

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

DATE: APRIL 16, 2008

CASE NO.: 4/16/2008-1

APPLICANT: KERIN AND ROBERT BROWN
2 RABBIT RUN
LONDONDERRY, NH 03053

LOCATION: 2 RABBIT RUN, 11-68-8, AR-I

BOARD MEMBERS PRESENT: MARK OFFICER, CHAIR
NEIL DUNN, VICE CHAIR
YVES STEGER, VOTING MEMBER
BARBARA DILORENZO, VOTING MEMBER
VICKI KEENAN, NON-VOTING ALTERNATE
LARRY O'SULLIVAN, CLERK

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

PRESENTATION: CASE NO. 4/16/2008-1 WAS READ INTO THE RECORD WITH NO PREVIOUS CASES LISTED AND WITH TWO LETTERS TO BE READ INTO THE RECORD DURING PUBLIC COMMENT.

MARK OFFICER: So, we'll read the letters in prior to I open it up for public comment. Who will be presenting for the applicant? Okay, if you could just step forward and take a seat up here. And if we could just have your name and address for the record.

KERIN BROWN: Hi, Karin Brown, 2 Rabbit Run in Londonderry.

MARK OFFICER: Okay. And if you could just start by explaining what the application is about.

KERIN BROWN: Okay. I'm a little nervous, so I have some things written down. I hope that's okay.

MARK OFFICER: Sure.

KERIN BROWN: I've been babysitting in my home a few days a week for some friends for about three months now and thought about how I could be like more of a professional by bringing it to the next level by getting recognized at the State level as a licensed, in-home child care service. In doing so, I felt it necessary to inform my neighbors prior to this hearing with a letter dated March thirty first, 2008, stating my intentions. In an effort to boost my ego and think I was doing something

bigger than I actually am, I used such language as “expansion” and “my business,” when, in actuality, I’m merely babysitting for some friends. I do not advertise and nothing is expanding, except for my embarrassment at this moment. This is an application for Family Day Care as there is no application for part time babysitting. Family Day Care, for those not familiar, under Section 3.12.2 zoning regulations stipulates the care of three (3) to six (6) children from one (1) or more unrelated families, including children under the age of six (6) in your home. I have three (3) children under the age of five (5) years of age, hence, only allowing three (3) additional children at any time in my home, whereas three (3) children in addition to any amount of biological children are also the max to operate as license exempt. Please, if you wouldn’t mind noting the date of the application as March thirteenth, 2008, and the application shows the following points: that this is an application for Family Day Care, as defined above, and that this is a part time job as not operate more than thirty (30) hours per week; two (2), no signage will ever be requested, ever, this is our home, first and foremost; I would like to add that just by bringing in these three (3) additional children a few hours each day, I’ve been able to cut back dramatically on the hours that I work outside of the home for a catering company in Boston, all the while paying a babysitter and missing out on valuable time with my children; number four (4), we’re installing a fence, enclosing a portion of our backyard. We still had snow as of April fourth, so it will likely be an early May project. And in regards to parking and traffic, our driveway accommodates up...over six (6) cars, not including ours that are garaged, including room to turn around completely in our driveway or back out of my driveway safely. As you aware, I am being met tonight with some opposition. I believe I have addressed the issues that I think the neighborhood has concerns with and I’m happy to answer any questions.

MARK OFFICER: Okay. Any questions from the Board?

LARRY O'SULLIVAN: Yes, do you have a diagram of the fenced in area that you’re planning?

KERIN BROWN: Not with me. I have a diagram of our house but I can...

LARRY O'SULLIVAN: Could you give us an estimate?

KERIN BROWN: Yeah, it would be, I hope, a forty (40) by forty (40) area, if I can convince my husband to do that but it would...we have one point seven (1.7) acres, so, probably a forty (40) by forty (40) area.

LARRY O'SULLIVAN: Okay, so, if you say that it’s probably forty (40) by forty (40), part of the decision that we've always made here is...about family occupations, Family Day Care...is that we typically request, especially with a yard where you’re backing onto woods...

KERIN BROWN: Mm-hmm.

LARRY O'SULLIVAN: ...and potentially a swampy area, that you be fenced.

KERIN BROWN: It would be a squared-in fenced area, not just the front of the yard or just like the backyard portion. It’s either gonna be a forty (40) by forty (40) area or we would do a chain link for the back area and the white decorative in the front, I hope.

LARRY O'SULLIVAN: Mm-hmm.

KERIN BROWN: That's what I would go for.

MARK OFFICER: We typically do make it a restriction...

KERIN BROWN: Yes. I'm aware.

MARK OFFICER: ...that we have, but they have a fenced in area. Do you have a pool?

KERIN BROWN: No.

MARK OFFICER: Okay. So, you have three (3) kids.

KERIN BROWN: Yes, I do.

MARK OFFICER: And how many are you babysitting now?

KERIN BROWN: As license exempt, you can take in three (3).

MARK OFFICER: So, you're babysitting six (6) now, three (3) of your...well, three (3)...

KERIN BROWN: Six (6) children are in my home on a part time basis. Some days I don't take in any children.

MARK OFFICER: Okay. Okay, so, when you say six (6), that's your three (3)...

KERIN BROWN: Correct.

MARK OFFICER: Okay. And then the other three (3)...

