

**Zoning Board of Appeals
City Council Chambers
Woburn City Hall
Wednesday, February 16, 2022 – 6:00 p.m.**

Present: Chair Margaret M. Pinkham, Member John Ryan, Member Daniel Parrish, Member Edward Robertson, and Member Richard Clancy

1. **Thomas Murphy, 13 Fisher Terrace, Petitioner and Landowner, seeking a Variance from Section 5.3.2 of the 1985 Woburn Zoning Ordinances, as amended, for a fence higher than 3 feet within the 25-foot front yard setback at 13 Fisher Terrace, Woburn, MA (continued from meeting of January 19, 2022):** Member Clancy recused himself. Chair Pinkham said the applicant has submitted a request for a continuation until the March meeting. She said the board may have an alternate member by the March meeting so Mr. Murphy’s petition can be heard by a full complement of five members. Motion made by Member Robertson and seconded by Member Parrish to continue the hearing until the board’s meeting in March; approved, 4-0.

2. **Marcio Silva, 18 Green Street, Woburn, MA, 01801, Petitioner and Landowner, seeking a Variance from Section 5.3.4 of the 1985 Woburn Zoning Ordinances, as amended, for a fence higher than 6 feet within the street setback at 18 Green Street, Woburn, MA (continued from meeting of January 19, 2022):** Representing the petitioner was Attorney Mark Salvati, 10 Cedar St., Suite 26, Woburn, MA. Attorney Salvati said he has had two meetings with Woburn Police Sgt. Charles Stokes Jr. at the site. Attorney Salvati presented the board with a memo from Sgt. Stokes and photographs of the site with sections of the fence removed. Attorney Salvati said Sgt. Stokes thinks there are still line of sight issues. He said the first page of his submission is the letter from Sgt. Stokes. He said the second photo shows the line of sight. He said the third document is a photo of the bushes. He said the fourth page depicts what his client is proposing to do. He said his client can put up a 3-foot fence within the front setback. He said that would result in a 20-inch fence on top of the rock wall at the corner of the lot. He said the fence his client could put up would block the line of sight even more dramatically. He said he thinks they are making it better. He said his client’s front yard is so small it wouldn’t be of any benefit. He said he could not get a stamped plan in time for the meeting. He said he will likely ask for a continuance so he can file a stamped plot plan. Chair Pinkham said after she read Sgt. Stokes’ memo, she reached out to the Building Commissioner, who provided her with a copy of the application for a fence permit. She said the applicant cannot build a 3-foot fence by right on the corner of Highland Street and Green Street. Chair Pinkham read the relevant section of the zoning ordinance as follows: “Enclosures on corner lots: A fence, hedge, wall or other enclosure may be maintained on a corner lot, provided: it shall not obstruct visual clearance at intersecting streets by being between 3 feet and 10 feet above grade within the triangular area formed by the intersection of the lot lines and a straight line joining said curb lines at points which are 16 feet distance from point of intersection of said lot lines.” She said she empathizes with the applicant because even with the fence removed the sight lines in the area present a challenge. She said she was also surprised that the applicant’s fence looks

like it is solid until you get in front of it. Attorney Salvati said even a 3-foot fence that is 16 feet in from the corner would create a line-of-sight problem. Chair Pinkham said the board was provided with a plot plan but she cannot tell what the measurements are. Attorney Salvati said three sections of 8-foot fencing were removed, for a total of 24 feet. He said the angle would start 24 feet from Highland Street. Chair Pinkham asked if those dimensions are reflected in the picture that was given to the board. Attorney Salvati said there is 24 feet less fence than there was before. He said the fence complies with the requirements of the Planning Board that there is 125 feet of visibility at the intersection. Member Ryan said what Attorney Salvati is saying is if you pull up to the stop sign you can see at least 125 feet. Attorney Salvati said if you stop at the stop sign, you have to creep out a bit, which you have to do at any intersection. He said he would be willing to listen to any suggestions from the board. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Member Parrish said he has not seen the fence the way it is now. He said he had the same feeling as the Traffic Safety Officer, that you have to creep out and to get a view of Green Street. He said he is wondering if he sees the fence again since it has been moved along with a plot plan, that might be helpful. He said Green Street is a dangerous road. Attorney Salvati said he is not sure if he can get an engineer to render an opinion on the line-of-sight issue. He said he thinks any fence is going to block the view of Green Street somewhat. He said he will be glad to provide another plot plan. Chair Pinkham said if the zoning ordinance addresses a triangle with a 16-foot hypotenuse, which is on the applicant's plan now. Attorney Salvati said the less sections of fence his client takes down, the more yard he will have on the Highland Street side. He said he can show a no-build area on the plot plan. He said he would like to get some sense from the board that he is going in the right direction. Chair Pinkham said if no one on the board is interested in seeing a plot plan with the proposed fence, they should probably tell the applicant that now. Member Clancy said Highland and Green streets is a difficult intersection. He said he would be open to looking at it if there is a substantial change. Attorney Salvati asked for a continuance until the board's next meeting. Motion made by Member Parrish and seconded by Member Ryan to continue the public hearing until the board's meeting on March 16; approved, 5-0.

