

**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**

August 18, 2016

7:00 PM

**Members Present**

Vickie Mullins  
George Lott  
George Turner  
Alfonso Ferguson Sr.  
Winton McHenry  
Robert E. Davis, Alternate, Non-Voting  
Stacy Long, Alternate, Non-Voting  
Nathan Galbreath, Alternate, Non-Voting  
Gregory Parks, Alternate, Non-Voting

**Absent Members**

Alberta Ortiz, Alternate, Non-Voting

**Staff/Others Present**

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

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

**A. ROLL CALL**

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

**B. OATHS OF OFFICE**

Mrs. Lynd, a notary public for Cumberland County administered Oath of Office to: Mr. George Turner, Mr. Stacy Long, Mr. Nathan Galbreath, and Mr. Winton McHenry.

**C. SWEAR IN STAFF**

Chair Mullins swore in staff.

**D. ADJUSTMENTS TO THE AGENDA**

There were none.

**E. APPROVAL OF THE JUNE 16, 2016 MINUTES**

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

	<b>IN FAVOR</b>	<b>OPPOSED</b>
<b>MULLINS</b>	<b>YES</b>	
<b>MCHENRY</b>	<b>YES</b>	

TURNER	YES
LOTT	YES
FERGUSON	YES

6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

8. POLICY STATEMENT REGARDING APPEAL PROCESS

Mrs. Lynd read the policy statement.

9. PUBLIC HEARING(S)

- A. **P16-04-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A DAY CARE FACILITY IN AN R5A RESIDENTIAL & R10 RESIDENTIAL DISTRICT ON 5.55+/- ACRES, LOCATED AT 3337 LEGION ROAD; SUBMITTED BY BREEZEWOOD CHURCH OF GOD OF PROPHECY OF NC INC (OWNER) AND BARBARA B. FELL (AGENT).**

Betty Lynd read the case heading for Case No. P16-04-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 directed the Board that if they desire to make a motion for approval please make the approval motion subject to ordinance relayed conditions in which the property owner has already agreed to.

MRS. LYND: I am available for any questions if you have any.

CHAIR MULLINS: Mr. McHenry do you have any questions?

MR. MCHENRY: No. I'm very familiar with the property so, been by there several times. No. I don't see anything that draws anything to my attention right now.

MRS. LYND: I do believe we have some speakers. That have signed up.

CHAIR MULLINS: Yes. There are two that would like to speak. In favor is William ... and I do apologize, I can't read the last name.

MR. VINES: I can't read it either. It's Vines.

CHAIR MULLINS: Okay.

MRS. LYND: You can have him come forward and swear him in.

CHAIR MULLINS: What?

MRS. LYND: You can have him come forward and swear him in.

CHAIR MULLINS: Come to the podium there please. He's in favor of it. Okay

MRS. LYND: You can swear him in, but he stated he would prefer to affirm.

CHAIR MULLINS: Okay. He wants to affirm. Okay. Do you swear to tell the whole truth and nothing but the truth so help you God?

MR. VINES: I affirm.

MR. FERGUSON: Affirm. He doesn't want to swear he wants to affirm

CHAIR MULLINS: Okay. Just state your name and address for the record.

MR. VINES: My name is: William John Vines Jr. I live at 3402 Davidson Drive, Fayetteville, NC 28306.

CHAIR MULLINS: Okay. Thank you.

MR. VINES: Some of you guys I'm sure have been a part of our transition eight years ago. Actually almost nine years ago we moved down to the place that you see. We had a daycare facility across the road that had been in business for forty...forty or so years. I guess probably the best thing to say, we began asking ourselves if maybe our season was over? And Flaming Swords with no real estate agent, no signed papers, no sign outside bought our facility and they were not gonna to do afterschool care. Forty, at that time it was forty families were going to be displaced and seven people were gonna lose jobs and I didn't have the heart to do that and so we began to try transition and work things out and so that we could move forward down there. And we have tried to comply with everything you guys asked and I think we've done that and along with that I have something from Connie Smith. I was out of town today, you can have it. It simply says that there's no way that it will damage any of the real estate sales and anything else in the community by having it. And so the bottom line we're trying to help people. That's it.

