

APPROVED
CANDIA ZONING BOARD OF ADJUSTMENT
MINUTES OF September 25, 2007

Present: Boyd Chivers, Chair; Frank Albert, Vice Chair; Ron Howe, Arlene Richter, Judy Szot, Ingrid Byrd, Alternate; Amanda Soares, Alternate

Chair Chivers reminded the Board of the Law Lectures Series in October. If any of the Board members are interested they should sign up soon. Chair Chivers asked Secretary Hansen to sign him up for the October 31st meeting.

Approval of Minutes

Judy Szot **moved** to approve the minutes of August 28, 2007 as presented. Frank Albert **seconded**. **All were in favor.**

Case #543 – Applicant: Ida and Courtland Sandberg; Owner: Same; Location: 246 Brown Road, Map 413 Lot 125-4; For a Variance under Section 10.06B to place a 10' x 14' shed within the wetland setback.

Courtland Sandberg was present. Mr. Sandberg presented the Board with a map, which showed a stream running through the property. He built a shed that was too close to the wetlands. The storage shed is on the front of his property. Chair Chivers asked how far he was from the poorly drained soils and very poorly drained soils. Mr. Sandberg replied about 25 feet from poorly drained and 75 feet from the very poorly drained. Judy Szot asked when the shed was built. He explained it was built two years ago and the Building Inspector told him to keep away from the wetlands. Mr. Sandberg thought he was far enough away from the wetlands. Chair Chivers stated it looked like a good percentage of the property was in wetlands. The Chair asked Mr. Sandberg if there was a place he could move the shed, so it was not in the wetlands setback. Mr. Sandberg replied it would end up too close to the neighboring property. There was some discussion on the placement of the shed in other locations on the property. Ron Howe stated he couldn't get 100 feet back from the wetlands no matter where he places the shed. Arlene Richter asked what he would be storing in the shed. Mr. Sandberg replied just garden tools and a tractor. The Chair closed the hearing for deliberations. After some discussion it was decided there was not a location on the property to place the shed which could meet the zoning requirements. The Board agreed Mr. Sandberg has a hardship due to the wetlands. Frank Albert **moved** to grant the variance as requested by the applicant. Ron Howe **seconded**. **All were in favor.**

Case #544 – Applicant: Greg Scarlett; Owner: GPS Properties; Location: 132 Brown Road, Map 413 Lot 018; For a Variance under Section 13.04B1 to waive the requirement to have frontage on an arterial street; For a Variance under Section 13.04B2h to waive the requirement to build no more than 800 feet from an arterial street; For a Variance under Section 2.05 to build more than one residential building on a lot; and for a Special Exception under Section 5.02A3 to allow two-family and multi-family dwellings in a residential district.

Greg Scarlett, Attorney Andy Sullivan, and Bob Rowke were present. Chair Chivers asked if all of the abutters were notified. Arlene Richter stated she knew of one abutter who was not notified, she owns the neighboring property. The missed abutter's were Lonnie and Dolores Smith of map 413 lot 017. The Chair had the present abutters state their names and addresses for the record. Chair Chivers stated they would continue the hearing until October 23rd so the missed abutter can be notified. He further stated the abutters who were present would not be notified again.

Case #545 – Applicant: Michael Martin; Owner: Same; Location: 220 Chester Turnpike, Map 411 Lot 065; For a Special Exception under Section 13.04E to legalize an existing accessory dwelling unit.

Michael Martin was present. Mr. Martin explained that he built an apartment for his mother in the lower level in his house. He further explained he needed the variance so he can refinance the house. The apartment is no longer being used. The Chair asked how big is the apartment and how long ago was it built. It was built 7 years ago and its 739 square feet. Chair Chivers confirmed that Mr. Martin did not get a building permit. There was discussion on where the entrance to the apartment was located. Ron Howe asked if he intended to continue to live in the house. Mr. Martin replied if he got the variance to refinance he would stay in the house, if not he would sell it. Chair Chivers noted whoever buys the house will have the same problem. Frank Albert asked if the apartment could be reduced to 600 feet. Mr. Martin explained it would be hard because there is a fireplace in the middle. Chair Chivers suggested removing the kitchen, since he has no intention of renting it out. Ron Howe noted the house has too much potential to become a 2-family. There was no further discussion. Judy Szot **moved** to deny the applicant for the reason that it's a self-created hardship. She noted the applicant could remedy that by removing the kitchen. Frank Albert **seconded**. **All were in favor.**

Case #546 – Applicant: Richard Fauteux; Owner: Same; Location: 225 Crowley Road, Map 414 Lot 152-2; For a Variance under Section 10.06B to construct a garage within the setback to wetland soil.