Motion made by Member Robertson and seconded by Member Parrish to take the next two items out of order from the posted agenda; approved, 5-0.

- 3. Seaver Construction, 215 Lexington St., Woburn, MA, Petitioner, and Melissa Harmon and Brad Ames, 4 Churchill Road, Woburn, MA, Landowners, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, for a second story addition to a pre-existing, non-conforming single-family home at 4 Churchill Road, Woburn, MA:** Representing the petitioner was Timothy Powderly, Seaver Construction, 215 Lexington St., Woburn, MA. Mr. Powderly said he is the project manager and is representing the landowners. He said his clients are seeking a special permit for alterations to a non-conforming structure. He said the proposed addition is a simple roof raise. He said the renovated home will add three bedrooms and one bathroom, which is similar to other homes in the neighborhood. He said the addition will not extend beyond the footprint of the house. Chair Pinkham asked if the property owners are here. Mr. Powderly answered affirmatively. Chair Pinkham

asked what assurances the board has that the second story will be able to handle the weight of the proposed addition. Mr. Powderly said an engineer surveyed the structure. Chair Pinkham asked when the garage was constructed. Mr. Powderly said he does not know. Member Ryan asked what the height of the proposed structure is. Mr. Powderly said the height will be between 28-29 feet. He said his clients will agree to a condition that the height will not exceed 35 feet. He said the structure is not even close to 35 feet right now. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. Ward 3 Councilor Jeffrey Dillon said this parcel is in Ward 3. He said he is very familiar with the neighborhood. He asked the board to approve the petition. He said the landowners keep their property nice. Motion made by Member Robertson and seconded by Member Parrish to grant the special permit. Member Ryan asked if the board should place a condition limiting the height of the structure at 35 feet. Member Robertson amended and Member Parrish seconded the motion to include a condition limiting the height of the structure to 35 feet; approved, 5-0.

4. **Frederick Cialdea, 19 Crossman Road, Woburn, MA, 01801, Petitioner, and Amanda Gillis and Francis L. Gillis Life Estate, 11 Karen Road, Woburn, MA 01801, Landowners, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to raze and replace a single-family home on a non-conforming lot at 11 Karen Road, Woburn, MA:** Representing the petitioner was Attorney Mark Salvati, 10 Cedar St., Suite 26, Woburn, MA. Attorney Salvati said the property is located on a corner lot. He said the Building Dept. has determined the property has two front yards, on Karen Road and Woodside Terrace. He said the current rear setback is 30 feet and the side setback is 21 feet. He said the proposed dwelling will have a side setback of 12.4 feet and a rear setback of 19 feet. He said the current building ground coverage is 12 percent, and the house they are proposing has 20 percent building ground coverage, which he said it still less than the maximum allowed under the zoning ordinance. He said most of the homes in the area are small Capes or Ranches. He said the proposed home is going to be a good-sized Colonial. He said his clients are willing to accept some sort of height restriction. He said they talked to their neighbor directly behind their property at 22 Woodside Terrace and she is concerned about a fence. He said the neighbor is concerned about runoff and water. He said his clients will abide by the stormwater requirements. Member Ryan asked if the setback from 22 Woodside Terrace will be 12.4 feet. Attorney Salvati said the 12.4 setback abuts 24 Woodside Terrace. He said his clients have agreed to replace the fence at the boundary of 22 Woodside Terrace. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. Mary Ducharme, 18 Karen Road, said she is hoping to see the new home because the current house is a little bit of an eyesore. She said her house is on the water table. She said there are a lot of children who live at that end of the circle. Chair Pinkham asked if Ms. Ducharme has a copy of the plot plan. Ms. Ducharme said she does. Chair Pinkham said the existing home violates the front yard setback, while the proposed structure complies with the front setback. Chair Pinkham said it is an improvement. Ms. Ducharme said she is concerned about the impact on the water table. Chair Pinkham said there are water table requirements for new construction. Ms. Ducharme said she knows her basement used to flood before she bought her house. She said there have been no problems with water for the past four years, and she does not want any. Attorney Salvati said if you install gutters, you have to install dry wells. He said the applicant would be

