**Zoning Board of Appeals**
**City Council Chambers**
**Woburn City Hall**
**Wednesday, March 22, 2023 – 6:00 p.m.**

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

1. **Ulta Beauty/Heather Dudko Sousa Signs LLC, 27 Old Meetinghouse Road, Auburn, MA, 01501, Petitioners, and New Creek II LLC, 500 North Broadway, Suite 201, Jericho, NY, 11753, Landowner, seeking a Variance from Section 13.7.2.5 of the 1985 Woburn Zoning Ordinances, as amended, for the installation of awnings larger than what is allowed at 425 Washington St., Woburn, MA:** Representing the petitioner was Jennifer Ronneburger, CEO, Go Permit, 9061 Woodlark Terrace, Boynton Beach, FL. Ms. Ronneburger said the awnings are the one item that needs to be resolved from last month's hearing. She said she has two copies of updated depictions and specifications for the proposed awnings. Member Ryan asked Ms. Ronneburger if she has a letter from a professional engineer indicating the awnings will be safe. He said the documents Ms. Ronneburger submitted have very technical language. Mr. Ronneburger said the documents were certified by Michael Sullaway, who is a registered professional engineer. She said the drawings show the height and length of the awnings. Member Ryan said he would rather see a letter written in plain English that indicates the awnings are safe. Ms. Ronneburger said she does not have a letter. She said calculations have been provided. She said these are the same calculations that will be provided to the Building Dept. Member Ryan asked if the drawings were submitted to the Building Dept. Ms. Ronneburger answered affirmatively. Chair Pinkham asked if the notice of public hearing references the awnings. Clerk responded there was a second published notice that specifically references the awnings. Chair Pinkham read from the public hearing notice: "Ulta Beauty/Heather Dudko Sousa Signs LLC, 27 Old Meetinghouse Road, Auburn, MA, 01501, Petitioners, and New Creek II LLC, 500 North Broadway, Suite 201, Jericho, NY, 11753, Landowner, seeking a Variance from Section 13.7.2.5 of the 1985 Woburn Zoning Ordinances, as amended, for the installation of awnings larger than what is allowed at 425 Washington St., Woburn, MA." Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Chair Pinkham asked the petitioner what she is citing as a hardship for the variance. Ms. Ronneburger said the design of the building constitutes a hardship. She said awnings have already been designed. She said it was an error on their part and she is asking for forgiveness. She said there will be 9.5 feet of clearance. Chair Pinkham said the statute indicates the board needs to make a finding that there is a hardship based on the shape of the land, the topography or the soil conditions. Ms. Ronneburger said the hardship is the excessive distance the building is set back from the road, and the way the building is proportioned. Chair Pinkham asked how the distance from the street constitutes a hardship. Ms. Ronneburger said the awnings create a branding for the client. Member Ryan said this is the same petition the board saw last month. He said he was expecting the applicant to submit something in plain English that states the awnings are going to be safe. He said the documents that were submitted consist of calculations that

don't say anything about safety. Ms. Ronneburger said the drawings indicate the awnings have structural integrity. Member Ryan said he is trying to be sympathetic. He said is taking into consideration the shape of the lot and the way the building is situated, but he does not understand the report. Ms. Ronneburger said she is sorry she misunderstood the board's request from last month. Member Ryan said he is sorry he wasn't clearer. He said he thinks the board is looking for a written report that a regular person would understand. He said he is in the same position he was in last month. Member Robertson asked what the specific issue is. He said he has had problems with this petition from the start. He said it is a complicated petition. He said he thought if the petitioner showed up with calculations, it would be okay. Member Ryan said the awnings are supposed to be four feet high. He said the proposed awnings are six feet high. He said he wanted to see something in writing that indicates the awnings could handle the wind load and are safe. Member Robertson said Ms. Ronneburger is making a representation the conditions will be safe. Member Ryan asked Ms. Ronneburger what her qualifications are to represent the awnings will be safe. Ms. Ronneburger said she has worked in the permitting industry for 25 years. She said she does not have an engineering license but an engineer put the plans together. She said the engineer did the calculations. She said the Building Dept. will also conduct an inspection. Chair Pinkham said she is still in the same place she was last month. She said she still does not think the applicant has met the standard for a hardship. She said the applicant has provided the board with engineering documents with no legitimate way to digest the information. She said she will not be voting in favor because she does not think the legal standard has been met. Member Parrish said he was not as concerned with the awnings as he was with the lighted signs. He said he would support the petition. Member Ryan said he can support the petition, but not until he sees a document from the engineering company that the documents will be safe. Ms. Ronneburger said the engineer stamped the documents with his seal. She said the awnings were designed specifically for this location. She said Commissioner Quinn will have the final say regardless. Member Ryan asked if Ms. Ronneburger could get a letter from the engineer stating the awnings will be safe. Ms. Ronneburger said she can do that. Chair Pinkham said the ordinance limits the height of awnings to four feet. She said Member Ryan's concern is pedestrians might be imperiled if the awnings are not safe. Ms. Ronneburger said she can provide the board with documentation that the awnings will be safe. Member Ryan said he would prefer to see some type of narrative. He said that's all he's looking for. Member Clancy said he is in favor. Chair Pinkham said the petitioner has the option of requesting a vote tonight or asking for a continuance so she can provide Member Ryan with a document that indicates the awnings are safe. Ms. Ronneburger said she would like to ask for a continuance. Chair Pinkham said the board's next meeting will be on April 19. Motion made by Member Parrish and seconded by Member Clancy to continue the hearing until the board's meeting on April 19, 2023; approved, 5-0.

