


 ZONING BOARD OF APPEALS
 TOWN HALL WELLESLEY, MA 02181

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82-25

Petition of Erika C. M. Hampe

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall at 8 p.m. on Thursday, August 19, 1982, on the petition of Erika C. M. Hampe, requesting a Special Permit under the provisions of Section XXV and Section II 8 (a) of the Zoning Bylaw which will allow the premises located at 18 Maugus Avenue to be used as a lodging house, said residence being in a Single Residence District.

On July 30, 1982, the petitioner filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Present at the hearing and representing the petitioner was Gerald D. McLellan, Attorney, Goodwin, Procter and Hoar. Mrs. Hampe was also present. Mr. McLellan gave a history of the dwelling, which has been used as a lodging house since before 1925 except for the period from 1938 to 1942. He stated that the Hampes purchased the property in 1967, that Mr. Hampe was recalcitrant in payment of taxes and did not keep the property up to codes, that the Hampes have been separated for one and a half years and were divorced in May, 1982, at which time the house was conveyed to Mrs. Hampe as her sole means of support. Mr. Hampe is presently unemployed, providing no child support or alimony. Mr. McLellan stated that Mrs. Hampe supports three children at home by conducting a lodging house and by limited babysitting. He stated that Mrs. Hampe is now requesting a Special Permit to have twelve lodgers at her residence. She has spent \$15,000. to bring the house up to code, has met with the Building Inspector and Wiring Inspector to do so, operates the home efficiently, with dignity, in harmony with the general purpose of the Zoning Bylaws. Mr. McLellan presented two aerial photos of the property and stated that parking is provided for twelve cars in the parking area below the house and eight to ten cars in the upper parking area.

Mrs. Hampe answered questions from Board of Appeals members, and stated that five rooms are rented now, that all lodgers eat all meals out, that no businesses are run from the house, that rooms are rented by the week at approximately \$45. per room per week. Mrs. Hampe stated that five children are presently living at home. Charles Hampe, a son, stated that their intent is to have quiet, professional people as lodgers.

Mr. McLellan presented a petition supporting the request for twelve roomers, signed by the following: Brian Murphy, 32 Maugus Avenue, Mrs. James D. St. Clair, 88 Maugus Avenue, Mrs. Gerald Zukowski, 38 Maugus Avenue, Allen McMurray, 81 Maugus Avenue, Doris Stickler, 70 Maugus Avenue, Ann Davies, 48 Maugus Avenue, M.K.B. Fox, 12 Maugus Avenue, Mary C. Curtin, 47 Maugus Avenue, John R. Gehring, 63 Maugus Avenue, Barbara Scully, 67 Maugus Avenue, Elizabeth Romer Chatfield, 18 Eaton Court.

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Speaking in favor of the petition: Mr. Domenico, owner of the Berkeley Restaurant, Jeffrey Brindle, 20 Edgewater Drive, Barbara Horton, Abbott Road, Judy McGraine, 24 Wareland Road, Shirley Cooney, 85 Glen Cross Road, Frederick Schaller, 10 Schaller Street, Mary Ellen Laak, 34 Seaward Street, Margot Hampe.

Richard Gleason, 19 Eaton Court, presented a petition to the Board from the Maugus Avenue/Eaton Court Neighborhood Group, a position statement to maintain the "status quo" of no more than five unrelated people for a period not to exceed three years. Said position statement, dated August 11, 1982, is on file in the office of the Board of Appeals, signed by the following: Robin Blanchard, 28 Eaton Court, Barbara Rubinstein, 15 Maugus Avenue, Richard Rubinstein, 15 Maugus Avenue, Sara L. Johnson, 30 Eaton Court, Carol J. Gleason, 19 Eaton Court, Richard Gleason, 19 Eaton Court, Raymond Lavin, 10 Maugus Avenue, Nina King Lavin, 10 Maugus Avenue, Katherine McAndrew, 12 Eaton Court.

Present at the hearing and opposed to the petition was Robin Blanchard, 28 Eaton Court, an abutter for five years, who complained about abandoned cars, garbage, beer bottles, traffic, and headlights shining into her house. Mrs. Blanchard was unable to say when the last of these conditions was encountered. Also opposed to the petition and present at the hearing was Sara Johnson, 30 Eaton Court, an abutter of Mrs. Hampe for two years, who complained of noise, weeds, garbage, motorcycles, liquor bottles, and noted no improvement in the last two years.

Statement of Facts

The property involved is located at 18 Maugus Avenue, in a Single Residence District, containing 20,610 square feet of land. The house involved is a three-story wooden structure over a hundred years old, containing twenty rooms and eight and a half baths. In 1925, the effective date of the Zoning Bylaw in the Town of Wellesley, it was occupied by a family who had two or three lodgers and also served meals to Babson Institute students. This use continued for several years; from 1938 to 1942 the house was unoccupied. In 1942 the property was sold to a previous owner who, it is alleged, operated it as a lodging house with apartments as well, until 1967 when it was sold to Mr. and Mrs. Hampe, who occupied it with their eight children.

