

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

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ZBA 2002-33
Petition of Maria Nuzzi Realty Trust
15 Columbia Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 25, 2002 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of the MARIA NUZZI REALTY TRUST requesting renewal of a Special Permit pursuant to the provisions of Section II A 8 (a) and Section XXV of the Zoning Bylaw to continue the use of the premises at 15 COLUMBIA STREET, in a Single Residence District, as a two-family dwelling, a use not allowed by right in a Single Residence District.

On April 4, 2002, the petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Phyllis Nuzzi Taylor and Patrick Nuzzi, daughter and son of Pasquale P. Nuzzi, Trustee of the Maria Nuzzi Realty Trust. Mrs. Taylor said that the property has been allowed to be used as a two-family dwelling since 1975, and requested renewal of the Special Permit to continue this use.

The Board stated it had received letters from the owners of 25 Columbia Street and 18 Columbia Street, both of whom strongly objected to further renewal of the Special Permit. They understood why the initial Special Permit was granted, but at present, there does not appear to be a family member in residence.

Mrs. Taylor said her grandmother, Maria Nuzzi, passed away on September 30, 2002. They have been remodeling the apartment for another family member, Pasquale Nuzzi's son, who will occupy one of the units.

The Board stated that the second unit has been rented to students, who have been disruptive to the neighborhood. According to the Post Office, 6 different students have been receiving mail at that address.

Mr. Nuzzi explained that the second floor unit is rented to three college students, and has been rented to college students since 1975. There are not 6 people living in the unit. He manages the property and checks it at least once a week. After a party was held on the premises, he told the tenants that such a gathering was in violation of their lease. He has told the neighbors to call him with any problems. No complaints have been filed with the Wellesley Police Department regarding any activity on the premises. Any violation of any condition was completely unintentional.

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The Board said that originally, when the Special Permit was granted, it was based on family need, which has been diluted since that time. It has turned into a business rather than providing for the Nuzzi family in residence. Mr. Nuzzi said as soon as the remodeling is complete, a family member will occupy the first floor unit.

The Board asked how long the current tenants have occupied the premises. Mr. Nuzzi said they have been tenants for about seven months. They have a one year lease running through August. The prior tenants were two other students.

Dr. James Todd, 16 Columbia Street, said that after Pietro Nuzzi died, Maria Nuzzi occupied the first floor unit. She was a "grandmother" to the neighborhood. The neighborhood has concerns about the tenancy of students in a quiet single residence neighborhood. When Maria Nuzzi was alive, she was good about disciplining the students living there. The neighborhood is very close and had no desire to make any comments or criticisms while she was alive, but there has been increased noise and activity due to the college students. In his opinion, the house should revert to one-family use at this time.

The Board stated that it does not want to renew the Special Permit. Mr. Nuzzi and Mrs. Taylor must understand that no one else can move into that property until the current tenants leave.

Statement of Facts

The subject premises are located at 15 Columbia Street, in a Single Residence District, on an 18,000 square foot lot. The dwelling is a two and one-half frame dwelling containing ten rooms, five rooms and a bath on the first floor and the same on the second floor with a partially finished attic.

Pietro Nuzzi purchased the house in the 1940's and occupied it with his family. For several years prior to 1975, his married daughter and her children occupied the second floor and Mr. Nuzzi and his wife occupied the first floor. His daughter moved out, and in 1975, Mr. Nuzzi petitioned the Board of Appeals for permission to make the necessary changes to enable him to rent the second floor apartment.

In 1975, the Board was of the opinion that the house had been occupied by two generations of one family, and it appeared that the proposed use of the property as a two-family dwelling would not result in depreciation of surrounding properties. At that time, the Board granted a Special Permit for one year for use of the premises as a two-family dwelling (ZBA 75-54).

