

**Zoning Board of Appeals
City Council Chambers
Woburn City Hall
Wednesday, January 19, 2022 – 6:00 p.m.**

Present: Chairman Margaret M. Pinkham, Member John Ryan, Member Daniel Parrish, Member Edward Robertson, and Member Richard Clancy

- 1. Thomas Murphy, 13 Fisher Terrace, Petitioner and Landowner, seeking a Variance from Section 5.3.2 of the 1985 Woburn Zoning Ordinances, as amended, for a fence higher than 3 feet within the 25-foot front yard setback at 13 Fisher Terrace, Woburn, MA:** Member Clancy recused himself. Chairman Pinkham said the applicant has requested a continuance. 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 Robertson and seconded by Member Parrish to continue the public hearing until the board’s meeting in February; approved, 4-0. Chairman Pinkham said there is no guarantee there are going to be five eligible voting members at the February meeting. She said the Building Commissioner has informed the applicant that he may be subject to enforcement action.

- 2. Marcio Silva, 18 Green Street, Woburn, MA, 01801, Petitioner and Landowner, seeking a Variance from Section 5.3.4 of the 1985 Woburn Zoning Ordinances, as amended, for a fence higher than 6 feet within the street setback at 18 Green Street, Woburn, MA:** Representing the petitioner was Attorney Mark Salvati, 10 Cedar St., Suite 26, Woburn, MA. Attorney Salvati said Mr. Silva installed a fence without knowing a permit was required. He said the fence is higher than what is allowed in the zoning ordinance. He said all of the fence is within the front setback. He said he has provided the board with a few photos of the fence. He said his client removed a set of hedges and a large tree to install the fence. He said Mr. Silva installed the fence because people were cutting through his yard. He said there is a rock wall and elevation of the yard is 2-3 feet higher than the sidewalk. He said the Building Dept. counts the elevation of the rock wall in the height of the fence. He said the fence looks good. He said the fence is made of vinyl and it is slotted. He said there is a line of sight. He said the line of sight is better than what it used to be when the shrubbery was there. He said the height of the fence itself is four feet all around. Chairman Pinkham there is a reference in the application to the height of the fence being 6 feet, 5 inches. Attorney Salvati said the Building Dept. counts the height of the fence as 6 feet, 2 inches. Chairman Pinkham asked if the fence is set back from the wall, would the rock wall count toward the height of the fence. Attorney Salvati said setting the fence back from the rock wall would not give Mr. Silva what he’s looking for. He said people will still be able to access Mr. Silva’s property. Chairman Pinkham said the pictures do no show line of sight. Attorney Salvati said the fence is about 4-5 feet off the sidewalk. Chairman Pinkham said the line-of-sight requirement references a person looking from a height of 42 inches. She asked Attorney Salvati took the photos while he was standing or sitting in a car. Attorney Salvati said he took the photos while he was sitting in a car. Member Robertson asked what the fence does that the bushes do not do. Attorney Salvati said in hindsight Mr. Silva probably

