

TOWN OF WELLESLEY



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64-18

BOARD OF APPEAL

1964 JUN 3 AM 11:57

GARRETT S. HOAG
JOHN L. HAYDEN
DANA T. LOWELL

KATHARINE E. TOY, CLERK
TELEPHONE
CE. 5-1664

Petition of Aspasia Manty

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:00 p.m. on May 21, 1964, on the petition of Aspasia Manty requesting permission as provided under Section XVII B of the Zoning By-law and Chapter 40A, Section 15 of the General Laws, to alter the existing non-conforming two-family dwelling located at 89 Crest Road and to convert the same into a three-family dwelling house.

Henry D. White, attorney, represented the petitioner at the hearing.

The following persons spoke in opposition to the granting of the request: Peter J. Feeney, 95 Crest Road, Leonard A. Rooney, 88 Crest Road, Margaret I. Barnicle, 76 Crest Road and Austin L. Baker, 3rd., 106 Crest Road. All felt that to permit the house involved to be converted into a three-family dwelling would prove detrimental to surrounding properties. The area is zoned as a single-family district and to increase this non-conforming two-family dwelling would be unfair to the neighborhood and contrary to the intent of the Zoning By-law.

Lisette E. Lee, 85 Crest Road, was registered as favoring the request through the petitioner's attorney.

The Planning Board opposed the request in its report.

On May 4, 1964, the petitioner filed her request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

The house involved is an alleged non-conforming two-family dwelling, located within a single-residence district requiring a minimum lot area of 10,000 square feet.

The petitioner purchased the property involved in 1947 and has been occupying a portion of it since that time, four rooms on the first floor and five rooms on the second floor, and has been renting a four-room apartment in an ell of the house. She now desires to convert the third floor into an apartment which would contain two rooms, kitchen facilities and a bathroom. In order to reach the third floor without going through the first-floor apartment, it is her desire to construct an outside staircase to the second floor with an inside staircase from the second floor to the third floor. It was pointed out, however, that the outside staircase could be enclosed if the Board requested. The petitioner and her husband are now alone in their apartment, their five children are married and they no longer have need for such a large house. Unless some added income can be derived from it, they can no longer maintain it properly. Because of the financial situation of the petitioner's

husband, who is now retired with a small income, and the expense involved in providing the third-floor apartment, the request is made only under Chapter 40A of the General Laws.

Decision

After careful study of the evidence submitted and a view of the locus, the Board is unable to find the criteria required of it under the provisions of Chapter 40A of the General Laws. The property was purchased by the petitioner with knowledge that the house was located within a single-residence district, and with few exceptions the dwellings in the neighborhood are occupied as single-family dwellings. The petitioner has been renting a four-room apartment during the time she has owned the property although its legality was not made clear to this Board. The house which contains four rooms on the first floor, not including the four-room ell apartment, five rooms and bath on the second floor and two rooms on the third floor, in the opinion of this Board, is not excessively large for two-family occupancy. Although it may be large for the petitioner and her husband to maintain, this Board cannot find that owing to conditions especially affecting such dwelling but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the Zoning By-law would involve substantial hardship to the petitioner, nor can the Board find that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such by-law, conditions the Board must find under the provisions of Chapter 40A of the General Laws.

The Board, therefore, finds no basis for granting the requested permit and that such use of the property would be detrimental to the value of surrounding property and contrary to the intent and purpose of the Zoning By-law.

The Board wishes to call attention to the fact that at the hearing it was brought out that an apartment had already been installed on the third floor and had been occupied. In accordance with this finding this apartment must be removed.

Accordingly, the requested permission is denied and the petition dismissed.


Garrett S. Hoag


John L. Hayden


Dana T. Lowell

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