KERIN BROWN: Are from a different family.

MARK OFFICER: Okay. All one (1) family?

KERIN BROWN: Yeah.

MARK OFFICER: Oh, okay. And it's only part time?

KERIN BROWN: It is. Some days, you know, there is one (1) family that I baby sit her three (3) kids, probably two (2) days a week...

MARK OFFICER: Okay.

KERIN BROWN: ...you know, she's going for her masters, so it's about four (4) hours each time. But then there are other days where, you know, I'll take in three (3) kids, two (2) from one (1) family,

one (1) for another but it's at two (2) different times of day. Does that make sense? So there are some times of the day that I would have five (5) children.

MARK OFFICER: Okay. Alright.

KERIN BROWN: It's a little nontraditional in a sense.

MARK OFFICER: Okay. So, the total number of kids...

KERIN BROWN: Remains standard at six (6).

MARK OFFICER: Right, or less.

KERIN BROWN: Right.

MARK OFFICER: Or less, right. Six (6) or less. The total number of kids outside of your family is up to five (5) but never more than three (3).

KERIN BROWN: No, sir. Three (3).

MARK OFFICER: Oh.

KERIN BROWN: Three (3) only.

MARK OFFICER: Three (3) only, okay. Alright. Okay. Yves, can you just check the percentages for me, if it looks okay?

YVES STEGER: Yes, it is.

MARK OFFICER: Okay. Alright. Any other questions from the Board? Okay, before we open it up to public comment, Larry, would you like to read those letters in? We have some letters that we're gonna read into the record now.

Clerk Larry O'Sullivan read Exhibits "A" and "B" into the record.

LARRY O'SULLIVAN: And the inclusion [with Exhibit "B"] is the letter from Miss Brown to the Slaters. Did you want me to read that?

MARK OFFICER: The inclusion? What do you mean...?

LARRY O'SULLIVAN: They included a copy of the letter that Miss Brown sent on March thirty first, introducing herself to the neighbors, obviously.

Clerk Larry O'Sullivan read the letter from Kerin Brown included in Exhibit "B" into the record.

MARK OFFICER: Is that it?

LARRY O'SULLIVAN: That's it.

MARK OFFICER: Okay. Just one matter of note for the members of the Board. We've heard a couple of times, the "covenants." The Town of Londonderry does not have any jurisdiction over any covenants. Okay?

LARRY O'SULLIVAN: In that area, I think they're misusing the term. I think what they're expecting is our own zoning regulations instead of the covenants, so...Zoning regulations for a residential area is what they're quoting sections out of, so...There's no covenants in that neck of the woods, though.

MARK OFFICER: Okay, alright, so...

KERIN BROWN: May I also include...

MARK OFFICER: Alright, well, each one will have an opportunity to talk. Richard, do you have anything you wanna state for this case?

RICHARD CANUEL: Well, I wasn't quite clear on the total number of children we're talking about here. You might want to clarify that.

KERIN BROWN: Yup, the number of children in my home at any given time will never exceed six (6) children. They include children that reside at the home.

RICHARD CANUEL: Right, yeah, you have to include those, yeah. You gotta be licensed, yes. Okay.

KERIN BROWN: And I...yes. As license exempt, you don't have to, so I could have four (4) children as license exempt that live in my home and still take in three (3) children, hence, taking in seven (7) children. But if I were to go ahead and have a fourth child now, under the licensing laws, then I would only be taking in two (2) children. So, that...as licensed, you only take in six (6). As license exempt, you can take in three (3) additional children above and beyond any children that reside in your home, biological or adoptive.

LARRY O'SULLIVAN: So what you're telling us, really, Miss Brown, is that...

KERIN BROWN: I don't have to be here.

LARRY O'SULLIVAN: ...you didn't have to be here at all.

KERIN BROWN: No, sir, I don't.

LARRY O'SULLIVAN: You don't have to be here at all.

KERIN BROWN: No, sir.

LARRY O'SULLIVAN: But because you want a license, you have to come here in order to have a license.

KERIN BROWN: Correct.

LARRY O'SULLIVAN: So, I think the...

KERIN BROWN: I've already established with my friends and they have no problem with me being licensed exempt as well. I'm not...I can't take in...I'm, you know, so...

LARRY O'SULLIVAN: You're asking for more restrictions on your...

KERIN BROWN: Correct.

LARRY O'SULLIVAN: ...what you do...

KERIN BROWN: Correct.

LARRY O'SULLIVAN: ...and inspections by the State...

KERIN BROWN: That's correct.

LARRY O'SULLIVAN: ...and the opportunity for our Health Inspector to come visit, whereas before you didn't.

KERIN BROWN: I go un-policed as license exempt.

LARRY O'SULLIVAN: Okay. Now, I understand...I drive Rabbit Run all the time, I live on Lawson Farm Road, I know where your house is, I know that neighborhood and I would suspect that if you're neighbors had a better idea that you were going to limit your business growth, the thing they would probably say is, 'well, if we had known that...' However, because the record has that there are complaints or requests...

KERIN BROWN: Mm-hmm.

LARRY O'SULLIVAN: ...they're read, they're here, we take them into consideration when we make our determination.

KERIN BROWN: Yes, sir.

MARK OFFICER: Okay. Any other questions?

