

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS 27

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ZBA 2001-22
Petition of Merrill R. Pregeant
24 Lantern Lane

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 26, 2001 at 7:30 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of MERRILL R. PREGEANT requesting a Special Permit pursuant to the provisions of Section II A 8 (h) and Section XXV of the Zoning Bylaw to use a portion of her dwelling at 24 LANTERN LANE, in a Single Residence District, for the purpose of a home occupation; namely the practice of licensed muscular therapy, with hours on Monday and Wednesday from noon to 8 p.m.; Tuesday, Thursday and Friday from 8-10 a.m. and 6-8 p.m. and Saturday from 9 a.m. to 1 p.m. throughout the year, with no more than 15 clients per week during those hours. There are no employees.

On April 9, 2001, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Merrill Pregeant, who said she is a licensed muscular therapist, and although she has offices in Newton and Framingham, would like to be able to spend more time at home, rather than running between the offices. She is a Blue Cross provider, and Blue Cross patients must be seen within 24 hours, if possible.

The Board commented that Ms. Pregeant has asked for many hours in which to see patients. She said not all the hours would be used as she is requesting a maximum of 15 clients during those hours. A typical session lasts an hour. She would like flexibility in scheduling clients.

The Board asked where parking would be provided. Ms. Pregeant said the driveway holds two cars and she has a two-car garage.

The Board asked if she intended to give up one of her offices if she was granted a Special Permit. Ms. Pregeant said she would like to maintain both offices as she has built a client base, but would like to be able to see Wellesley residents in her home. Currently, she does not have paying customers, but has done muscular therapy with friends, and occasionally on a barter system, which has not worked very well.

The Board suggested that the number of nights with evening hours be limited as well as the number of clients not only per week, but per day.

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Jim Whetton, 23 Maple Road spoke in opposition to the petition. He noted that the private road is a narrow dead end cul de sac, and the school bus picks up children at 8 a.m. at a stop adjacent to Ms. Pregeant's home.

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Jim Kenyon, 28 Lantern Lane, objected to the introduction of a business in a residential area, as did Neil McKay, 15 Maple Road.

After further discussion, the Board decided that the morning hours should not begin until 9 a.m. to avoid interference with the school bus schedule; evening hours limited to two nights per week, those being Monday and Wednesday; a limit of clients 3 clients per day and no more than 15 clients per week; that all customers, including those on the barter system, be counted in the allowed number of clients; that a letter of approval of the therapy area be received from the Board of Health before any treatment sessions begin; that all therapy be limited to the approved area; that all parking of client cars be on the premises; that no signage shall be allowed; and that the Special Permit shall expire on December 31, 2001, which is the date on which the license issued by the Board of Health shall expire.

Statement of Facts

The subject premises are located at 24 Lantern Lane, in a Single Residence District. The petitioner is requesting a Special Permit to allow her to use a portion of her premises for the purpose of a home occupation: namely, the practice of licensed muscular therapy with hours on Monday and Wednesday from noon to 8 p.m.; Tuesday, Thursday and Friday from 8-10 a.m. and 6-8 p.m.; and Saturday from 9 a.m. to 1 p.m. throughout the year, with no more than 15 clients per week during those hours. There are no employees.

Submission materials included a copy of a License issued by the Board of Health to the petitioner to practice Massage Therapy at her premises. The license shall expire December 31, 2001. A floor plan of the premises indicating the location of the treatment room, and photographs were also submitted.

On April 24, 2001, the Planning Board reviewed the petition and recommended that if the application was granted, it be conditioned on a one-year probationary period. There should be no on-street parking allowed. The Board noted that the proposed hours of operation may coincide with school bus pick-up times, and further noted that Lantern Lane is a private way. The Board questioned whether the hours and anticipated number of clients was in excess of what is normally allowed under a home occupation permit.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. This Authority is of the opinion that the proposed use of the premises is in compliance with the requirements of Section II A 8 (h) of the Zoning Bylaw and will neither disturb nor disrupt the customary character of the neighborhood.

Therefore, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the use of a portion of the premises by the petitioner for the purpose of licensed muscular therapy, subject to the following conditions:

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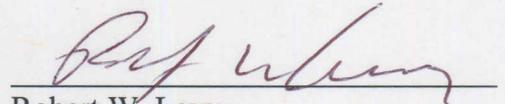
1. All client sessions shall be conducted between the hours of noon to 8 p.m. on Mondays and Wednesdays; 9 to 10 a.m. and 6-7 p.m. on Tuesdays, Thursdays and Fridays and 9 a.m. to 1 p.m. on Saturdays throughout the years.
2. The total number of client sessions shall not exceed 15 hours per week during the aforesaid hours.
3. There shall be no more than 3 clients on any one day. Clients shall include both paying customers and those on the barter system.
4. Prior to the first client session, the petitioner shall obtain a license for a massage establishment from the Board of Health, a copy of which shall be submitted to the office of the Board of Appeals and no therapy shall be performed in any area of the premises other than that approved by the Board of Health.
5. There shall be no signage identifying the premises as a massage establishment, or the petitioner as a massage therapist.
6. All parking related to the home occupation shall be in the driveway of the petitioner, and no client vehicle shall be parked at any time on Lantern Lane, Duxbury Road, Maple Road or Worcester Street.
7. There shall be no employees.
8. This Special Permit shall expire on December 31, 2001.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN
THE OFFICE OF THE TOWN CLERK.

Cc: Planning Board
Inspector of Buildings
edg


Kendall P. Bates, Chairman


William E. Polletta


Robert W. Levy