2. **Patricia A. Dillon and Patrick J. Dillon, 161 Burlington St., Petitioners and 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 pre-existing, non-conforming lot at 161 Burlington St., Woburn, MA:** Representing the petitioner was Attorney Joseph Papetti, 81 Farmland Road, Lowell, MA. Attorney Papetti said the

petitioners live at 161 Burlington Street. He said they are lifelong residents of Woburn. He said they live with their two children and mother, who has a respiratory illness. He said Mr. Dillon also runs a business in Woburn. He said 161 Burlington Street was built around 1935 and it has always been a single-family residence. He said the frontage is non-conforming at only 58 feet. He said the lot is oddly-shaped. He said the applicants plan to raze the existing home and build a new home that complies with the side setback requirements of the 12 feet on both sides. He said the new home will have four bedrooms and 3.5 bathrooms, which is consistent with modern homes. He said the structure will be an asset to the community. He said the same residents will live in the house. He said low flow utilities will be installed and there will be no impact on municipal services. He said the new house will be somewhat larger than the old house. He said the house will be constructed by local builders. He said there will be access through a bulkhead. He said the house will be designed to make easier access for the grandmother. He said she will be on the primary floor. He said there have been letters submitted from three abutters, including the neighbor across the street, in support of the application. Attorney Papetti submitted the letters to the clerk. Chair Pinkham asked where on the plans there is a reference to the bulkhead. Attorney Papetti said the bulkhead appears on page four of the plans. Chair Pinkham said page 3 refers to an "optional bulkhead." Attorney Papetti said that will be the actual bulkhead. Chair Pinkham said the board typically attaches conditions to a special permit of this nature to prevent the dwelling from becoming a two-family home. Attorney Papetti said there will be no second kitchen. Chair Pinkham recalled a previous petition when a property owner installed a door for a split entry. She said the conditions that are typically imposed by the board include a requirement that the door to the in-law area cannot be closed off. Attorney Papetti said the petitioner has made assurances there will not be a separate in-law apartment. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. Mary E. Dillon, 63 Sheridan Street, said she supports approval of the special permit. Thomas Skeffington, 9 Bamberg Drive, said he is not a direct abutter, but he lives around the corner. He said the ZBA approved a variance and special permit for a home on the other side of the street that had only 50 feet of frontage. He said the applicant is eliminating the non-conforming side setbacks. He said the street is not crazy busy. He said the Burlington Street area is commonly referred to as "the Flats," but he refers to it as "Dillon County" because everywhere you look, there is a Dillon. He said the property looks beautiful. He said the applicants have lived in Woburn their entire lives. He said Mr. Dillon is the manager of a restaurant in Woburn called Sam Walker's Tavern, which started three years ago on Montvale Avenue. He said Sam Walker's is a frequent contributor to non-profit organizations in Woburn. He said he thinks the new home is going to be beautiful and their mother will have a better life. Chair Pinkham asked if there plan for an attic. Chair Pinkham said she sees there is a walk-up attic on page eight of the plans. Attorney Papetti said he believes that is correct. Chair Pinkham asked if the attic will be used for storage. Attorney Papetti said the attic will be used just for storage. Motion made by Member Robertson and seconded by Member Parrish to grant the special permit with the standard conditions that the dwelling will remain a single-family, with an additional condition that access to the basement will be provided via a bulkhead; approved, 5-0.

