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**TOWN OF WRENTHAM
ZONING BOARD OF APPEALS**

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2019 OCT 30 PM 12:57

**Decision Case #2019-14 (SP)
Date of Decision: October 23, 2019**

Registry of Deeds Book No. 665 & Page No. 180, Zoning District of Parcel R-30

Decision of the Board of Appeals on the application of Anshuman Singh Rawat, DMD (applicant) and Ross K. Palioca, DMD (owner) at 21 East Street, Wrentham, MA.

Background

By the application dated September 30, 2019 and filed in the Town Clerk's office on October 3, 2019, a Special Permit is requested to conduct a dental practice at 21 East Street, Wrentham, MA.

The hearing was advertised on October 8, 2019 and October 15, 2019 in *The Sun Chronicle*. All parties of interest on the official abutters' list obtained from the board of assessors, were mailed a notice of the public hearing on October 9, 2019. A public hearing notice was posted at Town Hall October 3, 2019.

Public Hearing – October 23, 2019

Board Members seated for this hearing were, Bill Casbarra (Vice-Chair), Walter Pelrine (Clerk/Secretary), John Redman (Member), William Burns (Associate Member), and Jennifer Savickis (Associate Member)

Submittal Information:

- Exhibit 1 Application for Special Permit dated September 30, 2019; 2 pages
- Exhibit 2 Owner Authorization letter dated October 1, 2019; 1 page
- Exhibit 3 Plan of Land in Wrentham; dated October 21, 1929; 1 page
- Exhibit 4 Certified Abutters List; dated September 25, 2019; 4 pages
- Exhibit 5 Town of Wrentham By-Law Rev. June 8, 1982; Art. 4.4; Rev. April 25, 1978 Art 2.8 and Art. 4.4; Rev. January 18, 1973 Sec. 3-6; 10 pages
- Exhibit 6 Zoning Board of Appeals Decision No. 106; dated April 22, 1963; 2 pages
- Exhibit 7 Zoning Board of Appeals Decision No. 489; dated October 25, 1984; 3 pages
- Exhibit 8 Zoning Board of Appeals Decision No. 601; dated April 9, 1987; 6 pages
- Exhibit 9 Zoning Board of Appeals Decision No. 997SP; dated June 15, 2000; 6 pages
- Exhibit 10 Memorandum in Support of Application; dated October 22, 2019; 6 pages
Zoning By-Law cover and Section 3-6 Business Uses; dated March 11, 1963; 2 pages

Deliberations/Findings

N O T

N O T

Attorney Daniel Seigenberg appeared before the Board on behalf of Anshuman Singh Rawat, DMD (applicant) and Ross K. Palioca, DMD (owner). Atty. Seigenberg noted that Ross Palioca, DMD is the owner of the building and existing dental practice. Dr. Palioca is seeking to treat patients on a limited bases until Dr. Rawat completely takes over the practice. He does not seek to make any changes or alterations of the area currently dedicated to the dental practice. He referenced the *Memorandum in Support of Application* submitted to the Board, which summarized and explained the complicated history of the historical building and its use as a dental practice since 1963. In 1963, Dr. John Lockwood petitioned the Wrentham Zoning Board of Appeals (Appeal #106) to maintain a dental practice in his residence at 21 East Street, which was an allowed use at the time. The petition was approved.

In 1984, Ross Palioca DMD, who worked at the practice, sought relief from the ZBA (Appeal #489) for a Special Permit under Article 9 of the Wrentham Zoning Bylaws to transfer ownership of an existing Special Permit to maintain his dental office at the property.

In granting the Special Permit, the ZBA found "that the transfer would not be any more detrimental to the neighborhood than the existing non-conforming use in that there will be not alteration of the structures or increase in the number of employees and that the business will be owned and operated by another dentist qualified to practice Massachusetts."

In 1987, Dr. Palioca sought relief from the ZBA to expand the practice. The decision (Appeal #601) granted the Special Permit. Attorney Seigenberg noted that at that time the dental practice was no longer a permitted use under the Bylaws as amended.

In 2000, Dr. Palioca applied to the ZBA for a Special Permit to enlarge and extend a non-conforming use and add handicap access, mud room, parking area, and new entrance. The ZBA's decision (Appeal #977SP) granted the Special Permit and allowed the expansion. The Board noted in their decision that they concluded that the application must be considered recognized a profession in a residential district. The use was allowed in the bylaws at the time of the original application. The Board found that the applicant had a legal, non-conforming use and allowed the extension as such.

Attorney Seigenberg stated that in 1963 Dr. Lockwood could have the dental practice in the home by right. By 2000 the Bylaw had been amended to include Home Occupancy, by right use was no longer allowed and since then Dr. Palioca has been operating as a non-conforming use with no changes to the practice. Attorney Seigenberg stated that his client, Dr. Rawat, is seeking to continue with the non-conforming use by Special Permit for dental practice, not a home occupation, since he will not live there. There will be a transition period where Dr. Palioca will slowly transition out while Dr. Rawat transitions into the practice.

Mr. Casbarra noted there has been a continuous use for dental practice without issue, but that there was the possibility of intensifying the non-conforming USE. He also confirmed that the transition period would take less than two years.

