

**Zoning Board of Appeals  
Woburn City Hall  
City Council Chambers  
Wednesday, November 18, 2020 – 6:00 p.m.**

Voting members present: Chairman Margaret M. Pinkham, Member Edward S. Robertson, Member John J. Ryan, Member Daniel Parrish, Member John Ray, and Alternate Member Richard Clancy

Also present: Ward 3 Alderman Jeffrey Dillon

1. **Joseph D. Kenton, 4 Westview Terrace, Woburn, MA 01801, Petitioner and Landowner, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to raze and replace a single-family dwelling at 6 Field Terrace, Woburn, MA (continued from meeting of October 21, 2020):** Representing the petitioner was Attorney James Juliano, Scafidi Juliano LLP, 42 Pleasant Street, Woburn, MA. Chairman Pinkham said the applicant is seeking a special permit and a variance to raze and reconstruct a dwelling at 6 Field Terrace. Attorney Juliano said Mr. Kenton is in audience. He said they were here last month seeking two variances and a special permit for the demolition and reconstruction of a single-family home. He said a revised plan was submitted. He said the revised plan removes the need for one of the variances, for a reduction to the side yard setback. He said the side yard setback at one end of the proposed house is 12 feet and in compliance with the zoning ordinance. He said the only variance that is required now is for a reduction in the building coverage by 0.2 percent. He said they were able to reduce the building coverage to 25.2 percent. He said there is no exacerbation of any of the setbacks. He said they figured out a way to rotate the house, so the setbacks comply with the zoning ordinance. He said he supplied pictures to the board that show there is asbestos in the existing house, which he said warrants a demo and not a rehab. He said there are also pictures of other homes in the neighborhood to indicate the proposed house is comparable. Chairman Pinkham said if the applicant has made such significant progress it would be possible for him to do a little more tweaking and reduce the size of the house, so a variance isn't required. She said she appreciates the effort, but she still does not believe there is any basis for a variance based on lot coverage. She said it's such a small lot. Chairman Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Chairman Pinkham said the board received correspondence from a couple of neighbors and that is a matter of record. Motion made by Member Ray and seconded by Member Robertson to grant the special permit and variance based on the most recent plan; approved, 4-1, with Chairman Pinkham opposed.
  
2. **Joseph D. Kenton, 4 Westview Terrace, Woburn, MA 01801, Petitioner and Landowner, seeking Variances from Section 6.1 of the 1985 Woburn Zoning Ordinances, as amended, for a reduction in a side yard setback from 12 feet to 10.1 feet and an increase in building ground coverage from 25 percent to 27.5 percent to raze and replace a single-family dwelling at 6 Field Terrace, Woburn, MA (continued from meeting of October 21, 2020):** See preceding item.

- 3. Estate of Victor Spinazola, 13 Richmond Ave., Woburn, MA 01801, Petitioner and Landowner, seeking a Variance from Section 6.1 of the 1985 Woburn Zoning Ordinances, as amended, for a reduction in the minimum lot size requirement from 12,000-square-feet to 10,384-square-feet to create a new lot and construct a single-family home at 13 Richmond Ave., Woburn, MA (continued from meeting of October 21, 2020):** Representing the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, MA. Attorney Salvati requested leave to withdraw without prejudice. Chairman Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Motion made by Member Parrish and seconded by Member Ryan to grant the petitioner leave to withdraw without prejudice; approved, 5-0.
  
- 4. Jimmy Chew LLC, Shawn McSheffrey, manager, 43 Chappie St., Charlestown, MA 02129, Petitioner, and Carolyn C. Jensen, 53 Marlboro Road, Woburn, MA 01801, Landowner, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to raze and rebuild a single-family home on a pre-existing non-conforming lot of 11,005-square-feet and 98 feet of frontage at 53 Marlboro Road, Woburn, MA (continued from meeting of October 21, 2020):** Representing the petitioner was Attorney James Juliano, Scafidi Juliano LLP, 42 Pleasant Street, Woburn, MA. Attorney Juliano said this is the second time before the board with this application. He said his client is proposing to raze and replace the existing home. He said he supplied the board with architectural plans that were requested last month. He said there are two existing non-conformities – lot size and frontage, the latter of which is 98 feet, two feet short of the requirement under the zoning ordinance. He said the existing building lot coverage is 7.9 feet, and his client is proposing a home with lot coverage of 16.4 feet. He said the new home will meet all the requirements for height and setbacks, and that the non-conformities are not being changed at all. He said this is not the first application for a Colonial-style home in the neighborhood. He said he provided the board with pictures of similar homes in the neighborhood. He said he thinks the new home will look nice. Chairman Pinkham asked if the existing home is a Cape. Attorney Juliano said it is. (An unidentified audience member said the existing house is actually a Ranch.) Chairman Pinkham asked if the house is on a slab. Mr. McSheffrey said the existing house has a basement. Chairman Pinkham asked if there will be any changes to the elevation. Attorney Juliano said the elevation may decrease slightly. Mr. McSheffrey said he is going to try to have the house sit as low as possible. He said there will be a walk-out of the back of the dwelling. He said there will be some retaining walls. Attorney Juliano said the basement will be 7.5 feet in height. Chairman Pinkham asked how high the retaining walls will be. Mr. McSheffrey said the retaining walls will be less than 3 feet. Attorney Juliano said the retaining walls will look like steps. Member Parrish asked if the pictures submitted by the applicant are depictions of houses on Marlboro Road. Attorney Juliano said all the pictures but one are of houses on Marlboro Road. He said there is one picture of a house at the corner of Marlboro Road and Princeton Road which is on Princeton Road. Member Robertson asked what present and proposed building ground coverage ratios are. Attorney Juliano said the current building ground coverage is 7.9 percent and the proposed building ground coverage is 16.4 percent. He said the present

landscaped usable open space ratio is 89 percent and the proposed landscaped usable open space ratio is 74.8 percent. Chairman Pinkham said the first photo in the package of pictures submitted by the applicant appears to be a home at 6 Princeton Road, but she cannot see the house number on the second picture in the package. Member Parrish said there is a #1 superimposed on the second photo to indicate the address is 1 Marlboro Road. Chairman Pinkham said she sees the #1 now. She said she thought she was going to have to match the photos to the lots in the aerial photo but now she can see the numbers on the photos submitted by the applicant. Chairman Pinkham asked if anyone in the audience wished to address the board in regard to the petition. Brian McDevitt, 55 Marlboro Road, indicated he would like to address the board. Chairman Pinkham asked if Mr. McDevitt submitted a letter to the board. Mr. McDevitt confirmed he has. Chairman Pinkham said from reading Mr. McDevitt's letter she understands the gist of Mr. McDevitt's issue with the petition is the new home is going to be much larger than the other homes in the area and it will dominate the neighborhood. She said Mr. McDevitt included a graphic with his letter showing the proposed structure superimposed over the existing dwelling. She asked him to confirm whether the existing home is a Ranch. Mr. McDevitt replied the existing home is a Ranch. Chairman Pinkham asked what style of a home Mr. McDevitt's is. Mr. McDevitt replied his home is a Ranch. Mr. McDevitt said 19 of the 22 properties in the neighborhood are 1-story dwellings. He said the other three have a second story but kept the same footprint. Chairman Pinkham asked Mr. McDevitt if he contends the changes to the house will have a substantial detrimental impact based on size. Mr. McDevitt said that is correct. He said the existing structure is 900-square-foot and the proposed structure is 2,100-square-foot. He said the applicant is trying to jam the biggest house he can on a small lot, and once the property is sold, the developer will be gone, but the abutters will still be there. He said there are no elevations on the plans. He said he thinks there is going to be a significant grade change. He said the existing structure on his side of the lot is 15 feet high and there is conflicting information about the height of the new structure being 38.5 feet. Chairman Pinkham said if the new structure is too high, the Building Dept. will not issue an occupancy permit. Member Ray said the height of the structure can change depending upon how much fill is brought in. Mr. McDevitt said that should be on the plan. Member Ray said if the developer brings in two feet of dirt, they have to take two feet of the height of the structure. He said he cannot tell how high the attic is. Mr. McDevitt said it appears to be going up about 12.5 feet. Member Robertson asked why that can't be determined now. Member Ray said the dimension can't be exact. Member Robertson asked what the variation is. Member Ray said it is a calculation. He said for instance if they build the house and it's too high, then they drop off a truck load of dirt in the back and the height hasn't changed. Member Robertson asked Mr. McDevitt if there is a house at 57 Marlboro Road and what style it is. Mr. McDevitt said there is a home at 57 Marlboro Road, and it is a Ranch. Member Robertson asked what type of home is across the street. Mr. McDevitt said the home across the street is a Ranch. Mr. McDevitt said the scale of the new structure appears to be based on the re-sale value and not what fits in with the neighborhood. Member Parrish said the house at 51 Marlboro Road appears to be two stories. Mr. McDevitt said 51 Marlboro Road still has its original footprint and foundation. He said the proposed structure at 53 Marlboro Road has been moved closer to the street. He said the setback is 25 feet and the other homes are set back 40 feet. He said if the proposed house is moved

