

Members:

George Quigley, Chairman
Ed Donaldson, Vice-Chair
Horace Humphrey
Melree Hubbard Tart
Joseph Dykes



Alternates:

Martin J. Locklear
Randy Newsome
William Lockett Tally
Carrie Tyson-Autry
Yvette Carson

Cumberland County Board of Adjustment

130 Gillespie Street
Fayetteville, NC 28301
(910) 678-7603

MINUTES
FEBRUARY 16, 2012
7:00 P.M.

Members Present

George Quigley, Chairman
Ed Donaldson
Horace Humphrey
Melree Hubbard-Tart

Absent Members

Joseph Dykes (excused)

Staff/Others Present

Pier Varner
Melodie Robinson
Angela Perrier
Rick Moorefield (County
Attorney)

Chair Quigley called the meeting to order at 7:00 p.m. in Public Hearing Room # 3 of the Historic Courthouse.

1. ROLL CALL

Mrs. Varner called the roll and stated a quorum was present.

MRS. VARNER: Mr. Quigley, there are only four board members present tonight. If you continue with this meeting, the cases have to be approved unanimously. It is up to the applicant to decide if they want to continue with the meeting or defer until the next Board of Adjustment meeting. The staff encourages the board members to allow this decision.

CHAIR QUIGLEY: The requirement is because we have the minimum quorum necessary to hold a hearing; all members will have to vote on all cases. Does anyone have any problems with that? [No applicant requested to defer their case]

All board members present agreed to continue.

2. CHAIR QUIGLEY SWORE IN THE STAFF

3. ADJUSTMENTS TO THE AGENDA

There were none.

4. APPROVAL OF THE JANUARY 19, 2012 MINUTES

A motion was made by Mr. Donaldson and seconded by Mr. Humphrey to approve the minutes as submitted. The motion passed unanimously.

5. ABSTENTIONS BY BOARD MEMBERS

There were none.

6. PUBLIC HEARING DEFERRALS

There were no deferrals.

7. BOARD MEMBER DISCLOSURES

There were none.

8. POLICY STATEMENTS REGARDING APPEAL PROCESS

Mrs. Varner read the Board's policy regarding the appeal process to the audience.

9. PUBLIC HEARING(S)

Opened Public Hearing

- A. P12-01-C: CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1104, DISTRICT DIMENSIONAL PROVISIONS, TO ALLOW A REAR YARD SETBACK OF 30.8 FEET WHERE 35 FEET IS REQUIRED FOR A SINGLE FAMILY DWELLING IN A R10 RESIDENTIAL DISTRICT ON 0.43+/- ACRE, LOCATED AT 2904 BROMWICH COURT; SUBMITTED AND OWNED BY CHRISTOPHER L. AND DEBRA A. CICCONE.**

MRS. VARNER: Presented the zoning, land use and photos of the site to the Board.

CHAIR QUIGLEY: It appears that the in ground pool was at some point and time installed. Was that subject to any variance?

MRS. VARNER: No. The variance is for the new addition that they are proposing at this area. [pointing to the presentation]

CHAIR QUIGLEY: My curiosity was, when they installed the pool was that subject to any....

MRS. VARNER: No, there is no record.

MRS. PERRIER: It is only required to be 10 feet from the rear.

MRS. VARNER: There is no record of a variance or any other case at the subject property.

CHAIR QUIGLEY: Swore in Christopher Ciccone.

MR. CICCONE: My name is Christopher Ciccone and I live at 2904 Bromwich Court, Fayetteville, NC 28306.

CHAIR QUIGLEY: Your interest in this case is that you are the owner of the property?

MR. CICCONE: Yes sir. With any improvements within the Gates Four Community you have to have approval by the Homeowners Association and I do have that approval. The Riddles who own the property gave the approval by e-mail and our next door neighbors have a variance for 14 feet from 2004 and 2002 on their property. Also, if I could make a small correction, it is 30 feet 8 inches, not 30.8 feet. We are asking for about 4 feet.

CHAIR QUIGLEY: Do we have a copy of the approval by the property owners association?

MR. CICCONE: Submitted a copy of the property owner's approval. [Exhibit 1]

Public Hearing Closed

CHAIR QUIGLEY: Are there any questions on this request?

MR. HUMPHREY: The Homeowner's Association approved it and it looks like approximately 4.2 or 4.8 feet; I have no problem with it whatsoever.

MR. DONALDSON: I say we make it 5 feet and then put in parentheses 4.8 feet.

MR. HUMPHREY: I am in favor of it.

