

**Zoning Board of Appeals
City Council Chambers
Woburn City Hall
Wednesday, May 18, 2022 – 6:00 p.m.**

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

- 1. Jason Duquet, 9 Eagle Road, 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 10.3 feet for an addition at 9 Eagle Road, Woburn, MA (continued from meeting of April 20, 2022):** Representing the petitioner was Attorney James Juliano, 42 Pleasant St., Woburn, MA. Attorney Juliano said his client plans to build an addition to a single-family home. He said building plans were submitted to the board last week. He said the existing house does not comply with the rear setback and frontage requirements. He said his client is seeking an addition that will reduce the rear setback distance from 18 feet to 10.3 feet. He said the board requested architectural renderings and elevations. He said there is a proposed storage room in the basement. He said there will be no additional bedrooms or bathrooms in the basement. He said the roof line of the addition will not go any higher than the existing home. Chair Pinkham asked when the original structure was built. Attorney Juliano said the original structure was built around 1970. Chair Pinkham said she thought Attorney Juliano said the only non-conformity is the rear setback. Attorney Juliano said the frontage does also not conform. Chair Pinkham said there was a 30-foot rear setback requirement in the '70s. She said she is confused about how the home could have been built 25.6 feet from the rear lot line without variance relief. Attorney Juliano said there is nothing in the Registry of Deeds to indicate there was relief granted. He said his only guess that the original as-built plans did not comply with zoning. Member Clancy asked if there is a strip of land behind the house. Attorney Juliano said there is about 100 feet from his client's house to the closest house in the rear. Chair Pinkham said the plans don't show access to the basement. Attorney Juliano said there will be a 42-inch opening to access the basement. He said there will be a cut in the cement. He said the basement will be used only for storage. Chair Pinkham asked if there will be a bulkhead. Attorney Juliano said there will be no bulkhead. He said the home is a split-level and a set of stairs will get you into the new area or the garage. He said no one is going to live in the basement. Chair Pinkham said the plans don't show the second floor. Attorney Juliano said the third sheet of the building plans shows the second floor. He said this is a typical split level his client is trying to expand. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Motion made by Member Parrish and seconded by Member Clancy to grant the special permit; approved, 5-0.
- 2. Nouredine Lahyani, 6 Beach Terrace, 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 rear yard setback from 30 feet to 23.5 feet to build an addition at 6 Beach Terrace, Woburn, MA (continued from meeting of April 20, 2022):** Representing the petitioner were Nouredine Lahyani, 6 Beach

Terrace, Woburn, MA; Breno Araujo Lopes, B.L. Construction Service LLC; and Marjorie Williams, no address given. Chair Pinkham said the board received plans that show the existing deck will be replaced with what appears to be a 3-season porch. She asked when the house was built. Mr. Lahyani said the house was built in 1979, and the existing deck was there when he bought the property in 2011. Chair Pinkham said the existing deck violates the rear setback requirement. She said she thinks that is the only non-conformity. She said the proposed sunroom is no closer to the setback than the existing deck. Member Parrish said the applicant supplied all the information the board requested. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Motion made by Member Parrish and seconded by Member Clancy to grant the special permit; approved, 5-0.

