

MINUTES
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
May 11, 2017
4:00 PM

A. CALL TO ORDER

Ms. Robin Bledsoe called the meeting to order at approximately 4 p.m.

B. ROLL CALL

Present:

Ms. Robin Bledsoe, Chair
Mr. Danny Schmidt
Mr. Heath Richardson
Mr. Jack Haldeman

Absent:

Mr. Rich Krapf

Staff:

Ms. Tammy Rosario, Principal Planner
Ms. Christy Parrish, Zoning Administrator
Ms. Terry Costello, Deputy Zoning Administrator
Mr. Tom Leininger, Community Development Assistant
Mr. Maxwell Hlavin, Assistant County Attorney
Mr. Tom Coghill, Director Building Safety and Permits Division

C. MINUTES

1. March 9, 2017 Meeting Minutes

Mr. Danny Schmidt made a motion to approve the March 9, 2017, meeting minutes.

The motion passed 2-0-2, with Ms. Bledsoe and Mr. Jack Haldeman abstaining, as they were not members of the Policy Committee at the time.

D. OLD BUSINESS

1. ZO-0015-2016, Zoning Ordinance Amendments to Address Family and Group Home Definitions

Ms. Robin Bledsoe explained to the public in attendance that staff would make their presentation, then she would open the room to public comment and limit each speaker to five minutes.

Ms. Terry Costello stated that last year the Board of Supervisors (BOS) passed an

initiating resolution to look at the ordinance regarding group homes to make sure the County was in compliance with the state code and the Fair Housing Act (FHA). She stated that the County went back through their definitions of family. Ms. Costello stated, that according to the state code, the County has to allow a residential facility in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside with one or more resident or non-resident staff persons, and which is licensed by the Department of Behavioral Health and Developmental Services. She stated that mental illness and developmental disability does not include current illegal use of or addiction to a controlled substance as provided for in the Code of Virginia. She also stated that the County also has to include a residential facility in which no more than eight aged, infirm or disabled persons residing with one or more resident counselors, or other staff persons, and which is licensed by the Department of Social Services.

Ms. Bledsoe asked if this wording came from the FHA.

Ms. Costello stated that the wording came from the state code.

Ms. Christy Parrish stated that in any neighborhood where a family is permitted, these scenarios have to be accepted according to the state code.

Mr. Maxwell Hlavin stated that this does not change anything from what the current code is now and that it is just switching phrasing. He stated that the County is just putting these definitions in with the family definition which is permitted everywhere.

Ms. Costello stated that item number five is the current definition of a group home. She stated that the current definition of group home is to be added to the definition of family.

Ms. Parrish stated the permitted uses of each residential zoning district included group home. She stated that if there were more than nine, then it would require a special-use permit (SUP).

Ms. Costello stated that there were two different scenarios presented in the previous meeting. She stated the definition that was selected in the previous meeting is a residential facility housing the aged, infirm, disabled, or individuals with handicaps, mental illness, intellectual disabilities, or developmental disabilities, not meeting the definition of “family” in this Chapter. She stated that this shall be in accordance with requirements of the FHA. She stated that if anything changes with the FHA, the County wouldn’t have to change their ordinance to remain compliant.

Ms. Parrish stated that the other option was a broad definition that would encompass anybody that was living in a group setting, but staff preferred a more defined definition that was more specific to the disabled.

Ms. Costello stated that when the County changed the definition of group home, the definition of retreat was crossed out because it was based on the original definition of group home. She stated that it was suggested by the County Attorney’s office to allow group homes by-right in the R-8 zoning district. She stated that performance standards were also suggested at the previous Policy Committee meeting. She stated that the lots must be three acres or more, receive public water and sewer, and have off street parking which is proposed to be two spaces per single family residence plus an extra space per

bedroom. She stated that two spaces per single family residence is the current requirement for any residential subdivision. Ms. Costello stated that there could be more adults living in the home and this would help accommodate the parking.

Ms. Bledsoe asked what made R-8 is unique.

Mr. Hlavin stated that he recommended that a group home be a permitted use in at least one residential zoning district. He stated that it was left to the Policy Committee to decide which of those, based on the land-use criteria, would be most appropriate. He stated that the last policy meeting decided that R-8 would be most appropriate. He stated that the Policy Committee gave the Staff the direction to go in. Mr. Hlavin stated that since the last meeting, the staff looked into the performance standards.

Mr. Heath Richardson asked why the County should look for three acre parcels.

