



ZONING BOARD OF ADJUSTMENT
WILTON
NEW HAMPSHIRE 03086

MINUTES MAY 10, 1989

The meeting was called to order at 7:31 PM by Tom Mitchell, Chairman. Members present were Neil Faiman, George Infanti, Grayson Parker and Cindy Harris; secretary Joanna K Eckstrom and Alternate Roger Wellington also present. Press represented by Peter Ferrand and Ron Bitten.

The only case called was that of the rehearing of a request for Special Exception by Peter and Celeste Oberg to the terms of Article V Section D-1. Applicants propose a Day Care facility for approximately 40 children at property located on Prince Street in the Residential Zone.

Adrian Gentes, an abutter, asked the definition of Special Exception; this was given.

Mitchell said that the rehearing was being allowed for two reasons, the Board having been split in its reasons for allowing the rehearing. Half the Board felt that it had committed a technical error by not having given specific reasons for its denial of the request; the other half felt that new evidence was available on which to base a decision. Mitchell said the plan was for a maximum of 40 children and that our ordinances say there must be adequate parking.

Peter Oberg made his presentation saying that 16 parking spaces are shown on their plan. This includes 4 spaces for the tenants. Other changes to plan (as different from that shown at original hearing) are a fenced area near the building to keep people away from the possible danger of snow falling off the roof. He said there is an existing apartment in the barn. The first floor of the barn has adequate space for 40 children; the driveway is to be one way - enter via Prince and exit via Tremont. Play area outdoors is 3000 sf + (on the Blanchard side of the property). The changes to the property will be mostly internal; outside would be the fence for the play area.

Mitchell called for abutter input at this time. Abutter Virginia Gentes said that "traffic guards" are children from the elementary school. Felt that newspaper article gave impression that guards were adults. Said children had no authority to stop cars. She is teacher at school; this is big responsibility to place on children. Had spoken with Ann Jasper of School Board who said she would not let her kids guard (at proposed day care area).

Mitchell said he did not get that impression re: "adult" traffic guards.

Mrs Gentes continued there could be 40 cars at once. Parents aren't supposed to drop kids at bus stops, but do. Asked what hours of operation would be. Celeste Oberg said 6:30 to 6:00, five days a week.

Adrian Gentes said he had taken pictures of the "traffic" situation during the day but did not have them developed on time. Wanted to be able to show them at a later date. Said there is real fiasco there in morning and afternoon. Cars park on the street from the Bolt Co up to Prince St.

Mrs Oberg said that children would arrive at scattered drop off times. There wouldn't likely be 40 cars at once. She added that people have car pooling options as well as being able to use the facility for after school programs, so there could be less traffic when school lets out if kids go across way to after school program.

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Gentes asked how many feet there were between buildings on lot. He said the barn is just 5 feet from his house. Also feels that because of this noise would be a problem. But major concern is safety (traffic). Mrs. Gentes added that sidewalks aren't cleared in the winter, so kids are in streets. She asked if Oberg intends to use the school play area. Mrs Oberg said no, she has plans for on-site play area. She can't say she'd never go to the school yard, but she would not use it as her own.

Mitchell re-capped the Gentes' concerns as traffic and noise.

Abutter Nancy Boutwell said she had observed traffic patterns in area and has seen an increase in children in area from 5 PM on. This is likely due to better weather and kids using school playground.

James Martin is a tenant on the property under discussion. Says this is a residential area. Says there's traffic and kids from school let out until 7:30. Adds lots of kids unsupervised in area and there is congestion. He said that lower part of Prince Street not wide enough for two cars and this presents problem for traffic and safety. In winter it's difficult to get up that hill. Infanti responded that drivers have a choice - nothing in proposal requiring use of that part of Prince Street. Mitchell added that plans show access from Prince St from Maple up.

Other abutters not present, however, abutter Steve Blanchard wrote a letter which was read into the record. His concerns were for traffic, safety factors.

Faiman said he was skeptical about 16 spaces shown on plan. Oberg clarified by spaces on the plans. Gentes also viewed these, commenting that he was additionally concerned about noise. Mrs Gentes said there'd be an impact to the neighborhood with the addition of 40 kids year round.

Mrs Oberg stressed the need for Day Care in Wilton. She said the one on Main Street had closed down - it had less parking than that they propose and was licensed for 24. Because of proximity to school, Oberg's felt this an ideal site for day care. She was upset by Blanchard's remark about "greed" being reason for wanting 40 kids. Said that if that were so they'd be requesting maximum allowable by State for building which is 80.

Mitchell reiterated that criticisms are parking, congestion and noise. Asked Gentes if his arguments would be reduced with half as many children. Gentes said no, this isn't the place for Day Care. Anything extra adds to problems (already existing). Mrs. Gentes said school sends reminders to parents all the time about the parking and drop off areas and they don't always comply.

