

PLANNING BOARD

TOWN OF WELLESLEY

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Patricia N. Grandieri



Town Hall, 525 Washington Street
Wellesley, MA 02482
Tel. (781) 431-1019 ext. 230, 232, 234, 238
Fax (781) 237-6495 or 239-1043
Email: rickb @ ci.wellesley.ma.us

~
Thomas Frisardi, Associate Member

~
Richard H. Brown, Planning Director

Memo: September 5, 2001
To: Ellen Gordon
From: Rick Brown
Subject: #6 Wellesley Avenue

Several Planning Board members have observed and questioned me about a recent project at this address. The project involved addition of what appears to be a substantial amount of new paving in the yard area of the house with addition of paint striping and other designation of parking spaces. This has been done apparently in conjunction with the home occupation on the premises. We do not know all of the details or the history of this home occupation but on its face the recent project would appear to be contrary to the intent if not the letter of the home occupation bylaw (ZBL Section II. A. 6. and II. 8. h.)

Any information that you could provide, that I could pass along to the Board members, would be very much appreciated. Thanks

cs: Ed Phaneuf

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2002 SEP -6 A 8:09

TOWN OF WELLESLEY



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COPY

ZBA 2002-87

Building Department

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992
781-431-1019 ext. 228 Fax 781-283-5724

Edgar A. Phaneuf, Jr.
Inspector of Buildings
Zoning Enforcement Officer
Public Safety Officer

Albert A. Zazzera
Wiring Inspector
George Lessard
Plumbing & Gas Inspector

March 19, 2002

Paul Chalifoux, DDS
6 Wellesley Avenue
Wellesley, MA 02482

RE: Home Occupation Violation

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WELLESLEY MA 02482
2002 SEP -6 A 8:07

Home Occupation:

Town of Wellesley Zoning Bylaw, Secs. IA and II.A.6

Home Occupation: A residential use of a dwelling unit, by the resident or residents, for gainful use of employment, that is subordinate but compatible to residential use.

Dear Dr. Chalifoux:

It has been brought to my attention that you are conducting a business from your home at 6 Wellesley Avenue.

As Zoning Enforcement Officer for the Town of Wellesley, I am charged under Sec. XXIII, Enforcement and Penalties, to investigate. I do not find that you have a Home Occupancy Special Permit to conduct business at the above address.

I am therefore, in writing to you, as the homeowner, advising you to please contact and make an appointment with the Zoning Board of Appeals to apply for a Home Occupancy Special Permit to conduct business. The number is 781-431-1019, ext 208.

I look forward to hearing from you regarding this matter.

Very truly yours,

Edgar A. Phaneuf, Jr., Inspector of Buildings/Zoning Enforcement Officer

Town of Wellesley

DESIGN REVIEW BOARD

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Town Hall
525 Washington Street
Wellesley, MA. 02181
Tel. (781) 431-1019 ext. 238
Fax (781) 239-1043
Lance D. Hansen, *Town Planner*

MARCH 19, 2002

PAUL CHALIFOUX, DDS
6 WELLESLEY AVENUE
WELLESLEY, MA 02482

Re: Sign Bylaw Violation at 6 Wellesley Avenue

Dear Mr. Chalifoux:

Thank you for your compliance with the removal of the sign violation at 6 Wellesley Avenue. It has been brought to my attention by the Zoning Board of Appeals that your home occupation does not have a special permit to allow for this use of the property. Before you are allowed to apply with the Design Review Board with any sign modifications, you must come before the ZBA and apply for your home occupation special permit. It has also been brought to my attention that, as per the Wellesley Zoning Bylaws SECTION XXI, PART E any off-street parking modifications are subject to permit by the Wellesley Building Department Zoning Enforcement Officer.

I would advise that you contact Ellen Gordon at the Zoning Board of Appeals for the guidelines for application for a home occupancy special permit before submission of any sign applications to the Design Review Board. Mrs. Gordon can be reached Monday - Friday 8:00am- 12:00 noon & 1:00pm.- 4:00pm. here at the Town Hall. Her phone number is: (781) 431-1019 x-208

Sincerely,

Lance D. Hansen
Wellesley Design Review Board

cc:
Ellen Gordon - Zoning Board of Appeals
Ed Phaneuf - Zoning Enforcement Officer

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2002 SEP - 6 A 8:07

TOWN OF WELLESLEY



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R. ARNOLD WAKELIN, JR.
EXECUTIVE DIRECTOR OF GENERAL GOVERNMENT

May 31, 2001

Dr. Paul R. Chalifoux
6 Wellesley Ave.
Wellesley, MA 02482

RE: Curb Cut Request – 6 Wellesley Avenue

Dear Dr. Chalifoux:

This office has received the following recommendation from the Town Engineer regarding your request for an additional curb cut at 6 Wellesley Avenue.

