

CHATHAM COUNTY ZONING BOARD OF APPEALS

ARTHUR A. MENDONSA HEARING ROOM

112 EAST STATE STREET

April 27, 2004

9:00 A.M.

MINUTES

MEMBERS PRESENT:

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

TECHNICAL STAFF PRESENT:

**Trip Van Aman, Chatham County Inspections
Department
Robert Sebek, Chatham County Inspections
Department**

MPC STAFF PRESENT:

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

RE: Called to Order

Mr. Sharpe called the April 27, 2004 Chatham County Zoning Board of Appeals meeting to order at 9:00 a.m.

Mr. Howell stated before the Board gets started, Mr. Tripp Van Aman would like to introduce the new Zoning Administrator for Chatham County.

Mr. Aman introduced Mr. Bob Sebek. He stated that Mr. Sebek started yesterday as the new Chatham County Zoning Administrator.

Mr. Sebek stated that so far everybody has been really great and he is sure that it will continue.

**RE: Continued Petition of Harold Yellin
Agent for R.B. Donaldson
B-04-42343-1
6407 LaRoche Avenue**

Present for the petition was Mr. Harold Yellin, agent for R. B. Donaldson, petitioner.

Mr. Sharpe called for the Staff Report.

Mr. Howell gave the following Staff Report:

This petition was continued from the February 24, 2004 and March 23, 2004 meetings in order to have a site plan prepared and presented at the April meeting.

The petitioner is requesting a 40 foot front yard setback variance pursuant to the requirements of Section 4-6.1 of the Chatham County Zoning Ordinance in order to build a house at 6407 LaRoche Avenue, within an R-1 (One-Family Residential) zoning district.

Findings

1. Section 4-6.1 of the Chatham County Zoning Ordinance provides that within an R-1 zoning district the front yard building setback is a minimum of 85 feet from the centerline of a secondary arterial street.
2. The petitioner is requesting to build a house 30 feet from the front property line. LaRoche Avenue is classified as a secondary arterial and the street has a 30 foot right-of-way. The minimum front yard building setback is 70 feet.
3. The lot is approximately 7.1 acres in size with 6.4 acres of saltwater marsh. The 'buildable' area is 0.7 acres in size and is irregular in shape.
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 irregular shape and size of the buildable area is an extraordinary and exceptional condition pertaining to the subject piece of property.

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

The application of the minimum 70 foot front yard setback requirement would render the lot unbuildable. Applying the development standards to this particular piece of property would create a hardship in the development of the property.

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

The irregular shape and size of the buildable area are conditions 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.

Summary of Findings

All of the conditions required for granting a 40-foot front yard building setback variance appear to be met.

Mr. Cohen stated that he needed to declare a conflict of interest as he and Mr. Donaldson were longtime personal friends and grew up together in the community. He said thinks it is best for him and for Mr. Donaldson so that his vote is not called into question for partiality, that he declare a conflict at this time and not vote on this issue.

Mr. Harold Yellin (Representing R.B. Donaldson and Ed Beatty) stated that the property is located at 6407 LaRoche Avenue and they have, requested a setback variance on the front yard only.

Mr. Stewart asked exactly where was the lot located because there were two lots out there? One of the lots had a sign that was thrown down in the bushes and the other lot had been cleared and Mr. Donaldson stated last time that he had cleared the lot. He asked if the lot was the one where the causeway goes out to the creek?

Mr. Yellin stated to the side of the creek.

Mr. Stewart asked how deep was the lot from the right-of-way?

Mr. Yellin stated from LaRoche 70 foot was that mark and the high ground was this line here. He said it would be approximately 107 feet deep. The reason they were before the Board today was the imposition of the 70 foot setback line would eliminate any use of this parcel, which was zoned residential and would permit residential as a matter of right. He said they have requested that a 30 foot setback be imposed instead. By allowing the 30 foot rather than a 70 foot setback they would be able to build a small residence to be built on the high ground, which would still be in compliance with the 25 foot DNR jurisdictional area, which was very important. In their opinion, it would also be consistent with the land use pattern on LaRoche. He said variances were clearly appropriate if certain conditions were met. And Mr. Howell provided the Board with a copy of the Staff report, in which he recommended approval of a variance. Without going into detail, but they were worth noting, a variance is appropriate if there are extraordinary or exceptional conditions relating to the size, shape, or topography all of which he felt were present. The application of the Ordinance to this particular property would create an unnecessary hardship. And in fact the application of a 70 foot setback would render this lot virtually unbuildable. He also felt that the conditions were peculiar to this particular piece of property. And he felt the relief if granted would not cause substantial detriment.

