

**Zoning Board of Appeals  
City Council Chambers  
Woburn City Hall  
Wednesday, April 20, 2022 – 6:00 p.m.**

Present: Chair Margaret M. Pinkham, Member John Ryan, Member Daniel Parrish, Member Edward Robertson, Member Richard Clancy, and Alternate Member Mark Cavicchi

1. **Jason Duquet, 9 Eagle Road, 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 rear yard setback from 30 feet to 10.3 feet for an addition at 9 Eagle Road, Woburn, MA (continued from meeting of March 16, 2022):** Chair Pinkham said the board has received a communication from Attorney James Juliano, 42 Pleasant St., Woburn, MA, on behalf of the applicant requesting a continuance until the board's meeting in May. Chair 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 Robertson to continue the hearing until Wednesday, May 18, 2022; approved, 5-0.
  
2. **Samik Shahi, 3 Tanners Circle, 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 a side yard setback from 12 feet to 10.9 feet to build a garage at 3 Tanners Circle, Woburn, MA:** Chair Pinkham asked if this is a pre-existing garage. Mr. Shahi said this is a new garage. He said he built the garage three months ago. He said he obtained a building permit but now he needs a variance. Chair Pinkham said the side setback requirement is 12 feet and the garage is only 10.9 feet from the lot line. She asked what happened. Mr. Shahi said there was a miscommunication between the surveyor and the contractor, and the foundation is not where it is supposed to be. Chair Pinkham asked if the property was staked. Mr. Shahi answered affirmatively. Chair Pinkham asked if the builder did not understand the 12-foot setback requirement. Mr. Shahi said the discrepancy was discovered after the foundation was put in. Chairman Pinkham asked the applicant what he is citing for a hardship in his application for a variance. Member Parrish asked if Mr. Shahi has the original plan of record. Mr. Shahi said he does. He said the distance between the dwelling and the garage was supposed to be 10 feet. Chair Pinkham said the plot plan indicates the distance between the dwelling and the garage is 9.7 feet. Mr. Shahi said 9.7 feet is correct. Member Parrish asked if the discrepancy wasn't discovered until after the foundation was poured. Mr. Shahi said the garage was supposed to be 12 feet from the side lot line but it ended up 10.9 feet instead. He said there was some confusion between the contractor and the surveyor. Member Robertson said it sounds like Mr. Shahi revised the plan in order to get a building permit. He asked if Mr. Shahi filed for a building permit. Mr. Shahi answered affirmatively. He said he does have documents for the building permit. Chair Pinkham said Member Robertson's point is Mr. Shahi would not have received a building permit if the plans did not show a 12-foot setback. Member Ryan asked if Mr. Shahi got a building permit with a 12-foot setback prior to the structure being built. Mr. Shahi said he is not completely sure. He said Building Inspector Brian Gingras signed the application. Member Ryan

asked if the Building Dept. found the discrepancy during an inspection. Mr. Shahi answered affirmatively. He said everything was inspected. He said he has a building permit. Member Clancy asked what the height of the garage is. Mr. Shahi replied the height of the garage is 19 feet. Motion made by Member Robertson to grant the variance. Member Parrish asked if the garage can accommodate two cars. Mr. Shahi answered affirmatively. Member Parrish asked what the second floor of the garage will be used for. Mr. Shahi said the second floor of the garage will be used for storage. Member Parrish asked if there are any plans to connect the garage to the house. Mr. Shahi said they will remain separate structures. Member Parrish said the building plans indicate the garage is 16 feet high. Mr. Shahi said the garage is 19 feet high. Chair Pinkham said the plans indicate the garage is 16 feet high. Mr. Shahi said maybe he is confused and the garage is 16 feet high after all. Motion to grant the variance seconded by Member Parrish. Member Ryan said he will reluctantly vote in favor of the variance due to the odd shape of the lot. Motion to grant the variance approved, 4-1, with Chair Pinkham opposed. Member Robertson said it seems to him with the surveyor or the contractor made a mistake. Mr. Shahi said he is unsure. Member Robertson said the surveyor who drew Mr. Shahi's plot plan files documents with the ZBA every month and he would hate to think the surveyor is negligent. He said his concern is the contractor may have missed something. Mr. Shahi said he is not sure. Chair Pinkham said who made the mistake is irrelevant at this point. Member Robertson said if the board had not voted to grant the variance, there would have been serious consequences for the petitioner. He said the petitioner did what he was supposed to do and he ended up with all this aggravation.