- 3. James K. Duran, 4 Duran Drive, Woburn MA, 01801, Petitioner and Landowner, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to raze and re-build a pre-existing, non-conforming 2-family home at 4 Fairmount Street, Woburn, MA:** Representing the petitioner was James K. Duran, 4 Duran Drive, Woburn, MA. Mr. Duran said the existing house is a 2-family dwelling that does not comply with the side setback requirement on the left side of the property. He said the setback is 11.5 feet and 12 feet is required. He said the proposed structure will have a 40-foot by 40-foot foundation. He said the new dwelling will comply with all the current setback requirements. He said the front setback will be 26 feet. He said the parking situation is going to be a lot better than it is now. Chair Pinkham said she does not see the front setback dimension on the plot plan. Mr. Duran said there is a chart on the plot plan with the setback dimensions. Mr. Duran submitted a series of photographs of the existing house, and two more photographs depicting what the new dwelling will resemble. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. Deborah LaFlamme, 47 Montvale Avenue, said there was asbestos siding on the house that she thinks may have been removed without permits. She asked where the asbestos went and where the old siding went. Mr. Duran said there was a plan to remove the siding and a company was hired. Ms. LaFlamme said there were no permits pulled. Mr. Duran said there are no permits required for asbestos removal. Ms. LaFlamme said she is also concerned there may be lead paint that she said she wants to make sure is removed properly. Chair Pinkham said she thinks that is covered by state regulations. Ms. LaFlamme said she was told she would have to cover her house with a tent. Mr. Duran said the asbestos has already been removed. He said what needed to be taken away was taken away. Member Robertson asked if the existing house has already been demolished. Chair Pinkham said the house is still there but Mr. Duran has indicated the asbestos siding has been removed. Member Robertson asked if the applicant obtained a permit to remove the asbestos. Mr. Duran said a company was hired to remove the asbestos. Member Robertson asked if Mr. Duran has a report. Mr. Duran said he will have to provide a report when he applies for a building permit. A man who said he lives at 5 Fairmount Street asked what the requirements are for asbestos removal. Chair Pinkham said she does not know. She said she believes anyone who removes asbestos has to be certified to do so and must take the asbestos to an approved location. The resident of 5 Fairmount Street asked if there is verification the asbestos was removed properly. Chair Pinkham said the resident can reach out to the Building Dept. Mr. Duran said he will provide the Building Dept. with information about asbestos removal when he applies

for a building permit. The resident of 5 Fairmount Street asked what the requirements are for asbestos removal. Member Robertson said it is inconceivable to him that the asbestos was removed without a permit. Ms. LaFlamme said she was under the impression a permit was required. Member Robertson said as far as he is concerned removal of the siding is part of the demolition process. He suggested inquiring with the Building Dept. or seeking a legal opinion from the City Solicitor. He asked Mr. Duran if he can get a report from the company that removed the asbestos. Mr. Duran said he does not remember the name of the company. The resident of 5 Fairmount Street said he only saw one person on the asbestos removal team wearing a hazmat suit and the rest of the team looked a little bit uncomfortable. He said he wants to make sure the asbestos was removed properly. Chair Pinkham said the state Dept. of Environmental Protection oversees asbestos removal. She said if the Building Dept. cannot provide the neighbor with information, he can reach out to the DEP. Mr. Duran said he told the Board of Health he was removing asbestos. Member Robertson asked if Mr. Duran got a permit from the Board of Health. Mr. Duran said he was told he did not need a permit from the Board of Health. Member Robertson asked who told him that. Mr. Duran said Building Commissioner Quinn told him that. Member Robertson asked if Mr. Duran has anything in writing from Commissioner Quinn. Chair Pinkham said asbestos removal is regulated by the DEP. She said she is looking at the DEP website. Member Robertson said he doesn't understand why removal of the siding isn't part of the demolition process. Chair Pinkham said it may be because it does not involve removal of the structure. Member Ryan asked if the removal of shingles requires a demolition permit. He said he is hearing a building permit isn't issued until a report is submitted to the Building Dept. Ms. LaFlamme said she does not think that's the way it should work. The resident from 5 Fairmount Street asked where he can find a record of tonight's meeting. Chair Pinkham said there is a clerk who takes minutes. Ms. LaFlamme asked if there is a rendering of what the house is going to look like and the parking. Chair Pinkham asked how many bedrooms there are in the existing dwelling and how many there will be in the new dwelling. Mr. Duran said there are three bedrooms now and there will be three bedrooms in the new house. Chair Pinkham asked if the number of bedrooms will remain the same. Mr. Duran answered affirmatively. Chair Pinkham asked if the number of bathrooms is increasing. Mr. Duran said there will be two additional bathrooms. Chair Pinkham asked if Mr. Duran has investigated whether the existing sewer line can accommodate two more bathrooms. Mr. Duran said that has not happened yet and he will furnish that information when he applies for a demolition permit. Member Parrish asked if the house will conform to the 35-foot height restriction in the zoning ordinance. Mr. Duran said the house will be either 26 or 28 feet high. Chair Pinkham said any decision written by the board will have a condition that the house must comply with the height requirements. Mark Kiklis, 3 Belford Circle, said his family owned 17 Fairmount Street. He said the proposed dwelling will be a substantial improvement over what is there now. Member Robertson said he would still like to request a legal opinion about whether a permit is required for asbestos removal. Chair Pinkham asked if Member Robertson is inquiring about whether a permit should have been obtained from the city or the state. Member Robertson said he wants to know if a permit should have been obtained from anywhere, if there is a hazardous substance involved. Member Ryan said he is also in favor of seeking a legal opinion. Member Robertson said if Mr. Duran has a letter from the Building Dept. indicating no

