street Extension, and that the subsequent panel will taper from four feet to six feet. Motion made by Member Robertson and seconded by Member Ryan to grant the variance, with the aforementioned conditions. Member Robertson said there are three distinct conditions. Chairman Pinkham said the conditions will be reflected in the decision. Member Ryan said he feels comfortable supporting the variance, given the topography of the lot. Member Ray asked if he could ask a question. Chairman Pinkham said he may ask a question but he cannot deliberate. Member Ray asked how wide the fence panels are. Chairman Pinkham said the panels are eight feet wide and there are 11 panels. Member Ray said it might be important to include that in the decision. Motion to grant the variance approved, 5-0.

2. **Michael Frattura, 17 Gatta Circle, Woburn, MA 01801, Petitioner and Landowner, seeking a Variance from Section 6.1 of the 1985 Woburn Zoning Ordinances, as amended, for a reduction in the rear yard setback from 30 feet to 18.8 feet to construct an addition at 17 Gatta Circle, Woburn, MA:** Representing the petitioner were Michael Frattura and Margaret Frattura, 17 Gatta Circle, Woburn, MA. Chairman Pinkham said it appears the petitioner has filed for a variance to put an addition on the back of his home. She said the board needs to find there is a hardship and read the statutory requirements in state law Ch. 40A. Mr. Frattura said there is an easement on the opposite end of the lot that would make locating the addition anywhere else impractical

and expensive. Chairman Pinkham said there is a reference to a 20-foot wide easement on the plan and asked if that is the driveway. Mr. Frattura said the easement is partially in the driveway. Chairman Pinkham asked if the driveway is shared with a neighbor. Mr. Frattura said the driveway is not shared. Chairman Pinkham asked who the easement is for. Mr. Frattura said the easement is for the city, because there is a drainage line in the street. Member Robertson asked if Mr. Frattura said there is a drainage pipeline in the easement. Mr. Frattutra said he also believes there is a right-of-way. Member Robertson asked if Mr. Frattura has ever read the easement documents. Mr. Frattura said he has not. Chairman Pinkham said Mr. Frattura has a side setback so he can't build on the first 12-feet anyway. She said with all the available space on the property, the petitioner could build quite an addition. Member Robertson asked why the petitioner can't put the addition on the other side of the house. Chairman Pinkham said she suspects if is because he will have to run pipes for plumbing and it would be expensive to do so. Chairman Pinkham asked what the addition will be used for. Mr. Frattura said there will be an extension to the dining room and a bathroom. Member Parrish asked if the land in back of the property is marshy. Mrs. Frattura said there is a pond. Member Parrish asked if the area in back is city land. Mr. Frattura said it might be city land. He said the city was included in the list of abutters. Chairman Pinkham said the aerial map indicates the city is an abutter. Chairman Pinkham asked if anyone in the audience wished to address the board about the petition. There were no respondents. Member Ray asked if the addition will involve the elimination of the existing deck. Mr. Frattura said the deck will be eliminated. Member Parrish asked about a set of stairs. Mr. Frattura said there are 13 stairs that encroach on the easement. Member Ray said it looks like the stairs stop short of the easement, but they are getting close. Member Ray asked if the home is single-story. Mr. Frattura said it is. Member Ryan asked if the 2-car driveway is staying. Mr. Frattura said there is a 2-car driveway to the left of the house that will stay. He said the addition is flush with the house. Motion made by Member Parrish and seconded by Member Robertson to grant the variance; approved, 4-1, with Chairman Pinkham opposed.

3. **Sandra Scott, 23 Brae Circle, Woburn, MA 01801, Petitioner and Landowner, seeking a Variance from Section 6.1 of the 1985 Woburn Zoning Ordinances, as amended, for a reduction in a side yard setback from 12 feet to 9.1 feet to construct an addition at 23 Brae Circle, Woburn, MA:** Representing the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, MA, and Walter Russell, Home Sweet Builders, 76R Winn St. Suite 3D, Woburn MA. Attorney Salvati said an updated plan was submitted to the board prior to the meeting. He said the house was built in 1977 and is located in an R-1 zoning district. He said there is 2,700-square-feet of living space on two floors, along with a 1-car garage. He said the petitioner is proposing to build an addition on the first floor, expanding the garage and adding about 300-square-feet of living space, along with a reconfiguration of a bedroom. He said the addition will create an all new master bedroom. He said the petitioner is requesting a minor reduction in a side yard setback from 12 feet to 9.1 feet. He said the addition cannot be moved forward much because there is an electric line that runs underground. He submitted a letter from six neighbors who are in support of the variance. He said the neighbors live at 22 Brae Circle, 26 Brae Circle, 30 Brae Circle, 25 Brae Circle, 17 Park Drive and 13 Park Drive.

