



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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84-61

Petition of Anthony P. Olmedi
11-15 Waban Street

Pursuant to due notice, the Permit Granting Authority held a Public Hearing at the Upper Town Hall Main Hearing Room on Thursday, November 1, 1984 at 8 p.m. on the petition of ANTHONY P. OLMEDI, requesting a variance from the terms of Section XVII of the Zoning Bylaw which will allow interior alterations at 11-15 Waban Street to provide dwelling units for three families. Said premises are located in a Single Residence District. Said structure is a pre-existing non-conforming structure. Said request is pursuant to Section XXIV-D of the Zoning Bylaw.

On October 12, 1984, 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 was Mr. Olmedi, who presented an information packet with photos of the property and stated that he has owned the property for 26 years, purchased it with the belief that the four existing apartments were legal units. He then created a fifth apartment on the third floor. After a fire in the structure last May, Mr. Olmedi was informed by the Inspector of Buildings that illegal apartments existed in the building. Mr. Olmedi is requesting three-family use and thinks that the third apartment is grandfathered in, but has been unable to document the three-family use since prior to 1925 when the Zoning Bylaw came into effect. He stated that Wellesley College used the building for students from 1913 to 1921, that in 1975 three electric meters were replaced, which appeared to have been used in 1930. He stated that from 1958 to 1964 he spent \$65,000. on repairs and renovations to the property. At the present time, Mr. Olmedi stated that there is 1) one dwelling unit at 11 Waban Street on the first and second floor, 2) one dwelling unit on the first floor at 15 Waban Street. Mr. Olmedi proposes to have a third dwelling unit on the second floor at 15 Waban Street. There are spaces for parking seven cars on the property, two in the two-car garage and five in the rear of the property. Mr. Olmedi presently resides at 57 Pleasant Street, Wellesley. He presented a petition in favor of his request signed by 11 neighbors.

Present at the hearing in favor of the request: Jerome B. Carr, 17 Waban Street, an abutter. No one was present opposing the request.

Statement of Facts

The property in question is located at 11-15 Waban Street, in a Single Residence District. The structure was built about 1910. Arthur LaConte, Inspector of Buildings and Zoning Enforcement Officer, has stated that it appears that 11-15 Waban Street was

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originally designed and constructed in the early 1900's as a two-family dwelling and therefore enjoys pre-existing non-conforming status as a two-family dwelling in a Single Residence District.

Mr. Olmedi purchased the property in 1958, at which time, he claims, four apartments existed in addition to rental rooms on the third floor of 15 Waban Street. The third floor of 15 Waban Street was subsequently renovated to create a fifth apartment. Mr. Olmedi is unable to document the continuous multi-family use of the property from 1925 to 1958. He did produce documentation that it was used as housing for Wellesley College students from 1913 to 1921.

Following a fire in May, 1984, the Inspector of Buildings, on May 17, 1984, notified Mr. Olmedi that the dwelling was being occupied in violation of Section II and that the multi-family use must cease immediately. Mr. Olmedi subsequently reduced the dwelling units to two-families and filed a petition with the Board of Appeals.

Plans were submitted showing floor plans for each proposed apartment. Photos were submitted, as was a mortgage plot plan dated June 7, 1976, drawn by John Thomas Yunits, registered land surveyor.

The Planning Board, in a letter of October 26, 1984, stated: "The Planning Board has no objection to the request based on the belief that it appears to be consistent with the allowed modifications to non-conforming uses and structures as specified in the Zoning Bylaw and the State Zoning Act and it should not be substantially more detrimental than the existing non-conforming use to the neighborhood."

Letters of support were received from Louis V. Zucchelli, 6 Halsey Avenue, Evelyn R. MacDonald, 15 Waban Street.

Decision

This Authority has made a careful study of the evidence presented. The petitioner owns a dwelling at 11-15 Waban Street which enjoys pre-existing non-conforming status as a two-family dwelling.

Mr. Olmedi claims that the property at 11-15 Waban enjoys legal non-conforming status as a multi-family dwelling, but he has been unable to produce documentation to prove to this Authority that the property enjoyed multi-family status prior to 1925, the effective date of the Wellesley Zoning Bylaws. Therefore, this Authority must consider the dwelling as a pre-existing non-conforming two-family dwelling in a Single Residence District.

This Board, under Section XVII, must make a finding that the proposed change, extension, or alteration to 11-15 Waban Street shall not be more detrimental than the existing non-conforming use to the neighborhood. It is the opinion of this Authority that three family use would be detrimental to the neighborhood.

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It is the opinion of this Authority that three family use in a Single Residence District is not allowed by the Zoning Bylaw. Section II 8 (a) states:

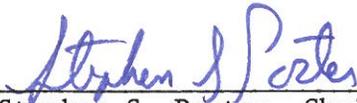
"Any of the following additional uses upon the granting of a special permit as provided in Section XXV:

- a. Residence for not more than two families, or boarding or lodging house, but not a restaurant; provided, however, that the building so used was in existence when this Bylaw took effect; and provided further that the Board of Appeals make a written finding that the original building can no longer be used or adapted at a reasonable expense and with a fair financial return for a use regularly permitted in the district."

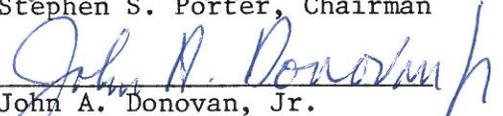
In the past there have been proposals before Town Meeting to change the zoning in the area of the petitioners property. Town Meeting has refused to vote any zoning changes in that area. The Zoning Board of Appeals must abide by the wishes of the Town as dictated by the Zoning Bylaws. The zoning at 11-15 Waban Street is presently "Single Residence".

Therefore, the variance requested under Section XVII to allow three dwelling units at 11-15 Waban Street is hereby denied and the petition is dismissed.

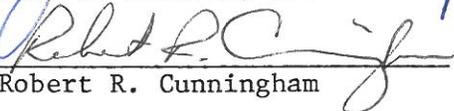
APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS, CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.



Stephen S. Porter, Chairman



John A. Donovan, Jr.



Robert R. Cunningham

cc: Planning Board
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