

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - July 14, 1971

Appeal No. 10857 Washington Highlands Civic Association,
appellant.

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee.

On motion duly made, seconded and carried with Howard H. Mackey dissenting, the following Order of the Board was entered at the meeting of July 20, 1971.

ORDERED:

That the appeal from a decision of the Acting Zoning Administrator given May 28, 1971 ruling that the use of premises 406 Condon Terrace, SE., Lots 25, 26, and 27, Square 6154, is a rooming house as defined in Section 1202 of the Zoning Regulations of the District of Columbia, be reversed.

FINDINGS OF FACT:

1. The subject property is located in an R-5-A District.
2. The property is improved with a three (3) story brick structure which was previously used as an apartment house with fourteen (14) apartments.
3. On January 12, 1971 the Social Education Research and Development, Inc., hereinafter known as SERD, made application to the Zoning Administrator for a certificate of occupancy for a rooming house at 406 Condon Terrace, SE.
4. In SERD's application to the Zoning Administrator, it was stated that the rooming house would average about thirty (30) residents with about twenty (20) bedrooms.
5. On April 27, 1971 Mr. James J. Fahey, the Acting Zoning Administrator requested the opinion of the Corporation Counsel of the District of Columbia as to whether he could approve for purposes of zoning the application of SERD for a certificate of occupancy as a rooming house.

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6. Acting on advice of the Corporation Counsel, Mr. James J. Fahey granted the certificate of occupancy on May 28, 1971.

7. Section 1202 of the District of Columbia Zoning Regulations defines a rooming house as:

".....a building or part thereof, other than a motel, hotel, or private club, which provides sleeping accommodations for three or more persons who are not members of the immediate family or the operator or manager, and such accommodations are not under the exclusive control of the occupants thereof."

8. Under the Zoning Regulations, a rooming and boarding house may be operated as a matter of right within an R-5-A District.

9. The testimony and evidence shows that the staff of the "halfway house" will include a director, an assistant director for administration, an assistant director for job and career development, a counseling staff of four (4) to six (6) persons, a secretary, and a typist will be hired, and a resident manager. Staff working hours will be staggered. All of the staff will not be on the premises at the same time.

10. Major emphasis will be placed upon the job placement, career development, counseling and rehabilitation into the surrounding community. There will be no bars on the doors and windows and residents may leave the premises through the front door without resorting to keys. Staff members will not possess weapons of any kind and will not wear uniforms. Residents will be dressed in civilian attire. At the present time, residents will eat in the neighborhood, but at a later date, meals may be served in the building.

11. The file contains numerous letters requesting the Board of Zoning Adjustment to uphold the Zoning Administrator as well as letters in opposition to the ruling of the Zoning Administrator.

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12. Considerable objection to the granting of this appeal was registered at the public hearing.

OPINION:

The only question presented to this Board for determination in this appeal is whether, on the facts of records, the Zoning Administrator erred in granting a certificate of occupancy for a rooming house.

In construing the Regulations, the advantages of a "halfway house" in the process of rehabilitation is not a matter considered by the Board.

It is the opinion of a majority of the Board that the ruling of the Zoning Administrator was in error. The definition of a rooming house in the Regulations contemplates "sleeping accommodations -- not under the exclusive control of the occupants," and a use as that proposed, having the staff, the regulations imposed on residents, and the possibility of return to incarceration for violation of regulations, is certainly incompatible with the freedom and lack of obligation or restraint implicit in the definition.

We therefore conclude that the activities and mode of operation of the subject premises by SERD as a "halfway house" do not qualify the use to have a certificate of occupancy as a rooming house.

The Zoning Administrator's decision is reversed.

SUGGESTED RECOMMENDATION BY WILLIAM S. HARPS AND ADOPTED BY
THE BOARD

The Board of Zoning Adjustment recommends the formulation and adoption of appropriate regulations by the Zoning Commission which would require a hearing before the Board of Zoning Adjust-

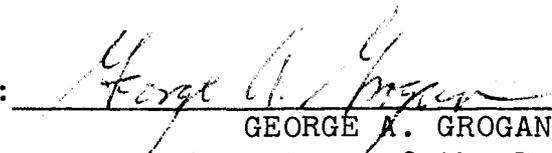
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ment and an affirmative vote prior to the granting of "halfway houses." This recommendation is being made because the Board of Zoning Adjustment believes that the people of the neighborhoods should have an opportunity to be heard on such matters.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

By:



GEORGE A. GROGAN
Secretary of the Board