Member Ray asked how wide the addition is. Attorney Salvati said the addition will be 12.37 feet wide. Chairman Pinkham asked how far forward the petitioner would have to slide the addition in order for it to comply with the side setback requirement. Attorney Salvati said he believes the addition would be off in front. Chairman Pinkham said if the addition is moved forward, there would be 40-feet of frontage. Attorney Salvati said by the time you get to 12 feet off the property line, the addition would not look right at all. Chairman Pinkham asked if that is what the petitioner is claiming as a hardship. Attorney Salvati said it is not, but the electric line does create a hardship. He said the petitioner plans to add only 10 percent more living space and a 1-car garage. Member Parrish said the updated plan shows the new master bedroom is 12 feet, 4 ½ inches wide but the old plan indicates the bedroom is 12.37 feet. Member Ryan said .37 feet works out to 4 ½ inches. He said it is a little confusing. Chairman Pinkham asked if anyone in the audience wished to address the board about the petition. There were no respondents. Member Ryan asked where the underground electrical line is located. Attorney Salvati said the electrical line is located right in front of where the addition will be going. Mr. Russell said to move the electrical line would require a Herculean effort. Motion made by Member Ray to and seconded by Member Parrish to grant the variance based on the plan that was submitted, with the hardship being the shape of the lot; approved, 4-1, with Chairman Pinkham opposed.

4. **Seth Freedman, 56 Leonard Street, Woburn, MA 01801, Petitioner and Landowner, seeking a Variance from Section 6.1 of the 1985 Woburn Zoning Ordinances, as amended, for a reduction in the rear yard setback from 30 feet to 17.5 feet to construct a deck at 56 Leonard Street, Woburn, MA:** Chairman Pinkham asked under which statutory hardship is Mr. Freedman seeking a variance. Mr. Freedman said his home is located on a corner lot. He said the rear property line is 31 feet from his home and it is not possible to build a new deck without a variance. He said his hardship is the shape of the land. He said he has a very short back yard area. Chairman Pinkham said the backyard currently complies with the zoning ordinance. She asked if there is any hardship relating to the soil conditions or topography. She asked if there is anywhere else on the lot where Mr. Freedman can build a deck that complies with the ordinance. Mr. Freedman said if he moves the deck to either side he would still be looking for a variance. Member Parrish asked where the stairs will be located. Mr. Freedman said the deck will extend about to where the stairs are located now. Member Ryan asked where the current stairway is located. Mr. Freedman said the stairs are located in the back of the house. Member Parrish asked if Mr. Freedman will leave the stairs where there are. Mr. Freedman said the stairs will be replaced. Mr. Freedman submitted a letter from Robert Simpson, 55 Leonard Street, that indicates Mr. Simpson supports Mr. Freedman's effort to build a new deck. Member Robertson asked if the stairs are going to be farther away from the house than they are now. Mr. Freedman said the stairs will be in the same location. He said the deck will come out 14 feet. Member Ray said it looks like the stairs will stick out another seven feet from the deck. Mr. Freedman said the stairs will be recessed into the deck. Member Robertson said that is not at all clear from the plan. He said it looks like the deck is 14 feet by 18 feet. Mr. Freedman said the deck is 18 feet along the house and less than 14 feet from the house. Chairman Pinkham said the distance from the house to the edge of the stairs needs to be shown. Mr. Freedman said

the stairs are included in the 14-foot distance. He said there is a concrete landing at the base of the stairs. Member Robertson asked how far the existing deck is from the house. Mr. Freedman said it is 5 feet from the house, plus 7 feet for the stairs. Member Ray said that is 12 feet total. Member Robertson asked if that means there will be a difference of six feet. Mr. Freedman said the difference will probably be about nine feet. Chairman Pinkham asked why the plans indicate a distance of 17.8 feet. Mr. Freedman said that is an approximation created by the surveyor. Chairman Pinkham asked about an asterisk at the 17.8-foot notation. Member Ryan said it looks like the asterisk pertains to a note at the top of the page. Chairman Pinkham asked if anyone in the audience wished to address the board about the petition. There were no respondents. Motion made by Member Robertson and seconded by Member Parrish to grant the variance; approved, 4-1, with Chairman Pinkham opposed.