should have left the bushes up. He said Mr. Silva installed the fence to try to enhance the appearance of his yard, and to prevent people from cutting through his property. Member Robertson asked if the Building Dept. imposed any enforcement action with respect to the height of the bushes. Attorney Salvati said bushes are not considered a structure and thus not subject to enforcement action. He said Mr. Silva could have had bushes that are 8 feet high without enforcement action. Chairman Pinkham said she is not so sure the Building Commissioner would agree with that statement. She said she is pretty sure there's something in the code that regulates the height of arborvitaes. Attorney Salvati said a building permit is not required for bushes. Chairman Pinkham asked if there has been any enforcement action against the fence. Attorney Salvati said there has been no enforcement action yet. He said his client has been informed there will be enforcement action if he does not get a variance for the fence. Member Robertson asked if the fence is located where the bushes were. Attorney Salvati answered affirmatively. Member Robertson asked what the time frame between the removal of the bushes and the installation of the fence. Attorney Salvati responded said the interval was about two months. Member Robertson asked if the applicant has inquired with the Woburn Police Dept. about sight lines. Attorney Salvati said he has not but is willing to do so. He said his client is also willing to alter the fence at the corner so there is an angle, to enhance the sight line. He said he can come back with a plan that shows the cut corner. Chairman Pinkham asked what form of hardship the applicant is citing in his request for a variance. Attorney Salvati said the grade of the property is a hardship. Chairman Pinkham asked if the change in grade is 2 feet. Attorney Salvati said the zoning ordinance will only allow his client to install a 1-foot fence onto top of the 2-foot wall. Member Robertson asked if the board should inquire with the City Solicitor about whether a 2-foot change in elevation constitutes a hardship. Chairman Pinkham said she is sure the City Solicitor will have an opinion. Member Robertson said it seems like a waste of time to ask the City Solicitor for an opinion. Chairman Pinkham said the plan does not have elevations. Attorney Salvati said he can provide a plan with elevations. Member Robertson asked what is permissible under the zoning ordinance. Attorney Salvati said the zoning ordinance limits the height to 3 feet total. Member Robertson asked if the applicant's fence is one foot above the legal limit. Attorney Salvati said the fence is more than three feet above the 2-foot wall. Member Robertson asked if there was any enforcement action with respect to the bushes that were replaced by the fence. Attorney Salvati said there was not. Chairman Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Member Parrish said there was a similar petition before the board a few months ago for a fence on Pearl Street atop a stone wall that did not require a variance. Chairman Pinkham said in that instance the fence was not in the setback. Member Parrish asked if the board should request an opinion from the Traffic Safety Officer. Member Ryan said he went by the property and he thinks there may be a sight line issue on Highland Street. He said cutting that corner would address that issue, in his opinion. Member Clancy said he drove by the locus and he did not notice a sight line issue. He asked how much distance there is between the fence and the retaining wall. Attorney Salvati said there is about a foot between the fence and the retaining wall. Member Clancy asked if the applicant intends to put any plantings between the fence and the retaining wall. Attorney Salvati said his client can plant flowers. Attorney Salvati said he ask for a continuance so the Traffic Safety Officer can

render an opinion. Member Robertson asked how long the fence has been up. Attorney Salvati said the fence was installed four months ago. Member Robertson asked if there have been any plantings installed since the fence was erected. Chairman Pinkham said her concern is there is only a foot between the fence and the stone wall and any plantings may further impede the sight line. Chairman Pinkham asked if any member of the board objects to meeting on February 16. There were no remonstrations. Chairman Pinkham said the petitioner has requested a continuance until the board's meeting on February 16, and in the interim an opinion from the Traffic Safety Officer can be solicited. Clerk asked Attorney Salvati if he wants to inquire with the Traffic Safety Officer or if the request should come from the board. Attorney Salvati said he would prefer if the board inquired. Motion made by Member Parrish and seconded by Member Clancy to continue the public hearing until the board's meeting on Wednesday, February 16; approved, 5-0.