Martin asked what the "law" was regarding number of spaces needed for the facility. Mrs Eckstrom said this is a guideline used by NRPC not a law. The Town engages NRPC as its expert witness in such things as parking, traffic. The guideline said that one space is required for every six children - in Oberg's case 7 spaces. Parking required for employees - 4 spaces and for tenants - 2 per dwelling unit brings total needed to 15. (Oberg's have shown spaces for 16.)

Parker asked about the snow fence. This is 6 to 8 ft from barn.

Mrs Eckstrom asked if children would be supervised at play time. Yes. Mitchell asked how long they'd be outside. Celeste said 20 mins to half hour at a time, depending on the weather. Mrs gentes asked if 40 would be out at once. Celeste responded maybe sometimes but stressed that they'd be supervised. Parker asked Mrs Gentes how many teachers supervised students at recess. She replied two, but said these kids are older.

C. In the middle of the driveway... in the circular drive-
Faiman cited the Ordinance referencing (a project's) attractiveness to the Town. Said there's a forsythia bush and questioned whether it would be removed. Pete Oberg said no.

Mitchell said they'd decided on 40 children for economics; asked impact of half the number. Pete said it wouldn't be economical. They asked for 40 because building would accommodate 40 (actually 80). Its hard to find buildings that size he added. Said its unfair to assume that 40 cars are going to show at once. Celeste added that standing parking could occur in the circular driveway and didn't see this as problem. Mitchell closed the discussion to the floor so that the Board could consider the case.

Infanti said he had mixed feelings. Feels parking has been adequately addressed but is concerned re: Pg 5 ¶2 vis a vis the Ordinances. This ¶ defines when it is necessary to grant a Special Exception and believes these questions are all answered affirmatively, thus requiring that Board grant the Exception.

Faiman pointed out that interpretation of Ordinances by Board is subjective, where noise is concerned. Mitchell said that although noise is a factor, it is controllable. Faiman quoted Ordinances as related to Article V Section C which deals with Special Exception for Home Occupations. Compares language in this vs Art V Sect D saying that Art V Sect D does not specifically mention traffic. Did writers of Ordinance overlook this or was it purposely left out and should this Board belabor traffic concerns in light of fact that Ordinances do not specifically address this. Mitchell said congestion is mentioned in the Ordinances; although traffic not specifically, by implication of "other factors".

Infanti hoped that someone from the Town (like Police Dept) could address Board on safety. Added that property values would be affected as well by allowing the Day Care. But they meet criteria on pg 5 so Board must vote to grant.

Faiman said RSA on pg 26 "implies" that because it's not cited specifically, traffic should not be addressed belaboredly. Also 1 car every 3 mins not enormous.

Parker felt that traffic will not be excessive. Has personal experience with a day care in one of his buildings. Not all showed up at once. Traffic was staggered.

Mitchell - surrounding street patterns don't allow (this kind of traffic.)

Infanti moved to grant Special Exception as presented; seconded by Faiman.

Parker moved to amend -- feels there is as much a need for snow fence or protective barrier on Tremont side as on other. Amended motion to require protective barrier on Tremont side in granting request. Faiman seconded. Vote on the amendment unanimous in favor.

Vote on the amended motion to grant subject to protective barrier on Tremont side three to two in favor. Voting as follows:

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Cindy Harris - NO - her personal interpretation of Ordinance is that traffic is unsafe for that area.

Neil Faiman - YES - not thrilled about the parking but doesn't feel that traffic impact is significant. Believes traffic will be staggered and sees a definite need for Day Care and this seems to be an appropriate site for it.

George Infanti - YES - because condition set forth on Pg 5 have been met, doesn't see that Board can legally refuse.

Grayson Parker - YES - traffic is not significant in the total picture. Parking has been addressed. Is aware of abutters concerns but doesn't feel that noise from supervised children would be a problem.

Tom Mitchell - NO - "other factors" deal with safety. 40 cars would cause congestion from increased traffic. Maybe less (30) would mitigate the safety factor. Safety relates to "other factors" in our Ordinances.

Special Exception granted 3 to 2. Notice of decision to be posted.

The abutters remained a few minutes longer to ask what recourse they had to appeal decision. Board would need request for rehearing within 20 days. Grounds for rehearing must be new evidence as it did not make any technical error this time. Gentes asked if new evidence could come from Town re: traffic. Martin said that waste removal had not been addressed - felt this was new evidence. The abutters were advised to follow the appeal procedure.

OTHER BUSINESS:

ELECTION OF OFFICERS:

Infanti nominated Tom Mitchell as Chairman; second by Cindy Harris. Unanimous

Infanti nominated Grayson Parker Vice Chairman; second Cindy Harris. Unanimous

Cindy nominated Joanna K Eckstrom as Clerk; second Infanti. Unanimous

Roger Wellington was welcomed to the Board as Alternate.

Tom will get the rules of order/procedure to Joanna for distribution to Board members. Also, since Special Exceptions have no form to fill out for decisions, it was decided that when vote is taken, reasons for vote will be given and included in the minutes of the meeting. These can also be used in the written Notice of Decision to applicants.

Meeting was adjourned at 9:40 PM

Respectfully,

Joanna K Eckstrom
Secretary