

CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, MARCH 25, 2021
PUBLIC SAFETY FACILITY, 1600 NINTH AVENUE

Present: Paul Lawson, James Shelley, Sandra James, Jay Sellers
Absent: Charles Byrd, Catherine Dingle, Lesley Hill
Staff: Kym Wilkerson, Zoning Administrator; Alicia Shelley, Planning Assistant
Others: Gary & Patty Schroeder, Melissa Nordstrom, Lynda Hanley

I. CALL TO ORDER

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

II. APPROVAL OF JANUARY 28, 2021 MINUTES

Lawson made a motion, seconded by Sellers to approve the January 28, 2021 minutes as written. The vote in favor was unanimous and the motion carried.

III. CRITERIA

Lawson read the following four criteria required to be met in order for the Board to grant a variance:

1. *Extraordinary conditions:* There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. *Other Property:* The extraordinary and exceptional conditions do not generally apply to other property in the vicinity;
3. *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;
4. *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.

Lawson swore in the applicants and staff.

IV. VARIANCE REQUESTS

- A. **Kathy Marcus, owner of Jonas Marc Studio, requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), Article 12, Section 12.1.2 (D) General Provisions-Re-establishment, for the property located at 1002 Thirteenth Avenue (PIN: 338-12-04-0027).**

Wilkerson stated that the parcel is zoned Professional (P) and is within the Upper Main Street Overlay district (MSO). The existing structure is two stories. Historically, the structure has always been a residence on the top floor and a salon on the bottom floor. Madge's Beauty Shop maintained a City of Conway business license at this address from pre 2009 to 2016. Jonas Marc Style Studio then obtained a business license from 2016 to 2019. There is currently not an active business license at this location. Per Article 4, Section 4.2 Use Tables of the UDO, Hair or Nail Salon is an approved use for the zoning district; however, the site is "non-conforming". Vacancy and non-use of the structure as a salon as well as a lapse in the business license in excess of one hundred eighty (180) days constitutes discontinuance and requires the entire site come fully into conformance with all of the provisions of the current City of Conway's Unified Development Ordinance. The applicant is requesting a variance from Section 12.1.2 (d) Re-establishment requirement of the Unified Development Ordinance to allow a salon to continue to occupy the bottom floor of the existing structure without having to bring the entire site into compliance. Per Section 12.1.2 (a) "nonconforming use, structure, or characteristic of use shall not be changed to any other nonconforming use, structure, or characteristic of use." Therefore, the variance would only allow a salon to continue at this location. Any other commercial use allowed in the zoning district must meet the requirements of the Unified Development Ordinance for a commercial site. *The applicant cites the following reasons for which a variance should be granted: (1) The site has always been used as a salon. (2) It would be very difficult to meet the requirements of the UDO for a commercial site. (3) The applicant was unaware that the site is non-conforming & that the business license had to stay active.*

Wilkerson said that the variance requested is a waiver of the 180-day active business license requirement for a legal non-conforming site.

Wilkerson stated that a letter in opposition was submitted and a copy was at the boards seat.

Melissa Nordstrom, agent further explained the request to turn the business back into a salon and stated that she had spoken to other businesses in the area and received support

from 4 other business owners and had also talked to the State Farm agency and her only concern was parking.

There was no public input.

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

B. Gary Schroeder, owner, requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), Article 6, Section 6.2, Table 6.1, Dimensional Requirements for Residential Zoning Districts, for the property located at 3162 Holly Loop (PIN: 369-05-03-0054).

Wilkerson stated that the homeowners at 3162 Holly Loop hired a contractor to build a roof over their existing patio with the understanding that all required permits had been obtained. Once a second contractor had to be hired, the homeowners were made aware that the original contractor went 18-inches over the side setback requirement for the zoning district. The parcel is zoned R-1 (Low/Medium Density Residential) and must meet the setback requirements of Table 6.1 which are 20-ft front, 20-ft rear and 10-ft side. Trademark Home Exteriors has since applied for a permit. The applicant is requesting an 18-inch variance from the side setback requirement and cites the following reasons for which a variance should be granted: (1) The first contractor failed to get permits & built the roof 18-inches beyond the setback. (2) Without a variance, the structure & cement would have to be removed. (3) The roof is behind a privacy fence and not visible to the neighbors. (4) For medical reasons, a hot tub has been installed & will have to be moved if the variance is not granted.

Wilkerson said that the required side setback is 10' and the requested side setback is 8.6."

Gary Schroeder, applicant further explained the requested, presented the board with pictures and contracts. He stated that he spoke to several adjacent property owners and no one had objections.

There was no public input.

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

V. ADJOURN

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 5:47 p.m.

Approved and signed this 22 day of April, 2021.



Paul Lawson, Chairman