

TOWN OF WELLESLEY



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ZONING BOARD OF APPEALS

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

2002 MAY 16 A 8:16

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ZBA 2002-29

Petition of Frank S. and Anne R. Bae
36 Brook Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 25, 2002 at 7:30 p.m. in the Great Hall at the Town Hall, 525 Washington Street, Wellesley, on the petition of FRANK A. AND ANNE R. BAE requesting renewal of a Special Permit pursuant to the provisions of Section II A 8 (a) and Section XXV of the Zoning Bylaw to continue to allow their premises at 36 BROOK STREET, in a Single Residence District, to be used as a residence for not more than two families, a use not allowed by right in a Single Residence District.

On April 4, 2002, the petitioners 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 were Frank and Anne Bae. Mr. Bae said they were before the Board to request renewal of their Special Permit. They have complied with all the conditions including the annual inspection by the Building Inspector.

The Board asked who occupied the second unit. Mr. Bae said their tenant is a single woman, who has lived there for many years. He, his wife and their two children occupy the main house.

The Board noted that on March 18, 2002, the Building Inspector inspected the premises and found the Baes were in full compliance with the conditions of the Special Permit. The Planning Board recommendation was for renewal under the same terms and conditions as are presently in effect.

Kit Bowry, 42 Brook Street, said the Special Permit was first granted in 1993, and questioned whether the Baes could now afford to return the dwelling to single family status. Ms. Bowry submitted a letter to the Board dated April 25, 2002 requesting that the Board include two conditions, which are currently in existence, and confirm that a fair financial return from the sale of the property as a single family dwelling could not be realized.

Statement of Facts

The subject property is located at 36 Brook Street, in a Single Residence District, on a 24,082 square foot lot. The house contains 24 rooms, including 6 bathrooms, 1 kitchen and 1 kitchenette. The dwelling was constructed in 1890 and used as a two-family dwelling from that time until purchased by Pine Manor College in the 1940's. In 1947, the Board of Selectmen granted permission for its use for Educational purposes. From 1948 to 1960, the property was used as a dormitory by the Dana Hall School, and Special

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Permits were granted annually or biennially by the Board of Appeals for that use. In 1965, the property was purchased by John J. Dillon, who changed its use from a dormitory to a single-family dwelling.

In 1984, the property was purchased by the petitioners and used as a multi-family dwelling without benefit of a Special Permit for that use. Since 1993, the Board of Appeals has granted a Special Permit for the use of the premises as a two-family dwelling on an annual or biennial basis.

The petitioners are requesting renewal of their Special Permit under the same terms and conditions as granted in 2000.

A letter dated March 18, 2002 from Edgar Phaneuf, Zoning Enforcement Officer, stated that he inspected the Main House and the garage and found no zoning violations.

On April 23, 2002, the Planning Board reviewed the petition and recommended renewal of the Special Permit under the same terms and conditions as are currently in effect, assuming there has been no change in circumstances.

Decision

This Authority has made a careful study of the material submitted and the information presented at the hearing. The petitioners have adhered to all conditions in the Special Permit (ZBA 2000-23). It is the opinion of this Authority that the continued use of the premises as a two-family dwelling will not be injurious or offensive to the neighborhood, and that the dwelling can no longer be used or adapted at a reasonable expense and with a fair financial return without the rental income from the second dwelling unit.

Therefore, the Special Permit is granted, as voted unanimously by this Authority at the Public Hearing, for the petitioners to continue to use the premises as a residence for not more than two families, subject to the following conditions:

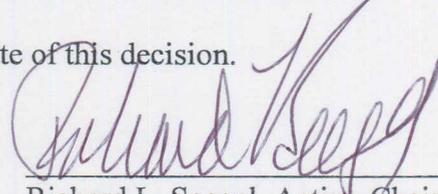
1. The premises shall contain **two and only two** dwelling units; namely the "Main House" and the "Garage Apartment"; and at no time shall additional cooking facilities of any type be installed in any room of the premises except the two kitchens currently in existence.
2. The property owners, Frank and Anne Bae, shall be the owner-occupants of the "Main House" for the duration of the Special Permit. The "Garage Apartment" shall be considered the second dwelling unit available for rental to a second family unit.
3. All applicable State and local laws, ordinances and regulations shall be complied with by both the petitioners and the tenant(s).
4. The premises shall be inspected by the Zoning Enforcement Office within a two week period prior to one year from the date of this decision, and again within a two week period prior to the filing of a request for renewal of this Special Permit, to ensure continued compliance with Section II A 8 (a) of the Zoning Bylaw. A report of each inspection shall be submitted by the Zoning Enforcement Office to the office of the Board of Appeals.
5. The responsibility for arranging said inspections is that of the petitioners.

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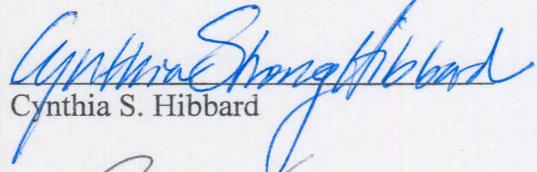
6. All parking related to the use of the premises shall be on-site, and no parking related to the use of the premises as a two-family dwelling shall be allowed on Brook Street or adjacent streets.
7. This Special Permit shall lapse, expire and be of no further effect or force upon the **earlier** to occur of the following:
 - a. Conveyance of the property by its current owners, Frank and Anne Bae, or
 - b. The expiration of this Special Permit.
8. If any of the aforesaid conditions are breached, this Special Permit shall be revoked immediately, the second kitchen shall be removed, and court action shall be instituted.
9. This Special Permit shall expire two years from the date of this decision.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40B,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN
THE OFFICE OF THE TOWN CLERK.

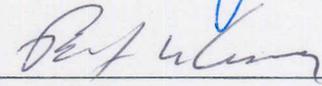
Cc: Planning Board
Inspector of Buildings
edg



Richard L. Seegel, Acting Chairman



Cynthia S. Hibbard



Robert W. Levy

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