- 3. Jefferson Woburn Venture LLC, 1420 Spring Hill Road, STE. 420, McLean, VA 22102, relative to an application for Modification of Comprehensive Permit (pursuant to M.G.L. Chapter 40B, Sections 20-23) for purposes of a public hearing pertaining to the property located at 1042 Main Street, Woburn, MA:** Representing the petitioner were Attorney Paul Haverty, Blatman, Bobrowski & Haverty LLC, 9 Damonmill Sq., Suite 4A4, Concord, MA; Sandi Silk, Jefferson Woburn Venture LLC, 1420 Spring Hill road, Ste. 420, McLean, VA; Carlton Quinn, Senior Project Manager, Allen & Major Associates, 100 Commerce Way, Woburn, MA; Tim Sullivan, Lead Designer, Mainline Custom Signage Systems, 1 High St., Antrim, N.H.; and Sean Sanger, Landscape Architect, Copley Wolff Design Group, 10 Post Office Square, Boston, MA. Attorney Haverty said the general intent of the proposed modifications is to provide better screening and better aesthetics. He said Mr. Quinn will discuss those factors. Attorney Haverty said there is also a safety component with the proposed signage. He said they want to make sure the entrance to the site can be identified so people driving cars won't have to slam on the brakes. He said he believes the proposed changes are insubstantial. He said the new plans were updated at the request of the new developer. He said he thinks this will be something that is beneficial to the community. Chairman Pinkham said this is kind of a unique circumstance. She said she views the application as the developer asking for waivers from the city's zoning ordinance for a fence within the front setback, and for a sign that is much bigger than what would be allowed. She said that is how she is thinking about it. She said it would be helpful for the applicant to provide more detailed plans as the set that was submitted does not have a lot of specific information. She said she is concerned about sight lines. She said she wants to know what kind of bushes will be planted. She said she is concerned about light poles and whether any thought has been given to shading the light from the fixtures. She said she has some specific questions about the waivers the applicant is seeking. She said it would be helpful if the applicant presented the changes in an organized fashion. She said she does not know from the original plans whether a variance would be needed for the fence. She said she feels like it's the board's job to get the specifics, because the plans do not have them. Attorney Haverty said the details are also important from the developer's perspective. He said the developer will lay out what waivers are required and come back to the board with that information. Member Robertson asked if the substance of the developer's request is for the board to determine whether the proposed changes are substantial or not substantial. He asked if the memo from the developer's attorney details the proposed

changes. Chairman Pinkham said there is not a sequential list of changes. Member Robertson said he does not understand why the board was not provided with a detailed changes in a numerical or sequential fashion. Attorney Haverty said the board was provided with information as a way to flesh out the landscaping for the project. Member Robertson asked is the developer sat down with someone from the city to review the change and determine if approval was required from the board. Attorney Haverty said there have been conversations with the Building Commissioner. He said the Building Commissioner has been informed there are modifications that need to be approved. He said that is what was presented to the board. Member Robertson asked why there isn't a document the board can look at the specific changes. He asked if approval is also required at the state level. Attorney Haverty said there have been no discussions with anyone at the state level. He said the state's participation in the project has been completed. He said there is no reason to go the Housing Appeals Committee. He said his client is seeking modifications for which the developer will provide additional information. He said it would be helpful for the board to see the developer's presentation. Chairman Pinkham asked what the status is of the drainage work. Attorney Haverty said he will defer questions about drainage to Mr. Quinn. Mr. Sullivan said he is the lead designer of the proposed monument sign. He said his goal is to provide a well-designed layout for residents, visitors, and most importantly emergency vehicles. He said the proposed location of the sign was chosen so the development could be property identified from a lower level. He said the property kinds of sneaks up on you. He said the main identification sign is 22.75 square feet. He said it will be an internally illuminated monument sign. He said the base will not be lit. He said it will give the entrance to the development a nice, tasteful, easy-to-read marker. Chairman Pinkham asked if the sign will be lit 24/7. Mr. Sullivan said the sign could be put on a timer, or they could install a dimmer. He said the only part that will be illuminated is basically the white letters. Chairman Pinkham asked what the lumens value is. Mr. Sullivan replied it is difficult to get a true lumens reading with this type of sign. He said they can adjust it. He said he believes the sign comes in at between 1,000-1,500 lumens. He said the brightness can be controlled with a dimmer. Chairman Pinkham asked about the lumens value from the light poles. Mr. Quinn said he is fairly sure a lighting plan was approved with the comprehensive permit. Member Parrish asked how far from the front setback the sign will be. Mr. Sullivan said he will address that later in the presentation. Mr. Sullivan said there will be a pump house that he said is kind of an eyesore. He said they can use graphics to make it fade into the background. Member Ryan asked if a picture that was provided by the applicant is an example of the graphic that may be used. Member Ryan asked if there is a parking garage and whether that will be similarly camouflaged. Mr. Sullivan said there is no parking garage here. Mr. Sullivan said there will also be four directional signs to get people from point A to point B on the property. He said there will also be a sign on top of the clubhouse, but the sign will not have illuminated individual letters. Mr. Sanger said he designed the landscaping for the entrance to the development. Member Ryan said he is a little confused as to who determines what the appropriate sight line is. Mr. Quinn said the sight lines were approved as part of the special permit. Mr. Sanger said there will be three canopy trees with 3-inch to 3.5-inch caliper. He said the trees will be 25 feet tall, of either red maple or red oak with eight feet of clear trunk that will provide full vision for motorists. He said the landscaping will be respectful of the