3. **Christopher and Mackenzie Blanc, 20 Pine Street, Woburn, MA, 01801, Petitioners and Landowners, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, to raze and replace a single-family home on a non-conforming lot at 20 Pine St., Woburn, MA:** Chair Pinkham said the plan does not have any measurements. She said she does not know if there is anything but the frontage that is non-conforming. She said in order to consider the application for a special permit, the board has to find the house is a pre-existing non-conforming entity. She said this is difficult to determine without measurements on the plan. She said the lot size is 10,200-square-feet, which could be a basis for the board's finding that it has jurisdiction. She said because the lot is undersized, the board does have jurisdiction. Mr. Blanc said there is a chart on the proposed site plan that shows the existing and proposed dimensions. He said the lot size is 10,200-square-feet. Chair Pinkham said the existing house does not meet the front setback requirement, which she said would be another non-conformity. She said the proposed structure will comply with the front, side, and rear setbacks. She said she made a note on page 3 of the plans that shows the left side of the structure has a covered door leading to a basement. She said any time she sees a covered door to a basement, she wonders what is going to be in the basement. Mr. Blanc said the basement will be unfinished. He said he did not want a bulkhead. He said he may want to finish the basement down the road. Chair Pinkham said the board has had other cases when the basement has been finished and made into an apartment. She said the board typically imposes a condition that the house will remain a single-family dwelling. Mr. Blanc said such a condition is fine with him. Member Robertson said nowhere is it indicated what the applicant is looking for. Mr. Blanc said he is seeking to build a single-family home. Chair Pinkham said the application does indicate Mr. Blanc is seeking to raze and rebuild

a single-family home. Member Robertson said he thinks that would be sufficient. Chair 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 special permit with a condition that the new dwelling will be a single-family home; approved, 5-0.

- 4. Kip Schultz, 263 Concord Road, Lincoln, MA, 01773, Petitioner, and Aaron and Mary Asch, 26 Robinson Road, Woburn, MA, 01801, Landowners, seeking a Special Permit from Section 7.3 of the 1985 Woburn Zoning Ordinances, as amended, for a second story addition, rear deck, and front porch at 26 Robinson Road, Woburn, MA:** Mr. Schultz said the lot is non-conforming. He said Mr. Asch said he would like to add a second story to his existing home to accommodate his growing family. He said there are no plans to increase the use. Chair Pinkham said the only non-conformity is the front yard setback. Mr. Schultz said porches are exempt from the setback requirement. Chair Pinkham asked if the porch will be covered. Mr. Schultz answered affirmatively. Chair Pinkham said if the porch is covered, then it is subject to the setback requirements. She said the applicant is exacerbating the non-conformity, which is allowed by special permit. She asked when the existing structure was built. Mr. Schultz said the existing structure was built in 1953. Chair Pinkham said she does not see on the plans how the basement is going to be accessed. Mr. Schultz said there are no changes to the basement. Chair Pinkham asked if there is a bulkhead. Mr. Schultz said entry will be through the garage. He said there will be no apartments in the dwelling. Chair Pinkham said the basement plan shows a pool room and a utility room. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Member Ryan asked how the basement will be accessed. Mr. Schultz said there will be a doorway from the garage to the basement. Member Ryan asked if the attic is going to remain unfinished. Mr. Schultz said the attic will remain unfinished, and an HVAC system will be added. Member Ryan asked if the home will remain a single-family. Mr. Schultz answered affirmatively. Member Parrish asked what the proposed height is. Mr. Schultz said the height will remain within the building code. Motion made by Member Parrish and seconded by Member Ryan to grant the special permit based on the drawings and building plans, with a condition that the dwelling shall remain a single-family home; approved, 5-0.
- 5. Lori McDonough, 69 Mill St., 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 pre-existing, non-conforming single-family home at 69 Mill St., Woburn, MA:** Representing the applicant was William Nolan, Savoie Nolan Architects LLC, 4 South Main Street, Ipswich, MA; and Lori and Robert McDonough, 69 Mill Street, Woburn, MA. Mr. Nolan said the home is a single-family dwelling with 1.5 stories, with three bedrooms and a basement. He said the McDonoughs are looking to add onto the right side of the existing structure an addition of 680-square-feet; a story and a half to match the existing house. He said the addition is modestly sized. He said the basement will be unfinished. He said the addition will blend with the existing home. He said they are also proposing to add two dormers to draw in more natural light. He said there are three areas of non-conformity: the lot size is 10,000, the existing front setback is 14.6 feet and the rear setback is 28.6 feet. He said none of the non-conformities is being

