CALL TO ORDER
Chairman Dannelly called the meeting to order at 5:32 p.m.

APPROVAL OF JULY 26, 2018 MINUTES
Inabinet made a motion, seconded by Ulrich, to approve the July 26, 2018 minutes as written. The vote in favor was unanimous. The motion carried.

VARIANCE REQUESTS
Hucks read the four criteria required to be met in order for the Board to grant a variance. They are:

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.

A. 708 Elm Street: The applicants, Joe & Nancy Burroughs, request a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), from Article 5, Section 5.2.3 (A) – Fences and Walls, regarding fence / wall height requirements in a residential zoning district for property located at 708 Elm Street (TMS: 137-02-16-013 / PIN: 33813010014).
Hucks said the applicants currently had a wooden fence along their rear property line that was 35 years old and beginning to deteriorate. She said because of the slope of their land and the height of the rear deck, the fence ranged from 7.5' to 10' in some places. Hucks said the applicant wished to replace the current wood fence with a brick wall at the same height.

Burroughs said the land sloped and in order for him to have privacy, the wall needed to be 10' in some places. Hucks said there had been some calls, but none that were opposed to the wall height. McIntyre, who lives directly behind the Burroughs, said he had no issues with the height of the wall as it would also give him privacy.

Ulrich made a motion, seconded by Dingle, to grant the request as it met all the required criteria. The vote in favor was unanimous. The motion carried.

B. 2635 Main Street (Sam’s Southern Eatery): The applicant, Michael Kalez, requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), from Article 11, Sections 11.1.5 – Obsolete and Abandoned Signs, 11.1.8 – Illumination, 11.2.2 – Prohibited Signs, and Article 12, Section 12.1.6 – Nonconforming Signs, regarding a nonconforming sign structure on property located at 2635 Main Street (TMS: 123-02-01-009 / PIN: 32513010014).

Hucks said the applicant would like to use the existing pole sign on the property. She said the pole sign had been there since the building was constructed, but because the business had been closed for over 60 days, the sign pole would have to be removed per the UDO. Pole signs are prohibited by the current UDO. There has not been a tenant in the building for a period of exceeding six months. Because of this lapse in time, the sign structure was not being used and all signage must now conform to the current ordinance.

Hucks said in addition, the applicant seeks a variance on the illumination requirements for internally illuminated signs. Staff’s interpretation of the UDO is that freestanding sign structures may only be externally lit.

Hucks said all cabinet signs must have a dark background with light lettering. The previous tenant had a sign that was not permitted having a light background and dark lettering. The applicant, if permitted to keep the pole sign, would like to have a light background and dark lettering.

The applicant was not present. Hucks said his proposal was verbal and had not submitted any rendering of the cabinet sign.

Inabinet made a motion, seconded by Dingle, to defer the item until the applicant submitted a rendering of the proposed sign cabinet.

Hucks said that staff supported the ordinance. Ulrich asked if they could agree that the sign was not obsolete. Dannelly asked if they could break apart the request. Hucks responded that they could.

Inabinet withdrew his motion to defer.
Inabinet made a motion, seconded by Ulrich, to grant the variance to permit the pole structure to remain. Ulrich, Dingle and Inabinet voted in favor. Dannely was opposed. The motion carried.

C. 210 Lakeland Drive: The applicant, Karen Foxworth, requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), from Article 6, Section 6.1.9 – Side Yard Setbacks for Corner Lots and 6.2 – Residential Building Types and Design Standards, Table 6.1: Dimensional Requirements, regarding a proposed addition on property located at 210 Lakeland Drive (TMS: 123-14-46-008 / PIN: 33909010013).

Hucks said the applicant was requesting a variance from corner front yard setbacks in order to construct a carport. Hucks said the applicant states the home is an older two-story home built in the 1940’s, with a flat roof covered arbor which extends 11.6 feet from the house and is not an adequate length for cars to be parked under. The proposed carport would be 2 ft. from the property line adjacent to Snowhill Drive. Hucks said the applicant wanted to remove the existing wood arbor and replace with a new roof to match the existing roofline and extend out an additional 10 ft., which would create a carport large enough for two vehicles.

Dannely asked if the carport would be attached or detached. Hucks said it would be attached. Hucks said the arbor was already in the setback area.

Hucks said there had been some calls, but none were in opposition. Dannely said it would look better, but it still had to meet the requirements of the UDO. Davis asked what the setback would be for a side yard setback if it was not a corner. Hucks said it would be 10 ft.

Inabinet made a motion, seconded by Dingle, to grant the variance as it had been presented. The vote in favor was unanimous. The motion carried.

At this time Dingle left the meeting.

D. 1501 Second Ave: The applicant, Timothy Harrelson, requests a “use” variance per Section 14.2.1 – Duties and Powers (C) of the City of Conway Unified Development Ordinance (UDO), as well as variances from Article 5, Section 5.1.8 – Open Air Storage, Article 8, Sections 8.2.5 (A) – Typical Paving Surfaces and 8.2.12 – Parking Requirements for Specific Uses, Table 8.3: Parking Requirements and Article 9, Section 9.2.1 – Landscaping Requirements, for a proposed service station located at 1501 Second Ave (TMS: 137-06-05-014 / PIN: 36804040061).