CHAIR MULLINS: Okay.

MR. VINES: If y'all have questions. I don't know I've never done this. This is new to me.

CHAIR MULLINS: Mr. McHenry do you have any questions?

MR. MCHENRY: No I don't. I think it is rather straight forward. I have no questions. Done a very good job in putting it together.

MR. FERGUSON: You spoke on aftercare. So are you only doing aftercare here or are you going to do daycare and aftercare?

MR. VINES: No sir. Flaming Swords is doing a daycare they took that on and I begged them to do that. For the sake of all the families and the people that had jobs. We are and our only intent and I don't mind putting that we only have one intent at this location, is to not allow these families to lose the facility and for us to continue to employ the ones that are currently employed. We're not wanting to get bigger, I don't foresee that happening, I meant were set for fifty, we're not there yet.

CHAIR MULLINS: Mr. Lott.

MR. LOT: No question.

CHAIR MULLINS: Mr. Turner?

MR. TURNER: Did I understand you to say the facility that was across the street was yours?

MR. VINES: Yes sir

MR. TURNER That you operated it and then someone came in and bought it.

MR. VINES: Yes Sir. In uh...probably around, the closing was in June. It closed in 30 days with no real estate agent or anything. It was, we choose to believe a God thing no real estate signs or anything, it kind of just happened. We felt like that was kind of the direction kind of an answer to prayer. That was the least of it and of the same token we have four of our own parishners that are employed by that afterschool program and a couple of others. I just didn't feel like it was right and parents was begging us to say open can talk about it with anybody I think our record is impeccable.

MR. TURNER: How many children do you have that would use the facility?

MR. VINES: Currently?

MR TURNER: Yes.

MR. VINES: We have twenty-eight. Twenty-eight.

MR. TURNER: Okay.

MR. VINES: And I will say this too. To comply with everything that we've had to, that y'all asked us to do or we've been asked to do, we've spent about twenty plus thousands of dollars. I mean we believe in what we are doing and so I may talked too much.

MR. TURNER: Will you be hooking to the sewer there now, or? It's not an issue. I just want to know.

MR. VINES: I think at some point we need, we would like to do that. Yes sir.

MR. TURNER: Okay.

MRS. LYND: Madam Chair, if we could just have for the record that you accept the real estate statement he passed around on to the record.

CHAIR MULLINS: Yes. Thank you.

MR. TURNER: Probably should note that's just an opinion. That's not an appraiser, that's just an opinion from a broker.

CHAIR MULLINS: Duly noted. Okay. Thank you.

MR. VINES: Thank you.

CHAIR MULLINS: Okay. Opposed.

MRS. LYND: Yes ma'am. You may call the next person.

CHAIR MULLINS: The opposed would be Sherri Mitchell.

MS. MITCHELL: Yes ma'am.

CHAIR MULLINS: Can you come to the podium please. Can you raise your right hand? Do you swear to tell the truth the whole truth and nothing but the truth, so help you God?

MS. MITCHELL: I do.

CHAIR MULLINS: Can you state your name and address please?

MS. MITCHELL: My name is Sherri Mitchell, 579 Countrytown Drive, Hope Mills, NC 28348. Adjacent to the property, I have the following concerns in opposition to this. I wish no one ill-will. I have no ill motives intended. This is straight business. I think it would've been helpful if they done a survey of the surrounding residents as to the impact this facility would have. My concerns are this is residential area is not commercial business. I would see this as one step further to getting more and more commercial along residential area which I think will impact property value and use. I am concerned with increased noise levels cause it's currently quiet, compared to some past. I am concerned with increased traffic in the area. I am concerned with potential car accidents with the slowing down of traffic to get in and out of the entrance and it being so close to where people are trying to exit the community, especially with it being one-way. There's already people speeding down Legion Road now that it's two lanes. I'm concerned...with let's see. Okay covered the noise level; there was a noise level issue in the past with the church what was a little difficult to address. Again I have no ill-will I'm just concerned about these impacts. Again there is no actual survey as to impact on property values in a residential area. I think it will have an impact and also see a potential for this to get larger. And most people in that area have not moved there to be next to a daycare. I have no ill-will towards any one this is simply just impacts that I foresee coming. High peak exit and entry areas for the neighborhood is the times people gonna be dropping off children or picking up children and its already been difficult there's already been close calls and there have been accidents in the past. And when you add the school buses when school starts and everything everybody trying to exit at one time, I do see a lot of concerns and again the increased noise levels is gonna be one of 'em.

