CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, AUGUST 24, 2017
CITY HALL CONFERENCE ROOM – 229 MAIN STREET – 5:30 P.M.

Present: Alex Hyman, Travis Dannelly, Byron David, Blake Hewitt, Matt Staub, James Shelley
Absent: Georgia Johnson
Staff: Jessica Hucks, Zoning Officer; Barbara Tessier, Secretary
Others: Dr. Daniel Falk, Steve Powell, Billie Ann Causey; Al White, John from 501 Conway Storage

I. CALL TO ORDER

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

II. APPROVAL OF July 27, 2017 MINUTES

Hewitt made a motion, seconded by Hyman, to approve the July 27, 2017 minutes as written. The vote in favor was unanimous. The motion carried.

III. VARIANCE REQUESTS

A. Dr. Daniel Falk, applicant, requests a variance from the strict application of the Unified Development Ordinance, Article 6, Section 6.3, Non-Residential Design Standards, Table 6.2 Non-Residential Zoning Districts regarding setbacks at 1501 Ninth Avenue (TMS # 137-01-29-001 | PIN 33814030032)

Hucks said the applicant wished to build an addition to his current structure on the Sweet Street side of the building. She said the addition would be built on the existing grassy area. She said the required side
setback for this side of the parcel was 15. She said the applicant was asking for a variance of 11.5', which would give him a side set back of 3.5' instead of the required 15'.

Hewitt asked if he could build out the front of the building. Hucks said the front has a 20' setback. Hewitt said the trees were usually considered a hardship. Hucks said there would be no tree removal.

Hyman said the shape of the lot was odd and that the building has been there prior to the UDO.

Hyman made a motion, seconded by Hewitt, to grant the request for a variance to permit a side setback of 3.5' on the Sweet Street side of 1501 Ninth Avenue. The vote in favor was unanimous. The motion carried.

B. Venture Engineering, on behalf of Whiteco Property, LLC, requests a variance from the strict application of the Unified Development Ordinance, Article 6.3.1.C. 13 regarding Non-Residential Architectural Design Standards for a property located at the intersection of University Drive and Highway 501 Business (TMS # 151-00-04-044 | PIN38301010008)

Hyman recused himself from this agenda item saying he had represented Mr. White and his family.

Hucks said the applicant desired a variance from the UDO to be permitted to construct a metal building on this site, which is prohibited.

Hucks said the applicant had stated on the application that there were many metal building surrounding this parcel that were in the city and the county. The applicant felt that granting the variance would not be detrimental to those around them and that allowing a metal building would extend the life of the building.

Hucks said the surrounding parcels were Industrial zoned property, which permitted metal buildings, and were used for industrial purposes. Hucks said White annexed the parcel and rezoned the property to Highway Commercial to be able to engage in commercial activities. Hucks said the only hardship was one of choice.
Dannelly asked if the parcel had been Highway Commercial in the county before it was annexed. Hucks was not certain.

Mr. White, the owner of the property, said he didn’t know about the metal building restriction. He said it would have a brick front, but it would cost too much for the rest of the building not to be metal.

Steve Powell with Venture Engineering, the applicant, said the aerial of the area shows that the city and county both had metal buildings. He said he could not see why his client’s building could not be metal. Powell said the front would be compliant by being brick. He said just the sides and the rear would be non-compliant. Powell said he did not think it seemed out of character for the area to leave the rear and sides metal. White said the landscaping would cover the building. Powell said the metal was color fast and would last for years. Dannelly asked if the metal would extend from ground to roofline. Powell said there was a brick watertable that came up to the to the bottom of the windows around the sides and rear.

White added that metal would still look good in 50 years. White said he agreed about no metal buildings in the downtown area. Hewitt said he was not being critical, but this Board did not make those decisions. Hewitt said the Board had 4 criteria they had to go by. Hewitt said policy discussion was not for this Board.

Hucks said this would not have to go before the Community Appearance Board. She said prior to this ordinance, they would have had to get approval from the CAB. White said he had no problem with not permitting metal buildings downtown, but that his land was 2 miles out of town in an industrial park.

Dannelly asked a man who was present if he was there with objections about the building. He said his name was John and he was the manager of the storage building across University Forest Drive. He said he was there for informational purposes only. He said he assumed it was a retail center. White said that was correct and it would look better than anything there currently.

David said as he understood it, the structure could be built, but with a material change. Hucks said that was correct. Dannelly clarified that the material change was for the rear and sides of the building.
Hucks said for the record there were other commercial companies who had recently located in Conway who wanted metal buildings, but were made to comply. Hucks said, as much as was possible, the City tried to stay with the strict application of the UDO.

