

**CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, SEPTEMBER 28, 2023
BUILDING & PLANNING DEPARTMENT
196 LAUREL STREET**

Present: Paul Lawson, Charles Byrd, Catherine Dingle, Sandra James, Lesley Hill, Blake Hendrick

Absent: Jay Sellers

Staff: Kym Wilkerson, Zoning Administrator; Vicki Stone, Zoning Officer; Anne Bessant, Planning Assistant; Charlie Crosby, IT

Others: Frank Smith, Johnathan Guiles, Joe Burch, Morris Richardson, Debbie Jenkins, Kent Hendrick, Susan John, Joe Heyd, Joshua Wall, Felice Semon, Bruno Semon, Dylan Andrew, & others

I. CALL TO ORDER

Chairman Lawson called the meeting to order at approximately 5:30 p.m.

II. APPROVAL OF MINUTES

Hill made a motion, seconded by Byrd to approve the August 24, 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. OLD BUSINESS

- A. *Previously Deferred...* 401 Main Street Realty LLC, property owner, requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), *Section 6.5.2-Gateway Corridor Overlay (GCO), Article 8-Off-Street Parking & Loading and Article 9-Landscaping & Buffering*, for the property located at **1311 Thirteenth Avenue.** (PIN 338-14-01-0027)

Wilkerson stated that the property, 1311 Thirteenth Ave is zoned Professional (P) and is located within the Gateway Corridor Overlay (GCO). The owner purchased the property in December of 2021 after the development of the property had been completed. Shortly thereafter, staff received reports of landscaping being removed that had been required per the City of Conway's Unified Development Ordinance. Upon inspection staff found that required landscaping beds and parking layouts had been altered.

The applicant has stated that there is not enough parking onsite to accommodate his lessees. The City of Conway's Unified Development Ordinance, Table 8.3-Parking Requirements for Professional & Business Offices requires a minimum of 1 space per 300 sq ft of gross floor area & a maximum of 1 space per 187.5 sq ft of gross floor area. At the time the plans were approved, May 1, 2020, the site met the minimum requirement of 24 parks. The maximum number of parks allowed for this site based on the UDO is 38 parks. The applicant is proposing 32 parks with the revised site plan.

Per Section 9.3.4 – Landscape Requirements for the Interior of Parking Areas, of the UDO:

- 9.3.4 (C): a maximum of 12 consecutive parking spaces in a row shall be permitted without a landscape island or peninsula.
- 9.3.4 (D): each end of each row of parking spaces shall 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.

Variations requested (per the revised site plan):

Section 9.3.4 - Landscape Requirements for the Interior of Parking Areas:

- A variance to allow more than 12 consecutive parking spaces in a row to be permitted without a landscape island or peninsula.
- A variance to allow the northern row of parking spaces to be adjacent an Access Lane instead of the required landscape island or perimeter landscaping.

The applicant cites the following reasons for which a variance should be granted: 1) We are unable to provide sufficient handicap standard parking space along with adequate access for dry pond, rear swale maintenance and rear emergency access due to existing landscaping restrictions in the City of Conway ordinance requirement for plantings within the interior parking. 2) Existing landscape islands hindered the location of an additional handicap parking central to the office buildings. Landscaping located on the end of the parking at Unit A was removed because of need to access the rear of the buildings for maintenance and emergencies. 3) We will be unable to meet the City of Conway's Landscape Buffer requirements or plantings within interior parking while still providing adequate handicap and standard parking space, pond maintenance, rear swale access for City maintenance and emergency access to the rear. 4) Because the adjacent property owners are sufficiently screened from our property due to existing bushes, canopy & understory trees, as well as additional landscaping along the property, we would not harm the adjacent

property, the character of the area or the public good. Letters from current tenants and neighbors in support of the changes have been provided. 5) The variance request is initiated because of a hardship and is 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. 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.

Bruno Semon, owner, was present and further explained the request.

There was no public input.

The board, staff, and owner discussed the request at length.

Lawson made a motion to grant the variance as request to allow more than 12 consecutive parking spaces in a row to be permitted without a landscape island or peninsula. Hill seconded the motion and the motion carried unanimously.

Lawson made a motion to grant the variance as request to allow the northern row of parking spaces to be adjacent an Access Lane instead of the required landscape island or perimeter landscaping. Dingle seconded the motion and the motion carried unanimously.

