



BOARD OF APPEAL

RICHARD O. ALDRICH
 DANA T. LOWELL
 F. LESTER FRASER

KATHARINE E. TOY, CLERK
 TELEPHONE
 235-1664

Appeal of Fariborg Ghadar

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:00 p.m. on October 1, 1970, on the appeal of Fariborg Ghadar, being aggrieved by an order of the Inspector of Buildings to cease using the premises owned by him at 393 Weston Road in violation of Section II of the Zoning By-law which limits the use of property within a Single-residence District. Said appeal was made under the provisions of Section XXIV-E of the Zoning By-law and Chapter 40A, Section 13 and 16 of the General Laws.

On August 19, 1970, the Inspector of Buildings notified the appellant in writing that the use of the above-mentioned premises by several unrelated persons did not constitute single family occupancy within the meaning and intent of the Zoning By-law and further ordered that the unlawful use of said premises cease immediately. On September 15, 1970, the appellant took an appeal from such order and thereafter due notice of the hearing was given by mailing and publication.

The appellant spoke in support of the appeal at the hearing.

The following persons spoke in favor of the appeal: Elaine M. Pipes, 385 Weston Road, Hilda DeRosier, 388 Weston Road, Walter Tordeoff, 387 Weston Road and Ella Ouellet, 385 Weston Road.

The following persons spoke in opposition to the appeal: Knute Hansen, 111 Pilgrim Road, Dexter S. Bolles, 32 Thomas Road, George C. Sline, 395 Weston Road, Arthur Bell, 11 College Road and Ellen Nardiello, 32 Cavanagh Road. All expressed the view that such use of the property was detrimental to surrounding properties and that an excessive number of cars were parked on the property, including some inoperative cars.

Statement of Facts

The property involved is located within a Single-residence District requiring a minimum lot area of 10,000 square feet. The house was built in 1967 as a split-level, seven room single-family dwelling.

At the hearing the appellant stated that he was a graduate student attending Harvard University. He was dissatisfied with the conditions on campus and desired to live elsewhere. He, therefore, rented the house involved for a short period prior to purchasing it in October 1968. During the time he has occupied the property he has had three other graduate students with him who share the expenses with him. These three students are related to each other but not to him.

He stated that he was not aware that such use of the premises was unlawful until he received the letter from the Building Inspector, and, in his opinion, to be required to disturb the present occupancy arrangement now

DEC 10 1970
 TOWN OF WELLESLEY
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will result in great hardship to him since, he contends, he cannot afford to carry the house alone.

The students have five cars and every effort has been made to provide off-street parking for these in compliance with the Town regulations. In his opinion, the property has been well maintained and the present use of the property should not prove detrimental to the neighborhood. Generally, there have been five automobiles parked on or about the premises, all owned by the occupants. Most of the front yard is hot-topped to provide parking space. The property is located in an attractive and generally well kept single-family residential neighborhood.

Decision

Section II of the Zoning By-law provides that "In Single-residence Districts, no new building or structure shall be constructed or used in whole or in part for any purpose except one or more of the following specified uses: 1. One-family dwelling ..." unless permission is granted by this Board for one of several other uses specified in clause 8 of said Section II. Section IA. defines a "one-family Dwelling" as "A detached dwelling containing not more than one dwelling unit," and a Dwelling Unit as, "A room, group of rooms, or dwelling forming a habitable unit for one family with facilities for living, sleeping, cooking and eating, and which is directly accessible from the outside or through a common hall without passing through any other dwelling unit."

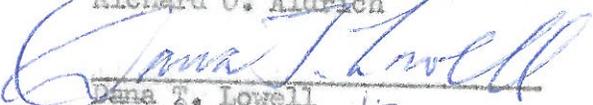
The By-law therefore prohibits use of a dwelling in a Single-residence District for habitation by more than one family. A "family" is variously defined for different purposes by the lexicographers and courts. We prefer and accept as a basic definition most in keeping with the intent which we ascribe to those who drafted and adopted the Zoning By-law as amended that definition which is numbered "5" in Webster's New International Unabridged Dictionary (Second Edition, 1961) which reads: "A group comprising immediate kindred, especially the group formed of parents and children constituting the fundamental social unit in civilized societies." Black's Law Dictionary (Fourth Edition, 1951) states at page 728: "In most common use, the word (family) implies father, mother, and children, immediate blood relatives." We believe, however, that common usage and understanding support expansion of the foregoing definitions to include for purposes of the Zoning By-law those bonafide servants, if any, engaged on the premises in the domestic service of the basic family unit.

This case does not require any further refinement or definition in respect of other possible special situations incidental to the primary single family occupancy of a single family residence which should perhaps under some circumstances come within the scope of permitted use under the Zoning By-law. We feel that there can be no doubt in the instant case that the predominant motive for the multiple occupancy is commercial or economic and does not in any significant way involve a "family" in the sense in which that term is used in the Zoning By-law. The owner, who is in no way related to the other paying occupants, has himself stated that he could not economically justify continued ownership (or the original purchase) of the property without the income from the other occupants.

The relative attractiveness of the individuals concerned, their apparent good intentions and their personal problems are not proper mitigating considerations for this Board. The potential for mischief in accepting the proposition advanced by the appellant is obvious. The Board has viewed the premises which appear to be reasonably well kept on the outside, but whose front yard frequently resembles a used car lot with the five or more cars of the occupants and their invitees parked in and about the premises. We are aware that occupancy by young single adults all having one or more cars and friends can more often than not involve a great deal of activity, noise and disturbance to nearby neighbors. We also take cognizance of the physical and aesthetic environmental pollution which frequently accompany a plethora of automobiles, non-owner occupancy and lodging house habits and attitudes. None of these problems on the scale implicit in acceptance of appellant's position are reasonably within the contemplation either of the Zoning By-law or of the residents of single family districts in Wellesley.

It is the unanimous opinion of this Board, therefore, that continued non-conforming use of the property is unlawful and will substantially reduce the value of surrounding properties in the district and otherwise injure the neighborhood.

Accordingly, the appeal is dismissed.


 Richard O. Aldrich

 Dana T. Lowell

 F. Lester Fraser

Filed with Town Clerk _____

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