

**CHATHAM COUNTY ZONING BOARD OF APPEALS**

**ARTHUR A. MENDONSA HEARING ROOM**

**112 EAST STATE STREET**

**AUGUST 23, 2005**

**9:00 A.M.**

**MINUTES**

**MEMBERS PRESENT:**

**Jimmy Watford, Chairman  
Davis Cohen, Vice-Chairman  
Steven Day  
Robert Sharpe  
Charles Stewart**

**TECHNICAL STAFF PRESENT:**

**Robert Sebek, Chatham County Inspections  
Department**

**MPC STAFF PRESENT:**

**Jim Hansen, Secretary  
Christy Adams, Assistant Secretary**

**RE: Called to Order**

**Mr. Watford** called the August 23, 2005 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

**RE: Continued Petition of Mark Curry, Agent for  
Mark S. Kamaleson, M.D.  
B-05-33253-1  
816 Wilmington Island Road**

Present for the petition was Mark S. Kamaleson, M.D.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a 6 foot height waiver to the maximum building height of 36 feet allowed in Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct a single family residence within an R-1-A (One-Family Residential) zoning district.

**Findings**

1. The petition was continued from the June 28, and July 26, 2005 hearings at the request of the applicant. The original petition requested a 25 foot height variance. The proposed structure height has been reduced; however, a height variance is still required.
2. Section 4-6.1 of the Chatham County Zoning Ordinance allows a maximum building height of 36 feet in the R-1-A district.
3. The subject parcel is a standard lot of nearly 3.23 acres, measuring 703 feet in depth

and 200 feet in width. The site is presently occupied by a single family home which will be demolished to make way for the proposed construction of a new single family residence. The petitioner is requesting a height variance of 6 feet that will allow the structure to be constructed at an overall height of 42 feet.

4. In accordance with Section 10-6.3 of the Chatham County Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals 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 subject property is a standard lot of nearly 3.23 acres. There are no irregular topographic features associated with the lot.

**b. The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Application of the regulations of the Zoning Ordinance would not create an unnecessary hardship.

**c. Such conditions are peculiar to the particular piece of property involved.**

The conditions described above are not peculiar to the particular piece of property involved.

**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 not cause substantial detriment to the public good or impair the purposes and intent of the Chatham County Zoning Ordinance. The proposed structure height is in character with other residential uses in the surrounding area.

**Summary of Findings**

All of the conditions necessary for granting a 6 foot height variance appear not to be met.

**Mr. Day** stated he noticed on the drawings that height variance was based upon an elevated infill which was approximately 2 feet – 3 feet above grade. He said that he (Staff) told him yesterday that was a legal measuring point. He asked if that was true?

**Mr. Hansen** stated yes.

**Mr. Robert Sebek (Zoning Administrator)** stated the ordinance says that it must be from grade or from the flood elevation which ever was greater.

**Mr. Day** stated on the drawing he also noticed an ornamental railing around the top of the building which was not considered a part of the request for variance. He asked if the measurement should be going all the way to the top of the ornamental railing or the top of the house?

**Mr. Sebek** stated the peak of the roof. He said he felt because it was not enclosed space it would be permitted.

**Mr. Sharpe** stated based on the elevation it appeared the house was lowered inside the foundation to make room to make up some of the distance. He said he knew that the flood zone elevation was 14 feet and the living space had to be certified at 14 feet above elevation. Therefore, it was not contingent upon the elevation necessary to surround the house with a burm like structure. In other words to braze the level of the house simply to meet a demand that says if you lower the house you could still get it 50 feet tall. He said you would just have to put 14 feet of it under ground. He said the petitioner also pointed out a 3 foot widows peak. If this was a residential structure, did not fall under the same guidelines as occupational safety and health act? He said any handrail that would prevent someone from falling off of a constructed structure had to be 42 inches high (commercial) with a mid rail and tow board. He said the petitioner was saying that the 36 inch height was to the handrail and not to the guide post tip.

**Mr. Curry** stated correct. He said it was to the rail and not to the post. The post went up to about 42 inches.

**Mr. Sharpe** stated for the sake of argument they will say 42 inches. The Islands Land Use Plan says – “no house or structure shall exceed 36 feet.” He said the petitioner was still asking for a height variance which in his mind even though it was a beautiful house, the land use plan says 36 feet. He said if the Board adopt making an exception here or there, pretty soon he felt they would have one with 42 feet, 48 feet, 37½ feet, 55 feet, etc.

**Mr. Curry** stated at the last meeting and it was also alluded to in the meeting prior to that one, Mr. Day suggested that his client seek a text amendment to try to say that this area (bluff) was a different condition and Wilmington Park where the lots were smaller and a different environment all together. He said they started the process of talking with Mr. Sebek and the County Commissioner for this area, and also met with Marianne Heimes to try and solicit support and expertise in tightening up guidelines that may allow for appurtenances similar to those in the commercial zoning but not allowed in residential. He said Ms. Heimes has stated that she would not be supportive of a text amendment and other individuals also told him that would be a hard road to hold and most likely would not be achieved. Based on his understanding from Mr. Sebek and what the ordinance called for to say if he did the ridge of the house to 36 feet and had chimneys that extended beyond that then the chimneys would not be the measuring point from which some future applicant might be able to say this was the point they should be measuring from. He said he felt that would be something the Board would look at whenever someone came to petition them.

He further stated they were doing a combination of cutting into the ground. The flood elevation on this particular lot was 12 feet and not 14 feet. He said some of the houses he showed last time that were high they were 8 feet, so 6 feet was below the flood plane. In those lots elevation worked in there advantage, but in this lot it did not. Again, he was trying to maintain a

proportion and style that based on methods that have been around a long time was something that would have been based on a ratio of lot coverage to height and likewise the setbacks to allow for a cupola or some mass. He said they felt by raising the grade 2 feet or 3 feet that was allowed as long as he created a plan that was acceptable to County Engineering as it related to drainage and soil erosion that they could utilize the ground floor as occupiable space other than just garage. He said he could eliminate all occupiable space down there and the whole structure would drop down. He said when the Board asks where was the harm, he felt that was where it becomes harm in the use of his space.

**Mr. Sharpe** stated you could not occupy a space below 12 feet flood level.

**Mr. Curry** stated not for a game room or bedroom.

**Mr. Sharpe** stated he was saying you could not have a rest room, sleeping room or anything like that. He said it had to be knock out walls or break away walls.

