

**MEETING OF THE  
CITY OF WOBURN  
BOARD OF APPEALS  
SEPTEMBER 21, 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

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On the petition of Tongyu Xie, 2 Felton Street, Woburn, Massachusetts 01801, Petitioner and Dandan Zhang, 2 Felton Street, Woburn, Massachusetts 01801, Landowner, seeking a Variance for relief of the front setback requirement (Elm Avenue) of the Woburn Zoning Ordinances from 25 feet to 0 feet to allow for the installation of a six foot fence at 2 Felton Street. Appearing was the petitioner Tongyu Xie and he stated that he has a young family, that he wants the fence for privacy, that the fence will be along the neighboring properties and along Elm Avenue, that the fence will start near the middle of the house and then go towards Elm Avenue, that a six-foot fence is proposed for the entire lot, that there are four foot fences in nearby yards, that there are six properties on the street with fences, that three of those fences are three feet in height and three of those fence are six feet in height, that it is unfair that other property owners would be prevented from having six-foot fences, that the fences will be constructed six feet from the property line, and that he is willing to seek a reduction from twenty-five feet to three feet rather than twenty-five feet to zero feet. Chair. Pinkham explained the standard for granting a variance and stated that a fence can be only three feet in the front yard setback of twenty-five feet, and that if other property owners have erected fences without the benefit of a permit that is not precedent for another property owner to have a similar fence. PUBLIC COMMENTS: None. Motion made and 2<sup>nd</sup> that a variance reducing the front yard setback from 25 feet to 3 feet for the purposes of erecting a fence at 2 Felton Street be granted, 4 in favor (Parrish, Ray, Robertson, Ryan in favor), 1 opposed (Pinkham opposed). Motion made by Comm. Ray to reconsider vote and 2<sup>nd</sup>, 5 in favor, 0 opposed. Motion made and 2<sup>nd</sup> that to accept the petitioner’s request to modify the petition to a variance in the front yard setback from 25 feet to 3 feet and that a variance reducing the front yard setback from 25 feet to 3 feet for the purposes of erecting a fence at 2 Felton Street be GRANTED, 4 in favor (Parrish, Ray, Robertson, Ryan in favor), 1 opposed (Pinkham opposed).

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Chair Pinkham recused herself from participating in the following matter and moved to the public gallery in the Council Chamber. Alternate-Member McElhiney recused herself from participating in the following matter and moved to the public gallery in the Council Chamber. Member Robertson assumed the Chair.

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On the petition of Seaver Properties, 215 Lexington Street, Woburn, Massachusetts 01801, Petitioner, and Estate of Ralph Saviano, c/o Krista A. Wilshusen, Esquire, 105 Kenoza Avenue, Haverhill, Massachusetts 01830, Landowner, seeking: 1) a Variance for relief from Section 6.1 Table of Dimensional Regulations to allow for an adjustment in the minimum street frontage from 100 feet to 75 feet (existing street frontage) more or less to allow for two (2) Garden Apartments; and 2) in the alternative, appeals the decision of the Building Commissioner dated May 24, 2016 requiring a variance in addition to the Special Permit granted by the Board dated May 12, 2016 pertaining to the premises located at 602 Main Street. A communication was received from Attorney Derek A. Rodman, Murtha Cullina LLP, 600 Unicorn Park Drive, Woburn, Massachusetts 01801 as follows:

Re: Variance Petition/Appeal of Building Commissioner's Decision - Scott L. Seaver, Woburn, Massachusetts

Dear Attorney Pinkham:

Due to my unavailability and that of Attorney Joseph Tarby on September 21, 2016, I respectfully request that the Public Hearing on the above-referenced Petition by continued to the October meeting of the Board of Appeals. If you need any further information please do not hesitate to contact me. Thank you.

Very truly yours, s/Derek A. Rodman

PUBLIC COMMENTS: None. Motion made and 2<sup>nd</sup> that the public hearing be continued to the Board of Appeals meeting on October 19, 2016, 4 in favor (Parrish, Ray, Ryan, Robertson in favor), 0 opposed, 2 abstained (McElhiney, Pinkham abstained).

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Member Robertson stepped down from the Chair. Chair Pinkham returned to the Board of Appeals and assumed the Chair. Alternate-Member McElhiney returned to the Board of Appeals.

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On the petition of David Winitzer and Jessica Winitzer, 8 Penny Road, Woburn, Massachusetts 01801, Petitioners and Landowners, seeking the following variances from the provisions of the 1985 Woburn Zoning Ordinances, as amended: 1. Front setback reduction from 25 feet to 23.2 feet and 2. Side setback reduction from 12 feet to 6.5 feet, to allow for construction of addition to single family dwelling at 8 Penny Road. Appearing was the petitioner David Winitzer and he stated that he wants to construct an addition to a single-family ranch residence, that the shape of the lot is the basis of the request, that the rear lot line is shorter than the front lot line causing the side lot line to angle in to where the addition will be constructed, that the front lot line is 100 feet wide, that the rear lot line is 72 feet, that if the addition was moved back the structure could meet the front setback requirement but then the building would be closer to the side setback, that the addition could be smaller but he is trying to accommodate a growing family, that the residence was built in 1957, that the farmer's porch will have a roof, and that he spoke to all of his neighbors and there was no objection to his plan. Mr. Winitzer offered a letter from Scott F.

