



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 96-13
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, March 28, 1996 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 FRANK S. 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 allow the premises at 36 BROOK STREET, in a Single Residence District, to continue to be used as a residence for not more than two families, a use not allowed by right in a Single Residence District.

On March 11, 1996, 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 was Frank Bae, who said that the conditions have not changed, and requested that the Special Permit be renewed for two year, rather than the 1 year previously allowed.

Anneliese Hoelker, 29 Brook Street, expressed support for the requested change.

Mr. Bae also requested that the condition requiring semi-annual inspections be changed to annual inspections.

Naomi Stonberg, 31 Brook Street, said that the neighbors understood that the petition was for a two year renewal under the same conditions. In view of past problems, the neighbors would like the same conditions to remain, including the inspections.

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 until 1960, the property was used as a dormitory by Dana Hall Schools, and Special 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.

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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. In 1993, the petitioners came before the Board of Appeals to request a Special Permit to legalize the use of the premises as a two-family dwelling. For the past three years, the Board has granted the Special Permit on an annual basis.

The petitioners are requesting renewal of their Special Permit to continue the use of the premises as a two-family dwelling with two changes in the conditions; namely that the Special Permit be granted for two, rather than for one, years, and that the semi-annual inspections by the Zoning Enforcement Officer be required annually rather than semi-annually.

Letters from Arthur LaConte, Zoning Enforcement Officer, dated February 29, 1996 and October 5, 1995, stating that on February 28, 1996 and on October 4, 1995, he had inspected the premises and had found no violations, are on file in the office of the Board of Appeals.

On March 19, 1996, the Planning Board reviewed the petition and voted to recommend renewal of the Special Pemrit for a two-year period in accordance with conditions that are currently in effect.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The petitioners have adhered to all conditions in the Special Permit granted in 1995. 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.

It is the opinion of this Authority that because the petitioners have carefully complied with all the conditions listed in the Special Permits granted annually for the past three years, their request to extend the Special Permit for two years with annual inspections can be granted.

At the Public Hearing, the Board unanimously voted to grant the Special Permit pursuant to the provisions of Section II A 8 (a) for the continued use of the premises as a two family dwelling, 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.

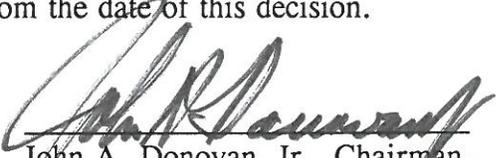
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2. The property owners, Frank and Anne Bae, shall be the owner-occupants of the "Main House" for the duration of the Special Permit. The Garage Apartment shall be considered the second dwelling unit available for rental to a second family unit.
3. 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 to ensure continued compliance with Section II A 8 (a) of the Zoning Bylaw, and again within a two week period prior to the filing of a request for renewal of this Special Permit. A report of each inspection shall be submitted by the Zoning Enforcement Officer to the office of the Board of Appeals.
5. The responsibility for arranging said inspections is that of the petitioners.
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 the 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 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


John A. Donovan, Jr., Chairman


Kendall P. Bates


Robert A. Bastille