

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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KATHARINE E. TOY  
Administrative Secretary  
Telephone  
235-1664

Petition of Jeanne Rutledge

Pursuant to due notice the Permit Granting Authority held a public hearing in the hearing room on the second floor of the Town Hall at 8:35 p.m. on July 27, 1978, on the petition of Jeanne Rutledge, requesting a variance from the terms of Section II of the Zoning By-law, which will allow the premises located at 25 Weston Road to continue to be used as a two-family dwelling, as provided under Section XXIV-D of the Zoning By-law.

On July 13, 1978, the petitioner requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

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

Paul F. Rutledge, former Wellesley resident, now residing in Dover, also spoke in support of the request.

The following persons spoke in opposition to the request: Sandra Carter, 14 Waban Street, Dr. Richard A. Carter, 14 Waban Street, Richard Eudicone, 19 Abbott Street, Mildred T. Moynihan, 9 Waban Street, William A. Moynihan, 9 Waban Street, Reiner Beeuwkes, III, 9 Roanoke Road, Mary E. Rich, 16 Midland Road, Susan Hand, 26 Weston Road, Edward S. Hand, Jr., 26 Weston Road, Jerome B. Carr, 17 Waban Street and Gudrun M. Carr, 17 Waban Street, and Richard Clayton, 8 Cross Street.

The opposition alleged that the house involved has three apartments which are occupied by three tenants and in violation of the variance granted by this Authority a year ago allowing it to be used by not more than two families for another year.

It was stated that the petitioner and her children were occupying one of the apartments in August 1977, when the permission was granted to continue the non-conforming use, however, within a short time after receiving the permit, she purchased another house elsewhere in the Town and vacated the house. She continued to rent the house and arranged for three rental units, one on the first floor, one on the second floor and a bedroom and bath with cooking facilities on the third floor.

It was further stated that the exterior of the house and the grounds have not been kept in good condition; trash bags have been allowed to remain in the yard for days along with other debris. Photographs were submitted to substantiate the claim.

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Major improvements have been made within the area, it was stated, during the last few years, including beautification of parking lots, exclusion of trucks on Weston Road, the Webb Town-house development, and extensive improvements to many of the homes within the neighborhood. It was also pointed out that six of the seven houses in the immediate neighborhood are occupied as single-family dwellings, and the house involved is smaller than most of the other houses within the area.

It is the opinion of the opposition that the house involved should be restored to a single-family status, due to the fact that it is not excessively large for single-family occupancy, and further because the owner is not occupying the property as was the case a year ago when she based her request for a permit upon financial need.

A statement was submitted, signed by Thomas P. Sullivan, tenant on the second floor which contained the following information. "The first floor apartment of 25 Weston Rd. is currently rented but unoccupied. The second floor apartment is occupied by myself and my two daughters. The 3rd floor apartment (with access through my apartment) is occupied by another tenant unrelated to myself."

Letters opposing the granting of the request were received from Jim and Pamela DiSimone, 32 Weston Road and Margaret J. Arnold, 20 Abbott Street.

Statement of Facts

The house involved is located within a Single Residence District, a district in which the desired use of the property is not permitted unless a variance is granted by this Authority. The house was built over seventy-five years ago, on a lot containing 6,251 square feet. It is a three-story frame dwelling containing a small kitchen, dining room, bedroom and living room with bath on the first floor, a kitchen, living room, bedroom, a small room and bath on the second floor and two rooms on the third floor. In 1972, the Board of Appeal granted permission to a former owner of the property to use the house for not more than two families. The permit was granted on a temporary and conditional basis and was renewed annually since that time.

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The petitioner now seeks permission to continue for another year the present non-conforming use of the property which will allow her to continue to use the property as a two-family dwelling.

At the hearing the petitioner outlined in detail the improvements she has made to the interior and exterior of the house since purchasing it in 1976, and the maintenance work she has had done to the grounds. The value of the house in November 1976, when she purchased it, was \$50,000, she stated, and in May of 1978, she had an opportunity to sell it for \$68,000. and again in June, 1978, she had another opportunity to sell it for \$69,000. This increase in value, she claimed, was due to the many improvements she had made to the property as well as the normal increase in real estate values. Neither of these proposed sales were completed, she stated, because of complaints made by the neighbors to the prospective buyers.