Quigley, 14 Penny Road and Ann Thompson, 40 Robinson Road in favor of the petition for review by the Board of Appeals. Member Ryan stated that there are several parcels in the neighborhood which have similar additions. PUBLIC COMMENTS: Paul Denaro, 11 Penny Road stated that the request is consistent with other additions to residences in the neighborhood, and that he supports the petition. A communication was received from City Council President Richard Haggerty and Alderman Lindsay Higgins in favor of the petition. Motion made and 2<sup>nd</sup> that a variance reducing the front yard setback from 25 feet to 23.2 feet and a variance reducing the side yard setback from 12 feet to 6.5 feet for the purposes of constructing an addition to a single family dwelling at 8 Penny Road be GRANTED, 4 in favor (Parrish, Ray, Robertson, Ryan in favor), 1 opposed (Pinkham opposed).

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On the petition of Joseph McDonough, Trustee, 1 Barbas Way, Woburn, Massachusetts 01801, Petitioner and Landowner, seeking the following variance from the provisions of the 1985 Woburn Zoning Ordinances, as amended: Rear setback reduction from 30 feet to 19 feet, to allow for construction of addition to single family dwelling at 1 Barbas Way. Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, Massachusetts 01801 and he stated that the petition is to construct an addition of the garage of an existing single family residence, that the addition will have a three-car garage with a library on the second story, that the petitioner looked at constructing the addition on the other side and to the rear of the building but there is ledge from Rag Rock, that no blasting will be required for the proposed addition, that the other side of the property would require substantial blasting, that the addition will be 19.44 feet from the rear lot line, that the main portion of the property to the rear of the locus is City of Woburn owned property and the city water tank, that the addition does not derogate from the zoning amendments, that the shape of the lot, the location of the existing house and the presence of ledge constitute the hardship, that the majority of the addition will be an open room, that the garage will be 948 square feet which does not require a special permit, that if a two-car garage was built that due to the angle required a variance would still be needed from the rear setback line. Doug Shoop, Medford Engineering & Survey, 15 Hall Street, Medford, Massachusetts 02155 stated that the proposed library is a feature that the petitioners want to add to the residence, that the windows start at eighteen inches above the floor to avoid the expense of tempered glass, that the building was originally a prefabricated structure, that the addition does not extend beyond what is already the paved area on the locus, that beyond the paved area the lot drops off, that the location of the proposed addition works better for the flow of the house, and that if the addition was angled it would be difficult to get the cars into the garage. PUBLIC COMMENTS: None. Motion made and 2<sup>nd</sup> that a variance reducing the rear yard setback from 30 feet to 19 feet for the purposes of constructing an addition to a single family dwelling at 1 Barbas Way be GRANTED, 4 in favor (Parrish, Ray, Robertson, Ryan in favor), 1 opposed (Pinkham opposed).

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On the petition by John Femino, 90 Margin Street, Salem, Massachusetts 01970, Petitioner, appealing decision of Building Commissioner relative to enforcement of boarding house and parking provisions in the 1985 Woburn Zoning Ordinances, as amended at 171A Washington Street. Chair Pinkham stated that the petition was filed with no fee initially and therefore was not

suitable for scheduling a public hearing on the petition, that the matter will be placed on the October 19, 2016 agenda for a public hearing at which time all the papers will be available to the members, and that the Board of Appeals would get to the substance of the petition at public hearing on the matter at the meeting on October 19, 2016. Appearing was John Femino and he stated that he understood the process, that once the Building Commissioner was notified of this proceeding he is required to answer the petitioner in writing with the reasons why he did not find a violation, that he is paying \$200.00 to get an answer to that question, that it has been well over fourteen days since he filed the appeal, that the 1985 Woburn Zoning Ordinances, as amended Section 3.3.1 requires that the Building Commissioner respond, that he obtained copies of the documents filed by the Building Commissioner with the Board of Appeals, that he filed copies of two photographs with the Building Commissioner which were not included in the papers that the Building Commissioner filed with the Board of Appeals and he would like to offer copies of those photographs to the Board of Appeals at this meeting, and that he understood that the substance of the petition would not be addressed at this meeting. No further action was taken at the meeting.

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On the reading of minutes from August 10, 2016 and August 17, 2016. Chair Pinkham offered amendments to the minutes of the August 10, 2016 and August 17, 2016 Board of Appeals meetings. Member Robertson stated that there is too much emphasis on the minutes, that the minutes would not be relied on in appeal but rather a tape recording of the meeting would be, and that he asked whether the amendments being offered were from notes of the Chair or her recollection. Chair Pinkham stated that the amendments were from her recollection. Motion made and 2<sup>nd</sup> that the minutes from the August 10, 2016 and August 17, 2016 meetings of the Board of Appeals be adopted, as amended, all in favor, 5-0.

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Motion made and 2<sup>nd</sup> to ADJOURN, all in favor, 5-0. Meeting adjourned at 7:20 p.m.

A TRUE RECORD ATTEST:

William C. Campbell  
City Clerk and Clerk of the City Council