CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, SEPTEMBER 26, 2013
CITY HALL CONFERENCE ROOM 5:30 PM

Present – Alex Hyman, Byron David, James Young, Georgia Johnson, Blake Hewitt, Howard Henry

Absent: Rebecca Lovelace

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

Others: Harrell Hardwick, Alvan Holden

I. CALL TO ORDER

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

II. APPROVAL OF MINUTES

Hewitt made a motion, seconded by David, to approve the August 22, 2013 minutes as written. The vote in favor was unanimous. The motion carried.

III. VARIANCE REQUEST CONTINUANCE

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 relating to the minimum side setback requirements. (TMS# 123-13-09-004)

Leinwand said at the previous meeting on August 22, 2013, it was decided to table this requested variance until additional information could be gathered by staff.

Since that meeting, Leinwand said he and the City's arborist met at the property to discuss the existing trees and vegetation in the rear yard. It was the opinion of the arborist the vegetation and trees in the rear yard could be removed in order to construct a carport.

Leinwand said Holden continued to request the carport be placed on the side yard of his property. Hyman asked Leinwand if the city's position had changed. Leinwand said the city still believed there existed a hardship due to the large oak tree on the side of the property.
Hyman said the size proposed seemed a bit larger than needed. Young asked if the stormwater runoff was going to be an issue.

Holden was sworn in at this time. Holden said he would be putting gutters on the structure. He said the ditch in the back had not been cleaned for many years, but was still usable. Young asked about running perforated pipe to the ditch. Holden said he would pipe the water using solid pipe. Young asked if the water would be directed to the ditch or to Park Hill. Holden said it was his thought to pipe it to the street. Young asked if it could be directed to both the ditch and the street. Holden said that could be an option. Leinwand said Holden could work with the City’s Public Works Department to see where they wanted the water to drain. Holden said he would comply with whatever the Public Works Department asked him to do.

Holden had provided a notarized letter to Leinwand from his neighbor, Peggy Johnson, who resided at 1205 Park Hill Drive, who would be most affected if he was granted the variance. In the letter read by Hyman, she stated she gave permission and absolute consent for Holden to construct a carport to the property line which separated their properties.

There was discussion by the Board concerning putting the carport in the rear yard. Hyman said one of the issues he had with putting the carport in the rear yard was the design of it would have to be substantially different. He said he would essentially have to construct another A frame structure. Henry said it would be a heavy burden of cost on Holden to clear the trees. Hyman reminded everyone a variance was not given just because it was it was more convenient to do so.

Holden said he was disabled, and at some point would be most likely be in a wheelchair in the future. He said he really did need the full size carport he had requested. Johnson asked Leinwand if he had discussed the wheelchair issue with Holden. Leinwand said he had not. Hyman said it would be a different variance.

Hewitt said it would be his inclination to grant the variance, but at a length of 18 feet. David said he had the same thought, but Holden might own more than one car at some point in time. Holden repeated again that he wanted the entire size he had originally requested so he could access his back door.

Young asked Holden how long it would take him to get the structure built. Holden said it would be done by him and a helper. He said he was going to put a metal roof on the carport and the house. Young asked given Holden’s health, could he do the work. Holden said he could on a limited basis. Young asked Leinwand how long a building permit would be good. Leinwand said it would be good for six months, but could be extended.

Hewitt made a motion, seconded by Henry, to grant the variance as requested with the condition the carport be guttered, and the applicant must contact the Public
Works Department about the runoff. The vote in favor was unanimous. The motion carried.

IV. VARIANCE REQUEST

A. Thomas E. Jr. and Carol A. Baker request a variance from Section 6.2, Table 6.1 and Section 12.1.2.B of the City of Conway Unified Development Ordinance (UDO) for the property located at 1107 Hart Street relating to the reconstruction of a nonconforming structure and the minimum side setback requirements. (TMS# 123-14-38-008)

Leinwand said according to the contractor, Harrell Hardwick, the property owner was proposing to construct a new carport with a storage room on the second floor. He said the carport would replace a similar one, in the same footprint, that was poorly constructed and rotted. Leinwand said the stairway to the second floor would encroach the required 10 feet side back for this property by six feet. This would mean the stairway would only be four feet from the property line.

Leinwand said Hardwick had looked at other alternative for the placement of the stairs, however other options would prevent the property owner from having access to the already existing storage building at the rear of the property.

Leinwand said on June 20, 2013, a building permit was issued for the addition of a sunroom, deck, and kitchen remodel. He said there was no issue with these. He said an additional permit was issued on August 29, 2013 to replace the existing carport. The stairs on the side of the carport were not included with the building permit submittal, and that is why the permit had been issued. Leinwand said by adding the stairs, the required 10 feet setback could not be met. Leinwand said if you tear down a structure and rebuild, the structure would have to meet ordinance requirements. He said the property owner was requesting a variance in order to resume construction.

Leinwand said after evaluating the property and the variance application, staff did not notice any extraordinary conditions pertaining to this particular property. He said staff was not recommending the granting of a variance unless convincing evidence was provided at the meeting.

There was discussion by the Board about moving the stairway. Hardwick said if they moved the stairs to the other side, they would have to take apart some of the new addition that was already in place.

Hyman asked Leinwand if he had received any input from neighbors. Leinwand said no one was against the proposed plan. Hyman asked Leinwand for the city’s position. Leinwand said it was not a detriment to the neighborhood, but he did not think there were extraordinary conditions or circumstances.
Hyman asked when the old carport had been demolished. Hardwick said about 6 weeks ago. He said it was not the original intent to tear it down, but it was poor quality and rotted. Young asked if the proposed carport would be the same size as the one demolished. Hardwick said it would be the same size. He said he didn't think the owner had wanted to spend an additional $20,000 for a new carport, but the old one was in bad shape.

Young made a motion, seconded by Johnson, to approve as presented. Henry asked what the extraordinary condition was. Hyman responded the lot shape was a little different. Young said what swayed him to move to grant the request, but for the damage to the carport that could not be repaired, this issue would not have come about. Henry asked Leinwand if that was an extraordinary condition. Leinwand said it could be. Hewitt said it made a difference to him the owner did not build the nonconforming use. Hyman said the stairs were going directly back where the stairs had been before. He said the footprint had not changed.

Young asked Leinwand about a window of time in replacing a structure that was nonconforming. Leinwand said Section 12.1.2.D addressed that, but he said it did not apply to this property. He said this section dealt with the re-establishment of use. He said that would be for a use that went vacant and had not been re-established within 180 days.

Hyman said there was a motion and second on the floor. He asked if there was any further discussion. David said he wanted to go on record stating he thought the extraordinary condition was there was an existing structure. He said the stairs could not go anywhere else without taking down an existing structure or blocking the driveway. Hyman said it would be used the same way it was previously. He said he assumed there would be no runoff changes. The vote in favor was unanimous. The motion carried.

V. PUBLIC INPUT

There was none.

VI. ADJOURN

There being no further business to come before the Board, the meeting adjourned at 6:55 p.m.

Approved and signed this 12 day of Dec., 2013.

B. Alex Hyman, Chairman