He further stated at the last meeting there was a discussion of the vistas (view shed) and what would happen, if in fact, this house were built on this lot. He said they had a tree survey done and the area that they would like to build the house had no trees. So, they find themselves in a situation where the trees that were there remain with an exception. He said in order to get to LaRoche there would be two trees that would be impacted. A 25 inch Pine and a 11 inch Palm. He said if they put the driveway right there the 11 inch Palm can be replanted. He said the only thing that would be disturbed landscape wise was one tree. He said they would be happy to answer any questions the Board may have. And they respectfully request that a variance be granted.

Mr. Day asked how many square feet was the proposed house?

Mr. Yellin stated about 1500 square feet.

Mr. Donaldson stated he has owned the lot for about 4 or 5 years. And bought it with the purpose of building on it himself. He said he felt a house on it would not block the view. The

way the proposed house would be situated there would be thousands of yards of view. He said he did not see how it could be detrimental to the public. He said he felt it would enhance the beauty. He said he knew the lot immediately to the north was not buildable. And as he understood it was filled. He said this was a 7 acre lot, most of which was marsh and there was enough high ground to build a house on it. He also stated that if he could not sell it to Mr. Beatty then there was nothing he could do with it. It would be useless. And he hoped that the Board would take that under consideration and grant the variance.

Ms. Connie Cannon stated she and her neighbor Mr. Neville both received letters from this Board advising them to present any concerns they had about the proposed reduction and the required setback for this property. Frankly, they were before the Board with a little trepidation because Mr. Donaldson who she understood owned the property told Mr. Neville that he would sue anyone who tried to stop him from having this reduction passed. She said she lives at 6209 LaRoche Avenue and she was here to request that the Board deny the variance for 6407 LaRoche Avenue. She said she has lived on LaRoche Avenue since March 1991 and Mr. Neville has lived at his address since 1962. She said she felt they were well acquainted with the traffic and the water on LaRoche Avenue. She further stated that 6407 LaRoche Avenue was on a dangerous curve and one of their main concerns was the issue of safety. Cars going in/out of the proposed site on this curve with so little space in the front yard would create an unnecessary safety hazard. In addition, on Spring tides water from the marsh goes up onto the proposed site and covers the road, which dips down at the beginning of the curve. On the other side of the road, is a creek bed that fills on Spring tides and water also comes from that side. She said with a house and garage on so little land their fear was that fill dirt would have to be brought in creating and even graver danger leaving water standing in the middle of a dangerous curve. She said they were also concerned about building any structure on the marsh side of LaRoche Avenue and felt it would be a mistake.

Mr. Lee stated she said that one of her concerns was that the house would be sitting so close to LaRoche and the traffic problem. He asked if the house was 70 feet back, why would there be any difference in the traffic?

Ms. Cannon stated part of the difference would be cars getting in/out. She said it would be much more easy for cars to get out with more room to turn around and parking. It was a very small piece of land. She said cars going around the curve and cars coming in/out of that proposed site creates a hazard.

Mr. Sharpe asked if the lot was on the curve?

Ms. Cannon stated yes.

Mr. Day asked if there were other homes along LaRoche Avenue on the marsh side?

Ms. Cannon stated further north there were homes that were so far back that they were built on pilings over the water. The other direction was across from the nursing home where a home was built on a very high piece of land.

Mr. Day asked if it was a larger piece of land?

Ms. Cannon stated yes.

Mr. Donaldson stated Mr. Neville who is here today was a friend of his and lives down Wild Oak from Mr. Yost who is in support of his petition. He said he wanted to make it clear to the Board that what he told Mr. Neville because he asked what would he do if his petition was not approved. He said he told him that he would probably have to file suit against the Board because he would not have any other choice. He said he never said that he would sue everybody, and in particular not Mr. Neville or Ms. Cannon. He added that there would only be one family on the proposed lot with a couple of cars, so he did not understand Ms. Cannon's concern.

Mr. Neville stated that he disagrees with Mr. Donaldson building on that lot.

