

CHATHAM COUNTY ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

May 25, 2004

9:00 A.M.

MINUTES

MEMBERS PRESENT:

**Robert Sharpe, Chairman
Jimmy Watford, Vice Chairman
Steven Day
Michael Lee
Charles Stewart**

MEMBERS ABSENT:

Davis Cohen

TECHNICAL STAFF PRESENT:

**Robert Sebek, Chatham County Inspections
Department**

MPC STAFF PRESENT:

**John Howell, Secretary
Christy Adams, Assistant Secretary**

RE: Called to Order

Mr. Sharpe called the May 25, 2004 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

Mr. Sharpe stated that he understood there was further information on the Petition of Joe Lipski. He said since there was further information and there seemed to be quite a large number of people present the Board would like to ask each group either in favor/against to excuse themselves, so they could select someone or some number of people from their group as representatives. And the Board would hear their petition later in the meeting. He said the Board also asks that each side conclude their remarks after 20 minutes. And the people that have legal standing, which was to say people who lived directly adjacent or abutting to the property to speak first.

**RE: Petition of Penn E. Myrick
B-04-33625-1
555 Suncrest Blvd.**

Present for the petition was Penn Myrick.

Mr. Sharpe called for the Staff report.

Mr. Howell gave the following Staff report.

The petitioner is requesting approval of the following:

- a 6,627 square foot lot area variance and a 57 foot lot width variance for Lot A-1B-A;

- a 5,544 square foot lot area variance and a 59 foot lot width variance for Lot A-1B-B;
- a 46 foot lot width variance for Lot A-2-A;
- a 47 foot lot width variance for Lot A-2-B;
- and a 47 foot lot width variance for Lot A-2-C

pursuant to the requirements of Section 4-6.1 of the Chatham County Zoning Ordinance in order to recombine two parcels of land and subdivide to create five one-family residential lots at 555 Suncrest Boulevard, within an R-1-C (One-Family Residential) zoning district.

Findings

1. As defined in the Chatham County Zoning Ordinance, the purpose of the R-1-C zoning district “shall be to create an environment in which one-family dwellings are permitted in order to promote stability and character of low-density residential development with adequate open space. A maximum density of 1.35 dwelling units per acre of net residential land area shall be permitted in this district.”

2. The petitioner proposes to recombine two parcels of land (Lot A-1 and Lot A-2) and subdivide to create five one-family residential lots. The two parcels total 5.7 acres. The five proposed dwellings result in a density of 1.14 dwelling units per net acre.

Lot A-1 (parcel 1-0082-01-020) contains 1.8 acres of highland and does not have direct frontage onto Suncrest Boulevard. Access to the lot is shown as a 22 foot wide access and utility easement. The lot width is approximately 85 feet.

Lot A-2 (parcel 1-0082-01-013) contains 3.9 acres of highland. The lot width is approximately 161 feet.

3. Section 4-6.1 of the Chatham County Zoning Ordinance provides that within an R-1-C zoning district, for dwellings served by public water supply and individual waste disposal systems, the minimum lot width is 100 feet and the minimum lot size is 32,000 square feet.

4. Lots created from the original Lot A-1 would have the following lot width and lot area:
 Lot A-1B-A: 43 feet wide and 25,373 square feet
 Lot A-1B-B: 42 feet wide and 26,546 square feet

Lots created from the original Lot A-2 would have the following lot width and lot area:
 Lot A-2-A: 54 feet wide and 54,180 square feet
 Lot A-2-B: 53 feet wide and 50,824 square feet
 Lot A-2-C: 53 feet wide and 47,550 square feet

Based on the minimum requirements of 100 feet of lot width and 32,000 square feet of lot size, all of the proposed lots would be substandard in lot width. Two of the five proposed lots would be substandard in lot area.

5. Section 3-4 provides that a lot shall not be reduced in size so that the total area and lot width required by the ordinance are not maintained. The Board of Appeals shall not be authorized to vary this requirement.

6. The Zoning Board of Appeals may authorize a variance in an individual case upon a

finding that:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.

The two current lots are regular in shape and size. There are no extraordinary and exceptional conditions pertaining to the subject piece of property.