required to mitigate runoff at 120 percent of the existing conditions. He said there should be no issue with runoff. Chair Pinkham asked if there is any proposed change to the grading. Attorney Salvati said there are no proposed changes to the grading. Chair Pinkham asked if there is a basement, and if so, how is it going to be accessed. Attorney Salvati said he assumes there is going to be a basement under the main house. He said he is willing to provide information about access if needed. Member Robertson asked about the rear setback dimension. Attorney Salvati said the rear looks like the right side of the lot. He said the setback is 19 feet and it's a little bit closer than what's there now, but still less than what is required. He said the property is situated on a corner lot. Member Robertson asked what the current setback is. Attorney Salvati said the current setback is 25 feet. He said his client is proposing a 19-foot setback. Member Robertson asked where Ms. Ducharme's house is located. Ms. Ducharme said her house is located diagonally across the street. Member Robertson asked if the new home is creating any new non-conformities. Chair Pinkham said there is already a non-conformity. Member Robertson asked if the new home is exacerbating the non-conformity. Chair Pinkham said a non-conformity can be exacerbated under a special permit. Member Ryan referred to a 23-foot measurement on the plan and said it appears to be a double stairway leading to a cement platform. Chair Pinkham said the set of plans appears to be incomplete. She said there is no plan for the basement. Member Robertson asked the chair what her concerns are. Chair Pinkham said the proposed structure is very large. She said the board typically adds a condition that the home cannot be used as a 2-family. Attorney Salvati said his client would be fine with such a condition. Chair Pinkham asked how she would create a decision without a complete set of building plans. Member Robertson said if the rest of the board feels like there should be a complete set of building plans, he would go along with a continuance. Member Parrish said the rear elevation seems to show a bulkhead. Chair Pinkham agreed it does. Member Parrish said he would be happy to support the special permit as long as there is a condition limiting the home to a single-family use. Motion made by Member Robertson and seconded by Member Parrish to grant the special permit with a condition that the home be limited to a single-family use; approved, 4-1, with Chair Pinkham opposed.

Motion by Member Parrish and seconded by Member Robertson to return to the regular order of business; approved, 5-0.

5. **Jefferson Woburn Venture LLC, 1420 Spring Hill Road, STE. 420, McLean, VA 22102, relative to an application for Modification of Comprehensive Permit (pursuant to M.G.L. Chapter 40B, Sections 20-23) for purposes of a public hearing pertaining to the property located at 1042 Main Street, Woburn, MA (continued from meeting of January 19, 2022):** Representing the petitioner were Attorney Paul Haverty, Blatman, Bobrowski & Haverty LLC, 9 Damonmill Sq., Suite 4A4, Concord, MA; Sandi Silk, Jefferson Woburn Venture LLC, 1420 Spring Hill Road, Ste. 420, McLean, VA; Carlton Quinn, Senior Project Manager, Allen & Major Associates, 100 Commerce Way, Woburn, MA; Tim Sullivan, Lead Designer, Mainline Custom Signage Systems, 1 High St., Antrim, N.H.; and Sean Sanger, Landscape Architect, Copley Wolff Design Group, 10 Post Office Square, Boston, MA. Attorney Haverty said the applicant has submitted a significant amount of additional information to the board. He said there

were some questions last month about waivers. He said the applicant would have had to seek a variance under Section 5.3.2 of the zoning ordinance for the installation of the proposed fence at the northeast corner of the property. He said the proposed fence is set back three feet from the property line, and 22 feet within the front setback. Member Robertson asked if the fence was shown on the original submission years ago. Attorney Haverty said it was not. Member Robertson asked if the proposed modification constitutes a wholly new proposal. He asked how many proposed changes there are vis-à-vis wholly new items. He said anything that is new is not what he refers to as a change. He said the applicant was asked to provide the board with a submission showing that was originally approved by the Housing Appeals Committee and what the applicant is proposing to change. Attorney Haverty said he is not sure that is doable, given the scope of the site. He said providing the board with information that shows the proposed modifications is the simplest way of presentation. Member Robertson asked if that is the proper method of presentation according to the Code of Massachusetts Regulations. Attorney Haverty said the CMR discusses modifications. Member Robertson asked if the CMR uses the terms changes and modifications interchangeably and asked if there is a definition for modifications. Attorney Haverty said it does not. Member Robertson asked if there are any previous decisions that define modifications. Attorney Haverty said he had a client that required a number of additional approvals for a project in the town of Marion. He said the modifications were denied by the local board and the HAC determined the changes were insubstantial. He said what happened in Marion exceeds anything that is being proposed in Woburn. He said he does not know if the term modification is specifically defined. He said he does not know if the CMR goes down to that granular level. Chair Pinkham said the board requested a piece of paper that shows the proposed modifications. She said it is a little more cumbersome to go topic by topic than by referring to a laundry list. Attorney Haverty said a waiver would be required for the clubhouse sign, which he said will be visible from the interior of the site. He said he does not believe there are waivers required for the artwork on the pump station. He said the artwork on the pump station will not convey a commercial message. He said the banners on the poles will be in the private drive and he does not believe a specific waiver is required. He said the lot line has not moved. He said the proposed fence is not up. Member Parrish asked if the red line on the plan depicts the lot line. Attorney Haverty answered affirmatively. Chair Pinkham said she has a vague memory of two structures that belong to the neighbors and there being some discussion about adverse possession. Attorney Haverty said there have been discussion with the neighbors, and that is part of the reason they moved the fence in. Chair Pinkham asked if there is any written agreement between the applicant and the neighbors. Attorney Haverty said there is not. Attorney Haverty said the applicant has submitted an agreement with the city for the pumping station. Chair Pinkham said she sent a letter on February 8 and one of the things she asked was whether Jefferson is maintaining the property. She said she wants to make sure what was already approved is going to remain. She said the approved plans show a landscaped area that is supposed to be maintained. Ms. Silk said the landscaping within the property lines is being maintained. Chair Pinkham said she recalls being shown a graphic last month that indicates there is a retention basin that is underground. Mr. Quinn said the intent has always been to provide underground retention basins. Chair Pinkham asked about the depictions of page C-110 of the plan that shows an open area to the right

of the proposed monument sign. Mr. Sanger said that plan has been revised to show grading. He said he misinterpreted the graphic that was shown last month. Chair Pinkham said the original plans show a snow storage area where the pump house is going to be. She asked where the alternate snow storage will be located. Mr. Quinn said the applicant has submitted an updated snow storage plan. Mr. Quinn said snow storage will be where an old building used to be. Chair Pinkham said she cannot remember if snow storage was discussed in 2012. Mr. Quinn said there is a giant lawn that can be used for snow storage. Chair Pinkham asked where the snow from the access road is going to go. Mr. Quinn said the snow from the access road can be stored on the lawn. He said that area is pretty flat. Member Robertson asked if there is any regulation or rule that dictates how much snow storage is required. Attorney Haverty said there is not. He said there can be some sort of condition to cart snow off-site if the snow storage capacity is exceeded. He said he does not think the board got into that level of detail in 2012. He said the board and the applicant at the time were focused on other details. Attorney Haverty said if any snow is removed off-premises, it would be subject to DEP requirements. Mr. Sanger said the landscaping plan has been altered to include three elm trees along Main Street. Chair Pinkham said there was discussion about the trees along Main Street having at least eight feet of clear line of sight on day one. Mr. Sanger said the elm trees will have 7-8 feet of clear trunk space. He said there will also be ornamental trees with at least three feet of clear trunk space in the interior of the lot. He said most of the big shrubs will be 8-10 feet tall. Chair Pinkham asked how tall the ornamental trees will grow. He said they will be about 20-25 feet tall and 12-15 feet wide. Chair Pinkham asked how long it will take before the ornamental trees are full grown. Mr. Sanger said about 3-4 years down the road. Chair Pinkham asked how many ornamental trees will be planted. Mr. Sanger said there will be a total of six ornamental trees. Chair Pinkham said she is concerned about visibility if someone is in the second vehicle in a queue on the exit driveway. She said there appears to be a discrepancy between the standards the city imposes on residential property owners for line of sight and the prospect of allowing a 6-foot solid fence at 1042 Main St. Mr. Sanger said the applicant has worked very hard to create adequate lines of sight for the site driveway. Member Ryan asked where the fences are on the drawing. Mr. Sanger said the fences are not shown on the graphic. Member Ryan asked if the applicant would consider tapering the fence from 6 feet to 3 feet. Mr. Sanger said the fence on the northerly boundary of the property is lined up with the existing hedge. Member Ryan asked if the applicant intends to place two fences perpendicular to Route 38. Mr. Sanger said that is correct. Member Ryan asked why the fences can't be 3 feet high. Mr. Sanger said the height of the fences was chosen to give the neighbors on the south side a buffer for vehicle headlights. Attorney Haverty said the intent of the 6-foot fences is to provide additional screening. He said a taller fence was requested by the neighbor. He said the applicant is seeking a 6-foot fence. He said if the board wishes the fence could be tapered starting at the 25-foot setback. Member Ryan said he would have to weigh the height of the fence requested by the neighbors with respect to safety issues. He said he has a hard time believing a 6-foot fence as proposed would not create sight line issues. Mr. Sullivan said only a portion of the proposed monument sign will be lighted. In response to a question from last month, he said the sign will generate 158 lumens per foot and a total of 1,600 lumens. He said the proposed banners will be 2-feet by 4-feet on 20-foot tall light posts. Chair Pinkham said that information is helpful. Mr. Sullivan said the proposed sign