back to 40 feet, it would not fit with the setbacks. Member Robertson asked if the houses were built as part of a subdivision. Mr. McDevitt said the neighborhood was part of the Kel-town area and all the homes were developed at the same time. Chairman Pinkham asked if anyone else in the audience wished to address the board in regard to the petition. Barbara Johnson, 7 Churchill Road, said there are 106 houses in the neighborhood, and they were all built as Ranches. Attorney Juliano said the elevation may have to change but added the height of the home will be in accordance with the local zoning ordinance. He said the pictures he has submitted to the board show houses that have similar proportions to the one his client is proposing. He said they are not exacerbating; not proposing something that is substantially more detrimental, and they are falling in line with the local ordinance with respect to everything but frontage and lot size. Member Ray referred Attorney Juliano to the picture for 1 Princeton Road and said that house appears to be sitting on a new foundation. He asked about the foundation at 16 Marlboro Road. Attorney Juliano said the foundations at 16 Marlboro Road and 24 Marlboro Road have relatively new foundations that have been widened. He said his client's proposed house will fall in what the vast majority of the existing homes in the neighborhood. Member Ray said it is hard to tell where the retaining wall will be. Attorney Juliano said they will not need a retaining wall unless it is necessary. He said they will have to have any retaining walls approved if they are over a certain height. Member Ray said it does not appear there is a place to put in a retaining wall. Member Robertson asked who made the representation there are 22 properties within 300 feet. Chairman Pinkham said Mr. McDevitt said that. Member Robertson said Mr. McDevitt indicates there are only three homes of those 22 that are not Ranches. Attorney Juliano said he disagrees with that. He said there are more than 22 homes within 300 feet. Chairman Pinkham said Mr. McDevitt indicated there are 22 homes within 300 feet of the locus, and of those, 19 are Ranches. Attorney Juliano said he does not think that's true because there are more than 22 abutters within 300 feet. Member Robertson asked how many abutters are on the certified abutters list. Attorney Juliano said there are 51 abutters on the certified abutters list. Member Robertson asked how many of those homes are Ranches. Attorney Juliano said there are about 15. Member Robertson asked how many of those were allowed relief. Attorney Juliano said he does not know how many but added some the lots are under 12,000-square-feet and shy on the frontage. He said there is a pattern. He said they are not seeking variances because they are otherwise within the other parameters of the zoning ordinance. Member Robertson asked Mr. McDevitt how he arrived at the number of 22 abutters. Mr. McDevitt said he took the center line of the applicant's property and included any other property within a 300-foot radius. He said there were 22 properties that met that criteria and of those, 19 are Ranch-style homes. He said the other three were raised to a second floor but kept the same footprint. He said he challenges the statement that this proposed structure will be the norm. He said it is exceptional. Joseph Flaherty, 6 Princeton Road, said he added a second floor to his home but kept the existing foundation. He said this neighborhood contains all Ranch-style homes. He said the proposed house is going to be big, and he is going to look at the front of it. He said he is ok with the building, but he wants to be sure the other neighbors are happy with it. Attorney Juliano said the abutters list usually includes any property within 300 feet. Member Robertson said he assumes the applicant paid the Assessors Dept. for an abutters list. Attorney Juliano said the Assessors Dept. includes on the abutters any property