Hucks said that a use variance was different than the usual variances that came before the Board. Hucks said that a use variance must be documented that the use for which the applicant is requesting was a past use of the property.
Hucks said the property at one time housed L&M Garage, but had been vacant for several years. The applicant wished to reopen the building for the same use, however, the zoning of the property did not permit auto-related uses. Hucks said the previous establishment was considered a legal nonconforming use and could have continued to operate as such, but once the business closed for a period exceeding 180 days, the property lost its nonconforming status.

Hucks said any future use would have to be a permitted use for the zoning district and the site would have to be brought up to current standards. Hucks said the proper zoning district for auto-related uses was Highway Commercial, but that this property could not be rezoned to Highway Commercial because it would be considered spot-zoning, which is not permitted per the UDO.

Hucks said the applicant had recently combined the two parcels for which the use is proposed as staff required. Previously the structure had been on one parcel and the parking on the other. She said the applicant was also seeking variances regarding the City’s parking regulations, landscaping requirements, and outdoor storage/open air storage requirements in the event they have vehicles temporarily stored onsite awaiting customer pick-up.

Hucks said open air storage was required to be located on the side and/or rear yard of a permitted use. Also required is that the portion of the premises used for open storage must be shielded from public view. She said the side and rear of this property were not adequate for any storage. She said only vehicles serviced by the establishment that were awaiting customer pick-up would be considered as storage.

Hucks said the UDO requires that all onsite and off-site parking area be a dust-free, all weather material. The paving surfaces shall have parking stalls, loading and unloading zones, fire lanes and any other applicable designations delineated in white or yellow paint. She said the currently surface was not dust-free and appeared to be crushed asphalt or coquina, neither of which met the City’s requirements. Hucks said the applicant was willing to pave an area where the parking spaces would be installed, but wanted to leave the rest of the lot as it is.

Furthermore, the UDO requires two parking spaces per service bay. There are 5 bays at this building, which require 10 parking spaces in total. The applicant had not given staff a number of parking spaces they were willing to install. She said staff recommended that if the Board considered granted the requested variance, in addition to the require van accessible handicap space, at least some of the required parking to be installed.

Hucks said the landscaping that would be required was a Type A buffer, which would be 5’ in width and required two canopy trees and 18 shrubs per 100 linear feet. Hucks said staff recognized that landscaping is not possible in some areas,
particularly behind the building. She said the applicants wanted to have the existing landscaping be used to satisfy the buffer requirements.

Jeffrey Harrelson, the applicant’s brother, was present. He said the business closed because they were taking care of their father. He said they had continued to keep the water and electric on, and had paid all the taxes. He said the parking lot surface was slag and it would be expensive to bring it up to City standards. He said they would put a handicap parking space at the front entrance, and that they could spruce up the landscaping by putting flowers/shrubs around the building and at the corner of Second Avenue and Powell Street. He said he thought this was a convenient location for people in the downtown area.

Hucks said City Council was aware of the request as it had been heard at a City Council workshop.

Dannelly asked if they were willing to pave the parking lot. Hucks said they had to have the ADA space. She said if the Board approved the use variance, the site had to be brought up to City standards unless the Board granted those variances as well.

Dannelly asked if there was anyone present who was in opposition. No one was. He asked staff if there had been any phone calls. Hucks said there had been one, but it was not in opposition.

There was discussion about where vehicles would be parked overnight. Harrelson said they could be parked in the bays. Dannelly said the City wanted businesses to thrive and asked how many vehicles they would have to service to be profitable. Harrelson said he had no idea. He said it would be a constant turn over every day. He said they would not be servicing large trucks such as dump trucks.

Inabnit asked if the variance went with the land or the owner. Hucks said it went with the land, but would only apply to being a service station.

There was discussion about the type of surface should be used with one thought that gravel would allow the water to sink in rather than run off. Dannelly suggested a pervious pavement material. Hucks said they could not require a certain type of asphalt.

Inabnit made a motion, seconded by Ulrich, to approve the use variance with the conditions as follows:

1) Approve open air storage variance so long as it complied with the City’s requirements for open air storage.
2) Approve paving surface variance, whether using asphalt, concrete, preferably a pervious material, for the ADA and 4 other parking spaces.
3) Approve parking variance to include the ADA required space and 4 other delineated parking spaces.
4) Approve landscaping to be around the building and at the corner of Second Avenue and Powell Street.
Board of Zoning Appeals
August 23, 2018

The vote in favor was unanimous. The motion carried.

IV. PUBLIC INPUT

None.

V. BOARD INPUT

None.

VI. STAFF INPUT

None.

VII. ADJOURN

There being no further business to come before the Board, Inabnit made a motion, seconded by Ulrich, to adjourn the meeting. The vote in favor was unanimous. The motion carried.

Approved and signed this 11th day of November, 2018.

Travis Dannelly, Chairman