CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, SEPTEMBER 26, 2019
CITY HALL CONFERENCE ROOM – 229 MAIN STREET – 5:30 P.M.

Present: Davis Inabnit, Catherine Dingle, George Ulrich, Charles Byrd
Absent: Travis Dannelly, Lindsay Wallace, James Shelley
Staff: Jessica Hucks, Zoning Administrator; Alicia Shelley, Planning Assistant; Vicki Stone, Zoning Inspector
Others: Allison Revisky, Miltonette Clardy, Johnson Clardy, Sammy Gay

I. CALL TO ORDER
Chairman Inabnit called the meeting to order at 5:28 p.m.

II. APPROVAL OF AUGUST 22, 2019 MINUTES
Dingle made a motion, seconded by Byrd, to approve the August 22, 2019 minutes as written. The vote in favor was unanimous. The motion carried.

III. CRITERIA
Chairman Inabnit 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.

Chairman Inabnit swore in all the applicants.
IV. OLD BUSINESS

A. Carsen’s Ferry - Tripp Nealy, P3 Construction, applicant, requested a variance from the strict application of the City of Conway UDO, from Art. 11 - Signage, regarding sign requirements for a proposed sign on Riverport Drive, at the entrance to the Carsen's Ferry development (TMS: 122-00-04-022 | PIN: 337-04-03-0019). (Update)

Hucks stated that the City Arborist visited the applicant’s property, located directly adjacent to Riverport Drive, and determined that the trees located adjacent to Church Street could be removed. Some of the trees were either damaged or beginning to lean into the roadway. However, because the property is commercial, some type of mitigation will need to be done, and could be done at the time the property is developed. At such time, a landscape buffer meeting current requirements would also need to be installed. The applicant was informed of this, and stated they would relocate the sign to this parcel in the near future. A copy of this email communication with Mr. Nealy was included with the boards packet.

There was no public input.

Dingle made a motion to deny the variance. Ulrich seconded the motion. The motion carried unanimously.

V. VARIANCE REQUESTS

A. 310 Wright Blvd: The applicant, Tyson Sign Co., requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), from Article 11 - Signage, regarding sign requirements in the Highway Commercial zoning district for property located at 310 Wright Blvd (TMS: 137-06-02-001 | PIN: 368-03-03-0012).

Hucks stated that CresCom Bank is proposed to be located at the intersection with Fourth Ave and Wright Blvd (310 Wright Blvd), which has been vacant for at least 6 months. However, per Section 11.1.5 – Obsolete and Abandoned Signs (A), any sign which advertises or pertains to a business, product, service, activity, or purpose which is no longer conducted or that has not been in use for 60 days or 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. As such, if the sign structure does not comply with the current sign regulations of the UDO, it must be removed in its entirety and all new signage must comply with current regulations. The applicant is requesting to reface the existing sign structure and utilize the lights inside of the cabinet so that they have an internally illuminated sign.

The sign in question is considered a “pole” sign, which under the City’s UDO, is a prohibited sign, and therefore, the City’s UDO (Article 11) does not provide any sign regulations which can be applied to the sign structure (i.e. height, zoning districts permitted, max sign area, etc.). Pole signs are defined as a sign supported by a structure on one pole that is placed in the ground and which is
wholly independent of any building, fence, vehicle or object other than the structure for support (per Section 2.2.2 – Sign-related Definitions of the UDO). Per Section 11.2.2 – Prohibited Signs, A.2, Pole signs are prohibited.

The UDO only provides requirements for 2 types of freestanding signs: freestanding post signs and monument signs; both of which are defined differently than pole signs. A freestanding post sign is defined as a sign supported by structure on 2 posts that are placed in the ground and which is wholly independent of any building, fence, vehicle or object other than the structure for support (per Section 2.2.2 – Sign-related Definitions). Article 11, Section 11.4.7 – Freestanding Post Signs, provides regulations for this type of signage, depending on the zoning district in which the sign structure is proposed. Additionally, this property is located within the Gateway Corridor Overlay (GCO), which provides additional requirements relating to freestanding post signs on property located within the overlay. Because the requirements of the overlay tend to be more stringent, staff has provided these requirements below (per Section 6.5.2, L):

- All signs shall be compatible with the architectural design of associated building, including colors and materials;
- All monument and freestanding post signs shall meet the setback requirements of Section 11.1.7;
- The max sign face area shall be 60 sq. ft. for a single tenant;
- The max sign height for freestanding post signs shall be 16’ for a single tenant.

In addition to the aforementioned requirements, and per Section 11.4.7 (C. – Illumination), freestanding post signs may be externally illuminated only, consistent with the illumination requirements of Section 11.1.8.

