

**Zoning Board of Appeals
Woburn City Hall
Committee Room
February 22, 2018 – 7 p.m.**

Present: Chairman Margaret M. Pinkham, Member Daniel Parrish, Member John D. Ray, Member Edward S. Robertson, Member John J. Ryan III.

Absent: None

Meeting was convened by Chairman Pinkham at 7 p.m.

Jason Basile, 48 Mountain St., Woburn, MA, seeking a Special Permit from the provisions of Sections 7.3 of the 1985 Woburn Zoning Ordinance, as amended, for a second-story addition with a front setback reduction from 25 feet to 19.9 feet and a side setback reduction from 12 feet to 9.6 feet at 48 Mountain St., Woburn, MA: Appearing for the petitioner was Jason Basile, 48 Mountain Street, Woburn, MA. Mr. Basile said he was granted a Special Permit in 2015 for an addition but he did not complete the work because his wife became ill and the Special Permit expired. Mr. Basile said the plan is slightly different than the one in 2015 in that it involves more of an expansion to the second floor to accommodate his two children, who he said are growing fast. He said the distance from the house to the street has not changed. Chairman Pinkham asked if there is an overhang that was not there before. Mr. Basile said the overhang will line up with the existing structure so it is not sticking out. Chairman Pinkham asked if anyone in the audience wished to address the Board about the petition. There were no respondents. Chairman Pinkham said the only thing that concerns her is the overhang. Chairman Pinkham asked about an overhang on the back of the house. Mr. Basile said the home is not within the rear yard setback. Chairman Pinkham said the addition must be built according to the plans. Motion made by Member Parrish and seconded by Member Robertson to grant the special permit; approved, 5-0.

John Carney, 98 Richfield Road, Arlington, MA, 02474, seeking a Special Permit from the provisions of Section 7.3 of the 1985 Woburn Zoning Ordinance, as amended, to raze and reconstruct a 2-family dwelling on a pre-existing, non-conforming lot at 21 Kilby St., Woburn, MA: Appearing for the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, MA. Attorney Salvati said Mr. Carney recently purchased the property, which he said is an oddly-shaped lot of about 28,000-square feet. Attorney Salvati said his client wants to tear down the existing home, which is 16 feet from Kilby Street, and replace it with another structure way in the back of the lot. Attorney Salvati said the property is located in an R-2 zoning district, was built in 1830 and has already gone through the review process with the Woburn Historical Commission. He said the site is non-conforming to the frontage requirement of 100 feet. The proposed structure is a duplex with 1,800-square-foot units. Attorney Salvati said there is plenty of room on the lot for the new structure and that it will meet all setback requirements, and that there will be two parking spaces on each side of the building. Chairman Pinkham said she agrees with the statement there will be plenty of room for parking. Chairman Pinkham asked if there will be any further subdivision of the lot. Attorney Salvati said that cannot happen.

Member Ray said the parking doesn't make sense to him, because the space between the structure and a retaining wall is only 10 feet wide. Attorney Salvati said parking will be available on a grassy area and he doesn't think there will be a problem with the parking. Chairman Pinkham asked if anyone in the audience wished to address the Board about the petition. Motion made by Member Ray and seconded by Member Parrish to grant the Special Permit; approved, 5-0.

