

From: [Kristen Guichard](#)
To: [Lisa Tomy](#)
Cc: [Roland Bartl](#); [Robert Hummel](#)
Subject: FW: West Acton Corner Condo - Question on Potential Zoning Violation
Date: Thursday, September 24, 2015 1:28:02 PM

Hi Lisa,

Below is the email Roland sent to the condo association trustees in regards to their inquiry about 25A Spruce Street. This describes the Planning Dept. and other Land Use Depts. determinations.

Please let us know if you need anything else.

Thank you,
Kristen

Kristen Guichard, AICP
Assistant Town Planner
Town of Acton
472 Main Street
Acton, MA 01720
P: 978-929-6631

From: Roland Bartl
Sent: Wednesday, September 09, 2015 6:34 PM
To: 'Sergey Kazakov'
Cc: ebhunt
Subject: RE: West Acton Corner Condo - Question on Potential Zoning Violation

Dear Mr. Kasakov:

We collectively reviewed the circumstances of use and occupancy by the owner of Unit 1 (25A Spruce Street) of the West Acton Corner Condominium with the Town's legal counsel. We also were in contact with the owner of the unit, Ms. Tatiana Benharbone. Our findings include that Ms. Benharbone legally resides at her house at 11 Central Street in Acton. She uses unit 1 as a business location for creating and selling art and for operating a taxi service. She periodically or frequently spends much time in the Spruce Street unit, including overnight stays during which she may also sleep from time to time. Ms. Benharbone states that the nature of her taxi service business requires it. In general, extended stays at the workplace by business owners and their employees, while not prevalent, is not extraordinarily unusual, including workplace accommodations for rest and recovery at the business. These arrangements do not have the effect that the business locations become residences. Likewise, it appears that unit 1 at 25A Spruce Street remains a business location.

We determined that the use of this unit in total constitutes no apparent violation of applicable codes and laws, and specifically no violation of the Acton zoning bylaw or of the site plan special permit issued there under for the construction of the West Acton Corner Condominium project. The site is located in the West Acton Village zoning district, which allows a mixture of land uses on properties (residential, retail, service, office and the like) without prescribing in particular where any such uses must be conducted or located. The site plan special permit for the project approved the site layout for buildings, parking, landscaping and the like, but does not further regulate the various uses in the project. Therefore, based on our findings, we see no justification to intervene.

Sincerely,

Roland Bartl, AICP
Planning Director
Town of Acton
472 Main Street
Acton, MA 01720
978-929-6631

From: Sergey Kazakov [<mailto:skazakov84@gmail.com>]
Sent: Wednesday, August 12, 2015 9:25 PM
To: Building Department; Health Department; Planning Board
Cc: ebhunt
Subject: West Acton Corner Condo - Question on Potential Zoning Violation

Dear Mr. Ramsbottom, Members of Acton Board of Health, and Members of Acton Planing Board,

Per Mr. Ramsbottom's request during our phone conversation, I am sending this email with details of the issue that we request your assistance with.

We (Sergey Kazakov and Eileen Hunt) currently serve as Trustees of West Acton Corner Condo, located at 21-25 Spruce St, 17-19 Spruce St and 230-232 Arlington St. The condo association consists of 7 residential and 3 commercial units. Commercial units are located on the first floor of the building 21-25 Spruce St.

A few months back, the last vacant commercial unit was sold by the developer and the new owner moved in. The owner has the space officially used for an art gallery and taxi company. We have noticed, however, that the owner has been occupying the space as a residence. During a conversation, she first admitted it verbally, but later stated in a letter that she needs to be on premises 24/7 to "take calls for taxi company".

Occupying the commercial space as a residence exposes the Association to multiple risks, including risks related to insurance coverage, property values and load on septic system.

As discussed with Mr. Ramsbottom, we kindly request to provide the following information for us to further explain the issue to the owner of that unit:

1. From the Town's perspective, what are the specific criteria that define that a

commercial space is occupied as a residence and constitute the violation of zoning laws?

2. To our best knowledge, the developer (Mark Roderick) attempted to convert the commercial units to residential, but his request was denied due to the fact that the septic system that we have is not designed to handle another residence. Could you please confirm that, and provide the details of the decision?

At this point, we are collecting all relevant information to further address the issue internally within the Association. From our perspective, it is important to be very clear on what specifically constitutes the violation of zoning laws and other Town regulations in a situation when a person lives in a commercial property. It is also important to know what options, if any, the owner and/or Association has in regards to converting the space to residential.

We sincerely appreciate your help and advice on this matter.

Thank you,

Sergey Kazakov, Trustee – 508-688-0052, skazakov84@gmail.com

Eileen Hunt, Trustee - 603-715-4432, ebhunt@aol.com

West Acton Corner Condo Association