

**MEETING OF THE
CITY OF WOBURN
BOARD OF APPEALS
MAY 18, 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 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. (continuation from previous meeting) The Petitioner, Peter Spinazola, trustee of Anchor Realty Trust, represented by Mark Salvati, Esquire, 10 Cedar Street, Woburn, MA were present. Attorney Salvati stated that the Board should have received a package with a memo of answers to their questions from the previous meeting; explained the effect of the Taking from NStar and what it looked like prior to the Taking; that 51,000SF containing a majority of the property; referred to the outline on Exhibit E; that a large area and building fit prior to the taking; that a buildable area now to comply would be 40 x 36; that because of the loss of the Building Department's jacket, they can't make an argument of legal, non-conforming structure; that the Taking should be the basis; that he has provided case law where an MDC Taking was found to constitute hardship; referring to Exhibit C, which shows most of lot 13 and part of 12, which created a triangle that ended up with lots 8, 9,10 and 11; and could have built on the whole because of it was contiguous with his other parcel. Member Robertson questioned: that part of their request is for parking within the setback; that it could be considered a use variance; that it is dimensional with the building but the parking is use; and that they are asking to waive the parking setback condition, to which Attorney Salvati explained that parking is allowed but is limited but they are requesting dimensional relief; that they are limited to the plans presented; that they are limited to 10' from front lot line; that the front is Kensington; that 180.76 is the back lot line; that his client has a lease with NStar; that they are not asking anything from the Board relating to the NStar lease; suggests that the Board could condition the six parking spaces to be no closer than 10'; that the building would be no closer than 5' at any point; and that the lot has two fronts and one rear with no sides.

The Petitioner, Peter Spinazola stated that he has lived here his whole life; that he has had the body shop for 40 years; that the property was a mess; that the house on the lot is a mess; that he doesn't want to renovate the house as it's on commercial property; that he has pride in his property; that the paper street has not been used in over a century; and that his neighbors with Mr. Holland and NStar with not problem. Responding to Member Robertson, Attorney Salvati stated that the lot is 10,000 SF and submitted a letter; that the property is in an I-G Zone; that the house on the lot was built as a residence but was converted, an addition added and converted to

commercial; that (existing structure) has a second floor; that without a Variance, they could build 40 x 36; that they will need a Special Permit from the City Council for the off-site parking; that there are six spaces on site and seven off-site, and twelve is required; that Kensington exists; that Breed Avenue is access which you have to go by his property to get to the Holland property; and asked that they consider the area; that to make is viable for a single story is financially prohibitive; asked to consider the site; that the Board can condition on this plan. There was discussion of the Exhibits submitted of the different takings and lots affected.

Attorney Salvati further stated that they are only increasing the footprint by 20%; that the cost to build (smaller) is prohibitive; that they still wouldn't be able to fit the parking; that the footprint of the existing is 2100SF; that they would be increasing by 1908 SF. Mr. Spinazola explained that he is going to expand into and rent out; that it is empty now; that he will use one bay; that he owns the property; that he bought it 20 years ago; that he has had his auto body business for 40 years; that he has a lease on two acres of NStar for 25 years; that it is a long term lease with NStar and that he maintains the property; ad that it had been previously used for a dump. Member Ray noted that list of owners and in looking at the Taking Deed, it has no meets and bounds. Member Parrish expressed that he feels it meets the standard for variance; and he appreciated the Adams case. Member Ryan stated that he is very familiar with the area; that it is out in nowhere; and questioned if a site visit would be helpful. Chair Pinkham stated that she would be happy to take a site visit if the Board wishes; that she is going by the property lines; and that she is guided by the lot lines; and she would be more comfortable with 10' from the lot line. Member Ray asked if anybody else can pass on Florence, to which Attorney Salvati stated that until it's a public way, it is only the owners; that NStar didn't reserve the right so it only serves the owners; and that he likes the 10' but is concerned more of Kensington than Florence. Attorney Salvati asked for a continuance.

PUBLIC: Robert Holland stated that he is a direct abutter; that they have never had an access problem; that he would rather a larger footprint for a single story because if it had a second floor they would have more tenants and more traffic; and that they have had no problems down there; that fire apparatuses have more than enough room; and that he speaks in favor.

Motion was made and seconded to continue the matter to the Board's next regular meeting. The Vote was all in favor, 5-0.

The Board scheduled a site visit for May 31, 2016 at 6:00 pm, which was subsequently postponed at the Board's meeting on May 25th.

