



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

Town of Brookline

Massachusetts

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 090040

Petitioner, Dr. Darlene Millman, applied to the Building Commissioner for permission to extend the Special Permit she received in 2004 to operate a psychiatrist's office in her home at 156 Mason Terrace. The initial relief would expire in accordance with the initial decision on September 9, 2009 unless extended by the Board of Appeals.

On May 21, 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 July 30, 2009, at 7:30 p.m. in the Selectmen's Hearing Room 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 July 9 and 16, 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: DARLENE MILLMAN

extend the grant of relief. Mr. Walters concluded by asking the Board to extend the relief for a period of ten (10) years rather than five (5), citing Dr. Millman's excellent record as the basis for the request.

BACKGROUND

October 5, 2004 – The Board of Appeals granted a special permit to operate a psychiatrist's office on the first floor of the single-family dwelling. This relief was conditional and expires five years after September 9, 2004, unless the Board of Appeals, after a public hearing, votes to extend the relief.

SITE AND NEIGHBORHOOD

156 Mason Terrace is a large Queen Anne-style house built in 1880 on a steeply sloping lot on Corey Hill. The wood clapboard dwelling is extensively decorated, and a garage is built into the slope of the front yard. The surrounding neighborhood primarily consists of similar homes on relatively steep lots.

APPLICANT'S PROPOSAL

The applicant, Dr. Darlene Millman, proposes to continue operating a psychiatrist's office in a portion of the first floor of the dwelling, and requests that the initial relief granted in 2004 be extended for another 10 years. Two parking spaces in the garage are available for her patients to park in during the day, as Dr. Millman leases an off-site parking space during the day for her own vehicle.

Dr. Millman sees couples and adults approximately 25 hours per week, splitting her time between this location and a separate office. Her patients are seen individually, there is no group therapy, and there are no employees.

FINDINGS

Modification of BOA #040035 required: The special permit relief granted to the applicant in 2004 under *Section 4.05.1.b.1* (parking relief for an accessory medical use) and *Section 4.07* (use relief for an accessory physician's office) was conditioned to expire within five years unless the Board of Appeals votes to extend the relief.

PLANNING BOARD COMMENTS

The Planning Board supports the applicant's proposal to continue operating a psychiatrist's office in this single-family dwelling for another 10 years. The applicant has successfully operated her office from her home for five years, and the Board is not aware of any recent complaints. The continued operation of her office will not negatively affect the neighborhood. The doctor normally only sees one patient at a time, she is not permitted to conduct group therapy, and she provides two parking spaces for her patients, which minimizes any impacts on the neighborhood.

Therefore, the Planning Board recommends approval of the proposal subject to the following conditions, which were attached to the original Board of Appeals decision:

1. The accessory office shall be open only on weekdays from 9:00 a.m. to 5:00 p.m.
2. There shall be no non-resident employees.

3. **One off-site parking space shall be maintained and proof of such space submitted to the Planning Department.**
4. **There shall be no group therapy sessions.**
5. **The applicant shall not knowingly permit visitation to the office by clients who can reasonably be expected to present a threat of criminal or violent activity to the surrounding neighborhood.**
6. **The relief granted herein shall terminate after ten years unless the Board of Appeals, after a public hearing, votes to extend the same.**

Michael Shepard, Building Commissioner, delivered the comments from the Building Department. He said that the Building Department files contained no evidence of complaint regarding the operation of Dr. Millman's office in her home. He said that given the successful operation to date, he recommended extending the relief another ten years to expire on September 9, 2019, unless the Board of Appeals, after a public hearing votes to extend the relief.

The Chair asked whether any members of the Board had any questions. Jonathan Book responded that it appears that the operation has been successful within the neighborhood and he supports the granting of the requested extension. Rob DeVries stated that he had no issues with the requested relief.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant an extension to Special Permit #040035 to expire on September 9, 2019, unless the Board of Appeals, after a public hearing votes to extend the relief.

The Board after deliberation voted to extend the relief and makes the following findings pursuant to

Section 9.05:

- 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.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

- 1. **The accessory office shall be open only on weekdays from 8:00 a.m. to 6:00 p.m.**
- 2. **There shall be no non-resident employees.**
- 3. **One off-site parking space shall be maintained and proof of such space submitted to the Planning Department.**
- 4. **There shall be no group therapy sessions.**
- 5. **The applicant shall not knowingly permit visitation to the office by clients who can reasonably be expected to present a threat of criminal or violent activity to the surrounding neighborhood.**
- 6. **The relief granted herein shall terminate after ten years unless the Board of Appeals, after a public hearing, votes to extend the same.**
- 7. **The petitioner shall submit to the Building Commissioner, proof of recording of the decision at the Norfolk County Registry of Deeds within forty five (45) days of this decision.**

Unanimous Decision of
The Board of Appeals


Enid Starr, Chairman

Filing Date: _____

A True Copy
ATTEST:

Patrick J. Ward

Patrick J. Ward
Clerk, Board of Appeals

FORWARDED BY
TOWN CLERK

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