permits are necessary, he would accept that as evidentiary. Mr. Duran said he does not have anything from the Building Dept. Jeffrey Dillon, Ward 3 Councilor, said he himself went through this process about a year ago. He said in order to obtain a demolition permit, there are steps you have to follow. He said one of these steps involves asbestos removal. He said he dealt with Meghan Doherty from the city's Health Dept. He said there is no specific permit required, though you do have to hire someone who is certified. Member Parrish said he would be happy to request a legal opinion. The resident from 5 Fairmount Street asked if the board is going to rely on hearsay. Chair Pinkham said she thinks the board can rely on Mr. Dillon, who is a member of the City Council. She said approval is through the state DEP. She said she thinks she has enough information. She said she understands Member Robertson's desire for more information. Member Robertson asked if Alternate Member Cavicchi has any insight. Alternate Member Cavicchi said everything that has been said is 100 percent accurate. He said in order to issue a building permit, the Building Dept. will have to get paperwork indicating the asbestos was removed by a certified company. He said a building permit will not issue a building permit without the paperwork from a certified company. Member Ryan said he is okay with granting the special permit and requesting a legal opinion. He said he does not see why they cannot run concurrently. Member Parrish said if there is something wrong with the petition, the board can deny the application, but it cannot act as an enforcement agent. Member Ryan said the board can stipulate no building permit will be issued if everything isn't in line. Chair Pinkham asked if there are going to be two motions. Member Parrish said he is willing to second Member Ryan's request for a legal opinion. Member Clancy asked if the board is seeking a legal opinion for informational purposes, because he does not know if asbestos removal is within the board's jurisdiction. He said this specific type of thing is not in the board's purview. Member Ryan said he understands that. He said he would like some information about how asbestos removal is handled. He said he does not see how the board can hold up the application on that basis, though. Chair Pinkham asked if Member Robertson's position is the board ought not to issue the special permit until it receives a legal opinion. Member Robertson said he wants to know what it is the remedy. If it lies with the board, he does not know. Chair Pinkham said she think it lies with the Building Dept. Member Robertson said his opinion may differ from that. Motion made by Member Parrish and seconded by Member Clancy to grant the special permit; approved, 4-1, with Member Robertson opposed. Motion made by Member Ryan and seconded by Member Parrish to seek a legal opinion to determine whether the board has jurisdiction to deny an application on the basis the applicant has not supplied the board with the necessary information to determine the asbestos was removed properly; approved, 5-0. Mr. Duran said the company that performed the asbestos removal was Environmental Green Asbestos Removal.

4. **Ann Marie Paradis, 82 Mishawum Road, 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 side yard setback from 12 feet to 3.7 feet and a reduction in the rear yard setback from 4 feet to 3.4 feet to install a shed at 82 Mishawum Road, Woburn, MA:** Representing the petitioner was Ann Marie Paradis, 82 Mishawum Road, Woburn, MA. Ms. Paradis said the plan shows the location of the shed. Chair Pinkham asked if the shed is there now. Ms. Paradis said it is not. Chair Pinkham said her understanding is the applicant is seeking to locate the shed two

feet from the setbacks. Ms. Paradis said she wants to locate the shed two feet from the rear setback and two feet from the side setback. Chair Pinkham asked if Ms. Paradis is citing a hardship in her quest for a variance. She asked if there is some condition with the real estate that could be considered a hardship. Ms. Paradis said her property is sloped. She said she plans to put the shed in the flattest portion of her yard. Member Ryan said he thinks the lot has an odd shape. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Motion made by Member Parrish and seconded by Member Ryan to grant the variance; approved, 4-1, with Chair Pinkham opposed.

