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ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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Petition of William Hegarty

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall at 8:00 PM on Thursday, June 18, 1981 on the Petition of William H. Hegarty for Dr. James M. Adams, proposed purchaser and occupant of the dwelling at 62 Brookside Road. The petitioner is requesting a Special Permit under the provisions of Section II A 8(h) and Section XXV of the Zoning Bylaw which will allow the petitioner to use the premises located at 62 Brookside Road to operate an office to see his patients. Said location being in a Single Residence District.

On May 27, 1981 the petitioner filed his request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Present at the hearing and speaking on behalf of this request was Dr. James M. Adams and his father. The petitioner, Dr. Adams, is a recent graduate and is purchasing this house to live in and would also, if this Special Permit is granted, like to run an office from the house. Dr. Adams stated at the hearing that initially he will employ one non resident employee, he will not initially have X-Ray facilities, he anticipates that there will be as many as four patients in the waiting room at a time. The family room and living room will be utilized as an office as they are in the front of the house. Dr. Adams is presently working in Beverly full time, which will continue to be his primary place of business with the 62 Brookside Road office being part time. Dr. Adams further stated that he is presently looking for an apartment to rent in Beverly.

There was nobody else present speaking in favor or in opposition to this request.

Statement of Facts

The property involved is located at 62 Brookside Road in a Single Residence District.

The petitioner seeks a Special Permit from this Authority to allow him to set up a doctors office in his home where he will be able to see patients. The site has a circular driveway with ample parking in back for up to 10 cars, the dwelling is located on a three (3) acre parcel of land. The practice will begin with only one



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full time non-resident employee. There will be as many as four patients in the waiting room at one time. The office will be a Chiropractic office located in the front of the house in the family room and living room areas. Once the practice is established Dr. Adams anticipates employing a total of two (2) full time non-resident employees. Dr. Adams plans to work full-time in Beverly at another chiropractor's office and rent an apartment there.

A letter dated June 12, 1981 was received from the Planning Board stating "that there is no sewer available to serve this property". The Planning Board further recommended that "an opinion should be obtained from the Board of Health regarding this proposal for a more intensive use in an area not served by the Town sewer."

Decision

This Authority has made a careful study of the evidence submitted. At least one member has taken a view of the locus.

Section IIA 8 (h) 1 & 2 of the Zoning Bylaw state in part:

1. "There shall be no activity, and no equipment or process shall be used, in the conduct or as a result of the conduct of a home occupation, which disrupts or disturbs the customary character of a residential neighborhood."
2. "There shall be no pickup or delivery of products and/or articles that is not customary in a residential area."

The petitioner stated at the hearing that there would be as many as four persons waiting in the waiting room at one time and patient/patients in with the doctor, therefore one can anticipate at least six cars in the driveway at once. It is the opinion of this Authority that the coming and going of such a large number of patients during the course of a day along with the concomitant traffic and safety considerations in a residential neighborhood violates the above section. Although patients are not commonly termed to be "products" or "articles", the prohibition of subsection 2. against "pickup and delivery of products and/or articles at a premises that is not customary in a residential area lends support to our conclusion about the intent of subsection 1.

Further, the Board has been left in doubt about whether Dr. Adams primary purpose in owning the premises is residential since he is presently single and intends to work in Beverly and rent an apartment there for the foreseeable future.

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Petition of William Hegarty, continued

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It is the unanimous opinion of this Authority that the granting of a Special Permit for the requested use would not be in harmony with the general purpose and intent of the Zoning Bylaw and would derogate from the public good. Therefore this request for a Special Permit is denied and the petition is hereby dismissed.

*William F. Cullinane*

William F. Cullinane, Chairman

*John A. Donovan, Jr.*

John A. Donovan, Jr.

*Stephen S. Porter*

Stephen S. Porter