- (b) The application of this chapter to this particular piece of property would create an unnecessary hardship.

Applying the development standards to the existing property would not create a hardship.

- (c) Such conditions are peculiar to the particular piece of property involved.

The regular shape and size of the current lots is not a peculiar condition.

- (d) Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the Chatham County Zoning Ordinance.

Relief, if granted, would impair the purposes and intent of the Chatham County Zoning Ordinance and the Island Land Use Plan. The Board of Appeals is being asked to create substandard lots.

Summary of Findings

All of the conditions required for granting the requested variances do not appear to be met.

Mr. Lee asked if Lot A-1a owned by the petitioner? And, would there be five lots or six lots? He also asked if access to two lots cross Lot A-1a?

Mr. Howell stated that was not a part of the petition.

Mr. Day asked if that was not going to be a lot?

Mr. Howell stated that was an existing lot with a home on it.

Mr. Lee asked if the owner of that property aware of the 22 foot private vehicular access and utility easement?

Mr. Howell stated that the petitioner was required to supply the names and addresses of the adjacent property owners. He said notices were sent out and the property was posted, so he felt that all the legal requirements had been met.

Mr. Lee stated he noticed in the Board's packets that the fee paid by the petitioner for submitting this petition was less than what he understood was called for by the County Ordinance. He asked if the Board should be considering this petition at all today until the proper fee was paid.

Mr. Sebek stated unfortunately he did not research this as thoroughly as he should have, therefore he was not sure about that. However, after talking with John Howell he probably should have applied the other fee.

Mr. Day stated he felt this was the misunderstanding of the County rather than the person making application. He suggested that the Board hear the petition.

The Board agreed.

Mr. Stewart asked if the lot would be a minor subdivision since the lot had no road to access? And would it not have to meet the access requirements of a 60 foot right-of-way?

Mr. Howell stated in his opinion that was an after-the-fact type thing. He said what was before the Board today was whether or not to grant the variances. Then they would have to apply for the appropriate subdivision of review and meet any kind of access standards. He said if they could not meet any kind of access standards then they may have to come before the Board again to petition for that. But he believed it would be something that would be addressed later.

Mr. Myrick stated the lot in question was owned by Michael Sharpe who sold the property to the person that he was buying it from. He said in order for Michael Sharpe to subdivide this piece of property, the MPC told him that he would have to give a 22 foot easement along the side of this, which would be an access easement to this piece of property. He said this was a minor subdivision of this particular lot, therefore it did not require 60 foot right-of-way.

He further stated that for the rest of the property they were asking for a combination of these two lots. He said he felt they had a peculiar situation. He said they had 570 feet of property along Turners Creek. But as most river lots were they only had a 161 feet at this point down here, which was pie shaped and an unusual situation. And the rest of the lots of the neighborhood was about equal on all ends of this property, therefore he felt his lot was unusual. Basically, what they had was 5.08 acres in the large part and 1.08 acres on the one above. He said he felt the lots were extraordinary and exceptional conditions because of its size and shape. He also said the applications of these regulations to this particular piece of this property only, would it create an unnecessary hardship. He said with this being the case since they only had 161 feet of Suncrest property that meant you could not subdivide it at all, which he felt created a tremendous hardship especially on waterfront property.

Mr. Stewart stated he did not understand how it was a hardship on him.

Mr. Myrick stated a hardship was because of the boundaries R-1-C for this particular lot you could not do anything but build one house on it. Also, the pie shape where it came together on Suncrest you did not have enough to build two houses on 5 acres.

Mr. Lee asked if he currently owned the property or did he just have a contract to purchase it?

Mr. Myrick stated he would own the property this afternoon. He stated in reference to the “C” section of the Staff report where it says – “that such conditions are peculiar to this particular piece.” The peculiar part was it was not a rectangular piece of property. He said it was unusually shaped and large lot. The staff report also says – “relief if granted would not cause substantial detriment to the public good, or impair the purpose and intent.” He said five houses along a street that already had over forty houses would not cause a detriment to anybody.

Mr. Sharpe asked if anybody looked at the density when they were considering these plans?

Mr. Myrick stated no. He said they took the survey of the property and they asked Staff at MPC if they could subdivide the property. He said Staff told him that they did not see any problem with putting four units on the property. But he did not know whether or not at that time Staff was aware that it was R-1-C.

