

Board of Adjustment, August 31, 1982      Big Bird's Nest Child Care & Family Services, Inc.

Present: Gail Proctor, Tom Mitchell, Lynn Draper, Garry Crooker, Greg Bohosiewicz, Members of Board of Adjustment; Helen Ring, Secretary; Norman Simson, Building Inspector; Betty Ellis, Director of Big Bird's Nest; Dorothy Foote and John Hammer, members of the corporation; Steve Blanchard, Selectman; Nancy Keddy, Omer Hutchinson, Abutters; Deborah Degan, Lee and Nancy Davis, Susan Hodge, Al Hodgen, Mrs. Jasper and about five others, neighbors and customers.

Gail Proctor, Clerk, summarized the application. Big Bird's Nest Child Care and Family Services, Inc. has requested an exception concerning Article V, Sections B1 and B2 relative to home occupations. Applicant proposes a day-care and kindergarten on the property located on Main Street in the residential zone. Tom Mitchell read Article V, Sections 1 and 2.

Dorothy Foote, an incorporator of Big Bird's Nest and a neighbor and co-owner of the property said she felt Betty Ellis had improved the property 150% and has therefore increased property values in the neighborhood.

Betty Ellis said the business includes day care as a service for working parents, and a nursery and kindergarten as teaching services. In answer to question by Omer Hutchinson, she said they have no intention of changing the barn. The house will be occupied as a single family residence plus the Big Bird's Nest.

Traffic. Steve Blanchard said that as a selectman he had monitored the operation at times when children were being left off and picked up and he felt that there has been no unreasonable interference with traffic. Garry Crooker agreed, but asked about special occasions such as Christmas programs. Betty Ellis said the only such occasion would be the graduation in the spring, but almost everyone in a residential area has some kind of party once in awhile.

Noise. There was considerable discussion of noise. Several abutters and other neighbors spoke of problems of too much noise. It appeared that part of the problem had been with previous tenants, part with the start-up activities when a number of teenagers had helped prepare the premises for the business; but neighbors felt there was still too much noise from the 25 children playing outside. Betty Ellis said that at times all the 25 children were out playing at the same time, but there were long periods when all were inside. Noise from a mill in the area was also mentioned and compared to noise from the children.

Customers of the Center felt that a good service was being provided for the community.

Harassment. One abutter had experienced harassment since the day care center had started. It appeared that this was not due to the business itself and was a matter that should be taken up with the police or selectmen. John Hammer said that Betty Ellis' son and a roommate have been renting a back apartment and may have caused some of the problems. He understood that they are being evicted and will be leaving to live somewhere else within the next 10 days.

Operating Without Permit. The business has been in operation for 30 days. Question was raised as to the legality of this and how it came about. Betty Ellis said that when she read the zoning ordinance, it appeared to her that day nurseries and kindergartens were specifically permitted in a residential zone. The semicolon in Art. V, Section A-3 seemed to her to indicate that the non-profit aspect applied only to the recreational and fraternal activities mentioned. The Planning Board was uncertain of how the paragraph should be interpreted and had decided to postpone a decision in

order to consult with counsel, and discuss it later by telephone. However, some member of the Board had said in an aside that if the business was non-profit, there would be no problem. Big Bird's Nest incorporators therefore filed for non-profit status and have received approval for this.

The building has been inspected by the Fire Chief, Gilbert Testa, and Building Inspector, Norman Simson, and found to be in compliance with their requirements. Also it has been approved by the State Welfare Department and a license has been granted.

Betty Ellis had not realized when she bought the property that she had to do before the Board. Dorothy Foote said she and her husband, John Hammer, had run a day care business in the area in 1977 and no questions had been raised; she too felt that Article V, A-3 permitted day nurseries and kindergartens. She felt that Betty Ellis had acted in good faith.

After a short recess the following motion was made by Tom Mitchell and seconded by Garry Crooker:

Be it resolved that we grant the special exception to Big Bird's Nest Child Care and Family Services, Inc. with the restriction that (1) no more than 12 [changed to 13 at request of John Hammer with agreement of Board] children be allowed outside at one time to provide some degree of noise control; (2) adequate plowing for snow removal be done to maintain the parking places that exist, specifically the snow banks be removed; (3) that a reasonable control of noise be exercised.

Yes votes: Gail Proctor, Tom Mitchell, Lynn Draper, Garry Crooker. Greg Bohosiewicz abstained.

Question about enforcement. The Board suggested that enforcement was responsibility of selectment acting upon complaints by neighbors and abutters if the restrictions were not adhered to.

Meeting adjourned at 9:12.



Helen Ring, Secretary