

**MEETING OF THE
CITY OF WOBURN
BOARD OF APPEALS
APRIL 20, 2016 – 7:00 P.M.
COUNCIL CHAMBER
WOBURN CITY HALL**

Attending: Chair Margaret Pinkham, Member Daniel Parrish, Member John Ray, Member John Ryan, Member Edward Robertson and Alternate Member Sheila McElhiney

Petition of Clair & Swymer Construction, 59 Leonard Street, Woburn, MA 01801, Petitioner and Giovanni Parrinello, 2 Merrill Street, Woburn, MA 01801, Landowner, seeking a Variance for relief from Section 6.1 Table of Use Regulations of the 1985 Woburn Zoning Ordinances, as amended, for dimensional setbacks, namely reduction in front yard setback to 16.9 feet (20 feet required) to accommodate an upgrade of the front stairs to the second floor and side yard setback to 11.1 (20 feet required) to accommodate a suspended overhead canopy as a safety feature for an existing hydraulic dock on the premises located at 2 Merrill Street. (continuation from previous meetings)

Representing the petitioner, Frank DiLuna Esquire, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, MA along with Architect Bob Bradley. Attorney DiLuna stated that he had submitted a Memo prior to start of meeting; that they would like to correct a dimension from four feet to five feet (as noted on pages 2 and 4); that since the last meeting, the project is completely compliant with no need for Variance on the front, but will still need it on the side for the awning where they are requesting five feet for extending the awning. Mr. Bradley stated that there are several other awnings in the Merrill Street area; that some are fixed with metal and some are fixed with canvas; and that they are a common thing for the unloading of materials. Attorney DiLuna stated that relief from four feet to nine feet to extend the canopy (Mr. Bradley clarified that it will be 12' above the deck which has a scissor lift); that without the canopy, it is a safety issue which makes it unsafe; that it will be 11' from the side; that they are not changing the dock, to which Mr. Bradley restated that it will be 12' above the dock. Attorney DiLuna clarified that they are now requesting one Variance on the side; that it is subject to a Building Permit which is subject to the Zoning Ordinance. Motion was duly made and seconded that the Petition for VARIANCE be granted to allow the Petitioner to construct a nine foot suspended canopy to cover the existing loading dock on the building at 2 Merrill Street, conforming in all respects and particulars (as to the suspended canopy only) to plans, drawings and specifications submitted to and on file with the Board, and such plans, drawings and specifications are, by reference, incorporated herein and made part of this VARIANCE. The Vote was four in favor, one opposed (Pinkham).

* * * * *

Petition of John Tremblay and Theresa Tremblay, P.O. Box 372, Burlington, MA, Petitioners and Landowners, seeking a Special Permit to allow for an alteration of a preexisting nonconforming structure to raze an existing single family home and build a new single family home within 22 feet of the front setback pursuant to Section 7.3 of the Woburn Zoning Ordinances pertaining to the property at 10 Lexington Street. Representing the petitioner, Mark Salvati, Esquire, 10 Cedar Street, Woburn, MA explained that the structure is a ‘tear down’ which was built in 1850; that they are proposing a large single family house; that on the plot plan you can see a jog; that they are asking to reduce the front setback to 22.5’; that the current (front setback) is a 15’; that they were before the City Council last night for the garage; that they had neighbors speak in favor; that the current dwelling is a dilapidated house; reads from communication from Joanna Gonsalves, 16 Lexington Street, Woburn, MA, as follows: *“I live directly being 10 Lexington St and have reviewed the building plans. I am pleased to offer my support for their petition before the Board. The current house on the property is dilapidated and should be torn down. The new house will be a welcomed addition to the neighborhood and will provide a comfortable living space for John and Terry Tremblay’s family and their visitors.”* Responding to Member Parrish, Attorney Salvati confirmed that the request is to be 22.5’ from the front line; and that the proposed will be further back than the original house.

PUBLIC: John Tancreti of 8 Lexington Street stated that he lives beside and owns behind (6 Lexington Street); that they are in favor; that the house is tattered and rundown; and that his parents at 6 Lexington Street are in favor. Robert Gonsalves of 12 Lexington Street that he borders on the left side of the property; that the property has been an eyesore; that he is ‘tickled pink’; and that he hopes for the Board’s consideration. Responding to Member Ray, Attorney Salvati stated that it will meet the zoning requirements for height. Motion was duly made and seconded that the Petition for SPECIAL PERMIT be granted to allow the Petitioner to construct a new single family dwelling at 10 Lexington Street, conditioned upon: 1) the proposed shall comply with the current zoning requirements as to the height of the structure; and 2) the proposed structure to be built in compliance with drawings, plans and specifications submitted to and on file with the Board and the City Clerk’s office, and such plans, along with drawings and specifications are, by reference, incorporated herein and made part of this SPECIAL PERMIT. The Vote was five in favor, none opposed (5-0).