within 300 feet from each corner of the subject property, not a radius. Chairman Pinkham said any time she sees such a large structure with a walkout basement and attic it is appropriate to add a condition that the house remain a single-family. She said she can empathize with the abutter's concern about the size and scale of the proposed dwelling. She said at 55 feet wide it is significantly bigger than the existing structure. She said the lot does have the ability to handle a structure this size, and just because the neighborhood was developed as Ranches, it does not mean they have to stay that way. She said she is going to vote in favor. She said she empathizes with the neighbors and she hopes the developer will provide an adequate butter. She said she hopes there is a condition that there will be no runoff onto neighboring properties. Motion made by Member Ray and seconded by Member Ryan that the special permit be granted. Chairman Pinkham suggested the following conditions: 1)a. the special permit does not authorize any change in use; b. the basement shall always be accessible from the first floor of the structure and must remain connected to the existing single family home, with an opening, entryway or doorway to enter the basement from the existing structure with no wall or other structural barrier constructed to block access between the basement and the first floor; c.) if the basement is finished in the future, it shall not be rented or leased to third parties who are not related to the property owner; d. this special permit authorizes representatives of the City of Woburn to inspect the structure and future owners and occupants of the proposed structure shall be deemed to have consented to such inspections under the terms of the Special Permit and shall allow access to the interior of the structure to establish compliance with these conditions; and e. the Board's grant of the Special Permit is not intended and shall not be construed so as to allow creation of a separate rental unit or two-family dwelling, which use is expressly prohibited.2.) The property owner shall ensure that any changes to the elevation of the property shall not direct any water onto neighboring properties; 3.) The structure shall comply with all zoning regulations in regard to height. Motion made by Member Robertson and seconded by Member Parrish to attach the aforesaid conditions to the special permit; approved, 5-0. Mr. McDevitt asked to address the board. He asked if there will be any visual mitigation involved. Member Robertson asked if Mr. McDevitt is referring to screening and said he would go along with Mr. McDevitt's request is reasonable and does not involve planting huge Sequoia trees. Mr. McDevitt suggested Leland Cypress trees, which he said grow six feet a year. Motion made by Member Ray and seconded by Member Robertson to allow Member Ray to reconsider his vote on the conditions; approved, 5-0. Member Ray suggested a fourth condition requiring the applicant to plant a row of Leland Cypress trees along the sides of the structure beginning at a point 25 feet from the front setback. Attorney Juliano said he does not know if that condition is acceptable to his client. He said they have made two attempts to reach out to Mr. McDevitt but have not gotten a response. He said he does not want to leave any conditions carte blanche, and that he does not know if the board has the authority to impose such a condition. Chairman Pinkham said the board imposes conditions requiring screening of fences, so she assumes they can do it for dwellings. She said she does not know if Leland Cypress trees are an appropriate form of screening. Attorney Juliano said Leland Cypress trees can grow to be pretty wide. He said they may not need many of them. Member Robertson asked if the board can inquire with the neighbor further about the screening. Chairman Pinkham said Leland Cypress trees can grow to 50 feet high after about six years. She asked Attorney

