

**Zoning Board of Appeals
City Council Chambers
Woburn City Hall
Wednesday, August 16, 2023 – 6:00 p.m.**

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

- 1. Commonwealth Realty Foundation LLC, 200 West Cummings Park, Woburn, MA, Petitioner and Landowner, seeking Variances from Section 6.1 of the 1985 Woburn Zoning Ordinances, as amended, for a reduction in the minimum lot size from 12,000-square-feet to 8,370-square-feet and a reduction in the frontage requirement from 25 feet to 22 feet to construct a single-family home at no street number Marcy Street, Woburn, MA (continued from meeting of July 19, 2023):** Chair Pinkham said she understands the applicant has requested another continuance. Clerk said he received an email from an agent representing the applicant this afternoon. Member Robertson asked what time the email arrived. Clerk said the email was received at 2:41 p.m. Member Robertson asked the clerk to read the email, as follows: “Please accept this email as a formal request to continue the above-referenced hearing scheduled for tonight to the next regularly scheduled Zoning Board of Appeals meeting. Please contact me with any questions. Thank you for your attention to this matter.” s/Michael Aveni, Senior Project Architect, Cummings Properties. Member Robertson asked if the public was notified of the continuance from the July meeting. Clerk said he did not receive a definitive answer from the board about notification. Member Robertson said he is not going to vote for another continuance. Chair Pinkham asked if anyone in the audience wished to address the audience in regard to the petition. Kim Barrows, 28 Albany St., said she has a number of concerns. She said she wonders how the applicant is going to justify a variance is warranted because the state statute requires the hardship to be based on topography, soil conditions or shape of the land. She said the lot size is 30 percent smaller than what is required for a buildable lot. She said she has concerns about safety issues, since there are no sidewalks. She said there is not enough space for a single-family home. She said she appreciates the board considering the facts. She said a single-family home is not technically allowed under the city’s zoning code. Marlene Soler, 25 Erie St., said she has concerns about traffic if the road is extended. She said the zoning code requires 12,000-square-feet for a single-family home and the lot upon which the applicant is seeking to build is approximately 8,000-square-feet. She said she is opposed to the applicant jamming something into a small lot. She said the streets in the neighborhood are used as a cut-through. John Barrows, 28 Albany St., said his biggest concern is the potential for the street to be used as a through way. He said the neighbors were not consulted when the former Kraft plant was redeveloped. He said there are five young children in the neighborhood. He said the neighborhood does not need more traffic and more stress to the environment. Kyle Buckley, no address given, said his father-in-law lives at 2 Marcy St. He said the street is a dead end. He said his is concerned the street will become a pass-through. He said more traffic would endanger children. Ms. Barrows returned to the podium and asked if it is common for the board to consider

applications for variances on non-buildable lots. She asked why a variance would be considered when the lot is 4,000-square-feet less than required. Chair Pinkham said the statute regarding variances is quite clear. She said the board would have to make a finding based on special circumstances. She said she cannot describe what a typical variance is because the city has such a wide variety of properties. She said the standard for a variance is intended to be high. Ms. Barrows asked if abutters will receive another post card if the hearing is continued. Chair Pinkham asked how the board wishes to proceed. Motion made by Member Robertson to deny the request for a continuance. Chair Pinkham said Member Robertson's motion did not receive a second. Motion made by Member Parrish and seconded by Member Clancy to continue the hearing until the board's meeting in September. Chair Pinkham asked if the board wishes to amend the motion to advise the applicant that he should either appear at the September meeting or withdraw the petition. Motion made by Member Parrish and seconded by Member Clancy to amend the motion to include an advisory to the applicant that he should be prepared to proceed at the September meeting or withdraw the petition. Member Robertson said nine times out of 10 he would vote for a continuance if the applicant were ill or the board requests more information. He asked the clerk if the applicant gave a reason for requesting a continuance. Clerk said he spoke to Mr. Aveni on the telephone and Mr. Aveni indicated he would like more time to do some research. Member Robertson said this instance is unprecedented. He said he is not going to vote in favor of the continuance. Motion to continue approved, 4-1, with Member Robertson opposed. Chair Pinkham asked if September 20 is an acceptable date for the meeting. Alternate Member Cavicchi said he will not be there. Chair Pinkham advised the clerk to send another round of public hearing notices to abutters and tell the applicant to proceed or withdraw.