**Mr. Curry** stated it did not have to be break away walls because this was not a velocity zone. But it did have to have hydrostatic flood vents that allowed water to flow in and out in the event of a storm.

**Mr. Sharpe** asked if the flood zone was AE?

**Mr. Curry** stated AE 12 based on the survey. He said he was attempting to try to keep everything under one roof and not have to build a separate structure.

**Mr. Sharpe** stated from his perspective when he talk about chimneys, vents, or may be an air handler unit going on a roof that was a utilitarian function that was not occupied. He said they had a widows walk that would be occupied and may be at some point a social gathering where there would be a lot of people up there at once. He said it was not something that was there as normal maintenance of the house it was not necessary to have that, whereas may be to plan an air handling unit or air conditioner like a lot of the houses downtown which you knew they exceeded the building line. However, the point he was trying to make was there will be people walking around the roof. The roof was going to be used for a social purpose. He asked why was the variance not based upon the total height of the structure which the widows walk was a part of the structure and stopped at the roof line?

**Mr. Curry** stated he interpreted the guidelines as they were given. He said although this could be seen as habitable space they would not be camped out up there.

**Mr. Sharpe** asked if it was true that the zoning ordinance limited the 36 foot to the roof structure or any usable space?

**Mr. Sebek** stated he has always been told that it was to the peak of the roof. In a case like this you have a space was going to be put to some use up there. It says in the ordinance – “a maximum building height shall be 36 feet above grade or the 100 year base flood elevation whichever is higher excluding appurtenances, otherwise exempted by the zoning ordinance.” He said he did not see anything where it listed the appurtenances. He said he knew chimneys were.

**Mr. Sharpe** asked if he could read the text word for word.

**Mr. Sebek** stated – “maximum building height shall be 36 feet above grade or the 100 year base flood elevation whichever is higher excluding appurtenances.”

**Mr. Sharpe** asked if there was a period after “appurtenances?”

**Mr. Sebek** stated yes. He said typically appurtenances were chimneys and things like that.

**Mr. Sharpe** stated they were open to the rule of common sense and not strict interpretation of some letter.

**Mr. Sebek** stated correct.

**Mr. Day** asked if there was spiral staircase going up to this?

**Mr. Curry** stated there was in the earlier renditions. However, in this design there most likely would not be because of the expense of the spiral staircase. He said it would go up to the floor below it.

**Mr. Day** asked how would they get to this space?

**Mr. Curry** stated it could be a straight stair or ladder in a hatch.

**Mr. Day** stated his point was Mr. Sharpe if he was not going to have a designated staircase ie. straight staircase or a spiral staircase and just do a drop down staircase obviously they could get up there, but the potential for them to get up there was less than if they had regular staircase.

**Mr. Stewart** stated it was a beautiful design. He said in a situation where the Board has a variance, they look at it from three standpoints. The Board considers whether or not it would benefit the owner, property, and how would it affect the neighborhood and adjoining neighbors. He said it reminded him of the times that he has seen like Mount Vernon and Virginia. It was on a big plantation, stood to itself, and was majestic like this house would be. He said he felt they were trying to build the same kin of building, but it was not in keeping with the tradition of the people of Wilmington Island. He said he also felt that the plan was intruding upon the tradition of the neighborhood and the neighbors. He said he felt the plans were invading what the people of Wilmington Island were trying to protect against. He said when the petitioner moves into the house he has to get along with the neighbors and he felt this would be a bad start. He said he felt may be they needed to rethink their design and start over so they could be within the code.

**Mr. Davis** stated in regard to appurtenance he felt if there was any interpretation of what the Board was doing that they needed to give the person who was applying the benefit of doubt about it. He said it was his understanding the definition of the regulation was up to the roof and anything above that that was not a part of the roof such as a chimney or railing would be an appurtenance. Lastly, the petitioner says that it needed to be under one roof. The Board also needed to keep everything under one roof. He said the question was they have gone through a great deal of work and complimented for it. However, he wondered why would they embark initially on a plan to develop a home that was outside of the guidelines abinitio meaning from the very beginning. Why would you not go ahead and design something that was consistent with what the guidelines require instead of going above it. He said they have cut back several times and now they were 6 feet off, but they still had people here in objection. He said if no body objected to it that would be different.

**Mr. Davis** also reminded the Board that Mr. Stewart had to leave at 11:00 a.m. He said the Chairman may want to direct the discussion and limit it to a certain extent so that they could get everything in and get a vote done because this was at least the third time that this petition has been before the Board.

**Mr. Watford** stated in regard to the appurtenance if it was up for decoration then he felt that it should not be considered. But if it was up there and they were planning on using it for something else (social events or whatever) then he felt it needed to be considered as an appurtenance.

**Mr. Day** stated he felt the question was whether it was 1 foot or 20 feet they were asking for a variance from the ordinance. He said he felt the Board had to make the decision whether they were going to allow a variance. The petitioner was asking for 6 foot or 9 foot variance depending on how you looked at it. He said he felt the Board needed to move forward and give the petitioner an answer one way or another.

**Mr. Curry** stated communities through out America and coastal areas have such structures and that was the homeowner's initial intent. He said he told his client that it would be an issue, so they brought it before the Board to seek a variance.

**Mr. Day** stated he understood where they were going at with their petition. He said he felt the thing the Board had to do was to look at how this house fits in this particular location regardless of how other houses were in the area or outside the area. He said like he mentioned last month, the price of these properties were increasing and the houses were also going to increase in size. He said he believed the height restriction needed to be reviewed to give the whole community the opportunity to provide input. He said he did not believe that it was right for the Board at this particular point-in-time to totally disregard what the rest of the community wants to do. He said as he also said last time, he liked the design and was looking for some reason to grant the petition but so far he has not found one.

