CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, DECEMBER 12, 2013
CITY HALL CONFERENCE ROOM – 5:30 P.M.

Present: Alex Hyman, Jim Young, Howard Henry, Rebecca Lovelace, Blake Hewitt, Byron David

Absent: Georgia Johnson

Staff: Michael Leinwand, Planning Director; Barbara Tessier, Secretary

Others: Kevin Sansbury, Michelle and Denny Livingston

I. CALL TO ORDER

Chairman Hyman called the meeting to order at 5:34 p.m.

II. APPROVAL OF MINUTES

Hewitt made a motion, seconded by Young, to approve the September 26, 2013 meeting minutes as written. The vote in favor was unanimous. The motion carried.

III. VARIANCE REQUEST

A. Kathy Heustess, applicant, of Arbor One requests a variance from Section 8.2.12 of the City of Conway Unified Development Ordinance (UDO) for the property located at 1720 Mill Pond Road (TMS# 136-00-01-075) relating to the parking requirements for specific uses.

Leinwand said the applicant was requesting a variance relating to the parking requirements in Section 8.2.12 of the City of Conway Unified Development Ordinance (UDO). Leinwand said the building was currently vacant, and had been constructed in 2009 prior to the City of Conway Unified Development Ordinance (UDO) had been put into effect.

Leinwand said according to the UDO, this Highway Commercial zoned property was required to have a minimum of 9 parking spaces and a maximum of 10 parking spaces. He said the property currently had 10 parking spaces, including an accessible space.

Leinwand said the applicant was requesting a variance to add 6 to 8 additional parking spaces, which exceeded the requirements of the UDO. He said the applicant said the current parking lot is compact in size and did not include an adequate number of
spaces for employees and customers. He said the proposed use of the property was by Arbor One, who provided home, farm, and equipment loans and insurance.

Leinwand had included in his package to the board, the requirements for parking for other uses for the same size building. For the same sized building, a retail use would require a minimum of 13 parking spaces and a maximum of 17. A restaurant use would require a minimum of 20 parking spaces and a maximum of 34.

Leinwand said in order to grant a variance, the four criteria had to be met. He gave staff’s findings. He said for the first criteria, having extraordinary and exceptional conditions pertaining to the piece of property, staff could not identify any extraordinary and exceptional conditions. For the second criteria, that extraordinary and exceptional conditions did not generally apply to other property in the vicinity.

Leinwand said the third criteria pertained to the utilization of the property. He said it was staff’s finding the property had been previously been used as an office. He did say, however, with the potential to attract employees and customers it might exceed the existing parking, and would make sense to add parking to the rear of the property.

Leinwand said the final criteria was granting a variance would not be of substantial detriment to the adjacent property or the public good, and the character of the district would not be harmed by granting a variance. Leinwand said staff did not feel the authorization of a variance would be of substantial detriment to the adjacent property or the public good, and the character of the district would not be harmed by granting a variance.

Leinwand said if the variance was granted, staff recommended detailed site, landscape and drainage plans be provided illustrating the proposed additional parking spaces in the rear. Staff also recommended an access easement on both sides of the property to allow for future interparcel connectivity be provided.

Hyman asked if there had been any feedback from the community. Leinwand said there had been some callers that did not have concerns, but there had been a call pertaining to the drainage from this property onto his.

There was discussion concerning the fact that different uses on the property could have more parking spaces permitted.

Sansbury, who was present for the applicant said there would be six or seven employees at the property at all times leaving no parking spaces for customers. He said the parking situation was already tight forcing large vehicles to make several attempts to pull out. He said they wanted the parking in the rear for the employees and the parking in the front for customers. He said they would remove the last parking space on the right side of the property to make a driveway to the rear of the property.

Hyman asked if there was any easement. Sansbury said there was a 15 foot easement on the right side of the property. Hyman said they might be able to purchase the adjacent vacant parcel, but it appeared to be a wetland and that would not be feasible.

Lovelace asked what the reason was for the different number of permitted
parking spaces. Leinwand said it was to limit the amount of impervious pavement and large parking lots.

   Henry asked what the extraordinary and exceptional conditions were. Young said he could see the need for the parking, but he, too, was hung up on the circumstances.

   Michelle Livingston, a member of the public, asked to speak. She said she and her husband, Dennis, had things they wanted to say to the Board. They own the property next to 1720 Mill Pond Road located at 1722 Mill Pond Road. They were sworn in.

   Mr. Livingston said they were required to put in a retention pond at considerable expense. He said he had talked to the former owner of 1720 Mill Pond and they had hand dug a swale and put up gutters. He said when it really rained, it still caused issues for his property. He said there were rats in the vacant lot from all the water. He said his fear was if pavement went in the back of the property, the water issue would be much worse.

   Young asked if it would be better for the applicant to come back with a stormwater plan. Livingston said that would be great. Young asked Sansbury if any engineers had been consulted. Sansbury said not yet, but he thought they would have to consult with someone.

   Hyman asked Livingston what type of business he had. Livingston said it was a hair salon. It was mentioned Livingston’s building was constructed prior to the UDO. Mr. Livingston said customers from 1720 Mill Pond constantly used his parking area before the building was vacant.

   Lovelace said she did not think there were any extraordinary conditions. Young asked Sansbury his thoughts. Sansbury said it was not functional parking for a business. He said if he was putting in a restaurant, he could get the extra parking spaces. Hyman asked if the applicant had purchased the property. Sansbury said they had not at this time.

   Lovelace said she was sympathetic, but it was not permitted in the ordinance. Sansbury said he understood, but it was not a big box store, it was a small business.

   Hewitt said he was not inclined to approve the request without a stormwater plan.

   Young made a motion to table the request and meet later when a stormwater plan was provided. Henry said they had to determine first if there were extraordinary conditions. He said he did not feel there were any.

   There was discussion between board members as to whether there were extraordinary conditions. Lovelace said she did not see any extraordinary conditions to the property. She said it was a problem with the ordinance. Hewitt said the exceptional condition was the UDO applied to this one property and not to the others. David said he was inclined to approve, but needed a stormwater plan.

   Hyman said he thought the use of the property was restricted. Henry said there
was no problem with criteria 2, 3 and 4 if you could find there were exceptional conditions.

Hewitt made a motion, seconded by David to take a vote on who found there were exceptional conditions. Hewitt, Hyman and David voted aye. Young, Henry, and Lovelace voted nay. The vote was tied.

Leinwand said there needed to be 2/3 of the members present to vote for the motion in order for the variance to pass.

There was more discussion among the board members. Lovelace asked what was to prevent the employees from just parking on the grass in the rear of the building. Leinwand said there was nothing to prevent them from parking on the grass. Sansbury said if the variance was not approved, that is what they would do. Leinwand said if it was constantly parked on, it would become permanent parking, which would not be permitted.

Young withdrew his motion to table the discussion.

With the board finding no way to break the deadlocked vote, Hyman said the variance request was then denied.

IV. PUBLIC INPUT

There was none.

V. STAFF INPUT

Leinwand put the 2014 meeting schedule up for review. Lovelace made a motion, seconded by Hyman, to approve the Board of Zoning Appeals 2014 meeting schedule. The vote in favor was unanimous. The motion carried.

VI. ADJOURN

There being no further business to come before the Board, the meeting adjourned at 6:35 p.m.

Approved and signed this __________ day of __________, 2014.

B. Alex Hyman, Chairman