Mr. Jay Yost (22 Wild Oak Road) stated he lived in back of Ms. Cannon. He said Ms. Cannon's property faced LaRoche Avenue and his property faced the woods, so he would not be able to see the property. He said his concern was aesthetics and what the building would look like. He said he was not in opposition to Mr. Donaldson building on the property if it was an appropriate structure. In reference to the safety issue mentioned by Ms. Cannon, he felt it was a good point. But since the opening of the Truman Parkway to Eisenhower the traffic has considerably reduced the traffic on LaRoche Avenue.

Mr. Day stated Ms. Cannon mentioned that this area floods. He asked if his property floods?

Mr. Donaldson stated on Spring tide the back of the lot would have water on it.

Mr. Day asked if at that point does water come onto LaRoche Avenue?

Mr. Donaldson stated he has never seen it and has been out there over the last 4 or 5 years many times.

Mr. Day asked if the gentleman who was going to build the house tell the Board the number square footage?

Mr. Beatty stated he does a lot of land development and have built in various places on the islands. Typically, if there was a lot of saltwater intrusion that comes up on any piece of land, usually it would kill the trees or native foliage. He said he has never seen water on that lot, other than the high water line of where the marsh is. He said as far as the house that will be on the property, it would be similar to what you see at Tybee where parking would be underneath, approximately 1500 square foot.

Mr. Day asked how many stories would it be?

Mr. Beatty stated two.

Mr. Day stated basically it would be a three story house with parking underneath.

Mr. Beatty stated yes.

Mr. Sharpe asked if he knew what land level the lot lies at?

Mr. Beatty stated he has not had the land level shot, but with his experience in that area he would say the land level was about 10 or 12, which is normal for that area.

Mr. Watford asked if he was building the house to sell or to live in?

Mr. Beatty stated he did not know when he would build on the lot. Currently, him and his family live in Effingham because of the school system. He said he has small children, so he may not be able to build on that lot for years to come. But he was keeping the lot for his family. However, that was not to say that he may not sell some where down the line. But his intentions right now was not to sell.

Mr. Day stated he felt the Board needed to take a step back and look at what the petitioner was really asking for – 40 foot setback. He said he did not believe that the Board should be taking into consideration whether the buyer was going to build a house on it for himself and his family or whether he was going to put it up for sale. He said he did not feel that that was pertinent to what the Board was trying to accomplish. The real question was does the Board grant a variance of the 40 foot setback to build a house. He said who does it and how they did it did not matter.

Mr. Yellin stated there was an S-curve south of the property and if you were heading towards Wylly Island you know exactly where he was talking about. He said this property was north of the S-curve. He said there have been comments made about traffic and traffic safety issues. If this was going to be a multi-family complex, he would agree that you would have a ton of people emptying out of this property onto LaRoche Avenue. But, what you have was a single-family residence, about two or three people. He said there is a 30-foot setback and he did not know of any vehicle bigger than 30 feet long. So, the idea of cars cueing up on LaRoche was not going to happen because it was one single-family residence.

He further stated that this was a variance. Under Georgia Law, variances run with the land. So, whatever the Board imposed today was imposed upon Mr. Donaldson, Mr. Beatty, and everyone else who comes after them. But, the issue today as pointed out by Mr. Day was whether or not this should be a buildable lot or whether it should not be a buildable lot and a variance would dictate that. In summary, and he would say this by way of an apology because he also read some of the comments by Mr. Stewart after several meetings ago. Georgia Law follows the minority rule. And under Georgia Law in order to proceed after this meeting Lawyers must raise Constitutional objections. It may sound like they are saying “we are going to sue you if you don’t vote our way.” And maybe that was in fact what they were saying, but Georgia Law requires it. He said he knew it was awkward, and he apologize. But it was in fact what Georgia Law requires, and they do follow the minority rule.

Mr. Day stated the main concern he had was with the setback the way it was and the house being so close to the road, they were looking at approximately 10 feet or 15 feet from the back end of a car to the actual side of the road.

Mr. Stewart stated he voiced his strong objection to this in writing, which was now part of the record. He said has heard nothing today to change his opinion. He said he also live south of this property and took LaRoche Avenue quite often, but he avoided it. Because of its curve and the fast traffic that goes around it, he felt it was a dangerous stretch of road.

CZBA Action: Mr. Stewart made a motion that the Chatham County Zoning Board of Appeals deny the petition as submitted based on that the relief would cause substantial detriment to the public good. Mr. Watford seconded the motion and it was passed 3 – 1. Opposed to the motion was Mr. Lee. Mr. Cohen abstained from the motion.

