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ZBA decision (Teuch, Martin), 01/15/2003

ZONING BOARD OF APPEALS

DOCKET NO. 3191

IN THE MATTER OF
100 CHURCHILL AVENUE
ARLINGTON, MA

RITA K. TEUCH

JOSHUA B. MARTIN

Petitioner

APPLICATION FOR SPECIAL PERMIT

HEARING DATE: NOVEMBER 12, 2002

DECISION: JANUARY 15, 2003

DECISION OF THE BOARD

MEMBERS PRESENT:

Joseph F. Tulimieri, Chair

Patrick Dignan

Susan McShane, Esquire

STATEMENT OF THE PROCEEDINGS

The Petitioner is requesting permission to utilize part of the premises as a psychotherapy office which requires a Special Permit under Section 5.04, use 8.06a. The property is located at 100 Churchill Street located in an R -1 zoning district and recorded in the Middlesex County Registry of Deeds in Book 17590, Page 165. The principal structure is located on a 7,000 square foot lot.

Statutory notice was given and a public hearing was conducted by the Arlington Zoning Board of Appeals. One abutter, Yaleska Yon Allworden of 23 Lincoln Street spoke in favor of the issuance of a Special Permit.

Submissions were presented to the Board for its consideration, as follows:

- (1) Application for a Special Permit properly executed by the Petitioner.
- (2) Memorandum, dated November 12, 2002, from Alan McClennen, Jr., Secretary Ex-Officio of the Arlington Redevelopment Board.
- (3) Plans, dated June 11, 2002, prepared by Giattino Design.
- (4) Plot Plan of land, dated February 22, 2002, prepared by Medford Engineering & Survey.

The Petitioner is constructing an addition which does not exceed 750 square feet and which meets the dimensional requirements of the Arlington Zoning Bylaw. Accordingly, the only matter considered by the Board is the use of a portion of the property for home occupation purposes, that is, a psychotherapy office. As noted in the Memorandum, dated November 12, 2002, from Alan McClennen, Jr., Secretary Ex-Officio of the Arlington Redevelopment Board, "... the proposed office and waiting area (study) occupy 320 square feet which is less than 25% of the [gross floor] area of the principal building". The Memorandum further notes that the design of the addition does not include any "... features which are not customary in buildings for residential use ..." and on-street parking is available for clients.

OPINION OF THE BOARD

The Board considered the Petitioner's application and all submitted materials. Based upon the evidence presented and in accordance with the applicable requirements of the Zoning Bylaw, the Board makes its findings with due regard to the nature and to the condition of all adjacent structures and uses in the R-1 zoning district within which the property is located, as follows:

1. The use requested is listed in the Table of Use Regulations Section 5.04, use 8.06a as a special permit in the district for which application is made or is so designated elsewhere in this Bylaw.
2. The requested use is essential or desirable to the public convenience or welfare.
3. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.
4. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.
5. No special regulations for the use, set forth in Article 11, are required to be fulfilled.
6. The requested use will not impair the integrity or character of the district or adjoining

districts, not be detrimental to the health, morals, or welfare.

7. The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.

DECISION OF THE BOARD

The Board grants a Special Permit and imposes the following conditions:

(1) That no more than 3-4 clients will be seen on a daily basis and that occasionally evening appointments will be conducted but in no event later than 10:00 PM; and

(2) That the Petitioner supply the Board with the gross floor area of the entire proposed addition.

The Board opines that all conditions required for granting a Special Permit have been met by the Petitioner. Therefore, the Board, by unanimous vote, grants the Petition as conditioned above.

The Board herein makes a detailed record of its findings relative to this decision; sets forth the reasons for its decision and findings; directs that this decision and record be filed in the Office of the Arlington Town Clerk and in the Office of the Redevelopment Board and shall be public record; and that notice of the decision shall be given forthwith to each party in interest. Appeals of this decision, if any, may be made pursuant to Section 17 of the Zoning Act (Massachusetts General Laws, Chapter 48) and shall be filed within 20 days after the date of filing of such decision in the Office of the Arlington Town Clerk.

By the Board,

Joseph F. Tulimieri, Chair

Patrick Dignan

Susan McShane, Esquire