

65-1

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF APPEAL

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TELEPHONE  
CE 5-1664

Petition of Pemberton F. Minster, Jr.

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:00 p.m. on February 11, 1965, on the petition of Pemberton F. Minster, Jr., requesting permission under the provisions of Section XXIV, E. 1. of the Zoning By-law, to use the premises located at 701 Worcester Street, owned by Linwood H. Hewett, Jr., as a Kennel.

The petitioner spoke in support of his petition at the hearing.

The following persons spoke in favor of granting the request: Thomas J. Jabailey, 22 Oakridge Road, Charles R. Bragg, 30 Oakridge Road, Walter F. Morris, 33 Oakridge Road, and Marcia Kezer, 36 Oakridge Road. All felt that the requested use of the property would not prove detrimental to the neighborhood; the dogs have not been noisy; and the desired family hobby is one which should be allowed.

A letter favoring the request was received from Albert H. Eastman, 26 Robert Road. In his letter he stated that the dogs do not create the nuisance that some of the other dogs in the vicinity do and that the licensing of the six dogs should be in order.

The Planning Board offered no objection in its report.

On January 14, 1965, the petitioner filed application for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

Statement of Facts

The house involved is located on Worcester Street (Route 9), on a lot of land containing 51,149 square feet, within a single-residence district requiring a minimum lot area of 20,000 square feet.

The petitioner, who rents the property involved, owns six Husky dogs and seeks permission to keep these dogs on the property. He applied to the Town Clerk to license the dogs and was unable to obtain a license for more than three dogs as any pack of dogs in excess of three constitutes a Kennel. (Chapter 140, Section 137a General Laws) A Kennel is not a permissive use enumerated in Section 2, single-residence districts, of the Zoning By-law, the district in which the property involved is located. The Town Clerk, therefore, could not issue a Kennel license to the petitioner and he now seeks a permit from this Board to maintain his Kennel.

The petitioner has seven children, five of whom train and drive the dogs in races each week-end, and are members of the New England Sled Dog Club. If they are limited to three dogs they cannot pursue this hobby as the children are in age classifications which require more than one dog for a team. The sole reason for having these dogs is to create a family activity which the petitioner feels is beneficial to his children in

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addition to being an enjoyable outdoor winter sport. The dogs are never permitted to run loose, but are confined in the yard at all times except when they are attached to cars or sleds and exercised for training purposes. For these reasons, the petitioner feels that the maintenance of a Kennel on the property involved will not prove detrimental to the neighborhood.

Decision

The Board has given careful study to the facts in this case and has taken a view of the locus. The property which is located on the Worcester Turnpike contains over an acre of land with a single dwelling thereon, and is approximately 200 feet from the nearest dwelling and located at a higher elevation than the neighboring lots. The yard in which the dogs are kept is in front of the property along the turnpike and some distance from the nearest house on that side. No complaints were registered either at the hearing or previously, to the knowledge of this Board, that the dogs were noise or creating a disturbance of any kind. Unless the Board grants permission for the requested non-conforming use of the property in part, it is unlikely that the petitioner and his children can pursue the hobby of dogsled racing. For these reasons, therefore, it is the opinion of this Board that in this specific case there is a real need for the proposed non-conforming use of the property and such use will not substantially reduce the value of any property within this district or otherwise injure the neighborhood.

Accordingly, the Board grants the requested permission under the provisions of Section XXIV, E. 1. of the Zoning By-law and the Town Clerk is hereby directed to issue a Kennel license to the petitioner, subject to the following conditions:

1. That not more than seven dogs shall be kept on the premises involved at any one time.
2. That said dogs shall be kept solely for non-commercial purposes.
3. That all safeguards shall be taken to keep the dogs under restraint and with as little noise and annoyance as possible to the neighborhood.
4. That this Board shall reserve the right to revoke this permit prior to its expiration if it is found that any of the conditions herein mentioned or any other by-laws are violated.
5. That said permit shall expire one year from this date.

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Filed with Town Clerk \_\_\_\_\_