Hewitt asked if they could petition to have it rezoned to Industrial, but said then it would not be the correct zoning for their end use of the property. Hucks said that was correct. She said being zoned Industrial would allow for the use of a metal building, but given where the property was located, she was not certain that a request for Industrial zoning would be supported.

Hewitt said it went against his grain to tell people what they could and could not do with property they bought, but the city had the UDO and pretty clear distinctions had to be drawn when variances could and could not be granted.

White said the UDO said buildings in the same area were supposed to look like the other buildings surrounding them. Hucks said her interpretation of that section referred to properties with multiple buildings, like Coastal Mall, in order to maintain a more uniform appearance.

Dannelly said he was thinking about the University Commons shopping area. Hucks said it was brick not metal. The storage facility across from White's parcel was brought up again. The manager said the office building was completely brick. He said the actual storage units were metal.

Hewitt said he did not see a way to grant a variance. He said the zoning being different from the others surrounding it was not an extraordinary condition.

White said that he could stand on his property and look at the new metal building that Tire Town had constructed. Hewitt said his property was governed by the UDO and Tire Town was not.

Powell said he did not concur with Hucks interpretation of the UDO. He said it was not confined to buildings on the same site. He said it was for building on adjacent parcels. Hewitt said if that were the case and you were surrounded by non-conforming uses, you could continue to construct non-conforming structures and lose the integrity of the UDO.

Powell said it was their position that they had fundamentally satisfied the requirements of the UDO by their front elevation being entirely compatible. He
said that was generally compatible with adjacent industrial structures. Powell said this was a reasonable compromise.

Powell said the hardship was why would they put more expensive non-metal materials on the sides and rear since they would be facing industrial uses. He said no one over there would care. Powell said it was asking them to spend money that no one received a benefit from just to be in strict compliance with the UDO. Powell said that going beyond what they had already come forward with would be the hardship.

David asked if they had priced an alternative. Powell said an alternative would be more than $75,000 additional. Powell said it was not just the exterior not being metal. He said there would have to be structural changes made. He said they would not be able to screw things into the metal and the warranty of the metal building.

David asked Hucks if there had been other requests for metal buildings in this general area. Hucks said most of what surrounded this particular parcel was county. She said if they were in industrial center, zoned either light or heavy industrial metal buildings were permitted. She said there had been requests for metal buildings in other areas of the city and they had not been permitted.

After a comment about landscaping, Hucks said since the rear of the building faced a residential area, they would have to have a 15' landscape buffer in the rear, 10' setback along the front and on the side facing University Forest Drive and a 5' setback on the side between the other Highway Commercial use.

Dannely asked if there had been any residential complaints about the annexation. Hucks said there had not been any complaints. Hewitt asked White and Powell what they would think of a hypothetical variance where the Board would grant a variance for just the back of the building. White said that would still be a lot of expense to him. Hewitt said he was trying to come up with something that was a reasonable construction with the criteria they had for granting a variance followed the integrity of the UDO, which they were required to do, on the Gateway Corridor. Hucks said the design standards were what prohibited the use of metal in the Gateway Corridor. She said intent of the UDO Design Standards was to beautify the corridors leading into the city.
Dannelly asked Powell if this was a conceivable plan. Powell said it was better than what they had presently. Powell said he knew the Board had not granted that type of variance before. He said he felt that he had offered what was reasonable for that area, but he said they were willing to accept whatever the Board was willing to grant. He said it was better than complete denial.

Hewitt made a motion, seconded by David, to grant the variance only as to the portion of the building that was opposite Highway 501; the rear of the building if you were standing on Highway 501 facing directly in front of it. He said framing it as such satisfied there as having an extraordinary condition in that that side of the building faced predominately industrial areas where metal was the predominate structure and that this was an extraordinary circumstance to this piece of property, that it would not be a detriment to the area, and that it would be a hardship to follow the strict application of the UDO.

In addition, the motion was also to deny a variance for the two other sides of the structure not seeing any extraordinary circumstances that would affect them. The vote in favor was unanimous with Hyman having recused himself. The motion carried.

IV. PUBLIC INPUT

There was none.
V. ADJOURN

Hewitt made a motion to adjourn, but first asked that they adjourned that there be a moment of silence for the Crescom loss during the week. After a moment, Dannelly seconded the motion and adjourned the meeting. The meeting adjourned at 6:08 p.m.

Approved and signed this 28th day of September, 2017.

\[ Signature \]

Travis Dannelly, Chairman