

Members:

Vickie Mullins, Chairman
George Lott, Vice-Chair
George Turner
Alfonso Ferguson Sr.
Winton McHenry



Alternates:

Robert E Davis
Nathan Galbreath
Stacy Michael Long
Alberta Ortiz
Gregory Parks

CUMBERLAND COUNTY BOARD OF ADJUSTMENT

130 Gillespie Street
Fayetteville North Carolina 28301
(910) 678-7602

MINUTES
April 20, 2017
7:00 PM

Members Present

George Lott
Alfonso Ferguson Sr.
Winton McHenry
George Turner
Nathan Galbreath, Alternate
Robert E. Davis, Alternate, Non-Voting

Absent Members

Vickie Mullins

Staff/Others Present

Betty Lynd
Hope Ward Page
Robert Hasty, Jr. (Assistant
County Attorney)

Chairman Lott called the meeting to order at 7:00 p.m. in Public Hearing Room #3 of the Historic Courthouse. Chairman Lott stated the procedural matters are to turn off all cell phones and other electronic devices and if asked to speak at the podium to please speak clearly into the microphone as the meeting is being recorded. If any board member wishes to speak or ask any questions please ask to be recognized by the Chairman before speaking.

1. INVOCATION

Chairman Lott.

PLEDGE OF ALLEGIANCE

Recited by all.

2. ROLL CALL

Mrs. Lynd called the roll and stated a quorum was present. For the audience Mrs. Lynd introduced, Mr. Davis, Alternate Non-Voting member and Mr. Rob Hasty, Assistant County Attorney.

3. SWEAR IN STAFF

Chair Lott swore in staff.

4. ADJUSTMENTS TO THE AGENDA

There were none.

5. APPROVAL OF THE MARCH 16, 2017 MINUTES

Mr. Turner made a motion to approve the minutes as submitted, seconded by Mr. Ferguson. The motion passed unanimously.

IN FAVOR	
LOTT	YES
MCHENRY	YES
FERGUSON	YES
TURNER	YES
GALBREATH	YES

6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

8. POLICY STATEMENT REGARDING APPEAL PROCESS

Mrs. Lynd read the policy statement.

9. PUBLIC HEARING(S)

- A. **P17-02-C: CONSIDERATION OF A VARIANCE TO ALLOW A 30 FOOT FRONT YARD SETBACK WHERE 50 FEET IS REQUIRED IN AN M(P) PLANNED INDUSTRIAL DISTRICT ON 11.58+/- ACRES, LOCATED AT 3469 BLACK & DECKER ROAD; SUBMITTED BY WILLIAM WILKERSON, JR. OF 3469 BLACK & DECKER RD, LLC.**

Chair Lott read the case heading for Case No. P17-02-C.

Mrs. Lynd reviewed the zoning, sketch map, and land use of the area surrounding subject property. She briefly reviewed board packet material. Mrs. Lynd asked the board to accept into the record ordinance

Section 1307 – Billboards (Off Premises Signs)

In addition to other applicable standards contained within this article, the following provisions shall apply to all billboards:

1. **General Provisions.**

1. Billboards shall be allowed only along rights-of-way with full-control or limited control of access, such as freeways and major thoroughfares; except that billboards shall not be prohibited within 1,000 feet of either side of the right-of-way of the following:
 - a. US Highway 301 (South Eastern Boulevard/Gillespie Street) from NC Highway 87 (Martin Luther King Jr. Freeway) South to SR 2286 (Seven Mountain Drive); and
 - b. Reserved for future use.
2. Billboards shall not face or be oriented toward any adjoining or abutting residentially-zoned or residentially-used property and shall not be located within 200 feet of a residential zoning district boundary line; (Amd. 02-19-08)
3. Billboards shall not exceed a sign height of 35 feet;
4. All billboards are considered as a principal use of property, not accessory, and shall be allowed in the C(P) Planned Commercial District, upon approval of a Special Use Permit (Section 1606), and M(P) Planned Industrial District, upon approval of the site plan (Article XIV) as a permitted use, provided that the dimensional criteria outlined below is complied with; (Amd. 01-19-10)
5. All Federal, State, and other local regulations shall be complied with and (Amd. 01-19-10)
6. Billboards are exempt from the landscaping and buffering provisions of this ordinance.

2. **Dimensional Criteria by District.**

1. C(P) Planned Commercial Districts. Billboards constructed and located in this zoning district shall have a maximum sign area of 500 square feet and shall be located at least 50 feet from a street right-of-way line; five feet from any property line not a right-of-way line; 50 feet from any other freestanding sign, building or structure on the same lot; and be a minimum of 500 feet from another billboard.

2. M(P) Planned Industrial District. Billboards constructed and located in this zoning district shall have a maximum sign area of 700 square feet and shall be located at least 50 feet from a street right-of-way line; five feet from a property line, not a of-way line; 50 feet from any other freestanding sign, building or structure on the same lot; and be a minimum of 500 feet from another billboard.

MR. HASTY: Mr. Chairman, will you accept that for the record?

CHAIR LOTT: Yes, I'm sorry. Do you need a motion to accept that?

MR. HASTY: No.

MRS. LYND: No. Staff asks that you make the motion using the findings of facts behind the variance tab in your binder. I'm here if you have any questions but I do believe we have some speakers signed up. Or if you need to see any slides, just please ask.

MR. GALBREATH: Would you mind going back to the aerial view?

MRS. LYND: Yes. The one with the subject property outlined?

MR. GALBREATH: Please.

MRS. LYND: Yes.

MR. GALBREATH: Thank you.

MRS. LYND: No problem. (Addressing Chair Lott) We do have some speakers signed up if you want to call them.

CHAIR LOTT: Oh we do.

MRS. LYND: No problem, you're fine.

CHAIR LOTT: Have Mike Adams, Garris Neil Yarborough and William Wilkerson, Jr.

MR. YARBOROUGH: You want us all three sworn at the same time?

CHAIR LOTT: Yes please. Would you all like to swear or affirm?

MR. YARBOROUGH: Either way.

CHAIR LOTT: Raise your right hand; place your left hand on the Bible. Do you swear to tell truth, the whole truth and nothing but the truth, so help you God?

MR. ADAMS: I do.

MR. YARBOROUGH: I do.

MR. WILKERSON JR: Yes sir.

CHAIR LOTT: Please state your names and addresses.

MR. WILKERSON JR: William Wilkerson, 3469 Black and Decker Road, Hope Mills, NC 28348.

MR. ADAMS: Mike Adams, 3641 Heart Pine Drive, Fayetteville.

MR. YARBOROUGH: Neil Yarborough, 115 E. Russell Street, Fayetteville, NC.

CHAIR LOTT: Thank you.

MR. YARBOROUGH: Let's see.

MRS. LYND: Just for purpose of the rest of the meeting. If you are going to speak, we do ask that you speak into the microphone because the meeting is being recorded just for Hope's purpose for her minutes. Thank you.

MR. TURNER: Mr. Chairman is everyone in favor? All the speakers are in favor?

CHAIR LOTT: Yes.

MR. TURNER: Okay.

MR. YARBOROUGH: Thank you. I'm just going to give a moment of introduction and then I'm to ask Mr. Wilkerson a few questions if that's okay with you?

MR. WILKERSON JR. Yes sir.

MR. YARBOROUGH: It's a quasi-judicial...

MR. HASTY: Correct.

MR. YARBOROUGH: ...hearing. Gentlemen the purpose of this hearing tonight is to see if, is to grant a variance for thirty foot, a twenty foot variance to move the approved site of fifty feet down to thirty feet so the sign can be seen. Basically this part of the property which we'll show you later on in greater detail is in a hole. And you only got about a thirty-five foot height so if you don't get out a little bit closer out from the building, if you don't get out a little bit closer out from the building you can't see the sign and that's what this is about, just by way of introduction, if I may proceed.

