

**Zoning Board of Appeals  
Woburn City Hall  
City Council Chambers  
October 17, 2018 – 6 p.m.**

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

Meeting was convened by Chairman Pinkham at 6:04 p.m. Chairman Pinkham told the audience that Member Ray is stuck in traffic and that the board will be down one member until he arrives, likely within the next 10-15 minutes. She said the board will be happy to table the public hearing on any petition upon request, until Member Ray arrives.

**James V. Lentine, 176 School Street, Woburn, MA 01801, petitioner and landowner, seeking a Variance from the provisions of Section 6.1 of the 1985 Woburn Zoning Ordinance, as amended, for the reduction of a side yard setback to 16 feet, more or less, for a 1-story addition at 176 School Street, Woburn, MA:** Appearing for the petitioner was Joseph R. Tarby III, Murtha Cullina, 600 Unicorn Park Drive, Suite 7, Woburn, MA. Chairman Pinkham asked Attorney Tarby if he wishes to table the matter until Member Ray arrives. Attorney Tarby said he wishes to table the matter. Motion made by Member Parrish and seconded by Member Robertson to table the public hearing; approved, 4-0.

**Kevin M. Keane and Karen M. Keane, 14 Freedom Road, Woburn, MA 01801, petitioners and landowners, for a Variance from Section 6.1 of the Woburn Zoning Ordinance, as amended, for a reduction in the front yard setback requirement to install a porch at 14 Freedom Road, Woburn, MA:** Appearing were Kevin and Karen Keane, 14 Freedom Road, Woburn, MA. Chairman Pinkham said she recused herself from the previous public hearing in August and will recuse herself again. She asked Mr. and Mrs. Keane if they wished for the matter to be tabled until Member Ray arrives. Mr. Keane said he guesses so. Motion made by Member Parrish and seconded by Member Robertson to table the public hearing, approved, 4-0.

**Abby Gillis and James M. Gillis, 19 Chase Street, Woburn, MA, petitioners and landowners, seeking a Special Permit under the provisions of Section 7.3 of the 1985 Woburn Zoning Ordinance, as amended, for an addition at 19 Chase Street Woburn, MA:** Appearing was Abby Gillis, 19 Chase Street, Woburn, MA. Chairman Pinkham asked if the house was built in 1949. Mrs. Gillis said it was. Chairman Pinkham said it appears the board has jurisdiction because the dwelling does not comply with the front yard setback. She said the board does have the ability to grant a special permit. She said the rear portion of the house violates the rear yard setback requirement. She said there is nothing in the application that describes the work the Gillises are proposing. Clerk of the board said there was a subsequent copy of the application filed that describes the project the Gillises are proposing. Clerk said the version without the description was sent to the members inadvertently. Clerk distributed copies of the application with the description to the members. Chairman Pinkham asked if the Gillises are planning to convert their home from a Cape to a Colonial-style house. Mrs. Gillis said they are. Chairman Pinkham asked if anyone in the audience wished to address the board about the petition. There were no respondents. Chairman Pinkham said the Gillises application qualifies for relief but the

