

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

May 25th
2023

Present: Paul Lawson, Blake Hendrick, Lesley Hill, Sandra James, Catherine Dingle
Absent: Charles Byrd, Jay Sellers
Staff: Kym Wilkerson, Zoning Administrator, Jessica Hucks, Planning Director; Vicki Stone, Zoning Officer, Anne Bessant, Planning Assistant; Jeff Leveille, IT; Boone Aiken, City Attorney; Detective Contino, Police
Others: Mike Battle, Samantha Szrotak, Kristan Beglin, Joy Bailey, Rosa Pertell, Joace Jones, Marilyn Fore, Charles Boykin, Kevin Hobbs, Gary Cloatier, Walter Quick, Michael Pyatt, Sudie Pertell, Joyce Moody, Jeff Cox, Wia Coleman, Windle Skipper Jr, Windle Skipper Sr, Amanda Bailey, James Yahnis, Jackie Schmoker, Brian Schmoker, Morgan Ward, Doc Hardee, Craig Boore, Spencer Lowery, Will Morrow, Chuck Baker, Mike Smith, Jessica Payne, Jeff Cribb & others

I. CALL TO ORDER

Chairman Lawson called the meeting to order at approximately 5:31 p.m.

II. APPROVAL OF MINUTES

Dingle made a motion, seconded by Hill to approve the March 23, 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. *Previously Deferred*....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 7-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, on both sides of the property.

The applicant is seeking a variance from: Table 6.2: Non-Residential Zoning Districts - The applicant requests a variance of 8-ft on the side setback allowing for a 7-ft side setback on both sides of the property. Table 9.1: Required Landscaping Type - The applicant requests a variance to allow for a Type A Landscape Buffer instead of a Type B Landscape Buffer on both sides of the property.

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 clients. 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, applicant was present to answer any questions.

There was no public input.

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

B. Walter Quick, owner, requests a variance from the strict application of the *City of Conway Unified Development Ordinance* (UDO), Section 6.2 Residential Dimensional Requirements, Dwelling Types & Design Standards, for the property located at **1661 Ninth Avenue**. (PIN 368-03-01-0088)

Wilkerson stated the applicant purchased an existing lot of record located at 1661 Ninth Avenue. The parcel is zoned R1 and is considered “legal non-conforming” because the dimensional requirements for the R1 zoning district from the current UDO are not being met. An “unrecorded” plat by Spartina Land Surveying shows the parcel as 6,315 sq ft in size and 50.65-ft wide. The current UDO requires a parcel zoned R1 to be 10,000 sq ft in size and 100-ft wide. The setbacks for the R1 zoning district are 20-ft front, 20-ft rear and 10-ft sides.

The only dwelling type permitted in the R1 zoning district is single family detached. The applicant is requesting a 5-ft variance on the side setback from 10-ft to 5-ft in order to build a single family detached home on this “legal non-conforming” parcel.

The applicant is seeking a variance from: Table 6.1: Dimensional Requirements for Residential Zoning Districts - The applicant requests a variance of 5-ft on the side setback allowing for a 5-ft side setback on both sides of the property.

The applicant cites the following reasons for which a variance should be granted: 1) The extraordinary conditions pertaining to this piece of property are this lot is narrow and setbacks require 10-ft on each side so it is hard to build on. 2) The conditions particular to this piece of property is the lot is 50-ft wide with 10-ft setbacks on each side. 3) Granting the variance will not harm adjacent property as we are not interfering with that property line or property at all. 4) Variance request is initiated because of a hardship since this is an existing lot of record.

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.

Walter Quick, applicant was present and further explained the request.

There was no public input.

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

C. Walter Quick, owner, requests a variance from the strict application of the *City of Conway Unified Development Ordinance (UDO)*, Section 6.2 Residential Dimensional Requirements, Dwelling Types & Design Standards, for the property located at **1654 and 1656 Ninth Avenue**. (PIN 368-02-02-0051 & 0052)

Wilkerson stated the applicant purchased two existing lots of record located at 1654 & 1656 Ninth Avenue. The parcels are zoned R2 and as they sit, are considered “legal non-conforming”. Single family detached dwellings were permitted on both parcels and would be allowed to do so again without a variance since these are existing lots of record.

The applicant would like to combine the two parcels and build townhomes. Townhomes are defined in the UDO as: “A single-family dwelling in a row of at least three (3) and no more than eight (8) single family dwellings attached by common fire-resistant vertical walls. No unit is located over another unit. These units may be subdivided on fee simple lots.” The zoning district, R2, allows for every residential dwelling type defined in the UDO. An “unrecorded” plat by Spartina Land Surveying shows the parcels meeting all residential dimensional requirements for townhomes with the exception of lot depth. The lot depth is required to be 120-ft regardless of the dwelling type.