MR. TURNER: Could I ask you?

MR. YARBOROUGH: Sure.

MR. TURNER: Is that okay?

CHAIR LOTT: Yes.

MR. TURNER: What do you mean it's in a hole? What does that mean?

MR. YARBOROUGH: I mean topographically. We have topo maps that are going to be introduced, that's going to show, we'll show you. It's down in a hole. It's about thirteen feet; it's about thirteen feet below road grade. The fifty foot mark...

MR. TURNER: The fifty foot mark, yeah...

MR. YARBOROUGH: The fifty foot mark is thirteen feet below road grade. So and you got a building, you got a building here and because it's down in a hole you can't see the sign the way it is right now.

MR. TURNER: Okay.

MR. YARBOROUGH: And we'll be putting on significant evidence to answer that question.

MR. TURNER: Alright. Carry on.

MR. YARBOROUGH: Are you the owner of the subject property?

MR. WILKERSON JR. Yes sir.

MR. YARBOROUGH: And you are also the owner of Relyus?

MR. WILKERSON JR. Yes sir.

MR. YARBOROUGH: What's the connection between Black and Decker Road, LLC and Relyus?

MR. WILKERSON JR. Relyus leases space from 3469 Black and Decker Road.

MR. YARBOROUGH: And what is the nature of your business?

MR. WILKERSON JR. Marketing.

MR. YARBOROUGH: Okay. And are you the person that filed this variance?

MR. WILKERSON JR. Yes sir.

MR. YARBOROUGH: In your own words, can you tell us why you need this variance?

MR. WILKERSON JR: As Mr. Yarborough stated a little earlier, at fifty feet it's pushed back in the parking lot. And when you factor in the height of the building and the contour of the street and the topography declining from West to East you can't see the sign.

MR. YARBOROUGH: Thank you. Have you retained a professional land surveyor, Mike Adams, to perform survey work for your property?

MR. WILKERSON JR: Yes sir.

MR. YARBOROUGH: As a part of that work, did he prepare a topographical map that topographically illustrates the nature of your property and the nature of the problem?

MR. WILKERSON JR: Yes sir.

MR. YARBOROUGH: And, can Mike Adams provide a more detailed explanation of the topographical issues that make the strict compliance with the terms of the County Zoning Ordinance, to cause you practical difficulties or unnecessary hardship in the utilization of your property?

MR. WILKERSON JR: Yes sir.

MR. YARBOROUGH: That's all my questions for this gentleman.

CHAIR LOTT: Thank you.

MR. WILKERSON JR: Thank you.

MR. YARBOROUGH: I will now call Mike Adams. Mr. Adams, how are you employed?

MR. ADAMS: I own MAPS Surveying.

MR. YARBOROUGH: And, are you licensed by the state of North Carolina?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: What type of license do you hold?

MR. ADAMS: Professional Land Surveyor.

MR. YARBOROUGH: Does the nature of your work involve the surveying of land and not only for boundary issues but also for topographical issues?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: As a part of your work, are you often engaged in land use issues such as zoning and that type of thing?

MR. ADAMS: Just about every day, yes sir.

MR. YARBOROUGH: About every day?

MR. ADAMS: About every day.

MR. YARBOROUGH: Kind of like me. Have you prepared a topographical map of Mr. Wilkerson's property?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: (Addressing Mrs. Lynd) would you go ahead and put up my slides?

MRS. LYND: Yes sir.

Please note all exhibits referenced during Case P17-02-C have been attached to the April 20, 2017 CC Board of Adjustments minutes, as part of the record

MR. YARBOROUGH: If you will please. (Addressing Mr. Adams) Showing you exhibit number one, is this your topographical map?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: I would like to introduce this into evidence I'll provide it to you. I'm going to put it up on the screen. It's a little hard to see, so this is the real deal. You may have problems; you may have your own problems seeing it.

MR. ADAMS: Yes.

MR. YARBOROUGH: But if you're familiar with the area you can. Can you explain the topographical problems as far as this sign is concerned?

MR. ADAMS: Yes sir. The sign is going sit in the bottom right corner of the property. We're proposing the billboard to sit right in here. When you're coming like Mr. Wilkerson said, like west to east from across the property this way is a fourteen foot drop as you come down Black and Decker. So by the time you get to the sign as Mr. Yarborough stated it's about thirteen feet below from where you started. We've got a, I'll just say left to right slope, also a slope from back to front, I meant sorry from front to back. So from here back to here I don't know the exact number, it drops another ten to twelve feet. So with the billboard here and the setback that it's causing it's right behind this corner of the building, so when you're coming this way you're up so high, your gonna see, like Mr. Yarborough said, you're not gonna see the billboard, because of the height that you're at and going down to.

MR. YARBOROUGH: And, you're personally familiar with this property, is that correct?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: And, because you surveyed it several times?

MR. ADAMS: Yes, right.

MR. YARBOROUGH: And, you've, have you reviewed the exhibits photographs one through eleven?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: And, do they illustrate the property as you have seen it?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: Would you flip to exhibit number two?

MRS. LYND: Yes sir.

MR. YARBOROUGH: The next slide.

MR. YARBOROUGH: What is this? (Addressing Mr. Adams)

MR. ADAMS: It's the front of the.

MR. YARBOROUGH: Yes. And that's taken at ground level, is that correct?

MR. ADAMS: Yes.

MR. YARBOROUGH: Three please, just a sign there?

MR. ADAMS: Yes.

MR. YARBOROUGH: Number four. (Addressing Mrs. Lynd) Just another sign there, please notice the American Flag. I always like to get that in the photograph. Number four: Now is this, picture showing you what someone would see on the street, this is at ground level, this photograph was taken at ground level, correct?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: So, there would be a different angle if you were seeing it from the street, is that correct?

MR. ADAMS: Yes, you'd be course more away from the building. The street's over here.

MR. YARBOROUGH: Can you identify the portion of the building that is causing the problem that would cause the building to block the sign?

MR. ADAMS: It would be this corner right here.

MR. YARBOROUGH: And what would be... and let's go to the next slide. (Addressing Mrs. Lynd), same basic photograph, correct?

MR. ADAMS: Right.

MR. YARBOROUGH: What would be necessary, where would it be necessary to place the sign so someone could easily and readily see it from the street without overly diverting their eyes?

MR. ADAMS: The proposed location is here (referencing exhibit slide five) what we're asking is to move it here, it would get you away from the corner of that building.

CHAIR LOTT: Mike if you would, point to the area of where the sign would be.

MR. ADAMS: Yes, it would be right in here.

MR. YARBOROUGH: It'd be behind the building.

MR. ADAMS: Yes.

MR. YARBOROUGH: It'd be behind the building. It'd still be behind the building from this angle.

CHAIR LOTT: Okay.

MR. YARBOROUGH: Let's go to the next photograph. (Addressing Mrs. Lynd) Now does this give you a better?

MR. ADAMS: Yes.

MR. YARBOROUGH: Does this photograph give you a better vision of how it slopes up to the road?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: Okay.

MR. ADAMS: Yes sir. This is taken from the parking lot.

MR. YARBOROUGH: Mr. Turner this...

MR. TURNER: I can see it.

MR. YARBOROUGH: You see it? I think that perhaps illustrates that. Okay go ahead to the next slide, got to exhibit eight. Now this is shooting down from the road, is that correct?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: You can almost look, it's so high up you can almost look into the bottom of that pickup truck right?

MR. ADAMS: Right.

MR. YARBOROUGH: (Addressing Mrs. Lynd), and let's go to the next picture. Is that a picture showing the way the road, the way the property slopes down?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: If this property was at road grade would it be a problem? If the place you're wanting to put the sign at road grade, would it be much of a problem?

MR. ADAMS: I don't think it'd be as a big a problem, depends on the height of the building of course, because we still are behind the building with the fifty foot setback.

MR. YARBOROUGH: Okay.