Mr. Watford asked why was he asking for five units if MPC said they did not see a problem with four units?

Mr. Myrick stated he did not agree with what they suggested because they wanted to put two down here and two up there. He said he did not feel that was the maximum use of a piece of property that has a dock and a riverfront.

Mr. Sharpe asked what was the difference between four and five between major and minor subdivisions?

Mr. Myrick stated they had two pieces of property and they wanted to subdivide one section of the lot making it two lots and subdivide the other piece into three lots.

Mr. Lee asked Mr. Howell that in the MPC Staff report under findings number 5 says – “section 3.4 provides that a lot shall not be reduced in size, so that the total area and lot width required by the Ordinance are not maintained. The Board of Appeals shall not be authorized to vary this requirement.” He said he read that as saying that the Board could not grant this variance that the petitioner was requesting. He asked if he was correct?

Mr. Howell stated in his opinion that was correct.

Mr. Stewart asked why was it sent to the Board if they could not make a ruling?

Mr. Day stated it also presents another question, which was, where did the petitioner go for the relief that he was seeking if he could not come to this Board.

Mr. Howell stated normally it would be a text amendment to the Chatham County Zoning Ordinance, Board of Appeals, or Superior Court.

Mr. Day asked if he was saying that he could go to the County Commission and asks for a text amendment to allow him to do this?

Mr. Howell stated yes.

Mr. Stewart stated how could the Board make a decision if they were not authorized to do it.

Mr. Day asks Mr. Howell was the text verbatim from the Ordinance?

Mr. Howell stated it was not verbatim, but he showed the regulation on the projection screen for the Board to read.

Mr. Day stated about the third sentence from the bottom of the paragraph it says – “the Board of Appeals shall not be authorized to vary this requirement. He said he felt the Board did not have the authority to hear the petition.

Mr. Day stated to the petitioner that he felt he had two choices. He said he felt he could ask for a continuance on this, which is what he would suggest, so they could meet with Staff and decide what direction he needed to take. He said from his perspective, before the Board would rule on this case, they needed to talk to the County Attorney to see if in fact they had authority because what he read says the Board did not. Therefore, if he requested a continuance he would still have an iron in the fire if he needed to come back to the Board.

Mr. Myrick requested a continuance.

SZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals continue the petition until next month. Mr. Stewart seconded the motion.

Neighbor stated she was a neighbor and they had a petition requesting that the petition be denied. She asked if the petition is continued how would the neighbors be notified as to when it will be heard again?

Mr. Howell stated for continued petitions notices were not sent out again. He said the meeting is the 4th Tuesday of each month at 9:00 a.m. Also, the agenda is posted in the newspaper the weekend before the meeting.

Mr. Stewart added that she could always call Mr. Howell to see if it will be on the agenda.

Mr. Lee suggested that if she had a petition with her that she provide Mr. Howell with a copy of it.

Mr. Howell asked the Chairman if he wanted to ask that if there were people here who wanted to speak on this petition that may not be able to attend the next meeting.

Mr. Sharpe stated he did not want anyone to leave feeling that they had not had a chance to voice their opinion, but the Board has continued the petition until they get direction from the County Attorney.

SZBA Action: Called the question and it was unanimously passed.

**RE: Petition of Poticny Deering Felder,
Brian Felder, For
Thomas & Nancy Armstrong
B-04-51207-1
148 Cardinal Road**

Present for the petition was Brian Felder.

Mr. Sharpe called for the Staff report.

Mr. Howell gave the following Staff report.

The petitioner is requesting an eight foot front yard setback variance pursuant to the requirements of Sections 4-6.1 and 10-6.3 of the Chatham County Zoning Ordinance in order to build additions onto an existing house at 148 Cardinal Street, within a R-1 (One-Family Residential) zoning district.

Findings

1. The lot boundary extends several hundred feet to the Herb River and includes salt water marsh. The attached survey shows the front property boundary line as irregular and the lot width is approximately 102 feet. The highland on the lot is 100 to 123 feet deep and contains 10,946 square feet. The size and width meet the minimum requirements for lots within an R-1 district that are served by public water and sewer.

2. Section 4-6.1 of the Chatham County Zoning Ordinance provides that within an R-1 zoning district the minimum lot width is 60 feet and the minimum lot size is 6,000 square feet. The front yard building setback is a minimum of 25 feet from the property line. The petitioner is requesting to build an addition to the front of a house that will be 22 feet from the front property line and encroach approximately three feet into the 25 foot front yard setback requirement.

3. The petitioner’s site plan shows a 30 foot building setback line as required by the Paxton Heights Subdivision plat. The petitioner proposes to encroach five feet into the 30 foot building setback line and three feet into the 25 foot minimum setback required by the Zoning Ordinance. The Board of Appeals can grant relief of a Zoning Ordinance requirement but cannot grant relief of a recorded legal subdivision requirement, which is a contract entered into with neighboring property owners.

4. The Zoning Board of Appeals may authorize a variance in an individual case upon a finding that:
 - (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.

The lot is regular in shape and size. There are no extraordinary and exceptional conditions pertaining to the subject piece of property.

 - (b) The application of this chapter to this particular piece of property would create an unnecessary hardship.

Applying the development standards to this particular piece of property would not create a hardship.

 - (c) Such conditions are peculiar to the particular piece of property involved.

The regular shape and size of the lot is not a peculiar condition.

 - (d) Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of the Chatham County Zoning Ordinance.

Relief, if granted, would impair the purposes and intent of the Chatham County Zoning Ordinance.

Summary of Findings

All of the conditions required for granting a three foot front yard building setback variance appear to not be met.

Mr. Felder stated the house was about 25 or 30 years old and the owner was looking to revitalize it. He said throughout the neighborhood front yards were respected and they also intended to do the same. At some point in the history of the house a part of the garage was taken away. And as a part of the overall renovation of the house they wanted to add back 10 feet to the front of the garage to park their cars.

Mr. Lee asked what was the addition on the side in the back?

Mr. Felder stated that it was a workshop.

Mr. Day stated when they were visited the site there was a white line drawn, which seemed close to the out building that is there.

Mr. Felder stated the petitioner was taking the out building down.

Mr. Day stated their plans showed a straight line, but the petitioner showed a bump out. He asked if they were building to the plans or to the bump out?

Mr. Felder stated they had no design or plans as of yet and they were not engaged to do that. He said if they could not get the front yard they would have to rethink everything. He said it is his understanding they were hugging to the side of the house with a straight line.

SZBA Action: **Mr. Stewart made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted based on that relief would not cause substantial detriment to the public good. Mr. Lee seconded the motion and it was unanimously passed.**

**RE: Petition of Joe Lipski
B-04-31991-1
401 Quarterman Drive**

Present for the petition was Joe Lipski and Harold Yellin, Attorney.

The petitioner is requesting a rehearing to establish a use (child care center) which must be approved by the Board of Appeals pursuant to the requirements of Sections 4-5.1(20a) and 10-5.6 of the Chatham County Zoning Ordinance in order to open a child care center at 401 Quarterman Drive, within an R-1-A (One Family Residential) zoning district.

Findings

1. Article 11, Section 8, of the Rules and Procedures adopted by the Board of Appeals provides that a request for a rehearing shall be filed within five days following the Board's decision and the request shall be filed in the same manner as the original application. The Board may grant a rehearing only if the petitioner has submitted new and relevant information. Applications for a rehearing shall be denied upon a finding by the Board that there has been no substantial change in facts, evidence, or conditions relative to the petition.

Upon approval of a request for rehearing, the Board shall rehear the petition in question at the same meeting.

2. The petitioner stated the reason for requesting a rehearing is to submit new and relevant information about the traffic flow and input from adjacent property owners who did not get an opportunity to speak at the meeting on April 27, 2004.
3. The decision of the Board of Appeals on April 27, 2004 was to deny the request to establish a child care center at 401 Quarterman Drive. The decision is attached.
4. As noted in the staff report, the acreage of the site appears to provide sufficient space to satisfy all of the development requirements such as parking, play area, buffering, and drop-off / pick-up loading space. A preliminary traffic analysis, using estimates of existing and anticipated traffic, of the intersection with a child care center in place resulted in a finding that a child care center would not create undue impacts to traffic flow.