CHAIR MULLINS: Okay.

MS. MITCHELL: And then essentially we're in a residential area this is not business.

CHAIR MULLINS: Right and there was already a...

MR. LOTT: Daycare care across the road.

CHAIR MULLINS: Daycare across the road.

MS. MITCHELL: It was further down, but it was not heard in our area maybe because it was on the other side and it was smaller.

MR. FERGUSON: Can I see that slide, where you showed the businesses in the area please?

MRS. LYND: Yes

MR. TURNER: Just to clarify you live on Countrytown?

MS. MITCHELL: Yes.

MR. TURNER: So you're off Legion Road?

MS. MITCHELL: Yes. Further down.

MR. TURNER: What noise issues? Could you describe the noise you were talking about? I'm trying to understand noise from the church.

MS. MITCHELL: Past or potential current?

MR. TURNER: I'm sorry?

MS. MITCHELL: Past or potential future?

MR. TURNER: Well we can only predict the future. What was the past?

MS. MITCHELL: Well long time ago there was noises with the alarms going off...some kids were too loud.

MR. TURNER: Burglar alarm?

MS. MITCHELL: mmmhmm.

MR. TURNER: Okay.

MS. MITCHELL: Then when the church moved in there was some excess noise coming from the church.

MR. TURNER: What, what kind of excess noise? Describe that.

MS. MITCHELL: The base, the boom. It came all the way from the back.

MR. TURNER: Oh the music. You had the music you heard.

MS. MITCHELL: That was the base. Not the actual tones but the base. Boom, boom, boom, boom and it came out from the back all the way across the baseball field and into the townhomes, which are adjacent to the property and the baseball field. There's only a chain link fence separating the properties. When trying to bring...

MR. TURNER: What time would you hear that base? Roughly, I mean was it a daytime thing, was it...?

MS. MITCHELL: Oh Yes, every Sunday.

MR. TURNER: Was it eleven o'clock at night or?

MS. MITCHELL: Every Sunday morning. 7:30 to 8:00 every morning until after 1:00 or 12:30 whenever the service ended, in between the two services.

MR. TURNER: Would you hear it after 8pm?

MS. MITCHELL: Not after 8pm, unless they were doing a special youth presentation during the week and they had that going. But eventually they did resolve that but it took quite some time and there was some reluctance.

MR. TURNER: Okay. Thank you. No, I don't have anything else.

CHAIR MULLINS: Mr. Ferguson?

MR. FERGUSON: Are these noise issues that you're bringing up have you ever went to the church and spoke to them about some of the issues that you might have had? Did they do anything?

MS. MITCHELL: Yes, I did.

MR. FERGUSON: And what was the outcome of that from the church?

MS. MITCHELL: Uh truthfully my...the church as not receptive to put it kindly and I was treated negatively to put it kindly and then in time after prayer, cause I did pray to the Lord to deal with it. Eventually months later maybe about a year later, eight months to a one year, it was finally toned down but it did take at least a year and a half, took me a year to even get to where I could try and present some of the concerns. And it wasn't to be disrespectful I never asked them to tone down their music just the base. The building was not set up for that and children are children. They're gonna play, they're gonna yell. Children are great, I like children. I love children, but once you get a group of children together and their outside playing and running around you're gonna have increased noise level and its residential area it's not set up for 30-50 children. And again you're gonna have increased traffic another concern. It's the step in my current view towards more commercialism in an area that was more residential and this is still zoned residential.

