



BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

**TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2010-0047**

Petitioner, Patricia Cossio, applied to the Building Commissioner to legalize a professional office in her home at 64 Welland Road. The application was denied and an appeal was taken to this Board.

On August 5, 2010 the Board met and 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 October 14, 2010 at 7:15 p.m. in the Selectmen's Hearing Room, 6th floor, Town Hall, as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to the attorney (if any of record), 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 September 23 and 30, 2010 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

**LEGAL NOTICE
TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEAL
NOTICE OF HEARING**

Pursuant to M.G.L. C. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

**Petitioner: COSSIO PATRICIA
Owner: COSSIO PATRICIA OVSICH ALEXANDER
Location of Premises: 64 WELLAND RD
Date of Hearing: October 14, 2010
Time of Hearing: 7:15p.m.
Place of Hearing: Selectmen's Hearing Room, 6th floor**

A public hearing will be held for a variance and/or special permit from

**4.07; Table of Use Regulations, Use #58(a) and (d), special permit required.
8.02.2; Alteration or Extension, special permit required.**

Of the Zoning By-Law to legalize part time professional office in home requiring BOA relief at 64 WELLAND RD BRKL

Said premise located in a S-7(single family) residence district.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at:<http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

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 programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

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At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Enid Starr and Board Members, Jonathan Book and Lisa Serafin. The petitioner, was represented by Attorney Ronny Sydney of 1318 Beacon Street, Brookline, MA.

Ms. Sydney stated that while on a routine inspection at the Welland Road property, a Building Inspector was mistaken for a patient and asked to wait in a waiting room. She said this is how it

was discovered that Dr. Cossio was operating a professional office from her home. The Building Commissioner informed the applicant that a special permit is required to operate a professional office, in this case a psychiatrist's office, within a residence in a residential district, and that she needed to either apply for relief or cease seeing clients.

Ms. Sydney described the 64 Welland Road property as a two-and-a-half-story, single-family dwelling located near Brookline High School. A driveway runs along the right side of the dwelling, expanding into a parking area in the rear. There is a single-car garage underneath the dwelling at the rear, and two parking spaces at the end of the driveway. Attorney Sydney distributed a site plan dated 24 September 2010 prepared by Patrick Roseingrave, a professional land surveyor.

Ms. Sydney said that her client, Dr. Cossio wishes to legalize the psychiatrist office she is operating out of 64 Welland Road, which is also her place of residence. The applicant sees one client or couple at a time, from 9 a.m. to 7 p.m., Monday through Friday. Clients typically park in the driveway when they come to the house. Ms. Sydney reported that her client has been seeing patients for many years without complaint. Ms. Sydney said that although she had requested that the hours of operation be from 8:00 a.m. to 6:00 p.m., she later learned that Dr. Cossio normally operated from 9 a.m. to 7 p.m. and she requested that the Board consider modification of the recommended conditions of the Planning Board accordingly. Attorney Sydney said that her client understood the restrictions on accessory uses in residence districts, Section 4.04, of the Zoning By-Law and would abide by them. She said that her client meets the parking requirements for the use. She said that because of pre-existing non-conformities related to the structure, relief was needed in the form of a special permit from Section 8.02.2 of the Zoning By-Law. Also, a special permit is requested under Accessory Use 58A of the table of use regulations.

The Chairman noted the receipt of several letters of support for the home office. She then asked whether anyone wished to speak in favor of the proposal. Two neighbors reported that they knew that Dr. Cossio saw patients in her home and they never experienced any problems related to the use. The both recommended approval of the requested relief.

The Chairman asked whether anyone wished to speak in opposition to the proposal and no one rose to speak.

Lara Curtis Hayes, Senior Planner, delivered the findings of the Planning Board.

Section 4.05.b.1 – Restrictions on Accessory Uses in Residence Districts: An accessory use in a dwelling unit in any residence district is subject to the office parking provisions of **Section 6.02**, unless modified by the Board of Appeals by special permit. In S-7 districts, an office on the ground floor requires one parking space for every 200 square feet. *The office area is approximately 251 square feet. Therefore, the office would require 1.25 parking spaces, unless a special permit is issued by the Board of Appeals. The applicant has only one car that is parked in the garage, and is proposing to provide the rest of the driveway for parking.*

Section 4.07 – Table of Use Regulations, Use #58: An office within the place of residence of a physician requires a special permit in S districts. *Special permit required.*

Section 8.02.2 – Alteration or Extension: A special permit is required to alter/extend this non-conforming building. *Special permit required.*

Ms. Curtis Hayes said that the Planning Board was not opposed to the legalization of this psychiatrist office. The applicant only sees one client or couple at a time, and the driveway has sufficient parking for a visiting client. The applicant spaces her appointments with 15 minutes between them, so there should not be much vehicular conflict. The proposed office should not interfere with surrounding dwellings or the neighborhood. Therefore, the Planning Board recommended approval of the application, subject to the following conditions:

- 1. To ensure adequate onsite parking is available, no more than one patient, couple or family shall visit the office at the same time.**
- 2. Office hours shall not commence before 8:00 a.m. nor extend beyond 6:00 p.m., Monday through Friday.**

3. **This relief shall expire in five years from the date of this decision unless the Board of Appeals votes to extend the same.**
4. **Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor and indicating the location of the parking space to be used by clients; and 2) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.**

The Chairman then called upon Michael Shepard, the Building Commissioner, to report the recommendations of the Building Department. Mr. Shepard reported that his office had received no complaints related to the use and that the petitioner had been very cooperative during the process. He recommended that the hours in condition #2 be changed to reflect the times the office is actually in operation.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant Special Permits and that the petitioner has satisfied the requirements necessary for relief under Sections 4.07 Table of Use Regulations, Use 58A, 8.02.2, and 9.05 of the Zoning By-Law and made the following specific findings pursuant to Section 9.05 of the Zoning By-Law:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

During deliberations, the Chairman, referring to the first condition recommended by the Planning Board, stated that the responsibility of the Board is to regulate parking not how a doctor operates his/her practice. She said that the site plan showed an ample amount of parking available particularly given the short term nature of the visits. Board Member Book agreed stating that he felt

that all the patient parking should be accommodated on the site. Board Member Serafin agreed and recommended modification of the hours of operation to accommodate the wishes of the petitioner. Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. All patient parking shall be accommodated onsite. No more than two patient cars shall be parked on the premises at the any one time.
2. Office hours shall not commence before 9:00 a.m. nor extend beyond 7:00 p.m., Monday through Friday.
3. This relief shall expire in five years from the date of this decision unless the Board of Appeals votes to extend the same.
4. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor and indicating the location of the parking space to be used by clients; and 2) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of the
Board of Appeals



Enid Starr, Chairman

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10 OCT 20 PM 12:25

Filing Date: October 20, 2010

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals