

**ZONING BOARD OF APPEALS**

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ZBA 2012-21

Petition of Truscheit Realty Trust,  
Fredrick Hampe, Trustee  
18 Maugus Avenue

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Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 1, 2012 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of TRUSCHEIT REALTY TRUST, FREDRICK HAMPE, TRUSTEE, 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 to continue to be used as a lodging house for not more than 8 lodgers at any one time, which is a use not allowed by right in a Single Residence District.

On February 13, 2012 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 (the "Petitioner"), who said that he was requesting renewal of the Special Permit to continue the use as a lodging house for eight tenants. He said that he generally rents eight rooms. He said that the house is quite large and it is his family's home. He said that he is the youngest of eight children. He said that occasionally other family members live there. He said that the house has 15 bedrooms and 8 ½ bathrooms.

Mr. Hampe said that his family has owned the house since 1967. He said that the house was previously an Inn in the 1930's, and possibly the 1940's. He said that it was called the House on the Hill Corporation. He said that there were 11 unrelated people who lived there. He said that they served food.

The Board asked about the roof. Mr. Hampe said that there is a flat area where he had to have rubber put on. He said that he has put off replacing the whole roof for a while.

The Board asked about retaining wall work. Mr. Hampe said that there were some old stones that were holding back the hill. He said that a lot of mud and water was coming onto the driveway. He said that he started to clean that up but was prevented from moving forward because of the weather. He said that the plan is to finish it in the Spring. He said that the existing concrete retaining wall has been there for a number of years.

Mr. Hampe said that the neighbor behind him on Maugus Hill Avenue added approximately 30 feet of soil next to the property line. He said that he was concerned about that. He said that he spoke with the Building Inspector who told him that was not under his jurisdiction.

The Board discussed the Town Bylaw. The Board said that Condition #4 of the current decision requires compliance with all applicable State and local laws and regulations. A Board member displayed a picture of the boat that is parked in the yard. Mr. Hampe said that he will be moving the boat to another location outside of Wellesley. He said that the boat is on a trailer with a plate on it and can easily be moved within 7 days.

Mr. Hampe said that the Health Department has done inspections infrequently.

Mr. Hampe said that there is a kitchenette in the house for the use of all lodgers. He said that water is set up in the rooms. He said that he has his own living quarters with a full kitchen within the house.

Mr. Hampe said that smoke detectors are hard wired to a panel in the basement. He said that the panel is not connected to a central station. He said that the system was installed in the early 1990's. He said that there is emergency lighting and Carbon Monoxide detectors.

The Board confirmed that there are two stairways in the house. Mr. Hampe said that there is also an outside metal stairway that he may remove. He said that his mother was told that the third stairway was not necessary because of the two stairways inside the house. The Board said that if the outside metal stairway is removed, the Building Inspector should be contacted.

There was no one present at the Public Hearing who wished to speak to the petition.

#### 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 20 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 a 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 again granted the Special Permit for 8 lodgers for a three-year period.

Several years ago, the house was put into a realty trust. The house is no longer the primary residence of Erika Hampe, but it is the primary residence of Fredrick Hampe, her son and trustee of the realty trust. Mr. Hampe is now requesting renewal of the Special Permit under the same conditions.

On February 28, 2012, the Planning Board reviewed the petition and recommended the action be deferred until violation of the Town Bylaw is resolved.

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### Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. 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 shall not reduce the value of the property in the area; and that the use of the property does not disturb nor disrupt the customary character of the neighborhood, and will allow the petitioner to secure a reasonable income from the property.

It is the opinion of this Authority that the subject property can no longer 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. Truscheit Realty Trust, Fredrick Hampe, Trustee, as voted unanimously at the Public Hearing, for the use of the premises at 18 Maugus Avenue as a lodging house for no more than eight lodgers at any one time, subject to the following conditions:

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

It is the Board's understanding that the boat will be removed within 7 days of the Public Hearing.

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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.

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David G. Sheffield, Acting Chairman

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Robert W. Levy

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Walter B. Adams

cc: Planning Board  
Inspector of Buildings  
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