MR. LOTT: Betty would you go back to the picture of the highway.

MRS. LYND: The photos of the site.

MR. LOTT: Showing the actual highway itself.

MRS. LYND: Okay. This is Legion Road.

MR. LOTT: Is this directly in front of the church?



MR. VINES: Yes.

MR. LOTT: It's limited access or there's driveways off of this, to all the property?

MS. MITCHELL: Mmhmm.

MR. LOTT: Well obviously that road was designed to handle a lot of traffic. For either now or in the future and that and that of course is going to create a lot of noise that's just the sound of progress I guess you can call it. The church music is once a week, I'm not sure how much noise a daycare would generate but I wouldn't think it would be very much, the sound of children playing. And the fact that you're the only one in the neighborhood that's here indicates that apparently it's not a great problem, although I can understand your view that it is. But I can also understand that due to the fact you're the only one here.

MS. MITCHELL: Well I understand that sir and I was resonant to come but encouraged by a sister in Christ to come. Because of the concern because they had dealt with something recent, you know that was a while back that was similar. Again it's not to be negative and some people will just not stand up and my thought is I speak and then what happens is what happens.

MR. LOTT: I'm afraid of what our going to see in the near future along with this road being widen and improved like it is.

MS. MITCHELL: It was recently done.

MR. LOTT: It's probably going to turn into a boulevard type situation in the future. Maybe not the near future but that's what that road is designed for to handle a lot of traffic and where there is a lot of traffic you're gonna have businesses moving in because that's what they want they want the traffic and that's just inevitable.

MS MITCHELL: Sometimes.

MR. LOTT: I do understand your dilemma.

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MR. TURNER: Obviously that road is an issue or they wouldn't have turned it into one of those super highways.

MR. LOTT: Right.

CHAIR MULLINS: True.

MS. MITCHELL: There used to be a lot of accidents there.

MR. LOTT: Do you own your home?

MS. MITCHELL: Yes I do.

MR. LOTT: You do. Okay

CHAIR MULLINS: Any other questions?

MR. LOTT: I don't have anything else

CHAIR MULLINS: Okay, William can you step back up.

MR. VINES: Certainly.

MR. FERGUSON: Thank you.

MR. FERGUSON: My question to you is, what is the hours of your aftercare program? What would be the hours of your aftercare program?

MR. VINES: We open at 6am and when school starts other than the days that there are, like they're out of school and they'll need full, we offer twelve hours, six to six. But if school is in progress we take, we have a before and after. The before consists of maybe eight to twelve kids max that we take to school. The after school we come back about one we have a lady in office we come back about one or so prepare the vehicles and go, and go pick up the children. And so they have 'til six o'clock to pick up their children.

MR. FERGUSON: It's like my church. I thought maybe you were longer. I thought maybe something different, something going on all day. Okay.

MR. VINES: Is that it?

CHAIR MULLINS: Okay. Thank you. You can sit.

MR. VINES: Okay. Thank you.

MR. LOTT: Ready for a motion?

CHAIR MULLINS: Yes. Let's make a motion.

MRS. LYND: Yes ma'am and if you need help addressing the findings of facts like I said there's the special use tab in your binder.

CHAIR MULLINS: Finding of facts that's what I'm looking for, I'm new guys, as chair. Okay.

MR. TURNER: Could I ask one question, just to clear it up. Is there a maximum amount of children they would be allowed?

MR. LOTT: Yeah, fifty.

MRS. LYND: The applicant has written fifty children on the application.

MR. TURNER: Fifty.

MRS. LYND: Yes sir.

MR. TURNER: I probably missed that somewhere. Thank you.

CHAIR MULLINS: Mr. Ferguson is going to read.