plans are insufficient. She said there is not enough detail on the plans and she does not think the Gillises could obtain a building permit. She said the plan lacks dimensions and a footprint. She said the plans are incomplete. Member Robertson asked if the hearing has been opened to the public. Chairman Pinkham said it has but no one spoke. Member Robertson said the plans don't indicate what the change to the house is. Mrs. Gillis said she did write a narrative. Chairman Pinkham said the plans are still insufficient. She said she is not going to be able to vote on the petition without a proper set of plans. Member Robertson asked the clerk of the board to read the public hearing notice. Clerk of the board read the public hearing notice. Member Robertson asked if the description in the public hearing notice was sufficient. Chairman Pinkham said anyone who read the notice had the ability to go to the City Clerk's office and view the plans. Member Robertson asked if the footprint of the dwelling is going to change. Mrs. Gillis replied the footprint will be slightly larger than what it is now. Member Parrish said he is fine with the petition, as long as it meets the city's height requirements. He said he does not see the addition as being substantially more detrimental to the neighborhood. Chairman Pinkham said there is going to be a cantilever on the second floor but the plans don't indicate a measurement. Member Parrish said he believes the cantilever will be 18.1 feet from the lot line. Member Robertson asked Chairman Pinkham if she is of the opinion the plans need to be fine-tuned. Chairman Pinkham said she thinks the petitioner will be unable to get a building permit with the plans that have been submitted. Motion made by Member Robertson and seconded by Member Parrish to continue the public hearing until the board's next regular meeting; approved, 4-0. Member Ray arrived at 6:22 p.m. Chairman Pinkham asked if November 19 would be an acceptable date for the next regular meeting. All members said they would be able to attend. Chairman Pinkham said the meeting will be on Monday, November 19, at 6 p.m. Chairman Pinkham asked Mrs. Gillis to submit a set of plans with elevations to the clerk before the next meeting.

Motion made by Member Parrish and seconded by Member Ryan to return to the regular order of business; approved, 5-0.

**James V. Lentine, 176 School Street, Woburn, MA 01801, petitioner and landowner, seeking a Variance from the provisions of Section 6.1 of the 1985 Woburn Zoning Ordinance, as amended, for the reduction of a side yard setback to 16 feet, more or less, for a 1-story addition at 176 School Street, Woburn, MA:** Attorney Tarby said his client is seeking a variance for an enclosure of the entrance and exit to his home, and the entrance and exit to a set of stairs to the basement. He said the lot is 17,586-square-feet and located in an R-2 zoning district. He said the dwelling meets all the zoning requirements except for the side yard setback. Tarby referred the board to the elevation plans and the photos that he submitted with the application that show the entry into the house. He said the door leads down to the basement. He said his client built the addition because he believed the side yard setback requirement was 12 feet in both directions. He said the Building Dept. issued a stop work order, with which Mr. Lentine has complied. Chairman Pinkham asked if the door was supposed to be built flush against an exterior wall. Attorney Tarby said that is correct. Chairman Pinkham asked under which hardship Mr. Lentine is applying for a variance. Attorney Tarby said the property abuts an industrial park, and there are two frontages. He said the addition will not be a detriment to the public good. Chairman Pinkham asked what the statutory hardship is. Attorney Tarby replied it is the fact that the property abuts an industrial property. Member Robertson asked if the setback

requirement in the abutting district is the same as it is in the R-2 district. Attorney Tarby said the setback requirements in the industrial district are 25 feet for the rear, side and front. Member Robertson asked Attorney Tarby if he believes abutting an industrial district creates a hardship for the purposes of zoning. Attorney Tarby said he believes it does. Member Robertson said Mr. Lentine re-designed the addition after he obtained a building permit and asked how much work Mr. Lentine accomplished before the stop work order was issued. Mr. Lentine said the work was not done to the point of a final inspection. He said the door was supposed to be flush with the house but the landing extended four feet and that's when Building Inspector Brian Gingras issued the stop work over. Mr. Lentine said he made a mistake and work has been stopped for 3.5 months. He said he has not been allowed to rent the property. Chairman Pinkham asked if anyone in the audience wished to address the board about the petition. There were no respondents. Member Parrish said the existing structure is 19.8 feet from the side yard boundary and asked if the petition should be treated as a special permit application. Attorney Tarby said he discussed the issue with the Building Commissioner and he deemed a variance to be the appropriate form of relief. Chairman Pinkham asked how old the building is. Mr. Lentine said it is at least 60 years old. He said he bought the property in 1982. He said he does not know the actual year the home was built. Chairman Pinkham said she does not know what the side yard setback requirement is in the 1960s for the R-2 zoning district. Member Robertson asked Mr. Lentine if he is doing his own work. Mr. Lentine said he is acting as the general contractor. Chairman Pinkham said the building complied with the zoning requirements at the time it was built, but it doesn't comply now, and there is a new non-conformity. Motion made by Member Robertson and seconded by Member Parrish to grant the variance; approved, 4-1, with Chairman Pinkham opposed.