**RE: Petition of Arthur L. & Rethell S. Scott
B-04-33009-1
2124 McLeod Street**

Present for the petition was Felicia Worriels, Architect.

Mr. Sharpe called for the Staff report.

Mr. Howell presented the following Staff report.

The petitioner is requesting a seven foot rear yard setback variance and an eight foot side yard setback variance pursuant to the requirements of Sections 4-6.1 and 3-9 of the Chatham County Zoning Ordinance in order to build additions onto an existing house at 2124 McLeod Street, within an R-1 (One Family Residential) zoning district.

Findings

1. Section 4-6.1 of the Chatham County Zoning Ordinance provides that within an R-1 zoning district the rear yard building setback is a minimum of 25 feet from the property line. The petitioner is requesting to build an addition to the rear of a house that will be 18.6 feet from the rear property line and encroach approximately seven feet into the 25 foot rear yard setback requirement.
2. Section 3-9 provides that for corner lots, the side yard building setback is one-half of the right-of-way for a residential street (60 feet / 2 = 30 feet) plus the minimum side yard setback for an R-1 zoning district (five feet). The side yard building setback is a minimum of 35 feet from the centerline of the right-of-way. Koneman Avenue is a substandard street with a 40 foot wide right-of-way. The side yard building setback is 15 feet from the side yard property line.

The proposed addition along Koneman Avenue would encroach eight feet into the side yard setback requirement. The existing house presently encroaches into the side yard setback. The addition will extend the length of the house.

3. The lot is 60 X 100 feet and contains 6,000 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.
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 seven foot rear yard building setback variance and an eight foot side yard setback variance appear to not be met.

Mr. Day stated one of his concerns was on the plot plan this showed a driveway going into the front yard of this property. He asked if that was a legal thing to do?

Mr. Howell stated the petitioner would have to get approval from the County Engineering department to do that. He said anytime you make an access point into a public right-of-way you have to get approval from the Municipal government to do that.

Mr. Day stated with whatever decision the Board made today that this Board was not giving the petitioner the right nor does the Board have the authority to do so to put that driveway in place.

Mr. Howell stated yes, that was correct. He added that the County may approve or deny the driveway.

Mr. Cohen stated there appeared to be a lane in between the rear of the Scott's house and the residence behind it. He asked if the 7 foot rear yard variance was from the lot line of the Scott's residence?

Mr. Howell stated yes.

Mr. Cohen stated there was an additional 15 feet between the lot line of the Scott's residence and the residence behind it.

Mr. Howell stated yes.

Mr. Day stated with the plot plan, he noticed on the back of the house it showed 18.6 feet. He asked if the 18.6 feet went to the end of the property line for this house? Or, did the 18.6 feet go the other side of the closed off lane?

Mr. Howell stated the property line.

Mr. Day asked what was the dotted line?

Ms. Worriels stated the dotted line showed the sidewalk that would take you around to the opposite side of the house. She said the patio door was on this side and there was tree where

the picnic area was going to be setup. She added that the big portion was where the cars would park.

Mr. Stewart asked if she was saying that the backyard effectively being concreted?

Ms. Worriels stated yes.

Mr. Sharpe asked if the concreted area was going to be roofed?

Ms. Worriels stated no. She said it was fenced.

Mr. Stewart stated the lot to the rear of this had structures built right on the property line. He said he did not feel this would be any worse than what was already there.

CZBA Action: Mr. Cohen made a motion that that the Chatham County Zoning Board of Appeals approve the petition as submitted based on the 15 foot wide lane would compensate for the rear yard variance and the addition along Koneman Avenue is an extension of something that already exists. Mr. Stewart seconded the motion and it was unanimously passed.

RE: Petition of Joe Lipski
B-04-39989-1
401 Quarterman Drive

Present for the petition was Joe Lipski, petitioner.

Mr. Sharpe called for the Staff report.

Mr. Cohen stated he had to leave the meeting at 10:15 a.m. because he had a 10:30 a.m. appointment.

Mr. Howell presented the following Staff report.

