

Board of Zoning Appeals
12/15/22

**CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, DECEMBER 15, 2022
BUILDING & PLANNING DEPARTMENT
196 LAUREL STREET**

Present: Catherine Dingle, Paul Lawson, Lesley Hill, James Shelley, Sandra James (arriving late)
Absent: Charles Byrd, Jay Sellers
Staff: Kym Wilkerson, Zoning Administrator; Katie Dennis, Planning Concierge; Charlie Crosby, IT
Others: Jimmy Yahnis, Amanda Bailey, Marilyn Fore, Charles Boykin, Will Morrow, Mike Battle, Sachia Patel, Kristan Beglin, Joy Smith, Joy Bailley, Samantha Szkotak, Ray Critis

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 November 17, 2022 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. OLD BUSINESS

A. Confirmation of BZA Decision Regarding Zoning Variance Request 9.22.22 IV.C:

Michael Battle, agent, 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 383-02-04-0016 & -0020)

Wilkerson stated that on September 22, 2022, the BZA held a public hearing regarding a variance request for the property located at 1800 Husted Road in the City of Conway. The applicant, Mr. Will Morrow, proposes to develop an Outpatient Treatment Facility and requested to reduce the required buffer distance of 1,000 feet between an Outpatient Treatment Facility land use and a Religious Institution land use as required by the City of Conway Unified Development Ordinance.

The variance application was received by the City of Conway on August 24, 2022 and afterward public notice of the September 22, 2022 public hearing was conspicuously posted on the subject property, with such posting visible from each public thoroughfare that abuts the property. In accordance with the City of Conway's procedures and state law, advertisement of the public hearing was also published in The Horry Independent, a newspaper of general circulation on September 1, 2022. Accordingly, the public was duly notified of the public hearing on September 22, 2022 and such notice was given more than 15 days prior to September 22, 2022. Notice to parties was also given by mail, dated September 1, 2022. Records of these public notices are maintained in the City's records. During its meeting on September 22, 2022, the BZA conducted a public hearing on the variance request and received comments from individuals in favor of and in opposition to the variance request. Upon conclusion of the public hearing and discussion by the BZA, the BZA determined to approve the variance as requested by the applicant. Because of a scrivener's error in the staff report regarding the variance request, staff determined to seek confirmation of the BZA decision, the findings of fact, and the conclusions of law, which confirmation is necessary for staff to prepare the final written order of the BZA regarding this matter.

It is staff's understanding that, upon review of the applicant's request and the information presented during the public hearing on September 22, 2022, the BZA made the following findings of fact and conclusions of law:

Findings of Fact:

1. Property Owner: Claycon Pharma Conway RE LLC
2. Property Address: 1800 Husted Road, Conway, South Carolina
3. Current Zoning District Classification of Property: Heavy Industrial (HI)
4. Date of Application: August 24, 2022
5. Variance Requested: Applicant requests a reduction in distance separation

requirement in the City of Conway Unified Development Ordinance between an outpatient treatment facility upon the property and a religious institution from 1,000 feet to 500 feet.

6. Date of Public Hearing: September 22, 2022

Conclusions of Law:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property: Applicant's property lot line is approximately 600 feet from 4.5-acre tract outside the City on which a Religious Institution land use known as the Traveler's Chapel is located. Applicant's proposed Outpatient Treatment Facility land use is limited City of Conway Unified Development Ordinance to the Heavy Industrial zoning district, which is very limited in the City. The limited HI zones together with Applicant's proposed use create a peculiar hardship for this particular piece of property and for Applicant's use of property as a health care facility.
2. These conditions do not generally apply to other property in the vicinity. The 1,000-foot buffer is only applied to Applicant's property because of applicant's use of the property as a health care facility.
3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property: Applicant would not be able to locate the health care facility on the property because the property lines are fixed.
4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance: The character of the district is heavy industrial and the applicant's proposed land use is allowed as conditional use. Access from applicant's property to the 4.5-acre tract on which the Religious Institution is located would require a journey of 5,000 feet.

Shelley recused himself from this agenda item.

Staff recommends that the BZA clarify and confirm the variance granted on September 22, 2022.

Lawson made a motion to confirm the final draft order. Hill seconded the motion and the motion carried unanimously.

V. VARIANCE REQUESTS

- A. SHIV of Conway LLC, owner, requests a variance from the strict application of the *City of Conway Unified Development Ordinance (UDO)*, Section 6.3: Non-Residential Design Standards, Article 9: Landscaping and Buffer Requirements and Section 6.5.2: Gateway Corridor Overlay, for the property located at **University Plaza Drive and Waccamaw Medical Park Drive (PIN 383-14-01-0017)**.

Wilkerson stated that Sachia and Amit Patel own approximately 1.89 acres of property at 107 University Plaza Dr, located off Hwy. 501 behind Cookout, Wendy's and Ichiro's Express restaurants. The property is proposed to be a new hotel. The parcel was recently annexed and rezoned to City of Conway Highway Commercial (HC).

Prior to annexation, the civil plans were submitted to Horry County and met the county standards for commercial development. The Patel's then agreed to annex into the City of Conway.

The applicants are seeking variances on the following requirements of the City of Conway's Unified Development Ordinance (UDO) that are contrary to Horry County requirements:

- **Table 9.2 Landscaping Chart Rate**
The applicant requests a 1.5-ft variance on the Type A 5-ft perimeter Landscape Buffer requirement to allow for a 3.5-ft perimeter Landscape Buffer.
- **Section 9.3.4 Landscape Requirements for Interior of Parking Areas**
The applicant requests a variance to allow for Fifteen (15) Consecutive Parking Spaces in a row before placing a landscape island or peninsula vs the Twelve (12) Consecutive Parking Spaces in a row required by the UDO.
- **Table 6.2 Non-Residential Design Standards**
The applicant requests a 5-ft variance on the 15-ft Side Yard Setback requirement to allow for a 10-ft Side Yard Setback.
- **Section 6.5.2 Gateway Corridor Overlay**
The applicant requests a variance on the Building Massing and Modulation requirement of the overlay.

The applicant cites the following reasons for which a variance should be granted: 1) The project was at an advanced level of design when the project was annexed at the City's request. The project was designed under Horry County standards which differ from the City of Conway's UDO standards. We are asking for relief where these differences impact project designs. 2) Conditions particular to the piece of property only apply due to project status at the time of City requested annexation. 3) The strict application of the Zoning Ordinance would result in project re-design. 4) There is no harm to adjacent property. Project meets the intent of the UDO standards. 5) Hardship is due to the City requested annexation of a project in the advanced stages of design.

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.

Sachia Patel, applicant was present and further explained the request.


The board and applicant discussed the request in length.

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

VI. 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 5:52 p.m.

Approved and signed this 26th day of January, 2023.


Paul Lawson, Chairman

Charles Byed, Vice Chairman