**Kevin M. Keane and Karen M. Keane, 14 Freedom Road, Woburn, MA 01801, petitioners and landowners, for a Variance from Section 6.1 of the Woburn Zoning Ordinance, as amended, for a reduction in the front yard setback requirement to install a porch at 14 Freedom Road, Woburn, MA:**

Chairman Pinkham recused herself and left the chamber. Member Robertson assumed the chair. Mr. Keane said he wants to build an 8' x 14' open air porch. He said the porch was supposed to be 8-feet off the front of his house but the wrong plans were submitted. Clerk of the board said the board approved a variance in August with plans indicating the porch was 6.5' by 14,' and Mr. Keane re-submitted an application for another variance with the corrected plans. Mr. Keane said he was advised by the Building Inspector to re-submit the plans. He said the porch will not have windows. Acting Chairman Robertson asked if the board voted previously to approve the plans that indicated the 6.5' dimension. Mr. Keane said that is correct. Acting Chairman Robertson said there is supposed to be a hardship. Mr. Keane said there is no garage on his property and he would like to build the porch to allow his wife, who broke her hip, to be able to enter the house safely. Member Ray asked if the additional 1.5 foot distance is from an overhang. Mr. Keane said the porch will come 8 feet from the foundation, not the garrison. Acting Chairman Robertson asked if the setback will be 19.7 feet. Mr. Keane replied that is correct. Acting Chairman Robertson asked where Freedom Road is. Mr. Keane said it is on the West Side. Mrs. Keane said it is in the Whispering Hill area. Acting Chairman Robertson asked if there are any other houses in the area with similar setbacks, or if there are any other houses which have additions to the front. Mr. Keane said he has noticed one or two of his neighbors building additions. Acting Chairman Robertson asked if anyone in the

audience wished to address the board about the petition. There were no respondents. Member Ray asked if the addition will be 2 or 2.5 feet closer to the street than what was approved previously. Mr. Keane replied it will be 1.5 feet closer to the street. Member Parrish asked if the board is being asked to amend the previous variance. Acting Chairman Robertson said the request is being treated as a new petition. Motion made by Member Parrish to grant the variance pursuant to the plans showing an open air porch. Member Ray said there's a markup on the plans indicating the porch is an open air porch and asked if the modified plan is the one under consideration. Acting Chairman Robertson said the plans under consideration indicate the 8' x 14' porch is open, not enclosed and show a setback of 19.7 feet. Motion to grant the variance seconded by Member Ray; approved, 4-0, with Chairman Pinkham abstaining.

**Thomas K. Monks and Tanya L. Treen-Monks, 2 Baldwin Avenue, Woburn, MA, petitioners and landowners, seeking a variance from the provisions of Section 6.1 of the 1985 Woburn Zoning Ordinance, as amended, for a reduction in the front yard setback requirement from 25 to 19 feet to install an addition and porch at 2 Baldwin Avenue, Woburn, MA:**