Please be advised that at this time, the issue is not one of compliance with the Town's Policy Regarding Curb Cuts and Driveway Aprons, it is one of adherence to the Town's "Rules and Specifications Regulating Street Excavations, Obstructions and Driveway Aprons". The Rules state:

"No newly constructed or reconstructed pavement less than three (3) years old will be cut into except in cases of emergency, in which case an extended maintenance fee will be charged for cuts in newly paved streets as follow:

- New pavement, 12 months or less – four times standard cost;
- 13 months to 24 months old – three times the standard cost;
- 25 months to 36 months old – two times the standard cost;
- 37 months or older – standard cost."

Wellesley Avenue was reconstructed and resurfaced within the past year. A notice regarding the project was distributed to all abutters prior to the start of construction. A copy of that notice is provided herewith as enclosure (1). Any work contemplated requiring excavation into any part of Wellesley Avenue should have been discussed at that time and prior to the final paving of the roadway and sidewalk.

While we are sympathetic to your situation, and upon the determination of Stephen Fader, Town Engineer we will be unable to approve this request for an additional curb cut and

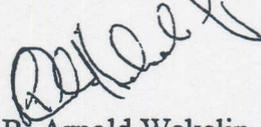
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ERP

driveway apron at this time. Mr. Fader feels that the majority of your proposal for improvement to your property can still be implemented. The second driveway and curb but may be added at a later date.

If you have any questions please feel free to call Mr. Fader at (781) 235-7600 ext. 310.

Very truly yours,



R. Arnold Wakelin, Jr., Executive Director

RAW:adh
enclosure

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2002 SEP -6 A 8:07

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TOWN OF WELLESLEY

Wellesley, Massachusetts, 02481

DEPARTMENT OF PUBLIC WORKS

Engineering Division

Stephen S. Fader, P. E.
Town Engineer



RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02482
2002 SEP - 6 A 8:07

TO: Sandy Hobson
Selectmen's Office

SUBJECT: **Curb Cut Request - 6 Wellesley Avenue**

DATE: May 30, 2001

I have reviewed the April 5, 2001 request by Dr. Paul R. Chalifoux for an additional curb cut at his home/office at 6 Wellesley Avenue. The additional curb cut and driveway will be used for patient parking, delivery of dental supplies and laboratory case and general delivery. The curb cut and driveway apron will be used to create a semi circular driveway to improve safety.

Please be advised that at this time, the issue is not one of compliance with the Town's Policy Regarding Curb Cuts and Driveway Aprons, it is one of adherence to the Town's "Rules and Specifications Regulating Street Excavations, Obstructions and Driveway Aprons". The Rules state:

"No newly constructed or reconstructed pavement less than three (3) years old will be cut into except in cases of emergency, in which case an extended maintenance fee will be charged for cuts in newly paved streets as follows:

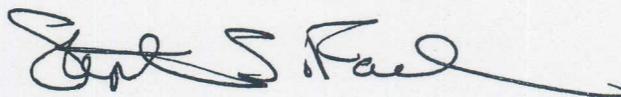
New pavement, 12 months or less - four times standard cost;
13 months to 24 months old - three time the standard cost;
25 months to 36 months old - two times the standard cost;
37 months or older - standard cost."

Wellesley Avenue was reconstructed and resurfaced within the past year. A notice regarding the project was distributed to all abutters prior to the start of construction. A copy of that notice is provided herewith as enclosure (1). Any work contemplated requiring excavation into any part of Wellesley Avenue should have been discussed at that time and prior to the final paving of the roadway and sidewalk.

Hence, while I am certainly sympathetic to Dr. Chalifoux's situation, I am unable to approve his request for an additional curb cut and driveway apron at this time. I wish to add that the majority of Dr. Chalifoux's proposal for improvement to his property with regard to providing additional parking and a turnaround for vehicles can still be implemented. The second driveway and curb cut may be added at a later date.