In 1975, Mr. and Mrs. Hampe requested Board of Appeals permission to use the house involved as a combination lodging and apartment house. In the Board of Appeals decision of October 15, 1975 (ZBA Case #75-28), the Board granted permission for the dwelling to be used as a lodging house for not more than five (5) roomers, occupying the first and second floors only, with not more than six (6) cars allowed to park on the premises, and that all kitchen facilities be removed other than the kitchen on the first floor. Other conditions of the decision are contained on page 2 and 3 of Zoning Board of Appeals Case #75-28.

On November 4, 1975, the petitioner appealed the decision of the Board of Appeals to the Norfolk District Court and on January 25, 1977, the appeal was heard. The Court affirmed that part of the Board's decision denying the use of the property as an apartment house, and remanded the case to the Board of Appeals for further proceedings, hearings and findings in regard to the use of the property as a lodging house.

Mr. and Mrs. Hampe subsequently appealed the decision of September 20, 1977 to the Norfolk Superior Court. Later the Hampes withdrew the appeal, and a "Judgment of Dismissal" was issued on June 9, 1981.

Erika C. M. Hampe is now requesting a Special Permit under Section II of the Zoning Bylaw to allow the premises to be used as a lodging house for twelve (12) roomers. The Hampes are now divorced and the lodging house is Mrs. Hampe's sole source of income, other than limited babysitting. Mrs. Hampe supports three children still in school, and two older children are presently residing with her.

Arthur LaConte, Building Inspector, inspected the Hampe dwelling on August 4, 1982, in the interest of Public Safety, and reported to the Board of Appeals that Mrs. Hampe has exceeded the minimum standards for Public Safety. New fire warning systems, enclosed stairwells, and a new fire escape have been completed, conforming to Public Safety standards established for rooming and lodging houses. Mr. LaConte stated that as of August 4, 1982 all codes and standards for Public Safety have been met.

The Planning Board, in a letter to the Board of Appeals dated August 18, 1982, commented on the petition.

Decision

This Authority has made a careful study of the evidence submitted, and has reviewed the history of the use of the property in question. In 1925, the effective date of the Zoning Bylaw in the Town of Wellesley, the dwelling was used as a lodging house and has been used continuously since then as a lodging and/or apartment house, except from 1938 to 1942 when the house was unoccupied. Mr. and Mrs. Hampe purchased the house in 1967, residing there with eight children, and were last permitted five lodgers in the Board of Appeals Decision of September 20, 1977. Mrs. Hampe is now the sole owner of the property and responsible for maintaining the property and supporting three children. Mrs. Hampe, five children, and five roomers are presently residing on the premises, a total of eleven persons. Revenues from the lodgers and babysitting are her means of support.

It is the opinion of this Board that the use of the twenty (20) room dwelling as a lodging house has had the general acceptance of the community; that the use of the dwelling under Mrs. Hampe's supervision for a limited number of roomers will not reduce the value of the property within the area; that the use does not disturb or disrupt the neighborhood and; that the petitioner could have a reasonable income from the property. It is the belief of this Board that the property in question can no longer be used or adapted as a reasonable expense and with a fair financial return for a use regularly permitted in the district due to the size of the building and the number of rooms therein.

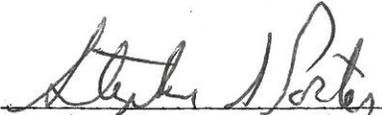
However, it is the opinion of this Board that the requested twelve roomers would be an excessive use of the dwelling and disruptive to the neighborhood in terms of the

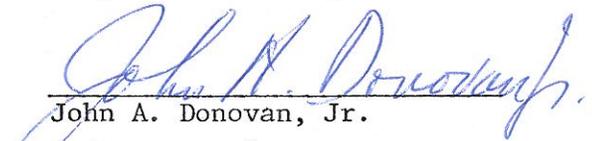
traffic and activity it would produce. This Authority notes that certain complaints about noise, car lights, litter and motorcycles were made but there were insufficient facts to make a finding that these conditions exist today or were related to the lodgers in the Hampe residence. Such facts will be reviewed should a renewal of this Special Permit be requested next year.

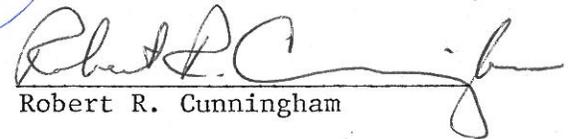
Accordingly, a Special Permit is granted subject to the following conditions:

1. That not more than eight (8) lodgers may occupy the dwelling at any one time.
2. That the total number of occupants of the dwelling may not exceed fourteen (14), including the owner and relatives:
 - a. Therefore, if the owner and five (5) children occupy the premises, eight (8) tenants would be allowed.
 - b. However, if additional relatives of the owner occupy the premises, the number of lodgers must be reduced, so that no more than fourteen (14) persons may reside in the house.
3. That off-street parking shall be provided on the property, that lodgers will be restricted to the upper parking area, that lodgers shall not be allowed more than one motor vehicle each on the premises.
4. That all applicable laws and ordinances and State and local building and fire codes and regulations shall be fully complied with.
5. That this Special Permit shall expire one year from the date of this decision.

Furthermore, this Board recommends that one area be provided for the lodgers with kitchen equipment and food storage space.


 Stephen S. Porter, Chairman


 John A. Donovan, Jr.


 Robert R. Cunningham

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