Chairman Pinkham returned to the chamber. Appearing were Thomas Monks and Tanya Treen-Monks, 2 Baldwin Avenue, Woburn, MA. Chairman Pinkham said the house at 2 Baldwin Avenue is on a corner lot and the petitioners are seeking a variance so they can build an addition. Chairman Pinkham asked the petitioners what their hardship is. Mrs. Monks said there are a few hardships. She said the backyard is all landfill, and there is a very steep hill in the back. She said they had to build a retaining wall due to the shape of the lot. Mr. Monks said if they were to build the addition so it complies with the zoning ordinance, they would have to remove their pool. Mrs. Monks said the shape of the land is also a hardship. She said when they bought their property in 1995, Tyler Street was a paper street that did not exist. Chairman Pinkham referred to the aerial photo submitted with the application and said it shows a white line on the side of the street, but she indicated that was probably a sidewalk. Mrs. Monks said another hardship is they are due to the juxtaposition of the family room and the kitchen. She said they do not want to build an addition off the family room and would prefer to build it off the kitchen. Chairman Pinkham asked if anyone in the audience wished to address the board about the petition. There were no respondents. Chairman Pinkham asked if the proposed deck will be elevated. Mr. Monks said it will be. Chairman Pinkham said the deck will have to comply with the setback. Member Robertson asked how many other homes are on Tyler Street. Mr. Monks replied there is one duplex. Member Robertson asked Mr. Monks if he knows what the setback is. Mr. Monks replied it appears to be at least 20 feet. Chairman Pinkham said since the Monks live on a corner lot, they must comply with two front yard setbacks. Mrs. Monks said there is a house in the area that underwent a very large addition about 10 years ago. Member Robertson asked if the Monks had examined any records to that effect. Mr. Monks said they did not look up anything. He said he remembers getting a notification from the city about a public hearing. Member Robertson asked what the hardship is. Chairman Pinkham said the slope of the rear of the lot is significant. Member Robertson asked if there is a hardship on the easterly side of the property. Mrs. Monks said they would have to move the driveway and the garage to build an addition on that side. Chairman Pinkham said it is very difficult to show a financial hardship as justification for a variance. Mrs. Monks said there is a hardship in the way the builder built the house. Member Robertson said he has come to the point of view a lot of variance applications

that come before the board do not comply with the legal definition of a hardship, but his new standard is if there are other properties on the street that have established non-conformities and there are no neighbors objecting, he is going to vote in favor of them, even if the statutory definition of a hardship does not apply. Mrs. Monks said there is also a significant slope to the driveway. Member Robertson said the Monks are telling the board things in dribs and drabs but allowed they may very well have a hardship. Member Robertson asked if there is an existing retaining wall. Mrs. Monks said there is a retaining wall and it does indeed retain the yard. Member Ray asked if the Monks considered making the addition 14 feet wide instead of 18 feet wide. Mrs. Monks said she and her husband have four children, three of whom are adults, who are not leaving. She said her children are taking up physical and air space in the home. She said they have a large family. Member Ray said he is willing to go forward with the petition. Motion made by Member Ray and seconded by Member Ryan to grant the variance; approved, 4-1, with Chairman Pinkham opposed.

**John R. Polson, 134 Montvale Road, Woburn, MA, 01801, petitioner and landowner, seeking a Special Permit under the provisions of Section 7.3 of the 1985 Woburn Zoning Ordinance, as amended, for an addition at 134 Montvale Road, Woburn, MA:** Appearing was John Polson, 134 Montvale Road, Woburn, MA. Mr. Polson said he is seeking a special permit because one side of his house is 7 feet from the property line. He said his home was built in 1955. Chairman Pinkham said the side setback is 7 feet and it appears Mr. Polson's addition is going straight up. Mr. Polson said his house is a Ranch-style house and he is turning it into a Colonial. He said the front setback complies with the zoning ordinance but the side does not. Chairman Pinkham asked what the structure on the side of the house is. Mr. Polson said it is a detached garage. Chairman Pinkham said the garage is too close to the side lot line, but since Mr. Polson is not altering the garage, it is not a factor. Chairman Pinkham said the plans submitted by Mr. Polson are insufficient. She said she met with the Building Commissioner, who advised her Mr. Polson would not be able to get a building permit on the basis of the plans. She said Mr. Polson does qualify for a special permit, but the plan is incomplete. She said the board's application for a special permit indicates the petitioner is supposed to submit a plan that shows dimensions, elevations and building materials. She said she understands no one wants to go through an expense unless they know they are going to get relief. She said the public hearing will be put on hold until the petitioner submits a plan that will allow him or her to obtain a building permit. Chairman Pinkham asked if anyone in the audience wished to address the board about the petition. There were no respondents. Motion made by Member Robertson and seconded by Member Ray to continue the public hearing until the board's meeting on Monday, November 19; approved, 5-0.

