

## Minority Report

**Original request:** An amendment to the Chatham County zoning ordinance to impose 1/2 mile distance requirement between Family Care Homes in the zoned areas of Chatham County.

**The recommendation.** The discussion and motion by the Planning Board led to a vote of 7 to 3 for a modified distance separation of 1125 feet between family care homes.

**The minority.** Stacey Curtis, George Lucier and Caroline Siverson were the minority 3 who voted against this motion for the following reasons.

- **Lack of a compelling need for a separation requirement.** Changing our zoning ordinance to require a separation distance for family care homes is a solution in search of a problem. We only have a few of these in Chatham County and those have not caused problems. While several surrounding towns and communities have separation requirements, Orange County has no separation and neither do the majority of North Carolina counties.

- **One size does not fit all.** The rural and low-density portions of the zoned areas of the county are not comparable to the areas within towns and subdivisions. While the prevention of clustered FCHs might have some merit in towns and residential developments with high density, the reasoning for separation to prevent clustering has little merit in rural communities where residences are more widely dispersed on large lots.

- **Lack of demonstrated impact on use by residents of surrounding areas.** There was no evidence provided that Family Care Homes, even if clustered, have a greater impact or burden on a residential community than ordinary family residential properties. No evidence that they are incompatible residential uses. There is no offensive characteristic that has been raised about the residential activities of FCH residents - only about the knowledge of their presence. There is no evidence that adjacent family care homes cause an increase in crime, noise or traffic---in fact adjacent family care homes may minimize those problems in neighborhoods.

- **There is a growing need for family care homes and this zoning change will unnecessarily limit the important service that they provide.** There is strong demand for elder care facilities due to large and predictable demographic changes in Chatham County and surrounding areas. Elder care is a significant subset of FCH operations. Imposing a quarter-mile separation requirement between FCHs reduces the ability of FCH operators to provide as many FCHs as may be needed in a given community. This point was demonstrated by the FCH operators in the current case by referencing their over-5-year waiting list. FCHs offer an increasingly

important option for rural residents, disabled or elderly, to have access to a affordable care within their own communities. While Chatham County does have a number of elder care facilities, especially in the northeastern area, these facilities are simply economically out of reach for many Chatham County residents.

**- Possible Impact on the quality of FCHs.** Enforcing a quarter-mile "no-competition zone" around each family care center reduces the market's ability to support an even-better family home to open in that area, supplementing or even supplanting the first. This market protectionism would shield existing FCHs from normal market competition, reducing their incentive to compete to be the best.

**- Impact on land use rights for existing property owners.** With the amendment, if a citizen within a quarter mile has already opened a FCH, other citizens in that area will be prohibited from also opening such a business (regardless of whether there is any opposition). The window of opportunity for a resident to open a FCH could disappear for them with no advance warning (even if they have already begun qualifying themselves as a FCH). This amendment could prohibit some rural farming families from establishing a FCH to augment farm income. Additionally, as a social consideration, given the nature of family care homes as home-based businesses, it is not practical for someone who becomes interested in opening a FCH to have to move to a different community to do so."

**- Lack of demonstrated impact on home value by residents of surrounding areas.** Concern was expressed about the potential for reduced real estate values and changed residential character near clustered family home centers. Specific measurements or studies were not provided to quantify these potential impacts. It is hard to justify additional regulation of local residents and businesses without evidence of specific problems in specific cases (similar to how rezoning requests are evaluated).

**- Clarification needed.** The rationalizations in regards to the prevention of clustering of residences that house and care for unrelated individuals could be applied to homes that accommodate foster children. Will this ordinance limit the possibility of 2 foster homes within 1125 ft of each other? Given the growing shortage of foster homes in Chatham, this issue needs to be clarified before adoption of the zoning change. Additionally if three elderly unrelated people want to move in together and employ support staff will they be prevented from doing so if a nearby house also has three unrelated people living together or is an established FCH? Furthermore the trend of large communities such as the Del Webb Community in the Cary area of Chatham that clusters residences that allow only residents 55 or older would seem inconsistent with this separation policy.

One other point that could be included; if its ok to have large communities (i.e. the Del webb Community in the Cary part of Chatham) where only people 55 and older can live than why is it wrong for clusters of FCHs. Jim Elza lives in such a community.

**- Impact on FCH residents.** Residents of FCHs sometimes can't drive, but they can usually walk short distances. Having multiple FCHs within easy walking distance of (within 1/4 mile of) certain retail establishments could help both residents and those retail businesses.

**- Impact on social inclusiveness.** The proposed separation requirement between FCHs could be perceived as discriminatory, even though it has been upheld as legally defensible. An argument could be made that there is more social justice in allowing multiple family care homes to open near each other, than in requiring their isolation from each other. It seems likely that it would be enriching for residents of nearby family home centers to be able to interact with each other.

Stacey Curtis  
George Lucier  
Caroline Siverson