

**CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, JULY 27, 2023
BUILDING & PLANNING DEPARTMENT
196 LAUREL STREET**

Present: Blake Hendrick, Lesley Hill, Jay Sellers, Sandra James
Absent: Paul Lawson, Charles Byrd, Catherine Dingle
Staff: Kym Wilkerson, Zoning Administrator; Vicki Stone, Zoning Officer; Anne Bessant, Planning Assistant; Charlie Crosby, IT
Others: David Schwerd, Dylan Andrew, Jamie Steele, Randy Mulkey, Shaunette Gathers, Kenneth Gathers, Randy Broughman, Melanie Hayden, Johnathan Hayden, Luciano Echeuerri, Shekeia Wallace, Mark Ilunga, Stephanie Ilunga, Scott Shelley, David Nye, Bruno Semon, & others

I. CALL TO ORDER

Board member Sellers called the meeting to order at approximately 5:32 p.m.

II. APPROVAL OF MINUTES

Hill made a motion, seconded by James to approve the June 22, 2023 minutes as written. The vote in favor was unanimous and the motion carried.

Sellers swore in the applicants and staff.

III. CRITERIA

Sellers 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. *Previously deferred...*** David Schwerd with Diamond Shores, agent for 600 Main Street LLC, requests a variance from the strict application of the *City of Conway Unified Development Ordinance (UDO)*, Article 6-Design Standards and Article 9-Landscaping & Buffer Requirements, for the property located at **600 Main Street**. (PIN 338-13-03-0005)

Wilkerson stated that the property owner, 600 Main Street, is proposing to renovate the building that was previously Barkers Service Center and reopen it as a convenience store. The parcel is zoned Neighborhood Commercial and is located within the Main Street Corridor Historic Design Review District (HDRD). The zoning district, NC, allows for convenience stores as a permitted use. The exterior renovations for the building and gas canopy were approved by the Community Appearance Board (CAB). CAB must also approve the signage, lighting and landscaping once presented to that board.

Based on Article 12 of the UDO, this site is non-conforming with regard to landscape requirements. Per Section 9.3.4 of the UDO, landscape requirements for the interior of parking areas consist of the following:

- A minimum of one (1) canopy tree and 10 shrubs for every 3,000 sq. ft. of vehicular use area or one (1) canopy tree and 10 shrubs for every 10 parking spaces, whichever is greater (9.3.4, B).
- Each end of each row of parking spaces require a landscape island unless the end of such row of parking spaces is adjacent to a perimeter landscape screen or border as required in Section 9.2.3 (9.3.4, D).
- The minimum width of a landscape island/peninsula is the same as a parking space – 9' x 19' and shall contain a minimum of one (1) canopy tree and five (5) shrubs (9.3.4, E).
- Parking spaces adjacent to a landscape island shall have a 2-ft distance between the parking space and curb/gutter (9.3.4, F).

Section 6.6.2-Mechanical Equipment, Dumpster, Recycling and Trash Handling states the following with regard to the dumpster location:

- Trash handling facilities shall be in the rear or side yards. No such facilities shall be located in any yard adjacent to a public street.

This parcel is on a corner lot and therefore has double frontage. The applicant proposes installing the dumpster pad and screening along Sixth Avenue which would be the corner front.

The applicant is requesting a variance from: Section 9.3.4 - Landscaping Requirements for the Interior of Parking Areas to prevent the property owner from having to tear up existing asphalt and to allow for adequate traffic flow. Section 6.6.2 - Mechanical Equipment, Dumpster, Recycling and Trash Handling to allow the dumpster pad and screening in the corner front yard since a large portion of the site perimeter is street front which does not allow enough space to put the dumpster in the rear.

The applicant cites the following reasons for which a variance should be granted: **1)** This is an existing gas station which limits the amount of available space for landscaping and potential places to install dumpsters. **2)** The conditions above are particular to this piece of property as most parcels

do not have an existing gas station on them. 3) The strict application of the zoning ordinance would unreasonable restrict the use of this property and even potentially prohibit its use all together. The existing pavement precludes being able to install landscape islands and limits the space available to put a dumpster, hence this variance application. 4) The granting of this application will not harm the adjacent properties, character of the area, or the public good as this project is actually installing perimeter landscaping and adding a dumpster. 5) This variance is initiated because of hardship and not 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.