sight lines for the sign. Chairman Pinkham asked if there is a depiction of the trees other than in an aerial view. Mr. Sanger said there is another view that he will show later in his presentation. He said there will also be some transitional trees to highlight the entry to the development and provide screening and a buffer. He said the proposed fence on the right side of the property runs in a straight line. He said the fence on the left side of the property is 14 feet from the sidewalk and will encroach 11 feet into the front setback. Member Ryan asked what kind of fence it will be. Mr. Sanger said the fence will be made of white vinyl and it will tie in with the architecture. Member Parrish asked what the pumping station is going to look like. Mr. Sanger said there are a number of options but nothing has been selected yet. Member Ryan asked if a gray building marked "residence" is an existing home. Mr. Sanger said that is correct. Chairman Pinkham asked if there is a sidewalk. Mr. Sanger said the sidewalk is between the fence and the ornamental trees. Chairman Pinkham asked if there is fencing where the change in elevation is. Mr. Sanger said he does not believe so. He said he believes that area is intended to have an open lawn element. Chairman Pinkham asked if there is a graphic that indicates how much the sign would block the view of a car. Mr. Sanger said the sidewalk is 5-6 feet wide and the sign is 12-15 feet back from the sidewalk. Member Ryan asked if there are any concerns the entry sign is going to be blocked by the trees. Mr. Sanger said he does not really have any concerns about that. He said there are no shrubs under the dark green shading on the graphic that indicates the shadow of the trees. Mr. Sanger said they are trying to keep the landscaping simple and clean. Attorney Haverty said he thinks the developer will have to provide that information. He said he recognizes the board needs a level of certainty. Mr. Quinn said there are currently three foundations in the ground. He said digging has not started on the other two foundations. He said most of the utilities have been installed except for electric and gas. He said about 50 percent of the drainage system has been installed. He said the drainage system will be completed in about 2-3 months. Chairman Pinkham said her question was about work in progress on Main Street. She asked if the water connection has been installed. Mr. Quinn said water and sewer service has been connected. He said the drainage still needs to be connected. He said there is a moratorium until April 15 on street excavation and they will probably finish next fall. Chairman Pinkham asked if there is any other street work required other than the drainage and utilities. Mr. Quinn said the developer has committed to finish by next fall. He said the plan was always to install a monument sign, but they didn't detail the dimensions. Member Ryan asked if the signage at the clubhouse is internally illuminated. Mr. Quinn said the clubhouse sign will contain acrylic plastic letters. He said that sign will not be seen from the street. Mr. Sullivan said it will not be illuminated. Chairman Pinkham asked if there will be numbers on the facades of the buildings. Mr. Quinn said the Woburn Fire Dept. has requested numbers on the buildings. Ms. Silk said her firm is very excited to be in Woburn. He said the firm manages more than 7,500 rental units and recently developed a project in Malden center. She said the proposed modifications are designed to beautify the neighborhood and ease a little bit of the pain the project has caused prior to their involvement. She said they conducted a community Zoom meeting with the neighbors and met with Ward 6 Councilor Lou DiMambro. She said they reached out to immediate abutters. She said they look forward to being a part of the Woburn community. Attorney Haverty said it is obvious the developer will ask for a continuance to provide additional information to the board. Chairman Pinkham asked if