**Mr. Cohen** stated he shared the same opinion, but he has not seen anything that would warrant it.

**CZBA Action: Mr. Stewart made a motion that the Chatham County Zoning Board of Appeals deny the petition as submitted.**

**Ms. Marianne Heimes** stated there were about 99 people who signed a petition opposing this design. She said it was a lovely design. But the bottom line was that it was in sync with what has been decreed the Islands Land Use Plan as an ordinance. She said in regard to the widows walk, she believed that when the Islands Land Use Plan referred to appurtenances this could possibly be allowed but the roof line was above the 36 feet. She said she talked with Mr. Curry at length yesterday about why 36 feet, but she could not remember why 36 feet was selected. She said she believed MPC brought out 36 feet because it fit with other ordinances that were similar. Perhaps at some point it needed to be restudied. She said it has also been stated that times were changing, but it has only been four years since the plan was put into effect. She said she did not think they could eliminate a plan because times were changing. She said she felt when you get to the point that a law is a law only until someone says we will let you get away with doing something different then we were in a heap of trouble. She said there was already a structure on the site and she did not believe he could put another structure on there. She said she was at the point that there has been so much confusing things that have been brought up that skirt the issues that there was a 36 foot height restriction. She said either

we stick with it or throw it out the window, which was up to the Board. She said everyone that she has talked to on the Islands was opposed to this and that included the neighbors along there.

**CZBA Action: Mr. Cohen seconded the motion and it was unanimously passed.**

**RE: Petition of George R. Joyner, Jr.  
B-05-41657-1  
207 Barley Road**

Present for the petition was George Joyner, Jr.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a 38½ foot marsh setback variance to the 50 foot marsh setback requirement and a 23 ½ foot riparian buffer setback variance to the 35 foot riparian buffer setback requirement of Section 4-12 of the Chatham County Zoning Ordinance in order to construct an addition onto an existing residence. The subject property, located at 207 Barley Road, is zoned R-1, EO (One-Family Residential, Environmental Overlay).

**Findings**

1. The subject property lies within the Environmental Overlay (E-O) district. The Islands Community, as defined by the overlay, includes those areas of unincorporated Chatham County lying east of the Wilmington River, south of St. Augustine Creek, and west of Bull River. In addition to the development standards of the R-1 district, the E-O establishes environmental standards including a requirement for a minimum marsh setback of 50 feet and a minimum riparian buffer setback of 35 feet.
2. The subject parcel is trapezoidal in shape (frontage of approximately 101 feet, sides of approximately 143 and 95 feet, and rear of approximately 90 feet) and contains approximately 9,550 square feet. However, because of its marsh front location, only slightly more than 5,200 square feet of the property is buildable. An existing house that does not meet the setback requirements of the EO is located on the site. The petitioner is intending to construct an addition on to the existing house which will necessitate variances from the marsh and riparian setbacks.
3. Marsh and riparian setbacks are not necessarily measured from property lines, but rather from the marsh limit as established by the Department of Natural Resources. On the petitioner's property, the marsh limit is located approximately 40 feet from the rear property line. It is from this line that the requirements of the marsh and riparian setbacks are measured.
4. In accordance with Section 10-6.3 of the Chatham County Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals 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 parcel in question is relatively small, particularly when the marsh land is taken into consideration. As required by Ordinance, a 50 foot marsh setback, coupled with the required front yard setback of 25 feet, would render the parcel all but unbuildable. Additionally, the lot has an unusual, trapezoidal shape.

- b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Strict application of the regulations to this particular piece of property would create an unnecessary hardship. The existing residence has been in existence since prior to 1975. That structure is presently located within 9 to 15 feet of the established marsh boundary. The petitioner desires to construct a 12 foot wide addition onto the existing structure that would be within 11 ½ feet of the marsh boundary.

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

The conditions described above are peculiar to this particular piece of property.

- 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 not cause substantial detriment to the public good or impair the intent and purposes of the Chatham County Zoning Ordinance. The proposed 288 square foot addition of impervious surface would not have a significant deleterious impact on the environment and the surrounding area.

### **Summary of Findings**

All of the conditions necessary for granting a 38 ½ foot marsh setback variance and a 23 ½ foot riparian buffer setback variance appear to be met.

**Mr. Day** stated he looked at the site yesterday and the water was 3 feet from the house. How do you get a marsh setback that is where that line is?

**Mr. Hansen** stated the petitioner requested and the DNR folks came out surveyed and staked the property.

**Mr. Day** stated he felt this was a nonbuildable lot. He said if the petitioner was coming before the Board to build on this lot, it would be denied. To look at this and say that there was a major setback was ridiculous. Again, the water was within 3 feet of this house.

**Mr. Hansen** stated he could not argue with him about that, however as he stated earlier what the petitioner requested was for the DNR to come out and stake the property. He said DNR have determined that this was the jurisdictional line.



**Mr. Cohen** asked Staff if he was saying from the line to the proposed construction it would take the Board granting a 38½ foot variance?

**Mr. Hansen** stated yes. He said the way that the ordinance was currently written was from this established as determined by DNR, the code then would require that there be a 50 foot setback from this line. He said as they know the house currently exists and what the petitioner was requesting was to build an addition on in this location. What he said earlier was that coupled with the 50 foot setback and the required front yard setback the petitioner's lot was all but unbuildable as far as setbacks were concern. He said these reasons coupled with those that he have referred to and illustrated in the staff report staff felt that all the conditions for granting the variance have been met.

**Mr. Cohen** asked why were the conditions all met for granting the variance?

**Mr. Hansen** referred the Board to their staff report. In part 4 there were four areas that as a Board they were required by ordinance to consider. For instance, (1) that there are extraordinary and exceptional conditions, which he felt there were, (2) that the application of these regulations would cause an unnecessary hardship, which he felt it would in that if you applied the regulations strictly a literal enforcement would render this lot unbuildable, (3) that the conditions are peculiar to the property in question, which he felt they were, and (4) if relief is granted that it would not cause substantial detriment to the public good, which he felt that it would not.

**Mr. Cohen** stated for clarification the existing structure was there before these regulations were in place and that was the reason why it was there and not consistent with what they have today.

**Mr. Hansen** stated yes.

**Mr. Joyner** stated this was the second oldest house that was build on Oakland Island right after the caretakers home that on the educational center. He said they have lived there now for about 8 or 9 years. He said they just had a baby and that was why they were seeking this variance to add onto the property. He said he knew the lot may be viewed as unbuildable, but this was there home that they were currently living in.

**Mr. Cohen** asked if he had any affidavits or statements from his neighbors supporting the petition?

**Mr. Joyner** stated no, but he could bring some if needed.

**Mr. Hansen** stated although he has not received any letters or phone calls in support, neither has he received any in opposition.