Blake Hendrick recused himself from this agenda item.

David Schwerd, Diamond Shores was present and further explained the request.

Randy Broughman spoke in opposition of this request during public input.

The board discussed the request in length.

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

- B. Keith Skinner, owner, request a variance from the strict application of the *City of Conway Unified Development Ordinance* (UDO), Article 6-Design Standards and Section 5.2 – Accessory Uses & Structures, for the property located at **1003 & 1005 Creel Street**. (PIN 369-05-02-0005 and 0006)**

Wilkerson stated that Mr. Skinner owns the residential home at 1005 Creel Street as well as the vacant parcel at 1003 Creel Street. In September of 2022, staff was made aware of a structure that was built behind the residential home without a permit. This structure does not meet the requirements for a Residential Accessory Structure per Section 5.2.1 of the UDO. The size of a residential accessory structure shall not exceed 50% of the primary structure on the same lot. Based on the minor plat that Mr. Skinner submitted for review, the unpermitted accessory structure is approximately 2,400 sq ft and the primary structure (house) is 1,300 sq ft.

Upon notification via email of this violation, Mr. Skinner requested a meeting with staff. At the January 5, 2023 meeting, Mr. Skinner made staff aware of his proposal for a commercial project on the vacant parcel at 1003 Creel Street. In this meeting, he also explained that he planned to add the unpermitted accessory structure to the commercial parcel via a platting action. This unpermitted accessory structure would be a “childcare covered shelter” for use in conjunction with the daycare.

Mr. Skinner has submitted a commercial sketch plan for review by the Technical Review Committee (TRC) as well as a minor plat adding the unpermitted accessory structure to the vacant parcel for future commercial use.

Staff explained to Mr. Skinner that variances would be required since the accessory structure would not meet setbacks from the new property line and per Section 5.2.1 of the UDO, non-residential accessory structures may be located in the rear and side yards only. Also, the “Childcare Covered Shelter” can only be permitted as an accessory to a principle use. Based on the commercial sketch

plan submitted, the “Childcare Covered Shelter” is forward of the “Proposed Childcare Annex Building” and is therefore in the front yard. Furthermore, the accessory structure would not have a principle structure until the project is completed.

Both parcels are zoned Professional (P). Professional has the same setbacks for residential and commercial. Setbacks are 20-ft Front, 15-ft Rear and 10-ft Sides.

Based on the review of the minor plat and the commercial sketch plan, Mr. Skinner is requesting the following variances:

- Table 6.2 – A variance of 6.2-ft from the side setback of 10-ft for the unpermitted accessory structure on the commercial parcel.
- Table 6.1 – A variance of 11.2-ft from the rear setback of 15-ft for the existing accessory structures on Parcel B shown on the minor plat.
- Section 5.2.1 – A variance to allow the “Childcare Covered Shelter” to be located in the Front Yard.
- Section 5.2.1 – A variance to allow an accessory structure to be located on a parcel without a principle structure.

The applicant cites the following reasons for which a variance should be granted: 1) The gazebo was built on the property and it does not meet the UDO requirements because of its size. The area will be an addition to the new phase of the up and coming YNCDC II in the near future. 2) The conditions describe above are particular to my piece of property. 3) The strict application of the Zoning Ordinance would not prohibit or unreasonable restrict the use of my property. 4) Granting the variance would not harm adjacent property since both properties are owned by the same entity. 5) The hardship is that the structure was built without proper permit and is not in regulation with the dwelling on the current plot. The structure will be a part of the new daycare for inclement weather usage and outdoor activities.

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. Staff also recommends that should the variance requests be granted; the following conditions be placed on the board order:

- A deadline be established for the project’s completion of the childcare facility in order for the accessory structure aka “Childcare Covered Shelter” to remain without a principal structure, to include a stipulation that allows the applicant to request additional time for unforeseen issues;
- A requirement that all necessary building permits, inspections and fees for the “Childcare Covered Shelter” be brought into compliance within 30-days of this meeting date; and
- That the “Childcare Covered Shelter” be used as an accessory structure in conjunction with the childcare center only. Any other activity/use for the “Childcare Covered Shelter” must obtain all necessary approvals prior to such use or activity taking place, including, but not limited to: any use that is not directly related to the childcare facility and/or which may require a Special Event Permit, in accordance with Sec. 3-1-36 – Special Event Permit, of the City of Conway’s Code of Ordinances.