5. **Christopher Chase and Michael Chase, 391 Eastern Avenue, Lynn, MA 01902, Petitioners and Landowners, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to convert a single-family home to a 2-family home at 19 Center Street, Woburn, MA**: Representing the petitioner were Christopher Chase said Michael Chase, 391 Eastern Avenue, Lynn, MA. Chairman Pinkham said she does not understand what the petitioners are proposing. She said it looks like work has already begun. She said there is a dumpster on the property and it looks like work is being done to the windows. She asked what work is going on. Christopher Chase said they are trying to convert the home from a single-family home. He said there are three floors and there were two bedrooms on the first floor. He said they want to convert the home to a 2-family. He said the house was gutted already and there are no walls. He said they did some framing, but there was a problem with a contractor because he wasn't doing any work. He said his brother is going into the military and they decided to convert the home into a 2-family. Chairman Pinkham asked about the status of the plans. She said it appears there is only one kitchen, and that there appear to be five bedrooms in the third floor. She said the plans that were submitted to the board seem to be existing and proposed second floor plans. She said apart from what she assumes are emergency egresses she has no idea what the petitioners are proposing on the inside of the building. She said she has significant concerns about converting the house into a 2-family. She said the board has had at least 2-3 requests like this and the last time she recalls the Building Commissioner took the position that a variance and not a special permit would be the required form of relief. She said there are dimensional requirements for converting a single-family to a 2-family. She said the requirements are a minimum lot size of 10,000-square-feet and 60 feet of frontage. She said this is a really small lot with 5,373-square-feet. She said it looks like there is 60 feet of frontage but the garage violates the side setback requirement. She said the front and rear setbacks don't comply. She said her memory is there was a legal opinion regarding this issue and she is quite clear the Building Commissioner requires a variance. Member Robertson asked if the petitioners have conferred with the Building Dept. Christopher Chase said the Building Dept. told him he needs a special permit. Member Robertson said he does not recall past cases but he is aware there is a table of uses concerning 2-family structures. He said it seems to him the petitioner may need a variance and a use variance under the special permit provision. Chairman Pinkham said that may have been in the City Solicitor's opinion. Member

Parrish said he has a related memorandum. Member Ryan asked if the garage is functional. Christopher Chase said there is nothing in the garage. Member Ryan said he questions whether a car will fit in the garage. Christopher Chase said the garage is deep enough for four cars. He said it is a very deep garage. Member Ryan asked the petitioners if they know the dimensions of the garage. Christopher Chase said he does not know them off the top of his head. Member Ryan said he has concerns about density and parking. Chairman Pinkham said the City Solicitor has indicated a house is in an R-2 zone, a conversion is not like a use variance. She said it is an allowed use. Chairman Pinkham asked if anyone in the audience wished to address the committee David DeMambro, 7 Center Street, said there is no way you can put four cars in the garage, and it is unlikely even three will fit in the garage. He said if you open the door, it will hit another building. He said there is no parking on the street whatsoever, and there are times he has to park on Park Street. Chairman Pinkham said if the petitioners intend to maintain two units, they will have to have at least four parking spaces. Katherine Lewis, 20 Center Street, said she has been two cars in the garage and two cars on the ramp leading up to the garage. She said her perception is four cars can be parked without on-street parking. She said the house is above the water table. She said she has been in the basement and she thinks the house is plenty big enough for two families. She said the petitioners are really trying. She said they do have to work within the footprint of the building and are trying to make it work as a 2-family. William Velasquez, 36 Center Street, said the only fire hydrant on the street is in front of 19 Center Street. He said he is concerned about parking. Chairman Pinkham said when she drove by, she did not see a fire hydrant, but she allowed there was a line of cars parked on the street and she may have missed it. Mr. Velasquez said he thinks the house would be a beautiful 1-family home. Jo-Ann Gorrasi, 19 ½ Hovey Street, said there is only 20 inches that separates her home from the petitioners' home. She said she is adamant it not be converted into a 2-family. She said there is a ladder outside her door that may be dangerous. She said this is the third time someone has tried to convert this home since it left her family's ownership. Ms. Gorrasi said there is not enough room for more than two cars in the garage. She said she lived in that house. She said the petitioners have no clue as far as what they're doing for work inside the house. She said the stairs will interfere with the egress from her home. Chairman Pinkham asked Ms. Gorrasi if she has a right-of-way. Ms. Gorrasi said she has a right-of-way on her deed. She said she is required to have access in case of an emergency. She said her water and sewer pipes go through the area where the petitioners want to put a set of stairs. She said she can open her door but she would not use her walkway. She said the petitioners have not maintained it. Member Robertson asked when the last time the property was occupied was. Ms. Gorrasi said the property was last occupied 12 years ago. She said it has been a long time. Chairman Pinkham said the porch structure on the right side of the house seems to her to be in front of a maintenance easement. Ms., Gorrasi said that's where the petitioners want to put the stairwell. She said if the petitioners dig there, they will interfere with her water and sewer line. Chairman Pinkham said the plot plan makes reference to two maintenance easements. Ms. Gorrasi said her pipes go underneath the porch and across the easement. She said she has about three feet. Member Robertson asked if Ms. Gorrasi's pipes go out to Center Street. Chairman Pinkham asked if Ms. Gorrasi's pipes are located in an easement area. Ms. Gorrasi said they do. Chairman Pinkham said Ms. Gorrasi's maintenance easement does