1. It is the Board's **CONCLUSION** that, there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district. This finding is based on the following **CONDITIONS**:

The shape of the rear lot lines places a physical restriction on the subject property regarding setbacks.

2. It is the Board's **CONCLUSION** that granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located. This finding is based on the following **CONDITIONS**:

There has been at least one other rear yard variance approved in the media surrounding area.

3. It is the Board's **CONCLUSION** that the literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located. This finding is based on the following **CONDITIONS**:

The adjacent property was approved for a rear yard setback variance, and approving this variance will allow for consistency between the two properties.

4. It is the Board's **CONCLUSION** that, if granted, the requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to the general welfare. This finding is based on all of the **CONDITIONS** listed above, as well as the following:

One of the purposes of the ordinance is to ensure adequate light and air between structures, the subject property rear yard is adjacent to a golf course and which is highly unlikely to ever be developed with structures, and of no effect to others surrounding property owners.

5. It is the Board's **CONCLUSION** that the special circumstances are not the result of the actions of the applicant. This finding is based on all of the **CONDITIONS** listed above as well as the following:

The applicant was not the designer of the development, the board's previous approval of the adjacent property set a precedent for this immediate area.

6. It is the Board's **CONCLUSION** that the variance requested is the minimum variance that will make possible the legal use of the land, building or structure. This finding is based on the following **CONDITIONS**:

Granting a variance of approximately 5 feet for the rear yard setback, will be the minimum necessary to accommodate the proposed addition, the use of which is legal.

7. It is the Board's **CONCLUSION** that the variance is not a request to permit a use of land, building or structure which is not permitted by right or by special exception in the district involved and will not constitute any change in district boundaries. This finding is based on the following **CONDITIONS**:

The proposed addition for the residence on the subject property is permitted, single family dwellings are allowed in the R10 zoning district.

8. It is the Board's **CONCLUSION** that the existence of a nonconforming use of neighboring land, buildings or structures in the same district or of permitted or nonconforming uses in other districts does not constitute a reason for approval of this requested variance. This finding is based on the following **CONDITIONS**:

This decision was not based on the existence of other nonconforming use in the neighborhood.

THEREFORE, on the basis of all the foregoing, **IT IS ORDERED** that the application for a **VARIANCE** be **GRANTED** subject to the following conditions:

1. All information contained in the application;
2. All development shall be in accordance with the site plan as submitted unless otherwise specified below;
3. All other provisions of the County Zoning Ordinance shall be complied with;
4. All relevant Federal, State, and local regulations are complied with;
5. The applicant is responsible for obtaining all required permits prior to proceeding with any development on that lot.

CHAIR QUIGLEY: Do we have a motion to approve?

MR. DONALDSON: I motion to approve.

MRS. TART: I second the motion.

CHAIR QUIGLEY: All in favor of granting the variance please signify by saying aye.

| | IN FAVOR | OPPOSED |
|-----------|----------|---------|
| QUIGLEY | YES | NONE |
| DONALDSON | YES | |
| TART | YES | |
| HUMPHREY | YES | |

Opened Public Hearing

- B. P12-02-C: CONSIDERATION OF A REQUEST FOR A VARIANCE FROM THE COUNTY ZONING ORDINANCE, SECTION 1403 SITE PLAN REVIEW, SUBSECTION I., WHICH REQUIRES EXTENSION AND CONNECTION TO PUBLIC WATER; IN A RR RURAL RESIDENTIAL AND C(P) PLANNED COMMERCIAL DISTRICTS ON 1.55+/- ACRES, LOCATED AT 5087 US HWY 301 SOUTH (SR 2284); SUBMITTED BY CAROLYN L. HICKS ON BEHALF OF DELIVERANCE JESUS IS COMING VICTORY CENTER, INC., (OWNER).**

MRS. VARNER: Presented the zoning, land use and photos of the site to the Board.

MRS. VARNER: Mr. Joe Glass, a representative from PWC, is here to answer any questions related to the water connection.

MR. DONALDSON: Can you show the pictures again? The red lines that are marked as RR, is part of this land RR?

MRS. VARNER: Yes. This little portion here is RR but the church is proposed in the C(P). The church is a permitted use. [pointing to the presentation]

CHAIR QUIGLEY: Please show the water and sewer line again. How are the other properties out there serviced by water and sewer? There appears to be sufficient sewer access but the water line seems to be...

MRS. VARNER: This map is showing only the water lines and to go back to your question, I really don't have an answer about how the other properties are served.