anyone in the audience wished to address the board in regard to the application. Andrea Adams, 118 Green St., said she has a couple of suggestions as professional land use planner for 20 years. She said the bulk of the development will be above the abutters. She asked if the light poles will be 17-18 feet high with a 1-foot fixture, which she said could make for an odd viewing angle for the residents. She said in her experience if there are problems with the lighting, the solution was to direct the lighting inward, away from the residents, to prevent the light from spilling onto adjacent properties. She said the developer may want to perform a test run to determine what the neighbors can see. She asked if the illuminated of the monument sign will be 10 foot candles and if so, that's not too bad for a sign with only the letter illuminated. She asked if the engineer has provided a sight distance triangle to determine if there is adequate sight distance at the end of the driveway. She said any artwork on the pump building does sometimes make the structure more noticeable, depending upon how big the structure is in relation to what is there. She said the landscaping proposed for the entrance seems adequate but the rest is just small shrubs. She said if there is a way to soften that for the residents, that would be helpful. She said the applicant should point out what's different and what is the same. Member Robertson said Ms. Adams' comments are what the chairman inquired about at the start of the hearing. He said he hopes the applicant's attorney will convert the comments that have been made tonight into a narrative form and not just on a plan. Attorney Haverty said he will provide a narrative of the proposed changes. He said the lighting is part of the original design and no changes are being proposed. He said the developer is willing to work with the neighbors. James McGowan, 25 Briarwood Road, asked if the landscaping has changed since the approval of the original plan. Chairman Pinkham said there was no landscaping on the original plan. Member Robertson said it is important to remember the Housing Appeals Committee approved this project, not the ZBA. He said he has no specific recollection of landscaping. Mr. McGowan said if the developer is planting 25-30 trees, what is the distance between each tree. He said it looks like the trees are close together. He asked if there is a maintenance plan and who will be responsible for it. Chairman Pinkham said the trees do appear to cover the sidewalk, as shown on the plan. Mr. McGowan said the developer ought to submit some type of maintenance plan. Chairman Pinkham said the board does not have a certified plot plan. Chairman Pinkham asked if the developer could provide the requested information by the board's meeting in February. Attorney Haverty said they ought to have enough time and asked for a continuance until the meeting on February 16. He said he would provide the board with a letter indicating approval of an extension until February 23, in case the meeting has to be postponed due to bad weather or other factors. Motion made by Member Robertson and seconded by Member Ryan to continue the hearing until the board's meeting on February 16, 2022; approved, 5-0.

4. **Kelvin Wong, 16 Pine Street, Woburn, MA, 01801, Petitioner and Landowner, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, for an addition to a single-family home at 16 Pine Street, Woburn, MA:** Representing the petitioner was Attorney Mark Salvati, 10 Cedar St., Suite 26, Woburn, MA. Attorney Salvati said there is a new version of the proposed addition that is smaller than the original version. He said the old version was 30 feet by 30 feet and the new version is 30 feet by 24 feet, with a narrower deck by four feet. He said the property is

located in an Industrial General zoning district and is therefore a non-conforming use and structure. He said the home dates back prior to 1900. He said any addition requires a finding that it is not more detrimental. He said there is 70 feet of frontage, which is a non-conformity. He said the current house and the addition will meet all the setback requirements. He said the addition is about 1,800-square-feet. He said there is plenty of room for an addition since the lot is long and narrow. He said he has submitted letters from four neighbors in support of the special permit. Member Ryan asked if the existing 2-car garage is being converted into a 1-car garage. Mr. Wong said there will be one door but the garage will remain a 2-car garage. He said there is still an entry door. Member Ryan asked if the entry door is around the back of the garage. Mr. Wong said the entry door will be on the opposite side as it is now. Member Ryan asked if the driveway slopes up at the end. Mr. Wong said the slope is 3-4 feet. He said they are going to even out the slope and re-use the soil. Member Ryan said it is hard to tell if the retaining wall is going to wrap around. Mr. Wong said the retaining wall tapers. Member Parrish asked if the dwelling is a single-family home. Attorney Salvati said it is currently a single-family home and will remain so. Chairman Pinkham said the board tends to add a condition that will require the home to remain a single-family. Attorney Salvati said his client is okay with a condition that the home will remain a single-family. He said he does not think it can be converted into a 2-family. 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 Clancy and seconded by Member Ryan that the special permit be approved with a condition that the home must remain a single-family dwelling; approved, 5-0.

5. **Discussion of filing and application fees for ZBA petitions:** Chairman Pinkham said the clerk was asked to provide the board with a list of application and filing fees for zoning board petitions in other towns. She said it is striking that the Woburn ZBA does not charge a filing fee. She said the applicant only pays for publication fees. She asked if there is a consensus among the board members to institute a filing fee and asked what the board would consider to be an appropriate amount. Clerk said the genesis of this exercise was because the mayor has asked department heads to revisit their administrative fees. Clerk said the City Council has raised its filing fees and the City Clerk's office has raised its fees for vital records. He said the Building Dept. has also raised its fees. He said in some instances the city is losing money by charging applicants only \$200 for advertising, as the cost of the advertisements sometimes exceeds \$200. Member Robertson asked Chairman Pinkham what the filing fee is for Superior Court. Chairman Pinkham said the filing fee is \$270. Member Ryan said he thought there was a discussion in the past about filing fees for comprehensive permits. Clerk said he could research the cost of filing fees for comprehensive permits and get back to the board. Member Robertson said when he was more involved with city government, Woburn cited Melrose as an example of how much to charge for administrative fees. Chairman Pinkham asked if the board wants to charge the same fee for all petitions or distinguish between commercial and residential fees. Member Clancy said he likes what Burlington does. Motion by Member Clancy and seconded by Member Ryan to set the filing fees to match Burlington's rates of \$100 for residential applications and \$250 for commercial applications. Chairman Pinkham said Lowell has two different rates for applicants - \$100 for a special permit and \$150 for a variance. Member Parrish said he will support the will of the board. Member Robertson

asked if the board should be consistent with what the City Council charges. Clerk said the City Council has a much more expansive fee schedule because it has a wider array of petitions. Chairman Pinkham said the board only handles special permit applications for single and two-family homes and variances. Member Ryan said he also likes what Burlington is doing. He said Burlington also charges \$5,000 for a comprehensive permit filing. Chairman Pinkham said she recalls the board did adopt a fee for comprehensive permits. Member Parrish asked if a \$100 filing fee is enough. He said Peabody charges \$225. Member Robertson asked if the board should send a communication to the mayor's office, asking if the mayor can solicit advice from the Treasurer/Collector about the appropriate fee structure. Clerk said the process started when the mayor asked municipal department heads to address their fee schedules. Chairman Pinkham said when she first looked at the spreadsheet with fees from other towns, she thought a filing fee of \$150 would be appropriate. She said if the board votes to accept filing fees of \$100 for residential applications and \$250 for commercial applications, it would not be wildly out of bounds. Member Clancy said he does not want the city to lose money. Member Parrish said there are a number of municipal entities that are also involved in the board's deliberations, including the Police Dept., the City Clerk's office and the Building Dept. Chairman Pinkham said she thinks the board should take a vote. She said the applicant will pay advertising fees directly to the newspaper, and the filing fees will be \$100 for residential filings and \$250 for commercial filings. Member Ryan asked about the fee for comprehensive permits. Chairman Pinkham asked the clerk to provide the board with the current filing fees for comprehensive permits. Motion approved, 5-0. Member Robertson asked when the new filing fees will go into effect. Chairman Pinkham asked if there have been any filings for the board's meeting in February. Clerk said he has already received one application for a special permit and expects another application for a variance to be filed shortly. Chairman Pinkham said the new rates will go into effect as of the March meeting. Chairman Pinkham said she would like to discuss the format and size of plans that are submitted to the board. She said plans that are filed on 8.5-inch by 11-inch paper are often difficult to read. She said she would like to review the board's application documents and talk about potential changes next month.

6. **Approval of minutes from meeting of December 15, 2021:** Chairman Pinkham said Member Ryan gave her some corrections. She said has made a series of corrections but she has not made it all the way through the document. She asked the board to make a motion to approve the minutes with any further amendments that she will submit to the clerk. Motion made by Member Robertson and seconded by Member Ryan to approve the minutes as amended; all in favor, 5-0.
7. **Any other matter that may be legally before the Board:** None.
8. **Motion made by Member Parrish and seconded by Member Ryan to adjourn;** all in favor, 5-0. Chairman Pinkham adjourned the meeting at 8:12 p.m.

ATTEST:

Gordon Vincent
Clerk of the Zoning Board of Appeals