



ZONING BOARD OF APPEALS  
TOWN HALL WELLESLEY, MA 02181

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ZBA 94-35  
Petition of Sharon E. Kessel  
20 Avon Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, May 26, 1994 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of SHARON E. KESSEL requesting a Special Permit pursuant to the provisions of Section II A 8 (h) and Section XXV of the Zoning Bylaw to use a portion of her premises at 20 AVON ROAD, in a Single Residence District, for the conduct of a home occupation; namely a catering service, which would require installation of a second kitchen to comply with Board of Health regulations. Said kitchen is not allowed in a Single Family dwelling. There will be no clients coming to the premises, no delivery trucks and no employees. Hours of operation would be in response to client demand.

On May 9, 1994, the petitioner filed a request for a hearing before this Authority, and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Sharon Kessel, who said that she was asking permission to install a second kitchen in her basement to pursue an at-home catering business. She was aware that the Board might be concerned as to the potential use of her basement as a second dwelling unit, and had submitted pictures of the basement to show that it could never be used as any type of dwelling space.

Ms. Kessel said that the Board of Health requires a completely separate kitchen for catering purposes, and will inspect the premises on a semi-annual basis. The kitchen will never be used for anything but her business. In order to have a second dwelling unit, she would have to have a bedroom and a bathroom, which would be impossible in her basement as the proposed kitchen and the boiler room take all the existing space.

The Board noted that her home occupation is not customary in a Single Residence District, particularly as it requires a second kitchen, which the Board has not granted in other instances.

The Board asked Ms. Kessel what her long term objectives were in regard to her business. Ms. Kessel replied that if her business grows, she would move to a restaurant or a store front operation, and the kitchen appliances would be moved to the new location. Presently, as a single parent with very young children, she would like to be at home with them.

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The Board stated that stringent conditions would have to be placed on the permit, such as submission of copies of the inspection reports conducted by the Board of Health to the Board of Appeals; termination of the Special Permit and removal of all kitchen appliances if the business were terminated or if the house were sold; and annual renewals of the Special Permit.

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Statement of Facts

The subject property is located at 20 Avon Road, in a Single Residence District.

The petitioner is requesting a Special Permit for a home occupation; namely a catering service with no clients coming to the premises as all pre-party planning is done in the home of the client. The food preparation would be done in the petitioner's second kitchen, and then delivered and served at the client's home using the client's serving pieces, dishes and utensils. There will be no employees or deliveries. However, in order to meet Board of Health regulations, a second kitchen must be installed, which is ordinarily not allowed in a Single Family dwelling.

A Plot Plan, floor plans of the house, a proposed basement floor plan drawn by LaConte Construction; labelled photographs of the exterior and interior of the dwelling; a petition supporting the request signed by 13 neighbors on Avon and Weston Roads; and a copy of the Department of Public Health Regulations 105 CMR 590.000-595.000 Sanitary State Code for Vending Machines, Food Establishments and Caterers was submitted.

On May 24, 1994, the Planning Board reviewed the petition and voted to strongly recommend that the request be denied as the proposed use is not customary in a Single Residence zoning district.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. If the petitioner were not required by the Board of Health to install a second kitchen, she would not require a Special Permit for a home occupation as there will be no clients coming to the premises, no employees, and no deliveries.

In regard to the installation of the second kitchen, it is the determination of this Authority that this petition is a unique request for a specific home occupation in a specific dwelling. The home occupation cannot be undertaken without compliance with Board of Health regulations which require a second kitchen; and the basement in which the kitchen will be installed does not have sufficient space for the construction of a bedroom, bath, or separate egress to allow future use as a second dwelling unit. The grant of this Special Permit cannot in any way be construed as a precedent to allow second kitchens for other uses in other properties.

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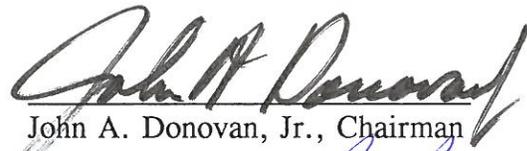
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This Authority is of the opinion that the requested home occupation will not disturb or disrupt the customary character of the neighborhood, but is concerned about the potential use of the kitchen should the petitioner discontinue her business or sell her property.

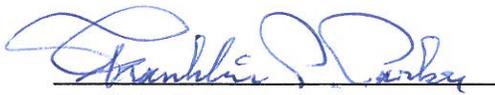
Therefore, the requested Special Permit is granted subject to the following conditions:

1. A copy of the Food Service Permit issued by the Board of Health is to be submitted to the office of the Board of Appeals.
2. Copies of the reports of the Board of Health semi-annual inspections or any other inspections are to be submitted to the office of the Board of Appeals.
3. If Ms. Kessel should, at any time prior to renewal of this Special Permit, discontinue the use of her premises for her home occupation, or sell her property at 20 Avon Road, she shall inform the Board of Appeals. All kitchen equipment installed shall be removed and all utilities connected to the second kitchen shall be removed within 30 days of the cessation of the catering business, and/or prior to the sale of the property. Documentation showing compliance with this condition shall be submitted to the office of the Board of Appeals.
4. All parking related to said home occupation shall be in the driveway at 20 Avon Road.
5. Hours of the home occupation shall be in response to client demand.
6. This Special Permit shall expire one year from the date of this decision.

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.

  
John A. Donovan, Jr., Chairman

  
Kendall P. Bates

  
Franklin P. Parker

cc: Planning Board  
Board of Health  
Inspector of Buildings  
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