



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 89-28
Petition of Richard and Burdetta Juliani
18 Rice Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 25, 1989 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) of the Town Hall, 525 Washington Street, Wellesley on the petition of RICHARD AND BURDETTA JULIANI requesting a Special Permit pursuant to Section II 8 (a) and Section XXV of the Zoning Bylaw to allow their single family dwelling at 18 RICE STREET, in a Single Residence District, to be converted to a two-family dwelling; the additional dwelling unit with kitchenette to be built to house handicapped parents.

On May 5, 1989, the petitioners requested 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 Burdetta Juliani, who said she didn't want to convert the house to a two-family dwelling. Her intent was to build an addition with a stove to accommodate her handicapped father. The hallway from the proposed addition to the kitchen in her present house is not wide enough for wheelchair passage. In order to give her father an independent living situation, Mrs. Juliani said she would like to add a little kitchen in the new addition. A ramp would be added in the back for handicapped access.

Mrs. Juliani said that the hallway cannot be widened as it is concrete block and the addition cannot be relocated due to the garage and driveway. She suggested that if the Board granted the Special Permit, a condition be included stating that the kitchen be ripped out if the house were ever sold.

George McNeil, 25 Paine Street, questioned if the addition constructed several years ago to house the elder Mrs. Juliani was not sufficient to house Mrs. Juliani's parents now. Mrs. Juliani said that the addition contained a bedroom and bathroom and that with a family of five, a family room was essential, as was separate living space for her parents.

Paul Horst, 21 Paine Street, opposed the petition, stating he did not want the area turned into a two-family zone. He questioned what would happen when Mrs. Juliani's parents died, and the structure had been built.

The Board asked why the existing hallway could not be expanded to provide access to the existing kitchen, as concrete block walls can be replaced. Mrs. Juliani responded that this would be very expensive. Mrs. Juliani said the addition will be built with or without the kitchen

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Bill DeJacimo, 15 Paine Street, asked if the Board granted permission to construct the addition with the kitchen, would this set a precedent for future requests for handicapped units. The Board agreed that, if granted, future decisions would be consistent with this one.

Statement of Facts

The non-conforming dwelling is located at 18 Rice Street, in a Single Residence District, on a 24,632 square foot lot. The house was constructed in 1921 and has been owned by the Juliani family since then.

Mr. and Mrs. Juliani are requesting a Special Permit to allow the premises at 18 Rice Street to be converted into a two-family dwelling by constructing an attached additional handicapped dwelling unit which would include a kitchenette. The first floor of the existing dwelling includes a family room, living room, dining room, laundry room, pantry and bath. The new addition, which would be connected to the existing house by a breezeway, would include a family room, bedroom, kitchenette and bath.

The Julianis are making no claim to financial hardship as a basis for this petition; they are requesting the addition to house handicapped parents.

A Plot Plan, dated August 25, 1967, drawn by William Gleason, Registered Land Surveyor; construction drawings and photographs were submitted.

The Planning Board, on May 8, 1989, voted to recommend denial of the petition.

Decision

This Authority has made a careful study of the evidence presented. The petitioners have requested a Special Permit to create a two-family dwelling in a Single Residence District pursuant to Section II 8 (a) of the Zoning Bylaw.

Section II 8 (a) of the Zoning Bylaw states:

"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 made 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."

Although the dwelling was in existence when this Bylaw took effect, the Julianis have not sought to base their request for a two-family dwelling on the fact that the 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." They base their request on the need for an additional dwelling unit to house handicapped parents.

It is the opinion of this Authority that the prerequisite conditions for the granting of a Special Permit for two-family use are not present, and that granting of a Special Permit would result in rezoning for two-family use that is not authorized in the Zoning Bylaw.

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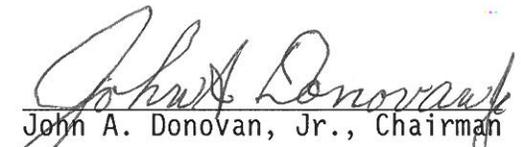
It is the further opinion of this Authority that the Town would have no control over the future of the tenancy, as any condition regarding future use would be extremely difficult to enforce.

It is the opinion of this Authority that, despite the laudable intentions of the Julianis to provide for their elderly handicapped parents, the Zoning Bylaw does not allow the proposed use in a Single Residence District, and that such a change in use would have to come from a change in the Zoning Bylaws and not by the granting of a Special Permit.

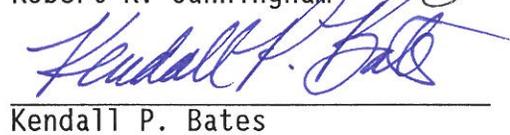
Therefore, the request for a Special Permit to allow the property at 18 Rice Road to be converted into a two-family dwelling is hereby denied and the petition is dismissed.

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.

cc: Planning Board
Inspector of Buildings
edg


John A. Donovan, Jr., Chairman


Robert R. Cunningham


Kendall P. Bates

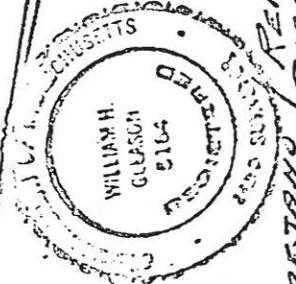
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PLAN OF LAND

WELLESLEY, MASS.

OWNED BY
MORRIS JULIAN
JONES 20 FEET TO AN INCH
AUGUST 24, 1967
GILSON ENGINEERING COMPANY

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ERNEST MOREJANS RENATO & SEBASTIANA BUCCI

CHESTER S. & ESTHER CAPPORANO

80.17'

71.30'

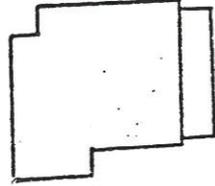
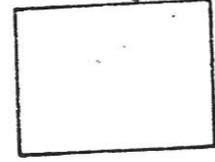
83.62'

ORIGINAL ON FILE.

COMMONWEALTH OF MASSACHUSETTS
COGNITIVE
178.14'

A
24,632 SQ. FT.

B
13,181 SQ. FT.



212.14'

217.39'

71.63'

80.00'

FLORENA RENZELLA

Norfolk Registry of Deeds
Dedham, Mass.

Received Sept 22, 1967 with Deed

Amselia Juliani to
Vincent Juliani & al
Filed as No. 879 1967 BK 4461 Pg. 208
ASST. Register
Amsel Shauld & Coe Register

RICE STREET

PLANNING BOARD APPROVAL NOT A REAL
UNDER THE SUBDIVISION CONTROL LAW
A DEPARTMENT OF THE PLANNING BOARD
Proceeds: E. G. [unclear]
[unclear] of [unclear]
[unclear] to [unclear]
[unclear] WELLESLEY PLANNING BOARD

SEP 11 1967