

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

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ZBA 99-61  
Petition of Cleaner By Nature  
Tom R. Truong  
999 Worcester Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 26, 1999 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of CLEANER BY NATURE (TOM R. TRUONG) requesting a Special Permit pursuant to the provisions of Section XI and Section XXV of the Zoning Bylaw to allow him to use a portion of the premises at 999 WORCESTER STREET, in a Business District and a Water Supply Protection District, for an environmentally safe dry cleaning business, a use not allowed by right in a Business District.

On August 9, 1999, 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 Tom Truong, who was accompanied by Richard Daniels, General Partner of Cleaning Concepts. Mr. Daniels said that his company discovered a dry cleaning process in Italy which is environmentally safe. They have introduced this process in California, Idaho and Colorado, and would like the opportunity to introduce it in this area.

Mr. Daniels said that the Route 9 location is ideally suited for the business as to space. The chemical being used is not hazardous. It is the only chemical on the market that is truly a nontoxic substance and does not generate any toxic waste. The dry cleaning machine is totally self-contained. It distills, filters and returns the chemical back to its holding tanks. The machine is put into a boiler plated containment vessel. The only material that comes out of the machine is the lint and dirt on the clothes. All dry cleaning would be done on premise. There would also be a shirt laundry on site.

Mr. Daniels explained that the average traffic flow would be between 24 and 40 customers per day, which would not be high volume traffic. They have been approved by Guardian Savings, by every federal agency, and are seeking Board approval.

Cynthia Hibbard, associate member of the Board of Appeals, and environmental scientist for Camp Dresser & McKee, said the Board asked her to review the list of chemicals to be used. The key issue is that the premises are located in a Water Supply Protection District, which has specific regulations regarding uses in this district. One of the provisions in Section XIVE. Water Supply Protection Districts "prohibits the manufacture, use, storage and disposal of toxic or hazardous materials as an integral part of the principal activity. There are also standards contained in Section XXV of the Zoning Bylaw for

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Special Permits. One of the standards is compliance with paragraphs A and B in Section XVI.  
Restrictions Affecting All Districts.

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Mrs. Hibbard said that she was supplied with a list of chemicals to be used and their MSDS sheets which list their chemical properties. She compared all the chemicals listed with the Mass. Oil & Hazardous Materials List, which is a compendium of the NCP list and the Mass. Substance List.

The first substance proposed to be used is "Drylene 800" or "Notox DF", which is a dry cleaning solvent. This is primarily a petroleum product, but is substantially less toxic than perchloroethylene, which is highly regulated. However, it contains a substance called "Naptha", which is a listed hazardous substance.

The next agent is "Prefasin 300", a pre-spotting agent which contains no hazardous substances.

The next agent is "Power Up Premium Activator", which is a cleaning detergent containing hazardous hydrocarbons; ethanol, which is hazardous; an isopropyl alamine compound, which is hazardous; and ammonium chloride, which is hazardous.

The last substance used in the dry cleaning process is called "Bact N Stat", which kills bacteria and reduces static. This substance contains ammonium chloride, which is hazardous.

Mrs. Hibbard stated that there is no information as to the quantities of these substances which will be stored on the premises, but they are hazardous substances. There will be no hazardous air pollutants, or noxious fumes emitted by the process. None of the chemicals are extremely hazardous or explosive. The concern is that if they were spilled in large quantities, they could contaminate ground and surface water.

Mrs. Hibbard said that in addition to the dry cleaning chemicals, chemicals will be used for the shirt laundering process. The first is "Prefer PA 486", which is a simple alkaline washing detergent, which contains sodium hydroxide, a hazardous substance. In addition, "Encore PS 44", a nonhazardous bleaching product, starch, and a nonhazardous salt will be used.

Mr. Daniels said that the quantities of the chemicals used are minimal, and that the machine containing the Drylene is completely self-contained.

The Board asked if the Board of Health would monitor the program. The Executive Secretary answered that she had spoken to Dr. Katz, Director of the Board of Health, who stated that the Board does not have either the monitoring capability or enforcement capability necessary for this proposal.