on the clubhouse is on the back of the building. Chair Pinkham asked Mr. Sullivan to identify the grid patterns that are depicted on the plans. Mr. Sullivan said those are patio areas with pergolas. Mr. Quinn said there is an alternate design for the pump house with a flat roof, if the art work proposed for the structure is approved. He said the design is a pitched roof with standard siding is better looking. He said if the applicant has to hide the pump house, then there will be a flat roof. Ms. Silk said the intention is to make the pump house attractive. She said there is an opportunity to make the pump house a landmark for the neighborhood. She said the intent was to come up with something interesting but not confrontational. Chair Pinkham asked what the height of the pump house will be. Ms. Silk said the size of the building didn't change; only to roof line did. Mr. Quinn said it is 13 feet to the mid-pitch of the roof. He said the flat roof is 12 feet high. Chair Pinkham asked if there will be artwork on three sides of the pump house. Ms. Silk said the side that faces the fence will not have artwork, but they do not have an issue putting art on the fourth side if that's what the board wants. Chair Pinkham asked when the artwork will be added. Ms. Silk said if the board decides to move forward, the applicant will talk to the neighbors about artwork and come back for administrative review. Chair Pinkham asked if the applicant wants the board to take a position on whether it prefers a cube or a roof. Ms. Silk replied not really. She said she is not sure the design of the pump house falls under the board's purview. She said the applicant wants to be transparent about what it wants to do. She said there is an agreement with the city to build the pumpstation and the applicant is trying to keep the ZBA in the loop. Member Robertson asked if the applicant has consulted with the neighbors. Ms. Silk said the applicant conducted a Zoom meeting last month and has reached out to the two direct abutters, so they would not be surprised. Member Robertson asked what kind of participation there was for the Zoom meeting. Ms. Silk said there were approximately 10 neighbors who participated in the Zoom meeting. She said letters were sent to 80 neighbors. Attorney Haverty said the applicant is basically looking for an endorsement for its proposal to change the roof and do the artwork with the condition the applicant can come back for administrative approval. He said the board is looking for feedback. Chair Pinkham said she had no idea the applicant is looking for feedback. She said she only remembers addressing the artwork on the building. She said the only similar situation she can remember is an application from the Hilton Hotel in East Woburn for signage for the Matadora restaurant. She said the Building Commissioner in that instance determined the entire surface of the façade was a sign. Attorney Haverty said it sounds like in that instance the signage was tied to a commercial message, and his client is not proposing that. He said the applicant is open to suggestions. Member Robertson asked if the mayor and the DPW had any input into the design of the pump station. Mr. Quinn said the DPW signed off on the interior and the layout of the pump station. Chair Pinkham said the city's Water Dept. supervisor indicate the DEP essentially runs the show and the city needs to be part of the process. She said the city was involved in the process. She said there are no more signoffs required until the pump house is built. Mr. Quinn said the DEP does not care about the roof. Member Robertson said the artwork would be more of an issue for the public. Member Ryan asked if there will be any equipment on top of the flat roof. Mr. Quinn said there will be no equipment on top of the flat roof. Member Ryan asked what the advantage is of a flat roof. Ms. Silk said the flat roof is an architectural preference. She said it will make the artwork more obvious. She said the design of the roof has nothing to do with the