2. Lauree Dubois, 26 Naples Avenue, Woburn, MA, Petitioner and Landowner, seeking a Special Permit from Section 7.3 and 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 25.6 feet, for an addition to a single-family home at 26 Naples Avenue, Woburn, MA (continued from meeting of July 19, 2023):

Representing the applicant was Attorney Mark Salvati, 57 Arlington Road, Woburn, MA. Attorney Salvati said the board should have an updated plan that shows the addition will be approximately 26 feet from the lot line. He said the lot is a corner lot but it otherwise similar to the other homes in the neighborhood. He said if the lot was not a corner lot, the side setback requirement would be 12 feet. He said the applicant is asking for a reduction to the rear yard setback of approximately 4 feet. He said Ms. Dubois has lived in the house her entire life and she wishes to remain there. Chair Pinkham asked if Attorney Salvati is citing as a hardship the corner lot status. Attorney Salvati said he is citing as a hardship the shape of the lot and the positioning of the house. He said the property owners don't have other options for the location of the addition. He said the addition cannot be positioned on the other side of the house. Chair Pinkham said she recalls Attorney Salvati saying the addition would meet the 12-foot side setback requirement if it was not on a corner lot. She said the side setback along Milan Avenue is already non-compliant. She said the proposed addition has nothing to do with the side setback or whether the lot is a corner lot. Attorney Salvati said his point is if Milan Avenue was the

only front yard the addition would be in the side yard and require only a 12-foot setback instead of a 30-foot setback as a rear yard. He said if Naples Avenue was not there, the applicants would not need a variance. Chair Pinkham asked if Attorney Salvati thinks a corner lot relates to a hardship. Attorney Salvati said the shape of the structure constitutes a hardship. Chair Pinkham said she does not think the statute refers to the shape of the structure as basis for a hardship. She said if it's not that big a deal, the applicant can make the addition five feet shorter and a variance will not be required. Member Robertson asked if the attorney is suggesting there is a provision in the zoning ordinance that creates a hardship. He asked if the reduction in the rear yard setback distance that the applicant is requesting is 3.5 feet. Attorney Salvati said the distance is about 4.5 feet. Member Robertson said he has a great deal of respect for the statute, but if the applicant is only asking for a reduction of 4.5 feet, it seems like beating a dead horse. Attorney Salvati said he agrees with Member Robertson. Chair Pinkham cited case law McGee vs. City of Boston ZBA that indicates an undersized lot does not constitute a hardship. She said the applicant's lot is slightly more than 8,000-square-feet. Attorney Salvati said the size of the lot is not the basis for a hardship, but rather the positioning of the house. 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 there are other undersized lots in the area. He said he thinks 26 Naples Avenue is one of the best and most well-maintained properties in the area. He said he does not think the addition will impact the neighborhood in a negative way. He said he thinks the angle of the lot line creates a hardship that would not exist if the lot line was straight. Member Ryan said the lot is not square. He said the lot has an unusual shape. He said if the lot was square, the applicant may not need a variance. He said he is a little concerned about lot coverage. He asked if the applicant represented that the neighbor to the rear has no problem with the addition. Richard Dubois, 26 Naples Avenue, said the neighbor to the rear has no problem with the addition. Motion made by Member Parrish and seconded by Member Clancy to grant the variance. Chair Pinkham asked if the board wants to impose any condition. Attorney Salvati said conditions might be more appropriate for the special permit. He said his client would be comfortable with a condition that the premises will never be a 2-family home. Motion approved, 4-1, with Chair Pinkham opposed. Motion made by Member Parrish and seconded by Member Clancy to grant the special permit with the standard conditions that require the premises to remain a single-family home; approved, 5-0.