The petitioner is requesting a use (child care center) which must be approved by the Board of Appeals pursuant to the requirements of Section 4-5.1(20a) 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. Section 4-5.1(20a) of the Chatham County Zoning Ordinance reads as follows:

<u>List of Uses</u>	<u>R-1-A</u>
(20a) Child Care Center	B

- a. Provided that 100 square feet of outdoor play space is provided each child in districts requiring Board of Appeals use approval.
- b. Such use shall only be permitted on a lot or plot of ground which abuts a collector street, or a major arterial. The Board of Appeals shall be authorized to waive this requirement if on the basis of evidence presented, it finds that the traffic to be generated by a particular use can be accomplished on other streets without

creating traffic congestion and traffic hazards on such streets which would be detrimental to the neighborhood served by such other streets. Provided that approval for any center established requiring access along a residential or lesser classified street shall be limited to a maximum of 75 children during the daytime hours and not greater than 50 children between the hours of 9:00 p.m. and 6:00 a.m.

- c. The architectural character, including the orientation and exterior appearance of any structure, shall be characteristic of the neighborhood within which such structure is located.
 - d. Such use shall provide the number of off-street parking spaces required for educational and institutional uses as set forth in Section 6-3 schools - Off-Street Parking Requirements plus safe and functional off-street patron pick-up and delivery spaces.
 - e. There shall be no on-site outdoor recreation activities after 9:00 p.m. or later than one hour after dusk, whichever occurs first.
 - f. Where an abutting use is residential, visual buffers shall be provided so as to shield all parking areas, and play areas, and outdoor activity areas from the abutting property. Such buffer shall consist of trees or other vegetation of such height and depth as determined by the Board or of an appropriately designed fence or wall or a combination thereof.
 - g. In those requiring Board of Appeals approval, the Board of Appeals shall have the right and discretion, considering the traffic patterns and volume and the general character of the neighborhood, to limit the number and ages of children allowed at any particular Child Care Center so as to alleviate any undue interference with the character of the neighborhood as well as to impose such other requirements as are reasonably necessary to accomplish such purposes.
2. The petitioner proposes to build a child care center adjacent to Lighthouse Baptist Church located on the corner of Quarterman Drive and U. S. Highway 80 East. The petitioner is requesting a child care center for 196 children.
 3. Quarterman Drive is classified as a collector street. U.S. Highway 80 East is classified as a major arterial. Any property that abuts a collector or arterial roadway shall comply with the "Planned District" standards of Section 4-6.5 in the Chatham County Zoning Ordinance. Any redevelopment of the property would require site plan review by the MPC. A "Planned District" is intended to "provide areas within which comprehensive development plans shall be prepared for review by the MPC or MPC staff in order to secure an orderly development pattern. Such districts are considered overlay districts and the uses permitted in such districts are those uses permitted in the zoning district which they overlay."

Access to the site, the architectural character of structures, parking requirements, visual buffer requirements, drainage and other site plan requirements as listed in Section 4-6.5 are reviewed by the MPC.

4. The proposed 196 children requires a minimum 19,600 square feet of outdoor play area.

Twenty-three employees would require 12 off-street parking spaces. Sufficient off-street space for loading children is required. The site is adjacent to single-family property. The proposed use requires a Type “B” buffer consisting of a six foot high opaque fence with a 15 foot wide planted or preserved width. The ‘sketch plan’ provided by the petitioner does not provide sufficient information to determine if the proposal will meet all requirements. It appears that the site is large enough to provide the parking, play area, buffering, and screening. The County Engineer may require improvements to the existing driveways and parking lot. The amount of traffic and its impact to the area that would be generated by the proposed use would be reviewed by the County Traffic Engineer. The site is adjacent to a signalized intersection.

5. Section 10-6.2 Request for Permission to Establish Uses.

The Board of Appeals may hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of the zoning regulations. The application to establish a use shall be approved on a finding by the Board of Appeals that:

- a. The proposed use does not affect adversely the general plans for the physical development of Chatham County, as embodied in these regulations and in any Master Plan or portion thereof adopted by the Commissioners of Chatham County.
- b. The proposed use will not be contrary to the purpose stated for these regulations.
- c. The proposed use will not affect adversely the health and safety of residents or workers in Chatham County.
- d. The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.
- e. The proposed use will not be affected adversely by the existing uses.
- f. The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of said use.
- g. The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such facility, vehicular movement, noise or fume generation, or type of physical activity.
- h. The standards set forth for each particular use for which a permit may be granted have been met.
- i. 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.
- j. 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.
- k. Provided, that the proposed use shall be subject to the off-street parking and service requirements of these regulations.
- l. 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.