functionality of the building. Chair Pinkham said she is indifferent about the style of the roof. She said other people may have opinions. Member Ryan asked if the applicant represented that the city will always have input over what goes on in the pump house. Mr. Quinn said the applicant is modifying a municipal waterline, and the DEP has approval. He said there will be continuing maintenance by a licensed water professional. Chair Pinkham said she has been informed there was a request for a different fire hydrant. She said she wants to make sure all the materials installed by the owner will comply with what the city approved. Mr. Quinn said he will completely stand behind that. Chair Pinkham said she wants to make sure everyone is on the same page. Mr. Quinn said he believes the city's Water Dept. will be there every step of the way. He said there is nothing in the way of any sight triangles. He said that was peer reviewed. He said nothing about the sight lines will change. Chair Pinkham said the western side lot line would typically have a measurement for every part of the fence. She said she does not know if there's anything on the plan that indicates the fence is going to terminate 14 feet from the lot line. Mr. Quinn said measurements could be added to the plan. Chair Pinkham said a representation has been made the fence is not within the sight triangle and she cannot see that. Mr. Quinn said a clarification can be made to the plan. Attorney Haverly said among the list of waivers is a narrative that the fence will be 14 feet from the lot line. He said that information is in the packet that was distributed to the board. He said the board can add a condition to that effect. Mr. Quinn said there have been changes made to the site lighting. He said the acorn-shaped globes have been replaced by LED lighting that will be much better. He said the LED lighting can be dimmed and angled. He said the industry standard for lighting will be met. Member Parrish asked about the red and blue lines that are shown on the lighting plan. Mr. Quinn said the colored lines show the extend of the light throw. He said there are also black dots on the plan that show how much light is going to that point on the property. Member Parrish asked if the areas inside the red and blue lines are going to be much brighter than the areas outside the colored lines. Mr. Quinn said the red line indicates 1 foot candle and the blue line indicated 0.5 foot candles. Chair Pinkham said there is another plan that shows the light poles. Mr. Quinn said the updated plan shows three less light poles. Chair Pinkham asked where the lights stop. She asked how bright the lights will be at 1036 Main St. Mr. Quinn said the light dissipates to 0.1 or 0.2 off property. He said that is less light than the moon. Ms. Silk said the applicant can work with the neighbors to diminish the light if it's a problem. Mr. Quinn said the modified layout of the clubhouse is almost identical to the original layout. He said the pool is reduced by 450 square feet and there is an addition to the outdoor amenities area. Chair Pinkham said the driveway on drawing C-110 has elevations that look pretty flat. She asked if the guardrails are being installed higher up on the hill. Mr. Quinn answered affirmatively. He said the drive aisle was widened to 24-feet so a fire truck could navigate it. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the application. Tom Pejic, 1036 Main St., said he has some questions about the pump house. He said there is a backup generator which is going to be tested once a week. He said the odor of fumes from the generator is very bad. He said there have been issue with dust control and boulders rolling down into his yard. He said it has been a while since his children have been able to play in their yard. He said the applicant has not communicated adequately with them. He said the pump house is 13 feet away from his house. He said it does not feel right to him. He said he thinks the applicant

