CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, JUNE 27, 2019
CITY HALL CONFERENCE ROOM – 229 MAIN STREET – 5:30 P.M.

Present: Davis Inabnit, James Shelley, Charles Byrd, Catherine Dingle, Travis Dannelly

Absent: Lindsay Wallace, George Ulrich

Staff: Jessica Hucks, Zoning Administrator

Others: Raymond Koberger, Jim Tufts

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 MAY 23, 2019 MINUTES

Shelley made a motion, seconded by Dingle, to approve the May 23, 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. **1258 Park Hill Drive:** The applicant, Raymond Koberger, requests a variance from the strict application of the *City of Conway Unified Development Ordinance (UDO)*, from *Article 5, Section 5.2.8 – Residential Swimming Pools & Spas*, regarding swimming pool requirements at 1258 Park Hill Dr. (TMS: 123-09-03-010 | PIN: 33806040017).

Hucks stated that the applicant is seeking to obtain a permit for an above-ground swimming pool at 1258 Park Hill Dr. The property is surrounded by a roadway on three sides, which limits the area(s) in which accessory structures, including a swimming pool, may be located that would meet the requirements of the City's UDO. Per *Section 5.2.8 – Residential Swimming Pools & Spas*, pools are permitted in rear or side yards of a private residence with certain conditions. In this case, the property is considered as having 3 front yards; one front and 2 *corner front* yards. Because the UDO does not give an exception for Corner Front Yards, they are treated the same as standard front yards and no swimming pools, spas and most other accessory structures would not be located in corner front yards.

Other conditions for Residential Swimming Pools & Spas include the following (per *Section 5.2.8*):

A. The edge of the water must be at least 3.5-ft from all required setbacks and from any buildings.

*Because standard 'accessory' structure setbacks are 5-ft, the minimum setback for pools/spas is 8.5-ft.*

B. Fencing and/or a suitable enclosure device shall be provided, in compliance with applicable building codes.

C. Pool lighting shall be shielded and oriented away from adjacent properties. If individual light shielding is not provided, they shall be placed so that enclosure walls or fences direct light away from adjacent properties.

The applicant, Raymond Koberger was present to answer questions.

There was no public input.

After the board's discussion, Davis Inabnit made a motion to grant the request for the swimming pool to be located in the front corner yard with the condition that a 6-ft privacy fence be installed around the pool. The motion was seconded by Dingle. The vote was unanimous and the motion carried.

B. **510 Ninth Ave:** The applicant, James W. Tuffs, Jr., 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 at 510 Ninth Ave. (TMS: 123-14-36-003 | PIN: 33812030061).

Hucks stated that the applicant recently obtained a building permit to erect a 6-ft fence on the side yard of his property. Shortly thereafter, the applicant requested to add 2-ft of height to the fence he previously received a permit for. *Section 5.2.3 – Fences & Walls*, of the UDO, permits fences or walls on residential property, providing that the fence or wall does not exceed maximum height limitations, measured from
the natural grade at which the fence or wall occurs, as specified below: Front Yard: 4-ft; Corner Front Yards: 6-ft, provided it meets a 10-ft setback from the right-of-way or lot line; Side Yards: 6-ft; and Rear Yards: 8-ft. As shown on the applicant’s site plan, approx. 15-ft of the fence is located in what is considered the “side” yard, which permits a maximum fence height of 6-ft. The applicant states that his property is at a higher elevation than the neighbors, therefore even with a 6-ft fence, the back porch of the neighbor’s house is still visible after installation of the 6-ft high fence.

The applicant, James Tufts was present to answer questions.

There was no public input.

Davis Inabnit made a motion to grant the request to install an 8-ft fence in the side yard of the residential property. The motion was seconded by Dannelly. 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, Dingle made a motion, seconded by Byrd, to adjourn the meeting. The vote in favor was unanimous. The motion carried.

Approved and signed this 25th day of July, 2019.

Davis Inabnit, Chairman