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Petition of Kelly A. Fay, 7 Lawrence Street, Woburn, MA 01801, Petitioner and Landowner, seeking a Variance for relief for lot coverage to allow for the construction of a 24' x 24' one-story garage on the premises located at 7 Lawrence Street. (continuation from previous meeting) The Petitioner Kelly Far accompanied by her father, Robert Doherty were present. Responding to Chair Pinkham's questions, Ms. Fay confirmed that they are proposing a garage which would increase the lot coverage to 30.7% where the current requirement is 25%; and that they constructed an addition and took the pre-existing garage down. Mr. Doherty

explained that the Building Commissioner recommended that they tear down the barn (aka garage) to accommodate the addition and then put up a (new) garage; that there was a garage/barn in the back corner of the property which was built in the 1850s; that they went before the Historical Commission in July, 2015; and that the barn was 18x22 with two stories; that the hardship was to put on the addition but would have kept the barn; that the Building Commissioner said it was the easiest thing to do; and that they had a pre-existing structure which they knocked down to build the addition. Chair Pinkham asked of looking into a Special Permit as it is more lenient than a Variance. Member Robertson stated that he would vote for the garage if it was consistent with the same size they took down. There was a discussion of past matters relating to carriage houses. Ms. Fay stated that there are no plans to convert the garage. Chair Pinkham stated that it may be worthwhile for the petitioner to research a special permit versus variance, as the standard for variance is very strict. Motion was made and seconded to continue the matter until the Board's next regular meeting. The Vote was all in favor, 5-0.

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Petition of Erik C. Hill, 4 Whispering Hill Road, Woburn, MA 01801, Petitioner and Landowner, seeking a Variance for relief of side and rear yard setbacks to allow for the construction of two additions to the single family home located at 4 Whispering Hill Road. The Petitioner Erik Hill stated that he is a lifelong resident; that they are looking to add a two-story addition with a garage and eventually bump out the kitchen; that the existing shed will come down; that the house is built on a slab; that the shape of the lot is odd. Responding to Chair Pinkham, Mr. Hill explained that they have a two contractor proposals, namely one with the addition on slab and one with a foundation; that the house was built in 1966; that he is not sure if the house on Dawes Circle required a variance; and that house is very far away. A discussion of the zoning ordinances resulted in the shape and presence of ledge; that there is assumption that the house was built based on the 1959 Zoning Ordinances; and that it relied on an alternative way of measurement of the rear setback. Member Ryan stated that as it is already within the rear setback requirement, they are not making it any worse. Chair Pinkham stated that it is unique where the standard is met. Member Parrish agrees that the shape of lot is the only place (to build). Member Ray added that it is further the existing shed. Motion was duly made and seconded based on the slope and grade of the property, that the Petition for VARIANCE be granted to allow the Petitioners to construction additions to the southwesterly (left) side and rear of the existing single family structure within the rear setback requirement, conditioned upon the construction conforming in all respects and particulars to plan, 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 all in favor, 5-0.

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Petition of Seran Lohnes and Michael Lohnes, 18 Liana Street, Woburn, MA 01801, Petitioners and Landowners, seeking a Variance from 12 feet to 7.7 feet of the side setback to allow for the construction of an addition to the existing dwelling at 18 Liana Street. Representing the petitioners, Mark Salvati, Esquire, 10 Cedar Street, Woburn, MA stated that they are asking for relief of the side setback from 12' to 7'; that the Plot Plan shows that the lot narrows from front to rear and drops off the rear to Conservation land; referring to the overhead,

the lot is unique to the neighborhood in that the narrow to rear creates hardship; that it is difficult to grade; that the proposed is in keeping with the neighborhood and not detrimental. Responding to the Board, Mr. Lohnes that they are on a slope; that there are no windows; that it is 29' to the back which will have a full door; that the 4' retaining wall will be taken out and that is where the driveway will go. Attorney Salvati added that the lot drops off to the shed and beyond that it really drops off. Motion was duly made and seconded based on the slope and grade of the property, that the Petition for VARIANCE be granted to allow the Petitioners to construct an addition to the northeasterly (right) side of the existing structure within the side setback requirement, conditioned upon the construction conforming in all respects and particulars to plan, 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) 4-1.

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Reading of Minutes of Meeting. Postponed until the next meeting.

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The next regular meeting of the Board of Appeals will be held on June 15, 2016.

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

Meeting adjourned at 8:43 p.m.

Patricia Bergeron-George
Clerk of Committees