Juliano if he has any other suggestions. Attorney Juliano said he would be concerned about sight lines. Chairman Pinkham suggested tabling the matter so Attorney Juliano can confer with Mr. McSheffrey and then with Mr. McDevitt. Motion made by Member Robertson and seconded by Member Robertson to table the matter; approved, 5-0. Matter tabled at 6:49 p.m. Matter taken from the table at 7:03 p.m. Attorney Juliano said his client has agreed to place Leland Cypress trees eight feet on center. Chairman Pinkham said the applicant appears to have made very good use of his time during the recess. Motion made by Member Ray and seconded by Member Parrish to impose the following condition: The developer shall install a line of Leland Cypress trees along the side lot lines, eight feet apart on center starting 25 feet from the street to a point 70 feet from the street; approved, 5-0. Motion to grant the special permit, with the aforementioned conditions; approved, 5-0.

- 5. Donald Kelley, 15 Shields Street, Woburn, MA, 01801, Landowner and Petitioner, seeking a Variance from Section 5.3.2 of the 1985 Woburn Zoning Ordinances, as amended, to install a fence higher than 3 feet within the front setback at 15 Shields Street, Woburn, MA:** Mr. Kelley said he has lived at this address for 45 years. He said there was an existing chain link fence that was 4-feet high. He said he wants to install a scalloped vinyl fence with a maximum height of 42 inches. He said 40 of his abutters were notified. He said there is a difference of 5-6 inches between the chain link fence and the new fence. Chairman Pinkham said she is impressed the chain link fence lasted for 45 years. Mr. Kelley said the fence is so old it changed colors twice. Chairman Pinkham said it seems the chain link fence is a pre-existing, non-conforming structure, since it's been up for so long. Mr. Kelley said he never pulled a permit for the chain link fence. Chairman Pinkham said the city cannot take any enforcement action and the chain link fence is considered a non-conforming structure. She said she has a vague memory of the board granting relief in a similar circumstance in the past. Member Robertson said he agrees the fence is a legal non-conforming use at this stage. Chairman Pinkham said the fence is considered to be a structure. Member Robertson replied all structures are uses and he has been having this discussion for decades. Member Ray said what Mr. Kelley is proposing is a reduction of a non-conformity. Chairman Pinkham said the board would need to convert the form of relief from a variance to a special permit, because of the pre-existing, non-conforming status of the structure. Motion made by Member Robertson and seconded by Member Ray to change the form of relief from a variance to a special permit; approved, 5-0. Chairman Pinkham said the fence permit identifies the height of the fence at 42 inches and the building permit identifies the height of the fence as 36 inches. Mr. Kelley said the Building Dept. had him write 36 inches as the height of the fence. Chairman Pinkham asked if the height of the fence at any point will be 6 feet. Mr. Kelley replied it will not. Chairman Pinkham said the pictures of the chain link fence supplied the applicant do not indicate how close the fence will be to the property line. Mr. Kelley said the fence will be 12 feet shy of the property line. Chairman Pinkham asked if the length of the fence will be 95 feet. Mr. Kelley said the fence will be 103 feet in length, and that he will still have 10-12 feet of space on each side. Member Ray said the estimate from the fence installer indicates the property line is 124 feet, and there are 10 feet and 16 feet of space on each side. Chairman Pinkham asked if the sketch supplied by the fence company is what Mr. Kelley wants. Mr. Kelley said the fence is an accurate

depiction of the fence he wants to install. Chairman Pinkham asked if anyone on the audience wished to address the board in regard to the petition. There were no respondents. Motion made by Member Ray and seconded by Member Parrish to grant the special permit; approved, 5-0.

