

Day Care
in
Cape Elizabeth

Status Report

January 14, 1997

Prepared by the ACP Office



TOWN OF CAPE ELIZABETH

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PUBLIC NOTICE DAY CARE FORUM

The Cape Elizabeth Town Council will be hosting a public forum at the Town Hall to discuss the regulation of Day Care facilities on:

**Thursday, January 16, 1997
7:00 p.m. to 9:00 p.m.**

The location and appropriateness of day care operations has been the subject of recent discussion. Town Councilors would like feedback from all interested parties, including day care operators, parents who use day care, and residents adjacent to day care providers. The public forum will be an opportunity to share your day care experiences in a casual format.

A summary of the town's current day care regulations will be presented. Based on the comments made at the public forum, the Town Council may consider changes to the current regulations. For more information, contact the Assessing/Codes/Planning Office at 799-1619.

Introduction

The Cape Elizabeth Town Council has scheduled a public forum to gather comments and discuss issues related to day care facilities. To prepare for the public forum, this summary of the status of day care facilities in Cape Elizabeth has been assembled. The enclosed spread sheet lists the known day care facilities in Cape Elizabeth and various features of operation. A summary of the current local regulations is also found below.

Current Local requirements

In May 1991, the Cape Elizabeth Town Council adopted Zoning Ordinance revisions regulating day care (see attached). Prior to this time, at least one day care provider had been required to apply to the Zoning Board for Conditional Use review and to the Planning Board for Site Plan Review. The general consensus was that this level of review was excessive for day care facilities with 6 or fewer children.

Two Types of Local Day Care Facilities

After review of the state licensing parameters, the town decided to create two day care types for purposes of local regulation. Day nursery was defined as day care in the home for up to 6 children. Day care home was defined as day care for more than 6 children. The Town was aware that the state licenses up to 12 children as one type of day care but chose to organize local regulation based on 6 children.

To address the concern with excessive regulation, a streamlined process was created for day nurseries (up to 6 children). Site Plan Review by the Planning Board was eliminated and a special use permit process was created whereby Zoning Board Review might also be eliminated. The provision stated that, upon application to the Code Enforcement Officer for a day nursery, the Town would mail notices to neighbors of the proposed day care. If no one objected in writing at the end of 30 days, the Code Enforcement Officer could issue a use permit and no Zoning Board review would be required. If anyone objected in writing, then Zoning Board review would be required. Zoning Board and Planning Board review is still required for day care homes, which operate with more than 6 children.

In exchange for this streamlined approach, four day care performance standards were added to the ordinance. These standards are based, in part, on state licensing requirements, and in part, on common issues raised during day care facility reviews. The Town chose not to try to regulate the qualifications of day care operators, but rather to focus on land use issues. It is expected that state licensing will regulate the qualifications of day care operators, although a state license is not required for local approval.

Local Day Care Operators

The attached spread sheet lists all known day care operators in alphabetical order by last name of operator. For purposes of discussion, state license holders that are not operating are listed and noted as not operating.

Local Approval

Columns 5 and 6 indicate the local approval status of each facility. In some cases, day care facilities may pre-date town records of Zoning Board approvals.

In one case, a day nursery opened in 1992 after the operator was informed by the Code Enforcement Officer that day nurseries were a permitted use. No review by the Zoning Board or notice to the neighbors occurred.

In two cases (1993 and 1995), day nursery operators requested permission from the Code Enforcement Officer to open and a "30-day" notice was mailed to neighbors. Written objections were received by the Town within the 30-day period, however, the use permit was issued and there was no review by the Zoning Board.

In one case, the day care facility was treated as part of an existing use.

In two cases, "30-day" notices were mailed, no objections were received, and the Code Enforcement Officer issued a use permit.

Planning Board review is required if the facility will have more than 6 children. Three facilities have received Site Plan approval from the Planning Board.

