

**TOWN OF BELMONT  
ZONING BOARD OF APPEALS**

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ZBA Case No.:	18-15
Applicant:	Catherine M. Umina
Property Address:	12 Benjamin Road
Date of Public Hearing:	June 8, 2018
Members Voting:	Nicholas A. Iannuzzi, Jr., Chair Tino Lichauco, Member Andrew Plunkett, Member Craig White, Member Phil Ruggiero, Associate Member Casey Williams, Associate Member Blake Currier, Associate Member
Members Sitting:	Nicholas A. Iannuzzi, Jr., Chair Tino Lichauco, Member Andrew Plunkett, Member Craig White, Member Phil Ruggiero, Associate Member

**Introduction**

The matter came before the Board of Appeals (the "Board") of the Town of Belmont (the "Town") acting as Special Permit Granting Authority under the Zoning By-Law of the Town (the "By-Law") and Chapter 40A of the Massachusetts General Laws. This matter involves the application (the "Application") of Catherine M. Umina (the "Applicant") for a Special Permit under Section 3.3 of the By-Laws to operate a Child Care Large Family at her home at 12 Benjamin Road. The property is in a Single Residence General Residence (GR) Zoning District.

After all legal requirements of notice and publication were satisfied, a public hearing was held by the Board on June 8, 2018.

**Proposal**

The Applicant made a presentation to the Board. The Applicant has been a licensed Family Day Care Provider since and has been providing daycare services at her home since 2015. The Applicant plans on operating her daycare from 7:30 a.m. to 6:00 p.m. Monday through Friday, including the time of staggered drop-offs (starting at 7:35 a.m.) and pick-ups (starting at 4:45 p.m.). The Applicant provided a map of her home and the surrounding area and the proximity to Belmont High School. The Applicant also provided photographs of her home and the area in which the daycare services will be conducted. The daycare will take place on the first floor and the basement of the property. The backyard of the property is fully fenced in. The Applicant was advised by the Board to make sure she kept the children in her fenced in backyard during play-time. The Applicant will have 2 assistants helping her operate her Large Family Day Care.

One person spoke in favor of the Applicant's request for a Special Permit to operate a Child Care Large Family at her home at 12 Benjamin Road.

No one spoke in opposition.

The Board confirmed with the Applicant that she understood that the Special Permit the Board issued is effective for only as long as the Applicant's EEC license is valid and that the Special Permit is issued to the Applicant solely. It is not transferable.

### **Decision**

At the conclusion of the public hearing, the Board deliberated on this matter.

Under By-Law § 7.4.3, a special permit may only be granted if the Board determines that "the proposal's benefits to the Town will outweigh any adverse effects for the Town or the vicinity, after consideration of the following preferred qualities, among other things." The By-Law then lists a number of preferred qualities. As pertinent to the Application, they include minimum traffic impacts on abutting residential neighborhoods, the use should complement the character and scale of existing buildings/uses/activities in the neighborhood and not create undesirable impacts, the use shall be beneficial to the Town and fulfill a need, and access should be safe and convenient.

In evaluating the Application, the Board considered the pertinent factors and in particular:

- a) The size and layout of the property and its location on a wide, with reasonably available parking.
- b) The value to the Town of Belmont of day care.
- c) The effectiveness of reasonable and appropriate conditions to limit potential adverse effects, which the Board imposes on day care uses.

Based on the foregoing factors, the Board determined that, when subject to certain conditions, the benefits of the proposed Child Care Large Family outweigh any adverse effects to the Town or the neighborhood and that the proposed Child Care Large Family will be in harmony with the general purpose and intent of the By-Law.

**Accordingly, upon motion duly made and seconded, the Board voted 5-0 to grant the Special Permit for a Child Care Large Family at the property, subject to the following conditions, all of which are material to the grant:**

1. The Special Permit granted herein for a FAMILY DAY CARE is personal to Catherine M. Umina and is not transferable or assignable to anyone else.
2. The Special Permit is valid only so long as the Applicant has a valid license to provide family child care services issued by the Commonwealth of Massachusetts and will expire on the expiration of the Applicant's license from EEC.
3. The child care services may be conducted only at the property, and only in space defined as habitable under the state Building Code.
4. The Applicant must have two (2) assistants in accordance with EEC licensing procedures.
5. The hours of operation of the Child Care Large Family are to be from 7:30 a.m. to 6:00 p.m. Monday through Friday.
6. Not more than ten (10) children may be cared for pursuant to the Special Permit.

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7. The backyard of the Applicant's property must be entirely surrounded by fencing for the safety of the children. The Applicant must keep the children in her fenced in backyard during play-time.
8. The premises are to be equipped with operating smoke detectors and fire extinguishers as required by law. No portable heaters shall be used in any room in which children are cared for.
9. Before the operation of a Child Care Large Family pursuant to this Special Permit may begin on the property, the Applicant must file with the Board the following:
  - a. Certification from the Belmont Fire Department of compliance with all the Department's requirements for family day care programs,
  - b. Copies of both the Applicant's license and the assistants' license to provide child care services issued by the EEC, and
  - c. A detailed floor plan of the basement of the property.

On behalf of the Board

Dated: July 12, 2018



Ara Yogurtian  
Assistant Director  
Office of Community Development