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TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS

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ZBA 98-21
Petition of David Brother, D.M.D.
555 Worcester Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 2, 1998 at 8 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of DAVID BROTHER, D.M.D. requesting a Special Permit pursuant to the provisions of Section II A 8 (h) and Section XXV of the Zoning Bylaw to allow him to use a portion of his premises at 555 WORCESTER STREET, in a Single Residence District, for the purpose of a home occupation; namely, a part-time cosmetic/restorative dental practice with hours from 8 a.m. to 8 p.m. on alternate Mondays and every Thursday, and from 8 a.m. to 3 p.m. on Saturdays throughout the year, with no more than 12 patients one week and 15 patients on the alternative week. Parking for three vehicles is available on site.

On March 9, 1998, 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 were Dr. David and Gail Brother. Dr. Brother submitted a detailed plan for the office, and additional photographs of traffic on Route 9 in the area of his driveway.

Dr. Brother said that he has been a practicing dentist for 25 years. His desire to have a cosmetic dental practice was the reason he purchased a house on a main street. The practice would treat patients for long visits, so he would need very few patients. This would be a part-time practice, as he has a full practice in Lowell. The house is sited on a straight away portion of Route 9, with a breakdown lane allowing cars to slow down to enter his driveway. The driveway has room for several cars and the width to make a three point turn to egress the property.

Dr. Brother stated that the office will be small, containing a maximum of two dental chairs. All hazardous waste will be dealt with according to Massachusetts regulations. He may use computer generated digitalized x-rays, which require one-tenth the amount of exposure of a normal dental x-ray, and have no x-ray chemistry. If he uses normal x-ray equipment, it will be self-contained, and none of the chemistry will enter the sewer system.

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The Board asked what other services would be required. Dr. Brother replied that dental supplies come by UPS, but he could have all deliveries made to the Lowell office.

The Board stated that it could not remember ever allowing such an extensive home occupation. Usually, home occupations are much less formal, and on a temporary basis. This request is for a home occupation that could be done in a commercial setting.

Dr. Brother explained that this would be a part-time practice with a limited number of patients. The employees would be his wife and himself, with the possibility of an assistant in the future. It is possible that he might have very few patients the first year. He is unsure if he could afford to start a solo practice at a commercial site as he is unknown in the area.

Mrs. Brother said that they had rented office space at 432 Worcester Street, which was shared with two other dentists, but it didn't work out.

The Board commented that although there are dentists and doctors in town who have home offices, most of them were in place before home occupations had to be permitted. Special Permits have been granted to a few psychiatrists with limited hours and numbers of patients. However, a dental practice is traditionally located in an office building. Dr. Brother's request is a little "heavy" for just moving into a neighborhood that has never had a similar home occupation.

Dr. Brother replied that most of his patients are seen for two to four hour appointments, whereas a psychiatrist sees one patient per hour.

The Board asked if Dr. Brother had another dental office. He said his office is in Lowell. His recent training and desire is to offer elective dental services that are generally too expensive for his Lowell population.

The Board stated that it had never approved such a home occupation. One Board member had visited the site and found the driveway to be very awkward, and close to an intersection. Dr. Brother's patients will not be a repeat population with experience in finding the office, or dealing with the hazards of Route 9 traffic. This does not appear to be a temporary home occupation, but one which Dr. Brother hopes to expand. It does not seem to be appropriate for the neighborhood.

Margarita Escalon, 10 Fox Hill Road, a rear abutter, opposed the petition.

Marcia Gorgone, 37 Fox Hill Road, felt that the approach to the driveway was hazardous, and was opposed to the petition, as was Tania Lefman, 7 Arnold Road.

Statement of Facts

The subject property is located at 555 Worcester Street, in a Single Residence District.

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The petitioner is requesting a Special Permit to use a portion of his dwelling for a home occupation; namely a part-time cosmetic/restorative dental practice with hours from 8 a.m. to 8 p.m. on alternate Mondays and every Thursday, and from 8 a.m. to 8 p.m. on Saturdays throughout the year, with no more than 12 clients on one week and 15 clients on the alternative week.

A floor plan of the proposed office space above the garage, a copy of the Town Plan of the site and surrounding properties, photographs, and a copy of the Purchase and Sale Agreement were submitted.

On March 24, 1998, the Planning Board reviewed the petition and noted that the home occupation appeared to meet the special permit conditions, but recommended that it be limited initially to a one-year probationary period.

Decision

This Authority has made a careful study of the material submitted and the information presented at the hearing.

It is the opinion of this Authority that the proposed home occupation, a part-time cosmetic/restorative dental practice, more properly belongs in a off-site professional office setting, and that the grant of the requested Special Permit would set an unfortunate precedent for the disposition of future requests for medical or dental home offices.

It is the further opinion of this Authority that the location of the petitioner's driveway presents a potential danger to clients attempting access or egress, particularly as the client population would not become familiar with the location through repeated visits.

Therefore, the Special Permit is denied, as voted unanimously by this Authority at the Public Hearing, and this petition is dismissed.

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
edg Inspector of Buildings

John A. Donovan, Jr., Chairman

Kendall P. Bates

William E. Polletta