CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, April 25, 2019
CITY HALL CONFERENCE ROOM – 229 MAIN STREET – 5:30 P.M.

Present: Davis Inabnit, Travis Dannelly, James Shelley, George Ulrich, Charles Byrd, Lindsay Wallace

Absent: Catherine Dingle

Staff: Jessica Hucks, Zoning Administrator; Alicia Shelley, Secretary

Others: Anthony Edwards, Bobby Moore, Tony Patel, Peter Patel, Harry Sing, Chetna Patel, Trushell Patel, Ida Frink

I. CALL TO ORDER

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

Chairman Inabnit swore all the applicants in.

II. APPROVAL OF MARCH 28, 2019 MINUTES

Dannelly made a motion, seconded by Shelley, to approve the March 28, 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.
IV. VARIANCE REQUESTS

A. 1813 Wright Blvd: The applicant, Tony Patel, requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), from Article 9 – Landscaping & Buffer Requirements and Article 12 – Nonconformities, Section 12.1.4 – Nonconforming Sites, regarding landscaping requirements for property at 1813 Wright Blvd (TMS: 136-04-10-003 | PIN: 33816030007).

Hucks stated that the applicant recently underwent Technical Review for a proposed ABC Store addition at his business, located at 1813 Wright Blvd. As part of the TRC review process, some of the comments were regarding the requirement to bring the property into compliance with current landscaping and buffer requirements because the use of the property was changing, from being a single use to a multi-use lot.

Per Article 9, Section 9.1.3 (Applicability), B.1, B.2 and B.3 of the UDO, a new principal building or open uses of land constructed or established after the adoption of the UDO, a change in use resulting in a completely different type of use and expansions or renovations to an existing building within a 5-year period exceeding 25% of the appraised value are all subject to the requirements specified in Article 9, Landscaping & Buffering.

Further, Article 12, Section 12.1.4 (Nonconforming Sites) (A – Nonconforming Buffer Yard), in the event that the nonconformity is a result of noncompliance with the buffer yard required by the UDO, and when the land area of the subject property and location of existing structures precludes provision of the required buffer yards, the nonconformity shall, as a pre-condition to issuance of a permit, be required to comply fully with conditions determined by the Planning Director that will accomplish substantially the same effect as would be accomplished if the nonconforming site did comply to the buffering standards found in Article 9. Additionally, item B – Nonconforming landscaping and screening, of the same section, #3, states that when the land area of the subject property and location of existing structures precludes provision of the required landscaping and screening, the nonconformity shall, as a precondition to the issuance of a permit, be required to comply fully with conditions determined by the Zoning Administrator. This will accomplish substantially the same effect as would be accomplished if the nonconforming use did comply with the landscaping and screening standards of Article 9.

As such, staff must require that the buffer, required per Article 9, Table 9.1, a Type B landscape buffer, which requires a minimum width of 15-ft along with 2 canopy trees, 3 understory trees and 20 tall shrubs per 100 linear feet along the Wright Blvd (Hwy 378) side of the property.
Hucks stated the applicants noted on their application that there are extraordinary conditions which pertain to this particular piece of property, as it contains existing fuel pumps accessed via the entrance that the city is requesting the buffer be installed, which would cause this entrance to be closed. Closing this entrance would significantly restrict fuel truck access and maneuverability within the property.

Hucks announced that Mr. Patel was present to answer any questions.

The board discussed the request and found others to be in the city with the similar situation and that hardships did exists.

Bobby Moore, agent further explained the request and stated that this would restrict traffic and pedestrian flow. He then presented a plan where shrubs were placed out front and showed how it would impede the vehicular traffic.

There was no public input.

Shelley made a motion to grant the variance request to omit the landscaping in front of the property on Highway 378. The motion was seconded by Dannelly. The vote was unanimous and the motion carried.

B. 901 Main Street: The applicant, Anthony Edwards, A.R.E. Construction, requests a variance from the strict application of the City of Conway Unified Development Ordinance (UDO), from Article 6 – Design Standards, Section 6.3 – Non-residential Design Standards and Article 9 – Landscaping & Buffer Requirements, regarding setback and landscaping requirements for property at 901 Main Street (TMS: 123-14-06-004 | PIN: 33813010036).

Hucks stated that Derrick Law Firm is currently under construction, located at 901 Main Street. At the time of civil plan review, the applicant opted to install a fence on the side of the parcel (opposite 9th Ave) in order to reduce the buffer width that was required. The property is zoned Professional, but is surrounded on 2 sides by Low-Density Residential (R-1) zoning. The side and rear buffer requires a 15-ft Type B landscape buffer. The Main Street and Ninth Ave side must have a street buffer width of 8-ft. Type B and Type C landscape buffers may reduce the width by 5-ft if a wall or fence, a minimum of 5-ft in height is installed and constructed of masonry, stone or pressure treated lumber (per Table 9.2 – Landscaping Rate Chart).

Hucks said that due to grading conditions caused by stormwater development for the new parking area, the applicant would like to omit the fencing requirement that would reduce the buffer width, and reduce the required 15-ft buffer to 10-ft.
Hucks then added that the applicant is also seeking a variance on the front yard setback requirements for a set of proposed steps and rails that will encroach approx. 5-ft into the front yard setback. The applicant will need to verify this encroachment as well. The original plan showed steps coming from the front door to a new set of steps that would lead directly to the sidewalk on Main Street; however, it is unlikely that the SCDOT would approve this new encroachment onto the Main Street right-of-way, so the applicant has opted to transition the steps from the front door halfway to the existing steps and install brick pavers the remainder of the way from where the proposed steps end to the existing steps.

Hucks then stated the applicant’s reasons for which cites the variance should be granted:

1. There are extraordinary conditions which pertain to this particular piece of property, as grading the parking lot has created an extreme elevation difference between the lot and the existing grade. Grading of that much difference for landscaping and fencing will cause damage to the roots of mature trees on the property.

2. The conditions described above are particular to this property, as the elevation drop from the rear to the front of this lot is extreme and uncommon in the Conway area.

3. Strict application of the ordinance would prohibit or unreasonably restrict the use of the property, as the property would be used, but existing trees and vegetation will be damaged and/or killed.

4. Granting the variance will not harm adjacent property, the character of the area or the public good. It will preserve mature trees and have no effect on neighboring properties.

5. The variance is being initiated out of hardship and not to increase the profitability of the property. The variance will cost more, but will improve the appearance of and preserve trees.

Chairman Inabnit recused himself from this request.

Anthony Edwards, applicant further explained the request.

The board had some discussion regarding the stormwater issues.

Hucks said that it would need to go back before the CAB for approval due to the elevation changes for the steps.

Byrd made a motion to grant the variance requests to reduce the buffer on the side from 15’ to 10’ in width without installing any fence or wall and to encroach into the front yard setback by approximately 5’ for a set of steps attached to the front of the building. Shelley seconded the motion. The vote was unanimous and the motion carried.

V. PUBLIC INPUT

None.
VI. BOARD INPUT

None.

VII. STAFF INPUT

None.

VIII. ADJOURN

There being no further business to come before the Board, Dannelly made a motion, seconded by Wallace, to adjourn the meeting at approximately 6:00 p.m. The vote in favor was unanimous. The motion carried.

Approved and signed this \underline{23rd} day of \underline{May}, 2019.

\[Signature\]

Davis Inabnit, Chairman