BARBARA DILORENZO: I would like to ask one.

MARK OFFICER: Yup.

BARBARA DILORENZO: You may have said this before but you have no intentions to do any renovations on the outside of your place or exterior?

KERIN BROWN: No, sir...no, ma'am.

MARK OFFICER: Well, the fence.

KERIN BROWN: The fence.

YVES STEGER: Excluding the fence.

BARBARA DILORENZO: The fence, well, except...with the exception of the fence. I mean, the structure of the...

KERIN BROWN: No structural.

BARBARA DILORENZO: Yeah, the house, okay.

MARK OFFICER: Anything else? Okay, I'm gonna open it up to the public now. Those in favor of the request, could you just come forward? Sir?

MICHAEL TOTH: Sit, stand?

LARRY O'SULLIVAN: Your choice.

MARK OFFICER: It's up to you, as long as you're by a microphone. You can sit over there, too.

MICHAEL TOTH: My name is Michael Toth, I live at 1 Rabbit Run. Can you hear me alright? Can you guys hear me okay?

YVES STEGER: Mm-hmm.

MARK OFFICER: Yeah, we can. I'm sure you're getting picked up, so...

MICHAEL TOTH: Okay. Well, I sit. I wrote down a few points in support of this request because I think it's important to tell the story, I guess, within the story. And Mr. O'Sullivan, you made an excellent point, that was my first point. As I understood it, the first thing that happened was I got a letter. The second thing that happened is were I think...would hope we would all do if we were a neighbor of somebody who sent us a letter in this manner. The first thing I did was I walked across the street and I knocked on the door 'cause I had some questions 'cause it sounded to me like there was gonna be a business across the street that I had to be worried about. I've got two (2) small kids. It took about five (5) minutes for me to understand what Karin and Bob had intended in terms of expanding their business and it was clear to me quite quickly that that's not what their intention was. Their intention was, 'we're doing this, we want recognition for what we're doing,' and they opened themselves up to more scrutiny. So, I hate to pile onto your point, but that's what struck me the

most. I said to Karin, I said, 'you don't have to do this. I don't understand.' I thought I was missing something. I thought I was missing the point of what they were doing. Everybody that lives in any neighborhood is gonna be impacted when something about your neighborhood changes. I sit before you as a person whose driveway sits like this, almost directly opposite of the Brown's, I think I'd be most impacted on the traffic concerns and the noise concerns and I can tell you, I haven't noticed traffic or noise concerns with what's going on now. It's almost as if they're house has frequent play dates. Friends dropping off kids. My wife does the same thing with her friends, trading off kids so you can get errands done, that sort of thing. That's really all I had noticed and with the number of children not really changing from what's going on now, I didn't see any reason to be concerned. My concerns were cars in and out of the driveway. I have two (2) small kids. And after talking with the Browns, I feel very confident that that's not going to be an issue. In fact, in the opposition, it was noted, traffic, and there was several references to peace and quiet and I submit to the Board that I have more concerns with other people that live in my neighborhood that drive too fast on a consistent basis but I don't have the ability to call them before any Board. I just hope that they'll slow down. So, I'm more concerned with the people who live on Rabbit Run and on Hidden Meadow and the way they drive and so are several of my neighbors as well. The covenants, I think you guys addressed them, I think my point is that I want to make is invalid, you're not saying that you have any concerns over covenants, did I understand that part correctly?

LARRY O'SULLIVAN: I think the people on this Board understand covenants to mean something that, when a neighborhood is built, that everyone needs to sign a document that states so many things and it's on file with the neighborhood association. It's not typically on file with the Town.

MICHAEL TOTH: Okay.

MARK OFFICER: And we have no jurisdiction over it. That's what we...well, that's the way I interpreted that word "covenants." Now, if the people who wrote those letters use the word "covenants" more loosely to refer to our zoning bylaws and...I don't know, it sounds like there is no neighborhood covenants, right? I mean, you would know, right? Other people here would know but we'll find out but obviously, you don't have one.

MICHAEL TOTH: If I had to add that point later, I could come back up, I guess.

MARK OFFICER: Okay.

MICHAEL TOTH: Okay, I'll skip that. And the thing that struck me most is that in getting to know my neighbors, as I think we all would like to know our neighbors a little better, but in getting to know the Browns, the reason that they're doing this is to make more time for their family and to take away from Karin having to leave, go to Boston to make the money that they need to kind of support their family the way they want to and that's probably the main reason why I'm supporting them is, the reason they're doing it is to improve their quality of life and I just don't feel there's gonna be a major impact on the quality of life around the neighborhood because it's already been happening in a legal fashion and I just haven't noticed a big change in what goes on and I live right across the street, so...I think that's mostly important for me to point out, on behalf of myself and my wife who couldn't be here, she's home with our kids, was that they're doing this for the benefit of their family. They're gonna be able to take in money that otherwise, one of the parents would have to go out and earn

spending money while earning it on babysitters and being away from her children and this kind of alleviates that problem. And I think that's it. Sorry, I tried to keep on my points and I'll hold off on the covenant and we'll see if anything develops with that. Thank you.

MARK OFFICER: Thank you.

KERIN BROWN: Thank you.

MARK OFFICER: Anybody else speaking in favor? Sir? Come up. You can stand or sit over there or...it doesn't matter.

KERRY HOGAN: Kerry Hogan, 9 Hidden Meadow. I'm here to speak for what she wants to do, up to six (6) children. I did write a letter and I was gonna send it to the Board but I gave it to her instead to let her read it and didn't forward it to you. It did address there were covenants and I have a copy of the covenants if you want a copy of them. Do you?

LARRY O'SULLIVAN: Sure. Absolutely.

KERRY HOGAN: Would you like a copy of the letter that I wrote her as well, or...?

MARK OFFICER: You can just speak to it. It doesn't matter. It'll be part of the record.

KERRY HOGAN: Originally we heard there was gonna be twelve (12) children and it was gonna be bigger than what it really was, so my wife called up Karin and she came over and discussed it and said that there was only gonna be three (3) children and six (6) children total and she already has three (3) children in her home, that would be included. With that, we decided that there wouldn't be a real impact on the neighborhood, so we agreed. That's it.

MARK OFFICER: Okay. Alright, thank you. Anybody else speaking in favor? Alright, seeing none, those opposed or having questions?

PAUL SLATER: Hi, Paul Slater, 11 Hidden Meadow.

MARK OFFICER: If you could just get closer to the microphone, sir. Thank you.

PAUL SLATER: Paul Slater, 11 Hidden Meadow. There are restrictive covenants. Anyone who's bought a house in Hidden Meadow has them, against any kind of business that's gonna have increased traffic and whatsoever. I guessed Kerry had given you a copy. If you want another one, I have one. I have some concerns as far as the times. In her letter to you, it still states eight (8:00) to four (4:00), five (5) days a week. That's still forty (40) hours, not thirty (30). She applied for the license March thirteenth. She said she's been doing it three (3) weeks as of now. March thirteenth is over a month ago, which means it had to be generated before that. I've seen an increase in traffic, I've seen cars at their house. I like the tranquility of the quiet neighborhood, that's the reason I moved there. I've lived in Londonderry almost thirty (30) years. We had covenants, the same thing, in the Kings when I lived there for twenty-odd years. Nobody could have a business, there was...it was quiet. There is increased noise. I might not live directly across the street but I hear them. I see them,

sometimes on the street. There's a lot of kids. There's other kids in the street, too. Some of these neighbors have kids that are playing in the street, that play on the cul de sac. My next door neighbor has their grandchildren on the cul de sac. They have the courtesy...I know you, I've known you for years, they have the courtesy of putting out a sign, "children at play," one of those caution signs, when they're on the cul de sac. So you know they're out there. But it goes in with that one (1) family. There are other kids on the street, two (2) doors up. One(1) of the neighbors that lives within two hundred (200) feet didn't even get one of these notices, that lives right behind 1 Rabbit Run, number 8 Hidden Meadow. I have a lot of concerns.

MARK OFFICER: What notice are you talking about? The notice from the Town or from Ms. Brown?

PAUL SLATER: From both. They didn't get any.

LARRY O'SULLIVAN: What was the address?

PAUL SLATER: Eight (8) Hidden Meadow. It's right behind 1 Rabbit Run.

MARK OFFICER: Okay, go ahead.

PAUL SLATER: The turning around on the cul de sac. Since I own one third (1/3) of that cul de sac, or have one third (1/3) of the land, traffic's gonna...I don't care if it's two (2) cars or three (3) cars, there's never more than four (4) or five (5) cars that go through there during the day. And I happen to be home all the time. I just have some concerns, 'cause once you ask for a license, if you're saying you're gonna have three (3) to six (6), six (6) being with the three (3) of her own, if she's asking for a license and she didn't need a license, the next step, and she said it to my wife, that she wanted a drop-off center. That would be next. Start with one thing, you get a license, the next thing is expansion. Let's be honest, guys, everybody knows in Londonderry, people expand. You start with a small business, you move on up. That's my big concern. It's a quiet neighborhood, it's always been a quiet neighborhood. When I moved into Town, there was no neighborhood there. So that's about it. That's all I've got. Thanks.

MARK OFFICER: Okay. Ms. Brown, I'll give you an opportunity to rebut but I think I'll hear everybody first, okay? I see you're taking notes, so...Anybody else opposed or having questions?

JON SINGER: Hi, Jon Singer, 7 Hidden Meadow. I guess where I'm confused is the 'expansion' point. She is, like she said, she had bigger ideas, maybe she does...if she's really not...

MARK OFFICER: You have to address us.

JON SINGER: She's really not interested in expanding from her current six (6) kids. I mean, if she were granted a license, then she could expand. She could put out a sign or...

LARRY O'SULLIVAN: Mm-hmm. Unless we...

JON SINGER: ...turn it into a commercial establishment. But if she's restricting it to the six (6), then I don't have any problem with that, so...

MARK OFFICER: Okay. Alright, let's just address this point so we make sure that we're clear. The application is for...

NEIL DUNN: A family care...

MARK OFFICER: ...Family Day Care.

JON SINGER: Right.

MARK OFFICER: And on 3.12.2.10, it lists the definition of these. So, if she were to expand, she would go from "Day Care, Family" to "Day Care, Family Group" or "Day Care Nursery" and so forth, she would have to come back here.

LARRY O'SULLIVAN: Mm-hmm.

MARK OFFICER: Right?

LARRY O'SULLIVAN: Yup.

MARK OFFICER: She would have to come back here. So, the day care, the definition of "Day Care, Family" fits what she's doing now. If she were to expand, meaning, you know, add more kids, essentially, it would...she would have to come back to the Board and apply for that because we have varying levels of family care. It starts with "Day Care, Family" and goes all the way up to "Group Child Care Centers" and things in between. Okay. I just wanted to clarify that.

LARRY O'SULLIVAN: We also received clarification from our secretary that the 8 Hidden Meadow to 2 Rabbit Run, at the closest point, is over two hundred (200) feet away and we're only required to notice people who are less than. Two hundred (200) or less. So, it looks like it's two hundred and thirty (230) or more.

MARK OFFICER: Okay. Thank you. Alright, anybody else opposed or having questions. Ma'am?

DIANE SLATER: Hi, my name is Diane Slater, I live on...at 11 Hidden Meadow and I'm right on the cul de sac. When I did get this letter from Karin, I did call her because she said in the letter, 'if you have any concerns, call.' She told me she was gonna have up to twelve (12) kids and when I asked her where they were gonna play, she said she's gonna bring them over on their bikes on the cul de sac. Totally opposed to that. It's a public road. It's not a playground. It's not a drop-off center. There have been issues this winter where the Highway Department has called the Police who have come to my house because it's very, very narrow with the cars going by around that rotary. There are culverts and there are ditches and I think it's very treacherous if the kids go over there and play, up to twelve (12) kids. She said it's part time. Well, for thirty (30) hours, my...unless my math is wrong, eight (8:00) to four (4:00), five (5) days a week is forty (40) hours. And we keep hitting this word "expansion," which, I think that's her true intent here because if she already has it, what is she doing here? The hours are eight (8:00) to four (4:00). I'd like to ask anybody who's in a daycare who gets out of work and is home in time to pick up their kids at four (4:00), which concludes, she told me

that she was going to have a drop-off center, meaning parents who wanna go food shopping, grocery shopping, getting their hair done, could drop their kids off during the day and pick them up, like a drop-off center. So, it sounds to me like there's gonna be more than the six (6) kids there at one (1) given time or all spread out during the day. I did speak with Mr. Kennedy, 35 Alexander, he couldn't make it tonight, someone's in the hospital but he wanted me to tell you that his dog got killed on Rabbit Run by a car and as I drove down today, there was a little girl in the...in their driveway, no supervision and I knew enough to slow down but where there's a ball, there's a kid and I have some concerns over that. I know 1 Rabbit Run, Mr. Toth says he has no issues. He's...I guess he's at work all day. I'm in and out all day long, I see what goes on in that driveway. The driveway is filled with little tyke's toys, carts, there is no way that six (6) cars can turn around in that driveway. Our driveway, to accommodate six (6) cars to turn around would probably have to be a three (3) car garage, so, that doesn't cut it in my...in my mind. And I'd like to why she's putting up a fence if there's no restrictions. Three (3) to six (6) kids, if your exempt, you don't need a fence. I spoke with the State today. So why is she planning on putting on a fence if there's no rules?

MARK OFFICER: Okay. I'm gonna address two (2) of your points. When we're done hearing public input, when Ms. Brown rebuts, I'm gonna have her address the hours of operation but, to your point, the last point you made, you're right, she does not have to have a fence. That's something that we typically, as a practice, as the Town of Londonderry, have required for all Family Day Cares, so that's our restriction.

DIANE SLATER: Mm-hmm. Okay, it just...

MARK OFFICER: And then...let...and then...I forgot what my other point was gonna be.

NEIL DUNN: Six (6) cars?

MARK OFFICER: Oh, right. Her application is what it is. She can't have twelve (12) kids. Okay?

DIANE SLATER: Okay. 'Cause that's what she told me she planned on doing.

MARK OFFICER: Well, we go by this. Her application.

DIANE SLATER: Okay and I spoke to the...

MARK OFFICER: That the statement of record.

DIANE SLATER: ...I spoke to the engineer and he said, too, that no kids...she cannot bring the kids over to the cul de sac to play. It's not a drop-off center. So I would respect that you would greatly honor that. I am in and out my driveway all day long and I see what's going on. I'm right at that cul de sac and that's not Nelson Field, a rec place.

MARK OFFICER: Okay.

DIANE SLATER: Okay?

MARK OFFICER: Alright.

DIANE SLATER: Thank you.

MARK OFFICER: Thank you, ma'am. Anybody else opposed or having questions? Okay, I'm going to have Ms. Brown rebut and then we can ask her additional questions. Ma'am?

KERIN BROWN: Sure. As far as Mrs. Slater, the only thing that I would like to rebut for that is that I would gladly put it in writing that I will not be playing on Hidden Meadow. I'm sure you can imagine that it's just not a great street, safe street, to play on. So, I'd be happy to put that in writing that I would never play on that cul de sac. It's in writing. As far as the covenants, I'd like to start with that because I was made aware of...the protective covenants now that you have in your hand as well. I found out about them about ten (10) days ago. I have my seller's disclosure here, I have my warranty deed here and it is not listed in there at all and I would like it on record to show that I did not know this at the time of the purchase of my home. In addition, if you wouldn't mind looking at them and at the subdivision of the lots that are included in it. I don't believe that mine's included. So, 68-8 is not listed as one of the houses that is within these protective covenants. So, that's really, I mean, unless my house is mapped incorrectly or they missed it on there, it's not in there, so after pulling the information and looking at them again today, I noticed that discrepancy, so I'm not sure. It's possible that I'm not in there.

LARRY O'SULLIVAN: You're not.

KERIN BROWN: I'm not in there. I didn't think so. So, I'm not even in their protective covenants, so what I do at 2 Rabbit Run really, there's no basis on that. I would like to address the hours of operation as well because I am babysitting on a part time basis. I have a friend who's a personal trainer so I can't predict if she's gonna be working from one (1:00) to three (3:00) in the afternoon or nine (9:00) to eleven (11:00) in the morning. In order to cover myself, yes, I have put hours as forty (40) hours a week, however, I don't believe that I will be babysitting forty (40) hours a week. Mr. Slater made a mention of me doing this for three (3) weeks but I had said three (3) months, so, I think he just misheard me. As far as toys being in the yard, I have three (3) children under the age of five (5). The toys are there. Like it...take it or leave it. They're there. My kids in little, you know, the little tyke's buggy and on their two (2) wheelers and we just took training wheels off and we play in our yard. It's our yard to play in. I think that's all I have.

MARK OFFICER: Okay. On the application, the hours are stated nine (9:00) AM to two thirty (2:30) PM, so...

KERIN BROWN: Correct. I know. When I filled the application out, I just couldn't predict what times people would have. I wish I could say at two...I mean, I guess I could say at two thirty (2:30), 'sorry,' you know, 'your funeral's gonna last until three (3) o'clock for your great grandmother but I can't, I'm limited to my hours. So, when I read my opening statement, I'd like it to be more, as far as the amount of hours per week as opposed to the hours of the day and that's why, in their letter, I did put eight (8:00) AM to four (4:00) PM, because I did realize within that two (2) week period that I really can't choose the hours.

MARK OFFICER: Okay. But it's not...it wouldn't be night, right?

KERIN BROWN: No, sir.

MARK OFFICER: I mean...okay. Okay, what would be the latest, you know, I'm not...I don't mean emergencies or, you know, those things happen and typically...

KERIN BROWN: Right. Yeah, I mean, with notice, I guess six (6:00) PM, I...

MARK OFFICER: Okay. Alright.

KERIN BROWN: I can limit it to four (4:00) PM but, you know, again, I can't...you really can't predict what comes up sometimes. I'd like to be able to say yes if someone says, 'you know what? I've got a dentist appointment but it's not until four (4:00) o'clock.' I'd like to be able to help them out. I've been able to help a lot of my friends in the meantime. I have a friend, like I said, who is a personal trainer. I have a friend who cleans houses, to help her family make ends meet. These are people who you can't bring your children to Kindercare because they don't...they won't baby sit for three (3) hours. I am their friend. I'm helping people and they're helping me.

MARK OFFICER: Okay. And, you know, I don't get a chance to read these since I'm running the meeting but is it stated here that you won't have a sign?

KERIN BROWN: Correct.

NEIL DUNN: Yeah, it's in here.

KERIN BROWN: In the application from March thirteenth.

MARK OFFICER: Okay. Anything else?

KERIN BROWN: That's it.

MARK OFFICER: Alright, any questions from the Board? Any questions?

BARBARA DILORENZO: [inaudible]

MARK OFFICER: Hmm?

BARBARA DILORENZO: I said I can't think of anything at this moment but I might have something crop up.

MARK OFFICER: Well, once we go into deliberations...

BARBARA DILORENZO: Yeah, I know. I know. It's just...

MARK OFFICER: Okay. Richard, are you all set or do you have any more questions?

RICHARD CANUEL: Yeah, I could probably add just a couple of comments here. As it stands now, Mrs. Brown is caring for six (6) children with no requirements for licensing by the State or requirement for home occupation approval. There's no requirement for fencing for a play area for the children at that point because that restriction does not apply. In applying for the home occupation, if the Board so chooses to approve that, the Board can put on a condition that there be a fenced play area for the children. In applying for licensing through the State, the State requires that there be a fenced in play area. The children are not allowed to just play, you know, willy-nilly about the neighborhood. The second issue is the concern of the expansion. If Mrs. Brown were to expand beyond the six (6) children, whether she comes back to this Board or not, that would be an enforcement issue for our department and, you know, that so states in our ordinance as well, so, there's actually more restrictions on what she's already doing, so, that's something to consider.

MARK OFFICER: Okay. Alright, thank you. Just one last time, anybody from the public? Okay, ma'am?

MARGARET WILLBRANT: I'm Margaret Willbrant, 3 Rabbit Run, so I'm on the turn, right up. I came tonight 'cause I didn't really know the whole story, didn't have an opportunity to talk to you, had heard a little bit about what was going on. After hearing this, I don't have a problem with this. I have...it sounds to me like she's already doing this and she's going to make it legit and get the fenced in area and so, I have no problem with it whatsoever.

MARK OFFICER: Well, actually, it is legit even...

MARGARET WILLBRANT: Yeah, exactly, I mean...

MARK OFFICER: She's making it more legit.

MARGARET WILLBRANT: I mean it's more, exactly, it's more.

MARK OFFICER: Right, yeah.

MARGARET WILLBRANT: So, yeah, I...

MARK OFFICER: Okay. Alright, any other questions from the Board? Alright. Oh, go ahead.

NEIL DUNN: Maybe one. Richard, do you know, if the State, if it was a State licensed day care, do they require a certain amount of square footage for the fenced in area?

RICHARD CANUEL: No, not at all. There's not a maximum or minimum requirement for that at all. Just that the area be fenced in. There is no play area per se.

LARRY O'SULLIVAN: It's a pretty logical thing. Nobody's gonna bring their kids to a five (5) foot by five (5) foot play area.

NEIL DUNN: Right. The...

YVES STEGER: You're so generous this time.

NEIL DUNN: In her...the general statement was she was hoping for a forty (40) by forty (40), so I didn't know, you know...

LARRY O'SULLIVAN: Mm-hmm.

NEIL DUNN: ...if it didn't fly and she only could go ten (10) by ten (10) , do we care what size it is, I guess, is my question? So that's why I was wondering if there was some guidelines we could use from the State.

RICHARD CANUEL: No, there's no State licensing standards as far as that's concerned.

LARRY O'SULLIVAN: What we've typically done is we've asked the applicant to fence the yard where the children will be playing. You can see the house on corner of Shasta and Reverend Parker, for example, has a fenced in play area with a sand box and what have you. They have the right to have, what, twelve (12) children there? Everybody drive by there, see twelve (12) children out there? Never. You see some toys out there. Family's got five (5) kids. Five (5) of their own.

MARK OFFICER: Right. I remember that.

LARRY O'SULLIVAN: So, you know, it depends on what your expectations are. I think when you...when I first said that you had...you probably got some people questioning what you're motives were there when you said that your intention is to 'expand'. Well, what you presented is what we're going to be voting on.

KERIN BROWN: Correct.

LARRY O'SULLIVAN: And that's what your application is about, so...

MARK OFFICER: Okay. Alright, I think we're all set. Alright, the Board will deliberate now on case number one (1). At this time, we take no further input from the public. Thank you, ma'am.

KERIN BROWN: Thank you.

DELIBERATIONS:

MARK OFFICER: Okay. Any comments, guys? This is not a variance. Home occupation. What do you feel?

LARRY O'SULLIVAN: Yeah, special exception, right?

MARK OFFICER: Hmm?

NEIL DUNN: I guess one of my thoughts is what happens if the application says nine (9:00) to two thirty (2:30)? How does that...?

MARK OFFICER: We can...it's something I...

LARRY O'SULLIVAN: We've taken the license before to say "approximately" and that hour and a half difference is not a significant thing, as far as I'm concerned, either.

MARK OFFICER: Right, well, we should put a restriction 'not to exceed forty (40) hours of day care operation.'

LARRY O'SULLIVAN: There you go. Monday through Friday.

MARK OFFICER: And the fence...

YVES STEGER: I think the only reason we are interested, we wanna avoid very early or very late traffic or night traffic...

LARRY O'SULLIVAN: Right.

YVES STEGER: ...which is not very common with children of that age, anyway, but restricting even to eight (8) hours, you know, if it's between eight (8:00) and four (4:00), would not be a major issue for this kind of occupation.

MARK OFFICER: Mm-hmm. Yeah, I am concerned, though, that it does say what the application says...

YVES STEGER: Correct...

MARK OFFICER: ...'cause I have a feeling that...

YVES STEGER: Mm-hmm.

MARK OFFICER: ...this is going to be...people may be...

YVES STEGER: Mm-hmm.

MARK OFFICER: ...sticklers about it.

BARBARA DILORENZO: What if we made a statement 'not before the hours of' such and such and 'not later than the hour of...'

YVES STEGER: We can do that.

MARK OFFICER: Right. Before eight (8:00)...

YVES STEGER: Not before eight (8:00).

MARK OFFICER: ...and after six (6:00).

YVES STEGER: Yup.

MARK OFFICER: Normal...for normal.

BARBARA DILORENZO: Mmm.

MARK OFFICER: The problem with this, and we've seen it, is there's gonna be an emergency. There will be a funeral, it'll be six thirty (6:30)...

VICKI KEENAN: I agree.

BARBARA DILORENZO: Absolutely.

MARK OFFICER: ...and it will be reported on.

NEIL DUNN: Traffic jam...

BARBARA DILORENZO: But I think if we went by, like...

MARK OFFICER: Yeah...

BARBARA DILORENZO: ...four (4) o'clock...

MARK OFFICER: ...but, you know, we have to handle that...

BARBARA DILORENZO: Four (4) o'clock, I think, is a reasonable time.

VICKI KEENAN: I don't think so, either.

BARBARA DILORENZO: I don't think four (4) o'clock is unreasonable time because things happen late in the afternoon...

LARRY O'SULLIVAN: Sure.

BARBARA DILORENZO: ...people, you know...

LARRY O'SULLIVAN: Mark, one of the things that you've done in the past is you've talked about how a home business is, home occupations, and in-home services like this are allowed and encouraged in our regulations in town. I mean...

MARK OFFICER: Mm-hmm. Yeah.

