



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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ZBA 86-33  
Petition of Melanie & Paul Milde  
7 Cottage Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, June 12, 1986 at 8 p.m. in Room 17 of the Town Offices at the Phillips Building, 12 Seaward Road, Wellesley Hills, Ma. on the petition of MELANIE & PAUL MILDE requesting a Special Permit pursuant to Section II 8 (a) and Section XXV of the Zoning Bylaw to allow the premises located at 7 COTTAGE STREET, in a Single Residence District, to be used as a residence for two families by rental of a third floor apartment.

On May 19, 1986 the petitioner 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 Melanie Milde, who read a letter she had presented to the ZBA as part of the application. She stated that the apartment is not separate but is entered through an interior stairway to the third floor. The petitioners bought the 12 room house without knowledge of the zoning violation. Permission had been granted in 1973 to the previous owner to allow a pullman kitchen but permission expired in 1974. Mrs. Milde stated that she does not like to be alone in the house and feels secure with a tenant. It was explained that two roomers would be allowed but not with the use of a second kitchen.

No others were present favoring or opposing the request.

Statement of Facts

The property in question is located at 7 Cottage Street, in a Single Residence District and in a Historic District. The house was built over a hundred years ago.

Permission was granted by the ZBA in 1973 (ZBA Case 73-53) to Marialisa Schwarz to install a pullman kitchen on the third floor of the dwelling. The permit expired on February 19, 1975.

The petitioners, Melanie & Paul Milde, purchased the property from Mrs. Schwarz in 1985, at which time the third floor apartment existed. The petitioners assumed it was an allowed use and continued to rent the apartment. Mr. and Mrs. Milde occupy the remainder of the house. A recent complaint and notification by the Zoning Enforcement regarding the illegal use resulted in the application before the Board of Appeals.

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The petitioners claim a financial hardship and need the apartment income in order to maintain the house.

The Planning Board reviewed the petition at its regular meeting of June 3, 1986 and, as stated in a letter of June 9, 1986, voted to offer no objection to the use of the existing apartment"provided it is based on an annual renewal, provided it runs with the current owner, provided all fire code and life safety requirements of the Fire Chief are satisfied and provided the dwelling remains owner occupied."

Decision

This Authority has made a careful study of the evidence presented. The petitioner is requesting a Special Permit pursuant to Section II 8 (a) and Section XXV of the Zoning Bylaws to allow a third floor apartment at 7 Cottage Street to be maintained.

This Authority is of the opinion that the use of the third floor apartment is not in harmony with the general purpose and intent of the Zoning Bylaw. Therefore, the Special Permit request is denied and the petition is dismissed. The dwelling must be restored to single family use within 90 days of the date of this decision and must be in accordance with Section II of the Zoning Bylaw. The pullman kitchen on the third floor must be removed.

The Inspector of Buildings/Zoning Enforcement Officer is directed to enforce the terms of this decision and to inspect the premises and to report to this Board as to whether the conditions of this decision have been complied with.

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

mam

Stephen S. Porter  
Stephen S. Porter, Chairman

Robert R. Cunningham  
Robert R. Cunningham

William E. Polletta  
William E. Polletta

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