MR. ADAMS: I don't think the building's thirty-five feet tall though.

MR. YARBOROUGH: (Addressing Mrs. Lynd), Let me see the next one please. Does this further illustrate the slope?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: (Addressing Mrs. Lynd), let's go to number eleven. See number eleven the trees are growing straight up. The trees are vertical is that correct?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: Does that further illustrate kind of the nature of the slope?

MR. ADAMS: Yes.

MR. YARBOROUGH: So is it fair that in a fairly short distance, the property drops thirteen feet.

MR. ADAMS: Yes.

MR. YARBOROUGH: By the way I do not think I have tendered Mr. Adams as an expert witness, but I would do so at this time. In your opinion, now let's go, have you prepared two site maps that illustrate what you're talking about?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: I'm going to briefly let you point this out then I'll pass it to y'all, okay. Now this shows this point right here, the V shows the point at the fifty foot mark, right?

MR. ADAMS: Correct.

MR. YARBOROUGH: And this is the corner of the building that blocks it is that correct?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: And if you look at the curve of the road, you can't, you just can't see it.

MR. ADAMS: No, you're actually curving into...

MR. YARBOROUGH: The building.

MR. ADAMS: The building basically.

MR. YARBOROUGH: You're actually curving in to the building. Okay, Alright. I'm going to pass this around. (Referring to site maps)

MR. TURNER: Viewpoint the fifty foot view point.

MR. YARBOROUGH: I will now show you, exhibit thirty, I mean thirteen rather, and this shows the thirty foot setback, is that correct?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: And that's the viewpoint and at this point when you're coming around you can still see the sign, is that correct?

MR. ADAMS: That's correct.

MR. YARBOROUGH: By the way, (Addressing Mrs. Lynd), right there where your hand is, those are all the slides to make them part of the permanent record.

MR. GALBREATH: Chairman if I may ask a question.

CHAIR LOTT: Just a minute. Yes, go ahead.

MR. GALBREATH: After looking at those two, make sure I ask this in a way that's understandable, say you're driving down Black and Decker if we're going from left to right on these maps, which direction are we going?

MR. ADAMS: East.

MR. GALBREATH: Okay, so that's what I thought. So if we're going East on Black and Decker, what is the footage difference if you did the fifty foot sign compared to the thirty, how many feet down Black and Decker do you actually gain in doing thirty feet, if that makes sense.

MR. TURNER: Visibility?

MR. GALBREATH: Right. So how many feet earlier can I see the sign at thirty feet?

MR. ADAMS: That I won't know exactly.

MR. GALBREATH: Okay.

MR. ADAMS: I could figure something out.

MR. GALBREATH: Okay.

MR. YARBOROUGH: The sign is lined up on the, you did line the sign up on the site line of the road?

MR. ADAMS: Right.

MR. YARBOROUGH: So in other words you don't have to do that. You can kind of see it with peripheral vision, as opposed to having to do that.

MR. ADAMS: I would say part of the angle of the sign that we had to adhere to because of the ordinance was to stay out of the residential area. We can't have the sign pointing directly toward that residential area across the street. So we have angled our sign some that we, make sure that we adhere to the part of the ordinance.

CHAIR LOTT: So in other words at fifty feet the sign would be not as visible to a certain point, but if you regardless of the fact that it's lower it would be so low that you couldn't see it that if it were raised up to a normal level the building would still hide it to a certain point, is that?

MR. GALBREATH: If you make the sign bigger.

MR. ADAMS: You talking about making it taller?

CHAIR LOTT: No you wouldn't make it bigger, even if you made it taller where you could get up and see it coming the building would block the visibility of the sign until you got much closer to it if it's sitting at thirty foot, I believe that's the way I understand it.

MR. ADAMS: Yes sir.

MR. TURNER: And the woods would block it too.

MR. YARBOROUGH: I could say this if it was elevated at thirty feet you would see. You would see it above the building if it was elevated thirty feet.

CHAIR LOTT: Right even if it was feasible to fill in the hole it would still be hard to see until you got close to it. If you wanted to fill in the hole and put it at fifty foot you would still be, the building would cut off the visibility of the sign.

MR. YARBOROUGH: Yes so. I just have few more questions.

CHAIR LOTT: Yes.

MR. YARBOROUGH: Mr. Adams in your opinion, are the topographical pictures of the subject property with strict compliance with the setback requirement of Cumberland County Zoning Ordinance that would cause practical difficulties or unnecessary hardship and the utilization of this sign at the fifty foot setback?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: If the sign is located at the thirty foot setback mark, resolve those difficulties and hardships?

MR. ADAMS: Yes sir

MR. YARBOROUGH: In your opinion is there an extraordinary exceptional topographical conditional aid to this property not typically seen in public properties in this district?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: Is establishing a readily visible billboard allow for other similarly zoned properties in this district?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: What is the purpose of the billboard? Is it to be seen?

MR. ADAMS: To be seen, to advertise.

MR. YARBOROUGH: Okay. Would the literal interpretation of the Cumberland County Zoning Ordinance deprive the applicant of rights commonly enjoyed by other residents in the district for which the property is located?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: Would the requested variance be in harmony with the purpose and intent of the Cumberland County Zoning Ordinance?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: Will the requested variance not be injurious to the neighborhood or general welfare of the County?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: Are there special circumstances which cause this need for variance as a result of the action of the applicant? The applicant didn't cause this?

MR. ADAMS: No sir. Oh no this is natural grade.

MR. YARBOROUGH: Is a twenty foot setback variance the minimum variance necessary to address the topographical problem?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: Are billboards permitted in this district?

MR. ADAMS: Yes sir.

MR. YARBOROUGH: That's all the questions.

CHAIR LOTT: Okay thank you. Board has any questions, any further questions? Yes sir.

MR. MCHENRY: I have a question. It doesn't seem logical to me that you would have to drop it back thirty feet in order to get the height why not just fill it in?

CHAIR LOTT: Because like I try to make a point before the building at fifty foot if you put the sign back where it's required, the requirements.

MR. MCHENRY: Yeah.

CHAIR LOTT: The building would cut down on the visibility until you got much closer to the sign. From the other direction I believe there were some woods that would prevent the sign from being seen, as I understand it.

MR. TURNER: The reality is that the topography causes the problem...

CHAIR LOTT: Yes.

MR. TUNER: ...but the existing building is the real problem.

CHAIR LOTT: Well not only that I would think that in a situation like that you would fill it in, you are going to create other problems. Erosion, lot of times when you change the topography you're going to create water problems, erosion.

MR. MCHENRY: It'll create the problems when you go down, but not when you go up.

CHAIR LOTT: Well sometimes though, number one it would be a cost factor too.

MR. MCHENRY: Well then that's the issue is the cost, of raising the sign.

MR. HASTY: Chairman, excuse me, sorry.

CHAIR LOTT: Yes sir.

MR. HASTY: It may be best if the questions are directed to them since they've put on all their evidence, if they can respond to those questions that might be better.

MR. YARBOROUGH: I'll be glad to respond. First off there is a thirty-five foot height limit and as the Chairman said I don't think it would be appropriate to build out some kind of peninsula in some raise, not only would it be totally impractical, my understanding of the variance is to soften the blow of the restrictions of zoning. This property this sign, this sign is approved at the fifty foot level but the fifty foot set back excuse me not level but setback, by the planning staff. The fifty foot setback defeats the purpose of the sign, causing, under the code, what is a practical difficulty. What we're asking this board to do tonight is to give us some slack give us a twenty foot slack in your interpretation so we can put the sign where it needs to be so in fact it will achieve its purpose of visibility. It will not be, it can be oriented in such a way, so it cannot be a distraction to traffic but be able to be seen by traffic without having people to crane their neck, say what was that or something like that. So that's what we're asking for, if this was a flat vacant lot might be a whole different story. But that's not what we're dealing with here we're asking for a twenty foot consideration. As you noticed, there's no one in opposition to this, there's no one in opposition of this this type of signage is important for the economy of our county, it's how people get messages. Mr. Wilkerson's in the marketing business certainly he understands and appreciates that. So what we're asking for is a twenty foot variance so this sign can do what it's supposed to do in a safe and harmonious way to the neighborhood.

MR. FERGUSON: I got a question, for the marketing business that he's having there, is this sign to attract customers, so what is he doing is he doing marketing for companies, is it for attracting customers?

MR. YARBOROUGH: He markets for third parties he does direct mails, and also, through billboards.

MR. FERGUSON: Right, so I'm saying would that effect, if I'm driving by and I'm not doing direct mail if that's something that we would get, that I would need to see this sign, because you said it's going to be

far back, that's what I'm saying is he trying to attract passersby customers that didn't come in or he's just putting a sign up just saying I'm here?

MR. YARBROUGH: He's putting up a billboard which is by definition an off premise, which is by definition an off premise sign...

MR. FERGUSON: Right.

MR. YARBROUGH: For the advertisement of other businesses in the community. Does that answer your question?

MR. TURNER: I think the question that he's asking, if I can, I'm sorry.

MR. FERGUSON: Go ahead.

MR. TURNER: The question really is that the purpose of this billboard is not to advertise his business, this billboard will have someone else's name on it and it would probably be something like Lamar has for somebody like that.

MR. YARBROUGH: It will be, yes, it will be for the purpose of the broader community.

MR. TURNER: Yes. You know the reality of it is just the way I feel about it this is not a question, this is really the minimum variance that you could grant in order for this person to have a billboard on his property in a location that's not really suitable. It's a poor location for a billboard in general but in order for him to have the billboard, as he has the right to do, we would; you would have to do this, in order to make it feasible at all. There's kind of a no win situation.

CHAIR LOTT: I understand any further questions? Do we hear any motions or do we need to go with the...

MRS. LYND: If you would like to make a motion, you would make it subject to the findings of facts located behind the variance tab in your binder.

CHAIR LOTT: Okay.

MR. HASTY: Mr. Yarborough was that conclusion of your...?

MR. TURNER: So you've closed the public hearing?

MRS. LYND: No that's it. Mr. Chairman, they're just asking, if there are any more speakers signed up?

CHAIR LOTT: I'm sorry?

MRS. LYND: Are there any more speakers signed up?

CHAIR LOTT: No sir. No ma'am.

MR. HASTY: At this point then it's time for your deliberations.

CHAIR LOTT: Okay. What say the board?

MR. TURNER: I would make a motion that application of this ordinance would cause undue hardships upon this owner and that's based solely on the fact that he has a right to have the sign and the topography of the land denies him of that right of that sign being usable. These are, this topography issues there, I guess if you'd have to blame someone it wouldn't be natural it would be DOT when they put the road in, this is a natural drop. So I make a motion that we apply, approve the variance as written.

CHAIR LOTT: I have a motion to be approved. I'll second the motion. All in favor?

MR. HASTY: Mr. Chairman, again, just like we had discussed, you need to make those findings of facts that are in the ordinance under 1605. I believe Mr. Yarborough in his questioning, went over those, with

his witness. Primarily based on topography, but if you as part of that motion want to incorporate the testimony, to cover those findings.

MR. TURNER: I thought I did that. I didn't do that?

MR. HASTY: I don't think in those words per say.

MR. TURNER: Okay. Well based on what's written here, then I'll say it's the boards' conclusion that unnecessary hardships would result from the strict application of the ordinance and this finding is based on the condition that installing this sign as approved at fifty feet would make it not visible. The board's conclusion is that the hardship results from conditions particular to the property, those being topography as we've been told it's in a thirteen foot hole, so to speak. The whole area drops, so if you did apply the ordinance directly to it the sign would be useless. These actions were not caused by the property owner. When the DOT put the road in they brought the road level up and created this hole. It's the board's conclusion that the requested variance is consistent with the spirit and purpose and intent of the ordinance, public safety is secured, substantial justice is achieved and this is based on the conditions listed. Whereas we have seen this sign won't affect any, it's not going to be in any body's way, it's not going to deter property values. This simply gives this individual the ability to have a sign that anyone else could have. Will that work sir?

MR. HASTY: Yes, and you can also just say to incorporate the testimony.

MR. TURNER: And this is based on the testimony of everyone who testified.

CHAIR LOTT: I stand with my second, all in favor? Aye.

MR. GALBREATH: Aye.

MR. TURNER: Aye.

CHAIR LOTT: Any objections? One (acknowledging Mr. McHenry)

MR. MCHENRY: One here.

CHAIR LOTT: Two? (Acknowledging Mr. Ferguson)

MR. TURNER: Where did we end up?

MRS. LYND: I'm sorry can we do the vote again so that Hope...

MR. HASTY: Why don't you do a show of hands?

CHAIR LOTT: Let's do a show of hands, for.

MR. TURNER: That's three.

CHAIR LOTT: And against? Two. Passes.

Mr. Turner made a motion to approve the application for the variance as written, incorporating the findings of fact as stated by the applicant, seconded by Chair Lott. The motion failed with three in favor and two opposed.

	IN FAVOR
LOTT	YES
TURNER	YES
GALBREATH	YES
MCHENRY	NO
FERGUSON	NO

MR. HASTY: Let me check real quick, one of these has the... (Checking Board of Adjustment Ordinance for vote requirement) As I read this a four-fifths vote is required for a variance.

SECTION 1608. REQUIRED VOTE. The concurring vote of four-fifths of the members of the Board of Adjustments shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with the enforcement of this ordinance and to decide in favor of an applicant on any matter, except relating to Special Use Permits, which the board is required to pass, including granting variances from the provisions of this ordinance. Decisions for issuance of a Special Use Permit shall be made by the majority vote of the board members present at the meeting in which the request is heard. (Amd. 02-19-08; Amd. 04-18-11).

MR. TURNER: So with that, the motion has failed?

MR. HASTY: That's correct, that motion has failed.

CHAIR LOTT: So it is granted?

MR. TUNER: It is not

CHAIR LOTT: It is not?

MR. GALBREATH: Takes four-fifths.

MR. TURNER: It requires a four-fifth vote. Four of us would have to be in favor of it.

CHAIR LOTT: Okay.

MR. YARBOROUGH: Mr. Chairman in light of his advice, can I ask for a re-vote?

CHAIR LOTT: What say the board?

MR. TURNER: What say the attorney, not the board?

MR. HASTY: Chairman if you'd like to take a re-vote you may.

MR. TURNER: Maybe the question would be does anyone feel different?

MR. FERGUSON: No I haven't. Have you changed? (Addressing Mr. McHenry)

CHAIR LOTT: You wouldn't feel any different? (Addressing Mr. McHenry)

MR. MCHENRY: No. Mr. Chairman, can we have further discussion on it?

CHAIR LOTT: Is there anything we could... you still have some unanswered questions?

MR. MCHENRY: Yes I do. Basically the question is the topography of the land is what it is. Okay. And it was what it was, it always has been. The road the DOT came by and put up a road and built it up.

CHAIR LOTT: Yes sir.

MR. MCHENRY: There's nothing stopping him from building up his own property to meet that of the road.

CHAIR LOTT: Were we to grant this variance, number one he did not do this. This is DOT. So they put a hardship on him to place his sign in a position that would be of no use to him. It could not be seen where the required sign should be. If we were to grant this variance he would be able to put the sign where it could be seen.

MR. MCHENRY: Well my point being that the time to have made an adjustment or something is when the highway was being built.

CHAIR LOTT: He had no control over that.

MR. TURNER: If I could just say it appears to me, I can see what you are both saying. But the request of the ordinance, the request of the variance is for a variance. It's either we say yes he can come in with the variance or no he can't and if he wants to go build a mound to build a sign on, that's what you're saying.

MR. MCHENRY: Yeah.

MR. TURNER: Yeah. Okay.

CHAIR LOTT: But at fifty foot it still going to be hid by the building the sign would hid, partially hidden by putting it back fifty foot.

MR. MCHENRY: Well the building was already there.

CHAIR LOTT: Yes it was.

MR. YARBOROUGH: DOT when they took additional right-of-way moved the right-of- way closer. You see what I'm saying. If DOT hadn't done what it did, we would've had the fifty foot neat. So, it still my guy is an innocent victim here. DOT widened the road, moved the road the forward, is that correct?
(Addressing Mr. Adams)

MR. ADAMS: Took right-of-way from the original.

MR. YARBROUGH: They took right-of-way so that's, in its original state it would've been fifty foot. We wouldn't be here, but DOT did that.

MR. MCHENRY: But he was ...Excuse me can I say.

CHAIR LOTT: Go ahead.

MR. MCHENRY: He was compensated for the land that was taken from him.

MR. YARBOROUGH: Not to that extent. He might have been compensated for the land, but he wasn't compensated for the lack of setback.

MR. TURNER: If I can talk, sir I think the discussion has actually moved off base. Both sides make sense but the issue is do you grant the variance for the thirty feet or not? That's the clear question.

MR. FERGUSON: And my point what I'm bringing across is if I'm advertising this for bringing in business, fine. But just for a billboard, then I don't see that we need to grant the variance. That's why I'm saying no. If I'm advertising my business that's fine, but just for a billboard, or something else, I don't think we need to grant the variance.

CHAIR LOTT: I don't think this sign is going to be rented to the public. This sign is not for rent to the public is it?

MR. YARBOROUGH: This is going to be his sign. And at some point and time occasionally it will be. Advertising his business, that's what billboards do. I mean they are a necessary part of the community.

MR. TURNER: What message is on the billboard is irrelevant too.

CHAIR LOTT: True.

MR. GALBREATH: Chairman, if I may?

CHAIR LOTT: Yes sir.

MR. GALBREATH: If I understood correctly, the way the sign has to face based on the ordinance is essentially East to Southeast, correct? It can't be a V-shaped sign that face back West – Southwest or anything, correct?

MR. ADAMS: Right. It cannot face the residential.

MR. GALBREATH: Correct.

MR. ADAMS: So we can't turn it, which would make it more visible...

MR. GALBREATH: Right.

MR. ADAMS: ...to some degree. But in doing that we're like I said we're trying to adhere to the ordinance. We can't just face it towards somebody's house.

MR. GALBREATH: Correct.

MR. ADAMS: That's why it can't.

MR. GALBREATH: And so even if it's not set back the thirty foot is granted the actual position of the sign is still facing essentially away from everyone driving east. So whether it's fifty feet or thirty feet the actual positioning of the sign is away from them to begin with. Does that make sense? So if I'm driving this way...

MR. TURNER: What does it, I hate to say it but what does it matter?

MR. GALBREATH: To the exact same point of why does it matter if it is fifty or thirty. If you can't see the sign at fifty, you can't really see the sign at thirty because the actual position of the sign is facing away from where you're driving. Until you get...

MR. TURNER: But the issue here becomes closer to the road which will actually be higher. Whichever way it's facing if it's fifty feet in and it's behind the building the building is going to block it, however it's facing.

MR. GALBREATH: Right but even at thirty feet you won't be able to read the sign. You'll be able to see that a sign exist, but because it's facing away, you're not going to see what's on it.

CHAIR LOTT: Well, I really wouldn't think though that you would position a sign, I don't know what the sign is going to cost, but if you are going to spend some money to put a sign up, you're certainly going to put it in a position where it'll be seen. And I and I don't see that as a problem.

MR. GALBREATH: He said that they can't because if you look at ...

CHAIR LOTT: Can you go back to the V-shape sign? (Addressing Mrs. Lynd)

MR. GALBREATH: Correct. Back toward where the residential area sits.

MRS. LYND: This is the proposed location of the sign so you can see right here.

MR. GALBREATH: Right and I think the one.

MRS. LYND: This is the surrounding land use. This is residential across.

MR. GALBREATH: But see if you're coming across right here, you can't face the sign that way to begin with; the sign has to face this way by ordinance. So, if you're driving this way, the sign is facing this way, you wouldn't be able to see it, if you looked to the left to begin with, until you get to about maybe right here. (Referencing site plan)

CHAIR LOTT: Well I think wherever you would see it. The problem is it couldn't be seen fifty-fifty it's got to be thirty-thirty. To be of any use to these people do they wouldn't be building it. Yes Mike.

MR. ADAMS: The way we positioned it, honestly is, it's right down this corridor right here, that's how I got it facing.

MR. GALBREATH: So it is facing back West?

MR. ADAMS: It is facing West.

MR. GALBREATH: Okay. The way it looks like in the map it looks like it's facing East – Southeast.

MR. ADAMS: Right:

MR. GALBREATH: I got it.

MR. ADAMS: It's a little deceptive.

MR. GALBREATH: Okay.

MR. ADAMS: But we could not turn that to where, like you say here's a billboard, because it would be facing directly to that and we can't do that per the ordinance. So my angle of the billboard is right down this corridor.

MR. GALBREATH: Okay. Thank you.

MR. ADAMS: Yes sir.

MR. TURNER: That also becomes an issue we would hope that whoever spending a lot of money to build a sign would make a feasibility study as to how it's going to face and be worthwhile. And that's kind of outside of what we're doing too, just a thought.

MR. ADAMS: Well I would be glad to answer any of your questions.

MR. FERGUSON: I'm still.

CHAIR LOTT: I'm sorry.

MR. MCHENRY: I'm still in the same position.

CHAIR LOTT: Still holding? (Addressing Mr. Ferguson)

MR. FERGUSON: Yes.

CHAIR LOTT: Okay.

MR. GALBREATH: Can we take another vote?

MR. HASTY: May I ask one question? Mr. Yarborough there are ordinance provisions for billboards not considering the setback, were all the ordinance conditions for a billboard met?

MR. YARBOROUGH: Absolutely. It's already been approved at the fifty foot level, by staff. It's simply not good at the fifty foot level. It is impractical to do it at the fifty foot level, and for those reasons Mr. Wilkerson, ought to be able to use his property in this manner.

MR. HASTY: You've had some further discussion so someone could call the question again, renew the motion. It's up to you Mr. Chairman, I don't know if it's going to make a difference or not but you could certainly do it.

MR. TURNER: I would call the question based on my original motion. I've read through it again, I'm trying to find some variation from it but I'm still in favor, and I call a question.

CHAIR LOTT: Well, these gentlemen indicated that they are not going to change their vote. (Referencing Mr. McHenry and Mr. Ferguson)

MR. TURNER: Let's do it and make it done then.

CHAIR LOTT: So, the motion fails. Do you want to vote again?

MR. TURNER: I mean do we need to vote again?

MR. HASTY: Well you called a question. We've had further discussion. It would probably be good to just vote again, clean record.

MR. GALBREATH: I make a motion to re-vote.

CHAIR LOTT: I'll second. All in favor of the motion? Three. All against? Two. Motion denied.

Mr. Galbreth made a motion to re-vote on the original motion, to approve the application for the variance as written, incorporating the findings of fact as stated by the applicant, seconded by Chair Lott. The motion failed with three in favor and two opposed.

	IN FAVOR
LOTT	YES
TURNER	YES
GALBREATH	YES
MCHENRY	NO
FERGUSON	NO

MR. YARBOROUGH: Thank you for your time.

MRS. LYND: Mr. Chairman you can dismiss those parties for that case. They don't have to stay for the rest of the meeting.

CHAIR LOTT: Parties dismissed. Thank you. Next case is P17-03-C. I believe we have Tim...

MR. BAUGUS: Baugus.

