

MURRAY & VON ROSENVINGE

COUNSELLORS AT LAW

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60 STATE STREET  
BOSTON 9, MASSACHUSETTS

TELEPHONE HUBBARD 2913  
CABLE ADDRESS - ROSENVINGE

October 25, 1950

Miss Katharine Toy, Clerk  
Board of Appeal  
Town Hall  
Wellesley, Massachusetts

Dear Miss Toy:

The undersigned wishes to petition the Board of Appeal for permission to use the premises at 1 Grantland Road as a medical institution, or more specifically for the purpose of a doctor's office and a dentist's office.

It is my understanding that such a permit may be granted by the Board either under Section 2 B 7 (d), or under Section 7 C of the Zoning By-Law.

I feel that a real need exists for such a non-conforming use, and that such a use will not substantially reduce the value of any property within the district.

A hearing would be appreciated at your earliest convenience.

Yours very truly,

*Judith C. Kelley*

TOWN OF WELLESLEY



MASSACHUSETTS

STANLEY W. LEIGHTON, CHAIRMAN  
BURTIS S. BROWN  
THOMAS M. REYNOLDS

BOARD OF APPEAL

KATHARINE E. TOY, CLERK  
TELEPHONE  
WE. 5-1664

COPY OF NOTES TAKEN AT MEETING  
HELD December 7, 1950

Re: Frederic C. Kelley

Pursuant to due notice the Board of Appeal held a public hearing in the Upper Town Hall on December 7, 1950 at 8:30 p.m. on the petition of Frederic C. Kelley for permission to use the premises at 1 Grantland Road as a medical institution, or more specifically for the purpose of a doctor's office and a dentist's office, as provided under Section 2 B 7 (d) or Section 7-C of the Zoning By-law.

At the hearing Attorney Edmund M. Murray, representing the petitioner, stated that Dr. Kelley purchased the premises in question in June, 1950 from the Friendly Aid Association. Said premises had been used by the Friendly Aid Association as a clinic since February 8, 1924, which was prior to the establishment of the Zoning By-law on April 24, 1925.

Attorney Murray stated that as a result of information obtained from a talk with Wellesley officials, that he was satisfied that Dr. Kelley was within his right in maintaining the building in the manner in which he was using it. It was not his residence or the residence of Dr. Clement who shared the premises with him.

Attorney Murray stated that as Dr. Kelley was not violating the law, he wished to withdraw the petition which had been filed as a result of further investigation. There exists a valid non-conforming use which has never been abandoned.

Norfolk, ss

THE COMMONWEALTH OF MASSACHUSETTS

Superior Court

No. 50033 Equity

Town of Wellesley

v.

Frederic C. Kelley, et al.

STIPULATION

The Town of Wellesley, the plaintiff in the above entitled suit, and Frederic C. Kelley, Conrad C. Clement and Oakley R. Jones, the defendants therein, after trial but before decision of said suit, for the purpose of settling the same and by way of compromise hereby stipulate and agree as follows:

1. So long as the defendant Kelley shall continue to own the premises at 1 Grantland Road, Wellesley Hills, he may, not as a consequence of a non-conforming use for the premises but as a personal privilege, maintain his own office for the practice of dentistry in the building now located at that address without actually residing there, but said privilege shall not pass to any succeeding owner of the premises nor inure to the benefit of any other person whomsoever; and the defendant Kelley shall not employ in connection with his office any other dentist.
2. The defendant Kelley, as owner of said premises at 1 Grantland Road, hereby abandons any claim to any non-conforming uses which the Wellesley Friendly Aid Association formerly made of said premises.
3. The Court may enter a final decree in said suit substantially in the form attached hereto.
4. Nothing in this stipulation or said decree shall prevent the defendant Frederic C. Kelley from applying to the Board of Appeals of the Town of Wellesley for any special permit authorized by the Zoning By-Law of the Town or any variance authorized by the provi-

ctions of General Laws (Ter. Ed.), Chapter 4J, Section 20.

/s/ William E. Cook

Town Counsel  
Attorney for the Plaintiff

/s/ Edmund M. Murray

Attorney for the Defendants

THE COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

Superior Court

No. 50035 Equity

Town of Wellesley

v.

Frederic C. Kelley, et al.

FINAL DECREE

This cause came on for further hearing after trial but before decision and, after hearing counsel and consideration of the stipulation filed by them for the purpose of compromising said cause, it is hereby

ORDERED, ADJUDGED and DECREED

1. That, so long as the defendant Frederic C. Kelley shall own the premises described in the bill of complaint, he may, not as a continuance of a non-conforming use of said premises but as a personal privilege, maintain his own office for the practice of dentistry in the building described in the bill of complaint without actually residing there; but said privilege shall not pass to any succeeding owner of the premises nor inure to the benefit of any other person whomsoever.

2. That the defendant Frederic C. Kelley be and he is hereby permanently restrained and enjoined from letting any portion of said building to any other professional man for use as his office and from employing any other dentist in connection with any office he, said defendant, may maintain in said building.

3. That the defendant Conrad C. Clement be and he is hereby permanently restrained and enjoined from maintaining his office in said building.

4. That the defendant Oakley R. Jones be and he is hereby premanently restrained and enjoined from maintaining his office in said building after April 30th, 1952.

By the Court,

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Assistant Clerk

Entered: