

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

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5 DATE: JULY 15, 2009
6
7 CASE NO.: 7/15/2009-1
8
9 APPLICANT: RUSSELL AND KATHLEEN MAROTTA
10 10 MATTHEW DRIVE
11 LONDONDERRY, NH 03053
12
13 LOCATION: 10 MATTHEW DRIVE, 16-46-6, AR-I
14
15 BOARD MEMBERS PRESENT: VICKI KEENAN, CHAIR
16 YVES STEGER, VOTING MEMBER
17 JIM SMITH, VOTING MEMBER
18 MICHAEL GALLAGHER, VOTING ALTERNATE
19 LARRY O'SULLIVAN, CLERK
20
21 ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/
22 ZONING OFFICER
23
24 REQUEST: SPECIAL EXCEPTION TO ALLOW A FAMILY GROUP DAY
25 CARE AS A HOME OCCUPATION IN ACCORDANCE
26 WITH THE PROVISIONS OF SECTION 3.12.2
27
28 PRESENTATION: Case No. 7/15/2009-1 was read into the record with no previous cases
29 listed.
30
31 KATHLEEN MAROTTA: I'm Kathleen Marotta. This is my daughter Aria. You want my
32 address, did you say?
33
34 VICKI KEENAN: Yes, please.
35
36 KATHLEEN MAROTTA: Ten (10) Matthew Drive in Londonderry. Should I...?
37
38 LARRY O'SULLIVAN: You're doing fine.
39
40 VICKI KEENAN: You're doing great.
41
42 LARRY O'SULLIVAN: Tell us the idea of what you'd like to accomplish.
43

44 KATHLEEN MAROTTA: Alright. My daughter Aria has been a nanny for the past six (6) years
45 and the children that she's been watching are six (6) years old, so they're going to school. So in
46 the meantime, she's had a child of her own, she's married and lives in Manchester on Hanover
47 Street. And so she's looking for employment and she came to me and asked me if I thought that
48 I would like to have an in-home day care group. And she didn't want to have it at her house
49 because Hanover Street's pretty busy and she only has a small yard so it really wouldn't have
50 worked out for her there but our house is on a cul de sac, it's at the end of the cul de sac, very
51 quiet, perfect area for raising children. We raised the three (3) girls there and now it's kind of
52 empty, so I thought that would...we could just take our living room and fit it easily into, you
53 know, with toys and we have some stuff that we can put in there and make a nice little day care.
54 And so that's what we would like to do. We were looking to have...we're applying for seven
55 (7) to twelve (12) children but we're thinking more for four (4) or five (5) kids and then maybe a
56 couple of afterschool kids, a range of age, preschool to maybe a baby, maybe two (2) but mostly
57 preschool and maybe some afterschool. I think it would be an asset to our area in that I would
58 be home. There have been a few robberies, I understand, over on Old Derry Road, so, I mean,
59 the more people that are at home during the day, I think, the better. Before I even apply down
60 here, I spoke to our immediate neighbors and got a very positive response. They thought, as a
61 matter of fact, it was one of my neighbors who mentioned that it would prevent robberies. But
62 there are children in the neighborhood and I don't think it would change the character of the
63 neighborhood at all. As far as, I know traffic was one of the concerns, I mean, you know,
64 people would drop off their children and leave, so it would be a little extra traffic on the street
65 but, I mean, nobody seemed concerned about that.

66
67 LARRY O'SULLIVAN: Can I ask how long, how many houses on Matthew or how long
68 Matthew is?

69
70 KATHLEEN MAROTTA: There's...about ten (10)? Ten (10) at the max, yeah. There's one, two,
71 three, four, then us and then them, six, seven, eight, yeah, ten (10), nine (9) or ten (10) houses.

72
73 LARRY O'SULLIVAN: Mm-hmm. Good.

74
75 VICKI KEENAN: What are your plans for the outside?

76
77 KATHLEEN MAROTTA: The outside, we have a big yard and as a matter fact, I...[inaudible-
78 speaking to her daughter who then passes out information; see Exhibit "A"]. This will give you
79 an idea of what my yard looks like. The kind of square line is the lot. It's a one (1) acre sized
80 lot. Our house sits on the upper...in the left hand corner there. Well, I'll start with picture
81 number one (1) which is down on the bottom on the left. I kind of put them where you're
82 looking at. I'm trying to give you an idea of way to look at. But number one (1) is I was
83 standing in my garage, looking out to the street, so that's my driveway. And the front is
84 from...number two (2) is from the road, looking at my house. So you can see it's quite a big
85 yard. Number three (3), I was standing at the far corner of the lot, looking back toward the
86 house and you can see over to the right, that's probably mostly where we'll have the children
87 play. You'll see, number five (5), it's a very big lawn. The kids have always had, you know,

88 they'll take their toys out there and have picnics and that kind of thing. Number four (4) is
89 looking from the driveway toward that same side of the house. And number six (6) is a picture
90 from my deck to the backyard. Our backyard is the smallest part of our yard. And it's a very
91 narrow strip of land and then there's the woods are out there. So it's a natural barrier. We
92 don't have a fence and we would prefer not to put up a fence. I don't think it's necessary
93 because the area is so large. The street is very quiet, there's no traffic to speak of. What I had
94 thought to do was maybe put one of those little flag men out in the front of the yard, as people
95 are coming up the street, it's, you know, because they'd have to come around the circle and I
96 think that would...at least to notify people that children were outside playing. But, I mean, the
97 kids play in the street all the time. They're always with bikes and skateboards and scooters are
98 out on the street all the time but we wouldn't let the children out without supervision, so... Did
99 that answer your question?

100

101 VICKI KEENAN: It did, yeah. Thank you. So how many cars do you think you'll have during
102 pick up and drop off times? Can you estimate?

103

104 KATHLEEN MAROTTA: Well, if there's six (6) children, and we don't plan to take more than
105 six (6) or seven (7) children...

106

107 VICKI KEENAN: Mm-hmm.

108

109 KATHLEEN MAROTTA: ...so I imagine no more than six (6) or seven (7) cars.

110

111 ARIA EMERY: Some of them may be siblings too...

112

113 VICKI KEENAN: Right

114

115 ARIA EMERY: ...so it might only be like three (3) cars.

116

117 VICKI KEENAN: Okay.

118

119 LARRY O'SULLIVAN: Could you identify yourself, please?

120

121 KATHLEEN MAROTTA: I'm sorry?

122

123 LARRY O'SULLIVAN: Aria, would you identify yourself, please?

124

125 ARIA EMERY: Aria Emery.

126

127 LARRY O'SULLIVAN: Thank you.

128

129 ARIA EMERY: Yup.

130

131 MICHAEL GALLAGHER: It would be the two of you? Just the two of you are gonna be...?

132
133 KATHLEEN MAROTTA: Yup. Yes, the two (2) of us.
134
135 ARIA EMERY: Yeah.
136
137 KATHLEEN MAROTTA: Mm-hmm.
138
139 LARRY O'SULLIVAN: Can I ask what the green or blue thing is in your backyard, to what
140 looks like the rear of your garage?
141
142 KATHLEEN MAROTTA: Green or blue thing to the rear of my garage. Oh, that's our camper.
143
144 LARRY O'SULLIVAN: We have the overhead pictures of your home.
145
146 KATHLEEN MAROTTA: You do?
147
148 LARRY O'SULLIVAN: Yeah. It's part of our GIS system.
149
150 KATHLEEN MAROTTA: Oh. Oh, so the...
151
152 LARRY O'SULLIVAN: What we all have is...on our screen, we have the layout of your
153 neighborhood, the layout of your lot...
154
155 KATHLEEN MAROTTA: Oh, alright.
156
157 LARRY O'SULLIVAN: ...what your house looks like from the air...
158
159 KATHLEEN MAROTTA: Oh, alright.
160
161 LARRY O'SULLIVAN: ...the boundaries of your property...
162
163 KATHLEEN MAROTTA: Mm-hmm.
164
165 LARRY O'SULLIVAN: ...and that's pretty much it but...
166
167 KATHLEEN MAROTTA: Yeah.
168
169 LARRY O'SULLIVAN: They're not as helpful as what you passed out, though...
170
171 KATHLEEN MAROTTA: Oh, good.
172
173 VICKI KEENAN: Mm-hmm. It's great.
174
175 LARRY O'SULLIVAN: ...to see the things, the size of things. The yard, the driveway...

176
177 KATHLEEN MAROTTA: Yeah. Usually, we have the camper closed up. We're just getting it
178 cleaned out to go camping.
179
180 LARRY O'SULLIVAN: That's a camper?
181
182 KATHLEEN MAROTTA: Yeah. A pop-up.
183
184 LARRY O'SULLIVAN: My question was asked because I didn't know if that was a lap pool or
185 some kind of a swimming pool.
186
187 KATHLEEN MAROTTA: No. No, we have no swimming pool. [inaudible] - that would be
188 nice.
189
190 VICKI KEENAN: Do you have any more outstanding questions?
191
192 LARRY O'SULLIVAN: No.
193
194 VICKI KEENAN: Richard, do you have anything to add?
195
196 RICHARD CANUEL: No.
197
198 VICKI KEENAN: No?
199
200 LARRY O'SULLIVAN: Did somebody calculate the square footage?
201
202 VICKI KEENAN: Actually...
203
204 RICHARD CANUEL: Yes. Yeah, looking at the square footage that they planned to use, that
205 they proposed on their application compared to the living space, they're well within twenty five
206 (25) percent.
207
208 LARRY O'SULLIVAN: Okay.
209
210 VICKI KEENAN: Okay.
211
212 YVES STEGER: And actually, I did the calculation but there are portions like the bathroom or
213 portion of the kitchen that are not really a place for kids to play, but even if I subtract that and I
214 take only the living room and the foyer, plus a portion of the kitchen, they have enough, so
215 they...
216
217 RICHARD CANUEL: Yeah, they're well within...

218
219 YVES STEGER: They are, right now, at nineteen (19) percent but actually they don't need more
220 than...what was it?
221
222 KATHLEEN MAROTTA: Twenty five (25) percent. You may use up to twenty five (25)...
223
224 YVES STEGER: Yeah, four hundred twenty (420).
225
226 VICKI KEENAN: Mm-hmm.
227
228 KATHLEEN MAROTTA: Yeah. Four hundred and twenty (420) was the amount we needed.
229
230 YVES STEGER: And the living room plus the foyer is about three fifty seven (357), so that's
231 close enough.
232
233 VICKI KEENAN: Okay.
234
235 LARRY O'SULLIVAN: Are you aware of any wetlands in the back?
236
237 KATHLEEN MAROTTA: No, no wetlands.
238
239 LARRY O'SULLIVAN: We have, on one of our maps, a blue, almost round circle if you want
240 to...if anybody wants to see that. I didn't know if you noticed that.
241
242 VICKI KEENAN: You can see [inaudible].
243
244 LARRY O'SULLIVAN: I'd like to get an idea of what that is.
245
246 KATHLEEN MAROTTA: We used to have a swimming pool. It's just a round spot in the yard
247 now. We actually thought that might be a good place to put maybe some play equipment but
248 it's just, yeah, that round circle is the footprint where our pool used to be. It died about three
249 winters ago. And we do intend to replace it.
250
251 LARRY O'SULLIVAN: Mm-hmm. I didn't hear if you had addressed the signage. In your
252 application you did but I didn't know if you did in public.
253
254 KATHLEEN MAROTTA: Oh, no.
255
256 LARRY O'SULLIVAN: No? Okay.
257
258 VICKI KEENAN: Any other questions? Why don't we open it up to the public. Anyone in the
259 audience that wants to speak in favor of the applicant? Is there anyone here that would like to
260 speak against the application?
261