- 5. Christopher Talalas, 8 Pine 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 side yard setback and rear yard setback from 20 to 4 feet to install a shed at 8 Pine Street, Woburn, MA:** Representing the petitioner was Christopher Talalas, 8 Pine Street, Woburn, MA. Chairman Pinkham said the public hearing notice was changed and a second set of notices of the hearing were sent to abutters to reflect the appropriate setback requirements for a shed in the Industrial General zoning district. She said the standard for a variance involves something with the real estate. Mr. Talalas said there a right of way to 10 Pine Street and if he put the shed in a location that complies with the zoning ordinance he would lose a lot of parking. Member Clancy asked if there is a structure there now. Mr. Talalas said there is not. He said there is a big clump of trees that prevents him from complying with the other setback. He said he does not want to remove the trees. Member Parrish asked if there is already another shed on-site. Mr. Talalas said there is a structure in which he parks snowmobile trailers. He said it is a carport he wants to remove. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Member Ryan asked what the height of the shed is. Mr. Talalas said the height of the shed is 10 feet. Chair Pinkham said there are two references to the size of the shed – 18 feet by 25 feet on the petition, and 16 feet by 24 feet on the plot plan. Mr. Talalas said the 18 feet by 25 feet dimension is correct. He said the shed is prefabricated. He said that is a standard size. Chair Pinkham asked if that is the same size as a 2-car garage. Mr. Talalas said the Building Commissioner told him that size is right on the borderline of a 2-car garage. Member Ryan asked what material the shed will be made of. Mr. Talalas said the shed will be made of steel. He said the shed is manufactured by PowerBilt and will comply with the state code. Member Robertson asked what the shed will be used for. Mr. Talalas said the shed will be used for storage. He said he will park a lawn mower in there. Member Robertson asked what the size of the shed is. Mr. Talalas said the shed is 18 feet by 25 feet. Member Ryan asked if the 10-foot height measures to the peak of the roof or the top of the door. Mr. Talalas said there is a pitched roof that is 13- or 14-foot height. Member Ryan said the shed is a lot bigger than 16 feet by 24 feet by 10 feet. Member Clancy asked why Mr. Talalas wants to put the shed so close to the lot lines. Mr. Talalas said he is trying to keep the shed away from the driveway. He said he lives in a 2-family homes and his tenant needs parking for his vehicles. Chair Pinkham said if this was a garage, it could be up to 900-square-feet. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Motion made by Member Parrish to grant the variance. There was no second. Member Parrish said he would offer to retract his motion and offer the petitioner

leave to withdraw without prejudice. Member Ryan said a set of plans would help. He said he is concerned about the size of the proposed shed. He said he would like to see something that shows the size. Chair Pinkham said this is a structure of significant size. She said the standard for a variance is very high. She said Mr. Talalas has a really big lot. She said she understands his desire to maximize the use of property, but she is not going to vote for a shed that is four feet from the lot line. Member Clancy said he could consider the right of way to be a hardship. He said four feet on either side is a little too close for him, however. He said he would look more favorably on the application if the shed was 10 feet from each lot line. Mr. Talalas said a 10-foot setback distance would work for him. He said he would still have enough room to park in the front of his lot. He said he is not sure why his property is zoned IG. Member Ryan said he would support the variance if the shed were 10 feet from the lot lines. Chair Pinkham asked which setback distance will be 10 feet. Member Clancy said he would prefer that both setbacks be 10 feet. Member Robertson asked who uses the right of way. Mr. Talalas said the right of way goes to the house behind his. Motion made by Member Clancy to grant the variance with the condition that the shed is 10 feet from the side and rear lot lines. Member Parrish asked if the board needs a drawing to that effect. Chair Pinkham said the board could cite the dimensions in the narrative. Member Parrish asked if the petitioner could change the application to read that that shed will be 25 feet by 18 feet. Motion seconded by Member Parrish to grant the variance for a shed that is 18 feet by 25 feet with 10-foot rear and side setbacks; approved, 4-1, with Member Robertson opposed.