The petitioner stated that she did not feel that she had violated, in any way, the conditions imposed in the Authority's decision of a year ago. The property is being used as a two-family dwelling which she feels

is an appropriate use for it in that neighborhood. The property borders on commercial property, parking lots, a fire station, condominiums, housing for the elderly and apartment houses for Wellesley College faculty, she stated, and, in her opinion, its present use is in character with the neighborhood which is developed with multiple residential dwellings. Of the eleven houses in the neighborhood, she stated, four appear to have more than one-family occupancy. Photographs of the property involved were submitted together with a view of the house at 26 Weston Road and a view of an apartment house on Norfolk Terrace.

The petitioner urged the Authority to investigate the facts in the case, to examine and verify the information submitted, and to grant the requested permit for another year as she still has a real need for the income which, if allowed, will be derived from the property.

Decision

In 1972, on a petition of a prospective owner, the Zoning Board of Appeal came to a decision granting the then petitioner a permit for the use of the house involved in this petition, for not more than two families, subject to certain conditions therein set forth. In the ensuing years, this permission has been sought by subsequent owners and has been granted.

The petitioner acquired the property in December 1976. On June 9, 1977, the present owner - petitioner requested a continuation of this permission. In the presentation of her request in 1977, the petitioner stressed the fact that she purchased the property because it was income property and being a single parent with four children, she needed the income to maintain the property, and that should the permit not issue, she would have to rent a small apartment not suitable for her children. At that time, the petitioner and her family were occupying the second-floor apartment, and one room and bath on the third floor. There are four rooms and bath included in the first-floor apartment. It was at least implicit in her statements to this Authority that continued rent receipts were required in order for her to house her family and maintain the property.

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In November 1977, the petitioner removed herself and family from the premises and is presently residing with her family on Seaver Street, Wellesley. Since that time the premises have been rented as three rental units, one on the first floor, one on the second floor and one on the third floor. This is a violation of the first condition subject to which this Authority granted permission in 1977.

The petitioner, in her presentation of reasons why this variance should be continued, perhaps inadvertantly, but audibly, stated that the upper two apartments have four rooms and bath and one room and bath respectively. She further has stated to the Authority that many improvements and some repairs have been made. There are no structural changes made on the building, such as separate entrances or exits. There is one heating unit in the house.

The neighborhood is made up of a mixture of single home occupancy and two family occupancy of the houses on Abbott Street, Waban Street and Weston Road. The owners and occupiers of the properties in this

Petition of Jeanne Rutledge

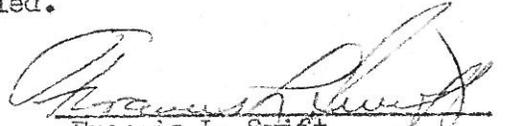
neighborhood have shown interest and ability to maintain their properties in a well ordered and healthful manner. The petitioner has failed to so maintain her property in that rubbish has been allowed to collect on the premises, debris from broken wooden fences and other wood structures has been allowed to accumulate.

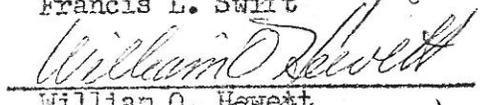
At the public hearing on the petitioner's request, there was much opposition to the continuation of the present non-conforming use, expressed in terms of dilapidated condition of the subject premises, trash and rubbish disposal not being attended to, substantial reduction in value of residential properties in the close vicinity, and injury to the neighborhood.

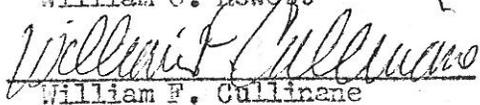
The petitioner has not demonstrated to this Authority that there is a need for the continuation of the non-conforming use for another year.

It is the opinion of the members of this Authority that there is no real need for the continuation of the non-conforming use of 25 Weston Road, and that such continuation will be injurious to the neighborhood, and will substantially reduce the value of other properties within the district.

The petition is therefor denied.

  
 Francis L. Swift

  
 William O. Hewett

  
 William F. Cullinane

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