TOWN OF WELLESLEY MASSACHUSETTS

ZONING BOARD OF APPEALS
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81-62
Petition of Kathryn D. Ferguson

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing in the second floor hearing room of the Town Hall at 8 p.m. on Wednesday, November 18, 1981, on the Petition of Kathryn D. Ferguson, requesting a Special Permit under the provisions of Section II 8 (h)of the Zoning Bylaw which will allow the petitioner to use her premises at 36 Forest Street for the conduct of a home occupation, namely a Shaklee Distributorship including a Shaklee Literature Service. Said residence is in a Single Residence District. Said request is made under the provisions of Section XXV of the Zoning Bylaw.

On November 2, 1981, the petitioner filed her request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Present at the hearing was Kathryn D. Ferguson, petitioner, and her son, Robert, a full partner in the business, who presently resides at 36 Forest Street. Mrs. Ferguson stated that a variance had been granted in 1974 to allow a home occupation for the sale of Shaklee products, but she didn't know it had to be renewed. Mrs. Ferguson stated the only change in the home occupation since 1974 is the printing press used to print Shaklee literature in the basement; a new printing press has recently been installed; three full time non-resident employees are now employed. She stated that a UPS truck comes to the house every day to pick up and deliver products and printed materials. The Fergusons station wagon is also used for pickup and delivery. About 15-20 cars are parked in her driveway every Tuesday morning and evening for regular meetings, Mrs. Ferguson stated. Robert Ferguson answered questions from the Board concerning the operation, and explained business details.

Speaking in favor of the petition: George Moore, 31 Forest Street, W. Ward Fearnside and Margaret Fearnside, 39 Forest St., Thomas Cummings, who owns property at Forest and Washington Streets.

Interested abutters present, speaking and asking questions: Kathleen Aldridge, 4 Laurel Terrace, Charlotte C. Lyman, 24 Forest Street, Jeffrey Aldridge, 4 Laurel Terrace, J. Paltrineri, 16 Bemis Road. Mrs. Lyman expressed concern about the number of cars parked there, the fact that the business has grown since 1974 and might grow larger, that the printing press might be used for other than Shaklee business.

Letters in favor of the petition were received from June and William Price, 45 Forest Street, and James and Lillian Gallerani, 46 Forest Street., and W. Ward and Margaret Fearnside.

Statement of Facts

The property involved is located at 36 Forest Street on the corner of Laurel Avenue in a Single Residence District. A variance was granted to W. Eugene and Kathryn D.

Ferguson on December 26, 1974 to allow a Shaklee Distributorship under Section XXIV-E subject to the following conditions (Case 74-38):

1. That no trucks or other commercially labelled vehicles will at any time deliver or pick up materials incidental to the Shaklee products business or park on or about subject premises. 2. That no signs advertising or incidental to the business be displayed on the property or on any motor vehicle parked or standing on or about the property. 3. That said permit shall remain valid only so long as the petitioners reside on the premises. 4. That said permit shall expire one year from this date (December 26, 1974).

Said permit expired on December 26, 1975 but was never renewed.

The petitioner seeks a Special Permit to conduct a Shaklee Distributorship from her home, including a Shaklee Literature Service, for which a new printing press was recently installed. Three full-time non-residents are presently employed at the premises. UPS trucks deliver and pick up products and printed materials daily. Regular weekly meetings are held with 15 to 20 cars parked on the property at times.

The Planning Board, in a letter dated November 18, 1981, stated: "It appears to the Planning Board that the nature of this home occupation has changed considerably since 1974. Normally the Planning Board has no objection to continuation of established home occupations. Based on the information at hand, however, the Board recommends that you give careful consideration before agreeing to continuation of this use."

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Decision

This Authority has made a careful study of the evidence submitted, and at least one member has viewed the locus.

The business was started in 1974 as a home occupation. The petitioners at that time stated that if the business was continued for any duration, they intended to find permanent quarters in a commercial building. The business has continued, and at this time there are three full-time non-resident employees in addition to Mrs. Ferguson and her son Robert. UPS trucks and other vehicles are making daily pickups and deliveries to the premises. Regular weekly meetings generate 15 to 20 cars and increase the traffic in the area.

This Authority believes the business is beyond the point of a home occupation. There is unusual activity for a residential area. Specifically, the following parts of the Zoning Bylaw, Section II A 8 (h) are being violated:

(1) There shall be no activity, and no equipment or process shall be used, in the conduct or as the result of the conduct of a home occupation, which disrupts or disturbs the customary characted of a residential neighborhood;

(2) There shall be no pickup or delivery of products and/or articles that is not customary in a residential area;

(6) There shall be provision for parking on the premises so that no vehicle will be required to park on any street. The required parking area shall retain the character of the residential neighborhood. No substantial enlargement of the width of the residential driveway or other alteration of the driveway within the front yard setback shall be allowed in order to meet this requirment.

(7) There shall not be more than the equivalent of two fulltime non-resident employees;

Therefore, it is the unanimous opinion of this Authority that the granting of a Special Permit would not be in harmony with the general purpose and intent of the Zoning Bylaw.

This request for a Special Permit is denied and the petition is hereby dismissed.

Stephen S. Porter, Chairman

John A. Donovan, Jr.

William E. Polletta

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