

**CITY OF CONWAY  
BOARD OF ZONING APPEALS MEETING  
THURSDAY, DECEMBER 14, 2023  
BUILDING & PLANNING DEPARTMENT  
196 LAUREL STREET**

Present: Paul Lawson, Blake Hendrick, Lesley Hill, Sandra James  
Absent: Catherine Dingle, Charles Byrd, Jay Sellers  
Staff: Kym Wilkerson, Zoning Administrator; Anne Bessant, Planning Assistant; Charlie Crosby, IT  
Others: George Thistle, Jamie Steele, David Schwerd, Sha-Ron Jones, Diane Davis, Vanessa Broman

**I. CALL TO ORDER**

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

**II. APPROVAL OF MINUTES**

Hill made a motion, seconded by Hendrick to approve the November 16, 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/PUBLIC INPUT

- A. Diamond Shores, agent for Stan Svischchev, property owner, request a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), *Article 6-Design Standards*, for the property located at **Hemingway Street & Hwy 378**. (PIN 368-02-02-0084)

Wilkerson stated that a minor subdivision plat was submitted in April of this year to subdivide PIN 368-02-02-0084 into two parcels.

The parent parcel is zoned Medium Density Residential (R2). R2 allows for single family, duplex, townhomes and multi-family uses provided the dimensional requirements of **Table 6.1** of the UDO are met.

Per the application submitted by the owner's agent, the owner is proposing a single family detached home on each new lot. This requires a 6,000 sq ft minimum lot size as well as a 50-ft minimum lot width, which is shown on the plat; however, the proposed lots do not meet the additional requirements in order to approve the subdivision plat.

Per **Table 6.1**: R2-Single Family Detached minimum lot depth is a minimum of 120-ft. Neither proposed lot meets this requirement.

Also, proposed Lot 1 is a corner lot and per **Section 6.1.9** of the UDO, *"the front lot line shall be designated by the shorter of the two property lines adjacent to the street."*

#### **Variations requested (per plat):**

##### **Section 6.1.9-Side Yard Setbacks for Corner Lots:**

- A variance to allow the front lot line for proposed Lot 1 to be designated by the "longer" of the two property lines adjacent to Hemingway Street.

##### **Table 6.1-Dimension Requirements for Residential Zoning Districts:**

- A variance of 70-ft for Lot 1 in order to allow a lot depth of 50-ft and a variance of 50.85-ft for Lot 2 in order to allow a lot depth of 69.15-ft.

If all variances are granted, the **setbacks** for the single family detached homes will be 15-ft Front (Hemingway Street), 20-ft Rear, 7.5-ft Sides and for Lot 1 20-ft Corner Front (Highway 378).

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. If the Board chooses to grant the variances requested, staff recommend that it be only those which were requested via

Board of Zoning Appeals  
12/14/23

the application provided, and that the applicant come into compliance with the remaining items, or request a separate variance to be heard at a future BZA meeting, once proper public notice has been provided.

Blake Hendrick recused himself from this agenda item.

Jamie Steele, Diamond Shores, was present to answer any questions.

Diane Davis and Sha-Ron Jones spoke during public input with concerns of traffic on Hemingway Street.

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

- B. Coastal Foods Inc. (Zaxby's), agent for TSJ LLC, property 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 **1623 Church Street** (PIN 338-10-03-0017)

Wilkerson stated that the Property Maintenance Inspector for the Building Department sent a letter to the property owner of the Zaxby's parcel on August 1<sup>st</sup> concerning the need for repair or removal of the damaged fence. The letter stated that ***"these conditions must be corrected by August 14, 2023. Failure to comply may result in the issuance of a court summons."***

On October 24, 2023, the Building Inspector noticed that the fence was being replaced without a permit and had the applicant contact this office for further information.

After speaking with Mr. George Thistle, I can definitely understand how he interpreted the letter from Property Maintenance Inspector as *"fix the fence.....period"*. Property Maintenance has since started adding to their letters the following statement to eliminate any confusion: ***"Please contact our office at (843) 488-9888 to verify Ordinances & Permitting Requirements."***

Per **Section 12.1-Nonconforming Uses** states: *"A nonconforming use, structure, or characteristic of use shall not be changed to any other nonconforming use, structure, or characteristic of use."* (ex. 6-ft privacy fence in the front yard)

Also, **Section 5.2.3-Fences & Walls** states: *"Commercial & Residential: Front Yards-shall not exceed 4-ft in height."*

This section further states: *"Wherever a fence or wall is installed, if one side of the fence or wall appears more "finished" than the other (i.e. one side has visible support framing and the other does not), then the more "finished" side of the fence shall face the perimeter or outside of the lot, rather than facing the interior of the lot."*

Mr. George Thistle has since applied for a Fence Permit (PB23-1206) and is applying for the following variances in order to leave the new fence as it was installed.

**Variations requested:**

**Section 5.2.3-Fences & Walls:**

- A 2-ft variance to allow a 6-ft fence in the front yard.
- A variance to allow the “finished” side of the new fence to face the interior of the lot.

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. If the Board chooses to grant the variances requested, staff recommend that it be only those which were requested via the application provided, and that the applicant come into compliance with the remaining items, or request a separate variance to be heard at a future BZA meeting, once proper public notice has been provided.

Ryan Harvey, agent for owners, was present to answer any questions.

George Thistle, was present and further explained the request.

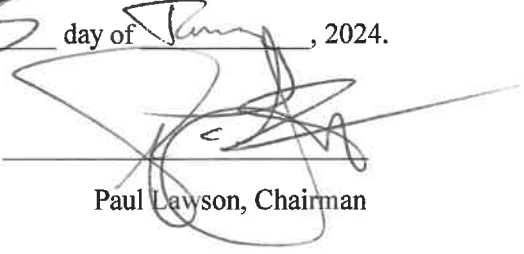
There was no public input.

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 6:11 p.m.

Approved and signed this 15 day of January, 2024.

  
Paul Lawson, Chairman