262 LARRY O'SULLIVAN: Or having questions.
263
264 VICKI KEENAN: Or have any questions? Thank you. I always forget that part. No? Okay.
265 Seeing none, is there anything else you want to add before we bring it back to the Board and
266 deliberate?
267
268 JIM SMITH: Are they gonna have any kind of sign?
269
270 VICKI KEENAN: No, he just asked that. No sign.
271
272 KATHLEEN MAROTTA: No sign.
273
274 JIM SMITH: No sign.
275
276 VICKI KEENAN: Yup.
277
278 RICHARD CANUEL: There is one thing I'd like to add, though.
279
280 VICKI KEENAN: Mm-hmm.
281
282 RICHARD CANUEL: You had mentioned that you did not have a plan to put up a fence. A
283 fenced-in outside play area is part of the requirement in your licensing from the State, so, you
284 need to plan on putting a fence there or somewhere in the yard.
285
286 KATHLEEN MAROTTA: Well, I thought if we had to put one in, we would go from the back
287 deck, out on each side and then maybe across in the woods. But we're hoping not to have to.
288 We're hoping if they see, I mean, it's a very safe neighborhood. There's really, I think, no point
289 in it. It would just be an expense for us.
290
291 RICHARD CANUEL: I just wanted to make sure you were aware that that would be part of
292 your licensing requirement from the State is that you have to have a fenced-in play area.
293
294 KATHLEEN MAROTTA: Well, I know they were gonna...I know that was an issue. But we're
295 hoping that they will...
296
297 ARIA EMERY: I thought it said that there might be an exception.
298
299 KATHLEEN MAROTTA: Yeah, I...
300
301 ARIA EMERY: ...somewhere in the paperwork.
302
303 KATHLEEN MAROTTA: I think it did say that it was left up to...when they come out to
304 inspect the house, they may tell us that we have to have a fence.

305
306 RICHARD CANUEL: Just so that you're aware of that. That's all.
307
308 KATHLEEN MAROTTA: Yeah. I'm hoping that they'll say, "Oh, don't need a fence here."
309
310 LARRY O'SULLIVAN: Miss Marotta, the size of the fenced area isn't something that's specified,
311 however, the ten (10) years that I've been on this Board, we have not allowed a family day care
312 to not have a fence.
313
314 KATHLEEN MAROTTA: Do you know, Aria, if there was a...
315
316 ARIA EMERY: I think it would be in this [inaudible]. I'm not sure. [pause]...I'm not sure
317 where. I'm not...
318
319 KATHLEEN MAROTTA: Yeah, we did read...
320
321 RICHARD CANUEL: I didn't mean to stall the Board.
322
323 VICKI KEENAN: No, no.
324
325 RICHARD CANUEL: I just wanted to make sure that that was clear up front, that's all.
326
327 VICKI KEENAN: Please.
328
329 LARRY O'SULLIVAN: Well, regardless of what you find in the State requirements, I mentioned
330 what I did because that's typical.
331
332 KATHLEEN MAROTTA: Yeah.
333
334 LARRY O'SULLIVAN: So, it shouldn't...
335
336 KATHLEEN MAROTTA: I mean, we'll abide by the State regulations and I understand they
337 come into your house twice a year and check for, you know, seeing that you have the little
338 outlets and that everything's safe and I don't agree with all of their regulations but we will
339 abide by their regulations and be prepared for them to come in. I think one (1) time a year, they
340 come in announced and one (1) time they come unannounced, so they keep you on your toes.
341 So, we definitely...I mean, safety would be the major issue for us. I mean, certainly, we don't
342 want anything to happen to the kids in our care.
343
344 VICKI KEENAN: Okay. Alright, we're gonna bring it back to the Board for discussion.
345
346 JIM SMITH: Did she actually state a number of children?
347
348 VICKI KEENAN: Yes, I think they were six (6) to seven (7) but up to twelve (12).

349
350 JIM SMITH: Twelve (12), okay, the twelve (12) is the...
351
352 YVES STEGER: Yeah.
353
354 KATHLEEN MAROTTA: Yeah, the license we're applying for would allow us up to twelve (12)
355 children but I don't think either of us want to have twelve (12) children there. Six (6) is
356 probably a good number.
357
358 DELIBERATIONS:
359
360 VICKI KEENAN: Just a thought on the fence...
361
362 MICHAEL GALLAGHER: Yeah, it looks like as far as that fence goes, it looks like the Board
363 can require it.
364
365 LARRY O'SULLIVAN: We do. I have been on this Board and...
366
367 MICHAEL GALLAGHER: ...has the ability to require it.
368
369 VICKI KEENAN: Right.
370
371 YVES STEGER: We have done it every single time.
372
373 MICHAEL GALLAGHER: Okay.
374
375 VICKI KEENAN: Mm-hmm.
376
377 LARRY O'SULLIVAN: And it's strictly a safety thing. Plus, since we're...the Board discussing
378 now only?
379
380 VICKI KEENAN: Mm-hmm. Yup.
381
382 LARRY O'SULLIVAN: Okay. The State law doesn't require a certain size and one of the things
383 that I am aware of is that people who put in a fifteen (15) by fifteen (15) foot area fenced, and
384 that's the requirement that suits our requirement...
385
386 YVES STEGER: Mm-hmm.
387
388 LARRY O'SULLIVAN: ...if a child plays in that area or if there's a sandbox in that area and goes
389 outside that area, we...they met the requirement, so, you know, the idea is to enforce as much
390 as we can to keep the kids safe simply because we've had drownings in day care scenarios, just
391 children walking through the woods, you know, the tragedies happen.

392
393 VICKI KEENAN: Mmm.
394
395 LARRY O'SULLIVAN: And we'd just as soon avoid that. I don't wanna, you know, scare
396 anybody about this neighborhood or anything else. This is throughout town. From stem to
397 stern we've required it. So, that said, I have no objections whatsoever.
398
399 YVES STEGER: I don't either. And I support the idea of the fence as well.
400
401 VICKI KEENAN: I do, too.
402
403 YVES STEGER: At least to minimum of regulation.
404
405 VICKI KEENAN: Mm-hmm. I think, too, we need to, when we're voting on this, to make sure
406 we include the condition that licenses need to be...I mean, I know it's automatic but that
407 licenses be received and...
408
409 LARRY O'SULLIVAN: I don't think that's necessary. That's like redundant if you ask me.
410
411 VICKI KEENAN: Yeah.
412
413 YVES STEGER: Mm-hmm.
414
415 VICKI KEENAN: Is it redundant?
416
417 RICHARD CANUEL: Yeah, that's the...
418
419 VICKI KEENAN: Okay.
420
421 RICHARD CANUEL: That would be an enforcement issue.
422
423 VICKI KEENAN: Okay. Alright.
424
425 RICHARD CANUEL: ...[inaudible]...we would have to deal with it, our office.
426
427 VICKI KEENAN: Okay.
428
429 JIM SMITH: Looks good to me.
430
431 VICKI KEENAN: Okay. Then is there a...?
432
433 LARRY O'SULLIVAN: You all set, Mike?
434
435 MICHAEL GALLAGHER: Yeah.

436
437 LARRY O'SULLIVAN: Madam Chairperson, I'd like to make a motion to approve Case
438 7/15/2009-1 as presented, with the exception that we put a restriction that there needs to be a
439 fenced area for younger children to play.
440
441 VICKI KEENAN: Is there a second to the motion?
442
443 YVES STEGER: I second that.
444
445 VICKI KEENAN: Okay, so there's a motion by Larry to grant the special exception with a
446 restriction that there needs to be a fenced area for the children to play, with a second by Yves.
447 Any discussion around the motion? Seeing none, all those in favor, signify by saying 'aye.'
448
449 JIM SMITH: Aye.
450
451 MICHAEL GALLAGHER: Aye.
452
453 YVES STEGER: Aye.
454
455 LARRY O'SULLIVAN: Aye.
456
457 VICKI KEENAN: Aye. Opposed? Abstentions? Okay.
458
459 RESULT: THE MOTION TO GRANT THE SPECIAL EXCEPTION WITH RESTRICTIONS
460 WAS APPROVED, 5-0-0.
461
462 RESPECTFULLY SUBMITTED,
463
464
465
466 LARRY O'SULLIVAN, CLERK
467 TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY
468
469 **APPROVED AUGUST 19, 2009** WITH A MOTION MADE BY LARRY O'SULLIVAN,
470 SECONDED BY JIM SMITH AND APPROVED 4-0-2 WITH NEIL DUNN AND MATTHEW
471 NEUMAN ABSTAINING AS THEY HAD NOT ATTENDED THE JULY 15 2009 MEETING.