



## BOARD OF APPEAL

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

KATHARINE E. TOY, CLERK  
 TELEPHONE  
 235-1664

Petition of Anna Maria J. Murphy

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 8:20 p.m. on June 15, 1972, on the petition of Anna Maria J. Murphy, to rent rooms on the first and second floors of her dwelling at 14 Eaton Court and to maintain an apartment on the third floor, as provided under Section XXIV-E of the Zoning By-law.

On May 23, 1972, the Inspector of Buildings notified the petitioner in writing that the property involved was located in a Single-residence District; that it was being occupied as three separate living units, and that such unlawful use of the premises cease immediately. On May 26, 1972, the petitioner filed her request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

The petitioner spoke in support of her petition at the hearing.

The following persons spoke in opposition to the granting of the request: Richard J. Gleason, 19 Eaton Court, Theodore Monacelli, 17 Eaton Court, Julia C. McAndrew, 12 Eaton Court, and Dana T. Monacelli, 17 Eaton Court; all felt that as this area is still zoned for single-family dwellings, it should be maintained as such, although some special permits have been issued for non-conforming uses, Eaton Court is essentially a residential area. It was their further belief that the proposed use of the property would result in more cars being parked on the street, the property not being maintained properly, all of which would tend to depreciate the values of their properties.

Irene F. Hedges, 16 Eaton Court, spoke in favor of the granting of the request.

A letter was received from Katherine F. McAndrew, 12 Eaton Court opposing the request.

Statement of Facts

The house involved is one of four contiguous single-family houses, located on the easterly side of Eaton Court, within a Single-residence District requiring a minimum lot area of 10,000 square feet. It is a three-story wood frame building with three rooms on the first floor, four rooms on the second floor and three rooms on the third floor.

The petitioner and her husband purchased the property in May of 1970, and lived there until June of 1971, when the petitioner acquired it. Neither has been living there since then, although the petitioner maintains a room and is there occasionally. It was stated that three people occupy the first floor, a woman who rents out two rooms occupies the second floor and two people occupy the third floor.

The petitioner explained that she has an eight year old daughter and

that she has no other means to maintain the property unless she is allowed to continue to rent it as it is now. She stated that when she and her husband purchased the property there was a small apartment on the third floor which she assumed was legal. She has tried to maintain the property well in the past and to correct any irregularities which have occurred.

After careful study of the evidence submitted and a view of the locus, the Board is unable to find that the criteria set forth in Section XXIV-E of the Zoning By-law has been satisfied. The property was purchased by the petitioner and her husband approximately two years ago with knowledge that the house was located within a Single-residence District. It was not established by the petitioner that she had been unable to rent the property as a single-family dwelling or that the house was unsuitable for single-family occupancy. The Board is cognizant of the fact that three special permits have been granted by this Board allowing three of the eight houses in the Court to be used for non-conforming uses. It has also taken into consideration the fact that the property involved is closeby a business area where there are a number of stores and a main thoroughfare.

The Board has checked the Town records and finds that in 1948, a temporary permit was issued which allowed the then owner of the property involved to use the house for two-family occupancy solely for the use of veterans of World War II and their families. This permit terminated through an order of the Board of Selectmen on April 12, 1948.

After considering all the facts in this case, the Board finds that the present multiple occupancy use of the property is not a valid one and that the continuing use of it as such would prove detrimental to the neighborhood. The Board feels that such use would increase the number of cars parked on Eaton Court, generate more traffic and therefore substantially reduce the value of properties within the district.

Accordingly, the petition is dismissed.

*Richard O. Aldrich*  
Richard O. Aldrich  
*F. Lester Fraser*  
F. Lester Fraser  
*Edward T. Kilmain*  
Edward T. Kilmain

Filed with Town Clerk \_\_\_\_\_

SEP 28 10 33 AM '55  
TOWN CLERK'S OFFICE  
RECEIVED

TOWN OF WELLESLEY



MASSACHUSETTS

ALBERT S. ROBINSON, TOWN COUNSEL

P. O. BOX 375  
47 CHURCH STREET  
WELLESLEY, MASS. 02181  
(617) 235-1020

April 14, 1978

Miss Katherine E. Toy, Administrative  
Secretary  
Wellesley Board of Appeal  
Town Hall  
Wellesley, Massachusetts 02181

Re: Anna Maria J. Murphy vs. Richard O. Aldrich et als.  
Norfolk County Superior Court No. 107980

Dear Miss Toy:

In response to your telephone request for a status report on the captioned matter, the Norfolk Superior Court noticed an Order of Involuntary Dismissal on December 7, 1976. The Plaintiff has taken no action in response to that Order, and the matter has been ordered dismissed by the Court without prejudice and without costs.

This is a ruling favorable to the Board of Appeals, and its Decision, filed with the Town Clerk on September 26, 1972, is in full force and effect. It would be appropriate for the Building Inspector to issue a Cease and Desist Order if the original violation is still continuing, and if that order is not obeyed, then he could consider requesting Town Counsel to seek an Injunction.

After discussing this with you, and being advised by you of the probability that a violation still exists, you should know that over the last year or two I have been counsel to the Appellant, who is now, by reason of remarriage, Mrs. Peterson, at the same address. I, of course, was not aware of the Board of Appeals case when a partner of mine first undertook to represent her in matters totally unrelated to the Board of Appeals matter. Should circumstances result in the office of Town Counsel being requested to seek an Injunction or otherwise become involved, it would appear appropriate for me to request the Selectmen to appoint special counsel.

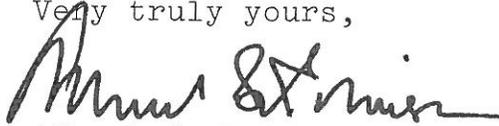
I would be glad to discuss this case further with you or Mr.

Miss Katherine E. Toy, Administrative  
Secretary  
Wellesley Board of Appeal

April 14, 1978

Scammon at any time.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Albert S. Robinson".

Albert S. Robinson

ASR/ilf

File No. WBA--101

cc: Mr. Joseph E. Scammon, Building Inspector

cc: Mr. Thomas E. Lee, Executive Secretary,  
Board of Selectmen