S. Hobson
May 30, 2001
Page 2

Should you have any questions, or require additional information, feel free to contact me.



Stephen S. Fader, P. E.
Town Engineer

cc: M. Pakstis
P. Chalifoux, DDS

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2002 SEP - 6 A 8:08

TOWN OF WELLESLEY



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TELEPHONE: (781) 431-1019 EXT. 201
WWW.CI.WELLESLEY.MA.US
R. ARNOLD WAKELIN, JR.
EXECUTIVE DIRECTOR OF GENERAL GOVERNMENT

Date: April 10, 2001
To: Steve Fader, Town Engineer
From: Pat Thompson
Subject: Curb Cut – 6 Wellesley Ave.

Would you please review the attached request for a circular driveway at the above mentioned address from the owner Paul R Chalífoux, DDS.

Thank you for your attention to this matter.

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must back onto the street to exit. New neighbors are placing a fence on their property to allow an enclosed area for children to play that makes the situation more difficult.

It is hazardous to exit and leave cars parked on the street because of passing cars, trucks and emergency vehicles. To avoid this hazard, cars and trucks often park on the sidewalk. The new design of the sidewalk makes parking difficult and is destroying the grassy area between the sidewalk and the street. Cars that park in the driveway are forced to back into the street often causing a dangerous situation and traffic delays.

The proposed new circular driveway and parking lot would allow proper entrance and exiting of cars onto Wellesley Avenue to improve safety and provide convenience for patients, delivery vehicles and personal cars.

Thank you for your attention to this matter.

Sincerely,



Paul R. Chalifoux, DDS

2002 SEP - 6 A 8: 08

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TOWN OF WELLESLEY



MASSACHUSETTS

ALBERT S. ROBINSON, TOWN COUNSEL

December 21, 2001

TELEPHONE (781) 235-3300
TELECOPIER (781) 235-8090

40 GROVE STREET
WELLESLEY, MA 02482-7729

Edgar A. Phaneuf, Jr.,
Inspector of Buildings/Zoning Enforcement Officer
Town Hall
Wellesley, MA 02482

RE: Newly paved "parking area" at 6 Wellesley Avenue; home occupation, Zoning Bylaw Sections II (A)(6),(8)(h)

Dear Ed:

Your October 18, 2001 letter asks my opinion on whether the "newly paved parking area" at 6 Wellesley Avenue is allowed as a matter of right under applicable zoning.

As I understand it, Dr. Chalifoux, who owns the property, lives there with his family and also operates his dental practice there. The property was previously owned by Dr. Pollina, also a dentist, who also had his own practice there. Recently, Dr. Chalifoux has removed a portion of his lawn and put in hot top. He has also put white markers signifying parking spaces.

I infer your question is whether the new activity conforms to the Town's Zoning Bylaw governing home occupations. As you have correctly pointed out, the Town regulates home occupations in two different ways, depending largely on whether or not there are any employees not resident on the premises. Town Zoning Bylaw, Section II(A)(6) and (8)(h). The former at least requires what essentially amounts to registration, and the latter requires the issuance of a special permit.

For starters, in inquiring on the point, I am informed that there is neither a current notification of these premises nor is there a special permit. That noncompliance, alone, raises the prospect of a current zoning violation. While home occupations as a matter of right are essentially exempt from regulation if they were being lawfully conducted prior to October 24, 1977, I understand that Dr. Chalifoux has become the owner well since that date and even though as of the 1977 date Dr. Pollina might have had a lawful home occupation at the time, it seems clear that a "home" occupation is not something that runs with the land and thus cannot be grandfathered in the usual sense. Accordingly, Dr. Chalifoux is subject to current zoning for these premises as I see it.

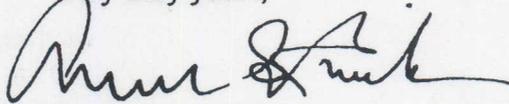
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Edgar A. Phaneuf, Jr., Inspector of Buildings/Zoning Enforcement Officer
December 21, 2001
Page 2

If Dr. Chalifoux qualifies for a home occupation as a matter of right (upon his filing of the appropriate notification), it would nevertheless seem that his recent work as you have described it would be in violation of subparts (f) and (g) of subsection 6 (home occupation as a matter of right) because the work has resulted in a change in the outside appearance of the premises, including building and grounds, and because the change has resulted in additional parking which is prohibited under subpart (g). If Dr. Chalifoux is granted a special permit, the terms of the permit would have to be reviewed before I could answer your question further. In particular, in considering whether to grant a permit, the Board of Appeals would have to consider whether the activity has resulted in a change in the outside appearance of the premises, including building and grounds, that is not in keeping with the residential character and appearance of the premises (subpart (5) of subsection (h)).