V. VARIANCE REQUESTS/PUBLIC INPUT

- A. Joe Burch, agent for Horry County Board of Education, property owner, requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), *Section 6.5.3-Village Corridor Overlay (VCO)* and *Article 11-Signage*, for the property located at **500 El Bethel Road**. (PIN 337-00-00-0014)

Wilkerson stated Whittemore Park Middle School is currently under construction on 39 acres off El Bethel Road. The parcel is zoned Institutional (IN) and is within the Village Corridor Overlay (VCO). The new facility will be approximately 155,000 square feet in size.

Horry County Schools is planning for a monument sign with an electronic message center similar to several of the schools throughout Horry County.

The City of Conway's Unified Development Ordinance defines Section 6.5.3-Village Corridor Overlay (VCO) as established to provide standards to promote compact, pedestrian-scale development with residential, neighborhood commercial, professional, and office uses. The overlay is established to provide unified development that promotes a sense of place and provides opportunities to develop projects engineered to be compatible with the carrying capacity of minor arterials and collector streets.

Per Section 6.5.3 – Village Corridor Overlay-Signs, of the UDO:

- 6.5.3 (K-3): Size. The maximum sign face area shall be twenty-four (24) square feet for a single-tenant.

- 6.5.3 (K-4): Height. The maximum sign height shall be eight (8) feet for a single-tenant.

Per Section 2.2.2 – Sign Related Definitions, of the UDO:

- **Sign Face:** The part of the sign that is or can be used to identify, advertise, communicate information or for visual representation which attracts the attention of the public for any purpose. Sign face includes any background material, panel, trim, color, and direct or self-illumination used that differentiates that sign from the building, structure, backdrop surface or object upon which or against which it is placed. The sign structure shall not be included as a portion of the sign face provided that no identifying/advertising message, symbol or any of the aforementioned sign face criteria are displayed on or designed as part of the sign structure, whether structurally necessary or not. In the case of signs designed with integral sign face and sign structure, the blank (support) area equivalent to a maximum of 50% of the allowable sign area shall be exempt from computations of sign area.
- **Sign Height:** The vertical distance measured from the lowest adjacent street crown grade to the top of the sign face or sign structure, whichever is greater.

Variations requested (per the site plan submitted): Section 6.5.3 – Village Corridor Overlay, of the UDO:

- 6.5.3 (K-3): An 83 square feet variance on the maximum sign face area requirement of 24 square feet in order to allow a 107 square feet sign face.
- 6.5.3 (K-4): A 1'1" variance on the maximum sign height requirement of 8 feet in order to allow for a 9'1" sign height.

The applicant cites the following reasons for which a variance should be granted: 1) HCS is replacing the current Whittemore Park Middle with a 155,000 SF facility on 39 acres on El Bethel Road. This school is designed for 1,200 students and will be a major hub for middle school students, parents and community members. HCS and the school need to advertise special events/parent-student notices/key dates and items of interest to the WPM and Conway community. A monument sign with an EMC that is large enough to communicate key information to the community is needed. 2) This is a public school and as such is a major community centerpiece of activity with the need to communicate to the public. 3) Because of the strict application of the Zoning Ordinance, we would be unable to provide a sign and message center that can effectively communicate important information. 4) Granting the variance will not harm adjacent property or the character of the area. It will enhance the public good by communicating information from HCS, the school and other information of interest to the Conway community in a timely way. On the west side of El Bethel Road, the majority of property from Crabtree Swamp to Hwy 378 is owned by HCS and McLeod Seacoast. Ultimately, the west side of El Bethel Road will be predominantly institutional use. HCS would abide by all lighting restrictions on the EMC to minimize any adverse light spill to any residential uses such as the subdivision on the other side of El Bethel Road. 5) The hardship is that we are a public institution and only want to provide effective signage and communication to the public.

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 variations 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.

Joe Burch, applicant, was present and further explained the request.

The board and applicant discussed the request in length.

There was no public input.

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

- B. Horry County Disabilities & Special Needs, property owner, requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), *Section 5.2.1-Accessory Structures*, for the property located at **250 Victory Lane**. (PIN 383-10-01-0023)**

Wilkerson stated that the property owner recently had a survey done of the parcel with the plan of constructing a greenhouse facility for use by individuals with disabilities and special needs. The Greenhouse Facility would include a central “head house” and two adjoining greenhouse wings. Additionally, the facility will include open planter beds and paver brick sidewalks.

