



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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83-57

Petition of Erika C. M. Hampe

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall at 8 p.m. on Thursday, October 20, 1983, on the petition of ERIKA C. M. HAMPE, requesting a Special Permit under Section II 8(a) of the Zoning Bylaw which will allow the premises located at 18 MAUGUS AVENUE to continue to be used as a lodging house, said residence being in a Single Residence District. Said request is pursuant to Section XXV of the Zoning Bylaw.

On September 30, 1983, the petitioner filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Erika Hampe, who stated that she wishes to continue to rent rooms in her home and would like to increase the number of tenants to 10 (she presently has permission for 8) due to the fact that two family members have moved out and she has extra rooms. She noted that the decision last year stated that no more than 14 people could occupy the premises. Mr. Porter responded that the intent of the decision of last year was to have no more lodgers than 8, but less than 8 if more than 6 family members lived there. Mr. Hampe stated that her reason for requesting an increase in lodgers is financial. She presently has three children residing with her.

Opposed to the petition were: Richard Rubinstein, 15 Maugus Avenue, Barbara J. Rubinstein, 15 Maugus Avenue, Georgie Schimmel, tenant at 6 Maugus Avenue. A letter was presented to the Board from Sara Johnson, 30 Eaton Court, in opposition to the request.

Statement of Facts

The property involved is located at 18 Maugus Avenue, in a Single Residence District, containing 20,610 square feet of land. The house involved is a three-story wooden structure over a hundred years old, containing twenty rooms and eight and a half baths. In 1925, the effective date of the Zoning Bylaw in the Town of Wellesley, it was occupied by a family who had two or three lodgers and also served meals to Babson Institute students. This use continued for several years; from 1938 to 1942 the house was unoccupied. In 1942 the property was sold and operated as a lodging house with apartments until 1967 when it was sold to Mr. and Mrs. Hampe, who occupied it with their eight children.

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In 1975, Mr. and Mrs. Hampe requested Board of Appeals permission to use the house involved as a combination lodging and apartment house. In the Board of Appeals decision of October 15, 1975 (ZBA Case #75-28), the Board granted permission for the dwelling to be used as a lodging house for not more than five (5) roomers, occupying the first and second floors only, with not more than six (6) cars allowed to park on the premises, and that all kitchen facilities be removed other than the kitchen on the first floor, and with other conditions. On November 4, 1975, the petitioner appealed the decision of the Board of Appeals to the Norfolk District Court and on January 25, 1977, the appeal was heard. The Court affirmed that part of the Board's decision denying the use of the property as an apartment house, and remanded the case to the Board of Appeals for further proceedings, hearings and findings in regard to the use of the property as a lodging house. Mr. and Mrs. Hampe subsequently appealed the decision of September 20, 1977 to the Norfolk Superior Court. Later the Hamps withdrew the appeal, and a "Judgment of Dismissal" was issued on June 9, 1981.

Mrs. Hampe is now the sole owner of the property. In a decision of October 26, 1982, the Board of Appeals granted Mrs. Hampe a Special Permit for a period of one year to allow no more than eight lodgers subject to certain conditions (Case 82-25).

Mrs. Hampe is now petitioning the Board of Appeals for a Special Permit to allow 10 lodgers due to the fact that only she and three children now reside at the premises. She has stated that the additional income is needed to maintain the house.

The Planning Board, in a letter dated October 26, 1983, stated it has no objection to the renewal of the Special Permit on the same terms and conditions as are currently in effect. The Planning Board does not support an increase in the number of lodgers from 8 to 10.

#### Decision

This Authority has made a careful study of the evidence presented, and has reviewed the history of the use of the property in question.

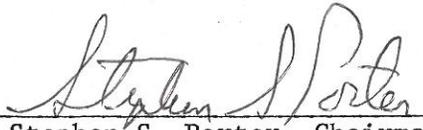
It is the opinion of this Authority that the use of the 20 room dwelling as a lodging house has had the general acceptance of the community; that the use of the dwelling under Mrs. Hampe's supervision for a limited number of roomers will not reduce the value of the property within the area; that the use does not disturb or disrupt the neighborhood and; that the petitioner could have a reasonable income from the property. It is the belief of this Board that the property in question 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 due to the size of the building and the number of rooms therein.

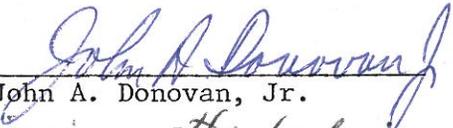
However, it is the opinion of this Board that the requested ten roomers would be an excessive use of the dwelling and disruptive to the neighborhood in terms of the traffic and activity it would produce.

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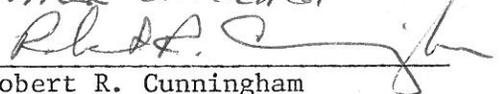
Accordingly, a Special Permit is granted to Erika Hampe for the premises at 18 Maugus Avenue subject to the following conditions:

1. That no more than eight (8) lodgers may occupy the dwelling at any one time.
2. That off-street parking shall be provided on the property.
3. That all applicable laws and ordinances and State and local building and fire codes and regulations shall be fully complied with.
4. That this Special Permit shall expire one year from the date of this decision.

  
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 Stephen S. Porter, Chairman

  
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 John A. Donovan, Jr.

*Signed, subject to minority opinion attached*

  
 \_\_\_\_\_  
 Robert R. Cunningham

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MINORITY OPINION

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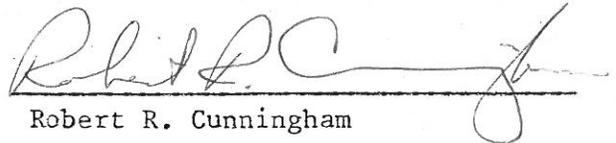
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I differ from the Decision of the Zoning Board of Appeals on the subject petition only on Condition No. 1 and the third paragraph of the decision. I believe that Mrs. Hampe should be allowed ten (10) lodgers as long as the total number of persons residing in the house, including Mrs. Hampe and her family, does not exceed fourteen (14).

In my opinion the amount of traffic due to persons residing in the house would be unchanged with a total of 14 inhabitants, whether the proportion were 8 lodgers and 6 family members or 10 lodgers and 4 family members.

In view of the size of the house, the rising costs of maintenance, utilities and taxes, as well as living costs for Mrs. Hampe and her family, I believe that her present rental income does not allow a sufficient margin for unforeseen major costs. With a reduction of two persons in her family living in the house, she has less assistance in maintaining the house and may have to hire additional services. The income from two additional lodgers will help her to build a reserve for unexpected expenses.

It should be noted that the principal objectors at the 1982 hearing were not present at the October 20, 1983 hearing. The neighbors currently objecting to unusual traffic cannot verify that this was caused by Mrs. Hampe's tenants. In my opinion, having visited the premises in 1982, Mrs. Hampe has maintained the house and grounds in excellent condition and has been a good neighbor. I believe that her request for ten (10) lodgers is reasonable, and in view of the circumstances, justified.

  
Robert R. Cunningham

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