increased. He said the addition will match the height and style of the home. He said the proposed front setback will be 15.7 feet. Chair Pinkham said it appears the house is going from three bedrooms to five bedrooms. She asked how many bathrooms there will be. Mr. Nolan said there will be an increase of two bathrooms. Chair Pinkham asked if the sewer line can handle the additional capacity. Mr. Nolan said the site engineer looked into that and spoke with the Building Inspector. He said he thought he read something in the notes that indicated the addition would not be more detrimental. Chair Pinkham said her real concern is this looks like a 2-family. She said there are references on the plan to a bonus room. Mr. Nolan said the plan is for Ms. McDonough's parents to move into the additional space. He said he is aware of the prohibition on in-law apartments in Woburn. Chair Pinkham said there has to be an open connection. Mr. Nolan said there is an open connection, based on comments from the Building Commissioner. He said in reality there will only be one additional bedroom. Chair Pinkham said he appreciates Mr. Nolan being up front. She said the board usually imposes a set of conditions to prevent the use from being increased. She said the conditions provide the city with assurances that if the applicants sell the house 20 years down the road, the home will remain a single-family. She said the property is located in an R-1 zoning district. She said the board has received questions from a neighbor who has expressed similar concerns. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. There were no respondents. Member Parrish said Mr. Nolan represented he spoke to the Building Commissioner about the second front door and asked if there was any discussion about an internal walkway. Mr. Nolan said having their own private space was important for the family as they make this transition. Member Parrish asked if there was any discussion about keeping only one front door. Mr. Nolan said one of the answers was they wanted privacy. He said it was discussed and decided that one front door wasn't going to work. He said the Building Inspector seemed to indicate this is a viable plan. Chair Pinkham asked if there will be any off-street parking required. Mr. McDonough said the driveway is being redesigned to accommodate one more vehicle. He said the driveway already fits three vehicles. Mr. Nolan said there will be certainly enough room for four cars. Member Ryan said it looks like the driveway can easily fit two cars. Mr. McDonough said the driveway can accommodate three cars. Member Ryan said his point was it's already a big driveway. Chair Pinkham asked if the intent is to remove the side entrance and deck. Mr. Nolan said the existing conditions are mislabeled on the plan. Chair Pinkham asked if the side entrance is remaining. Mr. Nolan said it is. Member Robertson asked about the comment from the neighbor that was sent to the board. Chair Pinkham said the board received an email from a neighbor who expressed concerns about the home being converted into a 2-family, among other issues. Mr. Nolan asked the McDonoughs if they have any issue with making the dwelling available for inspection by the city. Mrs. McDonough said they do not. Chair Pinkham asked if the McDonoughs spoke with their neighbors about the proposed addition. Mr. Nolan said the McDonoughs spoke with several neighbors. Mr. McDonough said they met with the direct abutters on either side. Member Parrish said he is going to vote in favor of the special permit. He said this petition is a good example why the city's zoning code needs an overhaul. Motion made by Member Parrish and seconded by Member Robertson to grant the special permit with the condition that the home shall remain a single-family with an in-law apartment; approved, 5-0.