MR. FERGUSON: It says facts relevant to the issues of the special use permit. The Board of Adjustments has discretionary review in deciding whether to grant or deny a special use permit or land uses that cannot be additively controlled by 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 substantially served and appropriate use of a neighboring property would not be substantially or prominently injured. Special use because a special site or design requirements operating characteristics or potential adverse effects on surrounding properties and the neighborhood shall be permitted only upon approval by the board and in accordance with the four standards and conditions as set forth in the zoning ordinance of Cumberland County Article 15, well no I'm sorry...16 section 16.06 as follows, I'm going to get my Roman numbers together, I've been out of school so long here. Okay, this will not, okay oh number one the use would not materially endanger the public health or safety if located according to the plan submitted and recommended. Case fact.

CHAIR MULLINS: There are no dangers to the public safety. Correct?

MRS. LYND: If you could just be a little more specific.

MR. LOTT: Has the applicant met all the requirements by the planning board?

MS. SPEICHER: It has to; it has to meet all four of the standards, yes sir.

CHAIR MULLINS: Okay.

MRS. LYND: The application does meet all the ordinance...

CHAIR MULLINS: It does. Okay.

MRS. LYND: ...standards but you would have to be specific to the site when you address each fact.

CHAIR MULLINS: Okay.

MRS. LYND: For example you know a daycare standard; is that they have to be located on a major thoroughfare, which in this case the subject property is, so something more specific to the property.

CHAIR MULLINS: Okay.

MR. FERGUSON: In the standards here, we got here, on page 81 it says a daycare facility located in any residential agriculture zoning district the following provisions must be complied with, the minimum lot size shall be 20,000 square feet. Do they meet those requirements?

MR. LOTT: Yes.

CHAIR MULLINS: Yes.

MR. FERGUSON: The required minimum setback shall be as following front yard 30 feet from any public or private street. Is that met?

MRS. LYND: Yes sir. All the standards in the ordinance are met.

MR. FERGUSON: Okay

MRS. LYND: Yeah

MR. FERGUSON: So we just gonna go and say they were met. You want us to just go down the lines.

MRS. LYND: Yes sir. You just have to address that the property will not materially endanger the public health or safety by using a specific example.

MR. FERGUSON: Okay. This said property would not endanger, you saying, the public use.

MRS. LYND: Public health or safety.

MR. FERGUSON: The public health and safety.

MS. SPEICHER: You can go with things such as access (INAUDIBLE) the site meets each of the ordinance standards which were written with the public health, safety and welfare in mind, this is the whole purpose of the ordinance.

CHAIR MULLINS: So P16-04-C does meet all the requirements for...

MR. LOTT: Daycare.

CHAIR MULLINS: ...the daycare that they are wishing to start.

MRS. LYND: Okay.

CHAIR MULLINS: The second one right?

MRS. LYND: Mmhmm.

CHAIR MULLINS: Two: the use meets all required conditions and specifications. All those specifications for the daycare have been met.

MRS. LYND: Yes ma'am.

CHAIR MULLINS: Three: the use will maintain or enhance the value of adjoining or abutting properties. Four: that the use is a public necessity. I would say that the daycare would benefit...

MR. LOTT: The community.

CHAIR MULLINS: ...the community and the surrounding areas.

MR. TURNER: The inclusion of the daycare won't devalue anything.

CHAIR MULLINS: What was that?

MR. TURNER: You're addressing value, it won't devalue anything.

CHAIR MULLINS: Right, without any, anything against the properties.

MR. TURNER: Detrimental.

CHAIR MULLINS: Detrimental, nothing detrimental to the properties, to the surrounding properties.

MR. MCHENRY: Not negatively impact the value of the surrounding neighborhood.

CHAIR MULLINS: Number four the location and character of the use is 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 general conformity with Cumberland County's most recent land use plan. It meets the specifications for the land use plans that are set forth and would automatically be in harmony with the community.

MRS. LYND: Yes ma'am that's the findings of facts. You can make a motion and vote.

CHAIR MULLINS: Okay. Need to make a motion.

MR. TURNER: Was that a motion?

