CALL TO ORDER

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

APPROVAL OF THE APRIL 28, 2016 MEETING MINUTES

Hewitt made a motion, seconded by Battle, to approve the April 28, 2016 minutes as written. The vote in favor was unanimous. The motion carried.

VARIANCE REQUEST

A. (DEFERRED FROM APRIL 28, 2016 AGENDA) Larry W. Fullwood requests a variance from Section 5.2. Accessory Uses and Structures - Section 5.2.1.A.2 Setbacks, Section 5.2.1.A.3 Height, and Section 5.2.1.A.5 Size of the City of Conway Unified Development Ordinance (UDO) for the property located at 1203 Laurel Street. (TMS# 123-14-03-012/ PIN 33812040033)

Emrick said this item had been before the board members previously on April 28, 2016. He said that staff had denied the request and the board members had deferred the request asking the applicant to see if he could find a way to bring his request into compliance with the UDO.

Emrick said since the April meeting, the applicant had amended his request. Emrick said the structure would now be less than 15’ in height allowing for a 5’ setback rather than the 20’ setback that would have been required if the height was 15’.
Emrick said all that remained to be resolved was the total size permitted. He said the existing home was 1,786 square feet. He said the UDO stated that the Section 5.2.1.5 states, "The total square footage of all accessory structures on a lot shall not exceed fifty (50%) percent of the rear yard. The square footage of one (1) accessory structure shall not exceed 50% of the area of the primary structure on the same lot."

The existing garage is 672 square feet and the proposed addition will add another 784 square feet for a total of 1,456, which far exceeds the maximum size allowed given the size of the primary structure (893 square feet, max). Emrick said the request from the applicant now is an increase in the maximum size of the accessory structure of the garage to 1,456 square feet instead of the maximum 893 square feet which would be permitted.

Emrick said staff’s recommendation was for the BZA to conduct a review to determine if a hardship existed, and if the best interests of the City would be served by granting a variance.

Hewitt asked if there had been any input from the neighbors. Emrick said he had heard from one who wanted the applicant to have to abide by the ordinance.

Dannelly said there were four criteria that had to be met for a variance to be granted:

There are extraordinary and exceptional conditions pertaining to the particular piece of property;

The extraordinary and exceptional conditions do not generally apply to other property in the vicinity;

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; and

The authorization of a variance will not be of substantial detriment adjacent property or the public good, and the character of the district will not be harmed by granting a variance.

Hewitt said it was always more fun to grant a variance, but he was not sure how they would get there.

Hewitt said Fullwood was, in a way, being spot-zoned because other properties around him were non-conforming. Fullwood said that was correct.

Fullwood, the applicant, stated that his family had owned the property since 1962. He said the variance sign had been up in front of his home for several months and no one had complained to his knowledge. He said that another
homeowner was granted a variance to build within 5' of his property line, but Emrick said that was granted by a different board as the property owner was in the Main Street Overlay and reviewed by the CAB. Fullwood said he was not infringing on anyone’s rights. Fullwood said he had a little over a thousand dollars tied up in this already. Fullwood said he did not need a rear yard, and the property would be kept in the family.

Battle said he could see criteria #4 and possibly #3 being able to be met, but he could not see #1 and #2 being a hardship, although he had no objection to the appearance or use. Hewitt argued the point that the other neighbors were non-conforming. Shelley asked if there was any grandfathering for this situation. Emrick said since this was the establishment of a new building, the applicant had to conform to the ordinance.

Battle said he felt he needed to make a motion to deny because they were bound the ordinance. Hewitt asked if it was an extraordinary condition that the UDO was, in effect, only applying to Fullwood because everyone around him had nonconforming uses. David asked the applicant what he would do if the variance was denied. Fullwood said he would sell and move to the country. He said none of his siblings lived in the city anymore.

Battle made a motion, seconded by Hewitt, to deny the variance request. The vote in favor was unanimous. The motion carried.

B. 2300 Church Street LLC requests a variance from Section 11.4.1.B Wall Signs of the City of Conway Unified Development Ordinance (UDO) for the property located at 2300 Church Street Unit 17. (TMS# 122-00-04-045/ PIN 33808020082)

Emrick said that under the City of Conway’s Unified Development Ordinance Section 11.4.1 Wall Signs, Wall signs may be a maximum of 100 square feet or 15% of the building face where the sign is attached, whichever is less.

The request from Harbor Freight is to construct a Wall sign that is 462"x92", a total of 298.375 square feet of wall signage.

Staff denied the building permit for the construction due to the request exceeding the maximum sign area permitted by nearly 200 square feet. On June 14, 2016, Stuart Shamah, on behalf of 2300 Church Street, LLC, filed this Variance request seeking a variance of Section 11.4.1 to allow for a wall sign to exceed the maximum amount of wall signage by 198.375 square feet.
Hewitt asked if the permitted size of signage would be 1/3 of the banner that was now there. Emrick said that was correct. Battle asked if the banner that was up now was in violation. Emrick said that it was.

Emrick said that Walmart was set back from the road and their sign could be seen from the road.