Petition of David Buttaro and Dianne Buttaro, 4 Buttaro Road, Woburn, MA, Petitioners and Landowners, seeking a Special Permit to allow for an alteration of a preexisting nonconforming structure to construct an addition to a single family home at 4 Buttaro Road. Representing the petitioner, Mark Salvati, Esquire, 10 Cedar Street, Woburn, MA explained that the petitioners currently live at 4 Buttaro Road; that the house was built in 1952 which has a side setback of 7’; that they are proposing to take off a portion of the hours and make it one level; that the proposed will be 11’ off the side which is currently 7.1’; that it is existing is 2,200 SF and they are proposing 2700 SF; and that it’s not a big change and is in keeping with the neighborhood. Responding to Chair Pinkham, Attorney Salvati confirmed that in 1952 the side setback was 7’; that the only portion affected is the rear; and that the definition

in the zoning ordinance determines it to be the rear lot line. Motion was duly made and seconded that the Petition for SPECIAL PERMIT be granted to allow the Petitioner to construct an addition to the existing single family dwelling at 4 Buttaro Road, conditioned that the proposed addition shall be constructed in compliance with drawings, plans and specifications submitted to and on file with the Board and the City Clerk's office, and such plans, along with drawings and specifications are, by reference, incorporated herein and made part of this SPECIAL PERMIT. The Vote was five in favor, none opposed (5-0).

* * * * *

Petition of Nancy Ross, 25 Munroe Avenue, Woburn, MA 01801, Petitioner and Nancy Ross, Joseph T. Ross, Jr. and Cynthia Wedlock, 25 Munroe Avenue, Woburn, MA 01801, Landowners, seeking a Special Permit to allow for the demolition of the existing nonconforming ranch house and the construction of a new nonconforming ranch home which will meet all setback requirements with the exception of the front which be the same as the existing nonconforming for the property at 25 Munroe Avenue. On behalf of the petitioner, son-in-law, Peter Wedlock, explained that they have an existing non-conformity; that they would like to tear down and build with the setbacks being met; that the house is beyond repair; and that it will not change the character. In response to the Board, Mr. Wedlock stated that the existing front setback is at 15' and the new will be 15'; that it met the requirements at the time the house was built in 1954; that the new structure will meet all but existing front setback.

PUBLIC: Donald Nilsson of 22 Munroe Avenue stated that he is in favor of the project and hopes that it will go through. In response to the Board, Mr. Wedlock stated that lot coverage will be 25%, as stated on the plan; that the stairs will meet and maintain to keep with the requirements; that they asked the architect to draw as compliant, but will need the 15' (front setback) to build; and that they will have vinyl cedar on sides and vinyl on front. Owner, Nancy Ross confirmed the property to be in an R-1 Zone; that it will remain single family with a one-car garage. Motion was duly made and seconded that the Petition for SPECIAL PERMIT be granted to allow the Petitioner to construct a new single family dwelling at 25 Munroe Avenue, conditioned that the proposed structure shall be built in compliance with drawings, plans and specifications submitted to and on file with the Board and the City Clerk's office, and such plans, along with drawings and specifications are, by reference, incorporated herein and made part of this SPECIAL PERMIT. The Vote was five in favor, none opposed (5-0).

* * * * *

Petition of Tomislav Pejic, Vladimir Pejic and Mara Pejic, 1036 Main Street, Woburn, MA 01801 Petitioners and Landowners, seeking to modify a special permit issued June 24, 2014 to allow revised plans for window and door placement to a pre-existing non-conforming structure at 1036 Main Street. The petitioner, Tomislav Pejic explained that they are making changes to the doors and windows; that they had to install larger windows for egress; that there were stairs on the side (on the previous plan); that the stairs to the second floor are new; that they spoke to the Building Commissioner and he hadn't mentioned the stairs; that they never had a problem with the stairs, the only concern was with the driveway; that the existing stairs are as old as the house; that the proposed addition is for the second floor and mudroom; that there will be