**Ms. Jean Valentine** asked where was the septic tank?

**Mr. Joyner** stated the septic tank was along this area of the land which was away from where they were proposing to build.

**CZBA Action:** **Mr. Stewart** made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted based upon a finding that the relief granted will not cause substantial detriment to the public good. **Mr. Sharpe** seconded the motion. Opposed to the motion were **Mr. Cohen** and **Mr. Day**. The motion was tied 2 – 2. The

**motion was passed 3 – 2 with Mr. Watford voting in Favor of the motion.**

**RE: Petition of Michael Butler  
B-05-39585-1  
5310 Mead Avenue**

Present for the petition was Michael Butler.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a 13 foot front yard setback variance to the 30 foot front yard setback requirement of Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct a single family residence. The subject property, located at 5310 Mead Avenue, is zoned R-1 (One-Family Residential).

**Findings**

1. The petition was continued from the August 23, 2005 meeting in order to provide the applicant an opportunity to possibly redesign and /or reorient the proposed structure such that a setback variance would not be required. No additional information has been submitted by the petitioner.
2. Section 4-6.1 of the Chatham County Zoning Ordinance requires a minimum 30 foot front yard setback for residential uses within the R-1 district.
3. The subject property is a standard lot that is presently vacant. The parcel contains 10,000 square feet and measures 100 feet square. The petitioner is seeking a front yard setback variance in order to construct a single family residence.
4. In accordance with Section 10-6.3 of the Chatham County Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals 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 subject property is a standard lot and contains no irregular topographic features.
  - b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**  
  
Application of the regulations of the Zoning Ordinance would not create an unnecessary hardship.
  - c. **Such conditions are peculiar to the particular piece of property involved.**

The conditions described in above are not peculiar to the subject property.

- 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 not cause substantial detriment to the public good. However, there appears to be ample space on the lot to reorient the proposed structure such that a variance is not required.

**Summary of Findings**

All of the conditions necessary for granting a 13 foot front yard setback variance appear not to be met.

**Mr. Butler** stated his plan was to come in the lane and come with a driveway to the carport. He said all his activities would be in the backyard. He said his property line was 8 feet from the curb. The reason that it was not in the center of it was because he wanted to put his septic tank on this side.

**Mr. Stewart** asked why couldn't he put the septic tank in the back rear corner or some where like that?

**Mr. Butler** stated there were certain measurements that he had to have for a field. He said he would then have to move the house over to the other side.

**Mr. Stewart** asked why couldn't he put the septic tank in one corner and run the field parallel to the back line? He said there was no way he would drive over that.

**Mr. Butler** stated this was not as big as area as it looked. He said he would have to move the house over and he did not know the exact number of feet he would have to have but instead of having different lines running for the septic tank there was a septic system that you could put in now that would fit in this area right here. He said he already things allocated for that.

**Mr. Stewart** stated he still did not understand why he couldn't put it parallel to the back line.

**Mr. Butler** stated he possibly could, but there were a number of reasons that he did not need all that space in front.

**Mr. Stewart** stated doing it the way he suggested he would not violate any lines except the rear setbacks. He said he could also move his carport over to the side next to the lane. He said he just would not have to drive as far to get to the carport if it was adjoining the building to the right.

**Mr. Butler** stated the houses across the street were 18 feet from the curb. He said this house was cattycorner from the lot across on Livingston which was 20 feet from the curb. He said it would not change the look of the area.

**Mr. Day** stated what the Board was looking for was a valid reason to grant the variance. He said from his perspective if there was no other way to put his house on this lot other than exactly how he had it right there, from his perspective he would be in favor of what he was trying to accomplish. He said this was an extremely large lot. It appeared to him that he could

manipulate his carport or manipulate the house location to accomplish everything that he needed to accomplish and still stay within the setback ordinance. He asked if there was a way that he would consider relocating his carport or house? He said right now it was on paper which would not cost anything. He said if he was going to have to move his house back then there would have to be a variance on the backyard setback. As mentioned earlier that was an easier variance than it was from the front. He said if the Board vote on this variance up or down, would Mr. Butler if he decided to move his house based on this vote reapply and come back before the Board for a rear yard setback and pay an additional fee to accomplish that.

**Mr. Hansen** stated yes. He said he would have to come back with a whole separate application and probably pay a new fee as well. He said he did not know the applicants intent and what his position was with regards to the carport. However, because it was attached to the structure it becomes a part of the primary structure. If it were to be considered an accessory use (detached) it could be placed within 5 feet of the property lines without having to require a variance. He said that was for the applicant's information. He said he would still have to move the house back but there was ample room because the carport as proposed was 24 feet. If the house slid back and still met the front yard requirement the petitioner could still easily meet the rear yard.

**Mr. Day** stated if it was detached.

**Mr. Hansen** stated yes. He said this just a possibility that the petitioner may wish to consider.

**Mr. Day** asked the petitioner would he consider rethinking his plan and bringing this back if he needs a variance to the Board next month? He said he felt the sentiment of the Board was may be to deny his petition.

**Mr. Cohen** stated the Board was offering him a continuance to allow him time to redraw it and bring it back to the Board.

**Mr. Butler** stated from the porch to the road would be 38 feet. He asked why was the variance that much? He said there was no sewer in there and the water was the only thing that was there. He said he felt the variance was excessive for that.

**Mr. Day** stated all the Board could do was decide based upon what the law says is in existence today.

**Mr. Cohen** asked if he wanted the Board to vote on it now or would he like the continuance?

**Mr. Butler** stated he would like to request the continuance.

**CZBA Action:** **Mr. Day made a motion that the Chatham County Zoning Board of Appeals continue the petition until the next meeting. Mr. Stewart seconded the motion and it was unanimously passed.**

**RE: Petition of Ruth Brightwell  
B-05-39744-1  
2302 Beaumont Drive**

Present for the petition was Montresa Powell.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of an application to establish a child care center for 18 children, and is seeking a waiver of the requirement that said use be located on a collector or arterial street pursuant to the requirements of Section 10-6.2 of the Chatham County Zoning Ordinance. The subject property, located at 2302 Beaumont Drive, is zoned R-1 (One-Family Residential).

**Findings**

1. The subject property, located on a corner lot fronting Beaumont Drive, is a triangular piece of property containing approximately 5,050 square feet. The parcel measures approximately 52 feet in width along Beaumont Drive and approximately 191 feet in depth along Howard Foss Drive extended. The parcel is substandard in both lot width and lot area. The rear yard is surrounded by a six foot high opaque wooden fence.
  
