

Court action due in McKownville office zoning case

By MARTIN MOYNIHAN

GUILDERLAND—A date for court action in the case of a McKownville physician charged with a violation of the town's zoning ordinance has been tentatively set for Sept. 5, according to Town Justice John Welsh.

The case is due to come up for trial, the justice said, but it has not been determined whether the defendant, Dr. Anthony Mastrianni, 1461 Western Ave., will petition the court for a jury or non-jury trial.

Mastrianni is charged with a violation of the town's zoning ordinance which permits certain types of businesses to be operated in McKownville's R-10 zone (residential with a minimum 10,000 square foot lot size) provided the practitioner lives in the same building and meets other requirements set by the ordinance.

The charge is that Mastrianni does not reside in the Western Avenue building where his practice is located.

Justice Welsh said it appeared Mastrianni could be entitled to a jury trial in Justice Court because the town law provides penalties of fines or imprisonment for violations of the zoning ordinance.

A higher court has held that a defendant who could face a prison term must have the right to a jury trial, the justice said.

If a jury trial is held, it would not necessarily mean the court is considering a prison sentence for the defendant, Justice Welsh said.

The Sept. 5 date is still tentative, the justice said, adding a firmer date may be established later this week.

A town crackdown on alleged zoning law violations in McKownville earlier this year climaxed a two-year controversy in which area residents made repeated requests to the town to enforce the zoning ordinance.