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ZONING BOARD OF APPEALS

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ZBA 2000-20
Petition of Erika C.M. Hampe
18 Maugus Avenue

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, February 17, 2000 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of ERIKA C.M. HAMPE requesting renewal of a Special Permit pursuant to the provisions of Section II A 8 (a) and Section XXV of the Zoning Bylaw to allow the premises at 18 MAUGUS AVENUE, in a Single Residence District, to continue to be used as a lodging house for no more than 8 lodgers at any one time, a use not allowed by right in a Single Residence District.

On January 31, 2000, 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 Fredrick Hampe, son of Erika Hampe, who said that they have operated the lodging house since 1967. About two years ago, the house was put into a realty trust of which he and his mother are the trustees. His mother has married a German citizen, and the house is no longer her primary residence, but continues to be his primary residence. He is requesting renewal of the Special Permit with the same conditions as are currently in effect.

The Board discussed the legal ramifications of the change of petitioner. Mr. Hampe said that he and his mother are the sole trustees of the realty trust. The tax bill comes in the name of the trust, his name and his mother's name. The lodging house license is now in his name. He is the beneficiary and second trustee of the realty trust. There are other assets in the trust, but he is the sole beneficiary of the real estate.

The Board decided that the petition should henceforth be granted to the trust, with Mr. Hampe as trustee and petitioner. There would also be a condition added to the decision that Mr. Hampe must reside at the premises for the duration of the Special Permit.

The Board asked if the lodging house was full, and if there was a high turnover. Mr. Hampe replied that all the rooms had been rented by tenants who had been there for quite a while.

No other person present had any comment on the petition.

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Statement of Facts

The subject property is located at 18 Maugus Avenue, on a 20,610 square foot lot, in a Single Residence District. The house is a three-story wooden structure over 100 years old, and contains twenty rooms and eight and one-half baths. Since the Hampes purchased the property in 1975, the use and number of lodgers has been in litigation twice. In 1993, the Appeals Court signified that no more than 8 lodgers would be allowed, and that the Special Permit be issued for as reasonably long term basis as permitted by the Zoning Bylaw.

In 1994, the Board of Appeals heard the Hampe petition on remand from the Appeals Court, and granted a Special Permit for 8 lodgers for 3 years with conditions (See ZBA 94-5 for complete history). In 1997, the petitioner requested that the number of lodgers be increased from 8 to 10. The Board denied the increased number, but granted the Special Permit for 8 lodgers for a 3 year period.

Fredrick Hampe, son of Erika Hampe, is now requesting renewal of the Special Permit for 8 lodgers under the same conditions.

On February 15, 2000, the Planning Board reviewed the petition and had no objection to renewal under the same terms and conditions as are currently in effect.

Decision

This Authority has made a careful study of the application submitted and the information presented at the hearing.

It is the opinion of this Authority that, in order to avoid any legal complications, the Special Permit shall henceforth be granted to: "Ericka C.M. Truscheti Realty Trust, Fredrick Hampe, Trustee, and that Fredrick Hampe shall continue to be the petitioner in the future.

It is the opinion of this Authority that under the trusteeship of Fredrick Hampe, the use of the twenty room dwelling as a lodging house for no more than eight lodgers at any one time will not reduce the value of the property in the area; that the use does not disturb or disrupt the neighborhood; and that the use will allow the petitioner to secure a reasonable income from the property.

It is the opinion of this Authority that the property in question cannot be used or adapted at a reasonable expense and with a fair financial return for a use regularly permitted in a Single Residence District due to the number of rooms and the size of the dwelling.

Therefore, a Special Permit is granted to the Erika C.M. Truscheti Realty Trust, Fredrick Hampe, Trustee, as voted unanimously by this Authority at the Public Hearing, for use of the premises at 18 Maugus Avenue, in a Single Residence District, as a lodging house for no more than eight lodgers under the following conditions:

1. Fredrick Hampe, Trustee, shall maintain his primary residence at 18 Maugus Avenue for the duration of the Special Permit.

2. Off-street parking shall be provided for all vehicles of lodgers in residence.

3. No more than eight lodgers shall occupy the dwelling at any one time.

4. All applicable state and local laws and regulations, including state and local building and fire codes shall be complied with.

5. This Special Permit shall expire three years from the date of this decision.

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.

Kendall P. Bates, Chairman

William E. Polletta

Robert W. Levy

Cc: Planning Board
Inspector of Buildings
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