Present:  Alex Hyman, James Young, Rebecca Lovelace, Blake Hewitt, Byron David, Howard Henry
Absent:  Georgia Johnson
Staff:  Michael Leinwand, Planning Director; Barbara Tessier, Secretary
Others:  Alvan Holden

I. CALL TO ORDER

Chairman Hyman called the meeting to order at 5:35 p.m.

II. APPROVAL OF MINUTES

Lovelace made a motion, seconded by Hewitt, to approve the July 25, 2013 minutes as written. The vote in favor was unanimous. The motion carried.

III. VARIANCE REQUEST

A. Alvan R. Holden requests a variance from Section 5.2.1 Accessory Structures and Section 6.2, Table 6.1 Dimensional Requirements for Residential Zoning Districts of the City of Conway Unified Development Ordinance (UDO) for the property located at 1207 Park Hill Drive (TMS# 123-13-09-004) relating to the minimum side setback requirements.

Leinwand said the request for the variance stemmed from a large Live Oak tree on the property adjacent to Holden’s. He said there was also a large Magnolia tree on Holden’s property. He said Holden wanted to protect his vehicle and roof from the tree by constructing an attached 32.5 feet long by 12.5 feet wide open-air carport on the east side of his property. He said in order to accomplish this construction, a variance would be required. Leinwand said the carport would be built one-foot from the property line with the roof overhang going to the property line. He said the request was to decrease the required eastern side yard setback from 10 feet to 0 feet.

Leinwand said staff recommended approving the variance request because they believed there were extraordinary conditions pertaining to this property because of the exiting mature Live Oak tree on the adjacent property. He said in addition, there is a large Magnolia tree in the front yard that would
make it difficult to construct the attached carport anywhere else, but the east side of the property. He said the variance would also allow the preservation of the Live Oak tree.

Leinwand did say if the variance were to be granted, staff recommended there being a condition added stating the carport shall not add additional stormwater runoff to the adjacent property at 1205 Park Hill Drive. He said a gutter system would have to be installed to keep the stormwater on Holden’s property. Young asked if they would have to do a French drain or a swale. Leinwand said he had not seen a proposal from the owner.

Lovelace questioned whether or not there was room for a carport in the rear yard. Leinwand said there were several trees in the rear yard. Lovelace, looking at an aerial map, asked what the current building in the rear yard was. Holden, who was sworn in at this time, said it was a utility building. Lovelace asked Holden what types of trees were in the rear yard. Holden said there were various trees, including apple, magnolia, and pecan trees.

Lovelace said she had a problem with the carport going to the property line. She asked Holden if he had spoken to his neighbor about how close to her property the carport would be. Holden said he had spoken to her, and she was fine with it.

Young said there seemed to be a slope going from Holden’s house toward Park Avenue. He asked if that was the way the drainage went. Holden said the drainage went both ways. He said he could direct it either way. Young asked what was in the rear yard for drainage. Holden said there had been a ditch that had not been cleaned out since 1963 or 1964. Young asked if it drained the block of the subdivision. Holden said it drained four or five houses from Elm Street from their back yards.

Hyman said if the Board granted the variance, he did not know what type of authority the Board had to put a condition on it because they would not be able to go back and check any type of stormwater. Leinwand said the Board could add conditions to the variance, and it would be up to staff to make them comply. Hyman said he felt they would need to know where the stormwater was going to run before they made any conditions. Henry said he thought they could let staff handle the approval of the stormwater plans.

David asked for the size of the carport again. Leinwand said it was 32.5 feet long and 12.5 feet wide. David asked how granting the variance would help Mr. Holden’s roof from being damaged. Leinwand said the concern was mostly the vehicle damage. David said it was a pretty big carport just for a vehicle. Holden said he also had a boat he wanted to keep under the carport. Holden said the roof had already
rotted out at the house twice because the tree limbs did not allow it to dry out. Lovelace said the carport would not help with the roof. Holden said it would depend on what the city arborist would let him trim off the Live Oak tree.

Young asked Holden if the carport was going to continue on with the same pitch of the house. Holden said it was. Holden mentioned again that he would like to cover the boat. Young said it appeared the boat was in the photograph with the tarp over it.

Lovelace asked how long the house was on the side he proposed to construct the carport. Young said he was continuing the roof line all the way down the length of the house. Holden said that was correct.

Young said a concern he had was how close it was to the property line. He asked Leinwand about having the neighbor sign a document stating he/she understood how close the carport would be to their property and he/she had no objections. Leinwand said that could be done. Young said his concern was about the possibility of remorse after the carport was in place.

Hyman asked where the width of 12.5 feet came from. Holden said it was to the property line. Hyman asked if the width had to be the full 12'6". Holden said it would be nice. Hyman wondered what the average width of a vehicle was. Leinwand said the average parking space was 18 feet long by 9 feet wide, but he did not know the average width of a one car garage. David said he thought the size was a bit much to protect a vehicle on a variance request. He said he would be reluctant with the way this was proposed to move forward. Holden asked if he was considering there was a boat involved as well. Lovelace said the boat could be protected without a carport. Holden said it could, but life would be nicer if he didn't have to tarp it. Lovelace said they really need to see photographs of the rear yard.

Henry mentioned the four criteria which had to be met. He wanted to know what number was being disputed. Lovelace said that couldn't be determined until they saw the rear yard. Holden asked the Board if they would let him make the carport 11 feet wide. Lovelace said that wasn't really much better.

