

**CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, JANUARY 26, 2023
BUILDING & PLANNING DEPARTMENT
196 LAUREL STREET**

Present: Charles Byrd, Lesley Hill, Catherine Dingle, Sandra James, Jay Sellers (arriving late)
Absent: Paul Lawson, Blake Hendrick
Staff: Kym Wilkerson, Zoning Administrator; Anne Bessant, Planning Assistant; Marcus Cohen, IT
Others: Jeff Crib, Jess Payne, Edmilson Vicente, Claudia Martinez, Bridgett Moore, Sha-Ron E. Jones, Scott Smallin, Dennis Jordan, Shannon Jordan, Cecilia Pryor, Samuel Pryor, Bradrick Pryor, Harold Johnson, Joe Grasset, Mikell Pyatt, GJ Johnson, Ester Atkinson, Hester Atkinson

I. CALL TO ORDER

Vice-Chairman Byrd called the meeting to order at approximately 5:30 p.m.

II. ELECTION OF OFFICERS

Sellers made a motion to elect Lawson as the Chairman and Byrd as Vice Chairman of the Board of Zoning Appeals for 2023. James seconded the motion and the motion carried unanimously.

III. APPROVAL OF MINUTES

Dingle made a motion, seconded by James to approve the December 15, 2022 minutes as written. The vote in favor was unanimous and the motion carried.

Byrd swore in the applicants and staff.

IV. CRITERIA

Byrd 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.

V. VARIANCE REQUESTS

- A. Edmilson Vicente, owner, 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 **1700 Horry Street**. (PIN 368-01-02-0043)

Wilkerson stated that the owner, Mr. Vicente, hired a fence contractor and a pool contractor to do work at 1700 Horry Street. The pool contractor applied for and was issued a permit; however, the fence contractor never applied for a permit. The fence; therefore, does not meet the requirements of the UDO since a site plan was not submitted and a review was not done by staff.

The parcel is a corner lot fronting Horry Street with corner frontage on Maple Avenue. Per Section 5.2.3-Fences & Walls of the UDO:

Commercial and Residential: 1) Front yards - 4 feet 2) Corner front yards - 6 feet (provided it meets a 10-foot setback from the property line) 3) Side yards - 6 feet, 4) Rear yards - 8 feet

When the offset inspection was scheduled for the pool, staff realized a fence was being built that was not permitted nor met the UDO requirements. A stop work order was issued. The front fence gates (along Horry Street) are 95-inches tall (almost 8-ft) and the front fence panels are 55-inches tall (slightly over 4.5-ft). The corner front fence has approximately the same measurements and it does not appear to be 10-ft off the property line.

The applicant is seeking a variance from: Section 5.2.3 – Fences & Walls: The applicant requests a 4-ft variance on the height of the front yard fence and 2-ft variance on the height of the corner front yard fence as well as a variance on the location of the corner front yard fence.

The applicant cites the following reasons for which a variance should be granted: 1) My fence is located behind my property line. My contractor did not inform me of any setbacks. I hired a company to give me an estimate and it is already completed. 2) There are other properties in the area that have fences set up that are on their property lines and are 6-ft tall that are not grandfathered in. 3) If I move my fence to where they are requesting, I will not have any backyard. 4) The variance will not harm adjacent property but granting the variance will beautify the area. 5) The variance is not to increase profitability but it is to secure my 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.

Edmilson Vicente, applicant was present and further explained the request.

Joe Grasset, Gregory Johnson, Sha-Ron E. Jones, Ester Atkinson, Sammy Pryor, Harold Johnson, and Mikell Pyatt spoke in favor of the variance request during public input.

The board and applicant discussed the request in length.

Seller made a motion to grant the variance as requested with the condition that the corner front yard fence meet a 10-ft setback from the property line as defined in the City of Conway's Unified Development Ordinance (UDO). Hill seconded the motion and the motion carried unanimously.

- B.** Dennis Jordan, owner, request a variance from the strict application of the *City of Conway Unified Development Ordinance* (UDO), Section 6.3.1 Non-Residential Architectural Design Standards & Section 12.1.2 General Provisions, for the property located at **1812 North Main Street**. (PIN 338-06-03-0077)

Wilkerson stated that the owner, Mr. Jordan, would like to demolish the existing block structure on his property to add a 20-ft x 60-ft addition and expand the existing metal building for Jordan's Performance. He would like to replace all existing metal siding to match the addition with a neutral color. The existing metal building is considered a "legal non-conforming" structure.