Summary of Findings

The Board determines if the petition will be reheard. If the petition is granted a rehearing, the Board decides if the proposed child center meets the conditions to establish a use.

Mr. Sharpe restated that the Board would like to limit both sides either in favor/against the petition to 20 minutes.

Mr. Yellin stated in addition to new information there were a number of people who were present last time who did not get a chance to speak and they would not get that chance today. But he felt they had it compressed into a few very quick things the Board needed to hear. However, he wanted to point out that there were twenty-five people who met in the back room who were in support of this petition. He stated that the church was located at the intersection of Highway 80 and Quarterman and the property was about 5.2 acres.

Mr. Day asked how many of the twenty-five people in support of the petition had standing that owned property next to or adjacent to the proposed site?

Mr. Yellin stated two of the people who were going to speak one lived next door and the other down the street in the Talahi neighborhood. And there were others from Talahi Island.

He further stated there was a traffic light at the intersection. The petition before the Board was to put a daycare center, which was permitted in an R-1-A with ZBA approval. He said there has been a lot of misinformation. There has been some misinformation provided to the Board which maybe was used in making their decision previously. Perhaps the most important was some of the literature that has been passed around and he was quoting from some of the letters sent out – “there is a request to zone this property to rezone it from single family to build a commercial facility on this property.” Another one says – “I am against the zoning of a childcare center at 401 Quarterman Drive.” He pointed out to the Board that this was not a rezoning, which was the most important thing that he could tell the Board. He said it was merely the approval of a use. He stated another letter says – “that Mr. Lipski has an agenda. He also wants to use this property for a narcotics rehabilitation center and teen outreach center.”

He said he would like to state for the record that this is a daycare center. There would be about 100 children as young as 4 weeks old up to 5 years old in the daycare. He said there were

about 50 children between the ages of 5 and 12 years of age, which was in the after school care.

Mr. Day stated the last time this petition was before the Board it was a 192 or 194 children were going to be attending this daycare. He asked has it been reduced?

Mr. Yellin stated at any given time the full body was not there. He said it could be as much as, but it was limited by the Health Department. He said the daycare children arrive between 6:30 a.m. and 9:00 a.m. And they leave the daycare center between 3:00 p.m – 6:00 p.m. He said there were wide opportunities for arrival and departure. Because of the intervals there was generally no more than six to eight cars at any given time at this site. He said this was based on the existing daycare that was currently operating on the Island where there was no traffic problems, complaints, and nobody has heard of any violations of traffic or complaints by the other place that is in operation right now. The only difference was this was a superior location. He said not only was this on a major arterial (Highway 80) and not only was there a traffic light at the corner, but there was also a taper lane. So, the idea of traffic being the issue really it was not. He said he felt this was a low intensity use for this property. He said this is a daycare center that will be next to an existing church that has been there since 1985. He said to call this a commercial use was inflammatory and wrong. He said this was the same daycare center that was approved by the Board in May 2000 at the intersection of Johnny Mercer Blvd. and Penn Waller. The only difference between that intersection and this one was that this one was a superior location. He said they respectfully request that the use of a daycare center be approved today.

Mr. Lee asked if the existing daycare center location be closed when the proposed daycare center is built, or will there be two daycare centers?

Mr. Yellin stated it will be closed.

Mr. Lipski reiterated that he was not trying to rezone the property in any form. He said the area will still be zoned residential even with the daycare. He said the traffic has never been a problem at the present location. He also added that he knew nothing about a narcotics rehabilitation center. He said there was a narcotics anonymous that has met at the Church for years and would continue to do so, but he had nothing to do with that. He also said that they pick up teens from school after school, but they would not be opening up a teen outreach program. He also stated that there would not be a daycare at the First Baptist Church when they leave. He said the Pastor of that church had no intention at the present time of having a daycare at that location. In closing it was his hope and prayer that they could move forward and discuss what type of building and ground covering they would like best to represent the entrance of Talahi Island rather than to continue to answer the unfounded and misleading allegations.