needs to install a retaining wall because the hill is steep. He said he wants a nice fence to protect his home from the lights. He said he would prefer to have evergreen trees planted because deciduous trees will lose their leaves in winter and offer no privacy. Member Robertson said at least one person from the applicant's team indicate they reached out to the neighbors. Mr. Pejic said they were not contacted until about a month ago. Chair Pinkham said this is the third property owner for this parcel. She asked Mr. Pejic if he has had any communication with the applicant about the height of the fence. Mr. Pejic said communication has been very minimal. He said he thinks there should be a fence around the entire property. He said the activity at the applicant's site has caused him to go to the hospital for anxiety and depression. He said his three children have been affected. He said his wife has been dealing with the applicant as well. Chair Pinkham asked Mr. Pejic if he has requested an 8-foot fence. Mr. Pejic said he has made a verbal request. Member Robertson asked if the applicant has heard Mr. Pejic's complaints before tonight. Attorney Haverty said he is aware this abutter has complaints. He said he is aware the city's Health Inspector and the Building Commissioner have been made aware of Mr. Pejic's complaints but there have not been any citations issued for noise or dust. Member Robertson asked if the applicant has responded to Mr. Pejic's complaints. Attorney Haverty said the applicant would be happy to install an 8-foot fence but they have heard push back about a 6-foot fence. Member Robertson asked if there is a project supervisor. Ms. Silk answered affirmatively. Member Robertson asked if the project supervisor could meet with Mr. Pejic. Ms. Silk said the vast majority of stone crushing has been completed. She said the applicant reached out to Mr. and Mrs. Pejic before the first public meeting. She said the applicant has made an effort to keep the Pejics in the loop. Chair Pinkham said she is aware the rock crusher is gone. She said she wants to focus on the changes that have been made. She said they do impact Mr. Pejic's property. She said she does not know how loud the generator is. She said she does not think Mr. Pejic's request for an evergreen screen is unreasonable. Mr. Sanger said the tree placement could be made denser. He said they could add additional trees. Chair Pinkham said her concern with a 6-foot fence is only at the front portion of the property. She said she has no objection to an 8-foot fence to shield the pump house from Mr. Pejic's property. She said there are probably a lot of things that can be done to address Mr. Pejic's concerns. Ms. Silk said the Mr. Pejic's primary concerns have been dust and the crushing operation. She said today is the first time the applicant has had a conversation about more and higher fencing. She said the applicant has tried to be respectful. She said the applicant has tried to reach out. She said the fence that is proposed was screening for the neighbors. Member Robertson asked if there was any kind of consensus reached during the Zoom meeting with the neighbors. Ms. Silk said Ward 6 Councilor Lou DiMambro attended the Zoom meeting. She said there was a lot of discussion about dust. She said there were no issues raised about fencing, banners or the monument sign. Member Robertson said those issues seem like they could be addressed. Ms. Silk said the applicant is certainly willing to increase the height of the fence between their property and 1036 Main St. She said they want to keep this process moving forward. She said they have gone out of their way to reach out to the neighbors. Attorney Haverty asked if there is a request in terms of the height of the fence. Chair Pinkham said a variance is required for a fence higher than 6 feet. She said she would endorse a higher fence but not near the front of the property. Member Robertson said the only area where the height of the fence is an issue is near the

right of way. Attorney Haverty said he agrees the height of the fence within the 25-foot setback is a concern. He said a 6-foot fence prevents light spillage. He said that is something the applicant would consider. Chair Pinkham asked if anyone else in the audience wished to address the board in regard to the application. Kaushik Patel, 1046 Main St., asked if the fence will be 3-feet high to a certain distance from the property line. Chair Pinkham said the applicant is requesting a 6-foot fence. She said the fence will end three feet from the property line. She said the applicant is requesting a 6-foot fence to give Mr. Patel some privacy. Mr. Patel said he wants to make sure his sight line is not blocked. Chair Pinkham said that is a question the board routinely asks. She said the board typically asks the applicant to taper the fence. She asked if Mr. Patel has concerns about a 6-foot fence. Mr. Patel said he can work with Ms. Silk's colleague about the fence. He said he has also talked to the applicant about trees. He said he wants to know if his view is blocked. He said he doesn't know what the requirements are normally. Chair Pinkham said she would like to have a plan that has the distance of the fence. She said she does not think any of these modifications are substantial. She said she wants to make sure everything that has been approved is going to happen. She said she likes the lighting plan. She said she is not crazy about the pump station and the sidewalk being moved, but she does not think those changes are substantial. She said she wants to make sure Mr. Pejic's and Mr. Patel's concerns are taken into consideration. She said she is concerned about a 6-foot fence, though she said she recognizes it would be a good thing to keep headlights out of property owners' homes. She said she agreed with Member Ryan that a tapered fence would go a long way to avoiding any potential traffic disasters. Member Parrish said he tends to agree with the chair's comments. He said he agrees the proposed changes are insubstantial. Member Robertson said he does not expect the property owner to meet with every single neighbor, but he would like to see the applicant meet with the direct abutters to find out if there is any common ground and report back by the next meeting. He said there is no question the proposed changes are insubstantial. He asked how many units are being built. Attorney Haverty said there are 168 units. Member Robertson asked how many are reserved for low and moderate income residents. Attorney Haverty said 25 percent of the units will be deemed affordable. Chair Pinkham said she agreed with Member Robertson. She said it seems to her the board should be able to wrap this up if the applicant submits plans with measurements. She said if there is any opportunity for the applicant to communicate with the neighbors and come back at the next meeting with all the issues worked out, the board would appreciate that. Attorney Haverty said the applicant will also look at additional landscaping and tapering the fence. He asked if the board wants a sight lines analysis for Mr. Patel's driveway. Mr. Patel said he can meet with the applicant in person. Ms. Silk said the applicant could agree to build a fence the same height at Mr. Patel's hedges. Mr. Patel said they can work it out. Member Ryan said public safety takes precedence. He asked the applicant to come up with renderings depicting 6-foot fences and how they would impact the sight lines. Attorney Haverty said the pump house generator will run for a half-hour once a month. He said the location of the pump house cannot be changed. He said an 8-foot fence may help mitigate the impact of the pump house on Mr. Pejic's property. Ms. Silk said the generator can be operated at a time that is convenient for Mr. Pejic. She said the pump house has to have a generator. She said they will work with the neighbors to minimize the impact of the pump house. Chair Pinkham asked if the applicant will seek an extension.