two entrances in the front and two in the back. Ms. Pejic explained the interior; that there was a set of stairs which is now a foyer and den. Mr. Pejic explained that the Building Inspector was concerned with egress windows and stairs in the driveway; and that they don't need to interior stairs anymore. Motion was duly made and seconded that the Petition to grant an AMENDED SPECIAL PERMIT to allow the Petitioner to modify plans for window and door placement as part of the construction project of a second floor addition to the existing single family dwelling and allow for the conversion of the existing single family dwelling to a two-family dwelling at 1036 Main Street, complying in all other respects and particulars (with the exception of including the "Modified Building Plans" as previously referenced) to the plans, drawings and specifications as submitted and on file with the Board and the City Clerk's office, and which plans, drawings and specifications are, by reference, incorporated herein and made part of this SPECIAL PERMIT. The Vote was all in favor, 5-0.

* * * * *

Petition of Kristen Holland, P.O. Box 158, North Billerica, MA 01862, Petitioner and Josephine M. Fucarile and Rose T. Baiarri, P.O. Box 688 Reading, MA 01867, Landowners, seeking a Special Permit pursuant to Section 7.3 of the 1985 City of Woburn Zoning Ordinance, as amended, to allow for the reconstruction of a two (2) family dwelling at 28 Salem Street. Representing the petitioner, Joseph R. Tarby, III, Esquire, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, MA explained that they are seeking a Special Permit from Section 7.3 to allow for the reconstruction of a two-family; reviewed existing vs proposed as shown on the legend of the plot plan; that according to the City's records, the structure was built in 1870; that the property is non-conforming because of the lot size, frontage and side setback; that they would like to demolish the existing two-family and construct a new two-family which will have no dimensional impact on traffic, water/sewer or public utilities; that it is not substantially more detrimental; and that it will be consistent with the neighborhood. There was discussion of ground coverage; that the landscaping is increasing as they are allowed to use walkways. Attorney Tarby explained that there will be a driveway on each side of the dwelling; that there will be two spaces for each on both sides; that they are seeking relief for lot area, frontage, and side setback which the new side setback is an improvement from existing. Motion was duly made and seconded that the Petition for SPECIAL PERMIT be granted to allow the Petitioner to construct a new two-family dwelling at 28 Salem Street, conditioned: 1) that the height of the proposed structure shall comply with the current zoning requirement; 2) that the parking on said lot shall comply with the current zoning requirements; and 3) that the proposed structure shall be built in compliance with drawings, plans and specifications submitted to and on file with the Board and the City Clerk's office, and such plans, along with drawings and specifications are, by reference, incorporated herein and made part of this SPECIAL PERMIT. The Vote was five in favor, none opposed (5-0).

* * * * *

Petition of Jamieson Development LLC, 627 Main Street, Woburn, MA 01801, Petitioner and Landowner, seeking a Variance from Section 6.1 Table of Dimensional Regulations to allow for an adjustment in the rear yard setback from 30 feet to 20.5 feet, more or less and front yard setback from 25 feet to 15 feet more or less to allow for the construction of a single family dwelling at 5 Brook Road. Representing the petitioner, Joseph R. Tarby, III, Esquire, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, MA submitted elevation plans; that they are seeking relieve from 25' to 15' and 30' to 20.5'; that the property is in an R-1 Zone; reviews the required vs. proposed; that the Variance for the front setback from 25' to 15' and for the rear setback from 30' to 20.5'; and that the plan has been reviewed by the Conservation Commission. Thad Perry from ASB Design stated that there are two overriding issues, namely: 1) steep slope and 2) buffer zone area; uses drawing to show topography; that there are two resource areas; that they want to be outside the resource areas as much as possible; that they propose to position the house where it is not so steep; that by placing the house in the corner will minimize the cutting/clearing area; used a rendering to show how they will use the slope; that the intention is to minimize the Resource areas; that the range of elevation will be 59 at the house to 84 at the garage; and that if they moved the house 10' back, they will still be dealing with a non-compliance; and that they would have rights to half way in the road; and that they are not changing the grade of the road.