The parcel is 2.68 acres located at the end of Victory Lane near Horry Georgetown Technical College and is zoned Institutional (IN). The parcel is also surrounded on three sides by ROW. Horry Georgetown Blvd on two sides and Victory Lane on an additional side.

There are existing Accessory Structures on the parcel; however, per Section 5.2.1 – Accessory Structures, of the UDO, 5.2.1 (B-4): Number. Shall be limited to three (3). Book exchange boxes shall not contribute to this number.

Exempting parcels zoned CP, FA, IN, LI and HI that are a minimum of one (1) acre in size, or parcels that contain education, medical, or public recreation facilities.

Per Section 5.2.1 – Accessory Structures, of the UDO:

- (B-1): Location. Shall be located in the rear yard and side yard only.

Variance requested (per the site plan submitted):

Section 5.2.1 – Accessory Structures, of the UDO:

- (B-1): A variance to allow an Accessory Structure (Greenhouse) to be located in one of three front yards.

The applicant cites the following reasons for which a variance should be granted: 1) The property is considered double front property and greatly limits use of additional land. 2) Most properties would not be considered double front properties and therefore, this makes the conditions particular to this piece of property. 3) The strict application of the Zoning Ordinance would restrict the organization’s use of approximately 20% of available land and reduce the opportunity of people with disabilities to find gainful employment. 4) The project would be in line with the current agriculture and landscaping activities of HGTC that is immediately adjacent to the land. 5) The availability of land and organizational requirements of the project would not allow for the project to be pursued outside of the current 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. 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.

Joe Heyd, agent for Horry County Disabilities & Special Needs, was present and further explained the request.

There was no public input.

The board discussed the request at length.

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

- C. Diamond Shores, agent for the property owner, Twin Terra Properties LLC, requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), *Section 5.2.3-Fences & Walls* and *Article 9-Landscaping & Buffering*, for the property located at **1909 Sessions Street**. (PIN 338-06-02-0037)

Wilkerson stated that he property owner purchased this property in 2021 and rezoned it from R1 (Low Density Residential) to HC (Highway Commercial). The property owner was made aware at that time, if the rezoning was approved, a site plan would be required in order to bring the site into compliance with the current Unified Development Ordinance (UDO). It was explained to the property owner that this would entail parking lot stripping, ADA spaces, landscaping and an irrigation plan. Staff also advised that all site improvements would need to be approved and implemented prior to a business license being approved at this location.

Diamond Shores is working on a site plan for the property owner to meet the current UDO requirements. At the rear of the building, the parcel is adjacent PIN# 33806020038 which is zoned R1.

Per Table 9.1-Required Landscaping Type and Table 9.2-Landscaping Rate Chart, of the UDO:

- Type B Landscape Buffer is required between R1 and HC zoning districts.
 - Type B Landscape Buffer is required to be 15-ft in width and include per 100-linear feet;
 - 2 canopy trees, 3 understory trees and 20 tall shrubs;
 - A wall/fence, a minimum of 5-ft in height may be used to reduce the landscaping by 5-ft in Type B and Type C Landscaping Buffer.

Based on where the existing building is located on the parcel, the landscape requirement cannot be met. The applicant is proposing a 5-ft Landscape Buffer with a 5-ft Privacy Fence along the adjacent property line at the rear of the building, adjacent the R1 zoned parcel. A 5-ft Landscape Buffer would be a Type A Landscape Buffer and include per 100-linear feet, 2 understory trees and 18 tall shrubs.

Per Section 5.2.3 – Fences and Walls, of the UDO,

5.2.3 (A): Commercial/Residential. a maximum height, measured from the natural grade at which the fence or wall occurs, does not exceed 4-ft in the Front Yard or 6-ft in the Corner Front Yard (provided it meets a 10-ft setback from the property line).

From the rear corner of the building closest to Fulmer Street, the 5-ft privacy fence running adjacent PIN# 33806020038 would have to drop to 4-ft or stay 10-ft off the property line at Fulmer Street, based on the UDO.

Variations requested:

Table 9.1-Required Landscaping Type, of the UDO:

- A variance from the required Type B Landscape Buffer between R1 and HC zoning districts.