- 3. Gabriel Solomon, 7 Senator Road, Woburn, MA, Petitioner and Landowner, seeking a Special Permit from Section 7.3 and a Variance from Section 6.1 of the 1985 Woburn Zoning Ordinances, as amended, for a reduction in a side yard setback from 12 feet to 5.7 feet, for an addition to a single-family home at 7 Senator Road, Woburn, MA:** Mr. Solomon said he is seeking a variance to modify the existing structure, to build an addition that has an illegal side setback. He said he plans to reduce the area of the structure that is not in compliance. Chair Pinkham asked what is in the basement. Mr. Solomon said there is living space in the basement. Chair Pinkham asked about the proposed addition. Mr. Solomon said he is requesting a special permit for the addition, which will entail the construction of a second story above the existing home. Chair Pinkham said there are a number of reasons why the house is eligible for special permit relief. She said the lot does not meet the zoning requirement for frontage. She said

the lot is undersized. She said one corner is less than 25 feet from the front lot line. She said the side and rear setbacks comply with the zoning ordinance. She said she wants to know what is envisioned for the basement. She said within the last three years, the board has applied standard conditions for significant additions to homes in an R-1 zoning district. She said the conditions are designed to prevent single-family homes from becoming multi-family homes 20 years from now. Member Robertson said the petitioner in the affidavit of non-conformity indicates the use won't be changed from a single-family home. Chair Pinkham said the petitioner is seeking a variance for a significantly larger addition that will be 5.7 feet from the lot line on the easterly boundary. Member Parrish asked if the current setback is 6 feet. Mr. Solomon said the corner of the garage is 6 feet but there is an existing overhang that gets even closer. Chair Pinkham said back in the 1950s, the side setback requirement was 7 feet, and therefore the garage is legally non-conforming. She asked Mr. Solomon why he thinks he needs a variance. Mr. Solomon said the board granted him a special permit and a variance in 2018. He said the special permit and variance expired due to delays for a variety of reasons. Member Parrish asked if the petition in 2018 is similar to the one before the board now. Mr. Solomon said everything is exactly the same. Member Parrish said if a setback was illegal when it was built, after 10 years without any enforcement action, the illegal status becomes illegally non-conforming. He said even though the setback distance is 6 feet, he does not understand the request for a variance. Mr. Solomon said he applied for a variance on the advice of the Building Dept. Member Parrish asked if the home is staying under the 35-foot height requirement. Mr. Solomon answered affirmatively. Member Parrish said the dwelling is less than the maximum 25 percent lot coverage threshold. Chair Pinkham said it seems to her like the addition could be used as an in-law apartment. Mr. Solomon said there are no plans for an in-law apartment. He said the residents of the house are musicians. He said he plays the violin and sometimes his bow hits the ceiling while he is practicing. He said the addition will have a higher ceiling. He said they also have students who come to the house and the addition will have a bathroom they can use. Chair Pinkham asked how many bathrooms there are now. Mr. Solomon said there are 1.5 bathrooms. Chair Pinkham asked how many bathrooms there will be in the revised structure. Mr. Solomon said there will be 3.5 bathrooms. Chair Pinkham asked how many bedrooms there. Mr. Solomon said there are three bedrooms and that number is not changing. Chair Pinkham asked if anyone in the city has raised any issues with water and sewer capacity related to the addition of two bathrooms. Mr. Solomon said no one has indicated that to him. Chair Pinkham said her sense was the previous variance granted in 2018 was before Section 6 or 7 of state law Ch. 40A was amended to bless illegal non-conformities without enforcement action after 10 years. She said the applicant is seeking a special permit and a variance. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. Charles Viola, Ward 7 City Councilor, said he has been to the property and he does not think adding a second story to the existing home will create any significant issues. Member Parrish said he thinks the board only needs to vote on a special permit. He said he thinks Chair Pinkham is right about the 10-year time frame for lack of enforcement action. Mr. Solomon said his understanding is he needs a variance for the side setback. Member Parrish said Mr. Solomon is not creating a new non-conformity. Chair Pinkham said the statute was amended in 2016, not 2018. 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. Chair Pinkham asked the board how it wishes to proceed with the request for a variance. She said she is not sure if the applicant needs a variance. Member Parrish asked if the applicant should request leave of withdrawal for the variance. Chair Pinkham said it is not clear what relief the applicant is seeking. She said the area of the side setback is marked with a 4.8-foot hashmark. She said the applicant is not creating a new non-conformity. Member Robertson said he recalls the applicant saying the Building Dept. advised him he needs a variance. Mr. Solomon said he was told he needs a variance because he is altering an existing non-conformity. Member Robertson suggested continuing the hearing so the petitioner can consult with the Building Dept. Chair Pinkham said she thinks that would be a good idea. She said the board cannot give legal advice to the applicant, but she believes the board has given Mr. Solomon all the zoning relief he needs. She said she would be happy to speak with someone in the Building Dept. Mr. Solomon said he is envisioning going to the Building Commissioner's office and saying the ZBA said he does not need a variance. He said he would rather ask for a continuance than a withdrawal. Motion made by Member Parrish and seconded by Member Robertson to continue the hearing until the board's meeting on September 20, 2023; approved, 5-0. Member Ryan said reading the 2018 variance might be a good memory refresher.