2. Section 4-5.1 of the Chatham County Zoning Ordinance requires Board of Appeals approval to establish a child care center in an R-1 zoning district. The requirements for establishing a child care center per Use 20a include: a) that not less than 100 square feet of outdoor play space be provided for each child; b) that the center be located on a collector or arterial street; c) that the architectural character be characteristic of the neighborhood; d) that any structure containing more than one dwelling unit not be used for a day care center; e) that the use provide off-street parking in conformance with the requirements of Section 6-3; f) that no outdoor activities occur after 9:00 p.m.; g) that visual buffers be provided to shield parking areas, play areas and outdoor activity areas from abutting property; h) that a sign not to exceed three square feet may be permitted; and i) that the Board of Appeals shall have the right to limit the number of children allowed at any particular day care center.

The requirements of a, c, d, f, and, h (above) appear to be met. A waiver of the requirement of (b) is being sought. The intent of the requirement that child care facilities be located on collector or arterial streets is to minimize the potential impact that additional traffic generated by the use would have on surrounding properties. The subject property is located on a local street in the middle of an established residential neighborhood. Article (e) requires that a minimum of one parking space be provided for each two employees. State day care regulations require one worker for each six children. Whereas the petitioner has stated a desire to provide services for 18 children, two parking spaces would be required. Section 6-3 of the Ordinance also requires that an off-street loading and unloading area be provided for the safety of the children. The petitioner has not submitted the necessary plan illustrating proposed off-street parking or loading and unloading areas. Requirements of part (g) include buffering parking areas and play areas from abutting properties. The petitioner’s rear yard is fenced and meets minimum buffering standards. No buffering or shielding has been provided for the proposed parking area. As permitted by article (i), the number of children allowed at any center is left to the discretion of the Board of Appeals.

3. In accordance with Section 10-6.2 of the Chatham County Zoning Ordinance, the Board of Appeals shall hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of these regulations. The application to establish such use shall be approved on a finding by the Board of Appeals that:

- a. **The proposed use will not be contrary to the purposes stated for these regulations.**

The proposed use is not contrary to the stated purposes of these regulations.

- b. **The proposed use will not affect adversely the health and safety of residents and workers in Chatham County.**

The proposed child care center will have little, if any affect on the health and safety of residents and workers in the County. However, the increased traffic and subsequent congestion associated with the use could have an adverse impact on area residents.

- c. **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

The subject property is located on a local street in the middle of an established residential neighborhood. The petitioner has requested approval of a child care center to provide services for 18 children. The resulting traffic and potential congestion associated therewith could be detrimental to the use or development of adjacent properties.

- d. **The proposed use will not be affected adversely by the existing uses.**

The proposed use, subject to approval, can be compatible with the residential character of the neighborhood.

- e. **The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of such use.**

The subject property contains approximately 5,050 square feet. The property does not meet minimum development standards for the R-1 district.

- f. **The proposed use will not constitute a nuisance or hazard because of the number or persons who will attend or use such facility, vehicular movement, noise or fume generation, or type of physical activity.**

Increased vehicular movement and noise generation could be a nuisance to the surrounding area.

- g. **The standards set forth for each particular use for which a permit may be granted have been met.**

Standards as discussed above appear not to be met. A waiver of the collector/arterial street location requirement is being sought. The number of children proposed to be cared for at his location and the amount of traffic that can be expected as a result pose concerns about safety, congestion, and, the possible detrimental impacts that might be experienced by surrounding property owners.

- h. **Provided, that the Board of Appeals may impose or require such additional**

**restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in the general neighborhood.**

Standards applied are at the discretion of the Board.

- i. Provided, that the proposed use shall be subject to the minimum area, setback, and other location requirements of the zoning district in which it will be located.**

The parcel in question does not meet the development standards of the R-1 zoning district. The parcel in question meets neither minimum lot width or lot area requirements.

- j. Provided, that the proposed use shall be subject to the off-street parking and service requirements of these regulations.**

Two off-street parking spaces will be required. In addition, provision must be made for an off-street loading and unloading area. The petitioner has not submitted the necessary plans for review.

- k. Provided, that wherever the Board of Appeals shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions or restrictions upon which such permit was granted are not being complied with, said Board shall rescind and revoke such permit after giving due notice to all parties concerned and granting full opportunity for a public hearing.**

Not applicable.

### **Summary of Findings**

All of the conditions necessary for approving the establishment of the proposed use (child care center for 18 children) and the waiver of the requirement that said use be located on a collector or arterial street appear not to be met.

Mr. Stewart asked what was the zoning of the property?

Mr. Hansen stated R-1.

Mr. Stewart stated years ago to the east there was another daycare center that was in the home. He said this would be a freestanding daycare center. He asked if that would be under R-1 since it was not in a home?

Mr. Hansen stated the ordinance allowed subject to Board approval the creation of a daycare center within the R-1 zone and does not require that said center be home occupation or that the proprietor live in the home. So, within this zone it could be freestanding.

**Mr. Sharpe** asked if the applicant was requesting a use variance?

**Mr. Hansen** stated technically it was not a variance. He said it was a use permit. The Board is

required under certain sections of the ordinance there are certain uses that were allowed subject to approval of this particular body. He said this was a daycare center which was one of those uses.

**Mr. Stewart** asked if the Board had to approve the lay out?

**Mr. Hansen** stated no. He said the Board is just requested to approve the use. He said the petitioner will have to meet the necessary requirements of the ordinance and would also be required to secure the necessary licenses some of which were administered by the County and some of which were administered by the State of Georgia.

**Mr. Stewart** asked if they wanted to reduce the number of play space or parking, would that be a variance and would that warrant them coming back before the Board?

**Mr. Hansen** stated he felt the interpretation has been that anything within the ordinance was variable. He said they would have to come back to the Board to seek that, but they have not requested that as of today. However, the certain code requirements as administered by the State of Georgia would not be something that the Board has purview over. He said that would be something that the State would have to deal with.

**Mr. Cohen** stated as he understood it, the Board's main concern was whether they should waive the prohibition against establishing such a activity on a non arterial road or collector. In other words the location was not on a arterial road or collector road. The regulation requires that such an activity be located on an arterial road or collector road. He asked if that was correct?