**Artisan Child Care, 237 Winn Street, Woburn, MA, 01801, petitioner, and Thelma Donahue, Trustee, 237 Winn Street Trust, 20 Manor Drive, Sandwich, MA, 02536, landowner, seeking a Variance under the provisions of Section 13.6.2 (4) of the 1985 Woburn Zoning Ordinance, as amended, for a free-standing sign at 237 Winn, Woburn, MA:** Appearing on behalf of the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, MA, and Gus Miragias, 237 Winn Street, Woburn, MA. Attorney Salvati said a

variance was granted in 2013 for the exact same sign for which his client is now seeking relief. He said the hardship is the odd shape of the lot. He said the purpose of the sign is to create more visibility for the business. Mr. Miragias said he obtained a variance for the sign in 2012 or 2013 but did not install it due to financial difficulties. Member Parrish asked why the petitioner is back before the board for the exact same sign. Attorney Salvati said the sign was not installed and the variance expired. Chairman Pinkham asked if anyone in the audience wished to address the board about the petition. There were no respondents. Member Robertson asked if the current sign illuminated. Attorney Salvati said it is illuminated and one of the conditions imposed by the board in 2013 was that the lights illuminating the sign must be turned off by 8 p.m. He said the other conditions are that the variance is specific to Artisan Child Care and the sign must conform to the plans as submitted. Mr. Miragias said he believes the time restriction on the lights for the sign is 6 p.m., not 8 p.m. Chairman Pinkham said the variance indicates the sign must be turned off at 6 p.m. Mr. Miragias said the day care center closes at 6 p.m., but he is requesting 8 p.m. Chairman Pinkham asked if the sign is illuminated internally. Mr. Miragias replied the sign is illuminated externally, and a requirement that it will be shut off at 6 p.m. is fine. Member Robertson asked if the day care center is in an R-1 zoning district and if the properties in the area are residential. Attorney Salvati said he believes all the surrounding properties are residential except for the Church of the Open Bible across the street, which he said is in Burlington. Chairman Pinkham said she also believes there is a dentist's office in the area. Attorney Salvati said he believes the dentist's office is in the R-1 district. Member Robertson asked if Mr. Miragias wants the sign to remain illuminated until 8 p.m. Mr. Miragias replied that would be helpful. Member Robertson asked where the property, going north on Winn Street. Attorney Salvati said the property is on the right hand side, at the Burlington line. Member Robertson asked Mr. Miragias if he lives there. Mr. Miragias said he lives in a small apartment on the property. He said the primary use is a day care center for children from 4 months to 6 years. Member Ryan asked if this will be only sign on the property. Attorney Salvati said it will be, Member Robertson asked if the board has the authority to impose a condition limiting the time the sign is illuminated and requiring the variance to run with the petition. Attorney Salvati said that is how the variance was conditioned in 2013. Member Parrish said he would be happy to vote in favor of the petition and with the amended condition that the sign must be turned off by 8 p.m. Member Robertson seconded Member Parrish's motion to approve the variance but said he would not be in favor of extending the hours the sign is illuminated. Attorney Salvati said a condition requiring the sign to be turned off at 6 p.m. is fine with his client. Member Parrish amended his motion to require the sign to be turned off at 6 p.m. Motion to grant the variance with the following conditions was approved, 4-1, with Chairman Pinkham opposed: The subject sign 1.) Shall cease to be illuminated at 6 p.m.; 2.) That the Variance shall be personal to Artisan Child Care, and 3.) shall conform in all respects and particulars to said plans drawings and specifications dated June 21, 2013, submitted to and on file with the Board and the City Clerk's office, and which plans, drawings and specifications are, by reference, incorporated herein.