Ms. Patricia Lipwebb (421 Quarterman Drive) she said she lived right next door to the church. She said it was her hope and prayer that the daycare is there. She said she has minor children and she was home frequently. She said she has watched the traffic and she did not see how it could be anything other than a win win situation. The people in the neighborhood association have done nothing but complain about the property and the site. She said she felt that it would improve the area and property values. She said she was self-employed and always home and never saw a problem with traffic.

Ms. Shelly Rudolphi (Resident of Suncrest Blvd.) stated she has two children and they both attended In His Arms. She said she drive by the property every morning to take her children to school and the traffic was never an issue there. She said when she dropped her children off to the daycare or when she leaves the daycare there has never been more than one car at a time. The daycare was open from 6:30 a.m. – 6:00 p.m. and it was a constant flow. She said she felt it was a wonderful school. She said she hope the Board supports the petition.

Pastor Bobby Autry stated he has been associated with the church since 1982. He said they were there for the purpose of serving the community. He said they never intended in anyway to have any kind of opposition or anyone that would be against what they were trying to accomplish. He said being a church they always had the intent of growing beyond what they currently had at some point in the future a large worship and praise center. He said they were there to serve the community. He said not one person sitting in opposition if they lived in the community could say that they called him or came by the church and asked what were they doing or why they were doing it. On the other hand, he has had many people to stop by and congratulate them and felt it was a wonderful idea. He said they were not selling the church and did not want to leave the community. He said they have had many activities at the church and never one time has any of the people here stopped by and said there was too much traffic or that they have caused too much noise. He said the last meeting he was in Atlanta, so he did not attend the Board meeting because he did not think there would be a problem because no one has ever opposed the church. He said it hurt him because he could not understand why they did not let him know because they were there serving the community. He said he knew of no reason to oppose them from using the property for which it was intended and originally zoned.

Mr. Yellin stated he was not present at the last meeting, but he understood that if there was a primary issue the issue seemed to be traffic and traffic being generated. He said he felt it was important for everyone to understand that the property could be used for something. He said even if they came in and put single family residential on this property you add traffic. He said if they expanded the church you add traffic. No matter what you did traffic would be increased. Therefore, it was not realistic to come up and say they want the property to be green and vacant (5 acres) for a church forever and a day. He said something would go there that would generate traffic. The question was if this was a reasonable use for this property. He said he believed Mr. Howell stated that this was not a large traffic generator. He said he knew the Board saw last time the report showing the number of cars to the daycare, but that was basically over the course of 150 minutes 114 cars. He said in a minute you would be amazed as to how quickly you could get in/out of a piece of property. He said he felt this was a use that would be an important contributor to the neighborhood.

Mr. Stewart stated he was on the Board the last time this school was approved on Johnny Mercer. He said the reason it was granted was because it was on the fringe of a commercial area. He said he felt in the best of all concerned and both sides were present those in favor and against that the petitioner may want to consider another location that was less controversial.

Mr. James Spivey (112 East Pointe Drive) stated a point was made that the daycare was located in a commercial area across from the shopping center. But directly across, catercorner on that same intersection there was a storage unit, hairdresser, small mall, Circle-K, gas station, fruit market, carwash, etc. He said there were hundreds of cars in and out of there all week and it did not create a traffic problem.

Ms. Barbara Minchey stated she has lived on Talahi Island for 26 years. She said Talahi Island was a neighborhood in the true sense of the word. She said the neighborhood people valued privacy and quiet. The property across the street has never bought into that concept. She said when they first went over there they scraped off the green space that shielded the neighbors from Highway 80. Then they put a blue revolving light on top that swept through all areas of her house all night long, but they have since taken that down. She said their neighborhood was not commercial. She said they were a neighborhood. She said she also had serious problems with the traffic.

Mr. Henry Dean stated he moved into the area about two years ago. One of the things that attracted him to the neighborhood was because it was quiet and a wonderful place to live. He said his concern was by inviting an expansion on this lot that what would happen was that there would be a lot more traffic coming in through from the other end of the Island, which would increase the traffic passing through the neighborhood. He said he would ask that the Board deny the petition.

