

**CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, NOVEMBER 18, 2021
PUBLIC SAFETY FACILITY, 1600 NINTH AVENUE**

Present: Jay Sellers, Paul Lawson, Lesley Hill, Sandra James, Catherine Dingle,
Absent: James Shelley, Charles Byrd
Staff: Kym Wilkerson, Zoning Administrator; Anne Bessant, Planning Assistant
Others: Joseph Guidera, John Smith, Linda Smith, Pete Hughes

I. CALL TO ORDER

Chairman Lawson called the meeting to order at approximately 5:30 p.m.

II. APPROVAL OF MINUTES

Dingle made a motion, seconded by Hill to approve the October 28, 2021 minutes as written. The vote in favor was unanimous and the motion carried.

Lawson swore in the applicants and staff.

III. CRITERIA

Lawson read the following four criteria required to be met in order for the Board to grant a variance:

1. *Extraordinary conditions*: There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. *Other Property*: The extraordinary and exceptional conditions do not generally apply to other property in the vicinity;
3. *Utilization*: Because of the extraordinary or exceptional conditions, the application of the ordinance to a particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;
4. *Detriment*: The authorization of a variance will not be of substantial detriment to the adjacent property or the public good and the character of the district will not be harmed by granting a variance.

IV. VARIANCE REQUESTS

- A. *Previously Deferred*....Joseph Guidera, owner, requests a variance from the strict application of the *City of Conway Unified Development Ordinance (UDO)*, Section 5.2.3-Fences & Walls and Section 6.5.2 Gateway Corridor Overlay, for the property located at **165 Highway 905**. (PIN 339-16-04-0002)

The parcel is zoned Neighborhood Commercial (HC) and is within the Gateway Corridor Overlay (GCO). Because of ongoing vandalism and theft, the applicant proposes a 6-foot chain link fence around the perimeter of the parcel. Per Section 5.2.3-Fences and Walls of the Unified Development Ordinance (UDO), commercial parcels are not allowed to exceed a 4-ft fence height in the front yard. In addition, Section 6.5.2-Gateway Corridor Overlay prohibits the use of chain link fencing in the overlay.

The applicant is seeking a variance from: • Section 5.2.3-Fences and Walls. The applicant requests a 2-ft variance to allow for a 6-ft fence in the front yard. • Section 6.5.2-Gateway Corridor Overlay. The applicant requests a variance to allow for chain link fencing in the Gateway Corridor Overlay.

The applicant cites the following reasons for which a variance should be granted:

1. The site is isolated from any residential or commercial property.
2. The site is very close to a swamp so no one is nearby.
3. Without a variance, break-ins and theft would continue.
4. There are no residences nearby. Conway is 1/2 mile away and nearest house is 2 miles away.
5. Extreme hardship with the loss of over 10,000 in damages and vandalism in the past 3 years.

Staff recommends that the BZA conduct a thorough review of the request and determine if a legal hardship exists and if the best interests of the City of Conway would be served by granting the request.

Joseph Guidera, owner explained the updated renderings for his request.

There was no public input.

Lawson made a motion to grant the variance as requested. James seconded the motion and the motion carried unanimously.

- B.** SR Individual Lots LLC, agent for Melissa J. Clark, requests a variance from the strict application of the *City of Conway Unified Development Ordinance (UDO)*, Table 6.1-Dimensional Requirements for Residential Zoning Districts, for the property located at **Eighth Avenue and Melson Street**. (PIN 368-02-04-0005)

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Wilkerson stated this parcel was created in 1939 via Plat Book 2, Page 116. The applicant proposes to build a single-family residence on the parcel, located on the corner of 8th Avenue and Melson Street.

The parcel is zoned R-1 (Low/Medium Density Residential) and must meet the setback requirements of Table 6.1 which are 20-ft front, 20-ft rear, 10-ft side and 20-ft corner side.

The applicant is seeking a variance from: Section 6.2, Table 6.1 – Dimensional Requirements for Residential Zoning Districts: The applicant requests a variance of 10-ft from the Corner Side Setback requirement.

The applicant cites the following reasons for which a variance should be granted:

1. The setback requirements leave very little build-able width.
2. The parcel is uniquely shaped given it is very narrow with large side yard setbacks.
3. The strict application of the zoning ordinance would prohibit any structure from being built on the lot.
4. Granting the variance would not cause harm to the adjacent property and would not be out of character to the greater area.
5. The shape of the lot is a hardship.

Staff recommends that the BZA conduct a thorough review of the request and determine if a legal hardship exists and if the best interests of the City of Conway would be served by granting the request.

Pete Hughes, agent for Melissa J. Clark was present to answer any questions.

There was no public input.

The board discussed other properties with lot size issues in this area that have had variances previously for construction of a new home.