MR. FERGUSON: Yes. I make a motion that we go ahead and vote on it. You want us to vote?

MRS. LYND: Yes. Just state, that you are incorporating the findings of facts that you just reviewed into your motion.

MR. FERGUSON: I make a motion that we take the information we just submitted and spoke on into the proposal and vote on it.

MRS. LYND: As well as make it subject to the conditions placed upon the application.

MR. FERGUSON: As well as make it subject to the conditions which they still have to meet the requirements.

MR. TURNER: I'll second that.

CHAIR MULLINS: All in favor?

**Mr. Ferguson made a motion to approve the application as submitted based on the findings of fact and subject to the required conditions, seconded by Mr. Turner. The motion passed unanimously.**

	<b>IN FAVOR</b>	<b>OPPOSED</b>
MULLINS	YES	
MCHENRY	YES	
TURNER	YES	
LOTT	YES	
FERGUSON	YES	

MS. SPEICHER: Excuse me, Chair Mullins you may want to dismiss the audience.

CHAIR MULLINS: Okay we are going to have some discussion if you all would like to sit through it that's fine. You are free to leave if you so like to.

MS. MITCHELL: Can I ask a question, would it be possible to have a copy impact which was an opinion I believe, that it's not going to be a negative impact on the surrounding property. It would be nice to have it.

CHAIR MULLINS: Yes. That's fine.

MS. MITCHELL: Thank you very much.

10. DISCUSSION:

CHAIR MULLINS: For our discussion, I don't know how you guys feel, but I would like to add on our agendas from now on an invocation and also the Pledge of Allegiance before, as soon as we start.

MR. FERGUSON: That's fine.

MR. MCHENRY: I agree.

MR. LOTT: Is this something we need to agree on and vote?

CHAIR MULLINS: You have to vote. Yes.

MR. LOTT: Okay. You say you can't make that motion but you want that motion made?

CHAIR MULLINS: Yes.

MR. LOTT: So moved I make that motion.

MR. FERGUSON: Second.

MRS. LYND: You need to vote on it.

**Mr. Lott made a motion to add an invocation on the agenda and the Pledge of Allegiance before the meetings. Seconded by Mr. Ferguson. The motion passed unanimously. The motion passed unanimously.**

	<b>IN FAVOR</b>	<b>OPPOSED</b>
MULLINS	YES	
MCHENRY	YES	
TURNER	YES	
LOTT	YES	
FERGUSON	YES	

CHAIR MULLINS: Okay.

MR. LOTT: Thank you.

CHAIR MULLINS: Updates?

MRS. LYND: I do have one point under discussion. We did not receive any cases so we will not have a September Board of Adjustment meeting.

CHAIR MULLINS: Okay.

MRS. LYND: You all are free.

CHAIR MULLINS: Okay. Any updates?

11. UPDATE(S):

MRS. LYND: No ma'am unless Mr. Hasty has any.

MR. HASTY: I don't really have any update but I will tell you we are involved in the appeal of the Hampton Range case and in fact I finished the brief today and I'll clean it up tomorrow and get it out. So it will be several months before we hear anything, that's in the works.

CHAIR MULLINS: Okay.

MR. LOTT: Thank you.

MRS. LYND: Madam Chair before we adjourn the staff would like to just thank the alternates for coming out tonight and your service to the board in the future. Thank you for that.

CHAIR MULLINS: Yes. Thank you guys for coming out. Okay. Meeting adjourned.

MRS. LYND: Madam Chair we need a motion to adjourn and a second.

CHAIR MULLINS: I need a motion to adjourn.

12. ADJOURNMENT:

**Mr. Ferguson, Sr. made motion to adjourn. Seconded by Mr. Lott. The motion passed unanimously. Meeting adjourned at 7:55pm.**

	<b>IN FAVOR</b>	<b>OPPOSED</b>
MULLINS	YES	
MCHENRY	YES	
TURNER	YES	
LOTT	YES	
FERGUSON	YES	