Attorney Haverty said his client will request an extension until March 23, in case the March 16 meeting is canceled or postponed due to unforeseen circumstances. Chair Pinkham said that makes sense. Motion made by Member Robertson and seconded by Member Ryan to continue the matter until the board's next meeting; approved, 5-0.

6. **Discussion application requirements for ZBA filings:** Chair Pinkham said the clerk circulated an email with the application materials attached. She said she has been frustrated that applicants are submitting plans on 8.5-inch by 11-inch paper. She said she thought the application referenced the size of plans, but it does not. Chair Pinkham said the Building Dept. is going to require 11-inch by 17-inch plans. She said 8.5-inch by 11-inch plans are too small. She said anything larger than 11-inch by 17-inch can be too cumbersome. She said 11-inch by 17-inch plans are fine. Member Robertson asked if the Registry of Deeds has a size requirement for plans. He said if the Registry of Deeds has a requirement, the petitioner should comply with that. Chair Pinkham said even if the Registry of Deeds requires something other than 11 by 17, the board could still require the petitioner to prove 11 by 17 plans. She said Member Ryan has provided the board with a schematic diagram that may be helpful to the petitioner. She said she requested and received a fence permit application from the Building Dept. that delineates the requirements for a fence. She said she is impressed by the level of detail in Member Ryan's diagram. She said she has sent the diagram to the Building Commissioner, who made some other comments that he provided to the board. Member Ryan said his original objective was to provide something of a cheat sheet for ZBA applicants. He said there are so many scenarios involved that he has a hard time putting all of them on paper. Chair Pinkham said she thinks Member Ryan's diagram would be helpful to applicants. Member Parrish asked if a surveyor could include buildable lot area on the form. Chair Pinkham said she thinks that's something that could be pretty easy but the first question is whether the schematic is helpful. Member Ryan said he would defer to the Building Commissioner about whether the schematic should be included in the packet. He said he will value the Building Commissioner's opinion, whether he thinks it's helpful or confusing. Member Parrish said people are putting up fences with no regard for the zoning ordinance, and he thinks the schematic will help them. Chair Pinkham said she wonders if there could be literature inserted with property tax bills that are mailed to residents, to at least make them aware there are zoning requirements for fences. She said the issue is important to the board, but she is not sure if it rises to the level of written notification. Member Parrish asked if people will still put up illegal fences in spite of notification. Member Clancy suggested putting asking the City Council to put the onus on the fence companies. He said they know the zoning restrictions and would be subject to fines if they put up fences that do not comply with regulations. Chair Pinkham said enforcement of the zoning ordinance falls on the Building Dept., which she said is currently understaffed. She said everyone would need to buy into this. Member Ryan suggested sending letters to fence companies in the area advising them of the zoning requirements. He asked how a letter like that would be worded. Member Clancy said every contractor knows there is a building permit requirement, but a fence seems to be a different situation. Chair Pinkham said contractors have to get licenses, which is not a requirement for fence people. Member Ryan said if someone doesn't get a permit, they shouldn't be allowed to put up a fence. Member Robertson said a lot of the votes the board takes on fences are 4-1, with the chair in opposition. He said in his opinion the

chair is correct 99.99 percent of the time. He said the other members of the board are voting with their hearts and not their minds. He said he hears the stories and he votes in favor even though there are no grounds for a variance.

7. **Approval of minutes from meeting of January 19, 2021:** Chair Pinkham said. Motion made by Member Robertson and seconded by Member Ryan to approve the minutes as amended; all in favor, 5-0.
8. **Any other matter that may be legally before the Board:** None.
9. **Motion made by Member Parrish and seconded by Member Ryan to adjourn;** all in favor, 5-0. Chair Pinkham adjourned the meeting at 9:15 p.m.

ATTEST:

Gordon Vincent
Clerk of the Zoning Board of Appeals