3. **John Vining, 160 Montvale Avenue, Woburn, MA, 01801, seeking a Variance from Section 6.2.3 of the 1985 Woburn Zoning Ordinances, as amended, for a detached 2-car garage with a height greater than 20 feet at 160 Montvale Avenue, Woburn, MA:** Mr. Vining said he wants to build a detached two-car garage that exceeds the height limit in the zoning ordinance. Chair Pinkham said when she initially looked at the application she thought Mr. Vining requested a special permit, which the board would not be authorized to issue in this instance because a new non-conformity would be created. She said the Building Commissioner opined Mr. Vining needs a variance. She said she conferred with the City Solicitor and determined the board has the ability to issue a variance in this instance. She said the city published the notice and advertised the relief that is being sought as a variance. She said there are different standards for a special permit and a variance. Mr. Vining said he reached out to the Building Dept. and the clerk and was advised he needed a variance, even though he applied for a special permit. Chair Pinkham read the section of the state statute that applies to variances and asked Mr. Vining what he is citing as a hardship. Mr. Vining replied he does not have a hardship as it relates to the topography or the shape of the lot. He said the garage will not be seen from the public way and it will not block the line of sight for any of his abutters. He said he reached out to the abutters and none of them has any objection to the garage. He said has a couple of photos that show no one will be able to see the garage. Chair Pinkham said the plans show the garage doors will be eight feet high. Mr. Vining said the garage doors are eight feet high and he will be using the second floor of the garage for storage. Member Ryan asked if there is another garage already on the property. Mr. Vining said there is a 2-bay garage attached to the upper part of the house. Member Ryan asked Mr. Vining if he intends to use the detached garage for commercial purposes. Mr. Vining said he intends to use the detached garage for the storage of antique cars. Member Robertson asked how the storage of cars relates to the height of the garage. Mr. Vining said he is an architect. He said is trying to save some money by salvaging materials from a property he worked on that had a vintage barn. He said he wants to make sure the structure looks historically accurate. He said the garage will have no negative impact on the neighborhood. Member Robertson said the problem with the lot is there is nothing that constitutes a hardship. Mr. Vining said he thought he needed a special permit that does not require a hardship. Chair Pinkham said she has a memory of a hearing that involved the prohibition of more than one garage. Mr. Vining said he thinks the restriction is no more than two structures. Chair Pinkham said she remembers a similar issue on Washington Street. Member Parrish said he remembers a similar situation with a carriage house on Arlington Road. Member Ryan said there was also a similar petition involving a pool on Salem Street that was denied. Mr. Vining said he believes the regulation prohibits more than two detached structures. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Member Clancy said he will support this. Member Parrish said he does not know if he has ever voted in favor of a variance for height. He said he will be able to support this detached structure. Chair Pinkham said she appreciates Mr. Vining's forthrightness, but she does not think the standard for a variance has been met. Member Ryan said he is torn about this one. He said his main concern is the garage being used commercially. He asked Mr. Vining if he is willing to stipulate the garage will not be used for commercial purposes nor as a separate residential structure. Chair Pinkham said the board could attach

conditions. Motion made by Member Parrish and seconded by Member Clancy to grant the variance with two conditions: 1.) the detached garage shall not be used for commercial purposes, and; 2.) the garage shall not he used as a separate dwelling unit; failed, 3-2, with Chair Pinkham and Member Robertson opposed.