Please let me know if the foregoing is not responsive to your question. I see that you copied the Planning Director on your October 18 letter, so I will copy him on this response for his information.

Very truly yours,



Albert S. Robinson

ASR:mp

File: WB-GEN

asr\town\bdgins\phanuefR6WellesleyAve

c: Richard H. Brown, Planning Director

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Edgar A. Phaneuf, Jr.
Inspector of Buildings
Zoning Enforcement Officer
Public Safety Officer

Albert A. Zazzera
Wiring Inspector
George Lessard
Plumbing & Gas Inspector

October 18, 2001

Albert S. Robinson, Esq.
Town of Wellesley
40 Grove Street
Wellesley, MA 02481

Re: 6 Wellesley Avenue

Dear Al:

I would like you to review and make a determination as to whether the newly paved "parking area" at 6 Wellesley Avenue is allowed. Paul Chalifoux who is the owner, operates his dental practice, and resides there as well. The property was previously owned by a dentist.

Dr. Chalifoux has taken out a portion of his lawn, and put in hot top. He also has put white markers signifying parking spaces.

You may call me in my office with your determination.

Very truly yours,

Edgar A. Phaneuf, Jr., Inspector of Buildings/Zoning Enforcement Officer

cc: Rick Brown, Planning Director

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2002 SEP -6 A 8:08

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Wellesley, MA 02482
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Fax (781) 237-6495 or 239-1043
Email: rickb @ ci.wellesley.ma.us

Thomas Frisardi, Associate Member

Richard H. Brown, Planning Director

October 5, 2001

Edgar Phaneuf,
Inspector of Buildings
Town Hall
Wellesley, MA 02184

Dear Ed,

RE: #6 Wellesley Avenue

The Planning Board has inquired of the Zoning Board of Appeals whether there is any current home occupation permit for this address. Ms. Gordon indicated on September 5 (see attached correspondence) that there has been no case relative to that address before her board since 1959.

By this letter the Board is requesting that you to determine whether the property and the use being conducted thereon is in compliance with zoning particularly with respect to the limitations on home occupations.

The Planning Board has asked me about this several times. Consequently, if we could have your response by the time of the next meeting on October 16th I will be able to report to them and it will be very much appreciated. Thank you in advance for your attention to this matter.

Sincerely,

Richard H. Brown
Planning Director

cs: Ellen Gordon
R. Arnold Wakelin
Stephen S. Fader

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ZBA 2002-87

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

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ELLEN D. GORDON
EXECUTIVE SECRETARY
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ROBERT A. BASTILLE
CYNTHIA S. HIBBARD
ROBERT W. LEVY

August 26, 2002

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WELLESLEY MA 02482
2002 SEP -3 A 4 08

Edgar Phaneuf
Inspector of Buildings
Wellesley Town Hall
525 Washington Street
Wellesley, MA 02482

Re: Appeal of Wellesley Planning Board
Town Hall
525 Washington Street
Wellesley, MA 02482
In regard to 6 Wellesley Avenue

Dear Mr. Phaneuf:

On August 26, 2002, this office received the attached Notice of Appeal from the Wellesley Planning Board regarding the property at 6 Wellesley Avenue, owned by Paul and Chanouk Chalifoux. This document was filed with the office of the Town Clerk on August 23, 2002.

The Wellesley Planning Board is appealing your failure, pursuant to Section XXIV-C of the Zoning Bylaw, to enforce Section II.A.6. Subsections f. and g. of the Zoning Bylaw in regard to the paving and striping of the entire yard at 6 Wellesley Avenue for use as a parking lot for patients of the property owner.

According to Section XXIV-C.2 of the Zoning Bylaw, once you have received a copy of the "appeal" from the Town Clerk's office, you have seven (7) days to

"transmit to the Permit Granting Authority copies of all documents and papers constituting the record of the case in which the appeal is taken..."

Thank you for your assistance in this matter.

