

**CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, FEBRUARY 23, 2023
BUILDING & PLANNING DEPARTMENT
196 LAUREL STREET**

Present: Paul Lawson, Blake Hendrick, Charles Byrd, Sandra James, Jay Sellers
Absent: Lesley Hill, Catherine Dingle
Staff: Kym Wilkerson, Zoning Administrator; Katie Dennis, Planning Concierge; Vicki Stone, Zoning Officer; Anne Bessant, Planning Assistant; Jeff Leveille, IT
Others: Melissa Boyd, Tabitha Strickland, Brian Von, Morgan Ward, Ken Dye, Kristin Eggleston, Brandon Eggleston, Jeff Moore, Melissa Dean, Davis Lorick

I. CALL TO ORDER

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

II. APPROVAL OF MINUTES

Byrd made a motion, seconded by Sellers to approve the January 26, 2023 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:

Extraordinary conditions: There are extraordinary and exceptional conditions pertaining to the particular piece of property;

Other Property: The extraordinary and exceptional conditions do not generally apply to other property in the vicinity;

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;

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. Brenda Goldman, owner, requests a variance from the strict application of the *City of Conway Unified Development Ordinance (UDO)*, Section 5.2.8 Residential Swimming Pools, for the property located at **1702 McDermott Street**. (PIN 338-05-01-0017)

Wilkerson stated that the parcel is zoned R1 (Low-Medium Density Residential) and is located on the corner of McDermott Street and Seventeenth Avenue. The applicant wishes to install a 21-ft x 41-ft above ground pool in their “side yard”; however, the side along Seventeenth Avenue is considered “double frontage”. The applicant already has wooden privacy fence installed that was permitted in 2019.

Per Section 5.2.8-Residential Swimming Pools, Hot Tubs & Spas of the City of Conway’s Unified Development Ordinance (UDO), a swimming pool (above ground or in-ground), hot tub, or other type of spa may be constructed in the side or rear yard of a private residence.

Per Section 6.1.9-Side Yard Setbacks for Corner Lots of the City of Conway’s Unified Development Ordinance (UDO), in the case of any lot that adjoins two or more streets, yards abutting streets shall be treated as front yards.

Upon further research, it appears that the parcel is actually two existing lots of record. The applicant’s deed (DB 4004-658) references Lots 7 and 9. The parcels were combined for tax purposes only and never via a platting action. This will require the applicant to submit a combination plat for review and have it recorded at the Horry County Register of Deeds Office prior to any permits being issued. Therefore, the recording of a combination plat must be a condition on the variance request.

The applicant is seeking a variance from: Section 5.2.8-Residential Swimming Pools, Hot Tubs & Spas: The applicant requests a variance to allow an above ground pool to be installed in their double front yard with the condition that a combination plat be recorded prior to any permits being issued.

The applicant cites the following reasons for which a variance should be granted: 1) We have no back yard, only side yard so there is nowhere to put a pool. 2) The condition is particular to this piece of property because most people in the neighborhood have back yards. 3) The strict application of the Zoning Ordinance would unreasonably restrict the use of our property because all we have is a side yard so we could not have a pool at all if it can’t go there. 4) We have a fairly large side yard and are on a corner. 5) The variance request is not initiated to increase the profitability of the property.

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.

Brandon Eggleston, applicant was present and further explained the request.

The board and applicant discussed the request in length.

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

- B. Melissa Boyd, agent for Ekklesia Church, request a variance from the strict application of the *City of Conway Unified Development Ordinance (UDO)*, Section 5.1.7 Day Care Facilities, for the property located at **2469 Highway 501 E.** (PIN 383-11-03-0005)

Wilkerson stated that this parcel is part of the Ekklesia Christian Church Planned Development (PD). Per the PD Master Plan, a fenced playground area is to be installed at the rear of the existing "Two Story Concrete Building". The "Proposed Classroom Addition" shown on the Master Plan was approved and received a certificate of occupancy (CO) on January 12, 2023. Construction of the "Future Worship Center" is currently underway. After CO of the "Classroom Addition", the church decided to utilize this area as a public daycare facility.

Per Section 5.1.7-Day Care Facilities of the UDO, a fenced area must be located in the rear yard. With the construction of the "Future Worship Center" ongoing, the applicant has requested a variance to allow the fenced playground area for the day care to be located in front of the church, just beyond the "Classroom Addition".

The applicant has proposed two different layouts for consideration. Should the board decide not to approve either layout, the applicant has asked that the board consider approving the fenced playground area to be located on the southeastern side of the building. If the fenced playground area is approved at a different location than what is shown on the PD Master Plan, a revised Master Plan will be required.

Both front layouts were emailed to City of Conway departments for comments and/or suggestions. Besides Planning, no other department had an issue with either layout. The Fire Department commented with...."The Fire Dept. has no issues with either Layout-1 or Layout-2. Neither have a negative effect on Fire Dept. access".

Since a license from the Department of Social Services (DSS) is required, staff requested that the applicant reach out to DSS for their input on the location of the fenced playground area. To date staff has not heard back from the applicant concerning this request.

The applicant is seeking a variance from: Section 5.1.7-Day Care Facilities: The applicant requests a variance to allow the required fenced playground area to be located in the front yard instead of the rear yard with the condition that a revised Master Plan be submitted to Planning.

The applicant cites the following reasons for which a variance should be granted: 1) Ekklesia Christian Church has constructed a preschool wing to house a much needed, quality, licensed childcare center for the community. The church is also constructing a new worship facility behind the existing community center. Zoning requires a playground be located behind the licensed childcare center, but with the existing construction zone behind the community center prohibits children from accessing a playground behind the building. 2) The extraordinary condition is specific to the church property due to new construction in progress. 3) The strict application of the zoning ordinance would prohibit the opening and operation of the preschool center because the location of the required playground must be moved to the front of the building for the safety of the children. 4) Granting of the variance will not harm the adjacent property (also owned by Ekklesia Christian Church) nor will it harm the character of the area, nor the public good. The availability of a quality, licensed preschool will be helpful to the community,

especially as hundreds of new homes are being built within a few miles radius of Ekklesia Christian Church. The playground will be aesthetically designed to match the buildings color scheme and architecture with attractive landscaping. 5) The variance is requested because the extraordinary condition of construction behind the community center prohibits safe passage of children to a playground located in the back.

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.

Melissa Boyd & Tabitha Strickland, agents were present and further explained the request.

The board and applicant discussed the request in length.

Lawson made a motion to grant the variance as requested with the condition to provide staff with a revised master plan. Hendrick seconded the motion and the motion carried unanimously.

- C. Morgan Ward, agent for Dock Hardee, request a variance from the strict application of the *City of Conway Unified Development Ordinance* (UDO), Section 6.3 Non-Residential Design Standards and Section 9.2.2 Landscaping Determination, for the property located on **Hwy 501** (between Sioux Swamp Rd and Hwy 548). (PIN 326-15-04-0002)

Wilkerson stated that the applicant is proposing an RV Sales and Service Center on this property. The parcel was annexed and rezoned to City of Conway Highway Commercial (HC) and Conservation Preservation (CP) on January 17, 2023. Crabtree Swamp runs behind the property and a large portion of the back of the parcel contains an "AE" flood zone. Four Mile Swamp runs parallel to and east of the property. The environmentally sensitive areas on the parcel were zoned Conservation Preservation (CP), consistent with the City of Conway's Future Land Use Map. The CP zoning district eliminates this area of the parcel from being used for the proposed project. The applicant also applied for a Sidewalk Waiver which was granted by City Council on February 6, 2023.

The area of the property to be utilized for the proposed RV Sales and Service Center is zoned Highway Commercial (HC) with setbacks of 30-ft Front, 20-ft Rear and 15-ft Sides. Based on plat book 266-291, recorded on June 29, 2015, the parcel is 127.80-ft wide. A modular building is proposed as the office for the project and will be located parallel to the northwestern property line. The applicant is requesting a variance for a reduction on the side setback to allow the modular office to be located 8-ft from the property line instead of 15-ft. The parcel is against residential use on both sides; therefore, a 15-ft Type B Landscape Buffer is required. If the reduced setback is approved, the applicant would also need a variance on the Type B Landscape Buffer requirement to allow for a 5-ft Type A Landscape Buffer, directly behind the modular building only.

The applicant is seeking a variance from: Table 6.2: Non-Residential Zoning Districts - The applicant requests a variance of 7-ft on the side setback at the modular building only. Table 9.1: Required Landscaping Type - The applicant requests a variance to allow for a Type A Landscape Buffer, directly behind the modular building only.

The applicant cites the following reasons for which a variance should be granted: 1) Property is only 135-ft wide. With current setbacks, the turnaround room is less than 100-ft. We are trying to prevent clients from having to back in to the four-lane traffic. 2) With camper sales, clients will pick up units from this location so the condition is particular to this piece of property. This is a business issue. 3) The zoning ordinance would unreasonable restrict he use of the property because it would potentially put people back into 501 traffic. We want to be able to have clients safely pull out. 4) Adjacent properties have vegetation on their side of the property line. We will just be adding to it. Bringing in new landscaping & life will uplift the area despite the residential around us. 5) By allowing setbacks to be widened, will allow us to ensure safety of our client. It will allow us to use more of the natural lay of the land.