Table 9.2-Landscaping Rate Chart, of the UDO:

- A variance to allow for a Type A Landscape Buffer and a 5-ft Privacy Fence instead of the required Type B Landscape Buffer.

Section 5.2.3-Fences & Walls, of the UDO:

- A variance to allow for a 5-ft Privacy Fence in the corner front yard, from the rear corner of the building to Fulmer Street, instead of meeting a 10-ft setback or dropping to 4-ft.

The applicant cites the following reasons for which a variance should be granted: 1) Per code, a 15-ft Landscape buffer is required along the rear of the building along the adjacent tract with PIN: 338-06-02-0038. There is little to no space to currently work with at this location as shown on the site plan. 2) The current property of the parcel we are seeking the variance for is the same property owner of the adjacent property (PIN: 338-06-02-0038) in which the landscape buffer would be required. 3) If the property owner chooses to develop the adjacent tract, a privacy fence would help provide a barrier between the adjacent lot and the rear of the building. 4) Granting the variance will not harm adjacent property or the character of the area. It will enhance the public good by communicating information from HCS, the school and other information of interest to the Conway community in a timely way. On the west side of El Bethel Road, the majority of property from Crabtree Swamp to Hwy 378 is owned by HCS and McLeod Seacoast. Ultimately, the west side of El Bethel Road will be predominantly institutional use. HCS would abide by all lighting restrictions on the EMC to minimize any adverse light spill to any residential uses such as the subdivision on the other side of El Bethel Road. 5) Granting of the variance will not harm the adjacent property. Same property owner and aesthetically it will provide privacy if the owner decides to develop that lot behind the building.

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.

Catherine Dingle and Blake Hendrick recused themselves from this agenda item.

Dylan Andrew, agent for applicant was present to answer any questions.

The board discussed the request at length.

Kent Hendrick and Morris Richardson spoke during public input.

Byrd made a motion to approve the variances as requested. Hill seconded the motion and the motion carried unanimously.

- D.** Johnathan Guiles, property owner, requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), *Section 5.1.7-Day Care Facilities*, for the property located at **1931 Fulmer Street**. (PIN 338-06-02-0042)

Wilkerson stated the property owner purchased this property in May of this year after a successful rezoning from R1 (Low Density Residential) to P (Professional) in order to convert the existing church into a daycare facility. The property owner was made aware at that time, if the rezoning was approved, a site plan would be required in order to bring the site into compliance with the current Unified Development Ordinance (UDO).

Child Day Care Facility is a “Conditional” use the Professional zoning district and must also meet all requirements of Section 5.1.7 of the UDO. (attached)

This parcel is surrounded on three sides by ROW (Kenneth Street, Sessions Street and Fulmer Street) so it does not have a rear yard.

Per Section 5.1.7-Day Care Facilities:

- (B-2) Child Day Care Facility - Fencing: A fenced area of not less than 1,500 square feet shall be provided and shall be located in the rear yard. No fence shall be less than four (4) feet in height or greater than seven (7) feet.

Based on the parcel being surrounded on three sides by ROW, the applicant is proposing to put the fenced area against the only “side yard” closest to Fulmer Street.

Variance requested:

Section 5.1.7-Day Care Facilities (B2) Child Day Care Facility, of the UDO:

- A variance to allow the fenced area of the day care facility to be in the side yard and front yard (and not the rear yard) since the parcel has three fronts.

The applicant cites the following reasons for which a variance should be granted: 1) 1931 Fulmer Street is cornered by 3 streets thus creating an issue in determining where the rear of the property is. 2) Section 5.1.7 states that a fenced in playground area must be at the rear of the property. 3) Day care facilities are required to have a fenced in area. 4) The adjacent property already has a fence around the property and our property already had public hearings on the property to be used as a day care. 5) Hardship request, yes.

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.

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

The board, applicant, and owner discussed the request at length.

Morris Richardson spoke during public input.

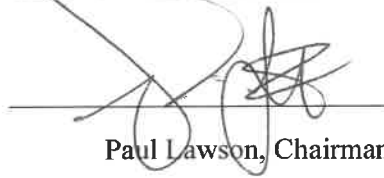
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Lawson made a motion to grant the variance as requested. Dingle seconded the motion and the motion carried unanimously.

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 6:06p.m.

Approved and signed this 26 day of October, 2023.


Paul Lawson, Chairman