**Mr. Hansen** stated yes. He said they have two portions to this particular request. The first was whether or not to allow the use to occur at this location. Secondly, is the request for the waiver that such use be located on an arterial or collector. In other words, if the Board should decide to grant the use request, they decide that the use was appropriate at this location then they were almost by default going to say, therefore the waiver was granted. But the waiver requirement was one of those requirements by code that is in the Chatham County Ordinance along with the others that he has listed in the staff report. The petitioner has expressly requested a waiver of that particular requirement that it be located on a collector or arterial street. He said the reason that code lists that is that there is associated with child care centers a certain amount of vehicular traffic to be expected both at the pickup time and the drop off time. The code recognized that this increase in traffic as well as the stopping, starting and so on could be detrimental to the neighborhood. Therefore, it is required in this case that those uses be located on either collector or arterial roads.

**Mr. Day** stated at the same time if the Board was looking at this property for use then shouldn't they also insist at that particular point in time that the applicant provide them with the necessary information or documentation to show that the requirements ie. off-street parking could be satisfied. He said for the Board to look at this and say "yes it was okay", but if they could not come to them and say I am satisfying the off-street parking requirements then as far as he was concern they could not use it there. He said from his perspective they needed to be able to satisfy at least those basic requirements.

**Mr. Hansen** stated yes. He said that was why he noted in the staff report that they have not as yet been shown how those particular uses were going to be met. He said perhaps the petitioner has that today and could present it to the Board. He said also the Board has continued projects



to allow people to submit additional clarifying information that could be considered.

**Mr. Stewart** asked if the Board approved this that it could be interpreted that they have approved the structures that were going on there as well as the parking requirements?

**Mr. Hansen** stated he did not believe that there was. He said what the Board was giving approval for was the use. He said they would still in order to receive their Certificate of Occupancy and necessary licenses have to meet at least the minimum requirements. He any variances that would be sought would have to come back before the Board. The Board was merely saying if they approve the petition was that the use was appropriate at this location.

**Mr. Sharpe** asked if he had any knowledge where a variance for a use has been some times later on changed to another use? And, if so do they have to come back before the Board to change the use?

**Mr. Hansen** stated yes. However, this was not a variance. This was a use permit to allow them to do the daycare center and the daycare center only. He said should the Board grant approval this would be the only allowable use that they would be granting. If in twenty years the daycare center goes away and they want to go back and use it as a single-family residence or any other particular use that is allowable under the existing R-1 or whatever the zoning may be at that time they could do that. But they could not change to a more restrictive use or the complexion or nature of the daycare. He said another point is the request is for 18 children. The Board has the power to approve 18 children or something less. He said daycare centers are an allowed use by right within virtually all residential zoning districts under the Chatham County Ordinance for 6 children or less. He said they did not have to come seek the permission of this Board, County Commissioners, MPC, or anyone because it was allowed by right for 6 children or less.

**Mr. Day** stated he felt what was just stated was even more confusing. He said he felt this way because he had no idea what the requirements were or licensure requirements for 12 children, 9 children, 18 children or whatever.

**Mr. Hansen** stated he would try to clarify. The couple of issues the Board would have to deal with for anything less which he alluded to that said by State statue there should be provided 1 daycare worker for each 6 children. So, if you have 12 children you would have 2 workers required, therefore you would have to have two off-street parking spaces. Regardless of whether you have a daycare center for 12 children, 7 children, or 18 children you still had to provide the required off-street loading/unloading zone. He said that requirement was not going to change.

**Mr. Day** asked if the rest of it would be handled by state licensure?

**Mr. Hansen** stated yes. He said the only other part that would be of concern to the Board would be the play area. The code requires that there be a minimum of 100 square feet of outdoor play space per child. In this case they have met that requirement because they have more than 1800 square feet.

**Mr. Cohen** stated in the Staff's findings, paragraph 2 section 4-5.1 it says that A, C, D, F, and H appeared to be met. He said if the Board accepted that as true then they were left with items B and E.

**Mr. Hansen** stated there was at least one other additional note that should be made which was

the requirements of part G that the proposed parking areas be buffered from view by adjoining properties.

**Mr. Cohen** stated he noted staff's findings A – J and tried to pull out what was the opposition or objections. One of the objections was the resulting traffic and potential congestion associated therewith could be detrimental to the use or development of adjacent properties, which was number D. He said the finding in F was the property did not meet minimum development standards for the R-1 district. Finding G says that it could be a nuisance. Finding H says that it could pose concerns about safety, congestion, and the possible detrimental impacts that might be experienced by surrounding property owners. And finding K says that the off-street spaces would be required in addition provision must be made on off-street loading/unloading area and the petitioner has not submitted necessary plans for review. He said it seemed to him that these issues needed to be specifically addressed in order to convince the Board that they should grant the petition.

**Mr. Hansen** stated he felt that those were all questions that should be appropriately addressed to the petitioner. He said he was also correct that items A – L were all requirements of the code which the Board must consider at the time. He said what he attempted to do for the Board was give his opinion as to whether or not items A – L appeared or appeared not to be met. For example, the Board did not mention item J which says that provided the use shall be subject to the minimum area setback requirements, etc. He said this particular property was a substandard lot within the zoning district. He said Staff points these types of issues out for the Board's consideration as they determine whether or not to grant the use.

**Mr. Stewart** stated the fact remained that there were improvements on the property that preceded the ordinance.

**Mr. Hansen** stated yes.

**Ms. Montresa Powell** stated she was Ms. Brightwell's partner. She said they were developing this as a daycare center. She said before they started they went to Mr. Sebek on what they needed to do in order to develop the property as a daycare center. She said when they started there was some confusion because Mr. Sebek thought they only wanted to care for 6 children, but they want to care for 18 children. She said they each currently have home daycares. She said they were going to combine the two home daycares together which would allow them to be able to care for more children. She said their architect was Lee Meyer and he was going to add the employee parking spaces as well as a circular drive for loading/unloading. She said there was another daycare in the area that was approved for 18 children (Doreen's Nursery). She said across the street there was another daycare center that has since closed down and was now a nail salon. She said they were in the second part of their application with approval for the State for their licensing. She said Ms. Julian Strickland came out to the center and told them the things that they needed to do, such as how much outdoor play area was needed as well the amount of usable indoor space needed per child.