Use approval granted by the Board of Appeals shall be subject to the following provisions:

- a. The use approval shall run with the property. The sale or transfer of an approved use to a new owner or tenant shall not require re-approval by the Board of Appeals.
 - b. The use approval shall apply only to the specific location on the property, configuration and intensity as identified in the site plan submitted with the use approval application and as approved by the Board.
 - c. Relocation of the use on the site, expansion of the use, or the establishment of additional similar uses on the site (where permitted by the district within which it is located) requires a new use approval application to the Board.
 - d. Any approved use which ceases to operate for a period of one year shall require Board approval to be reestablished.
6. The Southeast Islands Land Use Plan identifies the petitioner's site as residential with certain uses permitted with Board of Appeals approval. Nonresidential development is required to provide a minimum of 30 percent greenspace on site.

Summary of Findings

Sufficient information to determine if the proposal will meet all requirements of Section 10-6.2 (Finding No. 5) has not been provided. However, if the use is approved, development on the petitioner's property is required to meet the site plan requirements of Section 4-6.5 of the Zoning Ordinance. The development plan must be submitted to the MPC and Chatham County Engineering for approval.

Mr. Joseph Lipski stated that he is the petitioner. He further stated that the request was for permission to build and house a nonprofit child care center and after-school program on the stated property. The operation currently exists on Johnny Mercer Avenue. He said there has been question about the traffic impact of the community. He said he did an impact study an arrival chart of cars that arrived in/out of the daycare center in the morning. He said they did it every 15 minutes and the most impact was sixteen cars in a 15 minutes period. Because of the nature of his business the children were dropped off between 6:30 a.m. – 9:00 a.m. He said they had a traffic flow of about 134 cars that went in/out that encompassed approximately 3½ hours in the morning and 3 hours in the afternoon. He totaled up 114 cars because they stopped at 9:00 a.m., but there was an additional 20 cars that came between 9:00 a.m. – 11:00 a.m. He further stated the cars would empty out into a controlled intersection. He said he did not feel that it would impact the community because they would not be going through the community. The zoning was already in place and he was asking for the Board's approval to build on this property.

*Mr. Cohen left the meeting approximately 10:15 a.m.

Mr. Day stated it was not the responsibility or authority of this Board to give him permission to build on this property. He said it was the responsibility of the Board and what they would be voting on was an alternative use of this property for a child care center. As far as building on the property as already stated by Staff that would have to go before the MPC.

Mr. Stewart asked the petitioner if he was leasing the property from the church?

Mr. Lipski stated yes, and he and his wife were personally guaranteeing the loan for the building of the property and then they will donate the building to the Church.

Mr. Stewart asked if the parents were supposed to park in the parking area and walk across?

Mr. Lipski stated they were proposing a covered walkway to the daycare center, but anything could be changed to fit the aesthetics of the community.

Mr. Day asked how many children were in the existing daycare center?

Mr. Lipski stated 96 that currently attend on a fulltime basis and they had 50 after-school children.

Mr. Day asked how was that in relationship to what he was proposing?

Mr. Lipski stated currently there was 150, but they were proposing 196.

Mr. Day asked if the Board grants the variance was there the potential for 196 different families to put children with the daycare center?

Mr. Lipski stated he believed so.

Mr. Day stated if that is possible then assuming that they come twice a day there was the potential for over 400 cars coming into this area during the course of the day.

Mr. Lipski stated yes, over a 12-hour period.

Mr. Earl Schaeffer stated he was a resident of Quarterman Drive and has lived in the area for about 14 years. As a point of clarification East Point Drive was closed forcing the people that live on East Point Drive to go down to Lake Drive to get into their property, which means that there would be additional traffic. And this would also force traffic to go down Quarterman to the north side in front of the area where the church entrance/exits was.

Mr. Howell pointed out the map the Board was looking at showed the right-of-way and legal boundaries.

Ms. Jeannette Wojeik stated she grew up on Talahi Island and her mother still lived on Talahi. She said she would ask that the Board grant the petition for the daycare center, which would be Christian based because there was not enough of them.

Ms. Christina Davis stated she lives on Whitemarsh Island, but she come on to Wilmington and Talahi Islands daily. She said she has known the Lipski's for three years. She said in reference to the traffic pattern, she has been going to the daycare for about three years and what Mr. Lipski stated about the traffic was true. She said when goes to pickup/drop off her daughter even though there may be 100/+ children there, usually if she was going to turn out of the parking lot onto Johnny Mercer or Walthour she is usually the only car or one or two cars back waiting to come out onto the road. She said that was a fact and there were a number of parents present who could attest to the same thing. Also, when she comes from Long Point direction driving over to St. Andrew's and go out Quarterman Drive there was not a lot of traffic and it was a signaled intersection.

