



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

JOHN A. DONOVAN, JR., Chairman
ROBERT R. CUNNINGHAM
KENDALL P. BATES

ELLEN D. GORDON
Executive Secretary
Telephone
431-1019 X208

WILLIAM E. POLLETTA
FRANKLIN P. PARKER
SUMNER H. BABCOCK

ZBA 93-46
Petition of Nancy J. Allen
7 Cross Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 17, 1993 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 NANCY J. ALLEN requesting 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 7 CROSS STREET, in a Single Residence District, to be used as a two-family dwelling, a use not allowed by right in said District. The petitioner maintains that the original building can no longer be used or adapted at a reasonable expense and with a fair financial return as a single family dwelling.

On June 1, 1993, 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 Nancy Allen, who said that she was requesting a Special Permit to legalize the use of her home as a two-family dwelling. The house was built in 1926. The house had legal two-family status from 1956 to 1962 due to Special Permits. After she purchased the house in 1981, she requested a variance for the apartment, which was denied. According to the decision, the Building Inspector was to inspect the premises, and as no inspection ever occurred, she continued to use the house as a two-family dwelling. She cannot afford to maintain the house without the additional income from the tenant she has had for the past 10 years. There is ample parking on the premises.

No other person present had any comment on the petition.

Statement of Fact

The subject property is located at 7 Cross Street, in a Single Residence District, on a 9,424 square foot lot. The house was built in 1926 as a single family dwelling and occupied by the owner until it was purchased by Dr. Stephen Peabody in 1946. In 1956, Dr. Peabody requested permission to convert the portion of the residence containing 5 office and treatment rooms into a second dwelling unit for the purpose of resale. A Special Permit for use of the premises as a two-family dwelling was granted by the Board (ZBA 56-27), and renewed annually by the new owner, Robert Hampson, through 1962.

ZBA 93-46
Petition of Nancy J. Allen
7 Cross Street

JUN 30 8 47 AM '93

In May, 1981, Ms. Allen purchased the property, and requested a Special Permit to reinstate the use of the premises as a two-family dwelling. The Special Permit was denied (ZBA 81-31), with the condition that the Building Inspector inspect the premises to ensure that the dwelling had been returned to single family status by July 1, 1982. The inspection was never made, the second dwelling unit was never removed, and the use was never discontinued.

On April 29, 1993, the petitioner applied for a Building Permit to remodel the kitchen and dining room at 7 Cross Street. In a letter to Ms. Allen dated May 3, 1993, the Inspector of Buildings denied the permit due to the existing zoning violation of use of the premises as a two-family dwelling without a Special Permit.

Ms. Allen is now requesting a Special Permit to allow her to use her premises as a two-family dwelling.

A Mortgage Survey Plan dated March 14, 1981, drawn by Ernest H. Fagerstrom, Registered Land Surveyor; floor plans; a statement of income and expenses; photographs; and a Town plan showing the multi-family residences existing in the neighborhood were submitted.

A letter in opposition to the petition was received from Mr. and Mrs. William Moynihan, 9 Waban Street.

On June 15, 1993, the Planning Board reviewed the petition and voted to recommend that the Special Permit be granted as requested.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject dwelling at 7 Cross Street is an illegal two-family dwelling located in a Single Residence District. The petitioner is requesting a Special Permit pursuant to the provisions of Section II A 8 (a) of the Zoning Bylaw to allow the premises to be used as a two-family dwelling, as the original building can no longer be used or adapted at a reasonable expense and with a fair financial return as a single family dwelling.

Although this Authority does not condone the past use of the premises by the petitioner in violation of the Zoning Bylaw, this Authority is of the opinion that the requested use of the premises has precedent as said use was allowed from 1956 to 1962, and that the premises are located in a neighborhood which has a preponderant number of multi-family dwellings.

ZBA 93-46
Petition of Nancy J. Allen
7 Cross Street

JUN 30 8 47 AM '93

It is the opinion of this Authority that due to the cost of maintaining the premises relative to the income of the petitioner, the property cannot be used or adapted at a reasonable expense and with a fair financial return without the rental income from a second dwelling unit.

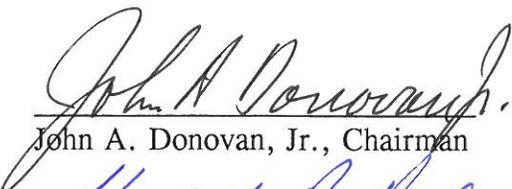
It is the further opinion of this Authority that the use of the premises as a two-family dwelling will not substantially reduce the value of any property within the district, and will not otherwise be injurious, obnoxious or offensive to the neighborhood, and that the requested use will be in harmony with the intent and purpose of the Zoning Bylaw.

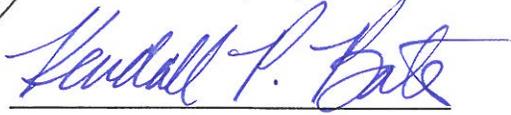
Therefore, a Special Permit is hereby granted for the use of the premises at 7 Cross Street by the petitioner as a two-family dwelling, subject to the following conditions:

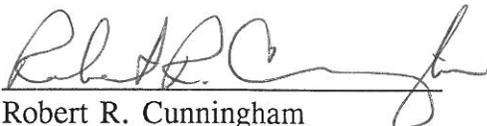
1. **The petitioner must arrange for an inspection of the premises** by both the Inspector of Buildings and the Fire Chief to determine compliance with all State and local building and fire safety regulations within 30 days of the date of this decision. Letters documenting such compliance shall be received in the office of the Board of Appeals by both officials following said inspections. Said compliance must be documented prior to the issuance of building permits for any other purpose.
2. The property owner, Nancy J. Allen, shall be the owner-occupant of one of the dwelling units for the duration of the Special Permit.
3. All parking related to the use of the premises shall be on-site, and no parking related to the premises shall be allowed on Cross Street or adjacent streets.
4. This Special Permit shall expire one year 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.

cc: Planning Board
Inspector of Buildings
Fire Chief


John A. Donovan, Jr., Chairman


Kendall P. Bates


Robert R. Cunningham