She further stated that they went back to Mr. Sebek when Ms. Strickland told them they needed to seek for their Certificate of Occupancy, which was the last part of the application that they had to turn into the State of Georgia in order to receive their license. She said they would do whatever needed to be done to make this work.

**Mr. Sharpe** asked if she said the property adjacent was already in use as a daycare center?

**Ms. Powell** stated yes.

**Mr. Hansen** stated in regard to Doreen's daycare they appeared before the Board a number of years ago and received use approval. He said it also his understanding the daycare that no longer serving as a daycare also received Board approval.

**Mr. Day** stated he was concerned about pickup and drop off. He said other than the front yard there was virtually no place for off-street pickup and drop off. It appeared with 18 children they would have the potential for 18 cars coming in there over a short period of time at least twice a day. He said he felt that could create a backup of traffic on that street and could become a problem. He said he would like to see if the Board granted the use a requirement put on there that there had to be a pickup and drop off area that would handle at least five cars in an off-street parking situation. He said he felt that was a realistic number and would keep them out of the street and serve as a protection for the children.

**Mr. Stewart** stated he felt 18 children was a lot for a daycare in a residential area.

**Mr. Cohen** asked where were her visual buffers?

**Ms. Powell** stated they had a 6 foot privacy fence that was already up.

**Mr. Day** asked Staff for off-street parking spaces if there was a zoning requirement that would limit the amount of distance from the back end of a car to the street?

**Mr. Hansen** stated he was not certain that there was or was not. He said logic would seem to dictate that you could not have your bumper right at the property line.

**Mr. Day** stated right now it would not pose a problem. However, if the County or City decided to put a street thru there, would that put these folks in a position where they would not have any off-street parking because of some kind of requirement that would say your car has to be minimum of 10 feet or 15 feet from the right-of-way.

**Mr. Hansen** stated he was not aware that was that requirement. He said he felt that was a question they would have to explore with the Traffic Engineering department.

**Mr. Day** asked the petitioner if the property has been surveyed?

**Ms. Powell** stated not to her knowledge. She said she did not know where the property lines were.

**Mr. Stewart** stated in regard to the parking it would have to be parallel parking which would take about 18 feet. He said he felt if they put two or three parking spaces in there 18 feet would encroach upon the drive-thru. He said he felt if they put it on the front it would obstruct that and create an additional hazard. He said he felt the lot was substandard and felt the Board should not approve it.

**\*Mr. Stewart** left the meeting approximately 11:00 a.m.

**Mr. Hansen** stated any approval for the parking and the proposed circular drive would have to meet the requirements of and approval from the County Engineering traffic department. He said if the Board decided to approve the petition it may be wise to condition it upon approval from the

various county departments, which would have to happen regardless.

**Mr. Cohen** asked the petitioner if she had any letters of consent, neighbors, or any evidence that they were in support of the petition because he was hearing evidence that they were opposed to it.

**Ms. Powell** stated the only people she talked to was the owner of the daycare across here and Doreen’s Nursery who were not opposed to the daycare. She said she also talked with Pat who is a neighbor and she did not have any concerns about it.

**Ms. Sabrina Kent (President Nottingham Woods Association)** stated once you come off of Skidaway especially between the hours of 7:00 a.m. – 9:00 a.m. and 3:00 p.m. – 6:00 p.m. the traffic is backed up. She said if you have a daycare center on this corner, you have traffic that is backed up and the driver behind the person who is trying to make the turn on Howard Foss will go around that person which has caused numerous accidents. She said when the traffic is backed up like that it brings the traffic up to the house because the house is right on the corner. She said she did not feel there was enough space to put a circular driveway or anything else. The community concern was the fact there was going to be a congestion of traffic there. She said not only have they had accidents in the past, but when you add 18 additional cars trying to drop off and pick up children everyday. In addition, with school back in session the school bus also stops at that corner everyday that adds to the traffic. She said there was a daycare center across the street that was no longer in business. But since the daycare was gone a nail salon has moved in there and she awaiting a phone call from Mr. Thompson and she was also working along with Jeff Felser on this case as well because it appeared to be a problem with traffic. She said the community main concern was that this was not an arterial or collector street. She said there have been at least two children that have been hit on that corner.

**Mr. Cohen** asked if there was anything associated with this business that she could agree to by way of a reduction of the number of children from 18 to 15 or 10? He asked if there was anything that would encourage or cause her to change her position and agree that this be allowed in this area.

**Ms. Kent** stated no, because she felt that was not the proper place for it.

**Ms. Powell** stated on one side of the street there was no sidewalk. She said from that standpoint she could understand how children have been hit. She said she felt the County may need to be petitioned for a sidewalk. In addition Doreen’s nursery did not have a circular driveway. She said her parents just pull up in her driveway and drop the children off and she currently has 18 children.

**CZBA Action:** Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals deny the petition as submitted. Mr. Day seconded the motion and it was unanimously passed.

RE: Petition of Steven & Taylor Vivian  
 B-05-39946-1  
 2 Cornus Court

Continued per Staff’s request.

**CZBA Action:** Mr. Cohen made a motion that the Chatham County Zoning Board of

**Appeals continue the petition until the next meeting. Mr. Day seconded the motion and it was unanimously passed.**

**RE: Petition of Jack & Jo Anne Weathers  
B-05-40049-1  
808 Walthour Road**

Present for the petition was Jo Anne Weathers.

Mr. Hansen gave the following Staff report.

The petitioner is requesting approval of a two foot side yard setback variance to the five foot side yard setback requirement of Section 4-6.1 of the Chatham County Zoning Ordinance in order to construct a carport onto an existing residence. The subject property, located at 808 Walthour Road, is zoned R-1 (One-Family Residential).

**Findings**

1. Section 4-6.1 of the Chatham County Zoning Ordinance requires a minimum five foot side yard setback in the R-1 zoning district.
2. The subject property is a standard lot containing 17,100 square feet. The parcel measures 90 feet in width and 190 feet in depth, and fronts on Walthour Road. The subject lot abuts a 30 foot wide County drainage easement to the west. The petitioner is seeking a two foot side yard setback variance in order to construct a carport onto an existing residential structure.
3. In accordance with Section 10-6.3 of the Chatham County Zoning Ordinance, the Board of Appeals may authorize upon appeal in specific cases such variance from the terms of the regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will, in an individual case, result in unnecessary hardship, so that the spirit of the regulations will be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in an individual case upon a finding by the Board of Appeals 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 subject property is a standard lot within the R-1 zoning district and meets or exceeds the development standards thereof. There are no irregular topographic features on the lot.