- 6. Robert Saoud and Christopher DiMeo, 45 Robinson Road, Woburn MA, 01801, Petitioners and Landowners, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, for an addition to a pre-existing, non-conforming single-family home at 45 Robinson Road, Woburn, MA:** Representing the petitioner was Christopher DiMeo, 45 Robinson Road, Woburn, MA. Chair Pinkham asked the applicants to describe their petition. Mr. DiMeo said the second page of the application shows the site plan. He said he and Mr. Saoud purchased the home a year ago and had a plot plan done. He said the house was built in 1957. He said he approached Building Commissioner Thomas Quinn about building an addition and was told the setback closest to the northern rear corner is non-conforming. He said the setback is 22.7 feet and they are 2.3 feet short of the requirement. He said the addition will continue as a non-conforming use. Chair Pinkham asked if the non-conforming setback is 22.7 feet. Mr. DiMeo said that is correct. Chair Pinkham asked about a pool house on the property. Mr. DiMeo said the pool house was built a long time ago. He said Commissioner Quinn considers the permits for the pool house open and closed. Member Ryan asked if 22.7 feet is considered the front setback. Mr. DiMeo said they have a corner lot and that is considered a front yard, which requires a 25-foot setback. He said Commissioner Quinn told him this is a common occurrence. Member Parrish asked if the addition is only vertical. Mr. DiMeo said the footprint will not change. He said this is the best option they came up with. He said they tried to design something that keeps with the character of the community. He said the immediate abutters and neighbors have no objection. Chair Pinkham said the addition looks like a master bedroom suite. Mr. DiMeo said that is correct. Chair Pinkham said there is an existing door that serves as the entrance to the first floor. Mr. DiMeo said that will not change. Chair Pinkham said there appears to be a door in the rear that goes to a finished basement. Mr. DiMeo said there are two exits and

nothing will change. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. Taeminn Song, 60 Robinson Road, said he lives diagonally across the street. He said he is in support of what the petitioners are trying to do. Charles Viola, Ward 7 Councilor, said he met with the petitioners, reviewed the plans, and gave him a walk-through. He said he has no issues with this petition and would appreciate the board's favorable consideration of the special permit. Councilor Viola also submitted a letter which he said he wants to submit. Motion made by Member Parrish and seconded by Member Clancy to grant the special permit; approved, 5-0.

- 7. Almiro Pereira do Vale Filho and Michelle Nogueira do Vale, 159 Mishawum Road, Woburn MA, 01801, Petitioners and Landowners, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, for an addition to a pre-existing, non-conforming single-family home at 159 Mishawum Road, Woburn, MA:** Representing the petitioner was Michelle Nogueira do Vale, 159 Mishawum Road, Woburn MA. Chair Pinkham said the applicants' lot is undersized and the existing structure does not comply with the 25-foot front yard setback requirement. She said her concern is the proposed addition will create a new non-conformity. She said she thinks this application should be for a variance. She said the proposed setback is less than a foot from the lot line. She said the existing home complies with the side setbacks, while the proposed addition does not comply with the side setbacks. She said the board only has the ability to grant a special permit for an addition that stays at least 12 feet from the side setback. Member Ryan asked if the applicants' property borders a paper street. Ms. do Vale said it does. Member Ryan asked if the applicants' structure extends onto the paper street. Ms. do Vale said they found out about the existence of the paper street when the plot plan was drawn. She said the paper street consists of woods. Chair Pinkham asked if there is a retaining wall and a fence. Ms. do Vale said they re-did the fence and thought the land was all theirs. Member Ryan asked how long the applicants have owned the house. Ms. do Vale said they bought the house in 2019. Member Ryan asked if the fence was built with a permit. Ms. do Vale said they took down the old fence and put up a new one. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Member Ryan said the fence and the patio are over the property line, but that is not the subject of the application. Member Parrish asked Ms. do Vale where vehicles are going to be parked. Ms. do Vale said there is a garage, and plenty of space in front for parking. Member Ryan asked if there is a temporary garage now. Ms. do Vale said there is a tent. Chair Pinkham said even if this application was a request for a special permit, she would not be in favor of putting a structure 0.6 feet from the property line. She said she does not think the board has jurisdiction to grant a special permit anyway. Motion made by Member Robertson and seconded by Member Parrish to grant the special permit. Member Clancy said he would like to give the petitioner some feedback. He said he wants to look at the structure before he votes yes. He asked if the petitioner could put something on her property to delineate the property line from the paper street. Member Ryan said he is of a similar mindset. He said the fence and the patio appear to be substantially over the property line. Chair Pinkham said she does not think the special permit is going to pass tonight. She said the applicant has the option to request a vote or ask for a continuance and make substantial changes to the proposal. She said the applicant can also request to withdraw the application. She said if the applicant requests a continuance, she can come up with