Mr. Ed Poenicke stated he was a resident and he spoke some at the last meeting. He said he also was concerned about the traffic. He said the petitioner's original request was 196 children, which would be about another 50 cars. He said the Board needed to remember that East Pointe was closed and that Lake Drive was the only way that East Pointe could get in/out of the area. He said it was a narrow tight road with no curbs or sidewalks. He said he felt that people also walking there could possibly get hurt. He said he felt that property values would decrease because this was not a commercial area.

Mr. Matthew Bush, Attorney, stated he was also a resident of the area. He said this was R-1-A single-family residential. He said they respectfully submit that what was being proposed did not fit within the intended definition of R-1-A zoning. He said they understood now that this was not a commercial zoning change, however there was a concern by the residents here that this was one step closer.

Mr. Day stated according to the guidelines the Zoning Board of Appeals if they determined that there was new evidence and changed the decision that has already been made to allow a daycare center that what goes there. It does not change and say that they can put something else there.

Mr. Bush stated as he understood it this was an arrangement, whereby the Lipski's were to have some sort of contractual relationship with the Church to operate the daycare center. He said what would happen if they left the Church and it has an allowed use. He said it was a concern of the neighbors. And a concern of the neighbors that it would affect property values because of the uncertainty. Also, it was his understanding that under section 4-5.1 that there should be a site development plan submitted. And the way he understood it that it should be submitted at this time, so they could get an idea of what it was that they were actually proposing. He said one his primary concerns was the number of children that would be serviced at the daycare.

Mr. Day asked what did he have that would indicate property values would be lowered if the daycare was approved?

Mr. Bush stated he had a letter from one of the individuals that live in the neighborhood. And that individual has been involved in this kind of affair before. He said they were involved in a

kindercare center before and what it basically said was that in their experience it reduced the value of the neighborhood.

Mr. Day asked if it was a licensed appraiser?

Mr. Bush stated no. He said in closing the concerns of the neighborhood had to do with the volume in activity that was going to affect the Island. He said this was a residential island. And to put something on the corner would impact the neighborhood, value, and safety concerns. In addition, it would be in violation of their covenants that were in place. He said this was a concern that crossed all kinds of levels, such as legal, practical, and communal. He said he understood that this was a charged issue. And while they have the utmost respect for the individuals here for the Church, at the same time they believe that their concern for expanding their Church and doing things that they felt were good were not good for their neighbors or the community that was directly contiguous to them. He said they ask that the petition be denied.

Mr. Jerrelle Davis (513 Quarterman Drive) stated he has a right and he regretted some of the comments made today. But just because he opposed the petition that he felt would not benefit their neighborhood made him a bad person.

Mr. Sharpe stated the Board has heard both sides.

Mr. Day stated this decision was made at the last meeting. He said the Board was being asked to hear the petition based upon new information. He said he did not believe the Board has heard any new information that would change his opinion or the people in the neighborhood having the right to determine what was good or not good for their neighborhood. He said he believed what the neighbors was telling the Board was what they truly feel. He said he did not see anything from the neighbors for the petitioner that would in fact change his opinion from his vote last meeting.

Mr. Watford stated the petitioner asked for a rehearing based on new relevant traffic information. He said what he saw was a short list of 114 cars. But he had a map from CUTS that showed Penn Waller and Johnny Mercer site had 9900 cars a day. And on Quarterman, which was a higher speed limit had 17,500 cars a day. He said the information from CUTS made him more inclined to stay with the original decision.

CZBA Action: **Mr. Day made a motion that the Chatham County Zoning Board of Appeals does hereby uphold the previous decision to deny the petition as submitted based on no new and relevant information was presented. Mr. Stewart seconded the motion and it was unanimously passed.**

RE: Minutes

1. Approval of CZBA Minutes – April 27, 2004

CZBA Action: **Mr. Lee made a motion that the Chatham County Zoning Board of Appeals approve the Regular meeting minutes of April 27, 2004. Mr. Day seconded the motion and it was unanimously passed.**

RE: Other Business

1. Lee Webb

Mr. Howell introduced Lee Webb to the Board of Appeals. He stated that Lee will be assisting Board of Appeals for the next few months.

RE: Adjournment

There being no further business to come before the Chatham County Zoning Board of Appeals the meeting was adjourned approximately 10:45 a.m.

Respectfully submitted,

John Howell,
Secretary

JH/ca