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DECISION #15-13

DECISION OF THE PETITION OF DOLORES AND PAUL ELLIOTT, 367 ARLINGTON STREET

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, December 7, 2015 on the Petition of Dolores and Paul Elliott for a **SPECIAL PERMIT** under Section 3.8.1.2 of the Zoning Bylaw to allow two non-resident employees to work in their home based business located at 367 Arlington Street in Acton.

Present at the hearing were Jonathan Wagner, Chairman, Richard Fallon, Member, Adam Hoffman, Member. Also present: Roland Bartl, Planning Director, and Zoning Enforcement Officer, Robert Hummel, Assistant Town Planner, and Cheryl Frazier, Board of Appeals Secretary. The petitioners Dolores and Paul Elliott were present too.

Jon asked the petitioner to begin. Paul Elliot said that they were here to request a Special Permit to allow two non-resident employees to work in their home-based business. They have very little business activity and they have two employees that come every Friday. Jon Wagner asked what the business exactly entails. The petitioner began by stating what they do is called encapsulation. They do this in their garage and they described the consistency of the substance like molasses. The mixing is only done two to three times a year and the rest of the time they are soldering. This work would be classified as manufacturing or light assembly; but because they live and work in their home this is considered as an accessory use under zoning. They ship all over the world. There is no retail traffic on the site and they have internet sales only. Jon was wondering about delivery traffic - UPS or Fed-Ex, etc.. The petitioner explained that occasionally they do have deliveries and make shipments. Both employees work on Fridays and they have their own cars. Jon inquired about street parking and hazardous materials. The petitioner said the encapsulation substance is considered hazardous with potential risk of groundwater contamination in case of a spill. Their procedures guard against spills. He continued saying he supplied data sheets to the Acton Board of Health, and they did not have a problem because he was under the 23 gallons allowed. They have been running their business since 1998. The employees have worked with them since they began the business.

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

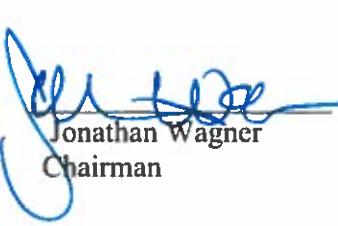
1. The Petitioner seeks a **Special Permit** to operate a home business consisting of encapsulation and light manufacturing with no more than two (2) nonresident employees working at one time.
2. The proposed use complies with Section 3.8.1.2 of the Zoning Bylaws.
3. The proposed use is consistent with the Master Plan and is in harmony with the general purpose and intent of the Zoning Bylaws.
4. The proposed use otherwise complies with the applicable requirements of the Zoning Bylaws.
5. The proposed use is appropriate for the site and will not be detrimental or injurious to the neighborhood.

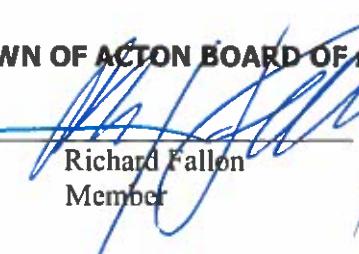
Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **GRANT** the **SPECIAL PERMIT** subject, however, to the following **conditions**:

1. That two non-resident employees may be present for not more than three days per week.
2. Non-resident employees to park their automobiles in the property driveway.
3. The petitioners to comply with November 2, 2015 Board of Health Interoffice Departmental Memo.
4. No retail sales permitted from the property at any time.
5. Permit granted to the applicant and current resident/owner of the premises, and that it shall not be transferable to any subsequent owner of the property.

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

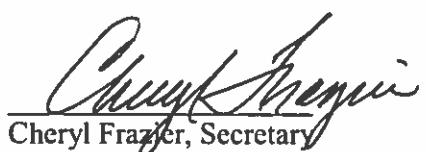
TOWN OF ACTON BOARD OF APPEALS


Jonathan Wagner
Chairman


Richard Fallon
Member


Adam Hoffman
Member

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on January 5, 2016.



Cheryl Frazier, Secretary
Board of Appeals

This decision, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the Town Clerk that (1) 20 days have elapsed after the decision has been filed in the office of the Town Clerk and (2) either no appeal has been filed or an appeal has been filed within such time, has been recorded with the Middlesex South County Registry of Deeds and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. Any person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.