- 6. Nouredine Lahyani, 6 Beach Terrace, 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 a rear yard setback from 30 feet to 23.5 feet to build an addition at 6 Beach Terrace, Woburn, MA:** Representing the applicant were Nouredine Lahyani, 6 Beach Terrace, and Breno Araujo Lopes, B.L. Construction Service LLC. Chair Pinkham said the plan that was submitted is difficult to read. She asked if Mr. Lahyani is seeking a variance to add a sunroom. Mr. Lahyani answered affirmatively. Chair Pinkham asked if there is a deck. Mr. Lahyani said he wants to convert the existing deck to a sunroom. He said he is not expanding the footprint of the deck. Chair Pinkham asked when the existing deck was built. Mr. Lahyani said the deck was there when he bought the house in 2011. He said the deck was there in 1981 when the house was built (Scrivener's note: The Assessors Database indicates the house was built in 1979). Member Parrish asked if the petitioner should be seeking a special permit instead of a variance. Chair Pinkham said that is why she asked when the deck was built. Member Parrish asked if the property is a corner lot. Mr. Lahyani said it is not. Chair Pinkham said she thinks the petitioner should be seeking a special permit. She said it appears the petitioner wants to convert the existing deck to a sunroom and then build a new deck next to the sunroom. Chair Pinkham asked if anyone in the audience wished to address the board in regard to the petition. David Bryant, 1 Beach Terrace, said Mr. Lahyani and his family are great neighbors and he and his wife have no problem with them obtaining relief. Cathy Bryant, also of 1 Beach Terrace, said Mr. Lahyani's property is well-kept. Mr. Bryant said the proposed addition would be an improvement to the street. Chair Pinkham said Mr. Lahyani applied for a variance, and that the board has the authority to grant special permits and variances. She said she is not going to vote for a variance in this instance. She said the deck has been there as a non-conforming use since at least 2011, and if there has been no enforcement for at least 10 years, it becomes legally non-conforming. Member Clancy asked when the homes were built on Anthony Drive. Mr. Lahyani said he does not know. Chair Pinkham said there is a sewer easement on the front portion of the property. She said Mr. Lahyani can ask the board to convert the application to a special permit. She said the standard for a variance is much higher. She said four affirmative votes would be required for passage of a variance. She said the standard for granting a special permit is much more lenient. Member Robertson asked if a special permit will allow the applicant to do the same thing as a variance. Member Parrish said the legal standard for a special permit is it must not be substantially more detrimental to the neighborhood. Chair Pinkham said the applicant has not submitted building plans. Member Parrish asked what Mr. Lahyani is proposing for a roof. Mr. Lopes said the ceiling will be open. Member Parrish asked if the sunroom will have skylights. Mr. Lopes said it will not. Member Parrish said he would vote in favor of a special permit. Member Robertson said he would also vote in favor of a special permit. Member Parrish asked if Mr. Lahyani has building plans. Member Ryan said that is also his concern. Chair Pinkham said it sounds to her like the board will need a set of building plans. She said the applicant can request a continuance until the meeting on May 18 to give him time to supply the board with building plans. She said it is up to the applicant to decide whether he wants to continue with his request for a variance or ask for a change to a special permit and ask for a continuance. Mr. Lahyani said he would like to change his application to one for a special permit. Motion made by Member Parrish and seconded by

Member Ryan to change the requested form of relief from a variance to a special permit; approved, 5-0. Motion made by Member Clancy and seconded by Member Ryan to continue the hearing until May 18; approved, 5-0.

**7. Approval of minutes from meeting of March 16, 2022:** Chair Pinkham said she made corrections on pages 2, 3, 9 and 10. Member Ryan said he found typographical errors on pages 2 and 3. Chair Pinkham said she would give an edited version the minutes to the clerk. Motion made by Member Parrish and seconded by Member Robertson to approve the minutes as amended; all in favor, 5-0.

**8. Any other matter that may be legally before the Board:** Chair Pinkham said she signed the decision for 1042 Main Street. She said Attorney Haverly made some edits based on an agreement with Mr. Kaushik Patel over his encroachment onto the applicant's property.

**9. Motion made by Member Parrish and seconded by Member Ryan to adjourn;** all in favor, 5-0. Chair Pinkham adjourned the meeting at 7:28 p.m.

ATTEST:

\_\_\_\_\_  
Gordon Vincent  
Clerk of the Zoning Board of Appeals