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.

Morgan Ward, agent was present and further explained the request.

The board and applicant discussed the request in length.

Ken Dye spoke in public input not opposing to the variance but with concerns of road improvements for highway 501.

Lawson made a motion to table the request until the meeting to allow applicant time to provide a formal site plan for the property. Byrd seconded the motion and the motion carried unanimously.

- D. Dave Lorick, agent for Conway Animal Hospital, request a variance from the strict application of the *City of Conway Unified Development Ordinance* (UDO), Section 6.3 Non-Residential Design Standards, for the property located at **3304 Fourth Ave.** (PIN 368-09-04-0035)

Wilkerson stated that the Conway Animal Hospital was approved at this location on May 19, 2020. It was previously a funeral home that was completely renovated. Because of the amazing job the applicants did with the renovation, they were awarded a 2020 Quattlebaum Award for “Outstanding Contribution to Quality Development, Restoration, Landscape or Design by an Organization or Individual”.

The success of the business has triggered a need for additional space. The applicants would like to add on to the existing building for office space, storage & a conference room. The parcel is zoned Highway Commercial with setbacks of 30-ft Front, 20-ft Rear, 20-ft Corner Front and 15-ft Side. The existing building that was renovated is considered “Legal Non-Conforming” because it encroaches into the setback. The applicant would like to extend off of the existing building for the addition. This will require further encroachment into the setback of approximately 7-ft.

The applicant is seeking a variance from: Table 6.2: Non-Residential Zoning Districts - The applicant requests a variance of 9-ft on the side setback in order for the addition to match the existing building.

The applicant cites the following reasons for which a variance should be granted: 1) The building is occupied by a Veterinary Clinic. There is no room to add on to the rear of the building as that area is used as an exercise yard for dogs. It is not practical nor would it be aesthetically pleasing to go vertical. We are only left with extending the North side of the building towards Fourth Avenue. 2) We purchased an existing building that was originally constructed a s a church and

later converted into a funeral home. Sometime after it was originally constructed, the zoning ordinance was changed to increase the setback to 15-ft. 3) It only makes sense to extend the gable end of the building towards Fourth Avenue for aesthetic reasons plus there will be little or no impact to parking. 4) The property to the north is occupied by Conway Manor Nursing Home. The area immediately adjacent to the property line is either grassed or is their parking lot. There is no building structure within over 100-ft of the area in question. The entire intent is to make this addition blend in to the existing surroundings with no impact to the surrounding properties. In fact, if this application is approved, we feel like no one will actually be able to discern the proposed addition from the original structure.

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.

Dave Lorick, agent was present and further explained the request.

The board and applicant discussed the request in length.

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

- E. Brian Von, agent, requests a variance from the strict application of the *City of Conway Unified Development Ordinance* (UDO), Section 5.2.3 Fences & Walls, for the property located at **909 Fourth Ave.** (PIN 367-01-01-0065)**

Wilkerson stated that the applicant is in the process of renovating the old Jerry Cox building and opening a Restaurant/Bar with an outdoor patio area. In the corner, of what will be the outdoor seating area, there is a chain link fence door with sloped concrete to the sidewalk. The applicant proposes step down fencing, at the edge of the patio area, along Fourth Avenue. The fencing would add to the aesthetics, aid in safety and create a partition between the traffic and the patio area.

The building is addressed off of Fourth Avenue (909 Fourth Avenue). Per Section 5.2.3 of the UDO, front yards are limited to fences 4-ft in height. The applicant proposes a step down from an 8-ft fence, to a 6-ft fence and finally to a 4-ft fence.

The applicant is seeking a variance from: Section 5.2.3: Fences & Walls - The applicant requests a variance to allow for an 8-ft fence and a 6-ft fence in his front along Fourth Avenue.

The applicant cites the following reasons for which a variance should be granted: 1) Would like to put a fence that steps from 8-ft to 6-ft to 4-ft on 4th Ave. side of patio. Inside the patio at the corner has a door and a ramp with sloped concrete. Fence would eliminate use of the corner for customers. 2) The conditions particular to this piece of property are that most properties do not have outdoor seating with ADA ramps and awkward concrete slope. 3) The strict application of the Zoning Ordinance would not unreasonable restrict the use but for safety and aesthetics it would be better. 4) It will do no harm since it only serves as a partition.

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.


Brian Von, agent was present and further explained the request.

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

V. AJOURN

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 6:30 p.m.

Approved and signed this 23 day of March, 2023.



Paul Lawson, Chairman