LARRY O'SULLIVAN: I think that's something that we missed this time because I don't think most of the folks here took the time to do the things that we do, too, is read through what our regulations are and what the Town plan is. And the Town plan is really designed by everybody in town who's had anything to say about it and if you want to encourage home businesses or home occupations, actually, and in-home services like this, our Town plan does that. And we are, you know, we've rewritten it and rewritten it and made it broader and broader because people have requested it. And they're in the Kings, they're in all different areas of town. The same type of businesses. The same type of, I call it a business, it isn't a business. It's an occupation. So, I think that's a major...a major thing that most folks miss is that it really is encouraged by our Town plan.

BARBARA DILORENZO: I think this type of 'activity,' I'm gonna use that word, 'activity,' happens in many neighborhoods because of two (2) people working and they do share, somebody minds their kids, could be two (2) or three (3) kids. A lot of times they're there 'til three (3), four (4), five (5), six (6) o'clock at night. That's a common thing that happens. A lot of that activity. So, this is, to me, is nothing abnormal.

MARK OFFICER: No. No, I'm in favor of this. I mean, the fact of the matter is, the only thing that will change is for the better.

BARBARA DILORENZO: Mm-hmm.

VICKI KEENAN: Mm-hmm.

MARK OFFICER: She'll have more restrictions on her, the Health/Zoning Officer will be in charge and she'll be restricted to limiting her size of the business, whereas now she's going unregulated now, nobody knows what she's doing, how many kids she has, so...

BARBARA DILORENZO: Right, a fenced in, protected area.

MARK OFFICER: And kids are gonna be playing no matter what.

BARBARA DILORENZO: Yeah.

MARK OFFICER: So, I don't have any problem with this. So, anybody else?

LARRY O'SULLIVAN: What are you gonna do about the hours? I think that's...

NEIL DUNN: Yeah...

LARRY O'SULLIVAN: ...what my question is.

MARK OFFICER: Oh, the hours, sorry, so, obviously, the fence, we'll need that in the restriction for a motion.

YVES STEGER: Yes.

MARK OFFICER: And for the hours, I would say typical hours of operation shall be not before eight (8:00) AM or after six (6:00) PM, not to exceed forty (40) hours per week. Does that sound good?

BARBARA DILORENZO: Yeah.

LARRY O'SULLIVAN: Allows a lot of flexibility.

MARK OFFICER: Yup.

NEIL DUNN: Not before eight (8:00) AM?

MARK OFFICER: Not before eight (8:00) AM.

NEIL DUNN: So, if somebody, if her neighbor works in Boston, who has to be to work at eight (8:00)...?

LARRY O'SULLIVAN: That's not the question.

NEIL DUNN: Well, no, I'm just asking. Again, if...

LARRY O'SULLIVAN: Well, that's because the request was, you know, started at eight (8:00)...

NEIL DUNN: Okay. Alright, no, that's...

[overlapping conversation]

MARK OFFICER: I think the key word here is 'typical.'

LARRY O'SULLIVAN: 'Typical,' 'standard.'

MARK OFFICER: Yeah. I mean...

VICKI KEENAN: Monday through Friday.

MARK OFFICER: Hmm?

VICKI KEENAN: Monday through Friday.

MARK OFFICER: Yeah, Monday through Friday, yup. Okay. Alright, does anybody like to make a motion for case number one (1)?

LARRY O'SULLIVAN: Do you have it all down there?

NEIL DUNN: Well, that's why I was trying to get the timing down and all that.

LARRY O'SULLIVAN: Take your time.

NEIL DUNN: I'd like to make a motion, Mr. Chairman. I make a motion that we grant case 4/16/2008-1 with restrictions, restriction one (1) being that a fenced in area for the children to play in needs to be installed and restriction two (2), that the typical hours of operation not exceed forty (40) hours of operation in the week.

MARK OFFICER: Okay.

BARBARA DILORENZO: And are you gonna state 'not before eight (8) o'clock'?

VICKI KEENAN: Right. Yeah, eight (8:00) AM?

BARBARA DILORENZO: And 'not to exceed...'?

NEIL DUNN: Well, that's what I was trying to say. Do we really wanna go there or do we just wanna say, 'typical hours of operation is forty (40) hours'? I mean...

MARK OFFICER: You...

YVES STEGER: I agree with him.

LARRY O'SULLIVAN: Oh, I see what you mean.

MARK OFFICER: And leave it at that?

LARRY O'SULLIVAN: I see what you mean. Yeah.

BARBARA DILORENZO: Yeah.

MARK OFFICER: It might be best. Yeah, I'm fine with that.

VICKI KEENAN: Mm-hmm.

MARK OFFICER: Okay. Do I have a second?

BARBARA DILORENZO: I'll second it.

MARK OFFICER: Alright, seconded by...so, the motion's made my Neil, seconded by Barbara. All those in favor, say 'aye.'

LARRY O'SULLIVAN: Aye.

NEIL DUNN: Aye.

YVES STEGER: Aye.

BARBARA DILORENZO: Aye.

VICKI KEENAN: Aye.

MARK OFFICER: Aye. Those opposed? Alright, motion carries, five (5), zero (0).

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

RESPECTFULLY SUBMITTED,

LARRY O'SULLIVAN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED MAY 21, 2008 WITH A MOTION MADE BY YVES STEGER, SECONDED BY BARBARA DILORENZO AND APPROVED 3-0-0.