



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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Petition of Ida Fridman

Pursuant to due notice, the Permit Granting Authority held a public hearing in the hearing room on the second floor of the Town Hall at 8:00 PM on July 1, 1980, on the Petition of Ida Fridman, requesting a Variance from the terms of Section II, of the Zoning Bylaw. Such Variance will allow the Petitioner to continue to use a portion of St. Andrews Episcopal Church, 79 Denton Road, as a Montessori Nursery School, as provided under Section XXIV-D of the Zoning Bylaw.

Per a letter from the Permit Granting Authority dated June 5, 1980, Attorney Albert Auburn's request for reconsideration from the decision filed with the Town Clerk on February 19, 1980 was granted. The chain of events leading to this are as follows: A request for a Variance was filed by Mr. Auburn, attorney for Ida Fridman, on January 22, 1980. The decision was granted in part on February 19, 1980. Per a letter of Mr. Auburn dated February 26, 1980 a request was made for reconsideration and rehearing. The Permit Granting Authority, by a letter dated March 7, 1980, invited Mr. Auburn to attend a Business Meeting on April 10, 1980, this meeting to precede the public hearing. The business meeting was limited to whether or not a request for reconsideration and rehearing should be granted. This meeting had been posted with the Town Clerk. On May 5, 1980 at a duly noticed public hearing, Mr. Auburn appeared before this Authority and the request for reconsideration was granted unanimously, as per Section XXIV-E (5) of the Zoning Bylaws. By letter of June 5, 1980, the Permit Granting Authority notified Mr. Auburn that the request to be reheard was granted and such hearing took place at the July 1, 1980 public hearing, after being duly noticed.

Albert Auburn, Attorney for Ida Fridman, spoke on behalf of the petition with the aid of Ida Fridman and her husband. Also present were the following parents who also spoke in support of the school. Maura O'Brien, Karen Sampson-Cohen and her husband Ira Cohen, Allison Falcon. Mr. Auburn also presented fifty letters written in support of the facility, more than half of them written by Wellesley residents.

It should be noted that a letter of opposition was submitted by Mrs. Kathleen Walsh of 2 Denton Road, this letter was submitted on January 31, 1980.

Statement of Facts

The Church involved is located within a Single Residence District, a district

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in which the proposed use of the property is not allowed unless a Variance is granted by this Authority.

The petitioner seeks permission to continue to operate a Montessori Nursery School for another year, two morning sessions of twenty-five children per session 9:00 AM - 12:00 Noon, and one afternoon session of twenty-five children 12:30 PM to 3:30 PM; all children to be ages 2½ to 6 years. These sessions will be held in rooms upstairs and downstairs.

In addition, the petitioner seeks permission to conduct a Child Center, ages 2¼ to 6 years, with no more than fifteen children at any one time, 7:30 AM to 5:30 PM, five days, Monday through Friday. The sessions will meet in two rooms downstairs.

The children will be picked up and dropped off by their parents, as stipulated in the past decisions of this Authority, in the parking lot adjacent to the Church, and will be under the supervision of five capable teachers during the school sessions.

It is the belief of the petitioner that the continued use of the property as a Montessori Nursery School and the requested use as a Child Center will not depreciate values in the area, or otherwise injure properties in the neighborhood. It will, however, continue to fulfill the need for this type of child care in the Town.

The original decision to which this appeal comes was filed with the Town Clerk on February 19, 1980. A request was filed by Mr. Auburn on February 26, 1980 requesting a reconsideration and rehearing, per Section XXIV-C (2) of the Zoning Bylaws, such rehearing was granted on June 5, 1980, by the Permit Granting Authority.

Decision

It is our belief that the expressed terms of the Zoning Bylaw do not clearly give us the right to grant a Variance in this case. Because of the hardship involved and what would be an abrupt departure from past practices, we will allow the requested Variance for a limited time, as set forth below, but do not intend to renew this Variance without further clarification of the Zoning Bylaws.

This Authority grants the requested Variance subject to the following conditions:

1. That all State and local laws shall be complied with as well as all recommendations of the Chief Engineer of the Fire Department.

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2. That only the following sessions be held: Two morning sessions, both conducted from 9:00 AM to 12:00 Noon; one afternoon session held from 12:30 PM to 3:30 PM; and one Child Center held from 7:30 AM - 5:30 PM.
3. That not more than twenty-five (25) children shall be in attendance in either the two morning or one afternoon session, at any one time.
4. That not more than fifteen (15) children shall be in attendance in the Child Center, at any one time.
5. That all children shall be delivered and picked up in the St. Andrew's parking lot, adjacent to the Church.
6. That this Variance shall expire one (1) year from the date of filing this decision with the Town Clerk, or upon this Authority finding that this Variance has been violated, whichever shall first occur.

William F. Cullinane
William F. Cullinane, Chairman

John A. Donovan, Jr.
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Stephen S. Porter
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