



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

STEPHEN S. PORTER, Chairman  
JOHN A. DONOVAN, JR.  
ROBERT R. CUNNINGHAM

MARY ANN McDOUGALL  
Executive Secretary  
Telephone  
~~235-1684~~ 431-1019

WILLIAM E. POLLETTA  
FRANKLIN P. PARKER  
SUMNER H. BABCOCK

84-71

Petition of E. C. Donovan and D. J. Thieme  
395 Worcester Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, January 17, 1985 at 8 p.m. in Room 17 of the Town Offices at the Phillips Building, 12 Seaward Road, Wellesley Hills, on the petition of E. C. Donovan and D. J. Thieme requesting a Special Permit under Section II 8 (a) and Section XXV of the Zoning Bylaw which will allow the premises located at 395 Worcester Street to be used as a two-family dwelling, said premises located in a Single Residence District.

On December 20, 1985, the petitioner requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

The petitioners were not present at the hearing.

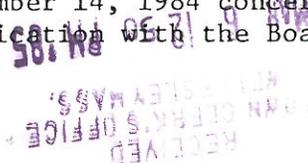
Present opposing the request were Francis Flanagan, 3 Grantland Road, who lives across the street (Route 9) from the property, and Albert Graf, 391 Worcester St. Opposition focused on the previous Board of Appeals decisions which denied two-family use and the fact that the house was constructed in 1928 so did not qualify under Section II 8 for a Special Permit as a building in existence when the Zoning Bylaw took effect (1925).

Statement of Facts

The property in question is located at 395 Worcester Street, in a Single Residence District. The dwelling was constructed in 1928.

The petitioners, who recently purchased the property, are requesting a Special Permit under Section II 8 (a) to allow the premises to be used as a two-family dwelling. They claim that an apartment existed in the home when they purchased it, that a tenant is now occupying it, that the rental income is needed to maintain the dwelling.

A complaint was received by the Building Inspector/Zoning Enforcement Officer in November, 1984 concerning illegal use of the premises and a letter was sent to the owner of the property on November 14, 1984 concerning the complaint. The petitioner subsequently filed an application with the Board of Appeals for a Special Permit to allow two-family use.



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Previous requests before the Board of Appeals concerning the property at 395 Worcester Street included: Case 56-61, a request for two-family use, said request denied; Case 56-72, a request for rental of 3 rooms, permission granted for 2 roomers if kitchen facilities were removed; Case 57-59, a request to continue 2 roomers, permission granted for one year; Case 59-10, a request to continue 2 roomers, request granted for one year with no further renewal allowed.

The Planning Board, at its meeting of January 8, 1985, voted to recommend that the petition be denied.

Decision

This Authority has made a careful study of the evidence presented. The property in question is in a Single Residence District, the house being constructed in 1928.

It is the opinion of this Authority that the present use of the property as a two-family dwelling is not an allowed use. Previous Board of Appeals decisions have denied the use of the premises at 395 Worcester Street for two-family use. Two roomers were allowed by the Board of Appeals for a few years in the late 1950's, with no further renewal allowed in ZBA Decision 59-10. It appears that over the years the property has continued to be used illegally.

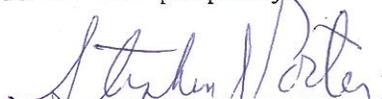
The property does not qualify under Section II 8 (a) of the Zoning Bylaw due to the fact that the dwelling was constructed after 1925, the year that the Zoning Bylaw went into effect.

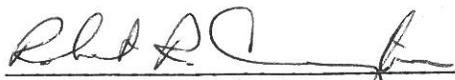
It is the decision of this Authority that the request for a Special Permit for two-family use at 395 Worcester Street be denied and that the house be returned to single residence status. Due to the circumstances and a request by the petitioners that the tenants have time to relocate, this Board will allow the petitioners a period of six months from the date of this decision to complete the conversion of the home to single residence.

The petitioner is instructed to notify the Building Inspector when the conversion to single residence has been completed. Upon notification to the Building Inspector or at the end of the six month period, the Building Inspector is requested to inspect the premises to determine if the property is in full compliance with the Zoning Bylaw and to notify the Board of Appeals of the status of the property.

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.

cc: Planning Board  
mam

  
Stephen S. Porter, Chairman

  
Robert R. Cunningham

  
William E. Polletta

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