Keith Skinner, owner was present and further explained the request.

Randy Mulkey spoke during public input with concerns regarding the property owner using this structure as a party venue instead of an accessory structure for a daycare facility.

After much discussion, Hill made a motion to table the variance until the next meeting to give the applicant time to revise the site plan to include the cover shelter incorporated with the proposed daycare. Sellers seconded the motion and the motion carried unanimously.

- C. Johnathan Hayden, owner, request 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 **1016 Oglethorpe Drive**. (PIN 336-05-01-0035)

Wilkerson stated that Mr. Hayden has applied for a fence permit at 1016 Oglethorpe Drive. He proposes to install a 6-ft white vinyl fence to the rear of his home. After reviewing the submittal, staff had to deny the request based on Section 5.2.3-Fences & Walls of the UDO since the parcel has double frontage.

The parcel is Lot 57 of the Forest Glen Phase 1 subdivision and is located between Oglethorpe Drive and Public Alley 2. The subdivision is zoned PD (Planned District). Prior to submitting for the fence permit, Mr. Hayden received HOA approval.

Based on the City of Conway's Unified Development Ordinance (UDO), Section 5.2.3-Fences & Walls, front yards shall have a fence height maximum of 4-ft. The UDO would allow for a 6-ft fence provided a mandatory 10-ft setback is met from the property line.

Mr. Hayden is requesting the following variance: Section 5.2.3-Fences & Walls: A variance to allow a 6-ft fence instead of a 4-ft fence on the property line adjacent the public alley, to the rear of the home.

The applicant cites the following reasons for which a variance should be granted: **1)** The extraordinary conditions pertaining to the piece of property is double front yard. **2)** The double front yard is not a normal condition and is particular to this piece of property. **3)** The strict application of the Zoning Ordinance would unreasonable restrict the use of the property since a 4-ft fence will not hold the neighbor's dogs in and the dogs will potentially hurt our dog. **4)** Granting the variance will not harm adjacent property. The HOA is aware and has completely approved the fence. **5)** The variance request is a hardship. We are not worried about property values as far as the fence is concerned.

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.

Johnathan Hayden, owner was present and further explained the request.

There was no public input.

Hill made a motion to grant the variance as requested. Hendrick seconded the motion and the motion carried unanimously.

- D. Lawrence Williams, agent for Faith Temple COGIC, request a variance from the strict application of the *City of Conway Unified Development Ordinance (UDO)*,

Article 11-Signage, for the property located at **1520 Grainger Road**. (PIN 368-01-02-0027)

Wilkerson stated that Mr. Jarrett Wallace, member of New Faith Temple COGIC, applied for a variance to allow for an Electronic Message/LED Digital Sign (EMC) for New Faith Temple COGIC. Mr. Lawrence Williams is present as the agent for the variance request. The church is zoned R1 (Low Medium Density Residential).

Skyline Signs submitted for a sign permit on March 17, 2022. At that time, staff made the applicant aware that Electronic Message/LED Digital Signs (EMC) are not permitted in the R1 zoning district. Per the UDO, EMCs/LEDs shall be permitted only in the Institutional (IN) and Institutional Campus (IC) Zoning Districts, and on properties zoned Highway Commercial (HC) that are located on US Highway 501, including all areas of Church Street and Highway 501 Bypass, however, parcels located on Highway 501 Business shall not be eligible for EMC signage.

Based on the Horry County Land Records, the church owns approximately 4.23 acres. Section 5.1.22-Religious Institutions of the UDO states that "Religious institutions over three (3) acres in size are subject to the review and procedures indicated by the Planned Development District (PD)". Rezoning to a PD would allow the church to basically write their own zoning ordinance and include EMC signs as an allowed sign type. The applicant was made aware of the rezoning process to a PD that requires a Master Plan, a PD Narrative and a \$2,500 fee. The proposed PD would have a public hearing at Planning Commission and then Planning Commission will make a recommendation to City Council.

Any person or entity may apply for a variance; however, this particular variance is considered a "use" variance since EMC Signs are permitted in other zoning districts. In order to grant a "use" variance, the following finding must be determined and made part of the record: the use requested can be documented to have been a past use of the property.

The New Faith Temple COGIC is requesting the following variance: Section 11.4.9-Electronic Message Centers/LED Digital Signs: A variance to allow a "use" of an EMC sign in a zoning district that does not allow for such use.