Mr. Pelrine inquired if there are any plans to add a second driveway. Atty. Seigenberg stated that there is no intent to make any changes to the building, driveway, or parking. Mr. Law confirmed that there are nine parking spaces and the current hours of operation are Monday, Tuesday, and Thursday 8am – 5pm, Wednesday 12p – 8p.

Greg Stahl of 135 Everett Street and Historical Commission. He stated that there have been no inquiries regarding the historical aspect of this property. Mr. Stahl noted that the Historical Commission would qualify the use as adaptive reuse by taking a historical property, where its current zoned use is no longer ideal for the surrounding area, and finding a new use for the building in order to it. Ms. Savickis confirmed that there are no historical restrictions for renovations, but the Historical Commission would ask that if changes were made, that the historical look and value are maintained.

Chuck Woodhams, property owner 41 Dedham Street, inquired if this is currently classified as home occupation. Mr. Casbarra clarified that the applicant is seeking a Special Permit for non-conforming use as written in 2000.

Mr. Redman moved to close the public hearing. Mr. Pelrine as second. Deliberation ensued to determine Home Occupation or Special Permit for non-conforming use and not use the property as principal residence. The property has always been residential zoned. Mr. Casbarra suggested that the motion be for a new Special Permit in lieu of modification to the 2000 permit.

Mr. Pelrine moved to approve as a new Special Permit to supersede the 2000 permit that would transfer the ownership from Ross K. Palioca, DMD to Anshuman Singh Rawat, DMD and allow that 21 East Street does not need to be the principle residence of Dr. Rawat with the following conditions:

- Dr. Palioca and Dr. Rawat will be working together for a transitional period of time not to exceed two years.
- No alterations will be made to the interior or exterior of the property.
- Hours of operation shall remain Monday, Tuesday, and Thursday 8am – 5pm, Wednesday 12p – 8p.
- Any change to this Special Permit will require applicant to come before the Board for review.
- Any signage will comply with the Wrentham Zoning Bylaws.

Mr. Burns as second. Yea-5, Nay-0, Abstentions-0 (5/0/0)

Decision

N O T

N O T

Based upon the findings discussed and the review of the Wrentham Zoning By-Laws, the Board of Appeals voted **five (5) in favor, zero (0) opposed and zero (0) abstained** to approve this application for a Special Permit. This Special Permit is granted in accordance with Section 9 of MGL 40A.

William Casbarva

p.p. Priscilla McNeil

William Casbarva (Vice-Chair)

Walter Perrine

Walter Perrine (Clerk/Secretary)

John Redman

John Redman (Member)

Jennifer Savickis

Jennifer Savickis (Associate Member)

William Burns

William Burns (Associate Member)

October 30, 2019

Date

Appeals, if any, shall be made pursuant to Massachusetts General Laws, Chapter 40A, and Section 17. Notice of such Appeal shall be filed within twenty days of this decision in the office of the Town Clerk.

A Special Permit shall not take effect until the Town Clerk has certified pursuant to Massachusetts General Laws, Chapter 40A, Section 11 that within 20 days of filing the Decision no Appeal has been filed, or if an Appeal has been filed that it has been dismissed or denied.

In accordance with Wrentham Zoning By-law Article 9, this Special Permit shall lapse within two (2) years from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for extension of said period of validity shall be considered a modification of this Special Permit, and shall be submitted in writing to the Zoning Board of Appeals.

Any modifications to the record plan submitted may only be made upon authorization from the Zoning Board of Appeals. The Board may grant the change(s) provided that the modification is not substantially different than the plan presented in the record, is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Zoning Board of Appeals and may require a public hearing if the Board finds that the proposed change(s) are significant in nature and of public concern, and substantially alter the plans and information used in making this Decision.

Wrentham Zoning Board of Appeals

N O T
A N
Certificate of Granting of Special Permit
O F F I C I A L

N O T
A N
O F F I C I A L

The Board of Appeals of the Town of Wrentham hereby certifies that a Special Permit has been granted

To: Anshuman Singh Rawat, DMD (applicant)
Ross K. Palioca, DMD (owner)
Address: 21 East Street
City or Town: Wrentham, MA 02093

Affecting the rights of the owner(s) with respect to land or structures at 21 East Street, per the submitted plans and conditions contained in this Decision.

And the said Board of Appeals further certifies that the Decision attached hereto is a true and correct copy of its decision granting said Special Permit, and that copies of said Decision, and of all plans referred to in the Decision, have been filed with the Zoning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the Decision bearing the certification of the town clerk that 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, that it has been dismissed or denied, is recorded in the Registry of Deeds for the County and District in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's Certificate of Title. The fee for such recording or registering shall be paid by the owner or applicant.

DEC 10 2019

William Casbarra
p.p. Priscilla Maxwell

William Casbarra, Vice-Chair

**NO NOTICE OF APPEAL RECEIVED 20 DAYS
FOLLOWING RECORDING OF NOTICE AND
APPROVAL OF PLANS FROM PLANNING
BOARD OR BOARD OF APPEALS.**

Walter Peltine

Walter Peltine, Clerk/Secretary

**NO NOTICE OF APPEAL RECEIVED 20 DAYS
FOLLOWING RECORDING OF NOTICE AND
APPROVAL OF PLANS FROM PLANNING
BOARD OR BOARD OF APPEALS.**

A TRUE COPY, ATTEST:
Cynthia L. Thompson

TOWN CLERK