



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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80-12

Petition of Sarah R. Walsh

Pursuant to due notice, the Special Permit Granting Authority held a public hearing on the second floor of the Town Hall at 9:30 PM on April 10, 1980 on the petition of Sarah R. Walsh, requesting a Special Permit under the provisions of Section II 8 (h), which would allow the petitioner to use the premises at 10 Francis Road for babysitting. Said petition was made under the provisions of Section XXV of the Zoning By-law. On March 5, 1980 the petitioner received a letter from the Building Inspector for the Town, ordering her to cease and desist from the operation of her Day Care House in a Single Residence District and advising that she could apply for a Special Permit before this Board.

On March 21, 1980, the petitioner filed her request for a hearing before this Board and thereafter, due notice of the hearing was given by mailing and publication.

Mr. Quentin Walsh, husband of the petitioner, spoke in her behalf in addition to the following persons who are either neighbors of, or use the petitioners services: Linda Katz, 323 Worcester Street; Susan Rosenweig, 280 Oakland Street; Joseph Perdoni, 6 Francis Road (neighbor); Linda W. Dobkin, 313 Linden Street; Bari L. Maxson, 4 Stearns Road; Craig N. Clive, 3 Francis Road; Patricia Doyle, 9 Stearns Road; Ms. Florence Caddick of 78 Donazette Street whose property abuts the subject property at the rear, questioned whether this was a suitable location for such an activity.

Statement of Facts

The petitioner seeks to operate a Day Care Home on her premises in a Single Residence District at 10 Francis Road. The petitioner is licensed by the Commonwealth of Massachusetts to operate a Day Care Home which provides for a maximum of six (6) children at any one time. While the limit on the number of children is six, since some children are not on the premises all day, there can be more than six different children at the petitioners premises during any particular day.

The children go to the petitioners for babysitting on a regular basis and are dropped off and picked up by automobile by their parents.

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Decision

The Board believes that this petition for a Special Permit to run a Day Care Home Occupation is more properly treated as an appeal from the Inspector of Buildings letter. See Section XXIV (c) of the Zoning By-laws. Under Section II, A 6, the Home Occupation By-law, so-called, notification is required to be given to the Inspector of Buildings before occupations "permitted as a matter of right" may be carried on. Since no non-resident employees would be involved in petitioners babysitting business, we do not believe that Section II, 8 (h) (Home Occupation requiring a permit) is applicable. However, the language of Section II A 6 and II 8 (h) is similar as far as this case would be concerned and the result under each would be identical.

While there is doubt that Town Meeting, which enacted the Home Occupation By-law, specifically considered the problem before us, we believe that Section II A 6 (a) requires us to deny petitioner's petition and any others like it in the future. Section II A 6 (a) provides that:

There shall be no activity . . . in the conduct or as a result of the conduct of a Home Occupation, which disrupts, or disturbs the customary character of the residential neighborhood.

We hold that regular babysitting for substantial numbers of children for profit with the concomitant traffic and safety considerations in a residential neighborhood violates the above section. We believe that while children are not commonly termed to be "products" or "articles", the prohibition of subsection (c) against "pickup and delivery of products and/or articles at the premises that is not customary in a residential area" lends support to our conclusion about the intent of subsection (a).

This Board expresses no opinion as to the more traditional and more casual kinds of babysitting.

The Board denies the requested relief and dismisses the petition.

William F. Cullinane
William F. Cullinane, Chairman

Stephen S. Porter
Stephen S. Porter

John A. Donovan, Jr.
John A. Donovan, Jr.

Filed with Town Clerk _____