Leggro, representing the sign company, said the overall sign was 238 square feet and not 298 as the city contended. However, she said the sign industry did not calculate the square footage as the city does. She said Walmart was only seven letters and was not like the Harbor Freight sign, which had considerably more letters. She said they were 760 feet from the road. She said they were also the biggest tenant and they felt they needed a larger sign. She said they had not been aware of the sign ordinance.

David asked if a 200 sq. foot sign would work. Leggro said the next size they could offer was just under 200 sq. foot. David said the location was pretty unique in that there were no other centers that far off the road. Emrick said that Burke’s, Frank’s Cinema, and Walmart were all off the road and had obstructions in their way. Emrick did say that prior to the UDO, there were special sign districts that permitted larger signage.

Shamah, the owner of the property, said the landscaping hid the buildings to some extent. He said the property had been vacant for a long time.

Battle asked if the Roses sign was new. Emrick said it was. Leggro said Roses was only four letters.

David said that he could see that being so far from the road was extraordinary, that it did not apply to other properties in the vicinity, that it would hamper the utilization of the property, and that it did not cause any detriment to the pubic or to the city.

David made a motion, seconded by Battle, to grant the variance, but for a wall sign with a maximum size of 200 square feet. The vote in favor was unanimous. The motion carried.
C. Coastal Carolina University, applicant, requests a variance from Sections 4.2 Use, 6.2 Height Limit, and 11.4.7 Signage of the City of Conway Unified Development Ordinance (UDO) to install a Stealth Communications Tower at property located at One Landon Loop, TMS# 150-00-07-152

Emrick said staff had been approached on behalf of HTC Communications in May 2016 about replacing an existing monopole communications tower at CCU with a stealth tower. Emrick said at that time, staff informed them the request could not be approved without a Use Variance because the UDO did not permit communication towers in the Institutional (IN) zoning district where the college is located. Emrick said the UDO permitted communication towers in the Light Industrial (LI) and Heavy Industrial (HI) zoning districts, but there were several conditions to this, one of which limited signage at or about the tower to 2 square feet in size and allowing for only the display of the company operating the tower.

Emrick said the current tower was large, unsightly, outdated, and distracted from the area. He said a stealth tower would be a great improvement to the aesthetics of the area. He said the signage proposed would cover some of the communications equipment. He said the signage would be for the college, and perhaps for the City of Conway.

Emrick explained that a Use Variance differed from the traditional variance appeals. He said Section 14.2.1.C. gives the authority of the Board of Zoning Appeals in that an affirmative vote of two-thirds (2/3) of the Board members present and voting shall be required before a variance may be granted for a use of land, a building or a structure that is prohibited in a given district, provided however that City Council may overrule the decision of the Board within thirty (30) days following the decision of the Board. In order to grant a use variance, the following finding must be determined and made part of the record: the use requested can be documented to have been a past use of the property; however, historic use alone may not be sufficient to grant a use variance. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for any variance.

Emrick said the applicant’s request asked for a use variance from the strict application of the UDO for the following reasons:
1. There is an existing legal non-conforming tower on the site. The site is zoned IN which makes the existing unsightly telecommunications tower a non-conforming use and which does not allow the existing tower to be replaced with a slick new stealth tower that is more in keeping with the attractive, modern athletic complex at CCU.
2. The conditions are particular to this parcel.
3. A strict application of the UDO would prevent the applicant from replacing the old tower that they consider to be an unsightly eyesore for the University and the Community.
4. The replacement tower will be beneficial to the adjacent properties, the character of the area and the public good as it replaces an old unsightly tower with a slick new stealth monopole.
5. The variance is requested to beautify the area while still providing the University with telecom services for the Public Safety Department and other departments. CCU/The State of South Carolina will actually receive less revenues as a result of replacing the old tower.

Emrick said the applicant was requesting a variance to allow the following:

1. A Use Variance to allow for replacing the legal non-conforming tower with a new stealth tower despite not being zoned appropriately for such use, but based upon the historic use of a tower at this site.
2. Signage exceeding the maximum allowed for a tower, with the signage used as part of the stealth aspect of the tower.
3. Exceeding the maximum height allowed in the Gateway Corridor (50’) by 125’ for a maximum height of 175’.

Emrick said the property could not be rezoned as it would be spot zoning. He said the fact that a tower was there showed historic use. He said City Council could overrule the Use Variance, but he had already taken this request to them and they were in favor of the permitting this use.

Brent Groome from HTC said they had hoped to get this completed before the students came back for fall semester.

Hewitt made a motion, seconded by Battle, to approve the request for a Use Variance because there had been a historic use.

Dannelly asked if there was a limit to the number of signs that could be attached to the tower. Emrick said they had requested two and they could approve more, but it would take away from it being a stealth tower. Hewitt said the signs would be hiding the antennas, and the tower was in the middle of CCU property. Dannelly said the stealth tower would reduce the square footage of the existing tower.
Hewitt made a motion, seconded by Battle, to approve the variance requests based on meeting the four criteria. The vote in favor was unanimous. The motion carried.

IV. PUBLIC INPUT

There was none.

V. ADJOURN

There being no further business to come before the Board, Hewitt made a motion, seconded by Battle, to adjourn. The vote in favor was unanimous. The motion carried. The meeting adjourned at 6:13 p.m.

Approved this 13th day of September, 2006

Travis Dannelly, Vice Chairman