CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, NOVEMBER 16, 2017
CITY HALL CONFERENCE ROOM – 229 MAIN STREET – 5:30 P.M.

Present:  Travis Dannelly, James Shelley, Alex Hyman, Georgia Johnson, Matt Staub
Absent:  Blake Hewitt, Bryon David
Staff:  Jessica Hucks, Zoning Officer; Barbara Tessier, Secretary
Others:  Sims Gasque, Pratt Gasque, Sara Ropp, Kathy Ropp, Jimmy Jordan, Rein Mungo, Chris Wright, Champak Patel, Brantley Green, Marta DeMay, Ross DeMay, Gerry Wallace, Brenda Ivester, J. Ralph Byington

I. CALL TO ORDER

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

II. APPROVAL OF OCTOBER 26, 2017 MINUTES

Hyman made a motion, seconded by Shelley, to approve the October 26, 2017 minutes as written. The vote in favor was unanimous. The motion carried.

Danelly spoke to the people assembled. He asked that everyone who was attending the meeting from the public be sure to sign in before leaving. He said that there would be public input for each agenda item, and that if anyone chose to speak, he asked that they stay on point and make their comments as streamlined as possible.

III. VARIANCE REQUESTS

A. Brenda Ivester, applicant, requests a variance from the strict application of the Unified Development Ordinance from Section 8.2.1 General Design Standards and Section 8.2.12 Parking Requirements for Specific Uses, Table 8.3: Parking Requirements for property located at 1705 Park View Rd (TMS: 123-09-04-011 | PIN: 33806030017).

Hucks began by reading the criteria that must be met to grant a variance.

Hucks said Ivester had been making improvements to the building and before leasing the unit to a proposed restaurant tenant, she requested a site visit by Planning Dept. staff to see what improvements might be required before a new business could open at that location since it had been vacant for several years. Staff noted at the time the parking was
limited in the front due to cars not permitted to back out onto public streets.

Hucks said there were existing parking spaces along the side of the building, but because the proposed tenant is a restaurant and the building has been vacant for so long, more parking spaces were now required than can be accommodated on the lot. Existing parking will not meet the current ordinance regarding parking requirements, and given the fact two sides of the lot front a "public" street and our parking ordinance requires off-street parking be designed so that vehicles may exit such areas without having to back out onto a public street, the existing parking spaces no longer conform to our requirements. Eighteenth Ave is considered a public street and is included as part of this parcel on the most recent survey for the property, not separated or parcelled out as a city roadway/ROW. Given this discovery, there is no location on the existing paved areas around the building where additional parking could be installed unless a variance is granted from our parking design standards so that the vehicles were permitted to back out onto Eighteenth Ave.

Hucks said Ivester stated on her application that the road (18th Ave) is part of her property and not platted separately and a dead end street. It's currently not being used at this time to access any parcels other than this one, but may at some point in the future, should the parcels behind Ms. Ivester’s be developed. She states that the city has not diligently maintained the road and that parts of it toward the back were overgrown. Staff could not be sure that such conditions existed on other parcels in the city limits of Conway; however, city roads are typically dedicated to the city and platted separately and not as part of an individual property owner’s parcel. If the parcels behind Ms. Ivester's were developed, those parcels have access to Eighteenth Ave as their only means of ingress/egress, although it would need to be extended down to the parcels that utilize it.

Hyman asked if the easement had been filed. Hucks stated it had been. Shelley asked if Parkview was a one-way street, and Hucks said that it was. Hyman asked about parking in the rear. Hucks said the rear could accommodate overflow parking however, it would not meet the minimum requirements for onsite parking, especially with regard to handicap accessible (ADA) parking, which requires those parking spaces to be closest to the entrance of the building.

Hyman asked if there had been any input from the public. Hucks said that staff received one letter in opposition as well as a call from an adjacent property owner who was against more parking and had concerns with the noise that would emanate from a restaurant. Hucks said that a restaurant was a permitted use in the Neighborhood Commercial (NC) zoning district and the use was not the issue before them.
Hucks said Parkview Road was a very busy road. She said staff would prefer to keep the parking along the side because at least if the cars backed out, they would not run into any traffic.

Ivester said she had done several renovations to this building and after it wasn’t until after she wanted to lease the building that she found out about the issues. She said she would like the customers to be able to park on the side and back out onto Eighteenth Ave. She also requested that she be permitted to install at least one (1) handicap accessible parking space in front of the building, on the Parkview Rd side.