- b. **The application of these regulations to this particular piece of property would create an unnecessary hardship.**

Application of the regulations of the Zoning Ordinance would not create an unnecessary hardship.

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

The conditions described in above are not peculiar to the subject property.

- 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 not cause substantial detriment to the public good. Because the subject property is located adjacent to the drainage easement and because the petitioner proposes to construct the carport on the western side of the existing structure, the neighboring residential use will still be more than 30 feet distance from the proposed use.

### **Summary of Findings**

All of the conditions necessary for granting a two foot side yard setback variance appear not to be met.

**Mr. Day** stated this petition was based upon the fact that this carport was going to be attached to the building.

**Mr. Hansen** stated yes.

**Mr. Day** stated if the carport was not attached to the building they would not be here.

**Mr. Hansen** stated yes.

**Mr. Watford** stated you have an existing pad all ready there.

**Mr. Hansen** stated yes, but the pad did not require a variance. He said rather the fact that they were anticipating putting a structure there did.

**Mr. Cohen** asked if they could separate the carport instead of attaching it?

**Ms. Weathers** stated yes, but you would have runoff between the houses. Also, she would still need the variance because if she come away from the house she would need the 2 feet for the width.

**Mr. Day** stated if she separated it from the house she would not need the variance.

**Ms. Weathers** stated she would like it attached for looks and aesthetics.

**Mr. Day** stated they were out there yesterday. He said he felt carports were okay in the right application. He said there were a number of carports all ready in existence in that area, so he did not have a problem with what she was trying to accomplish.

**Mr. Cohen** asked if they talked to the neighbor on the other side of the drainage ditch?

**Ms. Weathers** stated yes, and none were opposed to it.

**CZBA Action:** **Mr. Cohen made a motion that the Chatham County Zoning Board of Appeals approve the petition as submitted based upon a finding that the relief if granted**

**will not cause substantial detriment to the public good. Mr. Day seconded the motion and it was unanimously passed.**

**RE: Minutes**

1. Approval of CZBA Minutes – July 26, 2005
2. Approval of Special Meeting CZBA Minutes – August 2, 2005

**CZBA Action: Mr. Day made a motion that the Chatham County Zoning Board of Appeals approve the CZBA Minutes of July 26, 2005 and August 2, 2005 as submitted. Mr. Cohen seconded the motion and it was unanimously passed.**

**RE: Other Business**

**Mr. Hansen** stated Mr. Meyer, who is the architect working with Ms. Brightwell. He said Mr. Meyer would like to make a comment, but the Board has already taken an action on this case. He said the Board if they chose could make a motion to reconsider to reopen the case to hear more information.

**Mr. Cohen** stated he would welcome Mr. Meyer's comments.

**Mr. Day** stated the comments were fine but the decision has been made. He said he didn't feel the Board could reopen this case and reconsider a decision after other members of the public have already left the meeting. However, he was welcome to make a comment but he did not feel it would be appropriate to reopen the case.

**Mr. Meyer** stated he just came from a funeral for Curtis Lewis. He said he was asking that the Board give Ms. Brightwell and her partner an opportunity to come back. He said he would ask that the Board visit the site if they have not already done so. The petitioners were providing a service whose parents were working. He said he felt everyone needed to come together as a community and work to make it a better place for all people. He said he was asking that the Board give them an opportunity to come back at the next meeting because he felt everything that they have done was lost.

**Mr. Day** stated he visited the site and he was concerned about the children that the petitioners were going to be caring for. He said he felt that was something that was needed in the community. However, there were other members of this community who came in and voiced their opposition on having this site in this location. He said he felt the site did not meet the guidelines set forth by the County. He said unless there was valid reason for granting use on this property and going against the guidelines there was not much the Board could do about it. He said right now he did not see that there was valid reason for going against the County guidelines. He said the Board was applying their decision based upon what was presented today.

**Mr. Sharpe** stated he has known Mr. Meyer a long time. He said he supports people and was a champion of a cause that was some times overlooked and lost. He stated that not long ago the Board had a case where there was a childcare center proposed by a church on a busy intersection. He said it was difficult for him to vote against it and it was also difficult for him to vote against this endeavor. He said he knew that Mr. Meyer also served on the MPC Board and that they have a very valuable asset in him. Again, this was a disinterested point-of-view that the Board has adopted, which meant they could not let their emotions rule their decisions. He

said just like he would not in his position on the MPC. He said this was strictly a matter of whether they could allow this based on applicable law and the Board has decided not to based on several reasons that were outlined by Staff.

**Mr. Meyer** asked if this could be brought back to the Board at the next meeting?

**Mr. Sharpe** stated the petition has already been denied.

**Mr. Cohen** stated the Board had a lengthy hearing today. He said there pros, cons, and staff presentations. One of their Board members also had to leave and people who were here before were not here. He said the Board could not legally speaking or as a matter of procedure rehear anything at this particular point. In other words, it appeared to him that it would be res judicata, which meant a decision that has been made and it was done and over with. He said he spoke with a member of Staff to may be try to find an opportunity for him to address the specific things they brought out that went against their desire to waive the anterior or connector road. He said the other considerations also come into it which were you could not bring the same request within 1 year. But if they brought a different plan and repay the fee because it would have to be readvertised and reposted then it could be brought back at an earlier time less than 1 year.

**Mr. Meyer** stated okay.

**Mr. Day** stated the Board has lost a very valuable member in the death of Michael Lee. He said Mr. Lee unselfishly devoted his time, energy, and effort to make the Chatham County Zoning Board of Appeals work. He said Mr. Lee would be sorely missed. He said he would like to offer the Board's condolences to his friends and family.

2. Harmit Bedi, Deputy Director

**Mr. Hansen** stated he would also like to formally introduce Mr. Harmit Bedi, who is the new Deputy Director of MPC.

**RE: Adjournment**

There being no further business to come before the Chatham County Zoning Board of Appeals the meeting was adjourned approximately 11:35 a.m.

Respectfully submitted,

Jim Hansen,  
Secretary

JH:ca