something else. Member Ryan said he does not think the petition is hopeless. He said he thinks if the applicants re-work the plan and address the concerns of the board, the petition may be looked upon more favorably. Ms. do Vale said she understands and would like to confer with her husband. Chair Pinkham said the applicants have some space on the lot. She said she does not know if there is an ideal spot, though. Ms. do Vale said they tried to position the addition on either side of the existing structure, but it did not work. Member Ryan said shifting the proposed addition forward a little bit and come back with amended plans. Chair Pinkham said if the applicants want to go back to the drawing board, they have four weeks. Motion made by Member Clancy and seconded by Member Ryan to continue the hearing until the board's meeting on Wednesday, June 15, 2022; approved, 5-0.

8. **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 3 feet within the 25-foot front yard setback at 18 Green Street, Woburn, MA:** Representing the petitioner was Attorney Mark Salvati, 10 Cedar Street, Woburn, MA. Attorney Salvati said his client was before the board several months ago seeking a variance for a fence, a portion of which he said has been removed due to line-of-sight issues. He said when his client filed for a variance last time, the intent was to increase the height of the fence from 3 feet to 6 feet. He said that application was withdrawn and his client went back to the drawing board. He said his client consulted with Building Commissioner Thomas Quinn, and the new petition seeks a variance that will move the fence back four feet from the existing retaining wall. He said this is a compromise. He said his client could put up a 3-foot fence only two feet off the wall and it would create a worse line of sight condition. Attorney Salvati said this is a di minimis change. He said line of sight will be improved with this option. Chair Pinkham said her recollection with the previous application is that the board asked the Traffic Safety Officer to analyze the line-of-sight issues. She asked if the TSO has any input about this design. Attorney Salvati said the TSO indicated he is not comfortable with any variety of fence, so he did not see the need to contact him. He said they did provide line-of-sight calculations and he thinks the new location of the fence is better. Chair Pinkham said she does not remember the TSO's analysis of line-of-sight. Attorney Salvati said he has a diagram that shows moving the fence four feet back from Green Street will create a 250-foot line-of-sight. Member Ryan said his recollection is there were tall bushes on top of the wall and it was terrible. He said when the plan showed the fence going right up to the wall, the TSO determined it was an improvement. Member Ryan said moving the fence back four feet from the retaining wall is a tremendous improvement. He said the applicant has come a long way and has satisfied his concerns. Member Clancy said he has gone by the property several times. He said you have to roll a little bit from the side street to see out onto Green Street. He said this is not an ideal condition, but he added he does not think the fence changes it that much. He said he does not think the fence is detrimental to the sight lines. Chair Pinkham asked what the applicant is citing for a hardship. Attorney Salvati said his client has a corner lot with some elevation. He said people cut through his client's yard and a 3-foot fence would not deter them. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Member Robertson asked what the Traffic Safety Officer's final analysis was. Attorney Salvati said the Traffic Safety Officer was not in