The applicant cites the following reasons for which a variance should be granted: **1)** We are a church that resides in a zoning district under R1. We fall under the classification of an institution. Because of the zoning we cannot operate a digital sign and would like to have that option so that we can share the gospel every day. **2)** Conditions particular to this piece of property is due to the fact that other churches have digital signs and we would like to utilized the same ability. **3)** The strict zoning prohibits digital signs in the district even though we are considered an institution. **4)** Granting a variance would not harm the adjacent property as to the right of our property is a day care that I am not sure is in operation. Directly across the street from us is a cemetery. I strongly doubt they would have anything to say. To the left of us is one house that is separated by at least an acre of land. **5)** This variance request is strictly because of the hardship. We want to be able to share with the community and let them know about the free programs we offer. WE have been in the community over 50 years and have no intentions on leaving.

Staff recommends that the applicant seek to rezone the property to a district that would allow for the Electronic Message Center/LED Digital Sign.

Mark Ilunga, Pastor was present and further explained the request.

There was no public input.

James made a motion to take staff's suggestion to seek the route of rezoning the property and deny the variance request. Hill seconded the motion and the motion carried unanimously.

- E. Todd Grinolds with Diamond Shores, agent for MR Investment Group LLC, requests a variance from the strict application of the *City of Conway Unified Development Ordinance* (UDO), Article 9-Landscaping & Buffer Requirements and Section 6.3.6-Core Commercial District, for the property located at **1312 Second Avenue**. (PIN 368-04-03-0021)

Wilkerson stated that Mr. Grinolds has submitted a commercial sketch plan for Technical Review Committee (TRC) to get initial comments on the 7-Unit commercial project at 1312 Second Avenue. The parcel is zoned Core Commercial (CC) but is not within the Historic Design Review District (HDRD) and does not require CAB (Community Appearance Board) review.

Per Section 6.3.6-Core Commercial of the UDO, all buildings shall be oriented towards the street, and each building shall have a clearly defined primary entrance that shall front the street, rather than to a courtyard, alleyway, or parking lot. Based on the size and shape of the lot, the applicant proposes to have Unit 1 facing Second Avenue and the other 6 Units will face the parking lot. This will eliminate the side of the building facing Second Avenue.

Per Table 9.1-Required Landscaping, a Type A Landscape Buffer is required along the sides and rear property lines. The applicant is requesting a variance of 2-ft on the eastern property line to provide a 3-ft landscape buffer vs a 5-ft landscape buffer. The applicant proposes to use the same number of plantings required but with a smaller width buffer. Core Commercial does not have a front buffer requirement since the structure is required to be built to or within the build-to-zone (btz). The btz is an area within 3-ft of the public right of way (sidewalk line).

The applicant is requesting the following variances: Section 6.3.6-Core Commercial: A variance from the Building Orientation & Entrances required in the Core Commercial zoning district to allow the first of seven units in a row to face Second Avenue and the additional six units to face the parking lot. Table 9.1-Required Landscaping: A variance of 2-ft from the 5-ft required perimeter landscape buffer.

The applicant cites the following reasons for which a variance should be granted: **1)** Based on existing shape & size of the property, we cannot provide the 5-ft landscape strip required along the NW property line. We can provide 3-ft on this side with plantings as required per the code. **2)** We are surrounded by development on 3-sides and a road out front. With the drainage easement and existing property width, it limits greatly the buildable area on the site. **3)** We are compounded by the existing property size, shape and existing drainage easement. We have a very limited buildable area for development on this parcel. **4)** Granting the variance will not harm adjacent property, the character of the area or the public good. **5)** This variance request is because of a hardship and not 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.

Board of Zoning Appeals

7/27/23

Blake Hendrick recused himself from this agenda item.

David Schwerd, Diamond Shores was present and further explained the request.

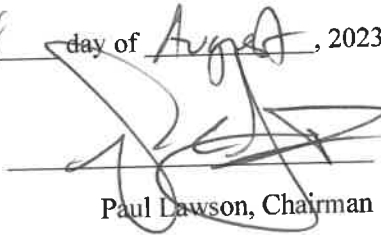
There was no public input.

Sellers made a motion to grant the variance as requested. James 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 6:32p.m.

Approved and signed this 24 day of August, 2023.



Paul Lawson, Chairman