Rodrigo Almeida, 1020 Main Street, Woburn, MA 01801, seeking a Variance from the provisions of the 1985 Woburn Zoning Ordinance, as amended, for a reduction in the front yard setback for the construction of a fence at 1020 Main Street, Woburn, MA: Appearing for the petitioner was Rodrigo Almeida, 1020 Main Street, Woburn, MA, who said he is looking to build a fence along the front property line to protect his property. Mr. Almeida said trucks go by his home and stir up debris, which has struck his vehicles and his home. He said he would like the fence to be 6 feet high but will take a 3-foot high fence if that's what the Board is willing to approve. Chairman Pinkham said Mr. Almeida is allowed to build a 3-foot fence by-right. Mr. Almeida said he was advised by Inspectional Services he needs a variance because the fence will be too close to his house. Chairman Pinkham said that for the Board to grant a variance, the petitioner has to demonstrate there is a hardship, specifically the topography, shape of the land or something else on the property that would justify the Board's allowance of a fence that exceeds what is allowed. Mr. Almeida said his primary concern is safety. Member Robertson asked what the distance is from the front lot line to the sidewalk. Mr. Almeida replied the distance is 6 feet. Member Robertson asked if the fence is going to go on top of a retaining wall along the front of the property. Chairman Pinkham said she believes the Building Commissioner would take the position that the height of the retaining wall would be factored into the fence, for instance if the wall was 2 feet high, Mr. Almeida could only extend the fence by 1 foot. Mr. Almeida said the height of the retaining wall is about 4.5 feet at one end and tapers to about 2 feet. Chairman Pinkham noted the 2-foot height of the retaining wall is at the southerly property line, at the driveway to the St. Anthony Club. Member Parrish asked if Mr. Almeida can build a 3-foot fence if he moves it back from the property line. Chairman Pinkham said she would defer that question to the expertise of the Building Commissioner. Chairman Pinkham asked if anyone in the audience wished to address the Board about the petition. Anthony Fiorello, 21 Chester Avenue, Woburn, MA, said he is the President of the St. Anthony Club at 1020R Main Street, Woburn, Ma, which abuts Mr. Almeida's property. Mr. Fiorello said the construction of a 6-foot fence along Mr. Almeida's property line would make it difficult for drivers exiting the club's driveway to see on-coming traffic, especially from the north on Main Street. Mr. Fiorello said he wants to be a good neighbor but the fence will be a problem. He added it appears Mr. Almeida wants to do a lot of work on his property but has not pulled any permits from the Building Dept. since he has been the owner. Mr. Fiorello suggested a shorter fence might be appropriate. Mr. Almeida said he wants to be a good neighbor but he also wants to protect his property. Chairman Pinkham said Mr. Almeida can ask for a 3-foot fence without the retaining wall by right from the Building Dept. Mr. Fiorello said he thinks Mr. Almeida would still need a variance for a front setback. Member Robertson also asked if Mr. Almeida would require a variance from the front setback. Michael Fionda, 1024 Main Street, said allowing Mr. Almeida to build a 6-foot fence along his property line would create a safety hazard. Mr. Fionda said he owns other property in the area and some of his tenants have been complaining about the 6-foot fence Mr. Almeida said

Mr. Almeida started to build before he was stopped by the Building Dept. Mr. Fionda said his tenants have also been complaining about work on Mr. Almeida's property late at night, and he wants to ensure Mr. Almeida's fence does not exceed height restrictions. Anthony Marzzulo, 50 Winter Street, said the driveway from the club is very steep and very dangerous, especially when it is icy. Mr. Marzullo said it's already difficult for drivers on Main Street to see cars exiting the club's driveway. Chairman Pinkham said in her view there is not hardship that will justify her voting in favor of a variance that will justify a fence taller than three feet, though she allowed she is only one member of the Board and the others might feel differently. Member Robertson said nine times out of 10 he would ask the Police Dept. to undertake a safety survey to see if Mr. Almeida's proposed fence would create a hazard, but he cannot support this petition. Member Ray said he agrees with Member Robertson's comment about safety concerns, and Member Parrish said he also cannot support issuing a variance for the fence. Member Robertson said Mr. Almeida has the option of withdrawing the petition, or if he goes forward with a vote and the petition is denied, he can file an appeal in court. Mr. Almeida acknowledged the safety concerns and said he does not want problems with his neighbors. Chairman Pinkham said it is unlikely the variance will be granted since four members have stated they will not vote in favor of the petition. Mr. Almeida said he will talk to Brian Gingras in the Building Dept. to determine what his options are. Member Robertson asked Mr. Almeida if he wishes to withdraw the petition. Mr. Almeida asked the Board for a leave of withdrawal. Motion made by Member Robertson and seconded by Member Parrish to grant to leave of withdrawal; approved, 5-0. Chairman Pinkham advised Mr. Almeida to reach out to the Building Inspector.