State Licensing

Based on state records received in December and follow-up calls with day care providers, all but two day care facilities have state licenses. The state uses 12 as the break point for license differentiation. There are three operating day care facilities in Cape Elizabeth that have state licenses for 13 or more children.

For comparison purposes, following is a chart depicting the number and type of state-licensed day care facilities in Cape Elizabeth and the comparison communities used in the Comprehensive Plan.

**State Licensed
Day Care in Comparison Communities**

Municipality	Day Care Home Registered	Day Care Home Licensed	Day Care Center	Small Day Care Facility	Nursery School	Total
Cape Elizabeth	2	10	2	0	1	15
Cumberland	2	15	1	0	3	21
Falmouth	3	12	6	1	4	26
Scarborough	4	10	12	0	3	29
South Portland	15	44	10	1	3	73
Yarmouth	2	29	6	2	6	45
TOTAL	28	120	37	4	20	209

The attached line chart graphically depicts the number of day care facilities in comparison to other communities.

Fire Inspection

The State Fire Marshall and the Town Fire Chief periodically inspect day care facilities. Column 9 indicates facilities which have been inspected.

Day Care Facility Location

There has been some discussion about the appropriate location of day care facilities. Information on the classification of the road that a day care facility is located on has been provided. Over half of day care facilities are located on Local, that is neighborhood, roads. The larger day care facilities are located on Arterial, Collector and Rural connector classification roads.

In the event that there is some discussion about establishing a possible minimum lot size for day care facilities, lot size has been provided. Average lot size has been calculated at just over one acre, 46,522 sq. ft. The former facility at the High School and Emily's School at the Methodist Church have not been included in the average as they would skew the lot size from the typical in-home day care.

Map/Lot	Operator's Name		Address	ZB	PB	State	State License	Fire	Road	Lot Size	Ages	Day Care Name
	Last	First				License (5)	# Children		Classification	in Sq. Ft.		
U20-6J	Bradway (1)	Natalie	19 Grover Rd	Denied		SDC	up to 12	N/A	Local	8,500		
U32-6-40	Campbell	Linda	62 Columbus Rd	No(6)		DCH Lic		x	Local	15,000	0 to 6	Briarwood
U21-12	CE Community Services (4)		CE High School			DCC	13+	x	Arterial			
U4-37	Collins	Christine	16 Ivie Rd	No(7)		DCH Lic	3 to 12	x	Local	10,165	0 to 5	A Child's Garden
R3-24A	Coughlin	Catherine	38 Broad Cove Rd	Yes				N/A	Feeder	161,172		Phantom Farm After School
U22-76A	Cummings	Betsey	280 Ocean House Rd	No(8)		NS	13+	x	Arterial		0 to 5	Emily's School
U21-158	Downer	Rhonda	15 Meadow Way	No(9)		DCH Lic	3 to 12	x	Local	6,500	0 to 12	
U21-29	Edwards (2)	Theresa	34 Farm Hill Rd	No(9)		DCH Reg	3 to 12	x	Local	6,988		Theresa's House
U21-119	Fairbanks	Catherine	29 Farm Hill Rd	No(10)		DCH Lic	3 to 12	x	Local	8,225	0 to 6	White Gate Nursery
U5-61	Farris	Sandra	21 Cottage Lane	No(9)		DCC	13+	x	Local	26,780	0 to 5	Maiden Cove Child Center
U33-29	Hewitt	Joni	243 Mitchell Rd	Yes	Yes	DCC-P	13+	x	Collector	43,560		Ledgemere Country Day School
U23-5	Hewitt, Williams	Kate	250 Ocean House Rd	Yes	Yes	DCH Lic-unk	3 to 12	x	Arterial	161,172		On Our Planet
U25-35	Lacey	Shareen	166 Ocean House Rd	Yes		DCH Lic-unk	3 to 12	x	Arterial	39,288		Cape Care
R4-10A	Moulton (3)	Leray	36 Eastman Rd	No		DCH Reg-unk	3 to 12	x	Feeder	52,272		Diapers and Day Dreams
U37-5-3	Mullin	Pamela	44 Two Lights Rd	Yes	Yes	DCH Lic	3 to 12	x	Rural Connector	103,673	0 to 12	Appletree
U49-32	Orick	Sally	22 Cheverus Rd	No(9)		DCH Lic	3 to 12	x	Local	19,868	0 to 5	Cape Child Care
U34-3	Putnam	Carolyn	145 Mitchell Rd						Collector	8,450		Discovery Center Nursery School
R03-19	Rockwell	Lisa	479 Old Ocean House Rd	30-day		DCH Lic	3 to 12	x	Rural Connector	152,460	0 to 5	Funny Farm
U21-27	Smith (3)	Kellie	30 Farm Hill Rd	30-day		DCH-Lic		x	Local	5,800		Elizabeth Park Child Care
U21-109	Sullivan	Laura	12 Meadow Way	No(9)		DCH Lic	3 to 12	x	Local	7,521	0 to 6	Laura's House
						(5) DCH Reg-Day Care Home Registered				46,522		
(1) Not operating						DCH Lic-Day Care Home Licensed						
(2) Closing August 1997						DCC-Day Care Center						
(3) Not yet open						SDC-Small Day Care						
(4) No longer in operation						NS-Nursery School						
						P-Provisional						
						unk-application status unknown or pending						