4. **Angela M. and Arcangelo Parziale, 23 Day Circle, Woburn, MA, Petitioners and 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 pre-existing, non-conforming lot at 23 Day Circle, Woburn, MA:** Representing the applicant were Ms. Parziale and Andres T. Rojas, Rojas Design, Inc., 46 Waltham Street, Suite 2A, Boston, MA. Ms. Parziale said her family will have lived in Woburn for 17 years in May. She said they are a family of five with three children. She said their current home has three bedrooms with one bathroom and one shower. She said her extended family lives in Pennsylvania and her husband's family lives in the North End. She said they want space for her parents when they visit. She said they were looking for a larger house but there weren't a lot of options available in Woburn. She said the neighbors are very excited about the prospect of them building a new home. She said their current home is quite old, and building a new one is the only thing that makes sense. Mr. Rojas said there are two issues with the existing lot. He said the lot is 11,078-square-feet and non-conforming. He said the other non-conformity is the front yard setback, which is 20.5 feet. He said they would like to retain that distance. He said the lot is pie-shaped and positioning the new home will be very difficult. He said there will be a fitness facility in the basement. He said all the members of the Parziale family are interested in physical fitness. He said there will be a set of stairs and not a bulkhead to the basement. He said the design of the new house calls for five bedrooms. He said there will be no windows in the basement. He said it will be purely used for physical fitness equipment. He said the attic will become a den for Mr. Parziale. Chair Pinkham said the setbacks distances on the plans do not match. Mr. Rojas said the front yard setback will be 20.5 feet. Chair Pinkham said the side setback on one drawing is 15.6 feet and the side setback on another drawing is 15.2 feet on drawing L-01, but she thinks that may be because of the overhanging roof. Mr. Rojas said that is correct. The roof overhang on the western side is four inches. Chair Pinkham asked what the 14.3 foot distance is on the drawing L-01. Mr. Rojas replied that distance is for the existing house. Chair Pinkham said she is concerned about the staired entrance to the basement. She said 40 years from now the applicant may not own the house and she does not want to see the basement converted into a second dwelling unit. She said the board does have a set of conditions that limits the house to a single-family use. Ms. Parziale said there no intent to create a separate dwelling unit and she has no problem with those conditions. Mr. Rojas said the basement has no windows and it would be almost impossible to make that into a bedroom. Member Robertson asked what is the footprint of the existing house versus the proposed house. Mr. Rojas said the proposed footprint is not a lot bigger than the existing house. He said it is less than 400-square-feet bigger. He said it is not as wide but it is longer. Member Parrish asked about a notation on page G-01 that indicates the zoning district is R-3. Mr. Rojas said the R-3 notation is the building classification under the stater building code. He said the zoning district is R-1. Member Ryan said he cannot find the building height on the plans. Mr. Rojas said page A-09 indicates the ridge line is 30.8 feet. He said the grade is 1.8 feet, and the height of the structure is 32.6 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 and seconded by Member Ryan to grant the special permit with the standard conditions that retain the single-family status of the dwelling; approved, 5-0.

5. **Newport Realty Development LLC, 75 Third Ave., Waltham MA, 02541, Petitioner and Landowner, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to raze and replace a two-family home at 11 Mishawum Road, Woburn, MA:** Chair Pinkham said the board has received correspondence from Attorney Mark Salvati, 57 Arlington Road, Woburn, MA, and read it as follows: "Request is made for leave to withdraw the special permit petition filed for 11 Mishawum Road without prejudice." 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 date of the request is. Chair Pinkham said the letter is dated today. Member Robertson said if members of the public had shown up he does not think he would have voted in favor of leave of withdrawal without prejudice. Motion made by Member Robertson and seconded by Member Parrish to grant leave to withdraw without prejudice; approved, 5-0.

6. **Approval of minutes from meeting of February 15, 2023:** Chair Pinkham said she has corrections on pages 4 and 5 that she will give to the clerk. She asked if any other members of the board have any corrections. There were no respondents. Motion made by Member Parrish and seconded by Member Clancy to approve the minutes as amended; all in favor, 5-0.

7. **Any other matter that may be legally before the Board:** Clerk said there is correspondence from Attorney Paul Haverty, Blatman, Bobrowski, Haverty & Silverstein LLC, 9 Damonmill Square, Concord, MA, that includes proposed renderings of the murals on the pump station at 1042 Main Street. Clerk said Attorney Haverty would like to know if the proposed murals are acceptable to the board. Member Parrish asked if the proposed renderings constitute a substantial change. Chair Pinkham asked if all the members of the board have seen the renderings. Clerk said he sent the document only to the chair. Chair Pinkham suggested sending the renderings to all the members of the board and soliciting their opinions to determine if this a substantial change.

8. **Motion made by Member Parrish and seconded by Member Clancy to adjourn**; approved, 5-0. Chair Pinkham adjourned the meeting at 7:20 p.m.

ATTEST: _____

Gordon Vincent
Clerk of the Zoning Board of Appeals