favor of his client's prior petition. He said this petition places the fence four feet back from what was previously proposed. He said his client could by right put up a 3-foot fence only two feet off the wall. Chair Pinkham said she does not agree the applicant can put up a 3-foot fence by right. Member Robertson said everyone agrees there are line-of-sight issues. He said Member Clancy indicated he had to creep out from the side street to get an adequate view of Green Street. Attorney Salvati said a car would have to creep out whether there is a fence or not. Member Clancy said drivers really have to be careful. He said he does not think the fence is a factor. He said there is a problem the fence does not make worse. Member Ryan agreed a car would have to edge out onto Green Street regardless. He said his recollection is the Traffic Safety Officers felt moving the fence back would help. Member Robertson asked if the TSO indicated the problem will go away. Attorney Salvati said moving the fence back four feet is irrelevant to the line of sight. Member Robertson said if the Woburn Police Dept. would put that in writing, he will support the variance. Attorney Salvati said if that is a condition of approval of the variance, he will ask for a continuance. Member Robertson asked what Attorney Salvati anticipates the TSO saying. Attorney Salvati said he thinks the TSO will agree with him. He asked if Member Robertson is in favor of granting the variance. Member Robertson said he is still hearing concerns about line-of-sight issues. Attorney Salvati said he would like to ask for a continuance until the June meeting. Motion made by Member Clancy and seconded by Member Ryan to continue the hearing until the board's meeting on Wednesday, June 15, 2022; approved, 5-0.

9. **Bhavik Doshi, 30B Merrimac St., Woburn MA, 01801, 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 30B Merrimac St., Woburn, MA:** Representing the petitioner was Bhavik Doshi, 30B Merrimac Street, Woburn, MA. Mr. Doshi said he is seeking a variance for a 6-foot fence in the front yard. He said the lower 4.5 feet of the fence will be solid and the upper 1.5 feet will be scalloped. Chair Pinkham asked if the applicant is going to use the fence to enclose a play area. Mr. Doshi said the back side of the fence is already there, and he wants to enclose the yard. Chair Pinkham said the aerial photo makes it look like there is a fence within the 25-foot setback. She asked if Mr. Doshi is proposing to add a fenced in area to his front yard. Mr. Doshi replied affirmatively. Chair Pinkham said the legal standard for a variance is very high and the board would have to make a finding that there is a hardship relating to the topography, soil conditions or the shape of the land. Member Ryan asked if Mr. Doshi indicated there is already a chain link fence where the proposed fence is going. Mr. Doshi said he did not. Member Ryan said it appears the fence is going to be located next to a driveway on a very, very busy street. He said his concern about a 6-foot fence would be line-of-sight. He asked Mr. Doshi if this is a 2-family home. Mr. Doshi answered affirmatively. He said is planning to keep the fence two feet from the sidewalk. Member Robertson asked if Mr. Doshi lives in a 2-unit condominium. Mr. Doshi said he does. Member Robertson asked if the owner of the other unit is a party to this petition. Chair Pinkham said the owner of the other unit signed a petition in support of the application. Chair Pinkham said the standard for a variance is high. She asked if there is something about the real estate that justifies a 6-foot height for the fence. Mr. Doshi said the backyard is sloped. He said he cannot use the space out back for a play area. Chair Pinkham asked if Mr. Doshi will be willing to build a 3-foot fence. Mr. Doshi

said he has a daughter who likes to climb. Chair Pinkham said she will not be voting in favor. She said the installation of a fence will make it too dangerous to get in and out of the driveway. She said she does not vote in favor of 6-foot fences in the front setback unless she is convinced the legal standard for a hardship is met. Member Ryan said he also has a concern about sight lines. Member Parrish said he cannot vote in favor either. He said there is nothing peculiar about Mr. Doshi's lot. He said he does not think he can support this. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Member Robertson asked if the deed would have to be amended to allow for the fence. Chair Pinkham said the applicant may have exclusive use of his side yard. She said she does not have an answer to that question, however. She said four affirmative votes are required for approval of a variance and this petition does not appear to have enough support. She said the applicant has gotten feedback from the board that there is no appetite for a 6-foot fence so close to the lot lines. She said even if the applicant changed his petition to ask for a 4-foot fence, she would not vote in favor of it. She said the applicant has the option of reconfiguring the fence or asking to withdraw his petition. Mr. Doshi asked if anyone else on the board would object to a 4-foot fence. Member Ryan said he will not vote in favor of a 4-foot fence in the proposed location. Member Clancy said the fence is too close to a busy street and he is concerned about sight lines. Mr. Doshi said if there is not enough support for either a 6-foot fence or a 4-foot fence, he will ask to withdraw his application. Member Parrish said Mr. Doshi can still put up a 3-foot fence without relief. Motion made by Member Parrish and seconded by Member Clancy to grant the petition leave to withdraw without prejudice; approved, 5-0.