- 6. Keith Irwin, 5 Senator Road, Woburn, MA, 01801, Landowner and Petitioner, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, for an addition to a single-family home on a non-conforming lot at 5 Senator Road, Woburn, MA:** Chairman Pinkham said it appears Mr. Irwin wants to put a second story on top of an existing structure. Mr. Irwin said the addition will represent an increase of about 230 square feet. Chairman Pinkham said the existing structure appeared to have an L-shape. She said the plot plan indicates the lot is less than 12,000-square-feet and lacks the required frontage, therefore the board has jurisdiction to grant a special permit. She said it appears the addition will stay on the existing plane, and it will comply with the front, side and rear setbacks. Chairman Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Motion made by Member Parrish and seconded by Member Ray to grant the special permit based on the plan; approved, 5-0.
- 7. Frederick Cialdea and Bruce Cialdea, 19 Crossman Road, Woburn, MA 01801, Petitioners and Landowners, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to raze a pre-existing non-conforming single-family home and construct a new single-family home at 11 Montvale Road, Woburn, MA:** Representing the petitioner was Attorney Mark Salvati, 10 Cedar Street, Suite 26, Woburn, MA. Attorney Salvati said this is a typical East Woburn lot with undersized lot area and non-conforming frontage. He said his clients intend to knock down the existing structures on the lot and replace them with a single-family home and a garage. He said the new home will be within the setback requirements and consistent with the scale and character of the neighborhood. He said the new home will be on the same footprint as the existing home. He said there is a nuisance petition currently before the City Council. Chairman Pinkham asked if there is a lot coverage calculation. Attorney Salvati said it is on the plot plan, but he believes the lot coverage to be approximately 18 percent. Chairman Pinkham said she sees it now on the plot plan and it is 17.4 percent. Member Parrish asked if the new home will meet the city's height restriction. Attorney Salvati said the height of the new home will be 34 feet. Member Robertson said if the applicant brings in 10 feet of fill, then the elevation of the new home will be 44 feet. Attorney Salvati said the zoning ordinance references median height. He said a home can have a peak height of 40 feet but will comply with the ordinance is the median height is 35 feet. Member Robertson asked Attorney Salvati if he is comfortable with that interpretation. Attorney Salvati said the Building Dept. is going to strike down anything that does not comply with the ordinance. Chairman Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Motion made by Member Ryan and seconded by Member Parrish to grant the special permit; approved, 5-0.

- 8. Approval of minutes from meeting of October 22, 2020:** Chairman Pinkham said she made two edits that she will give to the clerk. Motion made by Member Ray and seconded by Member Ryan to approve the minutes as amended; all in favor, 5-0.
- 9. Any other matter that may be legally before the Board:** Member Ryan asked if the board has set a date for its next meeting. Chairman Pinkham said it has not. She asked if 6 p.m. on December 16 is an acceptable date and time. There were no objections. Chairman Pinkham asked if the board wants to hold the meeting live or on the Zoom platform. She said the board can wait and see what develops with the pandemic. She said the Governor's new guidelines indicate the capacity in the City Council Chamber would be limited to 17 people, based on the size of the room. She said she is concerned about people who may want to attend a live meeting but will not due to a concern about coming into a public building. She said if 20 people show up to a hearing, they would have to ask some of them to wait in the lobby and someone would have to act as a gatekeeper. Member Parrish asked if there is a way to have a live meeting that would allow people to watch from their homes on the Zoom platform. Member Ray said the board would not have a way to see Zoom participants during a live meeting. Chairman Pinkham said she knows that when the City Council held its meetings on the Zoom platform the President of the council and the clerk were in City Hall. Member Ray asked if it is worth waiting to see what develops over the next few weeks. Member Ryan said if the current Covid trend continues, the decision about the meeting format will be made for the board. Chairman Pinkham said there are exceptions to the Governor's guidelines for administrative hearings. Chairman Pinkham asked if the clerk can tailor the hearing notices for December to indicate the meeting may be held on the Zoom platform. Clerk replied when the board was holding Zoom meetings in the spring and summer the meeting notices indicated the meetings may be held on a virtual format and to check the city's website for further details. Chairman Pinkham said that would be a good idea.
- 10. Motion made by Member Ray and seconded by Member Ryan to adjourn;** all in favor, 5-0. Chairman Pinkham adjourned the meeting at 7:22 p.m.

ATTEST:

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Gordon Vincent  
Clerk of the Zoning Board of Appeals