In 1977, the petitioner requested renewal of the permit to allow the dwelling to be used as a two-family dwelling as long as the petitioner, Pietro Nuzzi, owned and occupied the house. At that time, the Board granted a variance as long as the petitioner and his family occupied the premises, but for no longer than a five year period (ZBA 77-29).

In 1982, Mr. Nuzzi who was 82 years old, requested a Special Permit to continue the use of the premises as a two-family dwelling. The Special Permit was granted for one year (ZBA 82-36). From 1982 through 1988, the Special Permit was renewed annually.

On November 2, 1988, Pietro Nuzzi passed away and the property was transferred to the Estate of Pietro Nuzzi. In April, 1990, Maria Nuzzi applied for a renewal of the Special Permit, stating that she relied upon the income generated by the rental income to maintain her residence. The Board granted the Special

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Permit for two years (ZBA 90-12). From 1990 to 2000, the Special Permit was renewed every two years. Sometime during that period, the property was transferred to the Maria Nuzzi Realty Trust, with Pasquale Nuzzi, Pietro's son, serving as trustee. Mrs. Nuzzi died on September 30, 2001. At the present time, no family member is in residence, although Stephen Nuzzi, Pasquale Nuzzi's son is planning to occupy the premises.

Letters in opposition to the renewal of the Special Permit were received from Graham B. Jones, 25 Columbia Street, and from Mr. and Mrs. Raymond Capobianco, 18 Columbia Street.

Dr. James Todd, 16 Columbia Street, appeared at the Public Hearing to oppose the petition.

On April 23, 2002, the Planning Board reviewed the petition and recommended that, assuming there had been no change in circumstances since the time of the last review, the Board recommends renewal of the Special Permit under the same terms and conditions as are currently in effect.

Decision

This Authority has made a careful study of the material submitted and the information presented at the hearing. A Special Permit is required to maintain the two-family status of the premises in a Single Residence District, as such use of the premises is not a by right use in a Single Residence District.

It is the opinion of this Authority that there has been a definite change in circumstances under which the original Special Permit and all the following Special Permits were granted. The original Special Permit was granted to Pietro Nuzzi in order that he be able to maintain the property, which was not possible without the additional income generated by the second dwelling unit. Following Mr. Nuzzi's death, the Special Permits were renewed in order that Maria Nuzzi be able to remain in her home.

It is the opinion of this Authority that since the passing of both the original owners of the property, this need is no longer present and that the premises can be used or adapted at a reasonable expense and with a fair financial return for a use regularly permitted in the district; namely the use of the premises as a single family residence in a Single Residence District.

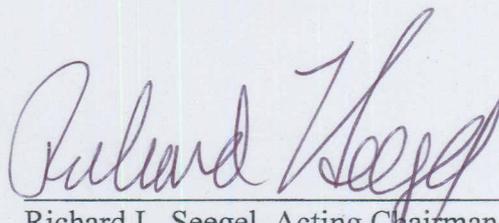
Therefore, the Special Permit is denied, as voted unanimously by this Authority at the Public Hearing, and this petition is dismissed with the following stipulations:

1. At no time in the future shall the property at 15 Columbia Street be used or sold as a two-family dwelling.
2. Subsequent to the expiration of the current lease with the second floor tenants, the property shall be returned to single family status.

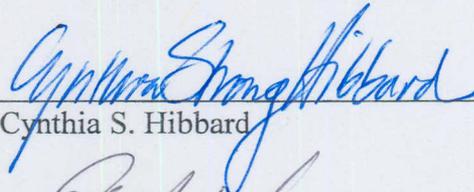
ZBA 2002-33
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APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN
THE OFFICE OF THE TOWN CLERK.

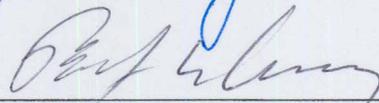
Cc: Planning Board
Inspector of Buildings
edg



Richard L. Seegel, Acting Chairman



Cynthia S. Hibbard



Robert W. Levy

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