Shelby and Jenna Francis, 12 James Street, Woburn, MA 01801, seeking a Special Permit from the provisions of the 1985 Woburn Zoning Ordinance, as amended, to extend a pre-existing, non-conforming use and a Variance for a reduction in the rear yard setback to 15' 8" for the construction of an addition at 12 James Street, Woburn, MA: Appearing for the petitioner were Shelby Francis and Jenna Francis, 12 James Street, Woburn, MA. Mr. Francis said he and his wife want to extend their house backwards a little bit, and need a special permit because they will be too close to the rear property line. He said there is nothing of consequence in back of their property. Mrs. Francis said their property abuts the cemetery, and the space behind their yard is used as a dumping ground. Mr. Francis said no residential abutters will have a view of the rear of the property and it is unlikely the Cemetery Commission will use the adjoining property for burials. Chairman Pinkham asked when the house was built. Mrs. Francis said the house was built in 1880. Chairman Pinkham acknowledged there was no zoning in place in 1880 and said the house is a legal non-conforming structure. Mrs. Francis said the objective is to fill in negative space. Chairman Pinkham said the footprint is 5.3 feet from the lot line, which is non-conforming and relief can be granted via a Special Permit. Member Ryan asked if a garage on the property is going to remain. Mr. Francis said the garage is coming down and he is hoping to replace it with a storage shed. Chairman Pinkham asked if anyone in the audience wished to address the Board about the petition. There were no respondents. Member Robertson asked where the parking is going to be. Mrs. Francis said it will be where the garage is now. She said that after the garage is removed, she can park in that space. Mr. Francis said removing the garage should improve the parking situation. Motion made by Member Robertson and seconded by Member Parrish to grant the Special Permit; approved, 5-0.

Correspondence from City Solicitor regarding Owen, et al, vs. Board of Appeals, et al:

Chairman Pinkham said the City Solicitor has provided members of the Board with the city's response to the Owens' appeal of the Board's denial of the Owens' request for relief from lack of enforcement of the Building Commissioner. Chairman Pinkham noted the Owens live near Dragon Court and an abutting developer removed trees from the developer's property. Chairman Pinkham said the Owens have filed an appeal in Superior Court. Chairman Pinkham said there is no action required at this point and that the City Solicitor will provide the Board with updates when applicable. Chairman Pinkham asked if anyone in the audience wished to address the Board about the matter. There were no respondents.

Correspondence from City Solicitor regarding Board of Appeals vs. Housing Appeals

Committee (HAC), et al: Chairman Pinkham said the state Supreme Judicial Court has denied the city's appeal of the HAC's decision to grant the comprehensive permit for the Woburn Ledges project. She said it is the end of the line for the city's avenues of appeal and that the decision of the SJC is going to take effect as the comprehensive permit. Chairman Pinkham said there can be no further action from the Board. Member Parrish asked if a vote is required from the Board. Chairman Pinkham said the matter is out of the Board's hands at this point. Chairman Pinkham asked if anyone in the audience wished to address the Board about the matter. Michael Fionda, 1024 Main Street, Woburn, MA, said he has a number of concerns about the project, among them dust control. Chairman Pinkham said the developer will have to abide by a number of conditions that were placed upon the comprehensive permit. Mr. Fionda asked who will enforce the conditions. Chairman Pinkham said the Building Dept. is the enforcement agency. Mr. Fionda asked if the developer will be able to begin the project right away. Chairman Pinkham said she believes the developer will have to apply for a building permit. Member Robertson said the developer will have to follow regulations.

Motion made by Member Parrish and seconded by Member Ray to approve the minutes of the Board's meeting on January 18, 2018, approved, 5-0.

Any other business that may be before the Board: Chairman Pinkham proposed the date of the Board's next meeting for Wednesday, March 21, at 7 p.m.

Motion made by Member Robertson and seconded by Member Parrish to adjourn; approved, 5-0. Chairman Pinkham adjourned the meeting at 7:56 p.m.

ATTEST TRUE COPY

Gordon Vincent
Clerk of Committees