Hucks said that because it was going to be a restaurant, the UDO required that there be one parking space per 125 sq. ft. of gross floor space, which for this structure would be 1,600 sq. ft. and it would require 13 parking spaces. Hucks said the location could only accommodate 6-7 parking spaces. Hyman asked about the adjacent parking lot she owned. Hucks said Ivester was leasing out the adjacent property to someone else. Although the UDO allowed joint parking agreements, it could only count for 25% of the total parking required. The adjacent lot was already limited in parking as it was, so using those parks could create an issue for that business and it would still leave this parcel short.

Hyman asked if she kept the parking on the Eighteenth Avenue side and allowed customers to also park behind the building, if there would be enough parking. Hucks said that would be permitted, but could not count towards the number of required parks, which had to be installed with striping and meet ADA requirements.

**Hyman made a motion, seconded by Johnson, to approve the requested variance** based on there being extraordinary circumstances to the property that were unique to this property, that it would not be detrimental to the adjacent property or the public good and the character of the district will not be harmed by granting a variance. **The vote in favor was unanimous. The motion carried.**

B. Green Design & Consultants, Inc., applicant on behalf of Ross and Mart DeMay, request a variance from the strict application of the Unified Development Ordinance, Section 6.2., Table 6.1 Dimensional Requirements for Residential Districts for property located at 507 Ninth Ave (TMS: 123-14-35-004 | PIN: 33812030064).

*Hyman recused himself at this time, as he had once owned said home.*

Hucks said the applicant was requesting a variance from the side and rear setback requirements for a proposed carport and shed addition.

Hucks said the carport measures 29' x 26' (754 sq. ft.) and will have an attached 10' x 20' (200 sq. ft.) shed onto the rear. The applicant states the carport would
be open on all sides except where the shed is attached. The shed will match the existing siding on the house to keep a uniform look. Because the structure(s) will be attached to the home rather than detached, as well as be located in what’s considered the “side” yard, the setbacks for the zoning district apply rather than accessory structure setbacks. The setbacks in R-1 zoning district are 20-ft in the front, 10-ft on each side and 20-ft in the rear. While the existing home does not meet the setback requirements, it is pre-existing and considered legal nonconforming. Any new additions would be subject to the setback requirements, thus the variance request.

Hucks said staff had received two letters of support.

Mr. Pratt Gasque was present and he wished to speak against the proposed variance. He said they had lived in the house behind the DeMay’s for 30 years. He said they had a porch that faced the carport/shed on DeMay’s property. He said they spent a great deal of time on the porch. He said the proposed variance would permit the new structure to be 4’ from his property line.

Mr. Gasque said he thought the owners should put the structure on the other side of their yard. Dannelly said it was up to the property owner where to put it. Gasque said it had to be based on a hardship and there was no hardship since it could be put elsewhere. Gasque said he personally had to move his house to put up his carport. He also said that the DeMay’s had made a good deal of noise with a saw.

Ms. Sims Gasque said there would be drainage issues if the variance was approved. She said paving a driveway would cause more issues. She said the people who sent letters of approval would not be affected by the variance.

Brantley Green, the contractor and applicant, said they looked at the other side of the yard, but there was a substantial Oak tree there, and that they would have to pave over its roots. Green said the City arborist did not want them to do that.

Green said that there had been a drainage issue, but that the city had cleaned out the ditch. He said when they did that, they found crushed pipes that have been replaced. Green said there was a catch basin in the rear, which he hoped they could discharge to.

Green said initially they planned on enclosing the carport, decided not to so that it would not obstruct the view. He said the roof pitch of the structure would have a minimized roof line.

DeMay spoke. He said he needed something to keep his cars covered. He said he was a ship captain and was not at home that much. He said
there would be a fence with plants growing on it, which would be great
noise blocker and a sight barrier.

Sara Ropp, a member of the public, asked if what they wanted to do was
legal. Dannelly explained that was why they were having the hearing.

Green said the Gasque’s had a beautiful home. Green said his firm had
been the designer/contractor on three projects that had won a
Quattlebaum Award, and he too did quality work.

Shelley said it intruded too much into the setbacks, and he made a motion
to deny. Motion failed for lack of a second.