CHAIR LOTT: Baugus

MRS. LYND: Chairman, if you don't mind I'll go through my portion of the presentation before the speakers are heard.

CHAIR LOTT: I'm sorry?

MRS. LYND: If you don't mind staff will go through their portion of the presentation before the speakers.

Mrs. Lynd read the case heading for Case No. P17-03-C.

- B. **P17-03-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A DAY CARE FACILITY IN AN R6A RESIDENTIAL DISTRICT ON 2.20+/- ACRES, LOCATED AT 4957 CUMBERLAND ROAD; SUBMITTED BY ROY FIELDS ON BEHALF OF CUMBERLAND BAPTIST CHURCH (OWNER) AND TIM BAUGUS (AGENT).**

Mrs. Lynd reviewed the zoning, sketch map, and land use of the area surrounding subject property. She briefly reviewed board packet material. Mrs. Lynd asked the board to accept in to the record ordinance.

SECTION 906 DAY CARE FACILITIES

- A. For day care facilities located within any residential or agricultural zoning district, the following provisions must be complied with (Amd. 01-19-10)
1. Minimum lot size shall be 20,000 square feet.
 2. The required minimum setbacks shall be as follows:
 - a. Front yard: 30 feet from any public or private street;
 - b. Rear yard setback: 35 feet;
 - c. . Side yard setbacks: 20 feet; and
 - d. Corner lots: shall provide a minimum of 30 feet from both streets.
 3. Subject property must abut and have direct access to a major or minor thoroughfare or higher street classification, as identified in the Highway Plan, for all day care facilities located in residential districts. (Amd. 02-19-08)
- B. Day care facilities allowed in zoning districts other than residential districts shall comply with the district dimensional requirements of the zoning district. (Amd. 02-19-08)
- C. Minimum of two off-street parking spaces, plus one off-street parking space for each employee, shall be provided. Off-street parking shall be provided in accordance with the standards of Article XII.
- D. There shall be sufficient paved driveway to accommodate at least two motor vehicles at one time for the purpose of loading and unloading passengers in addition to any off-street parking area.
- E. All children's outside play areas shall be enclosed with at least a four-foot high fence and located only within the side and/or rear yards, provided the yards are not adjacent to a street. The

horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence much comply with the guard opening limitations for spacing established in the N.C. BLDG CODE §R312.2 (2006) (Amd. 02-19-08)

MR. FERGUSON: Do you accept that into the record?

CHAIR LOTT: Okay.

MRS. LYND: Staff does not have the property owner's agreement with all of the conditions. You can ask the applicant further about that if you'd like.

MR. TURNER: Could you repeat that. I didn't get that.

MRS. LYND: We do not have...

MR. TURNER: Do not.

MRS. LYND: ...the applicant's agreement to all the conditions.

MR. TURNER: Okay.

MRS. LYND: He can explain that further to you and then I can kind of further explain it if you have questions after that. And when you go to make a motion these will be behind the findings of facts behind the special use permit tab in your binder. I do believe we have speakers signed up and I'm available for questions or if you'd like to see any slides again.

CHAIR LOTT: Okay.

MR. GALBREATH: Chairman if I may?

CHAIR LOTT: Yes.

MR. GALBREATH: Are you able to show the slide with the playground or the play area for the daycare?

MRS. LYND: Yes.

MR. GALBREATH: Do you have a picture of that? Specifically the...

MRS. LYND: This area right here is where the proposed daycare the applicant has indicated where the daycare will be. This is the proposed play area for the daycare. It will have to be surrounded by a four foot minimum high, height fence, before permits could be pulled. (Referencing site plan)

CHAIR LOTT: So this, yeah.

MR. GALBREATH: And a maximum of twenty-five children?

MRS. LYND: Yes. The applicant has proposed a maximum of twenty-five children and six employees. Again the applicant is here if you want to call him up to speak. The applicant is here if you would like to call him and speak (Addressing Chair Lott)

CHAIR LOTT: Tim.

MR. BAUGUS: May I ask her one question? (Addressing Chair for Mrs. Lynd)

CHAIR LOTT: Yes.

MR. TURNER: Do you need to swear him in?

CHAIR LOTT: Do you want to swear or affirm?

MR. BAUGUS: Either one is fine sir.

CHAIR LOTT: Do you swear to tell the truth, the whole truth, nothing but the truth so help you God?

MR. BAUGUS: I do

CHAIR LOTT: Your name and address.

MR. BAUGUS: My name is Tim Baugus, I'm the Pastor of Cumberland Baptist Church, address 4957 Cumberland Road, Fayetteville, North Carolina.

CHAIR LOTT: Thank you.

MR. BAUGUS: Thank you sir. First of all let me say thank you for hearing our consideration for a special use permit. I want to thank Betty Lynd for helping us put this together. As she said we are proposing a one room to two room in the back of this building, to do a daycare slash preschool. We believe it's keeping within the services that we provide there at the church. It is our desire, as we have always done to be a help to the community, to the families to come along beside them and help their children be productive citizens of the community by respecting one another and having respect of authority that is some of our main mission objectives of wanting to provide this service. As she did mention the permit does say six employees and a maximum of twenty-five children. That is just what the limits require, I mean that's the maximum requirement, but we're not sure that'll be what we are pushing for we're actually just, whether we have eight to ten children we are fine with that also. We are just saying, make sure we did not limit for the particular space that the state requires so we can use per child. We understand twenty-five square foot per child and seventy-five for the playground. As you see here to the left there is playground equipment there. There is sand there, so a lot of safety is already there, but we'll do more as we continue to meet the state requirements and as they come out and see what we're trying to propose, with the plans we are willing to put down more safety equipment for the playground; soft padding underneath and as she mentioned the fences, the four foot that is required.

CHAIR LOTT: Okay.

MR. BAUGUS: I'd be happy to answer any questions.

MR. TURNER: I have one.

MR. BAUGUS: Yes sir.

MR. TURNER: Just for...it doesn't really, it's not clarified.

MR. BAUGUS: Sure.

MR. TURNER: Are you adding on to the existing building or are you using space in the existing building?

MR. BAUGUS: Using space right now sir.

MR. TURNER: So you don't plan to add anything on? You're not going to add any bathrooms, or.

MR. BAUGUS: There's bathrooms existing in there sir.

MR. TURNER: So you're not adding any?

MR. BAUGUS: We're not adding anything at this point. We will make sure the bathrooms are adequate and meet the specifications for those children but there are bathrooms already in that space.

It was considered our old fellowship hall; the building to the left is another building that is now our current fellowship hall. So that space back there would be adequate and so right there in the grassy area is the school next door. And so everything would be in the back and so the children would just be right there in back in their own private little play area and all of those things right there.

MR. TURNER: I think I understood staff to say that there was no sewer in this area?

MR. BAUGUS: There is septic tanks there on the property sir.

MR. TURNER: But, no public sewer, just a septic tank?

MR. BAUGUS: Yes sir.

MR. TURNER: Has there been any thought that the constant daily use of a daycare might overload the septic tanks? Do you have additional area to add to them if it became an issue?

MR. BAUGUS: Absolutely, we can do whatever is necessary we have two restrooms there and we have restrooms in the other building. So we would have access to, there several septic tanks on the property so it's not just one. The building where the playground is, they will have access to that building as well. The backdoor to go in there's restrooms in that side so, there's ways to...if it became a problem, we would address it, but we don't anticipate that being a problem for example.

MR. TURNER: You never do until septic tanks ...

MR. BAUGUS: Right. I agree sir. The church is...

MR. TURNER: It's not an issue for me we don't have to go in to it.

MR. BAUGUS: Okay.

MR. TURNER: But it's not, it just seems like you're, that area's probably not used that much and when you put a daycare in there you use it all the time.

MR. BAUGUS: Sure.

MR. TURNER: You may have issues with the septic tank and you're saying that, the septic tank that's there, if you had to you have additional land that you could add more drain field if you needed to?

MR. BAUGUS: Yes sir.

MR. TURNER: That's all I had.

MR. BAUGUS: Sure. I can go further if you'd like me to tell you the future?

MR. TURNER: No, I don't need to that.

CHAIR LOTT: Anyone else have any questions?

MR. GALBREATH: Chairman if I may.

MR. BAUGUS: Sure:

MR. GALBREATH: So you mentioned the ability to go into this other one story brick building? Is that one you were referring to, the building attached?

MR. BAUGUS: The building next door, yes sir.

MR. GALBREATH: Okay. I'm just thinking of all the kiddos security wise. I know you're gonna have a fence, but if they can just go off into this other building what stops them from wandering out to the front?

MR. BAUGUS: Sure.

MR. GALBREATH: Especially since it's so close to the road.

MR. BAUGUS: Well by laws and stuff you have to have so many teachers and helpers per child so they'd never be unsupervised. So the doors are locked on the backside of there, so they just couldn't go in without a teacher or a helper to take them in. The other doors are locked and secured at all times. And so again it wouldn't be all the time it would be right now, there's a kitchen in there and an eating facility in there and if the state asks us about that, we can use that part or the part that we have currently in the existing closed area so, whatever they allow us to use, we want to make sure that everything's in compliance. We wouldn't try to take any short cuts.

MR. GALBREATH: You said front doors remained locked too?

MR. BAUGUS: Yes.

MR. GALBREATH: As far as intruders being able to come in?

MR. BAUGUS: Absolutely, on the very first...on this building right here (referencing building slide), the very front there's two double doors with the awning those doors are both locked building, and that's, other members are in the building so there would be other people inside that area. So those doors are locked in between the two buildings, is a door accessing the offices and that door is unlocked usually. But they come right up to that office but they cannot come through the playground from that area because the fence is locked so they couldn't come through there. They couldn't come through the building, because that's the preschool side and that's locked. And on the other side they'll be a private entrance door for the daycare. No way to get to the front part of the building without coming through that door. So it'll be one door there and we'll propose a door in the back here so the children can access the playground. So again they would have to already be inside the building to go the playground and so from the playground through there so there would be no way for the outside folks to come into the preschool and playground without coming to that main entrance.

MR. GALBREATH: Okay.

CHAIR LOTT: So you have already met all of the state requirements for a daycare?

MR. BAUGUS: Yes sir. I mean we mostly took out the ordinances and are in compliance with those things, yes sir.

MR. TURNER: Of course one of the things you would need would be this special use permit.

MR. BAUGUS: Special use permit, yes sir. And if there's any negative thoughts and if you want to bring them up, I'd be glad to address, any issues. We are concerned about safety. I mean the church has been in existing for a hundred and thirty-four years and so the desire is to be a blessing to the community not a nuisance. Matter of fact Cumberland Mills School, we have Backpack Buddies, so

we provide food to them on a weekly basis. So we are doing what we can to be a blessing to our neighbors not a hindrance or a nuisance.

MR. GALBREATH: Mr. Chairman, I do have two more questions if you don't mind.

CHAIR LOTT: Sure.

MR. GALBREATH: The first one I saw the, sorry, when was the building built again?

MR. BAUGUS: The two buildings with the proposed daycare, in nineteen sixty-one.

MR. GALBREATH: Okay. Tell me if I'm not allowed to ask (addressing board) I was concerned about things like asbestos or...

MR. TURNER: Lead based paint.

MR. GALBREATH: Correct. Any type of materials is that

MR. BAUGUS: Sure. The inspectors will have to come in and make sure that we're in correct that's another process. This permit gets us to the next step so if y'all so there could be more steps where it could stop at any point.

MR. GALBREATH: Sure.

MR. BAUGUS: And that's why when we were asked if we have any other plans, we do. Like where the playground is we intend in the future to create another building with a couple of rooms with a gym, but right now we're not there, unless we can't go this direction. But we'd like to start this way our congregation is about a hundred so as we're growing, we're going into the future. So we do have the property, there's plenty of parking space we have extra space to add more parking so there's, we're always within those limits we, nothing would be exhausting with the land that we have. One thing she brought up that I'll bring up (referencing Mrs. Lynd) when we said we weren't in agreement with everything, yes, we're going to ask for a waiver for the sidewalk. I guess consideration with the city of Hope Mills, maybe annexing us maybe their proposed sidewalk. So I'm asking for now that the board would approve us, with the stipulation that we have to seek for a waiver and it may not be granted but another hearing while we investigate, could we do that sidewalk, what would it do for us. Or would that create a bigger burden on over all going forward with that little building.

CHAIR LOTT: Okay. Anybody else.

MR. HASTY: Mr. Chairman?

CHAIR LOTT: Yes.

MR. HASTY: Briefly the ordinance related conditions, that are a part of this, is that the sidewalk issue, is the only thing you are not in agreement with?

MRS. LYND: Okay. The subject property is in the Hope Mills Municipal Influence Area because if you'll notice the Cumberland Mills elementary school is actually within the town limits of Hope Mills. Part of the standards that are required in the Hope Mills Municipal Influence Area, one would be a fire hydrant but there's already a fire hydrant in front of the subject property. The second is the requirement is for a sidewalk to be built along Cumberland Road, along the street length, along the lot

length along Cumberland Road. So they would be required to build a sidewalk from here to here. The applicants are going to come in, or have indicated that they would like to come in and apply for a waiver to the planning board, which would be heard by the planning board. If they are granted the waiver they are not required to build the sidewalk. So staff is requesting that if you make a motion to approve it, you make a motion to approve it based on all the ordinance related conditions, with the sidewalk condition either they build the sidewalk or they obtain, secure the waiver in order to not build the sidewalk.

CHAIR LOTT: Thank you. So all this hinges on our decision

MRS. LYND: You can and Mr. Hasty can speak to this further, if approve the special use permit tonight, you would base it on whether or not they, all the ordinance, all their ordinance related conditions, they either build the sidewalk or secure the waiver, which if they meet the next planning board's meeting deadline, would be heard in June.

CHAIR LOTT: Okay.

MR. TURNER: I'm not sure I understand that. What effect would the sidewalk have on the special use permit on a daycare?

MRS. LYND: This would be considered new development and so that is a part of the subdivision ordinance when a property is part of the Hope Mills Municipal Influence Area, there are certain standards adopted by the Board of Commissioners that they must follow

MR. TURNER: All that I'm aware of.

MRS. LYND: One of this is to install a sidewalk along Cumberland Road currently so they would either have to install the sidewalk or obtain a waiver, which they can apply for and be heard by the planning board and...

MR. TURNER: I understand that. I would've considered this an alternative use of an existing building. More than to consider it, you know, if they came in and wanting to build a new building I can understand that, but this looks like we're taking an existing building, that's virtually unused, turning it into something useful, how does a sidewalk affect it? But that's just my opinion I mean don't worry about it.

MR. BAUGUS: That's kind of my consideration with a waiver the use is existing to start but we will, but we want to be, building the new building we would incorporate that into the building because then we are changing even landscaping, make sure we beautify that area and not be a sore sight to the community.

MR. GALBREATH: Chairman, if I may ask a question?

CHAIR LOTT: Yes.

MR. GALBREATH: Is your attendance that you're looking at as far as the children just folks within your church or are you going to make it open to anyone?

MR. BAUGUS: Yes it's going to open to anyone outside in the community and to the military.

MR. GALBREATH: Which, thank you. I think to your points Mr. Turner, which, especially given there's another daycare right down the road I think it something like eighteen thousand cars that come through this road every day. If it's going to be open to folks that maybe have to walk their kids there, with that busy of a road I can see the importance of having that sidewalk there. I don't know if there's going to be any, is there any requirement for crosswalks and crossing guards and stuff like that or is it all just drop offs?

MRS. LYND: I believe that would be DOT...

MR. GALBREATH: Okay.

MRS. LYND: Standards for the road, if you'd like to read it condition ten, is the condition that says prior to the final inspection a concrete sidewalk along Cumberland Road will be required.

MR. GALBREATH: Thank you.

MR. BAUGUS: Initially I mean, we're looking at maybe eight to, we said twenty-five but that would be really if we're blessed. I don't see that we're probably going to get twenty-five children in there. Being in that restricted area some parents might not like that. So that there is the dropping in and going where the parking lot is coming in there so we're realistically probably talking about eight to ten children, two or three teachers that are retired that want to be of assistance to the church and the community. So we're not primarily doing it for revenue it'll be basically cover their cost. It's more of a service we're providing, an outreach to families to encourage them of who we are and try to help them grow and being productive citizens even within our church. That's our desire.

MR. TURNER: It provides good will and it's actually what you'd call a public necessity. It's a lot of kids out there and it's probably a lot that could use a daycare.

MR. BAUGUS: Right. They say there are not enough daycares even though there's one down the street from us. It is a very busy daycare but they're pretty full. We went by and visited it and they only had one opening. So the military, they're always looking for somewhere. It's not only a daycare but it will also provide education another step further, put principles in the children.

CHAIR LOTT: Okay.

MR. TURNER: Do you have another speaker?

CHAIR LOTT: Sorry? There's no other speakers signed up. No.

MR. TURNER: Okay.

MR. GALBREATH: No opposition signed up.

CHAIR LOTT: Alright thank you.

MR. BAUGUS: Thank you.

MRS. LYND: Again, the findings of facts for this one will be behind the special use permit tab in the binder.

CHAIR LOTT: Okay.

MR. TURNER: Should we close the public hearing?

CHAIR LOTT: I'm sorry?

MR. TURNER: Shouldn't we close the public hearing?

CHAIR LOTT: Public hearing's closed.

MR. TURNER: I'm just, it's a formality. I mean.

CHAIR LOTT: Okay the Board of Adjustment has discretionary review in deciding whether to grant or deny a Special Use Permit for land uses that cannot be adequately controlled by the general zoning regulations. The Board may authorize and set forth conditions, when deemed necessary, on the Special Use Permit if in its judgment the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured. Special uses, because of special site or design requirements, operating characteristics or potential adverse effects on surrounding property and the neighborhood, shall be permitted only upon approval by the Board in accordance with the four standards and conditions as set forth in the Zoning Ordinance of Cumberland County, Article XVI, Section 1606, as follows. Okay the use will not materially endanger the public health or safety if located according to the ...

MR. HASTY: Before you go through that y'all may just want to just have a general discussion, Based on the previous case, just to kind of see.

CHAIR LOTT: Discussion.

MR. HASTY: I mean it's up to the board.

CHAIR LOTT: So. Case facts are the church want to use an existing building for a daycare w/a max number of twenty-five children. No new buildings, no new construction whatsoever.

MR. TURNER: I would be in favor of this. I don't see anything wrong with it as long as they do get the issue of the sidewalk either put in a side walk or get the...

CHAIR LOTT: Variance.

MR. TURNER: Yeah.

CHAIR LOTT: I meant waiver.

MR. TURNER: A waiver so.

CHAIR LOTT: And the use meets all required conditions and specifications. As we've discussed. If it meets, gets.

MRS. LYND: Yes sir the site does meet all the ordinance related standards for a daycare. It would not meet all the conditions without the sidewalk.

CHAIR LOTT: It would not?

MRS. LYND: It meets all the ordinance related standards for a daycare, yes sir.

CHAIR LOTT: Okay. The use will maintain or enhance the value adjoining or abutting properties the use is a public necessity case facts are it will be used by the church and or the public.

MR. HASTY: Yep.

MR. TURNER: Adjoins a school, it may not even realize it's there.

CHAIR LOTT: In in a very busy section.

MR. TURNER: Yeah.

CHAIR LOTT: The location and character of the use if development according to the plan as submitted and recommended will be in harmony with the area in which it's located and the general conformity of the Cumberland County most recent land use plans. I think that we all would agree that it does meet those requirements.

MR. FERGUSON: Okay.

CHAIR LOTT: I'll entertain a motion.

MR. TURNER: Well that was a motion wasn't it?

MR. HASTY: I don't think it was an official motion. Someone could make a motion and then incorporate those findings.

MR. TURNER: I'll make motion to incorporate everything the Chair just said into that motion.

MR. FERGUSON: Second.

MRS. LYND: Excuse me, I'm sorry if you would make the motion subject to the conditions with the sidewalk conditions, either building the sidewalk or agreeing the securement of the waiver.

MR. TURNER: I find in favor.

CHAIR LOTT: So agreed, all in favor?

Mr. Turner made a motion to approve the application for the special use permit incorporating the findings of facts and sidewalk condition, seconded by Mr. Ferguson. The motion passed unanimously.

	IN FAVOR
LOTT	YES
TURNER	YES
GALBREATH	YES
MCHENRY	YES
FERGUSON	YES

CHAIR LOTT: You're approved.

MR. BAUGUS: Thank you sir. I appreciate your time.

CHAIR LOTT: We have no one signed up for P14-01-C.

MRS. LYND: No sir.

Mrs. Lynd read the case heading for Case No. P14-01-C.

C. P14-01-C: REVOCATION OF A SPECIAL USE PERMIT FOR A BILLBOARD IN A C(P) PLANNED COMMERCIAL DISTRICT ON 2.41 +/- ACRES, LOCATED AT 3580 GILLESPIE STREET, RALPH HOLLOMAN (OWNER)/STAFF SUBMITTAL.

MRS. LYND: On February 20, 2014, Mr. Grey Vick secured a special use permit for a billboard; however he never recorded that special use permit so it is over three years old. We have, he has since agreed to revoking the permit because he has not recorded it within the one year time frame. So staff has prepared a presentation for this revocation, we can go through it or you can discuss and take a vote. Whatever you would like me to do.

CHAIR LOTT: I say this Board accepts the staff recommendation

MR. TURNER: The simplicity is, he applied for the special use permit and got it, didn't record it and didn't use it and now is in agreement to revoke it.

MRS. LYND: Yes sir.

MR. TURNER: Okay that's pretty clear cut.

CHAIR LOTT: Pretty clear cut.

MR. HASTY: Somebody just make a motion to accept the staff's recommendation

MR. TURNER: I make a motion we accept the staff's recommendation and revoke the permit.

CHAIR LOTT: Second that. All in favor?

Mr. Turner made a motion to accept the staff recommendation to revoke the special use permit, seconded by Chair Lott. The motion passed unanimously.

	IN FAVOR
LOTT	YES
TURNER	YES
GALBREATH	YES
MCHENRY	YES
FERGUSON	YES

CHAIR LOTT: Approved.

10. DISCUSSION/UPDATE(S)

MRS. LYND: We have not received any applications so as of this moment we do not have a May Board of Adjustment meeting scheduled.

MR. GALBREATH: No May meeting?

MRS. LYND: There will be no May meeting. We did not have any cases submitted by the deadline. That is all for staff updates, I'm not sure if Mr. Hasty has anything.

MR. HASTY: I don't have anything. We're still waiting on that case from the Court of Appeals

MR. TURNER: Did that involve Mr. Yarborough?

MR. HASTY: Yes.

CHAIR LOTT: It did.

11. ADJOURNMENT:

MR. GALBREATH: Can we motion to adjourn?

CHAIR LOTT: So moved.

MR. TURNER: Second.

CHAIR LOTT: All in favor?

Mr. Galbreath made motion to adjourn, seconded by Mr. Turner. The motion passed unanimously. Meeting adjourned at 8:25pm.

	IN FAVOR
LOTT	YES
TURNER	YES
GALBREATH	YES
MCHENRY	YES
FERGUSON	YES