CHAIR QUIGLEY: Swore in Joe Glass.

MR. GLASS: My name is Joseph P. Glass and I am the Engineering Manager for the Water & Sewer Department of the Public Works Commission, 955 Old Wilmington Road, Fayetteville.

CHAIR QUIGLEY: Thank you very much. Can you give us a little more background on what we have out there on public utility lines?

MR. GLASS: There is no sewer available in the area. I didn't come prepared to identify all the other customers. There is a water main as outlined here [pointing to the presentation]. Again, I'm not sure who is connected in that area. The only gravity sewer is really at the end of Marracco Drive down at Chickenfoot Road. There is no sewer available but water does run along Marracco Drive.

CHAIR QUIGLEY: So all of the properties out there, to your knowledge, are serviced by septic systems?

MR. GLASS: That is correct.

CHAIR QUIGLEY: Thank you sir. I think the question is the distance that would be involved in trying to connect to water access is going to be the subject.

MR. DONALDSON: In the Petitioners statements, she talks about the shortest distance being the 260 feet which would put it under the 500 feet; but she said the people behind them were not willing to allow that to go through there, I think in the cottage there behind it or the mobile homes [pointing to the presentation]. My question is, even if she wanted to go there to hook it

up, you all would not hook it up at that point, would you, that short point and have to run it through somebody else's property?

MR. GLASS: PWC would not pay to run the main anyway.

MR. DONALDSON: I understand that.

MR. GLASS: The cost would be on the person that is wishing to get the water.

MR. DONALDSON: But they are at the mercy of the intervening property owner between them, right?

MR. GLASS: That is correct.

MR. DONALDSON: There is no easement.

MR. GLASS: That is correct. If you go back to the other drawing, if you came up this way the other 540 feet would require an easement. This other route, I don't know if Department of Transportation would grant that encroachment, I can't speak for them, but it has been done lots of times before. The other two routes would require an easement.

CHAIR QUIGLEY: The distance to get the access to the water supply would be more than 540 feet because of the structure that is going to be sited is not on the property line.

MR. DONALDSON: It has to come all the way to the far side according to the rules and I don't know what the frontage is there.

MR. GLASS: For PWC policy, properties to be served are required to extend to the far corner of the property.

CHAIR QUIGLEY: The frontage is 320 feet.

MR. DONALDSON: So it would have to run 860 feet.

MR. GLASS: With just a ballpark figure, you are probably looking at \$100 - \$125 per foot, for engineering, designing and construction and the whole nine yards. To keep it simple, say \$100 per foot.

CHAIR QUIGLEY: Carolyn Hicks was affirmed by Chair Quigley.

MS. HICKS: My name is Carolyn Hicks and my address is 1687 Bladen Union Church Road, Fayetteville, NC. I am the founder and pastor of Deliverance Jesus is Coming Victory Center. We have a small congregation of approximately 60 adults and 40 children. We are the owners of the property located at 5087 US Highway 301 South, Hope Mills. It is our desire to build a

sanctuary on the property as a church for the betterment of the community, through academic, employment opportunities, family strengthening and meeting all spiritual needs. Section 1403 of the Zoning Ordinance stated that we must connect to existing water within 300 feet of the property, however, there are extraordinary and exceptional conditions pertaining to the particular piece of property. The water connection is approximately 514 feet to our property without obstruction. This is over the requirement of being within the 300 feet to the waterline. According to Ms. Elizabeth Vassar of PWC, Office Assistant of the Water Resources Engineering Department, the water main must be extended approximately 850 feet to reach our property. This was quoted to us back in October 2011. The water connection behind us is 300 feet within the limits, however; in order for us to do this it would require extension across other individual properties thus causing us to extend an inordinate amount of money for the benefit of others. We are surrounded by other businesses that to our knowledge are currently utilizing wells and septic tanks. Installing the water lines approximately 515 feet or more would amount to an inordinate amount of money that would not only create a hardship for the church but as stated, others would benefit at our expense. In my conclusion I ask that the board would take these considerations. It has been a battle for the church and to be faced with circumstances dealing with the zoning. It is very dear to my heart. It would cost an inordinate amount of money for us to extend the waterline over the 515 feet that would give us clear passage to the presently existing building so we could use the building for the church. We are requesting that the board would consider giving us the variance so that for the existing present building that is already on the property as well as any future building that we are planning to build that we would not be required to extend.

CHAIR QUIGLEY: Is there currently a structure on that property?

MS. HICKS: Yes, a little house that we have also presently done some renovations to. We have just a few minor things to complete to get the seal for it. We have a well and a septic tank providing for that. We were also informed by the Zoning Department that if we were to put an additional bathroom or any new plumbing, we would be required to put in the water line. That has stopped us from doing that. We were going to use the existing building until the future church building was built. We were going to use it for offices and assembly gathering. When we were told that any bathroom or plumbing structure that we would do there would have to be connected to the water at PWC it put a hold on everything for us. There is a present building on there and the site plan has been approved that we could utilize it, but again we ran into the problem that if we were going to put another bathroom in, we would have to hook into the PWC water line.

CHAIR QUIGLEY: Thank you Ms. Hicks. Does anyone from staff want to make a comment on the comment about if they put a structure up that has a bathroom in it; they must hook up the water?

MRS. VARNER: There is a note in the conditions.

MR. MOOREFIELD: Mr. Chair, I would like to clarify. I think there is a little confusion about the distance, there is no minimum distance or threshold distance required because this is a

nonresidential development. Whether that has any bearing on the decision really doesn't matter. I understand Ms. Hicks' statement about the 300 feet, it is hard to read but it does say that two or more residential lots, so this is a nonresidential development which is why the additional bathroom evokes that requirement.

CHAIR QUIGLEY: Is there anyone else who wants to speak in favor of this that has additional information or testimony other than what we have heard? Thank you.

Public Hearing Closed

MR. HUMPHREY: I can understand the cost factor. I was trying to do a little quick math and I can see where it can be an expensive proposition. We got the rules; I'm kind of floating on this one. I can see the need, but I can see the financial burden.

CHAIR QUIGLEY: What we've got is a situation where there are other nonresidential uses using some of the property out there that obviously are not hooked up to water or sewer other than their own septic system or their own well.

MR. DONALDSON: The other thing to point out is this is at least the third one of these since I've come on the Board. One was the Quick Stop store, which was going to be about 1000 feet that PWC wanted them to run. We granted the variance. The other one was last month and they had a similar situation. I don't think this one falls any further outside the category of those two. The distance is about 830 feet which was about what we were talking about on that Quick Stop last summer and that was for a sewage line. This is for a water line. Given the fact that all the other properties are out there are on sewerage and wells except for the ones I assume are running off the main lines off the service road there. Given the fact that the shortest distance would be 260 feet, but they would have to get an easement or get an easement on the 520 foot mark from the southeast corner of the property; I can't see not granting the variance. I would vote for it. I think given the circumstances and the cost. It is not out of compliance with anything. There is no evidence that all the other businesses are hooked up to the water line. Obviously they are going to have to make some sewerage arrangements if they do something different but I guess that would be a new septic tank system, drain field.

MR. GLASS: Just a point of clarification, PWC is not requesting... all we are doing is stating the facts when we review this. The decision to make the hook up is entirely.....

MR. DONALDSON: We understand that and we are not putting the blame on PWC. We are just stating what the policies are in the Ordinance. That is my opinion and I am prepared to vote for it.

MRS. TART: I think it is an unusual hardship for them and that is why we have these variances and I am certainly in favor of it.

MR. MOOREFIELD: I suggest you consider the fact that sewerage is simply not available. I'm not so sure that having public water when you don't have a sewer accomplishes a whole lot.

MR. HUMPHREY: If we can do it for a convenience store, we can do it for a church.

CHAIR QUIGLEY: Are there any comments from staff? Thank you very much.

MR. DONALDSON: I have a question. On item #7, can we at times say that is not applicable, in this particular case given the facts? In this particular case it is not applicable or do we have to put something in there?

MR. MOOREFIELD: The judge says we have to make a finding for all items. In this instance, this is a permitted use.

1. It is the Board's **CONCLUSION** that, there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district. This finding is based on the following **CONDITIONS**:

The topography between the nearest existing water lines and the subject property prevents the extension of the line and the alternate nearby water line, which is greater than 300 feet as required by the ordinance, and it would cause the applicant to spend an inordinate amount of money.

2. It is the Board's **CONCLUSION** that granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located. This finding is based on the following **CONDITIONS**:

There are other existing properties with no connection to public water similar to this property in this immediate area.

3. It is the Board's **CONCLUSION** that the literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located. This finding is based on the following **CONDITIONS**:

The applicant cannot connect to the existing water line that is located within 300 feet and to obtain public water, she would be require to obtain an easement from adjoining unaffected property owners to connect to public water lines that exceed the 300 foot distance.

4. It is the Board's **CONCLUSION** that, if granted, the requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to

the general welfare. This finding is based on all of the **CONDITIONS** listed above, as well as the following:

The intent is to ensure safe drinking water to all properties within the County, and in this particular area, the majority of the properties are served by individual private wells permitted by Environmental Health.

5. It is the Board's **CONCLUSION** that the special circumstances are not the result of the actions of the applicant. This finding is based on all of the **CONDITIONS** listed above as well as the following:

If the applicant could connect to the public water line that is within the 300 foot distance, she was willing to do so; however, the public utility denied connection to this line.

6. It is the Board's **CONCLUSION** that the variance requested is the minimum variance that will make possible the legal use of the land, building or structure. This finding is based on the following **CONDITIONS**:

An approved water source is required for occupancy of the structure, which has already been approved and all other ordinance requirements are being complied with.

7. It is the Board's **CONCLUSION** that the variance is not a request to permit a use of land, building or structure which is not permitted by right or by special exception in the district involved and will not constitute any change in district boundaries. This finding is based on the following **CONDITIONS**:

The religious worship facility is a permitted use in this district.

8. It is the Board's **CONCLUSION** that the existence of a nonconforming use of neighboring land, buildings or structures in the same district or of permitted or nonconforming uses in other districts does not constitute a reason for approval of this requested variance. This finding is based on the following **CONDITIONS**:

The Board's decision was not base on any existing nonconforming use in this district.

THEREFORE, on the basis of all the foregoing, **IT IS ORDERED** that the application for a **VARIANCE** be **GRANTED** subject to the following conditions:

1. All information contained in the application;
2. All development shall be in accordance with the site plan as submitted unless otherwise specified below;
3. All other provisions of the County Zoning Ordinance shall be complied with;
4. All relevant Federal, State, and local regulations are complied with;
5. The applicant is responsible for obtaining all required permits prior to proceeding with any development on that lot.

MR. HUMPHREY: I make a motion to grant the variance.

MR. DONALDSON: I second the motion.

CHAIR QUIGLEY: All in favor of granting the variance please signify by saying aye.

| | IN FAVOR | OPPOSED |
|-----------|----------|---------|
| QUIGLEY | YES | NONE |
| DONALDSON | YES | |
| TART | YES | |
| HUMPHREY | YES | |

Opened Public Hearing

C. P12-03-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A DAY CARE FACILITY IN AN A1 AGRICULTURAL DISTRICT ON 2.50+/- ACRES, LOCATED AT 6120 BRAXTON ROAD (SR 2242), SUBMITTED BY MARCUS G. MCLEAN (OWNER) AND ROBERT G. MCLEAN.

MRS. VARNER: Presented the zoning, land use and photos of the site to the Board.

MRS. VARNER: I would like to make a correction to the site profile. I typed 20 parking spaces instead of 22 parking spaces.

MR. DONALDSON: Please go to the overview map. I know they have to put the zoning sign up. In the city they are also required to notify by mail all adjoining property owners. Does the county require that?

MRS. VARNER: Yes, in a 500 feet radius or depending on how large the property, it would go up to 1000 feet.

MR. DONALDSON: Okay, so all those homes right there [pointing to the presentation] they would have been notified?

MRS. VARNER: Melodie, how far out were the notice letters sent, 500 feet?

MS. ROBINSON: That is done by graphics. I wouldn't have the information.

MRS. VARNER: I assume the adjoining property owners have been notified.

MR. DONALDSON: Are those mobile homes in there?

MRS. VARNER: Those are single dwellings.

MR. DONALDSON: They are regular houses, not mobile homes? They get a personal mailing?

MRS. VARNER: Yes, they got notified.

CHAIR QUIGLEY: Did you look at the property?

MRS. PERRIER: Yes, I did and they did not have any violations.

MR. DONALDSON: The reason why I asked about the notification is in case they wanted to be heard, and then obviously they could show up.

MRS. VARNER: We do advertise the case and they get a notice.

CHAIR QUIGLEY: Swore in Robert McLean.