**32 Franklin Street LLC, 10 Draper St. #23, Woburn, MA 01801, petitioner and landowner, for a Special Permit from the provisions of Section 7.3 of the Woburn Zoning Ordinance, as amended, to convert a single-family home to a 2-family home at 32 Franklin St., Woburn, MA:** Appearing for the petitioner was Attorney Frederick Gilgun, 33 Bedford Street,

Suite 4, Lexington, MA, and Michael Whittaker, 32 Franklin Street LLC, 10 Draper St. #23, Woburn, MA. Attorney Gilgun said his client is seeking a special permit to convert a single-family home to a 2-family home. He said the property is in an R-2 zoning district. He said the property is non-conforming to several dimensional regulations but there will be no new non-conformities created and the same footprint will remain. He said there will be adequate parking for a 2-family home. He said the house was constructed in 1900. He said the 2-family status will remain within the scale and character of the neighborhood. Member Ryan asked if the home was ever used as a 2-family, since there is a double door in front. Attorney Gilgun said the only evidence the property has been used as a 2-family is visual. He said there are separate kitchens on each floor and in speaking with the Building Dept. there is evidence the dwelling was once used as a rooming house, perhaps illegally. Member Robertson asked where Franklin Street is located. Attorney Gilgun replied Franklin Street connects Main and Winn streets. Chairman Pinkham said the property is at the end of Park Street. Member Robertson asked if there are small, undersized lots in the neighborhood. Attorney Gilgun said most of the lot are substandard lots and multi-family dwellings. Member Robertson asked Attorney Gilgun if he had done a numerical survey. Attorney Gilgun said he has not. Member Robertson asked Attorney Gilgun what he bases his statement on that there are substandard lots and 2-family homes in the neighborhood. Attorney Gilgun said his client also built a 2-family at 13 Franklin Street. Mr. Whittaker said from walking the neighborhood it is clear there are multi-family homes. He said there is a 4-family at the corner of Franklin and Park streets. He said there is a new 2-family under construction. He said there is a 2-family across the street from 32 Franklin St. He said there is a 2-family to the left of 32 Franklin St. He said he previously purchased 2 Johnson St., which was formerly 13 Franklin St., and gave it new life. Member Robertson asked how the size of the lot at 13 Franklin St. compares to the size of the lot at 32 Franklin St. Mr. Whittaker said they are about the same size. Member Parrish referenced the parking situation and asked if there is a sidewalk on Franklin Street. Mr. Whittaker said there is a sidewalk on both sides of the house. He said he has updated the site plan to show a curb cut. He said there is about 40 feet for parking, or 10 feet per vehicle, which exceeds the required 9 feet per car. Chairman Pinkham asked if analysis changes if the setback is 20 feet. Attorney Gilgun said he was relying on the precedent set at 19 Stoddard St. and the non-conformity regarding the size of the lot is grandfathered. Chairman Pinkham asked if anyone in the audience wished to address the board about the petition. There were no respondents. Motion made by Member Robertson and seconded by Member Parrish to grant the special permit; approved, 5-0.

**Member Robertson took a moment of personal privilege** to clarify his rationale for voting in favor of variances that do not necessarily meet the statutory threshold of a hardship. He said the Chairman consistently votes in favor of or in opposition to variances based on the statutory hardship and his rationale is not a reflection on her or anyone else on the board. He said he is going to continue to use a different standard but acknowledged that the board in some fashion is violating the law and said the only member of the board who isn't violating the law is the Chairman.

**Approval of minutes from the Board's meeting on September 19, 2018:** Chairman Pinkham suggested two corrections: changing the word "standard" to the term "rear setback" and the word "elevation" to the term "porch roof" on page 2. Member Ray suggested changing the word "not"

to “met” on page 4. Motion made by Member Ray and seconded by Member Ryan to approve the minutes of the September 19, 2018 meeting, as amended; all in favor, 5-0.

**Chairman Pinkham said the next meeting** will be on Monday, November 19, at 6 p.m. She said in December she has other commitments on Wednesdays and she may have to move the meeting to another day, possibly Thursday. She said she would confer with the clerk about scheduling the December meeting. Member Robertson said it doesn’t make a difference to him when the December meeting is.

**Motion made by Member Robertson and seconded by Member Ray to adjourn;** approved, 5-0. Chairman Pinkham adjourned the meeting at 7:39 p.m.