PUBLIC: Peter Leydon of 7 Brook Road stated that he actually put the road in; that he has no problem with them building there as long as they built where it belongs; that he doesn't believe it should be closer; that if they put it where it belongs, offers letter from the Lannans of Moreno Drive (see letter in file); that if they put it where it belongs, then welcome; that it should be placed where it belongs; that he understands the Conservation Commission; that the people on Moreno Drive had to do it, so should they; that a trailer was there for years and was sold; that he believes the guy took the property by eminent domain. Attorney Tarby added the his client bought at auction from the existing mortgage holder within the last few years. Mr. Perry explained that if you move the house, there would be more driveway and clear more trees; that if someone builds 11' wall, they're building walls in set (tiers); that water/sewer would have to pump uphill; that they will have less walls; that the intent is to avoid ConCom; that when they did the Stormwater, they were asked if they tried to fit the building; that they are trying to preserve the site; that the trailer is not still there; that the ground is vegetated. Mr. Leydon explained that when he put in the road, he went around the trailer; and that he paved the driveway that is on the property. Mr. Perry stated that they are stepping the slope and using landscape walls; that he was asked to come up with house that fits into the topography; that they are working with the soils and the vegetation; that it's 30' to where paved now; that the front of the house facing driveway; that the walls are no more than 4'; and that the house would have to be pushed back about 24'. There was discussion of trees and the Mass GIS aerial.

Mr. Leydon stated that the point is that the house is being moved closer to the neighbors homes; that he had a bond on the street when he put it in and it is an accepted street.

Chair Pinkham reads letter submitted: *"4/20/16 To Woburn Appeals Board, We Mike and Paula Lannan, 5 Moreno Drive, Woburn, abutters to the property house lot on Brook Road, do not want the legal setbacks changed. If it was to help out an existing homeowner in a bind – no problem. This seems to be a bid to lower the site work cost to make more profit. We do not wish the proposed house any closer to our property and privacy then the current setback codes in force allow. Thanks Sincerely, M.J. Lannan/Paula M. Lannan"*

Mr. Perry explained that this lot is extremely wooded; that the argument of cost doesn't bear here; that if you go to the pump system, then you start playing with the house; that the cost difference is gray block wall versus more fill; and that it won't be more expensive. Chair Pinkham reviewed the standard for Variance (reading from the statute); that they are here seeking relief from the front lot line from 25' to 15' based on a change in elevation; and that the petitioner needs to establish hardship compelled to the lot, i.e. river and slope. Mr. Perry further explained that pushing the house back into the envelope doesn't cost more money but now the lot would be clear cut; that the impact would be far greater; that it would have more impact; that a lot of thing effect how to grade lot; that there might be more cost in the difference between longer driveway, sewer pump, and a generator versus three levels of walls; that they would be infiltrating runoff into ground; that there would be less patios and more lawn. There was discussion of the grades for driveway purposes. Responding to Member Robertson, Mr. Leydon stated that he doesn't believe they will complete the road; that he owns another lot on Silvermine; that he put in the cul-de-sac twenty-two years ago. Motion was duly made and seconded that the Petition for VARIANCE be granted to allow the Petitioner to construct a single family dwelling at 5 Brook Road, conforming in all respects and particulars to plans, drawings and specifications submitted to and on file with the Board, and such plans, drawings and specifications are, by reference, incorporated herein and made part of this VARIANCE. The Vote was four in favor, one opposed (Robertson) (4-1).

* * * * *

Petition of Martin Nelson, 19 Hinston Road, Woburn, MA 01801, Petitioner and Landowner, seeking a Special Permit to allow for the alteration of a pre-existing non-confirming structure (single family) under Section 7.3 of the Woburn Zoning Ordinances for property at 19 Hinston Road. The Petitioner, Martin Nelson explained that he owns the house at 19 Hinston Road; that in October 2015 they had a house fire; that they considered two options, namely: 1) tear down, or 2) renovate the existing; that the kitchen had been gutted; that they want to add an addition across the back of the house; that there is currently a deck across the back that's 8' out; that they want a straight addition off the back with a 10' x 12' deck as shown on the plot plan; and that they are requesting relief on the right of the property to build an addition; that it's only on the side lot line; that he's not sure when the original foundation was put in; that the current home was put in 1983 as a modular home on the existing foundation.