4. **Kevin Myren, 9 Maple Avenue, Woburn, MA, Petitioner, and Phillip Manchik, 3129 Elaine Dr., San Jose, CA, Landowner, seeking a Variance from Section 5.3.2 of the 1985 Woburn Zoning Ordinances, as amended, for a fence within a 25-foot front yard setback at 9 Maple Avenue, Woburn, MA:** Also representing the petitioner was Kayleigh McCabe, 9 Maple Avenue, Woburn, MA. Ms. McCabe said she and Mr. Myren would like to put a 6-foot fence in what is their back yard. She said the back yard is classified as a front yard because there is a paper street called Hyde Avenue to the rear. She said they have included photos of other houses with fences that are directly on the sidewalk, along with some GIS maps. Ms. McCabe said the hardship they are citing is the peculiarity of the site with two front yard setbacks. She said the fence will have no impact on traffic or sight lines. Chair Pinkham asked the applicants if they have already constructed a portion of the 6-foot fence. Ms. McCabe said there is a 3-foot fence. Chair Pinkham asked if the fence is white. Ms. McCabe said that is the neighbors' fence. She said they have a portion of a chain link fence on their property. Member Parrish asked if the lines highlighted in bold denote the location of the proposed fence. Ms. McCabe said she has drawn in the lines where the fence will be. Member Parrish asked if the existing chain link fence will remain. Ms. McCabe said the new fence will abut the existing fence. Member Parrish asked which neighboring property has a 6-foot fence. Ms. McCabe said there is a 6-foot fence at 7 Maple Avenue. Member Clancy said it appears 64 Beach Street also appears to have a fence that extends into the frontage. Ms. McCabe said 3 Maple Avenue also has a 6-foot fence. Member Ryan said there are two neighbors who appear to have a 6-foot fence right along the sidewalk. He said the Building Dept. has no record of a variance being issued for those fences, which he said are therefore not legal. Member Ryan asked what the paper street is being used for. Ms. McCabe said it is a wooded area. Member Ryan said it looks like there are house lots on Hyde Avenue. Ms. McCabe said the road ends at 8 Hyde Avenue. She said there is playground equipment in the backyard of 8 Hyde Avenue. Chair Pinkham said there is a still a lot at the end of

