



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. 090016

Petitioners, Andrew Bott and Manju Vachher, applied to the Building Commissioner for permission to establish and maintain a yoga studio as a customary home occupation for gain at 24 Somerset Road. The application was denied and an appeal was taken to this Board.

On March 26, 2009 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 May 28, 2009 at 7:15 p.m. in the Selectmen's hearing Room, 6<sup>th</sup> floor, Town Hall as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to his 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 May 7 and 14, 2009 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

### 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: **BOTT, ANDREW and VACHHER, MANJU**

Location of Premises: **24 SOMERSET RD BRKL**  
Date of Hearing: **5/28/2009**  
Time of Hearing: **7:15 p.m.**  
Place of Hearing: **Selectmen's Hearing Room, 6<sup>th</sup> Floor**

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

1. **4.07, Use #60, Table of Use Regulations; Special Permit Required.**
2. **Modification of BOA040044 as required.**

of the Zoning By-Law to establish a customary home occupation for gain at **24 SOMERSET RD BRKL**.

Said Premise located in an **S-7 (single family)** 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, Kathryn Ham and Rob De Vries. Andrew Bott, the homeowner, presented the case before the Board.

Mr. Bott explained that he and his wife, Manju Vachher were granted several special permits and a variance to construct additions on the front and rear of their home by BOA040044. The addition on the rear of the house was intended to connect the main house to the carriage house in the rear yard. The he said that they had clearly stated they intended to

use the carriage house as a yoga studio, and while the use is referenced in the Board of Appeals decision, a special permit for the home occupation was never sought or obtained.

Mr. Bott described his residence as a single family house located between Brookline Village and Washington Square. Constructed in 1926, the two story Colonial style house is distinguished by a gambrel roof and a central triangular pediment over the front entrance. The 400 square foot carriage house is connected to the main house by a 396 square foot two story addition. The carriage house contains both the yoga studio and a bathroom, and has a private entrance that faces the driveway.

Mr. Bott said that they are seeking to legalize her home yoga studio business Brookline Yoga Studio. Their spring schedule is to hold yoga classes three times a week on Monday evening, Wednesday morning, and Thursday evening for eight week sessions; a stress management course on Wednesday evenings for five weeks; and a spring yoga workshop on Saturdays that will last five weeks as well. Mr. Bott said the classes tend to have one or two students, and they would be more than happy to cap the class sizes to four people or less. Mr. Bott said that his wife operates the yoga studio as a hobby and it is not her primary occupation.

The Chair asked if there was anyone present in opposition or in favor of this proposal. No one appeared.

Planner, Courtney Synowiec delivered the finding of the Planning Department.

**Section 2.08.4.b.3 – Definitions, Home Occupation**  
**Section 4.07 – Table of Use Regulations, Use #60**

B. Home occupations include but are not limited to:

3. Teaching of not more than four pupils simultaneously or, in the case of musical instruction, or not more than a single pupil at a time.

A special permit is available for the instruction of four students or less.

**Section 8.02.2 – Alteration or Extension**

A special permit is required for an alteration or extension of a non-conforming use or structure.

Ms. Synowiec reported that the Planning Board was not opposed to the granting of this special permit. This home business was discovered from an advertisement by Planning Staff rather than from citizen complaint. To date, there have been no complaints from any of the neighbors. The class sizes are quite small and the studio is clearly operated as a hobby business rather than as a full scale commercial business in a residential home. The majority of the students who attend Ms. Vachher's classes live near her home and walk, with the exception of one student who lives in Jamaica Plain and drives to class. Given the transportation choices of the students and the limited class sizes, it is unlikely this home yoga studio has a detrimental impact on the neighborhood. Therefore, the Planning Board recommended approval of the special permit for the home occupation use to allow for the teaching of yoga for up to four students.

The Board then heard from the Building Commissioner Michael Shepard. Mr. Shepard stated that the documents on file regarding the relief requested in 2004 clearly stated that the use was to be for a yoga studio. Unfortunately, at the time, the relief required was not sought and therefore not granted. Mr. Shepard said that the building department supported the proposal, the relief required, and recommended that the Board require the petitioner to record the decision at the registry of deeds and provide proof of same to the Building Commissioner.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant Special Permits pursuant to Section 4.07 – Table of Use Regulations, Use #60 limiting the class size to four pupils and Section 8.02.2, alteration or extension of a pre-existing, non-conforming structure and makes the following

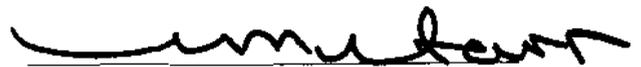
findings pursuant to Section 9.05 of the Zoning By-Law:

1. The specific site is an appropriate location for such a use, structure or condition.
2. The use as developed will not adversely affect the neighborhood.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
5. The development as proposed will not have any adverse effect on the supply of housing available for low and moderate income people.

Accordingly, the Board grants the noted special permit relief subject to the following condition:

**Upon expiration of the 20 day appeal period, the petitioner shall cause the decision to be recorded at the Norfolk County Registry of Deeds and provide proof of recording to the Building Commissioner.**

Unanimous Decision of  
The Board of Appeals

  
Enid Starr, Chairman

Filing Date: June 12, 2009

A True Copy

ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals

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