PUBLIC: Laurie Larsen of 17 Hinston Road stated that she lives to the right of the property; that the drainage off the house drains off to her home; that with this addition, she want to make sure this is addressed; and that it would be nothing to pipe off the house. Mr. Nelson stated that the property at 17 Hinston Road when the new house was built, the developer raised the elevation; that he spoke to the builder who brought in fill and built a swale; that he was there first; that he didn't raise the problem, it was brought on by the builder; that the addition will remediate the property; that when he does the addition, it will move the drain back 8' and the water will be directed to the back; and that from front to back it is sloped and the grade goes down significantly. Ms. Larsen stated that she can't say, but she hopes that it slopes away; and that they both have fences. Mr. Nelson doesn't believe the front downspouts to be the problem. Robert Campbell of 14 Hinston Road stated that they are all for it; and that they hope this will

get them back to the neighborhood. Mr. Nelson stated that the issue of water was never an issue until the house was built next door; and that he has no problem address the rear downspout. Motion was duly made and seconded that the Petition for SPECIAL PERMIT be granted to allow the Petitioner to construct an addition to the existing single family dwelling at 19 Hinston Road, conditioned; 1) that the proposed drainage be addressed on the new construction to be directed away from 17 Hinston Road; and that the proposed addition shall be constructed in compliance with drawings, plans and specifications submitted to and on file with the Board and the City Clerk's office, and such plans, along with drawings and specifications are, by reference, incorporated herein and made part of this SPECIAL PERMIT. The Vote was five in favor, none opposed (5-0).

* * * * *

Petition of Anchor Realty Trust, 3 Breed Avenue, Woburn, MA 01801, Petitioner and Landowner, seeking the following Variances: 1) from 20 feet to 5 feet for the front setback; 2) from 20 feet to 5 feet for the rear setback; and 3) to allow for parking within the front setback and allow for the construction of a new building at 3 Breed Avenue. Representing the petitioner, Mark Salvati, Esquire, 10 Cedar Street, Woburn, MA stated that this is the last street in Woburn; that there is long history of this area; that the current structure was built in the 1930s; that they thought had a legal zero setback; that he went to the Building Department and found nothing; that the letter from the Building Commissioner states zero setback; that a small parcel was purposes from the City; that they are here to take down the building there because it is too old; that Mr. Holland is not opposed; that the petitioner is proposing a four-bay garage for rental; that the property was owned by Mr. Robbins; that the Boston Edison took in the 1960s which created the zero setback; that they believe based on the triangle that they have a hardship with the shape of the lot; that the proposed takes the zero setback to 5'; and that they are hoping to clean up the mess and make a legal building. Responding to the Board's questions, Attorney Salvati explains that Florence is a paper street; that the property is in the I-G zone; that for the parking in the rear, they will have to get a Special Permit from the City Council; that the property is a 13,000SF triangle; and that they are requesting relief on both the lot and the off-site parking; that Florence is noted on a subdivision plan but is not a built way; that there is a very old plan; that he had submitted to extinguish Florence but withdrew for other reasons; that it is a triangular lot on two fronts; that the owner is Peter Spinazola who also owns the long building to the rear which is his auto body business. There was a discussion on some history of the lot, noting an 80' Right of Way, cutting off rights in the streets and the reliance on the shape of the lot being hard to meet setbacks. Attorney Salvati further stated that they are seeking relief on all three sides; that to meet today's requirements, you couldn't build any building; that they are trying to rectify a wrong; that if they found the (Building Department's) file, there could be a special permit; that he could supply a plot plan with more measurements; that the address is 3 Breed Avenue; that there is not frontage on Breed Avenue but Kensington which is off Breed; that none of these are accepted but are plowed by the City; and requested a continuance until the next meeting. Motion was made and seconded to grant continuance until the Board's next meeting. The Vote was all in favor, 5-0.

* * * * *

Communication received from Keegan Werlin LLP, Attorneys at Law, 265 Franklin Street, Boston, MA relative to Final Decision of the Department of Public Utilities pertaining to NStar Electric Company d/b/a Eversource Energy, D.P.U. 15-85, a copy of which is on file with the City Clerk's Office. Chair Pinkham explained that a utility company can obtain relief from DPU and trumps the local zoning ordinances; that on June 30, 2015, they filed for relief from the DPU for substation access to the substation in Winchester but the property is in Woburn; that she understands that NStar is going to build something necessary for electric service to the area and for public good; that this was given to the Mayor and the Building Department; that they are going to building new structure behind the old brick structure and this will also contain 40,000 gallons of fluid; and that they are basically keeping us informed. Motion was made and seconded to receive and make part of the permanent record. The Vote was all in favor, 5-0.

Reading of Minutes of Meeting. Motion was made and seconded to approve the minutes as amended. The Vote was all in favor, 5-0.

The next regular meeting of the Board of Appeals will be held on May 18, 2016.

Motion made and 2nd to ADJOURN, all in favor, 5-0.

Meeting adjourned at 10:03 p.m.

Patricia Bergeron-George
Clerk of Committees