Lawson made a motion to grant the variance as requested. Dingle seconded the motion and the motion carried unanimously.

- C. Ronald St. Amand, owner, requests a variance from the strict application of the *City of Conway Unified Development Ordinance (UDO)*, Section 5.2.1-Accessory Structures, for the property located at **1004 Pine Ridge Street**. (PIN 381-02-01-0018)

Wilkerson stated this parcel is zoned R-1 (Low/Medium Density Residential) with setbacks requirements of 20-ft front, 20-ft rear and 10-ft sides. The applicant has a home on Lot 102 and has purchased Lot 103. The two lots were combined via a platting action in October 2021.

The applicant plans to apply for a building permit to have a storage shed placed on the property. Per Section 5.2.1-Accessory Structures of the Unified Development Ordinance (UDO), storage shed locations shall be in the rear yard only. The UDO defines "rear yard" as the space extending across the full width of the lot between the principal building and the rear lot line. The UDO defines the side yard as a space extending from the front yard to the rear yard between the principal building and the side lot line.

The applicant is seeking a variance from: Section 5.2.1 (A1) – Accessory Structures: Location and requests a variance to allow a storage shed in the side yard vs the rear yard.

The applicant cites the following reasons for which a variance should be granted:

1. With the trees and drainage, the storage shed cannot be placed in the rear yard.
2. The rear yard is inaccessible for a shed.
3. The shed is needed for storage of lawn equipment.
4. The parcel adjacent to the proposed storage shed location is "Open Space" and will never be used as a single-family lot.
5. Part of the lot is unbuildable because of drainage & flood retention.

Staff recommends that the BZA conduct a thorough review of the request and determine if a legal hardship exists and if the best interests of the City of Conway would be served by granting the request.

The applicant was not present.

There was no public input.

Lawson made a motion to table the variance as requested for the next meeting and allow the

applicant to provide more information, site plan and pictures for the board. Hill seconded the motion and the motion carried unanimously.

- D. John V. Smith, owner, requests a variance from the strict application of the *City of Conway Unified Development Ordinance (UDO)*, Table 6.1-Dimensional Requirements for Residential Zoning Districts, for the property located at **4021 Ridgewood Drive**. (PIN 295-15-03-0032)

The applicant proposes to build a detached garage as an accessory structure to the principle use. He also plans to match the architecture of the detached garage to that of the main house (principle use). The garage is proposed for the side yard since there is a "Public Drainage & Utility Easement" in the rear.

Section 5.2.1-Accessory Structures of the Unified Development Ordinance (UDO) states that detached garages in the side yard must meet the setback requirements for the zoning district. The parcel is zoned R-1 (Low/Medium Density Residential) with setbacks of 20-ft front, 20-ft rear and 10-ft sides. The detached garage is 5-ft 2-in from the side property line.

The applicant is seeking a variance from: Section 6.2, Table 6.1 – Dimensional Requirements for Residential Zoning Districts and requests a variance of 5-ft from the Side Setback requirement for a detached garage.

The applicant cites the following reasons for which a variance should be granted:

1. Construction in the rear yard is not possible because of storm water runoff.
2. This parcel is one the lowest elevations in the development & everything seems to drain to this lot.
3. The additional garage space is needed.
4. The design features of the detached garage will match the existing house & will enhance the looks of the neighborhood.
5. The small variance is not related to property value.

Staff recommends that the BZA conduct a thorough review of the request and determine if a legal hardship exists and if the best interests of the City of Conway would be served by granting the request.

John V. Smith, owner was present and further explained his request.

There was no public input.

Dingle asked if there has been any neighbor input. Wilkerson stated she has heard none.

Lawson stated there is no extraordinary condition and didn't see the variance meeting 1, 2 or 3 of the criteria.

James asked if he would be willing to make the size of the garage smaller to not need the variance. Smith stated he could but the garage wouldn't be worth constructing at that point.

Lawson made a motion to deny the variance as requested. Dingle seconded the motion and the motion carried unanimously.

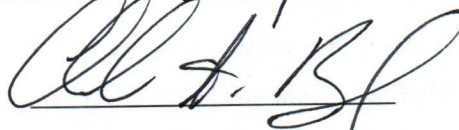
V. 2022 MEETING SCHEDULE

Dingle made a motion, seconded by Sellers to approve the 2022 meeting schedule as presented. The vote in favor was unanimous and the motion carried

VI. ADJOURN

There being no further business to come before the Board, a motion was made and seconded to adjourn the meeting. The vote in favor was unanimous. The motion carried and the meeting was adjourned at 5:55 p.m.

Approved and signed this 27th day of January, 2021.



Paul Lawson, Chairman

Charles Byrd - vice chairman