Mrs. Hibbard reminded the Board that the Zoning Bylaw prohibits the "manufacture, use, storage or disposal of hazardous or toxic materials" in a Water Supply Protection District. This is a total prohibition of toxic chemicals and is not dependent on the quantities of chemicals used or stored.

After further discussion, the Board voted to continue the hearing to September 23, 1999, as it was not sure that it had the authority to approve a prohibited use, if conditions were in place. The Board would seek guidance from Town Counsel in regard to this issue.

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On August 30, 1999, the Executive Secretary requested guidance from Town Counsel as to whether the Board could grant a Special Permit with conditions for a prohibited use. Town Counsel responded that under no circumstances could this be done, with or without conditions.

At the Public Hearing on September 23, 1999, the Board of Appeals unanimously voted to deny the petition for the Special Permit.

#### Statement of Facts

The subject property, owned by Guardian Savings Bank, is located at 999 Worcester Street, in a Business District and a Water Supply Protection District. Mr. Truong plans to lease 2,200 square feet at the rear of the building to conduct his environmentally safe dry cleaning business "Cleaner By Nature". Pursuant to the provisions of Section XI of the Zoning Bylaw, the petitioner is requesting a Special Permit to allow him to use a portion of the premises for this purpose, which is not allowed by right in a Business District.

The petitioner submitted the following exhibits:

- Exhibit 1.: Newspaper articles from the Mill Valley Herald and the Wall Street Journal
- Exhibit 2.: Property description and site plans
- Exhibit 3.: Interior floor plan
- Exhibit 4.: Traffic Report dated 3/19/99 prepared by Rizzo Associates, Inc.
- Exhibit 5.: Information and Materials Safety Data Sheets on each of the chemicals used in the dry cleaning and shirt laundering processes
- Exhibit 6.: Information regarding the dry cleaning process and machinery
- Exhibit 7.: Letter of Approval dated July 28, 1999 signed by Scott H. Jacobson, Commercial Leasing Manager of Guardian Savings Bank

The Board of Appeals received a Memo dated August 26, 1999 from the Planning Board Staff stating:

"If it is clearly established that toxic or hazardous materials will be used, then the recommendation is to object to the proposal. The Town's zoning regulations prohibit dry cleaning establishments using hazardous or toxic materials in Water Supply Protection Districts."

#### Decision

This Authority has made a careful study of the materials submitted, the information presented at the hearing, and the advice of Town Counsel.

Section XIVE.-D. Use Regulations 1. states:

"The following uses are prohibited:

- (e). "Manufacture, use, storage, or disposal of toxic or hazardous materials as an integral part of a principal activity, but excluding domestic activities and pesticide applications;"

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In both the Materials Safety Data Sheets submitted by the petitioner and the testimony given by Cynthia Hibbard at the Public Hearing, the following chemicals, which would be used as an integral part of the principal activity of dry cleaning establishment located in a Water Supply Protection District are considered toxic and/or hazardous: naphtha, "Power Up Premium Activator", ethanol, an isopropyl alamene compound, and ammonium chloride.

It is the opinion of this Authority that, due to the presence of toxic and/or hazardous chemicals to be used in the dry cleaning process in premises located in a Water Supply Protection District, this use is prohibited.

Therefore, it is the unanimous opinion of this Authority that this request for a Special Permit be denied, as voted unanimously by this Authority at the Public Hearing on September 23, 1999, and this petition be dismissed.

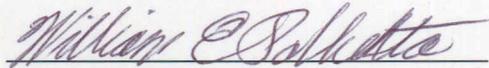
APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS, CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

Cc: Planning Board  
Board of Health  
Inspector of Buildings

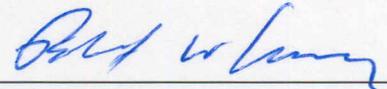
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Kendall P. Bates, Chairman



William E. Polletta



Robert W. Levy

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