Very truly yours,

Ellen D. Gordon
Executive Secretary, Zoning Board of Appeals

TOWN OF WELLESLEY



MASSACHUSETTS

BUILDING DEPARTMENT

Inspector of Buildings
Zoning Enforcement Officer
Public Safety Officer
Wiring Inspector
Plumbing & Gas Inspector

525 Washington St.
Town Offices
431-1019 x228
Fax 617-239-1043

September 16, 2002

Paul Chalifoux, DDS
6 Wellesley Avenue
Wellesley, MA 02482

RE: Home Occupation Violation

Dear Dr. Chalifoux:

I have been asked to conduct a follow-up investigation of the alleged illegal paving of a landscaped portion of your property at 6 Wellesley Avenue, and upon completion of said investigation, to take appropriate action.

It is likely this investigation would have occurred several months ago but for a lengthy illnesses and disabilities of key inspection department personnel. Our records do indicate that on March 19, 2002, you were issued a notice of violation of the Home Occupation sections of the Wellesley Zoning Bylaws. (See attached) In the letter, it advised you to apply for a Home Occupancy Special Permit from the Zoning Board of Appeals. You have not done this.

I have completed said investigation, including an inspection of 6 Wellesley Avenue. Upon a review of all the facts available to me, I conclude that within the past eighteen months, you, or others under your direction, did pave over certain portions of landscaped areas at 6 Wellesley Avenue in direct contravention of Section II, (A) (6) and/or Section II, (8) (h) of the Wellesley Zoning Bylaw. (See attached). You should review the two sections for compliance standards of Home Occupations.

You are hereby directed to immediately cease said violation, to wit: remove all paving installed over previously unpaved portions of the lot.

If you fail to comply with this directive, this office will promptly pursue any and all legal remedies delineated in both Chapter 40A of the Massachusetts General Laws and the Town of Wellesley Zoning Bylaws.

You are entitled under Section XXIV, (C) of the Wellesley Zoning Bylaws to appeal this order.

Very truly yours,

Paul DeBaggis
Inspector of Buildings/Zoning Enforcement Officer (Temporary)

CC: ZBA
Planning Board

Thomas Frisardi, Chairman
James C. Meade, Vice Chairman
Rose Mary Donahue, Secretary
Robert C. Sechrest
Patricia N. Grandieri

~
Sue Wright, Associate Member



Town Hall, 525 Washington Street
Wellesley, MA 02482
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Email: rickb @ ci.wellesley.ma.us

~
Richard H. Brown, Planning Director

September 19, 2002

Zoning Board of Appeals
Town Hall
Wellesley, MA 02482

RE: #6 Wellesley Avenue Appeal

Dear Board members:

The Planning Board has received a copy of the letter from Paul DeBaggis, (Temporary) Inspector of Buildings and Zoning Enforcement Officer, dated September 16, 2002, to the owner of 6 Wellesley Avenue, demanding compliance with the Zoning Bylaw. The Board feels that this addresses its immediate concern relative to this matter. Consequently the Board respectfully wishes to withdraw its appeal before you this evening. The Board trusts that there will be follow-up as necessary. In the event that the land owner does not comply within a reasonable time frame, the Planning Board would support further enforcement action. The Planning Board strongly feels that this zoning violation must be corrected.

Sincerely,

Richard H. Brown
Planning Director

cc: Edgar Phaneuf, Inspector of Buildings
Paul DeBaggis, (Temporary) Inspector of Buildings and Zoning Enforcement Officer
Christopher Clark, Deputy Director of General Government

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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EXECUTIVE SECRETARY
TELEPHONE
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ROBERT A. BASTILLE
J. RANDOLPH BECKER
ROBERT W. LEVY

September 25, 2002

Thomas Frisardi, Chairman
Planning Board
Wellesley Town Hall
525 Washington Street
Wellesley, MA 02482

Re: ZBA 2002-87
Appeal of Wellesley Planning Board
Re: 6 Wellesley Avenue

Dear Mr. Frisardi;

Please be advised that at the Public Hearing held on September 19, 2002, the Zoning Board of Appeals voted unanimously to grant your request to withdraw the above referenced petition without prejudice.

Thank you for attending the hearing. If you have any questions, or need further assistance, please do not hesitate to call me.

Very truly yours,

A handwritten signature in cursive script that reads "Ellen D. Gordon".

Ellen D. Gordon
Executive Secretary, Zoning Board of Appeals

cc: Town Clerk
Planning Board
Inspector of Buildings