Notes

(6) Notified Code Enforcement Officer 8/92. Code Enforcement Officer replied that day nursery is a permitted use. No 30-day notice or Zoning Board review conducted.

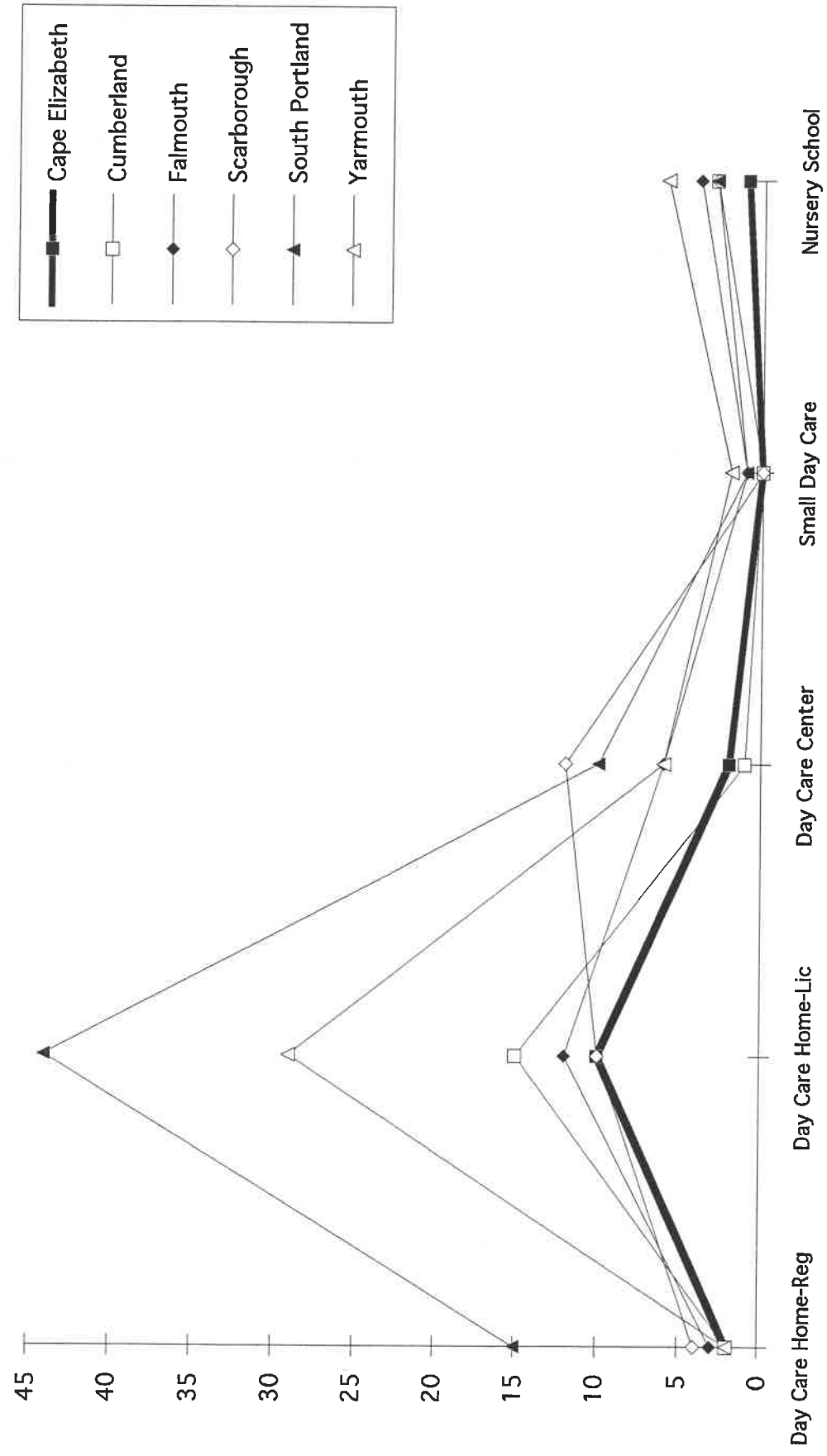
(7) Notified Code Enforcement Officer 3/95. 30-day notice was mailed and written complaint received. Code Enforcement Officer notified neighbor that they would have to apply to the Zoning Board with appeal and application fee. Code Enforcement Officer issued permit. No Zoning Board review.