Hucks said it was staff’s position to enforce the ordinance, as written, thus
the reason for the applicant to seek relief from this board. However, she
wanted to make those who were present aware that should the variance
be denied, the applicants could request a permit to construct a “detached”
structure that would then be considered an accessory structure and only
be required to meet a 5-ft setback from property lines and a minimum
separation of 5-ft from all other structures. The reason a variance is
needed for the current request is that the applicant is seeking to attach the
addition to their home, which makes it an addition instead.

DeMay asked if he could amend his request to have a 5-ft setback in the
rear instead and leave it attached.

**Staub made a motion, seconded by Johnson, to grant a 5-ft rear
setback** for an attached structure on the grounds that they could have a
5-ft rear yard setback with if the structure were detached, and a 3-ft side
yard setback. **Staub, Johnson, and Dannelly voted in favor, Hyman
recused and Shelley voted nay. The motion carried.**

C. Coastal Carolina University, applicant, requests a variance from the strict
application of the Unified Development Ordinance, Section 11.3.1 Sign
Regulations by Zoning District- Table 11.1 – Sign Standards by District,
and Off-Premises Signs for a proposed monument sign on University
Blvd., adjacent to the roundabout (TMS: 151-00-01-099 | PIN:
38300000375).

*Dannelly recused himself as he is a member of the HCHEC and CCU Alumni
Assoc. Board.*

Hucks said the university would like to install a monument sign on a parcel
adjacent to the roundabout on University Blvd, which currently contains a large
parking lot for the university.

The property is zoned Institutional (IN). The university is comprised of several
parcels verses only one, however the ordinance for signage does not allow but
two (2) signs per tenant space and a max sign area of 200 sq. ft., and does not take parcel lines into account with regard to sign area and the number of signs allowed. There are a number of signs installed throughout the campus for various buildings and uses (i.e. golf course, HTC building, etc.) as well as a large monument-style sign with digital display that identifies the university on Hwy 501, all of which is considered legal nonconforming. However, the 200 sq. ft. limit has already been exceeded as well as the number of signs permitted, thus requiring a variance.

She said staff was also unable to approve the request for signage as submitted because the principal use, or “tenant,” is not located on the same parcel for which the sign is proposed to be installed. Per Section 11.4.14 – Billboards and Off-Premises Signs (A), “all billboards and off-premises signs are prohibited, and no permit shall be granted for construction of any billboard or off-premise sign.” Because the parcel for which the sign is proposed does not have a principal use, the sign would be considered an off-premises sign and is not permitted under the current ordinance. While the property does contain a standalone parking lot, parking lots by themselves are not permitted uses in the IN zoning district and is considered legal nonconforming.

Finally, the applicant is requesting a variance on the height and sign area limitations for monument signs in the IN zoning district. Per Section 11.4.6 – Monument Signs (2), the max height for monument signs is 8-ft and the max sign area allowed is 40 square feet for a single tenant.

Shelley made a motion, seconded by Hyman, to approve the requests as submitted based on there being extraordinary circumstances to the property that were unique to this property, that it would not be detrimental to the adjacent property or the public good, and the character of the district will not be harmed by granting a variance. The vote in favor was unanimous with Dannelly having recused himself. The motion carried.

D. Mozingo & Wallace, applicants on behalf of Dirk Derrick, request a variance from the strict application of the Unified Development Ordinance, Section 9.3.4 (C) Landscape Requirements for Interior Parking Areas for a property located at 1002 Ninth Ave (TMS: 123-14-06-004 | PIN: 33813010036).

Hucks said Section 9.3.4 (c) of the UDO states “a maximum of 12 consecutive parking spaces in a row shall be permitted without a landscape island or peninsula.” The applicant would instead like to place 14 parking spaces (maximum) between required landscape islands instead of the maximum number of 12.

The applicant states the following reasons for which a variance should be granted:
1. The property is zoned Professional (P), which is adjacent to R-1 (Low-Density Residential) zoned property on two sides. As such, a 15-ft landscape buffer is required along those two sides, limiting the amount of space allowed for parking, particularly when parking is not allowed in front of the building as well.

2. This particular piece of property sits by itself on a street corner, as a singular piece of P zoned property. Even if parking is allowed at the front of the property, it will require extensive site work, due to the steep slope and retaining wall along Main St.

3. The application of the ordinance would unreasonably restrict the property in that it would cause a reduction in parking spaces from 27 to 25, which would put the applicant under the amount of parking that is required for the development.

4. The reduction of two (2) spaces allows the remainder of the parking to stay within the landscape buffer requirements. The landscape buffers on the interior lot lines will provide plenty of cover for the parking area.