MR. MCLEAN: My name is Robert McLean, I live at 6141 Braxton Road, Hope Mills. My son is the property owner. I'm actually speaking on his behalf because he is out of town. I actually helped him put this package together to submit our request. To answer your question about neighbors being notified; my home is here [pointing to the presentation]. I live on this tract here, two acres, in this house, my mother lives here, my aunt owns this property, and my two brothers own the two tracts behind that. Of course I put my family first. This is part of the old family farm. I transferred ownership of this land to my son who will be the fourth generation living on this land. We wanted to leave a large tract, we could have went with the smaller tract, but felt the larger tract left more open green space and matched what we had all along. I did go over to some of my neighbors that I know. I don't believe I have met you [addressing someone in the audience]. I spoke with some of the other neighbors that I know firsthand; Tony Minor and he really didn't have a concern about it. He did ask me the hours of operation and I said 6am-6pm, five days a week. This whole area is farm land and hasn't been farmed for 25 years and is overgrown with trees. These are cedar trees planted six years ago and will be left intact. [pointing to the presentation] Some trees grown up against this fence line are wild trees and we might be able to leave some, if not we will establish a green border between our neighbors. This side is bordered with trees also and this entire area around here will be for septic field and open green area and this area will be a gravel roadway if we needed it and this will be paved in the front. With all the development going on in this area and what we're hoping to do I'm looking at the 2004 road count; it is about 2001 per day on that little road and it is not even considered a major thoroughfare. That was seven years ago; since then over 500 homes have come into this area. There are three schools within ½ to ¾ mile from there now. These homes in this area in the next two years project another 350 homes coming in by Clarke Homes.

MR. DONALDSON: That is not your property?

MR. MCLEAN: No sir. Our family farm is part of this block you see here [pointing to the presentation]. This is home for us and we don't want to change the face of it too much. We felt with all the growth in the community, schools, and homes coming in, that a daycarethe closest daycare I think is probably ¾ of a mile over on Sandhills Road and the next one is down almost on Highway 87. We felt like it would be a way to keep the land in a natural state and it will produce income and compliment the neighborhood at the same time. I was asked to speak on behalf of my son, it was his proposal to do this and I appreciate your consideration.

MR. DONALDSON: Are you all going to run it yourselves?

MR. MCLEAN: Yes. My wife is a former educator and hopefully one day I'll see my son build a home here.

CHAIR QUIGLEY: Thank you very much. Does anyone have questions for staff?

Public Hearing Closed

MR. HUMPHREY: That area is building up tremendously and with the amount of homes going up I would assume they would need the daycare.

CHAIR QUIGLEY: The factors we have to consider, is there any element in anything we have discussed that would materially endanger the public health? Is the use in compliance? Is it a permitted use? It does not appear that anyone has signed to speak in opposition to it. There has been no evidence. It doesn't appear that any evidence has been presented that anyone would suffer the loss of the value of their property by having this business in that location. What they are intending to do is in general conformity other than its conversion of agriculture.

CHAIR QUIGLEY: Mrs. Tart, do you have any input?

MRS. TART: Everything's fine. It is in order. I move that we approve the Special Use Permit based upon the following case findings:

1. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;

The staff presented evidence and the applicant has to follow the plan. There is no evidence they would endanger the public health or safety.

2. The use meets all required conditions and specifications;

They are meeting all conditions as required by our Codes and by the Planning staff;

3. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and

There has been no testimony to indicate that any properties would be depreciated as a result of this facility. Evidence has been presented that there is a public necessity for child care in this particular area.

4. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Cumberland County's most recent Land Use Plan.

The location and the character as presented to our Planning staff and they have signed off on it; would meet this particular condition.

CHAIR QUIGLEY: It has been motioned by Mrs. Tart and seconded by Mr. Donaldson to grant the Special Use Permit. All in favor signify by saying aye.

| | IN FAVOR | OPPOSED |
|-----------|----------|---------|
| QUIGLEY | YES | NONE |
| TART | YES | |
| DONALDSON | YES | |
| HUMPHREY | YES | |

Having heard all the evidence and arguments presented at the hearing, the Board finds that the application is complete, that the application complies with all of the applicable requirements of the Cumberland County Zoning Ordinance for the development proposed, and that therefore the application to make use of the property described within this case for the purpose indicated is hereby approved, subject to all applicable provisions of the Zoning Ordinance and the following conditions:

1. The applicant shall complete the development strictly in accordance with the application and site plan submitted to and approved by this Board, a copy of which is filed in the Cumberland County Planning & Inspections Office.
2. The applicant/property owner is the responsible party for the information contained within the site plan, including but not limited to the property boundaries, easement locations, and right-of-way boundaries.
3. The applicant/property owner is the responsible party to ensure compliance with all other related Federal, State, and local regulations, including but not limited to the NC Building Code.

10. DISCUSSION

None

11. UPDATE(S)

None

12. ADJOURNMENT

The meeting adjourned at 8:20 pm; motioned by Mr. Humphrey and seconded by Mr. Donaldson.