Hyde Avenue. She said it is a big lot; 0.346 acres and zoned R-1. She said the applicant is designating Hyde Avenue as a paper street because the pavement stops at 8 Hyde Avenue. Ms. McCabe said they have never considered that to be a road. She said they didn't know it was a paper street until they had the plot plan drawn. Chair Pinkham asked what will happen if the street is extended. She said there is no definition of a paper street. Member Robertson said paper streets do not exist in the code. Chair Pinkham said the street exists. She said she drove down it this morning. Member Robertson asked if the applicant is willing to abide by a condition to take down the fence if the street is built. Ms. McCabe said they will have to remove the fence if the road is built. Member Robertson said the applicants could also re-apply for a variance. He asked what the city's definition of a street is. Chair Pinkham said the city does not have one. Member Robertson said the city must have dealt with a situation like this before. He asked if the applicants applied for a building permit. Ms. McCabe said she studied the zoning code and decided to apply for a variance. Mr. Myren said the Building Commissioner told him he could not build a 6-foot fence by right. Member Robertson asked why the applicant's property on Hyde Avenue is considered a front yard. Chair Pinkham said the applicants have frontage on both Hyde Avenue and Maple Avenue. Member Robertson said there is nothing connecting the two streets. He said he can't believe the applicants need a variance. 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 aerial view shows Hyde Avenue loops around house #8. He asked if the elbow is part of Hyde Avenue. Mr. Myren said the road goes into the driveway at 8 Hyde Avenue. Member Ryan said the plot plan seems to indicate Hyde Avenue goes beyond the applicant's property. Motion made by Member Robertson and seconded by Member Parrish to grant the variance. On the motion, Member Robertson asked if the applicant is willing to re-affirm he is willing to take down the fence, or revise it to comply with the zoning ordinance, if the paper street is ever improved. Ms. McCabe said they would either remove the fence or revise it to comply with the zoning ordinance. Member Robertson asked how long the lot line is along Hyde Avenue. Chair Pinkham said the lot line is 139 feet. Member Robertson asked how the zoning ordinance would be enforced if there is no street there. Chair Pinkham said there are 3-4 houses on Hyde Avenue. Member Robertson said those houses are not in the area of the applicant's property. Chair Pinkham said there is no paved street in the area of the applicant's property. Member Parrish said he is seeing empty property behind the applicant's house. Member Ryan said he would be willing to vote in favor of the variance as long as Member Robertson's suggestion that the fence will be taken down or modified to comply with the zoning code is added as an amendment. Member Robertson asked why the applicant wants to build a fence. Mr. Myren said they have two big dogs. Ms. McCabe said they want to be able to be outside with their dogs. Member Parrish asked if the fence will extend along the entire 139-foot property line. Ms. McCabe said the fence will be just behind their house. Motion made by Member Robertson and seconded by Member Ryan to amend the original motion to add a condition that the applicant will remove the fence or revise it to comply with the zoning ordinance if Hyde Avenue is ever developed; approved, 4-1, with Chair Pinkham opposed.

- 5. Miguel DaSilva, 1600 Washington St., Stoughton, MA, Petitioner, and Peter Barbas, 163 Salem St., Woburn, MA, Landowner, aggrieved by the inability to obtain a**

building permit for a free-standing sign at 163 Salem St., Woburn, MA: Mr. DaSilva said there is a new owner, John Delegas, of the gas station at 163 Salem St. Mr. DaSilva said Mr. Delegas is unable to attend tonight's meeting due to an illness in his family. He said he is the sign contractor. Chair Pinkham said the board has received a request for a variance. She said she has questions. She said it appears the applicant wants to reduce the distance from the ground to the bottom of the sign from 10 feet to 7 feet. She asked if the applicant wants to keep the same pole. Mr. DaSilva said he is seeking to change the shape of the sign. Chair Pinkham asked if the proposed sign will be smaller than the existing sign. Mr. DaSilva said there will be 7 feet from the ground to the bottom of the sign. Chair Pinkham said among the documents in the application is a variance from 1991 for what is now the existing sign. She said if she had been on the ZBA in 1991, she never would have voted for the variance. She asked what type of hardship the applicant is citing in his request for a variance. Mr. DaSilva said there is a similar sign at 521 Main St. He said the width of the sign is being reduced by 3 feet. Chair Pinkham asked if the applicant is trying to save money by using the existing pole. Mr. DaSilva said if the pole is moved farther back onto the lot, the sign will be obstructed by trees. Chair Pinkham asked if there will be any work done to the pole. Ms. DaSilva said there will be a smaller arm coming off the pole. Chair Pinkham said it looks like the existing sign is angled slightly downward and asked if that is due to the weight of the sign. Mr. DaSilva said it is a good sign. He said the pole is very strong. He said the proposed sign will be much, much lighter. 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 area of current sign is 48 square feet. Mr. DaSilva answered affirmatively. Member Robertson asked if the proposed sign will have an area of 40 square feet. Mr. DaSilva answered affirmatively. Member Robertson asked if the proposed sign will be illuminated. Mr. DaSilva answered affirmatively. He said the current sign is illuminated. He said there are two internal lights in the sign. Member Robertson asked if the lights are on a timer. Mr. DaSilva said the lights are turned on and off manually when the gas station closes. Member Robertson said it appears the gas station closes at 8 p.m. Mr. DaSilva said the lights come on as early as 4 p.m. in the winter. Member Robertson asked if the applicant is aware of any city regulations for turning off lights. Mr. DaSilva said the curfew is 10 p.m. in most cities. Member Robertson asked what time the gas station opens. Mr. DaSilva said the gas station opens at 6 a.m. Member Robertson asked if the lights are on when it is dark outside. Mr. DaSilva answered affirmatively. Member Robertson asked about hours of operation. Mr. DaSilva said the gas station closes at 6 p.m., but new management wants to close at 8 p.m. He said the lot will have a new look in 3-4 weeks. Member Robertson said if the lights in the proposed sign are extinguished at 6 p.m., he would support the variance. Mr. DaSilva said the new management wants to close the gas station at 8 p.m. Member Robertson asked if the earliest the station opens is 6 a.m. Mr. DaSilva said he is not sure. Chair Pinkham said the existing sign is built over a right of way. She said the owner had to buy a bond in case it falls. Mr. DaSilva said the bond is to protect the city. Member Robertson said a \$5,000 bond isn't going to go very far. Mr. DaSilva said the new proprietor is willing to buy a new bond if it helps. Member Parrish asked if the prices shown on the new sign are digital. Mr. DaSilva said the prices can be changed remotely. Member Parrish said he does not want a flashing sign in a residential neighborhood. Member Clancy said the petition indicates the applicant is seeking a

