

AT A REGULAR MEETING OF THE BOARD OF ZONING APPEALS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD IN THE COURTHOUSE, WILLIAMSBURG, VIRGINIA, ON THE TWENTY-SECOND DAY OF OCTOBER, NINETEEN HUNDRED AND EIGHTY-ONE.

1. ROLL CALL

Mr. Gerald H. Mepham, Chairman
Mr. Joseph E. Brown, Vice Chairman
Mr. George A. Marston
Ms. Elizabeth N. Vaiden, Secretary
Mr. Warfield Roby, Jr.

OTHERS:

Mr. William C. Porter, Jr.
Mr. Henry H. Stephens
Mr. Frank M. Morton, III

2. MINUTES

Upon a motion by Mr. Marston, seconded by Mr. Roby, the Minutes of September 24, 1981 were approved as presented.

3. CASE NO. ZA-8-81. A PUBLIC HEARING TO CONSIDER THE
application of Mr. George Douglas to appeal the Zoning Administrator's interpretation of the definition of the term "family" given in Section 20-2, as the definition applies to permitted uses listed in Division 4, R-1, Limited Residential District, Section 20-43.

Mr. Mepham opened the public hearing on Case No. ZA-8-81.

Mr. Bill Miller, representing Mr. Douglas and 13 families of the Druid Hills area, spoke in support of the application. Mr. Miller explained the situation. The question he presented to the Board was what in fact does the Zoning Ordinance mean when it speaks to this particular situation. Mr. Miller went on to say that the two sentences of the definition of a Family, as stated in Section 20-2 of the ordinance, must be read in the disjunctive. Mr. Miller stated that interpretations no. 1 and 2 of the staff memorandum dated October 13, 1981 were correct, but that the staff was in error in interpretation no. 3. A copy of the staff memorandum is attached hereto.

Mr. Miller stated that there were very few legal interpretations in the area of the definition of a family. However, he referred to a California case which supported his contention that the definition be limited. The applicants requested the Board to interpret the ordinance as being a definition that provides for two separate and distinct types of permissible single family use. One use where all the people are related and the other where any number of persons up to three not related to each other may in fact dwell in the single family residence. Mr. Miller went on to say that this definition of a family may not be the one that the Board of Supervisors want in their ordinance, but this is what was adopted. He also stated that this issue should be decided by the Board of Supervisors.

Mr. Frank Morton, County Attorney, stated that he would like to enter a technical objection to the proceedings. He went on to say that the applicant was required to file his appeal within 30 days with the Zoning Administrator and with the Board of Zoning Appeals, which was not done so with the Board of Zoning Appeals. In addition the appeal was to set forth the grounds therefore, which was not done. Mr. Morton also stated that to his knowledge, there is no California case cited that interprets the situation with which they are faced with. He also stated that he would not say that the definition given is absolutely clear. Mr. Morton went on to say that exchange students and foster children could not be taken in under the interpretation given by Mr. Miller.

Mr. Miller spoke again suggesting that the matter be taken up with the legislative body.

Mr. Morton supported Mr. Miller in a request to defer the case until the Board of Supervisors could make a determination about amending the code.

There being no further speakers, Mr. Mephram closed the public hearing.

Mr. Marston stated that the final solution would be to have the ordinance more explicitly worded by the Board of Supervisors.

Upon a motion by Mr. Marston, seconded by Ms. Vaiden, the Board of Zoning Appeals moved to deny the appeal and to sustain the Zoning Administrator's interpretation.

Mr. Mephram called for a roll call vote:

Mr. Brown	yea
Mr. Marston	yea
Ms. Vaiden	yea
Mr. Roby	yea
Mr. Mephram	yea

Motion carried.

4. CASE NO. ZA-9-81. A PUBLIC HEARING TO CONSIDER AN
application of Mr. Alan W. Gordon for a variance from
Section 20-55, Yard Regulations, of the Zoning Ordinance.
The purpose of the variance is to waive the 10 foot side
yard requirement to permit construction of an additional
bedroom to within zero feet of the eastern property line.

Mr. Mephram opened the public hearing on Case No. ZA-9-81.

Mr. Gordon, the applicant, requested that his request for a
variance be postponed until the next meeting. The applicant was not
prepared to give the answers necessary for the Board.

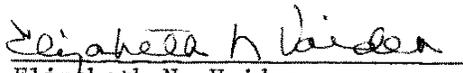
Upon a motion by Mr. Brown, seconded by Mr. Roby, Case No.
ZA-9-81 was deferred until the next meeting of the Board of Zoning Appeals.

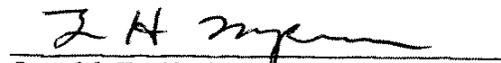
5. MATTERS OF SPECIAL PRIVILEGE

Upon a motion by Mr. Brown, seconded by Mr. Marston, the Board
agreed on the 25th of November instead of the 26th to be the date of their
next meeting.

6. ADJOURNMENT

There being no further business, the October 22, 1981 meeting of
the Board of Zoning Appeals of James City County was adjourned at 8:30 P.M.


Elizabeth N. Vaiden
Secretary


Gerald H. Mephram
Chairman