Mr. Hlavin stated that the Policy Committee in the previous meeting felt that was an appropriate size for the intensity of the use and that it may better accommodate the added number of people coming and going.

Mr. Richardson asked if that was the consensus of the committee.

Mr. Hlavin stated that R-8 requires a minimum of three acres and that the County does not want new uses permitted on nonconforming lots.

Mr. Danny Schmidt clarified that the County Attorney's wanted at least one by-right residential zoning district.

Ms. Parrish stated that providing reasonable accommodations is the main goal through the FHA. She stated that providing at least one by-right residential zoning district would accomplish that goal.

Mr. Hlavin stated that the reasonable accommodations is more of an Americans with Disabilities Act (ADA) and that the FHA requires that there be no discrimination. He stated that how the ordinance is described that it should not include any discriminatory terms.

Mr. Jack Haldeman asked what the difference is between a residential facility in which no more than eight people live together and a group home.

Ms. Parrish stated that license by the state is the difference.

Mr. Hlavin stated that the licensed facilities are what the state mandates.

Ms. Bledsoe stated that eight or less is considered a residential facility and nine or more is considered a group home.

Mr. Richardson stated that a licensed group home can have less than eight.

Mr. Hlavin stated that if the licensed home has less than eight people, it will fall under the definition of family. He stated that an unlicensed home with any number of people, it would be considered a group home.

Ms. Parrish stated that redefining the terms and deciding a by-right path within a certain zoning district would be suitable. She that in all residential other zoning districts group homes would be suitable with a SUP.

Ms. Betty Terry, 121 Deer Spring Road, asked if the homes would be supervised.

Ms. Parrish stated that it would depend on the type of uses within the group home. She stated that the County is looking at the definitions and not the specifics that would be going on right now.

Ms. Bledsoe asked if there are any other discussion items.

Ms. Costello stated that in the other residential zoning districts, a group home would require a SUP and would go through the legislative process.

Ms. Bledsoe asked her to repeat the definition again.

Ms. Costello stated that a group would be permitted by-right in the R-8 residential zoning district with performance standards and in the other residential zoning districts a group home would require a SUP. Ms. Costello presented a map that highlighted the locations of the R-8 lots that meet the performance standards of a group home.

Ms. Tammy Rosario stated that parcels in the R-8 zoning district that did not meet the performance standards, the applicant can apply for a SUP.

Ms. Bledsoe asked the staff to repeat the performance standards.

Ms. Costello stated that the lot sizes needed to be three acres or more, served by public water and sewer, and the off street parking must comply with general provision standards which is two spaces per single family home and one extra space per bedroom. Ms. Costello stated that part of the process for a group home would be a new certificate of occupancy (CO) through Building Safety and Permits that would require a review by the Fire Department.

Ms. Bledsoe asked if that process was a performance standard.

Ms. Costello responded no, and that it would be part of the education materials that an applicant would receive as part of the process.

Ms. Rosario stated that last meeting, staff introduced this review and the general direction, and the Policy Committee gave direction for the performance standards, the use list and definitions. Ms. Rosario stated that a draft has been prepared and that today's meeting will provide further direction before a final draft is developed.

Ms. Bledsoe asked if there was anything the committee wanted to add.

Mr. Richardson stated that the processes that have been laid out with the SUP in the other zoning districts does not forbid certain group homes in those areas, yet a legislative process is required.

Ms. Rosario stated that a SUP process would be one where an applicant would apply to the Planning Division, the case would be reviewed and then it proceed to the

Planning Commission (PC). Ms. Rosario stated that the PC would make a recommendation and then the application would go to the BOS for a final decision on whether the application would be permitted or not. Ms. Rosario stated that there could be conditions written in specific to the situation and the parcels to address any type of impacts.

Ms. Bledsoe stated that the SUP process allowed citizens to speak at the public hearings. She then asked the staff how the current group homes would be impacted.

Ms. Parrish stated that group homes that were permitted before the change may continue. She also stated that if the group home were to make any changes or expand their facility, they would have to conform to the current code once adopted.

Ms. Bledsoe stated that the parcels highlighted on the map are the permitted locations for a group home. She stated that all other parcels where residential use is allowed would require a SUP and to go through the legislative process.

Ms. Parrish stated that if the group home is licensed by the state then it falls under the family district and can go in any residential zoning district.

Mr. Schmidt asked if there was anything the County can do for anything less than eight.

Mr. Hlavin confirmed that there was nothing the County could do to restrict them. He also stated that the group homes could be licensed by either Department of Social Services or the Department of Behavior Health.

Ms. Bledsoe asked if licensed group homes were the typical applicants.

Ms. Parrish responded by saying it is a mixture. She stated that there are other groups that are not licensed that the County did not have a reasonable process for them. She stated that it was suggested by the County Attorney's office to update the ordinance to become compliant. Ms. Parrish stated that not all localities have the same definitions and interpretations. She stated that it has been a challenge to ensure that the County is in compliance.

Ms. Bledsoe asked if the Commissioners had any discussions items to go over before public comment.

Mr. Schmidt stated that he was in favor of the R-8 zoning district as a by-right option and how it was spread throughout the County.

Mr. Richardson asked if after today's presentation and the public comment, there would be another presentation to the Policy Committee on the proposed changes.

Ms. Rosario stated that if the Policy Committee felt comfortable, the presentation on the proposed changes would next be made to the PC.

Ms. Bledsoe opened the floor to public comments.

Ms. Terry asked what the process was when the third home was selected to be placed in Indigo Park.

Ms. Parrish stated that there are two existing Oxford House in the Indigo Park neighborhood. She stated that an Oxford House is a group of individuals that live together and support each other. She stated that the individuals are a protected class through the FHA. She stated that James City County Zoning Ordinance must provide reasonable accommodations for that type of group home and other types of group homes. She stated that the goal for the meeting is to ensure that the County Code meets the criteria from the state. Ms. Parrish stated that there wasn't a process for the current homes.

Ms. Rosario asked how this new ordinance would address that.

Ms. Parrish stated that the ordinance provides an avenue for new homes to go through.

Ms. Rosario asked if Indigo Park was included as a by-right area for group homes in the new ordinance.

Ms. Parrish stated that Indigo Park does not fall in the R-8 zoning district.

Ms. Terry asked if there was a way for them to stop the new Oxford House from coming in.

Mr. Richardson stated that the current homes exist because the County did not have a distinct policy to govern the process more and to remain compliant with state and federal regulations.

Mr. Hlavin stated that the County does not have any involvement with any of the homes that are in Indigo Park. Mr. Hlavin stated that there's no County involvement in regards to group homes licensed or unlicensed that operate in the County.

Ms. Terry asked if the members are referred to the Oxford House by the FHA.

Mr. Hlavin stated that the FHA is not a County program. He stated that Oxford House is a non-profit organization that works with recovering individuals. He stated that recovering individuals a protected class under federal case law. Mr. Hlavin stated that addiction is disability under the FHA which places them under the protection of the federal act. He stated that the federal act supersedes the local ordinances and state law. Mr. Hlavin stated that at this point, there is nothing in the local ordinances that specifically addresses group home uses such as Oxford House.

Ms. Bledsoe stated that it was not the County that placed these homes and that the point of the meeting was to clarify why they were there and move forward on a policy that guides the County and keeps the County in compliance with the FHA.

Mr. Bob Enko, 117 Richards Road, asked who owned the property that Oxford House rent from.

Ms. Rosario stated that the home is not owned by the County.

Mr. Enko asked if the individual had to be in contact with the state in order to sell the property to be used as a halfway house.

Mr. Hlavin stated that a halfway house is referring to someone leaving incarceration and

is placed in a residential area to transition back into civilian life. He stated that these do not deal with that situation.

Mr. Enko asked if the current homes are called group homes.

Mr. Hlavin confirmed that these are homes for people with disabilities living together.

Mr. Enko asked who funds the group home when the home goes into operation.

Mr. Hlavin stated that it depends if it is licensed or unlicensed or if it is run by Oxford House which is a non-profit organization.

Mr. Enko asked if the government contributes dollars to run the group homes.

Ms. Bledsoe stated that she is not sure if she could answer that question.

Mr. Enko stated that one of the websites outlined the steps necessary for community support within a home. Mr. Enko expressed concern how a group home would benefit the community. Mr. Enko asked why a group home was placed in Indigo Park and how many group homes are in the County.

Mr. Hlavin addressed the question of why there is an Oxford House in Indigo Park. He stated that the County does not have any regulations on group homes. Mr. Hlavin stated that the Policy Committee is trying to create regulations that would address these type of uses from a zoning perspective. He stated this would allow the County control over where these particular uses can be located. Mr. Hlavin stated that because there are no regulations currently in place, there is nothing the County can do to say where they go and don't go. Mr. Hlavin stated that it is not the County placing these homes in Indigo Park. Mr. Hlavin stated that someone in Indigo Park owns these houses and can make money by turning them into a group home. He stated that the Policy Committee is trying to figure out some regulations to control moving forward where these homes are going. Mr. Hlavin stated that with the policy that is proposed, Indigo Park would not be included. Mr. Hlavin stated that Indigo Park would not be allowed by-right, but someone could apply for a SUP and this would allow residents to express their reasons why Indigo Park is not an appropriate location.

Mr. Enko asked why the first couple Oxford Houses were placed in Indigo Park.

Mr. Hlavin stated that it is a private matter.

Mr. Schmidt stated that the County is working towards a solution for all of the concerns the citizens of Indigo Park have regarding Oxford Homes.

Ms. Bledsoe introduced Mr. Kevin McCormick who represents Oxford House.

Mr. Kevin McCormick, Oxford House representative, stated that there are 132 Oxford Houses in Virginia and over 22,000 across the Country. Mr. McCormick stated that every house is self-supporting and self-run. He stated that the Anti-Drug Abuse Act signed by President Reagan mandated each state to have a certain amount of money to open Oxford Houses in those states. He stated the houses do get funding to open and once they are open, the houses are run like a family. He stated that the members hold each other accountable and that there is no drinking or drugs allowed on the property.

Mr. McCormick stated that if someone was caught drinking, that person is expelled from the property.

Ms. Bledsoe asked if the houses are bought by Oxford House.

Mr. McCormick stated that the houses are privately owned by citizens and that the members rent the house from citizens. Mr. McCormick stated that the reason for these houses is for members to relearn how to become a productive member of society. Mr. McCormick explained the benefits of Oxford House that helped him through recovery. Mr. McCormick stated that there have been studies that show that Oxford Houses do not devalue the neighboring homes.

Ms. Bledsoe asked how Oxford House finds the homes for their members.

Mr. McCormick stated that it happens both ways and that they look for houses and also homeowners come to them.

Mr. Joe Fisher, 108 Richards Road, expressed his concern with the number of Oxford Houses within one neighborhood.

Mr. McCormick stated that there are six in one neighborhood in Virginia Beach.

Ms. Stacy Bacon, 115 Richards Road, expressed her concern with why the Oxford Houses in the neighborhood haven't reached out to the citizens in the neighborhood. Ms. Bacon stated that she felt that these homes have come in quietly and the neighbors are unaware of what is happening.

Ms. Bledsoe asked if it would be against the interest of the County to add a performance standard requiring a community meeting.

Mr. Hlavin stated that the County can't do that.

Ms. Bacon asked how CO's would determine the building code for the Oxford House to follow.

Ms. Parrish stated that a group home needs to apply for a new CO.

Mr. Tom Coghill confirmed because it is a change in the intensity of the use.

Ms. Bacon asked if the current homes have gone through the CO process.

Mr. Coghill did not have the information at the moment.

Mr. Stephen Moyer, 139 Stanley Drive, expressed his concern with the homes having parking on their lawns and how quickly the homes were sold. He also stated that the size of the homes are not large enough for the number of members in the home. Mr. Moyer also expressed concern with the Oxford Homes and how they would devalue his home.

Ms. Bledsoe stated that the new ordinance would address the parking issues. She asked if the number of occupants in a home would fall under the CO.

Mr. Coghill confirmed.

Ms. Bledsoe stated that the County can look into the specific Oxford Homes in the neighborhood.

Mr. Moyer commented that the number of homes in a neighborhood adds to the stress of a neighborhood.

Mr. Schmidt asked if the neighborhood has an active Homeowners Association (HOA).

Mr. Moyer stated they do not. Mr. Moyer asked if an HOA can prevent an Oxford House.

Mr. Richardson stated that an HOA can't prevent an Oxford House from coming in.

Mr. Tim McNelly, 135 Leon Drive, expressed his concern with one owner owning all three of the Oxford House in the Indigo Park neighborhood. Mr. McNelly also expressed his concern with the number of Oxford Houses in a small neighborhood. Mr. McNelly also stated that he has had a bad encounter with a member of the Oxford House and felt it was a safety concern for the neighborhood. Mr. McNelly asked if the neighborhood had a say in an unlicensed home with eight or fewer members.

Mr. Hlavin stated that if a home is unlicensed then it would need a SUP.

Mr. McNelly asked what the process would be for a new group home to come in.

Ms. Bledsoe stated that they would have to go through a legislative process. She stated an application would be filled out and be presented before the PC and the public would be allowed to speak. She stated that the PC would make a recommendation and then go to the BOS where the public would have a chance to speak again before a decision is made.

Mr. McNelly asked how long the SUP process took.

Ms. Costello stated that it would take three to six months.

Mr. Hlavin stated that if the Policy Committee decides to move the new ordinance to the PC, the next meeting would be the first Wednesday in June and the BOS would be the first Tuesday in July.

Mr. Sean Coffey, 107 Gilley Drive, expressed how Oxford House has helped his life and helped him get back on his feet. He also stated that he would work with the neighborhood to help prevent any issues.

Mr. Michael O'Neal, 108 Deer Spring Road, stated that he lives next door to an Oxford House and does not have any issues with them. Mr. O'Neal stated that living next to an Oxford House he knows who is living next door to him. He expressed concern about the value of his house. Mr. O'Neal asked how many people can live in the house under the ordinance right now.

Ms. Parrish stated that there is a family definition, and the group home definition stated

that there can be up to eight with a licensed facility.

Ms. Bledsoe stated that there is no guidance at the moment, but after today, the ordinance will go to the PC. She also stated that there are more opportunities for the public to come and speak.

Mr. Enko asked if this is a done deal.

Ms. Bledsoe stated that the purpose of the meeting is to create regulations to prevent some of the frustrations and there is not a lot that the County can do that has already happened.

Mr. Richardson stated that the Commissioners find value in the comments that come from the public and encourage them to come to the upcoming public meetings.

Mr. Henry Heard, 107 Gilley Drive, expressed that he has worked with many members of the Oxford House in the Indigo Park neighborhood. Mr. Heard stated that he has met with many of the neighbors. He also stated that there are strict rules when there are issues within the home. Mr. Heard stated that the members have to work full-time, be a full-time student or if disabled, do community service for at least 20 hours a week. Mr. Heard stated that the houses are open and if anyone in the neighborhood is interested in seeing how the house is run, they are free to stop by. He stated that there is a strict process for inviting new members to join the house. Mr. Heard also stated that there are many rules to living in an Oxford House.

Mr. Roberto Guerrero, 140 Stanley Drive, asked if someone has 40 minutes to leave the premises, what the process is for removing a member.

Mr. Heard stated that it depends on the state of the person and the reason for person to be dismissed. Mr. Heard stated that they look into facilities for the member to be admitted to. He stated that members have 30 days to come back and get their belongings.

Mr. Marty Ripley, 114 Deer Spring Road, expressed safety concerns for the children in the neighborhood with the members in an Oxford House. Mr. Ripley asked what the process is to know what type of people are in the house.

Mr. McCormick stated Oxford House does not accept sex offenders in their house. He stated that once something is reported, that person is removed from the house.

Ms. Bledsoe asked if there is a website and the process of an Oxford House.

Mr. McCormick stated that there is a website and he is open to questions from anyone.

Ms. Bledsoe asked if he would stay at the end of the meeting and answer questions.

Mr. McCormick confirmed he would.

Ms. Kathi Mestayer, 105 Gilley Drive, stated that she hasn't had any issues with members of the Oxford House. Ms. Mestayer expressed concern with a single owner owning all three homes in the neighborhood.

Mr. Guerrero asked if there is anything the members of the neighborhood can do to block the third Oxford House coming in.

Mr. Hlavin stated that he can't give out legal advice for any private matter.

Mr. Guerrero expressed his issues with the new ordinance not coming up soon enough.

Ms. Bacon asked if it was possible for the parking not to be grandfathered in.

Ms. Parrish stated that the existing group homes will not have to change their parking and that the new ordinance will apply to new homes.

Ms. Barbara Glover, 124 Stanley Drive, expressed her concern with the person buying the houses and what the process was for someone to become an Oxford House.

Ms. Bledsoe stated that if there were more questions for Mr. McCormick he would be available after the meeting.

Ms. Bledsoe closed the public comment section.

Mr. Richardson stated that he wanted to thank everyone for coming to the meeting and showing concern for their neighborhood. Mr. Richardson stated that he is an advocate for pushing the new ordinance to the June PC meeting.

Mr. Schmidt motioned to recommend approval the new ordinance and advance it to the PC meeting.

Ms. Bledsoe stated the motion passed and the new ordinance will be presented at the next PC meeting.


E. NEW BUSINESS


There was no new business.

F. ADJOURNMENT

Mr. Schmidt made a motion to adjourn.

Ms. Bledsoe adjourned the meeting at approximately 5:30 p.m.


Ms. Robin Bledsoe, Chair


Mr. Paul Holt, Secretary