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WELLESLEY, MA 02181**ZONING BOARD OF APPEALS**

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1998 APR 16 P 12:18

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ZBA 98-23

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 2, 1998 at 8 p.m. in the Great Hall 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 9, 1998, 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 requested renewal of the Special Permit, as he has complied with all the conditions in the previous decision, and the conditions on which the decision was based have not changed.

Jeffrey Stonberg, 31 Brook Street, expressed opposition to the renewal of the Special Permit.

Anneliese Hoelker, 29 Brook Street, expressed support for the petition.

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 Dana Hall School, 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.

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 use as a two-family dwelling on an annual or biennial basis.

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The petitioners are requesting renewal of their Special Permit on the same conditions as granted in 1996.

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Letters from Arthur LaConte, Zoning Enforcement Officer, dated March 31, 1997 and March 2, 1998 state that on March 28, 1997 and on March 2, 1998, he had inspected the premises at 36 Brook Street and found no violations. These letters are on file in the office of the Board of Appeals.

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On March 24, 1998, the Planning Board reviewed the petition and recommended approval of the request on the same terms and conditions as are currently in effect.

#### 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 the conditions in the Special Permit granted in 1996 (ZBA 96-13). 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 Officer 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 a 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 Officer 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 the current owners, Frank and Anne Bae; or
- b. The expiration of this Special Permit.

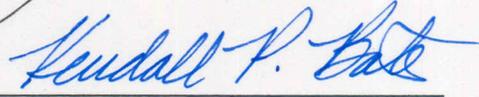
8. If any of the aforesaid conditions are breached, this Special Permit shall be revoked immediately, the second kitchen shall be removed, and court action shall be instituted.

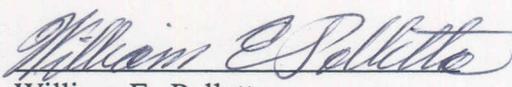
9. This Special Permit shall expire two years from the date of this decision.

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  
edg

  
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John A. Donovan, Jr., Chairman

  
\_\_\_\_\_  
Kendall P. Bates

  
\_\_\_\_\_  
William E. Polletta

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