not appear to go out to Center Street. Ms. Gorrasi said she has a set of plans at home that indicates she has easements. Chairman Pinkham said she is confused and asked Ms. Gorrasi if the plot plan submitted by the petitioners is incorrect. Ms. Gorrasi said the petitioners may not understand everything that has gone on in the past. Member Robertson said the board does not know what the purpose of the easements is. He said his own view is a 5,200 or 5,300-square-foot lot is very, very small. He asked the petitioners if he heard correctly that they are going to have bedrooms on the first and third floors and a common area on the second floor. He said if that is true it sounds like the property would be used as a rooming house. Ms. Gorrasi said there were bedrooms on the third floor. She said there was a store on the first floor in the 1930s, 1940s and 1950s. Member Robertson said when he thinks of a 2-family, his perception is two separate units. Christopher Chase said the intent is to have two units with a common kitchen. Member Robertson asked if there will be separate entry ways. Ms. Gorrasi said she would like to see the house declared a nuisance, condemned, and torn down. Chairman Pinkham said Ms. Gorrasi is making that request to the wrong board. Member Ray said there are rooms on the third floor that aren't labeled on the plans and asked if one of them is a kitchen. Michael Chase said there is a kitchen on the third floor. Christopher Chase said they are planning to convert the home to two separate units. He said there is approximately 3,000-square-feet of living space. Chairman Pinkham asked the petitioners to walk her through how the house is going to be split up. Christopher Chase said there is an enormous amount of living space. He said they are not planning to operate a rooming house. Chairman Pinkham said the board does not have an adequate plot plan. She said she is not prepared to make a decision tonight. She said the petitioners need to furnish the board with a plan that indicates what they are proposing. Member Robertson asked if the petitioners recently bought the property. Michael Chase said they bought the property in April. Member Robertson said if the property was acquired within a year, they might want to inquire with the lawyer who represented them at the closing about the status of the title, which he said should describe the easements. He said he thinks the board would like to see the easements. He said the plan that was submitted to the board does not show the easements. Member Ray said the plan indicates the survey was performed in 2012, even though there's a stamp that indicates a later date. Member Ryan said it would be really helpful if the petitioners submitted bigger plans. He said he had difficulty reading the plans that were submitted. He also suggested the petitioners retain a set of plans for themselves. Chairman Pinkham said there is a reference to lot coverage but no dimensions of the structures indicated. She said she wants to know the dimensions of the structures. She said she is also concerned the petitioners may need a variance, and she wants to check on that issue. She said she thinks they are going to need a variance for almost every one of the dimensional issues. Member Parrish asked if the petitioners intend to connect the garage with the lower level of the house. Michael Chase said they are already connected. Member Ray said the plot plan shows them as two separate structures. Mr. DeMambro said there is an underground tunnel. Chairman Pinkham said the petitioners can request a vote tonight but warned she will vote against it. She said if the special permit is denied, they cannot return to the board to seek relief for two years. She said their other option is to continue the hearing. Michael Chase requested a continuance. Chairman Pinkham said the board will next meet at 7 p.m. on Thursday, March 26. Motion made by Member Parrish and seconded by Member Robertson to

continue the hearing until Thursday, March 26; approved, 5-0. Chairman Pinkham asked the petitioners to provide any supplemental documents to the clerk as soon as possible.

6. **Approval of minutes from meeting of January 15, 2020:** Chairman Pinkham said there are two typographical errors in the minutes. She said "liner" on page 2 should be "linear," and "Frist" on page 4 should be "First." Motion made by Member Parrish and seconded by Member Ray to approve the meeting minutes, as amended; approved, 5-0.

7. **Any other matters that may be legally before the Board:** None.

Motion made by Member Parrish and seconded by Member Ryan to adjourn, all in favor 5-0. Chairman Pinkham adjourned the meeting at 8:41 p.m.

ATTEST: _____

Gordon Vincent
Clerk of the Zoning Board of Appeals