

March 5, 2020

The Honorable Mayor and Town Council
Town of Vienna Council
127 Center Street S
Vienna Virginia 22180

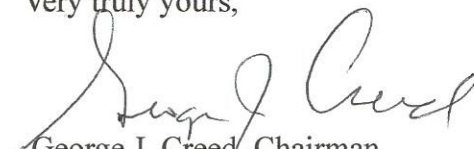
In re: Amendment of the zoning ordinance to specify Child Day Care as a permitted use.

Dear Madam Mayor and Members of the Town Council:

The Members of the Board of Zoning Appeals recommend that the Town Council amend the Town's zoning ordinances to specifically give the BZA the authority to grant Conditional Use Permits ("CUP") for child day care activities that are not part of nursery or kindergarten school programs. Recent cases involving child day care have caused the Members to question the BZA's jurisdiction to issue CUP's for child day care. Under the current Town ordinance, nursery or kindergarten school programs are specifically listed as a use for which the BZA can grant a CUP, but child day care is not listed. (see Town Ordinances section 18-209 and 210, attached).

Historically, child day care known as "family day home" has been permitted as a home occupation and did not require the involvement of the BZA. However, as of 2013, due to administrative changes at the state level, cases involving family day homes for eight to twelve children are referred to the BZA for issuance of a conditional use permit. (see Hembree Memorandum, dated 6/19/13, attached). As the BZA becomes increasingly involved in these cases, it has become clear that not only are there different categories of child day care, but not all child day care qualifies as nursery or kindergarten schools. (see attachments from the Virginia Department of Social Services). Consequently, the Members of the BZA believe that they cannot use the designation of nursery or kindergarten school to support authority to grant CUP applications for child day care. The Members also do not believe that Mr. Hembree's memorandum currently provides a basis for the BZA to be issuing CUP's for child day care. Therefore, the Commissioners suggest that Code Section 18-210 together with code section 18-13 be amended to specifically include "Child Day Care" as an enumerated use. There is some urgency to this request because the Members expect an increase in contested applications for Family Day Homes. This is because state licenses allow Family Day Homes to have up to 12 children in private homes and has raised concern in some neighborhoods.

Very truly yours,



George J. Creed, Chairman,
Board of Zoning Appeals

cc Frank Seimeck, Steve Briglia, and Sharmain Abaied
Attachments:

Town Code Sections 18-209, 18-210 and 18-13
Hembree Memorandum dated June 13, 2019, and
state statutes.
Materials from Va. Dept. of Social Services.