

ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053

DATE: FEBRUARY 20, 2008

CASE NO.: 2/20/2008-1

APPLICANT: SHAUN AND KARI MILLIGAN
79 HOVEY ROAD
LONDONDERRY, NH 03053

LOCATION: 79 HOVEY ROAD, 13-142-88, AR-I

BOARD MEMBERS PRESENT: MIKE BROWN, CHAIR
YVES STEGER, VOTING ALTERNATE
BARBARA DILORENZO, VOTING ALTERNATE
VICKI KEENAN, VOTING ALTERNATE
MARK OFFICER, ACTING CLERK

REQUEST: SPECIAL EXCEPTION TO ALLOW A FAMILY DAY CARE AS A HOME
OCCUPATION.

PRESENTATION: CASE NO. 2/20/2008-1 WAS READ INTO THE RECORD WITH NO
PREVIOUS CASES LISTED.

MIKE BROWN: Who will be presenting this case? Okay, just come on up and take a seat.

KARI MILLIGAN: Hello.

MIKE BROWN: Hi.

KARI MILLIGAN: I plan to have a small day care in my home. Five (5) children as well as my own two (2) children this year and when my son becomes school aged, then I'll have six (6) children. We have a downstairs, on our first level, living room that we are converting into a classroom and there will be an area where the children will eat and have a book center, a block center and a dramatic play area.

MIKE BROWN: Okay.

KARI MILLIGAN: We have plenty of parking. I don't see that it would pose a problem on our road.

MIKE BROWN: Okay.

KARI MILLIGAN: I guess I will leave it to you to see what kind of questions you have for me and I could answer them.

MIKE BROWN: Okay. Questions from the Board? Anybody?

YVES STEGER: Not at this time. You're going to go through the five (5) points of law anyway.

MIKE BROWN: Well, it's a special...it's a home occupation, so there is no five (5) points.

YVES STEGER: Yeah, okay, that's right.

MIKE BROWN: It's a matter of the application, so I'll start with a question.

KARI MILLIGAN: Okay.

MIKE BROWN: Because we've been asked this before, what the licensing procedure is that you have to go through with the state, separate from here.

KARI MILLIGAN: You're actually my first step.

MIKE BROWN: Okay.

KARI MILLIGAN: So once I have approval from the Board, then I go forward with the process through the State. So, they wanna make sure it's okay with you before I go through the State process.

MIKE BROWN: Okay. Do you have a sense for what that licensing...what that does?

KARI MILLIGAN: Yes, we have to do a fire safety inspection. Also, the inspector through the State will come in and make sure everything is safe and that I'm following the proper cleanliness procedures as far as diapering goes and food preparation. They make sure that I have appropriate exit signs posted in case of fires. Things like that.

MIKE BROWN: Okay. Okay.

KARI MILLIGAN: Mostly safety issues.

MIKE BROWN: Okay. You mentioned your days of operation in the application, Monday through Friday...

KARI MILLIGAN: Right.

MIKE BROWN: Six (6) in the morning to six (6) PM. Do you have a sense for whether, at this point, whether all the drop-offs and pickups are gonna be kind of at the same time?

KARI MILLIGAN: I don't know...

MIKE BROWN: Yeah.

KARI MILLIGAN: I don't know at this point. I work at a day care now and from my experience, maybe two (2) children will come around, you know, the same time and, you know, normally, it's not all the children all at once. But I can't really answer that question right now since I don't have any children.

MIKE BROWN: Okay. One of the things, and I'm assuming the photograph...we have a mapping system that allows us to see aerial photographs and it looked like you did have a pool in your...

KARI MILLIGAN: I do.

MIKE BROWN: ...at your place, so, one of the questions that we typically ask and one of the stipulations we typically require with day cares would be fencing, especially when there's a pool involved.

KARI MILLIGAN: Right.

MIKE BROWN: So...

KARI MILLIGAN: My pool is an above ground pool and it's right next to my deck, so there's access to the pool from my deck. There is a fence right in front of the deck and then there's like a little bridge that goes to the deck and that gate will remain locked at all times.

MARK OFFICER: Could you explain that again? So, from your house, you walk out onto the deck...

KARI MILLIGAN: Yeah.

MARK OFFICER: And then there's another gate between the deck and the pool?

KARI MILLIGAN: Yes, there's a little, you know, the railing of the deck...

MARK OFFICER: Yeah.

KARI MILLIGAN: ...continues all the way around and then there's a gate where the railing is...

MARK OFFICER: Okay.

KARI MILLIGAN: ...we lock that and then on the other side of the gate, there's a...

SHAUN MILLIGAN: Four (4) foot.

KARI MILLIGAN: ...four (4) foot little bridge to the pool.

MARK OFFICER: Okay.

KARI MILLIGAN: So, I mean, they couldn't get in.

MARK OFFICER: Okay.

MIKE BROWN: But do you have...do you intend on having a play area in the backyard?

KARI MILLIGAN: I would like to and I've asked this question repeatedly through the State, 'do I need fencing?' and, you know, 'what are your requirements?' and they've said it's actually up to you guys.

MIKE BROWN: Yeah, and that's...

KARI MILLIGAN: So...

MIKE BROWN: That's where I was going.

KARI MILLIGAN: Okay.

MIKE BROWN: We have a lot of these types of cases and I don't recall a situation where we didn't require a fence because...

KARI MILLIGAN: Okay.

MIKE BROWN: ...of obvious reasons. So, that is something to consider. That's something the Board, I think, takes into consideration pretty strongly with these types of situations.

KARI MILLIGAN: Okay. And my question to you is do you require a full fence for the whole play area or just a fence on the frontage of the property? So they have...

MARK OFFICER: Usually it's enclosed as I...

YVES STEGER: Mm-hmm.

MIKE BROWN: The area where the kids would be.

MARK OFFICER: Yeah. Yeah.

KARI MILLIGAN: Okay.

MARK OFFICER: We usually require it being closed.

KARI MILLIGAN: Okay.

MIKE BROWN: We understand that's a significant expense but it's something that we've...we have, as the State said, we do have the ability to do that, to apply a condition or restriction that we think is reasonable and we typically do that.

KARI MILLIGAN: We are prepared to do so, so...

MIKE BROWN: Okay.

KARI MILLIGAN: We're just not planning on fencing the whole area, just a smaller play area.

MIKE BROWN: Alright. Other questions. Mark?

MARK OFFICER: So, you have room for eight (8) cars in your driveway?

KARI MILLIGAN: Yes.

MARK OFFICER: Does that include your own vehicles?

SHAUN MILLIGAN: Yes.

KARI MILLIGAN: Yes. Thank you, Shaun.

MARK OFFICER: And you have two (2) right now? Two (2) vehicles?

KARI MILLIGAN: Two (2).

MARK OFFICER: So, you have room for six (6) cars at one time?

KARI MILLIGAN: And we have a truck as well but it's pulled off to the side.

MARK OFFICER: Uh-huh.

KARI MILLIGAN: So...

SHAUN MILLIGAN: We can park eleven (11) total.

MARK OFFICER: Okay. So...

KARI MILLIGAN: We have a very large...

MARK OFFICER: ...we're talking five (5), maybe...well, five (5) at most cars at any...if all five (5) arrived at the same time, which is very unlikely...

KARI MILLIGAN: One (1), two (2)...

MARK OFFICER: I guess the point I'm trying to get to is they'll be able to turn around in the driveway?

KARI MILLIGAN: Mm-hmm.

MARK OFFICER: Okay.

KARI MILLIGAN: We have a very large driveway.

MARK OFFICER: Okay.

MIKE BROWN: Yeah, the one thing that I would also wanna get some assurance on...

KARI MILLIGAN: Mm-hmm.

MIKE BROWN: And I think this is standard stuff within the town of Londonderry that parking on the street is something that we would want to avoid, particularly with a road that's well traveled and or a road like Hovey Road, so, given the size of your driveway and the number of potential cars you could have if you were full, would you see that any cars would have to park on the street in order to pick up or drop off?

KARI MILLIGAN: I wouldn't believe that...I really don't think that would be necessary.

MIKE BROWN: Yeah.

KARI MILLIGAN: We, I think, have enough capacity to hold cars and I do, honestly, in my profession, I do not see parents coming right at the same time, dropping their kids off and all leaving at the same time. I mean, there's...all parents have different, you know, drop off routines where they will give their child, you know...

MIKE BROWN: Yup.

KARI MILLIGAN: ...hugs and things like that, so, you know, I really don't think it will pose a problem with our driveway.

MIKE BROWN: Okay.

KARI MILLIGAN: You can see on the map it has a long, flat area right in front of our house and down by the garage, there's also a large area, so, we have plenty of space for cars.

MIKE BROWN: Okay. Again, just to let you know, because this is a special exception, as long as you meet all of the requirements that are laid out, it typically is granted but we also typically stipulate a condition that no on-street parking would be allowed for the purposes of the business.

KARI MILLIGAN: Okay.

MIKE BROWN: So you may see that.

KARI MILLIGAN: Okay. No problem.

MIKE BROWN: Other questions?

MARK OFFICER: Has anyone checked the square footage?

MIKE BROWN: Just from what I saw in the application, yeah.

MARK OFFICER: Okay. It looks to be good?

MIKE BROWN: Yeah. And it was at the rate for day cares, per child.

MARK OFFICER: Okay. If, hypothetically, if this is approved, you still have licensing and permits at the State level, correct?

KARI MILLIGAN: Correct. I've already gone through the process of the fire inspection. Now I will have to submit my application and then that person will come and inspect.

MARK OFFICER: How long will that take, roughly?

KARI MILLIGAN: I think they give themselves ninety (90) days or something.

MARK OFFICER: Okay.

KARI MILLIGAN: So, it's quite a bit of time.

MARK OFFICER: I'm just thinking...so, it'll be warm enough to put a fence in by the time you get approved?

KARI MILLIGAN: Yeah and if not, if that's one of your requirements, I'll have the kids stay inside until we get it put in.

MIKE BROWN: Any other questions? Okay, we're gonna go out to the general public. Are there any members of the public who are in favor of the application, feel free to come to a microphone and let us know. Okay, members of the public who either have questions, concerns or opposition to the application? Unusual.

MARK OFFICER: Yeah.

MIKE BROWN: Very unusual. Okay. Back to the Board. Any additional questions for the applicant? Nope? Okay, we're gonna take it under advisement right now and deliberate, which means the public portion of the presentation's over and then we'll make a decision.

KARI MILLIGAN: Okay.

MIKE BROWN: Thanks.

KARI MILLIGAN: Thanks.

DELIBERATIONS:

MIKE BROWN: Alright, what do you guys think?

MARK OFFICER: It's a big yard. Big lot.

MIKE BROWN: Yeah. I know.

MARK OFFICER: It's well protected.

MIKE BROWN: Yeah.

YVES STEGER: Big driveway.

MARK OFFICER: I always use the neighbors as my number one gauge for day cares. I mean, we've had filled rooms before of...

MIKE BROWN: Yup.

MARK OFFICER: ...neighbors and this is two (2) in a row now where we have not had a single person speaking for or against for a day care, which is, as you said, Mike, very unusual.

MIKE BROWN: Yeah, it is. Okay. What about the fence?

MARK OFFICER: Oh, yeah, the fence, I think is a must.

BARBARA DILORENZO: Yeah.

MARK OFFICER: Yeah.

YVES STEGER: Yeah.

MARK OFFICER: That's just consistent with the way we've always done it.

BARBARA DILORENZO: Mm-hmm.

MIKE BROWN: Alright. I'd also like to see a condition that spells out no on-street parking that's related to the business. So those two (2) conditions, I think, would be good.

MARK OFFICER: Yup.

MIKE BROWN: Other than that, because it's a special exception, it fits the number of kids, the square footage fits, the application states no sign, no, you know, we can use the application as the guide but I think those two (2) conditions would be good.

MARK OFFICER: Mm-hmm.

MIKE BROWN: Okay. So I'll be looking for a motion. Mark? Okay.

MARK OFFICER: I'd like to make a motion that we approve case number 2/20/2008-1 to approve the day care as presented with the following restrictions: no on-street parking and an enclosed fence area.

MIKE BROWN: Okay. Do we have a second?

BARBARA DILORENZO: I'll second that.

MIKE BROWN: Okay. So, there's a motion on the floor as presented with two (2) restrictions and a second. Any further discussion? Okay, all those in favor of the motion, signify by saying 'aye.'

MARK OFFICER: Aye.

MIKE BROWN: Aye.

YVES STEGER: Aye.

VICKI KEENAN: Aye.

BARBARA DILORENZO: Aye.

MIKE BROWN: Opposed? Abstain? Okay, motion passes.

RESULT: THE MOTION TO GRANT THE SPECIAL EXCEPTION WITH RESTRICTIONS WAS APPROVED, 5-0-0.

RESPECTFULLY SUBMITTED,

MARK OFFICER, ACTING CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED MARCH 19, 2008 WITH A MOTION MADE BY YVES STEGER, SECONDED BY BARBARA DILORENZO AND APPROVED 3-0-1 (LARRY O'SULLIVAN ABSTAINED AS HE HAD NOT ATTENDED THE FEBRUARY 20, 2008 MEETING).