Finally, the proposed illumination is not consistent with illumination requirements in Section 11.1.8; particularly with regard to A.9, which states “all internally illuminated ‘cabinet’ signs, including monument signs, wall signs, and projecting signs shall have dark backgrounds with light lettering, subject to compliance with standards 5, 6, and 7 of the same section”. Only monument, wall and projecting signs were mentioned because those types of signs are the only types which allow internal illumination. The previous tenant, BB&T, had internal illumination in this sign, which was compliant with this provision. Additionally, Article 12, Section 12.1.6 – Nonconforming Signs, D.1, states that signs which are nonconforming with respect to size or illumination requirements may be repaired/repainted or re-lettered provided the nonconformance is not increased.

Allison Revisky stated that they would like to utilize the sign with the internal illumination since it is already there.

The board discussed other options including moving the sign and if a hardship exists and determined if moved it may be in the sight triangle or DOT ROW and would also have to meet
setbacks. The applicant stated they would be willing to opaque the background and only illuminate the letters.

There was no public input.

Ulrich made a motion to use the existing sign and make the background opaque and just illuminate the letters. Byrd seconded the motion and the motion carried unanimously.

B. The applicant, Sandye Hicks, requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), from Article 5, Section 5.2.3 – Fences & Walls, regarding fence requirements for property located at 802 Elm Street (TMS: 137-02-16-015 | PIN: 338-13-01-0016).

Inabnit stated that the applicant requested a deferral at this time.

Ulrich made a motion to grant the deferral request. Dingle seconded the motion and the motion carried unanimously.

C. 411/413 Todd Blvd: The applicant, Venture Engineering, requests a variance from the City's Unified Development Ordinance, from Article 6, Sections 6.5.2 – Gateway Corridor Overlay (I.6) and 6.6.2 – Mechanical Equipment, Dumpster, Recycling and Trash Handling, and Article 9, Section 9.3.1 – Landscaping Design Standards (N), regarding the dumpster facility requirements for property located at 411 / 413 Todd Blvd, known as "The Wren" student housing (TMS: 137-02-16-015 | PIN: 338-13-01-0016).

Hucks stated that the applicant recently received a Certificate of Occupancy for the buildings located on the property. However, during the final inspection process, the dumpster pad facility was found not to be compliant with the UDO and the Solid Waste Department trucks were not able to access the dumpster facility, as currently installed, due to the close proximity to other parking spaces, a light pole and landscaping. Staff OK'd the C.O.; however, roll carts were issued for this site until such time an alternate location could be provided. The only other feasible location, besides where it's currently located, was on a small strip of land on Carter Lane that the property owner stated he was in the process of purchasing. This parcel would then have to be annexed, rezoned and combined with the parcel, and there is a fire hydrant located in the area that could make placing a dumpster facility on it impossible. Staff was able to come up with another possible alternative, as shown on the site plan included. In this scenario, the garbage trucks would access the dumpster facility from Carter Lane instead of from within the development. The dumpster facility would be encroaching into the landscape buffer on the Carter Lane side. The facility would still be subject to screening requirements, as specified in Section 6.5.2, I.6 – Dumpster Screens, of the UDO, which is a Gateway Corridor Overlay (GCO) requirement.

Sammy Gay with Venture Engineering had no comments at this time.
Miltonette Clardy had concerns regarding how far the dumpster would come out beyond the property on Clardy Road, how everyone would get to the dumpster, possibly emptying it at another time, the size may be too small and remain full at all time.

Hucks stated that staff looked at other options to place the dumpster and none would not work. Staff thought this would be the best place even though it will be in the landscape buffer on Carter Lane. It will still have to meet the screening requirements and be opaque. She said that Hughes agreed that there would be a way to access from the inside. She stated that she may want to speak to solid waste about dumping at another time or possibly increasing the route times.

After much discussion, Byrd made a motion to grant the variance to be located in the landscape buffer. Dingle seconded the motion. More discussion took place amongst the board and Byrd amended his motion to include that the applicant must screen and opaque the dumpster and make sure that it is accessible from inside the facility. Dingle seconded the amendment and the motion carried unanimously.

VI. PUBLIC INPUT
None.

VII. BOARD INPUT
None.

VIII. STAFF INPUT
None.

IX. ADJOURN
There being no further business to come before the Board, Dingle made a motion, seconded by Ulrich to adjourn the meeting. The vote in favor was unanimous. The motion carried and the meeting was adjourned at 6:02 p.m.

Approved and signed this 29th day of October, 2019.

[Signature]

Davis Inabnit, Chairman