Mr. Sharpe stated he would like for the comments to be confined to the direct issue that the Board was here to decide.

Ms. Barbara Minchey stated she was a resident of Quarterman Drive. She said everyone that she has talked to that live in the neighborhood was extremely agitated at the idea of increased noise and traffic entering into their residential community. And would like to request that the Board stop the decline of their neighborhood.

Mr. Craig Davidenko stated he lives on Wilmington Island and his daughter also went to the daycare. If the church wanted to have a daycare or after-school program they would be able to do so. He said in reference to the traffic it would go in at the tip of the intersection, which is a signaled intersection. He said the intersection was there to help traffic. He said any car coming through the intersection would get in safely and leave safely.

Mr. Day asked Mr. Howell if the church would have to get Board approval if they wanted to do a daycare program?

Mr. Howell stated yes. He further stated the concern of safety at intersections was warranted. But that was why it was a signalized intersection. The reason it was a signalized intersection was to handle large volumes of traffic. In any proposed development the County Engineering department looks at trip generation from the proposed use and make a determination as to and if any road improvements are needed, such as an accel or decel lane. But rather than to keep repeating about the traffic flow, any use proposed for that location will be looked at by the County Traffic Engineering department and they would make a judgment as to any improvements needed for that intersection.

Mr. Sharpe stated those of you who had legal standing, which was to say those of who had property adjacent to that property the Board would like to hear. He said the Board would hear from everybody, but the Board wanted to hear from residents who lived directly across the street or adjacent to the property.

Mr. Lee stated in Staff's summary of findings it says sufficient information to determine if the proposal would meet all requirements has not been provided. However, if the use is approved, development of the property would require approval by the MPC and County Engineer. He asked how was the Board supposed to determine whether the use was proper without sufficient information. He said once the Board says it is proper than it was just a matter of the MPC and the County Engineer saying this was where the buildings were going to be, curb cuts, and so forth. He said it was a defacto that it was going to be there once the Board says the use was okay. He said he did not think and if the Board does not have proper information that they could say that it should be allowed.

Mr. Howell stated the proper information he was talking about was specific development drawings that identified the parking and lot lay out. To get the comments from the County Traffic department on what kind of improvements if any would be needed for Quarterman Drive. A buffer plan showing the required setbacks and buffers from adjoining residential property. The building elevations showing the height, colors, materials of the building. He said he was talking about the development standards that must be adhered to if the use is approved.

Mr. Ed Poenicke asked what size space does the petitioner need per 10 children for classroom?

Mr. Lipski stated 35 square feet per child.

Mr. Poenicke stated approximately that would be a 7,000 square foot building. He said he wondered about the aesthetics of the building because the neighborhood was brick, wood, and not metal buildings.

Mr. Howell stated those type of issues is what the MPC would review under development standards review. He said development of the site was not an issue.

Mr. Poenicke stated he did not know if some of the people who say the travel that area daily if they realized that there was two lanes turning from off of Quarterman on the north side coming onto Highway 80. He said when you are trying to make a right turn out of there it could sometimes get very bad. Also, Lake Drive was a major problem because people were deaccelerating and turning. He said he lives through it everyday.

Mr. Day asked if he and some of the other residents were saying that the basically the only use for that property from his perspective was residential?

Mr. Poenicke stated yes.

Mr. Day asked if he was saying that he would oppose any commercial use to that property?

Mr. Poenicke stated yes.

Mr. Howell stated the property was not zoned for commercial nor will it ever be zoned for commercial. He said this property was zoned for residential subject to certain limited uses that must be approved by this Board.

Mr. Sharpe asked if the petition impacted the Islands Land Use plan?

Mr. Howell stated no.

CZBA Action: **Mr. Lee** made a motion that the Chatham County Zoning Board of Appeals deny the petition as submitted based on that the relief would cause substantial detriment to the public good. **Mr. Day** seconded the motion and it was unanimously passed.

RE: Minutes

1. Approval of CZBA Minutes – March 23, 2004

CZBA Action: **Mr. Day** made a motion that the Chatham County Zoning Board of Appeals approve the Regular meeting minutes of March 23, 2004. **Mr. Watford** seconded the motion and it was unanimously passed.

RE: Other Business

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