Secretary Hansen informed Chair Chivers that Mr. Fauteux's wife left a message that he would not be attending the meeting. Chair Chivers instructed Secretary Hansen to let Mr. Fauteux know that he has to withdraw this application and resubmit a new one if he wants to come back to the board.

Case #547 – Applicant: Renee Rouse; Owner: Candia Congregational Church; Location: 183 High Street, P.O. Box 62; Map 406 Lot 007 For a Special Exception under 5.02E6 to expand a currently non-conforming use to include a private school in a residential zone.

Associate Pastor Renee Rouse, Phil Packard, and Mark Galatis were present. Chair Chivers asked the Board if they would like to combine case 547 and case 548, because the intent was the same. Judy Szot felt they should be heard separate because they are two different locations. Pastor Rouse explained they were requesting a variance to use the Joy House for a private pre-school starting as soon as possible. The hours would be Monday, Wednesday, and Friday from 9:00 a.m. to 2:00 p.m. Ron Howe asked what the space was currently used for. Mr. Galatis replied Bethany Christian Adoption Services

and office space. Ron Howe asked if they would be moving out of that space. Pastor Rouse stated they would be sharing the building. A fire alarm system is already in the building. Chair Chivers asked who the teacher was. Pastor Rouse stated it was Lynda Graham who is currently the teacher at the Hosanna pre-school. Chair Chivers read from the Building Inspector Hallock's letter which stated no non-conforming use shall be changed to another non-conforming use or enlarged or expanded. A public or private school may be permitted in a residential zone by special exception. Day care centers are expressly prohibited in the residential zone. Pastor Rouse stated this would be a pre-school not a daycare. The Chair asked how many students would be attending. Pastor Rouse stated 3 to 4 students with one teacher to start off, but it would grow. The state will determine the maximum number of students. The age of the students will be 3, 4, and 5 year olds. Judy Szot stated the church has to realize that if the school keeps growing they need to think about moving to a building that can accommodate the growth. They just can't keep expanding the non-conforming use. There was some discussion on expanding and changing the legal non-conforming use. The Chair mentioned there were two conflicting zoning ordinances. One section is saying they can get a special exception in the "R" district and the other section is saying they can't expand a legal non-conforming use in the "R" district. Mr. Galatis asked if the special exception changed the non-conforming. Judy Szot stated they are two different uses. She further explained if they were expanding the use they would fall under 5.02, the Joy House has a legal non-conforming use now that can not be changed. Chair Chivers asked if there were any questions from the abutters or audience. Mary Girard asked about the safety issues and would the Fire Department inspect the building. Pastor Rouse stated the state requires a fire inspection and health department inspection. Chair Chivers asked Judy Szot could the applicant apply for a variance under section 2.02B. Judy Szot replied that once a variance is granted to expand or change a non-conforming use, you open the door for everyone else. Ron Howe stated the Board should seek a legal opinion. There was discussion on the church being zoned institutional. The Chair closed the hearing. Judy Szot **moved** to deny the request for a special exception because it's an expansion of a non-conforming use. Ron Howe stated he was not in favor of denying the request, but he is in favor of getting a legal opinion and continuing the hearing to next month. **Motion failed** to receive a second. Frank Albert **moved** to approve the special exception as requested. **Motion failed** to receive a second. Ron Howe **moved** to continue the hearing until next month so the Board can get a legal opinion on the change of the non-conforming use. Arlene Richter **seconded**. **All were in favor**. The hearing was continued to October 23, 2007 at 7:00 p.m.

Case #548 – Applicant: Renee Rouse Owner: Candia Congregational Church; Location: 1 South Road, P.O. Box 62; Map 405 Lot 007 For a Special Exception under 5.02E6 to expand a currently non-conforming use to include a private school in a residential zone.

Chair Chivers asked how this was different than Case 547. There was discussion on if the church was zoned residential and institutional. Pastor Rouse explained they would like to use the church as a back up to the Joy House. There was discussion about the school (Jessie Remington) being part of the church and would having a pre-school be that much different. After further discussion it was the consensus of the Board to get a legal

opinion. Stephanie Helmig of 75 Fieldstone Lane sent her child to Hosanna and was in favor of the pre-school. She further stated that Candia needed a pre-school. Judy Szot **moved** to continue the hearing to October 23,2007 at 7:00 p.m. so the Board could get a legal opinion. She added Pastor Rouse should provide the Board with a history of intent for the attorney. Ron Howe **seconded**. **All were in favor.**

Judy Szot **moved** to adjourn at 8:35 p.m. Arlene Richter **seconded**. **All were in favor.**

Respectfully submitted,
Andria Hansen, Recording Secretary