- 10. Marshall White, 73R Pleasant St., Woburn MA, 01801, Petitioner, and John Sheehy, 25 Hiawatha Road, Woburn, MA, 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 25 Hiawatha Road, Woburn, MA:** Representing the petitioner were Marshall White, 73R Pleasant Street, Woburn, MA; and Colleen Sheehy, 25 Hiawatha Road, Woburn, MA. Chair Pinkham said the property is on a corner lot and thus has two front yards and two setbacks for zoning purposes. She asked if the applicant is seeking a variance for a 6-foot fence. Mr. White said his client is seeking a variance for a 6-foot fence. He said there is an existing hedge that is going to be replaced by a fence. He said the centerline of the hedge is roughly four feet. Chair Pinkham asked when the house was built. Mr. White said he believes the house was built in the 1950s. Chair Pinkham said she believes the property owner could put in a fence by right where the hedge exists now. Mr. White said the frontage is non-conforming at 85.4 feet. Chair Pinkham asked if there is an easement. Mr. White said there is an easement but there is no record of it being used. He said he believes there is nothing there. Member Parrish asked if the new fence would replace the existing plantings. Mr. White answered affirmatively. He said he would like to submit documents signed by neighbors who do not oppose the application for a variance. Member Ryan said the lot definitely has an odd shape. He said the neighbor to the right appears to have a tall fence. He asked if the neighbor's fence is 6-feet. Mr. White said the neighbor's fence is six feet high and made of vinyl. He said the applicant's fence will be made of wood. Member Ryan said in this case, there is clearly not the same line-of-sight issue as there was with the previous petition. He said the whole corner is wide open. He

said the fence would be replacing tall arborvitaes. He asked where the easement is. Mr. White said the easement is along the back of the property. Member Robertson asked why the property owner wants to install a 6-foot fence. Mr. White said there is a lot of foot traffic that heads toward the Reeves Elementary School. He said there is a tendency for kids to cut through the yard. He said Mr. and Mrs. Sheehy just finished a major renovation. Member Parrish asked if the property owner gave any thought to running the fence parallel to Crawford Drive. Mr. White said the backyard is very wet. He said there is a concern that anything wood will not last. He said they are trying to get as far away from the wet area of the property as possible. Member Parrish asked if this petition would qualify for a special permit instead of a variance. Chair Pinkham said a special permit is usually reserved for a residential structure. Member Parrish said the board can ask for the fence to be pushed back with the installation of plantings. He said he is pleased the property owner has opted to go with a wooden fence instead of a vinyl one. Ms. Sheehy said she would be willing to add some plantings. She said there have also been issues with the arborvitaes and wires. Member Ryan asked if anyone else in the neighborhood has a similar fence, other than the direct abutter. Ms. Sheehy said the house on the opposite corner has a similar type of fence. Mr. White said there are a handful of similar fences in the neighborhood. Member Ryan said he could probably support this petition because there are no line-of-sight issues. Member Clancy said he is not ready to vote in favor yet. He said the board has been pretty consistent about not approving variances for 6-foot fences close to the property line. He said he would like to look at the existing conditions before he votes. Chair Pinkham said she is also not prepared to vote. She said the applicant can ask for a continuance. Mr. White said it seems to make sense to ask for a continuance and a site visit. Chair Pinkham asked if the board wants to conduct a site visit. Member Clancy said he can see it on his own. Member Parrish said he does not think he needs to make a site visit. Member Clancy said he will go back and look at the property again. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Motion made by Member Parrish and seconded by Member Clancy to continue the hearing until the board's meeting on June 15; approved, 5-0.

11. Approval of minutes from meeting of April 20, 2022: Chair Pinkham said she made a series of edits she will give to the clerk. Motion made by Member Robertson and seconded by Member Ryan to approve the minutes as amended by the chair; approved, 5-0.

12. Any other matter that may be legally before the Board: None

13. Motion made by Member Parrish and seconded by Member Ryan to adjourn; all in favor, 5-0. Chair Pinkham adjourned the meeting at 8:47 p.m.

ATTEST:

Gordon Vincent
Clerk of the Zoning Board of Appeals