Per Section 6.3.1-Non-Residential Architectural Design Standards of the UDO: "no portion of a building constructed of unadorned concrete masonry units, corrugated metal, sheet metal, exposed metal, and/or manufactured panelized metal wall systems shall be visible in any manner from adjoining developed properties, from existing public rights-of-way, or from adjoining properties which are eligible for future development."

If a variance is granted to allow the expansion of the building with metal siding, the required landscaping buffer for the zoning district, per Article 9, will be required with the addition. If the proposed structure does not meet setback requirements, the applicant will need to request another variance before this board, as staff has not received a site plan for the addition.

The applicant is seeking a variance from: Section 6.3.1 – Non-Residential Architectural Design Standards and Section 12.1.2 -Nonconforming Uses:

The applicant requests a variance to allow for a metal addition to the existing metal building as well as allow the metal to be replaced with a neutral color to match the addition, on the condition(s) that the addition comply with applicable design standards within the Unified Development Ordinance (UDO).

The applicant cites the following reasons for which a variance should be granted: 1) The existing metal building and business has been on the property for 35+ years. 2) The existing business is growing and needs to add additional equipment and employees. Economically our only option is to build this addition and replace existing siding and roof. 3) Granting this variance would help the beautification of the property, increase the values of the property and add to the character of the area. Not granting the variance would do more to harm the adjacent property. 4) The variance is initiated out of a specific need to add equipment and employees to this well-established business.

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.

Dennis Jordan, applicant was present and further explained the request.

The board and applicant discussed the request in length.

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

VI. APPEALS

- A. Jeff Cribb, applicant, requests an appeal of the decision of the Zoning Administrator to deny zoning approval for a proposed business in the Heavy Industrial (HI) zoning district, in accordance with the permitted uses in Article 4 Use Tables of the *City of Conway Unified Development Ordinance* (UDO), for the property located at **1833 Lone Star Street**. (PIN 383-02-03-0013)

Wilkerson stated that Jessica Payne, the applicant's wife, applied for a City of Conway Business License for a Hair Salon to be located at 1833 Lone Star Street. The address is zoned Heavy Industrial (HI). Based on Article 4-Use Tables of the UDO, the business license was denied since Hair Salons are not a permitted or conditional use in the Heavy Industrial Zoning District.

Upon questioning by the applicant why there would be other Hair Salons or Barber Shops allowed in the area, staff researched the previous zoning district. Before the area was zoned Heavy Industrial, it was zoned Production, Service & Industry (PSI). PSI allowed for Professional, Medical & Governmental Offices. That would explain why past zoning administrators would approve a business license in this area for a Hair Salon and/or Barber Shop.

Staff also took the matter to City Council to see if they would be in favor of a text amendment to add Hair Salons as a permitted use in the industrial zoning districts. City Council was not opposed to the idea.

The applicant is seeking an appeal from the Zoning Administrators decision to deny a Hair Salon Business License in the Heavy Industrial Zoning District based on Article 4-Use Tables of the UDO.

The applicant cites the following reasons for which a variance should be granted: 1) This unit is directly in front of hero tattoo and allows my husband and myself to have conjoining businesses. This benefits our family tremendously by preventing unnecessary travel, unnecessary daycare and unnecessary expenses while providing a safe and secure environment for me to practice my craft and offer my services to his established clientele. 2) We waited 3 years for this unit to become available. We were in constant communication with the property management. We seized the opportunity immediately. We thought we'd not have any issues opening a salon considering there's another salon in the same Atlantic Center Industrial Complex. The fact that it's in the same building as my husband's business, Hero Tattoo, established in 2006, is the main significance of this property. 3) The area's zoning allows several other business types that do not

fall under the concept of heavy industrial so it does seem unreasonable to allow dog grooming and a baseball gym by deny a business to a salon, especially considering that there was a pre-existing salon at 1709 Husted Road that falls under the same zoning in the same Atlantic Center Industrial Park. 4) It is a two chair with an expectation of very little wait time and ample parking and will not contribute to extra traffic density and as stated before there is already a salon operating under these requirements and restrictions. Attached are signatures of neighboring business owners expressing their full support of Habit Salon. 5) We have no financial connections to the property or its value. Being unable to open Habit Salon in this location is certainly a hardship for our family and no other location in the City of Conway provides this property's unique circumstances. Not allowing a local woman to thrive and execute her experienced skill set is certainly a hardship, especially with similar businesses already operating in the same zoning of the Atlantic Center Industrial Park.

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.

Jeff Cribb, applicant was present and further explained the appeal.

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.

VII. 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 6:39 p.m.

Approved and signed this 23 day of Feb, 2023.


Paul Lawson, Chairman

