CITY OF CONWAY
BOARD OF ZONING APPEALS SPECIAL MEETING
THURSDAY, JANUARY 24, 2019
CITY HALL COUNCIL CHAMBERS – 229 MAIN STREET – 5:30 P.M.

Present: Travis Dannelly, James Shelley, Davis Inabnit, George Ulrich
Absent: Charles Byrd, Catherine Dingle, Blake Hewitt
Staff: Jessica Hucks, Zoning Administrator; Alicia Shelley, Secretary
Others: Jeff Dunn, David Nye, Kenisha Moore, Alex Perryman, Gloria Wilson

I. CALL TO ORDER

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

II. ELECTION OF OFFICERS

Shelley and Dannelly nominated Inabnit as Chairman. Inabnit nominated Ulrich as Chairman. Nominations were closed. Shelley made a motion, seconded by Ulrich, to elect Inabnit as Chairman. The vote in favor was unanimous. The motion carried.

Shelley made a motion, which was seconded, to elect Byrd as Vice Chairman. The vote in favor was unanimous. The motion carried.

III. APPROVAL OF DECEMBER 13, 2018 MINUTES

Ulrich made a motion, seconded by Shelley, to approve the December 13, 2018 minutes as written. The vote in favor was unanimous. The motion carried.

IV. CRITERIA

Dannelly 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.

V. **VARIANCE REQUESTS**

**A. Previously Deferred: 902 Buck Street**: The applicant, Gloria Wilson, requested a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), from Article 8, Sections 8.2 – Design Standards, 8.2.3 – Handicapped Accessible Parking Requirements and 8.2.12 – Parking Requirements for Specific Uses, and Article 9 – Landscape & Buffer Requirements, regarding parking and landscaping requirements for a property located at 902 Buck St. (PIN: TMS: 137-01-25-009 / PIN: 33814030011).

Hucks gave an update stating that the applicant requested a variance for parking and landscaping requirements for a child care facility and had met with Ms. Wilson regarding her options for the property. Staff recommended that she obtain a copy of the most recent survey by Mr. Holmes. Since then, staff did receive an updated survey of Mr. Holmes property but it is not a legal document as it was not recorded, therefore it is only used for informational purposes. It also doesn’t show that an alley exists on his property. Upon further research today, staff discovered no evident to contradict the existence of the 12-foot alley and there is a deed that gave the prior owner full title and interest to the alleyway. Even if the applicant is awarded a variance she would still have to provide a loading and unloading area for children, per the daycare ordinance.

Chairman Danelly stated that since last meeting the board has received some good information due to the alleyway being there. He stated that Mr. Holmes was also good with this.

Hucks said she understood from talking with Ms. Wilson that Mr. Holmes was OK with the parking.

Gloria Wilson stated that Mr. Holmes is open to a rental agreement or a rent to own.

Inabnit asked where the plat came from. Hucks said the applicant provided it and she received it from Mr. Holmes. Inabnit said that Mr. Holmes had the plat done. Hucks reiterated that the plat had not been recorded.

Chairman Danelly stated that since last board meeting more evidence has been uncovered that says there is an alley way there and nothing contradicting it. So, the landscaping variance can be approved and the parking variance could be denied, as it is not needed since there is area in the rear of the property where dropping off and picking up of children could be accommodated, as discussed at the previous board meeting.
Ms. Wilson still had questions regarding the alleyway, who's property and who is responsible for trees, upkeep, etc. Hucks stated that the City Arborist can go look at the trees and tell you what to do.

Inabnit stated that it is a public right of way and whoever wants the trees gone would more likely be there responsibility. It appears that half of the easement is on your property line and the other half on Mr. Holmes.

Hucks said that the parking areas and the alley way would have to be paved.

Hucks recommended that Ms. Wilson obtain further legal advice.

Shelley made a motion to grant the landscaping variance request but deny the parking variance as it is no longer needed since access is available for parking in the rear. The motion was seconded by Inabnit. The vote was unanimous and the motion carried.

B. 140 El Bethel Road: The applicants, Craig and Jeff Dunn, request a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), Article 6, Section 6.5.2 – Gateway Corridor Overlay (GCO), I.7 Fencing Materials, Section 6.5.3 – Village Corridor Overlay (VCO), I.7 Fencing Materials, and Article 5, Section 5.2.3 – Fences & Walls (A), regarding fence requirements for property located at 140 El Bethel Rd (TMS: 122-07-02-003 / PIN: 33703040005).

Hucks said that the applicants are proposing to enclose the property at 140 El Bethel Rd with a chain link fence, between 6-8 feet in height. This property used to be a carwash and is currently not being used for anything. Per the requirements of the Gateway Corridor and Village Corridor Overlay, chain link fencing is prohibited. Additionally, the ordinance pertaining to fences and walls (Section 5.2.3, A) limits the fence height for commercial and residential properties to a maximum of 4-ft in the front, 6-ft on the sides and 8-ft in the rear. Corner front yards are limited to fences that do not exceed 6-ft in height, on the condition that the fence meet a 10-ft setback from the lot line/right-of-way.

Chairman Inabnit asked about a chain link fence that was up at Wal-Mart around the retention pond. Hucks said that was legal non-conforming and was done prior to the Ordinance re-write in 2011.

Chairman Inabnit swore in Jeff Dunn, applicant.

Dunn stated that he needed some protection of the property as the carwash has closed and people hang out waiting on the bus, having sex, drugs, etc. and are vandalizing his property.

Inabnit asked if he had tried putting up gates at the entry way. Dunn said yes and that they just drive around.
There was some discussion regarding temporary fencing, fence height and aluminum versus chain like fencing. The applicant said it did not have to be chain link fencing, and would be open to installing black, aluminum fencing.

Dannelly made a motion to grant a variance for the height of fencing, allowing 6-ft in height on the corner front side and front, 8-ft max in rear/side (adjacent to Electric Drive); a portion of which could be considered the corner front, and deny the request to allow chain link fencing. The motion was seconded by Ulrich. The vote was unanimous and the motion carried.

VI. PUBLIC INPUT

None.

VII. BOARD INPUT

None.

VIII. STAFF INPUT

None.

IX. ADJOURN

There being no further business to come before the Board, Inabnit made a motion, seconded by Shelley, to adjourn the meeting at approximately 5:58 p.m. The vote in favor was unanimous. The motion carried.

Approved and signed this 28 day of March, 2019.

[Signature]

Davis Inabnit, Chairman