The applicant is seeking a variance from: Table 6.1: Dimensional Requirements for Residential Zoning Districts - The applicant requests a variance of 13.01-ft on the northwest property line allowing for a 106.99-ft lot depth on said property line and a 5.87-ft variance on the opposite property line allowing for a 114.13-ft lot depth.

The applicant cites the following reasons for which a variance should be granted: 1) I want to combine and build a row of townhomes on the combined property but a lot depth of 120-ft is required. 2) The extraordinary conditions pertaining to this piece of property are the lot depth of 106 on one side and 114 on the other. 3) I am wanting to build up and improve the area; however, the lot depth requirement is not allowing me to build. 4) Granting the variance will greatly improve the neighborhood. 5) Variance request is initiated because of a hardship since this is an existing lot of record.

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.

Walter Quick, applicant was present and further explained the request.

Rosa Pertell spoke in opposition of the variance during public input.

The board and applicant discussed the request in length.

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

D. Attorney Michael Battle, agent for Claycon Pharma Conway Re LLC, requests a variance from the strict application of the *City of Conway Unified Development Ordinance* (UDO), Section 5.1.32 Community Support Services / Facilities and Outpatient Treatment Facilities, for the property located at **1800 Husted Road**. (PIN 383-02-04-0019 & 0020)

Wilkerson stated that the applicant, Mr. Will Morrow, is proposing an “Outpatient Treatment Facility” at 1800 Husted Road. The name filed on the City of Conway business license application is Pathway Clinic LLC. The parcel is zoned Heavy Industrial (HI) and per the City of Conway Unified Development Ordinance (UDO) Article 4-Use Table, “Outpatient Treatment Facility” is permitted as a “Conditional Use”.

The conditions for the use are listed in Section 5.1.32 of the UDO, including not being located closer than 1,000 feet from any religious institution. The UDO defines a religious institution as “A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held”.

In December of 2020, an email was sent to Mr. Tom Miller of Miller Design Services, stating that the Traveler’s Chapel would not be considered a religious institution by staff. Staff’s interpretation was based on religious services not being held at this location on a regular basis. Nearly 2 years later (August 2022), Pathway Clinic LLC applied for a City of Conway business license. The business license was denied based on information gathered online regarding the Traveler’s Chapel. The interpretation was made that the Traveler’s Chapel is considered a religious institution. Staff was made aware of the previous email to Mr. Miller and responded to Mr. Morrow with Pathway Clinic LLC stating “Revising earlier interpretations of the Zoning Ordinance is at the core of what the Planning Department does on a regular basis”. Mr. Morrow was advised that a variance may be requested. Though the Traveler’s Chapel is considered a religious institution by staff, staff does not oppose the variance request. The Traveler’s Chapel is approximately 880-ft from 1800 Husted Road which is zoned industrial.

Attorney Michael Battle has since become an agent for Pathway Clinic LLC. The application submitted by Attorney Battle request a variance on the 1,000 feet requirement in Section 5.1.32. Should the variance not be granted, Attorney Battle is appealing the interpretation of the Zoning Administrator defining the Travelers Chapel as a religious institution.

The applicant is seeking a variance from: Section 5.1.32 (B3b) – Outpatient Treatment Facilities:
- The applicant requests a variance to allow the facility to be within 1,000 feet of a religious institution.

If the variance is granted, Pathway Clinic LLC must still meet the additional conditions of Section 5.1.32 of the UDO including providing staff with a copy of the South Carolina license for an outpatient treatment facility.

The applicant cites the following reasons for which a variance should be granted: 1) Applicant’s property lot line is located approximately 600-ft from 4.5-acre tract outside the City on which a building known as the Traveler’s Chapel is located. Applicant’s use is limited to HI zones which are very limited inside the City. The limited HI zones together with applicant’s use create a peculiar hardship for this particular piece of property and for applicant’s use of property as a

healthcare facility. 2) The 1000-ft buffer is only applied to applicant's property because of applicant's use of the property as a healthcare facility. 3) Applicant would not be able to locate the healthcare facility on the property because the property lines are fixed. 4) The character of the area is heavy industrial and applicant's use is allowed as a conditional use. Access from applicant's property to the 4.5-acre tract would require a journey of 5000-ft. 5) The variance is requested for a hardship. Applicant will not be allowed to use the property because the City will not issue a business license.

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.

Sandra James recused herself from this agenda item.

Mike Battle, agent for applicant was present and further explained the request.

The board, applicant and staff discussed the request in length.

Joy Bailley and Will Morrow spoke in favor of the variance request during public input.

Amanda Bailey representing Yahnis, Marilyn Fore, president of HGTC, Charles Boykin representing HGTC, Windell Skipper, Jeff Cribb spoke in opposition of the variance request during public input.

Lawson made a motion to grant the variance as requested. Hill 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 7:23 p.m.

Approved and signed this 25th day of May, 2023.



Paul Lawson, Chairman

