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BOARD OF APPEALS

Hearing #17-01

DECISION ON PETITION FOR GRANT OF SPECIAL PERMIT  
WITH RESPECT TO 6 TENNEY CIRCLE

A public hearing of the Acton Board of Appeals was held on Monday, January 9, 2017, at 7:35 PM in the Acton Town Hall on the petition of Hillery Dorner for a **SPECIAL PERMIT** under Section 3.8.1.2 of the Acton Zoning Bylaw to employ non-residents in support of a home occupation. The property is located at 6 Tenney Circle (Map/Parcel I3/64-30).

Present at the hearing were Jonathan Wagner, Chairman, Ken Kozik, Member and Adam Hoffman, Member. Staff present included Roland Bartl, Town Planner and Zoning Enforcement Officer, and Katelyn Huffman, Board of Appeals Secretary. Also present were Hillery Dorner, the petitioner, and numerous neighbors residing on or near Tenney Circle.

Mr. Wagner opened the hearing, read the contents of the file, explained how the Board procedurally operates and reviewed Section 3.8.1.2 of the bylaws before asking the petitioner to begin. Section 3.8.1.2 states:

*3.8.1.2 A home occupation, other than retail sales, conducted entirely within the DWELLING UNIT or an accessory BUILDING by a resident and employing no persons other than the residents. In the Village Residential District, the portion of the DWELLING UNIT or accessory BUILDING used for a home occupation shall be limited to 500 square feet of NET FLOOR AREA. The Board of Appeals may authorize by special permit a home occupation which 1) conducts retail sales, or 2) employs non-residents provided that no more than two such non-resident employees shall be present on the premises at any one time.*

Ms. Dorner explained to the Board that she lives at 6 Tenney Circle and operates a law firm as a home occupation with 2-4 non-resident employees at her residence. She requests a special permit under Section 3.8.1.2 of the Zoning Bylaw for non-resident employees to work at her home.

Mr. Kozik asked the petitioner how long she had non-resident employees coming to her home. Ms. Dorner stated she had them for several years. Mr. Kozik noted that the petitioner's website indicated a total of six (6) non-resident employees who currently worked for her law firm. Ms. Dorner assured the Board that from now on there would only be two (2) non-resident employees

present in her residence on any given business day. Ms. Dorner also noted that she has opened a branch office in another community.

Mr. Hoffman asked the petitioner under what circumstance did she now find it necessary to seek a special permit from the Board. Mrs. Dorner stated that she believed a former employee may have filed a complaint with the town. Mr. Bartl added that Ms. Dorner's home occupation came to Planning Department's attention by way of an anonymous complaint and that with her special permit application she now seeks to bring her home business into compliance with the Zoning Bylaw.

Mr. Wagner asked the petitioner how much area in her home was dedicated to her home occupation. Mrs. Dorner stated that the original dining room and living room were dedicated to her home occupation.

Several of Mrs. Dorner's neighbors were in attendance and uniformly approved of her home occupation.

With no further input, Mr. Kozik made a motion to close the public hearing. Mr. Hoffman seconded the motion. The Board unanimously voted to close the hearing.

The Board of Appeals, after considering the materials submitted with the Petition, together with the information developed at the hearing, finds that:

1. The Petitioner seeks a **SPECIAL PERMIT** under Section 3.8.1.2 of the Acton Zoning Bylaw to employ non-residents in support of a home occupation. The subject property is located at 6 Tenney Circle (Map/Parcel I3/64-30).
2. The existing home business is noncompliant because it employs non-residents in violation of the Acton Bylaws.
3. Petitioner's home business employing no more than two non-resident employees present on the premises at any one time is consistent with the Master Plan.
4. Petitioner's home business employing no more than two non-resident employees present on the premises at any one time is in harmony with the purpose and intent of this Bylaw.
5. Petitioner's home business employing no more than two non-resident employees present on the premises at any one time will not be detrimental or injurious to the neighborhood in which it is to take place.
6. Petitioner's home business employing no more than two non-resident employees present on the premises at any one time is appropriate for the site in question.
7. Petitioner's home business employing no more than two non-resident employees present on the premises at any one time complies with all applicable requirements of this Bylaw.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT the SPECIAL PERMIT** subject to the following condition:

1. This Special Permit is only granted to the applicant and current resident/owner of the premises, and shall not be transferable to any subsequent owner/lessee of the property.

2. Upon request from the Zoning Enforcement Officer, Petitioner must provide a clear indication of the number of employees on the premises at any given time.

Any person aggrieved by this decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within 20 days after this decision is filed with the Acton Town Clerk.

**TOWN OF ACTON BOARD OF APPEALS**



Kenneth F. Kozik, Member



Jon Wagner, Chairman



Adam Hoffman, Member

Dated: 2/8/17

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on 2/8/17, 2017.



Katelyn Huffman, Secretary

**EFFECTIVE DATE OF SPECIAL PERMIT:** No Special Permit, or modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in Middlesex County South District Registry of Deeds. Such decision shall bear the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such appeal has been filed, it has been dismissed or denied.

**EXPIRATION DATE OF SPECIAL PERMIT:** This Special Permit must be exercised within two (2) years of its effective date.