reduction in the distance from the ground to the bottom of the sign from 10 feet to 7 feet. Chair Pinkham said there is no such relief cited in the zoning code. Member Robertson asked if the gas station has been closed. Mr. DaSilva said the gas station has been closed since the end of June. He said the owner is the same but the new proprietor needs to be finalized. Member Ryan said he has some concerns. He said the existing sign looks like an accident waiting to happen. He said the new sign is an improvement but he still has concerns about it overhanging a sidewalk. Mr. DaSilva said the new sign will be 180-200 pounds, while the current sign is 260-280 pounds. Member Ryan asked if the new proprietor can keep the old sign by right, or would he need a variance. Chair Pinkham said the new proprietor would need a new variance if the use has lapsed. She said the gas station is a pre-existing, non-conforming use. She said if the use stopped, then it lapsed. Member Ryan asked if the pole and the bolts have to be inspected. He said he agrees it's a safety hazard. Chair Pinkham said the property is in a residential zone. She said there is an express prohibition on signs that hang over rights of way. Member Ryan said he also has an issue with the bottom of the sign being only 7 feet from the ground. He asked if that could be extended higher. Mr. DaSilva said he can put the sign 8 feet off the ground. Member Ryan said 7 feet is too low. Member Clancy asked why it is necessary to have the sign hanging over the sidewalk. He asked if the sign can be moved back 5 feet. Mr. DaSilva said the current location is more cost effective. He said the sign is safer if it is behind the adjacent utility pole. Member Ryan asked if the applicant has considered flipping the sign so it is on the other side of the pole. Mr. DaSilva said the sign on the other side of the pole will hit the canopy and could be hit by trucks. Member Robertson said Member Parrish pointed out to him that the sign overhangs onto the public way by 8 feet. Chair Pinkham said the pole is right on the lot line. Member Robertson said the date of the plot plan is 1981. Mr. DaSilva said he got the plot plan from the Building Dept. Chair Pinkham said the original variance was for the front setback, and the sign area and height. She said there was a provision to the zoning ordinance added in 1998 that prohibits a sign from being affixed to a pole. She said she is not sure if the provision applies to any pole or just utility poles. Mr. DaSilva said the proposed sign is not as intrusive. Chair Pinkham said in a residential zone, free-standing signs are not supposed to be bigger than 10 square feet. She said the proposed sign is 40 square feet. She said it is really not the board's job to figure out which section of the zoning ordinance is being cited in an application for a variance. She said there is also an issue with the setback. Member Robertson said there is a note on the plot plan that indicates the sign is +/-9 feet into the street. Member Ryan said the petition indicates the distance from the bottom of the sign to the street is 7 feet. He said it is very confusing. Chair Pinkham said that does not address her primary issue. She said she thinks the applicant needs relief from multiple provisions of the zoning ordinance. She said it is not the board's job to figure that out. Mr. DaSilva said he is not asking for a variance for the size of the sign. He asked if the board will be happier with a smaller sign. Member Parrish said the Building Commissioner indicated the petition is incomplete. He asked if all the information he needs has been supplied. Mr. DaSilva said the Building Commissioner went over the details with him. He said the Building Commissioner said he is busy. Member Parrish said the drawings of the proposed sign do not comply with the approved variance. Alternate Member Cavicchi said the proposed sign is low. He said he would recommend the sign should be at least 8 feet off the ground. He said he would also advise that a

structural engineer make sure the pole, the footing and the bolts are secure. He said the materials that were used in 1990 are different than the materials used today. He said the sign would be much safer if it was 8 feet off the ground. Member Robertson said his main concern is the note on the plan that was submitted. He said the plan indicates the sign is +/-9 feet onto the street. He said he does not think he would vote for that unless the applicant provides evidence that there was permission to erect the sign over the public right of way. Member Ryan said he is not prepared to vote. He said he would like to see an accurate plot plan. Mr. DaSilva asked if the board wants to see a plan that shows the sign is 8 feet from the street. Member Ryan said 8 feet is an improvement. He said the only reason he would vote for it if there were an improvement. Motion made by Member Ryan to continue the hearing until next month so the applicant can submit an accurate plot plan. He said the plot plan that was submitted does not tell him anything. Member Robertson said the plot plan should show the location of the pole. Chair Pinkham said the plot plan should be certified. She said the plot plan that was submitted seems like a sketch that the engineer was asked to sign. She said she also wants the applicant to figure out all sections of the zoning code from which he needs relief. Mr. DaSilva asked if the board would be more receptive to a version of the sign that is the same sign with digital pricing. Chair Pinkham asked if that would require a new application. Member Parrish said he thinks the applicant is talking about keeping the same sign with different graphics, which would involve a consultation with the Building Commissioner. Mr. DaSilva said he would like the board to look at alternate plan. Mr. DaSilva gave copies of an alternate plan to the clerk for distribution. Chair Pinkham said she would not vote of this sign either because it still extends over the right of way. She said she thinks it's ridiculous the city allowed a sign this size to overhang a sidewalk. Member Ryan said he would not vote for this sign either. He said he would be more inclined to approve the first version that was submitted. Member Ryan said the documentation that was submitted is so unclear. Chair Pinkham said the original variance application makes reference to the front setback, the area of the sign and the height. She said it would be helpful if the applicant addressed more than the distance between the ground and the bottom of the sign. Member Ryan's motion to continue the hearing until the September meeting seconded by Member Clancy. On the motion, Member Robertson asked if the petitioner has agreed to continue the hearing. Mr. DaSilva said he will attend next month's meeting. He said it is better than having the petition denied. Chair Pinkham said there is a form the applicant is asked to sign upon a request for a continuance. Motion made by Member Ryan and seconded by Member Clancy to withdraw Member Ryan's original motion; approved, 5-0. Chair Pinkham asked how the board wishes to proceed with respect to the applicant's request to continue the hearing until the board's meeting in September. Motion made by Member Robertson and seconded by Member Ryan to continue the hearing until the board's meeting on September 20, 2023; approved, 5-0.

6. **Approval of minutes from meeting of July 19, 2023:** Chair Pinkham said she has corrections she has given 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. **Discussion of ZBA application requirements:** Member Ryan suggested either reviewing the changes that were made to the applications or continuing the matter until

next month to allow the members to review the documents at home. Chair Pinkham said she has not had an opportunity to thoroughly read the revised documents. She said she hasn't looked at the variance application. She said there were previous discussions about the provision of a simple checklist similar to what the board got from the land court. She said the whole idea was to make the process as clear as the board can about what it expects. She said the board needs to be clearer about what it expects from applicants. She said it can be frustrating when the application is incomplete, and it makes for a longer hearing. She said maybe streamlining the application process will make for more efficient meetings. Member Ryan asked if the clerk would prefer fillable forms to be posted online. Clerk responded fillable forms would be an improvement. Member Ryan asked if the forms can be signed electronically. Clerk said the only form that requires a wet signature is the Certification of Treasurer/Collector. Chair Pinkham said electronic signatures are valid in most instances these days. Member Parrish said he would like to review the applications again. Motion made by Member Clancy and seconded by Member Ryan to continue the matter until the board's meeting on September 20, 2023; approved, 5-0.

- 8. Motion made by Member Parrish and seconded by Member Ryan to adjourn;** approved, 5-0. Chair Pinkham adjourned the meeting at 8:27 p.m.

ATTEST:
Gordon Vincent
Clerk of the Zoning Board of Appeals