Young asked Leinwand what trees in the rear yard would be protected besides the magnolia. Leinwand said it would be up to the arborist to determine what trees would have to be protected. Lovelace thought protected trees could be removed for the use of your property. Leinwand said a tree permit would be required to remove
any trees. Leinwand said there were also landmark trees, which were the Live Oaks. He said this particular Live Oak looked healthy.

Hyman mentioned the four criteria. He said if the four criteria were met, it did not say the Board had to grant a variance. He said the first one was extraordinary conditions pertaining to that particular piece of property. He said he would like some discussion on this from the Board. Hewitt said on one hand, he was inclined to be sympathetic and grant the variance per staff’s recommendation. He said it had been advertised and no one had come forward having a problem with it. He said on the con side, he was not sure how he could answer the extraordinary conditions without knowing the tree situation in the rear yard.

Young said the tree that was actually the problem was on the neighbor’s property. Holden said the neighbor had given her full approval for the carport to be built to the line. He said he was sure she would be willing to sign a document to confirm that. David asked about the extraordinary conditions. He asked if it was relative to the rest of the city. He said there were lots of houses with large oak tree over driveways and would this be setting a precedent if they granted the approval. Hyman said the second criteria was whether or not the properties in the general area had the same issue. He said he understood what David was saying being so close to the downtown area. Young said it was his understanding was it had to be extraordinary circumstances to this particular piece of property and had to be unique to this particular property. He said if every property in the area had the size, shape or topography then it would not be extraordinary to this particular piece of property.

Henry said they could look at the tree causing hardship in the ability to use his property. He said that had been done in the past. There was discussion about granting a variance at the proposed Public Safety building site to minimize the destruction of protected trees. The point there was the amount of trees and how they were laid out on that parcel. Lovelace said it was also a very small variance request in comparison to this request.

Hyman said if the Board could not get passed the first criteria, they could not continue on to the other criteria. Henry said he felt there were extraordinary conditions. Lovelace said the issue for the Public Safety building site was the tree was prohibiting the use of the property. She said in this case, the tree was not prohibiting him from using his property. She said his house was too close to the property line already. Henry said it was damaging his roof and car. Hyman said the carport would not keep the roof from being damaged.
Hyman said for discussion purposes only, they would look at the other criteria as though the first one had been met. He said the utilization did not affect the owner of the tree.

Henry said he thought they were stuck on whether or not there was another alternative to putting the carport on the side of the house. He said he thought that question needed to be answered first.

David said if what they were trying to remedy was damage to a vehicle, the size of the carport was excessive. He said he did not think the boat should be remedied in the variance, and he was not sure how the roof would be remedied in the variance. He said as he looked at it, protecting the vehicle might fit into the four criteria, but he thought the size proposed was excessive to accomplish that remedy. Henry said he didn’t see why the depth would be a major issue from a visual standpoint. David said he thought there would be a water runoff issue. He said a smaller carport would minimize the detriment to the neighboring property.

Hyman said it was an open air garage and 10 feet wide should be plenty wide enough. Young asked Holden what the construction would be. Holden said it was 4 posts and an open carport. Young asked if he had considered the air conditioning window unit when he figured the size. Holden said he had and that was why he asked for 12 feet in width.

Young said even if he could get past criteria one and two, he was hung up on the third criteria. He read criteria three, which addressed whether or not the application of the ordinance would effectively prohibit or unreasonably restrict the use of the property. He said the way he had always viewed criteria three was that if you didn’t grant the variance, there would be nothing else that could be done with the property. He said there was the rear yard, which they did not know if it could be used for a carport. Henry said if you did not have a way of protecting your vehicle, you’ve hurt the value of the property for somebody to purchase it and use it. He said if there was an alternative that was another issue.

Hyman said they could not grant a variance based on what was the easiest way to accommodate a carport. He said in order to grant a variance, there could not be another way to legally construct a carport on the property.

Henry asked if they could make a motion to find out if there were other options. Leinwand said they could table the request until further information could be obtained. Hyman said he felt if the arborist looked at the rear yard and said the
request was the only way they could do it, he felt that would have an impact on what their decision would be.

David asked who produced the sketch they had. Leinwand said the applicant had produced it.

Lovelace made a motion, seconded by Hewitt, to table the discussion until after they had received a report from the city arborist on the rear of the property. David asked if the sketch could be revised to tailor the variance request to protect the vehicle instead of asking for everything. The vote in favor was unanimous. The motion carried.

There was discussion about a calling a special meeting so the applicant did not have to wait another month. Leinwand said they could, however he had to advertise the meeting again, and that required a 15 day notice. He said the surrounding property owners would have to be notified as well. Leinwand said the city advertised through the Horry Independent. He said the next publication date would be the following Thursday. He said it would have to be 15 days from August 29, 2013. Henry said they might as well wait until the next scheduled meeting date.

Young asked for clarification of what they were asking the arborist to do. He asked if she was to give an idea of what types of trees were in the rear yard and whether or not they were protected. Henry and Lovelace said they wanted her opinion as to whether or not a carport could be constructed behind the house. Lovelace said they should know the types of trees and the sizes.

IV. PUBLIC INPUT

There was none.
V. ADJOURN

There being no further business to come before the Board, Young made a motion, seconded by Henry, to adjourn the meeting at 6:20 p.m. The vote in favor was unanimous. The motion carried.

Approved and signed this 26 day of September, 2013.

B. Alex Hyman, Chairman