5. The granting of the variance will not increase profitability of the property. The number of plantings involved will remain relatively the same.

Hucks said all sides of the property adjacent to streets would have 8’ landscape buffers and a 15’ landscape buffer in the rear. Hucks said the landscape islands usually contained 5 shrubs and a canopy tree.

Shelley made a motion, seconded by Hyman, to approve the requests as submitted based on there being extraordinary circumstances to the property that were unique to this property, that it would not be detrimental to the adjacent property or the public good, and the character of the district will not be harmed by granting a variance. The vote in favor was unanimous. The motion carried.

E. Champak Patel, applicant, requests a variance from the strict application of the Unified Development Ordinance, Section 6.5.2 Gateway Corridor Overlay (GCO) & Section 11.4.7 Freestanding Post Signs, for property located at 1240 Pine Street (TMS: 123-13-04-016 | PIN: 33811040026).

The applicant is seeking to use an existing freestanding sign structure to install a new sign panel for “Conway Express Inn.” The existing sign structure is 25-ft in height.

The Gateway Corridor Overlay (GCO), Section 6.5.2 (L.4, b), states that the maximum height for freestanding post signs is 16-ft for a single tenant. Section 11.4.7 (B.3), Size, also limits freestanding post sign height to 16-ft for a single tenant.

The previous sign face (tenant panels) was for “Express Inn” was removed sometime between October 2014 and November 2015. The applicant would like to use the existing 25-ft sign structure to install a new sign face, which will say “Conway Express Inn” and with an approximate sign area of 40 sq. ft.
Section 11.1.5 – Obsolete and Abandoned Signs (a), states “any sign which advertises or pertains to a business, product, service, activity or purpose which is no longer conducted, that has not been in use for 60 days or longer which is no longer imminent or any sign structure that no longer displays any sign copy, shall be deemed to be an obsolete or abandoned sign.”

Further, Section 11.1.5 (b) states that “when any sign is relocated, made inoperative, or removed for any reason, except for maintenance, all structural components including the sign face and sign structure, shall be removed or relocated with the sign. All structural components of all other signs, including painted wall signs, shall be removed back to the original building configuration.”

Variance(s) requested:

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<tr>
<th>UDO Section:</th>
<th>Requirement:</th>
<th>Proposed:</th>
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<tr>
<td>Section 6.5.2 (L), 4.b</td>
<td>Max sign height permitted: 16-ft</td>
<td>25-ft (+9’)</td>
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Section 11.4.7 (B), 3 reverts back to sign standards in Section 6.5.2 (L) for properties located in the GCO

The applicant cites the following determination for seeking a variance:

1. The applicant feels his motel should be grandfathered and be allowed to use his existing 25-ft freestanding post sign to install the new sign face.

   Jimmy Jordan was present to assist Mr. Patel with the hearing. Jordan said the sign was 25’ in height because of an SCDOT right-of-way issue. Jordan said Mr. Patel parted ways with Days Inn and they removed the sign. He said Patel was not aware of the sign regulations.

   Patel and Jordan explained that the new sign would only be 21’ in height because the new sign panel would not sit on top of the poles (unlike the Days Inn sign panel); but that the top of the sign would be flush with the top of the poles. Hucks said the entire height of the sign should only be 16’.

Staub made a motion, seconded by Hyman, to approve the top of the sign panel flush with the poles. The vote in favor was unanimous. The motion carried.

Hucks said the sign would not be internally illuminated, but Patel said it was. Hucks said that made a difference because the ordinance permitted freestanding signs to only be “externally” illuminated, not internally illuminated. She said the illumination requirements were not part of the original variance request, but that the language in the advertisement was vague enough and the proper sections of the UDO were advertised.
Staub amended his motion, seconded by Hyman, to approve the top of the sign panel flush with the poles, and to approve it to be internally illuminated because it had been previously. The vote in favor was unanimous. The motion carried.

IV. PUBLIC INPUT

There was none.

V. ADJOURN

Before the meeting adjourned, Hucks asked the Board to review and approve the 2018 Board of Zoning Appeals meeting dates. They did so and Hyman made a motion, seconded by Staub, to adjourn the meeting. The vote in favor was unanimous. The motion carried.

The meeting adjourned at 6:40 p.m.

Approved and signed this 14th day of December, 2017.

[Signature]

Travis Dannelly, Chairman