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BOARD OF APPEALS

Hearing #17-02

DECISION ON PETITION FOR A GRANT OF A SPECIAL PERMIT WITH RESPECT TO 165-167 MAIN STREET

A public hearing of the Acton Board of Appeals was held on Monday, March 6, 2017, at 8:00 PM in the Acton Town Hall on the petition of Joan H. Beers, Richard R. Beers and Kimberly C. Beers for a SPECIAL PERMIT under Section 3.8.1.3 of the Acton Zoning Bylaw for renting or boarding for more than three persons. The property is located at 165-167 Main Street (Map/Parcel G2/A-43).

Present at the hearing were Ken Kozik, Acting Chairman, Adam Hoffman, Member and Suzanne Buckmelter, Alternate Member. Staff present included Kristen Guichard, Assistant Town Planner, Robert Hummel, Assistant Town Planner and Katelyn Huffman, Board of Appeals Secretary. Also present were Joan H. Beers, the petitioner, and neighbors residing on or near 165-167 Main Street.

Applicable Bylaws:

3.8.1 ACCESSORY USES Permitted in the Residential Districts and dwellings in the Non-Residential Districts:

3.8.1.3 The renting of rooms or boarding for not more than three persons; except that by Special Permit from the Board of Appeals the renting of rooms or boarding to more than three persons may be allowed. In either case, the service shall be operated by a resident owner of the premises.

10.3.5 Mandatory Findings by Special Permit Granting Authority – Except for a Site Plan Special Permit, the Special Permit Granting Authority shall not issue a special permit unless without exception it shall find that the proposed USE:

10.3.5.1 Is consistent with the Master Plan.

10.3.5.2 Is in harmony with the purpose and intent of this Bylaw.

10.3.5.3 Will not be detrimental or injurious to the neighborhood in which it is to take place.

10.3.5.4 Is appropriate for the site in question.

10.3.5.5 Complies with all applicable requirements of this Bylaw.

Mr. Kozik opened the hearing, read the contents of the file and explained how the Board procedurally operates. Mr. Kozik then asked the petitioner to begin.

Ms. Joan H. Beers explained that she wished to modify her current three-family house back to an original single family house and modify the internal configuration to include nine (9) bedrooms to rent on a short term basis for no more than twenty (20) people. This rental business will be operated by Richard R. Beers and Kimberly C. Beers. Ms. Joan H. Beers explained that potential renters will be short term only, so she expects much turnover. No food will be served or provided by the owners.

The Acton Discovery Museums are located to the north of petitioner's property at 177 Main Street. Debra and Lawrence Barrett, who reside at 153 Main Street, adjacent to and south of the property located at 165-167 Main Street, expressed their strong opposition to the proposed short term rentals and to the granting of a special permit. More specifically, the Barretts described how loud party-type noises resonated from the petitioners' property at all hours of the day and night, especially from the pool area, how visitors to the petitioners' property drove on their property without permission and how visitors to the petitioners' property were repetitively found to be using the the Barretts' yard and items found in the Barretts' yard, such as a gas grill. Moreover, the Barretts asserted that the petitioners' garbage is stored along their mutual property line without being removed for disposal. In summary, according to the Barretts, the petitioners have been unable to control, reduce or limit noise, trespass to their property and/or trespass to their chattel, of boarders.

No other member of the public expressed support or opposition to the project.

With no further input, Mr. Hoffman made a motion to close the public hearing. Ms. Buckmelter seconded the motion. The Board unanimously voted to close the hearing.

The Board of Appeals, after considering the materials submitted with the Petition, together with the information developed at the hearing, finds that:

1. The Petitioners seek a SPECIAL PERMIT under Section 3.8.1.3 of the Acton Zoning Bylaw

for renting or boarding for more than three persons. The property is located at 165-167 Main Street (Map/Parcel G2/A-43).

2. Petitioners' proposed boarding business is consistent with the Master Plan.
3. Petitioners' proposed boarding business is in harmony with the purpose and intent of this Bylaw.
4. However, Petitioners' proposed boarding business will be more detrimental or possibly injurious to the neighborhood in which it is to take place. More specifically, the Board finds that the owner would be unable to satisfactorily reduce or limit noise of boarders, trespass to adjacent properties by the boarders and/or trespass to adjacent chattel by the boarders.
5. Thus, Petitioners' proposed boarding business is not appropriate for the site in question.

Therefore, the Board of Appeals, after reviewing the available materials and based upon the above findings, voted unanimously to **DENY** the **SPECIAL PERMIT**.

Any person aggrieved by this decision may appeal pursuant to Massachusetts General Laws, Chapter 40A, Section 17 within 20 days after this decision is filed with the Acton Town Clerk.

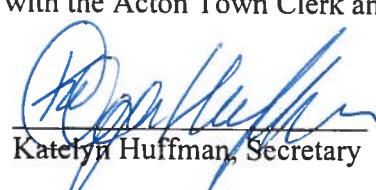
TOWN OF ACTON BOARD OF APPEALS



Kenneth F. Kozik, Chairman Suzanne Buckmelter Adam Hoffman

Dated: March 27, 2017

I certify that copies of this decision have been filed with the Acton Town Clerk and Planning Board on 3/28, 2017.



Katelyn Huffman, Secretary

EFFECTIVE DATE OF SPECIAL PERMIT: No Special Permit, or modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in Middlesex County South District Registry of Deeds. Such decision shall bear the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed, or that if such appeal has been filed, it has been dismissed or denied.