(8) Treated as part of Methodist Church.

(9) In operation prior to records.

(10) Notified Code Enforcement Officer 11/93. 30-day notice was mailed and written complaint from neighbor received. Code Enforcement Officer issued permit. No Zoning Board review.

Comparison of Number of Day Care Facilities



Draft Daycare Amendments:

Sec. 19-1-3. Definitions.

Day care home: A facility which provides a regular program of care and protection for 7 or more children under the age of sixteen or any number of children in other than the operator's residence for any part of the day.

Day nursery: A facility which provides a regular program of care and protection in the operator's residence for up to 6 children under the age of sixteen for any part of the day.

Sec. 19-2-2. Residence A District - Permitted Uses. The following buildings or uses only are permitted in the Residence A District:

(c) school (including day nursery and day care home), hospital, municipal building or use, church, or any other institution of educational, religious or philanthropic nature, subject to approval of the zoning board. Site plan review and approval by the planning board is required, except that a day nursery shall not be subject to conditional use review by the Zoning Board or site plan review by the Planning Board. A day nursery shall require a use permit from the Code Enforcement Officer. Upon application for a use permit, a notice shall be sent to abutters within 500' of the property where a day nursery is proposed. If no objections are received in writing within 30 days of mailing of the notice by the Code Enforcement Officer, a use permit may be issued provided that all of the following criteria are met:

1. The day nursery shall not operate before the hours of 7:00 a.m. or after the hours of 7:00 p.m.
2. A fenced outdoor play area shall be provided with a minimum area of 75 sq. ft. per child.
3. No outside play shall be allowed before 9:00 a.m. on Saturdays, Sundays, and holidays.
4. Adequate lighting shall be provided at the vehicle drop-off and pick-up area.

Use permit appeals by residents and applicants shall be directed to the Zoning Board.

Sec. 19-2-4. Business District A - Permitted Uses: The following buildings or uses only are permitted in Business district A, after the planning board shall have approved the site plan accompanying the application, with the exception of a day nursery and (h) below: