

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

888 WORCESTER STREET • SUITE 160 • WELLESLEY, MA 02482

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ZBA 2023-11
Petition of Anne Bae
36 Brook Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 2, 2023, at 7:30 p.m. in the Kingsbury Room, 485 Washington Street, Wellesley, on the petition of Anne Bae requesting renewal of a Special Permit pursuant to the provisions of Section 2.1 A 8 (a) and Section 6.3 of the Zoning Bylaw to continue to allow the premises at 36 Brook Street to be used as a residence for not more than two families, which is a use not allowed by right in a Single Residence District.

On February 8, 2023, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Present at the public hearing was Anne Bae, the Petitioner, who said that the request is for renewal of a special permit to rent part of 36 Brook Street.

A Board member said that the request is to renew the permit for a two family dwelling with 11 bedrooms, with a condition that an owner is living in the building. Ms. Bae said that she lives there now.

A Board member said that the Building Inspector inspected the property and confirmed that there are two dwelling units, there is one unit over the garage, and that there are two kitchens that are Code compliant.

The Chairman asked who is living in the other unit. Ms. Bae said that there is a middle aged couple living in the main house that has six bedrooms and four full baths. She said that they have three children in their 20's who come and go. She said that the family used to live in Wellesley and sold their house.

The Chairman said that the Board had discussion at the previous hearing because Ms. Bae was not living there at the time. He said that the Board inserted a provision that required either Ms. Bae or a family member to live there. Ms. Bae said that she lives full time in 36R, which is the unit that is over the garage. She said that she sold her property in Natick.

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TOWN OF WELLESLEY
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The Chairman said that if the permit is extended, it will be subject to several conditions that were imposed in the past. He said that the Board wants the tenant to understand that the permit for the right to live there will expire if a family member does not live in one of the units. Ms. Bae said that she has a lease with the tenant and they know of the condition.

David Himmelberger, who was present at the public hearing, said that this might qualify under the ADU bylaw.

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 was used as a two-family dwelling from that time until it was 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 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 Petitioner 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 or an annual or biennial basis.

On February 23, 2023, the Planning Board reviewed the petition and recommended that renewal of the Special Permit be approved.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. 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, a Special Permit is granted, as voted unanimously by this Authority at the Public Hearing for the Petitioner 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 in the two kitchens currently in existence, nor shall any bathrooms be added.
2. The property owners, Anne Bae or a son or daughter and partners shall be an occupant of one of the two units at no remuneration for the duration of the special permit.

3. All applicable State and local laws, ordinances and regulations shall be complied with by both the Petitioner and the tenant(s).
4. The premises shall be inspected by the Zoning Enforcement Officer within a two-week period prior to the filing of a request for renewal of this Special Permit, to ensure continued compliance with Section 2.1 A 8 (a) of the Zoning Bylaw. A report of the 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 Petitioner.
6. There shall be parking for no more than five resident vehicles on the property.
7. 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.
8. If the property owners, Anne Bae or a son and daughter and partners are the occupants of either unit, a live-in caregiver and a Son/Daughter and partner or significant other shall be permitted to reside there as well. If the Main House is the rental unit, an au pair, nanny or caregiver shall be permitted to reside with a single family unit. Except as stated above, the occupants of both units must be a single family unit with all persons related.
9. There shall be no parking of boats or trailers on the property.
10. This special permit shall lapse, expire and be of no further effect upon the earlier of the following to occur:
 - a. Conveyance of the property by its current owners, the Trust that owns the property, or
 - b. The expiration of this special permit.
11. The current property owners, Anne Bae or the Trust that owns the property, shall disclose to potential buyers early in the real estate process that Condition #10 of this Special Permit is in effect.
12. 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.
13. This Special Permit shall expire two years from the date time-stamped on this decision.

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TOWN OF BROOKFIELD
ZONING ENFORCEMENT OFFICER

ZBA 2023-11
Petition of Anne Bae
36 Brook Street

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.


Robert W. Levy, Acting Chairman


Walter B. Adams


Derek B. Redgate

ZBA 2023-11
Applicant Anne Bae
Address 36 Brook Street

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TOWN CLERK'S OFFICE
WELLESLEY, MA 02158

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings
lrm