



# *Town of Brookline*

## *Massachusetts*

**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Christopher Hussey  
Jonathan Book

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

**Patrick J. Ward, Clerk**

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2015-0032  
OWNER: DAVID FEINGOLD

Petitioner, Dr. Dorian Mintzer, applied to the Building Commissioner for permission to modify the conditions established in Board of Appeals Case #2010-0024 in order to continue a home office use at 23A Cypress Street. The request for modification was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals, and fixed June 25, 2015 at 7:00 p.m. in the Selectmen's Hearing Room as the time and place of a hearing for the modification request. Notice of the hearing was mailed to the Petitioner, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board, and to all others required by law. Notice of the hearing was published on June 11, 2015 and June 18, 2015 in the Brookline TAB, a newspaper published in Brookline. A copy of said notice is as follows.

## **Notice of Hearing**

Pursuant to M.G.L., C. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

**23 CYPRESS ST – Maintain a home office use within a residence, requiring an extension of Use #59 relief. in a T-6, Two-Family and Attached Single-Family, residential district, on June 25, 2015, at 7:00 PM in the 6<sup>th</sup> Floor Selectmen’s Hearing Room (Petitioner: DORIAN MINTZER & DAVID FEINGOLD; Owner: FEINGOLD DAVID S) Precinct 6**

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law:

### **1. Modification of BOA Case #2010-0024, July 13, 2010**

*Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130, or by checking the Town meeting calendar at: [www.brooklinema.gov](http://www.brooklinema.gov).*

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in Town programs and services may make their needs known to Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at [rsneirson@brooklinema.gov](mailto:rsneirson@brooklinema.gov).*

*Jesse Geller, Chair  
Christopher Hussey  
Jonathan Book*

**Publish: June 11, 2015 & June 18, 2015**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Board Chairman Jesse Geller, and Board Members Johanna Schneider and Mark Zuroff. The Petitioner, Dr. Dorian Mintzer of 23 Cypress Street, presented modification details to the Board. Dr. Mintzer stated that she operates a part-time psychology office at 23A Cypress Street which has an entirely separate entrance from her residential unit at 23 Cypress Street. The part-time psychology office serves 8-10 clients per week, although up to 20 are allowed. The

property is located within a residential zoning district but abuts a CVS parking lot. Dr. Mintzer maintains one designated off-street parking space in this lot and has deeded access across the lot itself. She continued to note that the interior of the office will not be altered in any way and that several abutters submitted letters in support of the office use to the Board. The home office use was legalized by the Board of Appeals in May of 2010 with the condition that special permit relief expires in five years if not extended by the Board of Appeals. Dr. Mintzer stated that she is requesting that the Board extend the special permit so she may continue this home office use for an additional 10-year time period.

Chairman Geller called for public comment in favor of, or in opposition to, the applicant's modification request.

Francis Hutchins, of 27-31 Cypress Street, stated that he is a 25-year resident of the adjacent property and that the psychology office use presents no issue for him as an abutter. The office use is quiet and clients access Dr. Mintzer's office directly from the parking area. For these reasons, Mr. Hutchins was in favor of continued office use at 23A Cypress Street.

Deborah Cochrane, of 27-31 Cypress Street, and David Feingold, of 23 Cypress Street, also stated that they were supportive of the continued home office use.

No members of the public spoke in opposition.

Chairman Geller requested that Zoning Coordinator Jay Rosa deliver the findings of the Planning Board. Mr. Rosa stated that the Planning Board did not hear this modification request because the office itself is unchanged and the Board of Appeals has the authority to extend necessary relief if it finds that the standards for special permit relief are still met. The Brookline Planning Department does support this request because there has been no adverse impact on the neighborhood, of which the Town is aware of, and the single off-street parking space continues

to adequately serve client visiting patterns. Therefore, continued home office use is supported by the Planning Department, subject to the following conditions:

1. Office hours shall not commence before 8:00 a.m. nor extend beyond 7:00 p.m., nor be in operation more than 20 hours per week, Monday through Friday.
2. This relief shall expire in 10 years from the date that the final Board of Appeals decision is filed with the Town Clerk, unless the Board of Appeals votes to extend the same.
3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner prior to issuance of a building permit, evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Mr. Rosa suggested that Condition #3 be modified to remove specific building permit language inasmuch as a building permit is not applicable in the instant case.

Chairman Geller requested that Interim Chief Building Inspector Michael Yanovitch deliver the findings of the Building Department. Mr. Yanovitch stated that the Building Department also has no objection to the request for continued special permit relief in order to maintain Dr. Mintzer's home office use.

The Board deliberated on the merits of continued special permit relief as requested. Board Members agreed that the home office use has minimal impact on the surrounding neighborhood. The Board was also comfortable with the request to extend special permit relief for an additional 10 years, rather than 5, provided that a condition be included that attaches this relief to the petitioner's office use only. The Board also noted abutter support for this request. The Board voted unanimously that the requirements have been met for the extension of special permit relief under **Section 9.05** of the Zoning By-Law, granting relief from the provisions of **Section 4.07, Use #59** of the Zoning By-Law.

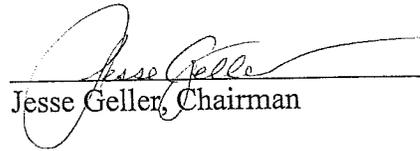
Accordingly, the Board voted unanimously to extend special permit relief, subject to the following conditions:

1. Office hours shall not commence before 8:00 a.m. nor extend beyond 7:00 p.m., nor be in operation more than 20 hours per week, Monday through Friday.
2. This relief shall expire in 10 years from the date that the final Board of Appeals decision is filed with the Town Clerk, unless the Board of Appeals votes to extend the same.
3. The special permits granted herein are limited to the use by Dr. Dorian Mintzer only and they do not run with the land.
4. The applicant shall submit to the Building Commissioner, evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

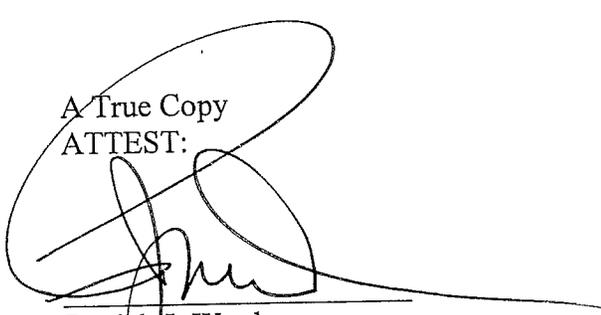
Unanimous decision of the  
Board of Appeals

Filing Date:

7/22/15

  
Jesse Geller, Chairman

A True Copy  
ATTEST:

  
Patrick J. Ward  
Clerk, Board of Appeals

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TOWN CLERK  
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