CITY OF CONWAY
BOARD OF ZONING APPEALS MEETING
THURSDAY, SEPTEMBER 15, 2016
CITY HALL CONFERENCE ROOM – COUNCIL CHAMBERS – 229 MAIN STREET – 5:30 P.M.

Present: Alex Hyman, Travis Dannelly, James Battle, Bryon David
Absent: Blake Hewitt, James Shelley, Georgia Johnson
Staff: Adam Emrick, Planning Director; Barbara Tessier, Secretary
Others: Attached to these minutes

I. CALL TO ORDER

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

II. APPROVAL OF THE JULY 28, 2016 MEETING MINUTES

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

Dannelly made a motion, seconded by David, to adjourn the meeting at 5:31 p.m. and immediately reconvene in the Council Chambers on the second floor to accommodate the large amount of public that were in attendance. The vote in favor was unanimous. The motion carried.

The meeting was called to order again in Council Chambers at 5:35 p.m.

III. VARIANCE REQUEST

A. Shoreline Behavioral Health Services, applicant, request a variance from Section 6.2 Setbacks in Non-residential Areas of the City of Conway Unified Development Ordinance (UDO) for the property located at 901 Bell Street. (TMS# 137-01-27-008 /PIN 33814040068)

Emrick said the applicant requested a variance in order to enclose an existing porch at their facility. The permit was denied by staff because the existing porch was constructed within the required setbacks for the building site.
Emrick said Table 6.2 of the UDO determined the setbacks for the Neighborhood Commercial zoning district to be 20' from the front property line. He said 901 Bell Street was a corner lot with building frontages on Ninth Avenue and Bell Street, and that 20' setbacks were required from each frontage.

Emrick said the existing porch was constructed prior to zoning and did not meet the required setbacks. He said the porch was 12'1" from the Ninth Avenue frontage, making it 7.9" short of the required 20'.

Emrick said the applicant cited the reasons for the variance because there was no room to expand the structure on the existing parcel, that adjacent parcels were also within their setbacks, that there would be no effect on the character of the neighborhood or the home, and the variance request was to increase office space needed to assist their clients, which would not affect their profitability or productivity.

Emrick said the variance request was for 7'9" of the front setback on Ninth Avenue.

Tracy River of Shoreline Behavioral Health Services was sworn in. She said it was a 24-hour facility and they had staff working all the time. She said this enclosure of the porch would allow 2 additional offices. She said they needed a room for private therapy sessions.

Emrick was asked if there was any public feedback on this request. Emrick said there had been none.

Hugh Schrowang, a member of the public in attendance for another agenda item, asked if the structure was in a condition able to support the porch being enclosed. Emrick said engineering would have to be done before any work could begin. He said that was not a topic for this meeting.

Hyman asked Emrick how old the house was. Emrick said it was built in the 1940's. Hyman asked if the issue was just that it was a corner lot. Emrick said that was correct.

Battle said they would have to look at the four criteria.

Emrick stated what the criteria consisted of:

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

David asked if the existing roof would be used. Emrick said it would be.

David made a motion, seconded by Dannelly, to approve the variance request using the existing roof line and the same footprint to enclose the porch saying it was unique because the structure was built prior to zoning, that not granting the variance would restrict the use, and that granting a variance was not a detriment to the character of the neighborhood. The vote in favor was unanimous. The motion carried.

Emrick addressed the public saying that they did not have to stay once their agenda item had been heard unless they wished to stay.

**B. A-1 Signs and Graphics, applicant, request a variance from Section 11.4.1.B Wall Signs of the City of Conway Unified Development Ordinance (UDO) for the property located at 1609 Fourth Avenue. (TMS# 137-05-18-004/ PIN 36803030021)**

Emrick said the applicant requested a variance for a wall sign at this location after the property owner installed a sign on the side of their building in violation of the ordinance.

Emrick said the existing building had only one public entrance and was not on a corner lot. Permits were issued for all signage at the location but not for the sign subject to this variance application, which was erected without a permit. Staff contacted the property owner to remove the sign and this application was in response.

Emrick said the request from the applicant was to allow for the secondary wall sign which faces southward on the side of the building. A non-conforming sign was in this general location, but was removed prior to this sign being installed.
Emrick said a representative from A-1 was not present and Emrick presented the request. He said the applicant was requesting the variance because they wanted people traveling north on 701 to be able to identify the business, because the sign that replaced the former non-conforming sign was the same size, and that the request was not for profitability, but to allow northbound customers to safety pull into their location. Emrick said the applicant wanted a variance from Section 11.4.1.B to allow for a second wall sign.

Hyman said he had not represented the applicant, but had cases involving the applicant, but stated that he could be impartial.

Hyman asked Emrick how long the original sign had been removed. Emrick said it had been months. Emrick said the new sign was also a different size and in a different location.

Hyman said even though they had been told the sign could not be installed, they did it anyway. Emrick said the applicant had not put the sign up, but that the owner of the property did.

Battle clarified that it was not the size of the sign that was the issue, but that it was just not permitted.

Emrick said the roof sign was considered a wall sign because there was not appropriate wall to use.

Battle made a motion, seconded by Dannelly, to deny the motion as there were no extraordinary circumstances related to this request. The vote in favor was unanimous. The motion carried.

C. Joseph O. Burroughs, Jr, applicant, request a variance from Section 6.4.1.B.7 Special Use District Design Standards, Waccamaw River District (WRD) of the City of Conway Unified Development Ordinance (UDO) for the property located at 104B Laurel Street. (TMS# 137-06-22-007 / PIN 36701040035)

Emrick said the applicant wished to construct a deck off the rear of 104B Laurel Street allowing the for deck to added in the railroad right-of-way.

Emrick said the existing building had a rear door and small landing which sits within the railroad right-of-way. The structure is not sufficient to handle the volume of people and it is not structurally sound. He said the entire landing and the stairs were in the right-of-way.
Emrick said the proposed deck would be larger and would accommodate egress from the building as well as serve as an amenity to the facility. He said the facility was being opened as an event facility.

Burroughs said that he had a lease with the former owner of the railroad, Carolina Southern, and the lease was transferred to RJ Corman, the new owner.

Burroughs said he wanted the Board to grant him the variance stating the hardship was the zero lot lines. He said it would not affect any adjacent parcel since the railroad owned that parcel.

Hyman said it was unusual in that the lot line was the building. He said he imagined there would be safety issues.

Emrick said if this variance was passed, it would go before the Community Appearance Board and the Building Department would review and inspect the deck.

Dannelly asked if the this would affect the development of the riverfront. Emrick said it would have no bearing.

David made a motion, seconded by Dannelly, to approve the request based on their being unique circumstances regarding the lot lines, the uniqueness did not apply to other parcels in the area, not granting the variance would restrict the use of the property, and that granting a variance would not be detrimental to the character of the area or to other properties. The vote in favor was unanimous. The motion carried.

D. DDC Engineers, Inc., applicant, requests a variance from The City of Conway Unified Development Ordinance (UDO) Section 8.2.12 Parking Requirements for Specific Uses at a property located at Highway 501 and Wild Wing Boulevard. (TMS # 151-00-03-023 / PIN 38300000320)

Emrick said DDC Engineers, Inc., on behalf of the owner of the property, Eleanor B Wilson, et al, requested a variance to increase their parking spaces by 18 spaces from what is currently permitted.

Emrick said that the corporate model for Aldi's grocery stores requires 80-85 parking spaces for a viable location. He said the current parking regulations would only permit 66 parking spaces.
Emrick said City Council would, in the near future, be considering an amendment to may permit an increase in parking spaces overall.

Justin Spruill, representing Aldi's, said this was a 19,000+ square foot building. He said they would not have a pharmacy, butcher, or a deli. He said Aldi’s wanted to be in Conway. He said usually they did not have parking issues like this.

Hyman asked if there would be enough landscaping to support the additional parking spaces. Spruill said their landscaping plans exceeded what was required. He also said there were two retention ponds.

Hyman addressed the public and said that the only issue here tonight was regarding the additional parking spaces. He then asked if anyone wished to address the Board.

Hugh Schrowang, a resident of Wild Wing, said he opposed the additional parking. He said he was concerned about drainage. He said he did not think the retention ponds would take care of the water run-off. He said he was concerned about the aesthetics and he wanted the watershed to be protected. He urged the Board to deny the variance. He said he did not want Aldi’s to look like a Walmart.

Tim Kirby, representing DDC Engineers, Inc., responded to a question from Hyman about the difference in the run-off if they were granted the additional parking spaces. Kirby said there would be additional run-off, but the ponds were sized to hold pre and post development run-off. Kirby also said there was a small orifice that collected water from the pond that would that would then distribute the water over a 24-hour period.

Barry Dykes, a resident of Wild Wing, spoke. He said he was opposed to the variance. He said they were going to be using Wild Wing Boulevard as their main entrance and not the two access roads. He said he believed the 10-year-old traffic study was outdated. He asked the Board to reject the variance request unless there was an agreement not to use Wild Wing Boulevard.

Dannely asked Emrick how long the parcel had been in the city. Emrick said it had been annexed in August 2016. Emrick said that if the parcel was still in the county, it would not be facing the parking issue. He said in order for Aldi’s to receive city services, they were required to annex.

David asked how far back the Highway Commercial zoning went on the parcel. Emrick answered that it was Highway Commercial since zoning began. Emrick also said the parcel was much larger than Aldi's footprint. He said part of the parcel would remain wooded.
Schrowang spoke again saying that the access would be where the traffic was merging. Hyman repeated that this meeting was only to discuss the additional parking request.

David asked Spruill if Aldi’s would consider accepting an increase to 79 parking spaces instead of 85. Spruill said they needed 80-85 parking spaces. Spruill said the traffic study did not include a second entrance, yet they were proposing one to offset some of the volume.

Hyman asked Emrick if the county had less buffering and landscaping requirements. Emrick said the city and county requirements were very similar. Emrick said there was a common area that belonged to Wild Wing along Wild Wing Boulevard that would be buffered from Aldi’s as well. Spruill said there would be 57,000 square feet of vegetation and pond area.

David again asked Spruill if they would consider a total of 79 parking spaces. Spruill said that would require redesign. He said if that was what the Board decided, he would have to go back to corporate and discuss it.

Hyman asked if it was feasible to have enough drainage for 100 parking spaces. Kirby said based on the impervious area the pond was sized adequately. Hyman asked how much impervious parking there was. Emrick said there was 73,000 square feet of impervious parking or 56%

Barb Eisenhardt asked to speak. She said the problem started with inappropriate notice. She said the letter stated only the property owners who were within 200' of the parcel requesting the variance got letters. She said they were not sent certified, and most people didn’t know there was a meeting. Eisenhardt said the posted sign was not able to be read. She brought pictures of accidents on Wild Wing Boulevard.

Hyman said Wild Wing was not originally meant to be a large subdivision, it was initially a golf course and over time, it had evolved into a large subdivision. He reiterated that the Board was only here to discuss the additional parking spaces.

Eisenhardt said again that the sign was not visible enough and there was not one on Wild Wing Boulevard. David said she had the notice of the meeting letters in her hand, had pictures of the sign, and was present at the meeting. Eisenhardt said she had just found out about the meeting.

Cynthia Weaver spoke about water in her neighborhood. Hyman said that sounded more like a design flaw where she lived. Hyman again said the Board was not there to discuss anything but the parking.

Ellison Smith spoke and said the traffic study was outdated and he thought there would be more traffic dumped onto Wild Wing Boulevard.
Dannelly asked Emrick if they would widen the entrance to Wild Wing. Emrick said Ride III would widen 501, but not Wild Wing Boulevard. Dannelly asked about reducing the speed on Wild Wing Boulevard. Emrick said it was already set at 25 miles.

Kirby said it was his understanding that SCDOT had no issue with the plan as submitted.

Eisenhardt spoke again saying the parking made the issues worse. She said there were already two curb cuts on 501 that could be used.

Hyman asked if there was any more input about the parking. Hyman was asked what the proper forum for their concerns were and he suggested they talk to SCDOT. He said this Board had no control over curb cuts.

Kathy Milliren said in order to talk about the parking, they had to talk about the road. She said it affected the health and safety of the Wild Wing residents.

Robert Scarpa asked how much rainfall did they do the calculations on. He brought up the rainfall of October 2015. Kirby said the stormwater calculation were based on a 25-year-24-hour event, which was all the state required. Again Hyman said this was not the forum to discuss stormwater issues.

Spruill offered the compromise of having 80 parking spaces and make 4 of them pervious spaces for use by employees. He said that would help some stormwater concerns. He said they could not make all the parking pervious, as carts and heels are not functional on rough surfaces.

Battle addressed the public and said he appreciated their input and he realized the issues were serious to them.

Dykes asked the Board if they had the authority to attach conditions to the variance. He asked if they could grant the variance for the parking with the condition they could not use Wild Wing Boulevard for egress. Hyman said that was not for this Board to entertain.

Eisenhardt said she believed they were by law permitted to put conditions on the variance. She said they were playing “Let’s Make a Deal” with the developer. Hyman said that was, in his opinion, insulting, and said they had heard enough public input at this time.

David thanked the public for coming and said their concerns were out of this Board’s jurisdiction.

David made a motion, seconded by Dannelly, to deny the request as presented, but to approve the increase in parking from 66 to 80 paved
parking spaces and 4 pervious parking spaces based on the four criteria that there were extraordinary conditions pertaining to this parcel that not granting the variance would restrict the use of the property, that granting the variance would not detract from the adjacent parcels, and granting the variance would not be a detriment to the public good or character of the area. The vote in favor was unanimous. The motion carried.

E. DDC Engineers, Inc., applicant, requests a variance from the City of Conway Unified Development Ordinance (UDO) Section 6.5.2.E Gateway Corridor Overlay, Buildings Section 6.5.2.F Gateway Corridor Overlay, Access Management; Section 7.1.2 Complete Streets; and Section 8.2.12 Parking Requirements for Specific Uses for a property located at Highway 501 and Cultra Road. (TMS# 122-07-01-054/PIN 33703010009 and TMS#122-07-01-060/ PIN 33703010008)

Emrick said this was the former site of Ryan’s. He said the building would be demolished and a new structure built in its place.

Emrick said the applicant was requesting a variance to allow 82 parking spaces, 16 more than permitted, to be granted a variance to only install a portion of sidewalk on the Church Street frontage, to be permitted to have the loading dock face the Mercedes Drive side of the lot, and to request a variance not to require inter-parcel vehicular access.

Aldi’s grocery store will be constructed on the site. The structure will be approximately 20,000 square feet. Aldi’s corporate model for grocery stores requires 80-85 parking spaces for a viable location.

Emrick said the UDO required sidewalks to be constructed along the frontage of all properties abutting arterial or local non-residential roads. The applicants propose to install a sidewalk along their entire Cultra Road frontage, but only a portion of sidewalk along Church Street.

Emrick said the UDO also required loading areas to be oriented so that they were not visible from residential districts, from existing public or private rights-of-way or from planned future public rights-of-way. Emrick said this parcel had frontage on three roads, Cultra Road, Mercedes Drive, and Church Street. He said the proposed loading dock would be oriented with the dock to the rear of the building, but on the Mercedes Drive side. He said a mature landscaping area was in place along the Mercedes Drive side and served as a buffer.

Emrick said the UDO states developments shall provide inter-parcel vehicle access points between all contiguous non-residential properties. He said this requirement could be waived by the TRC if it is demonstrated that inter-parcel connection is not feasible due to traffic
safety, topographic or environmental concerns. Emrick said in this case, inter-parcel connectivity was not possible due to drainage constraints between the adjoining parcel. Emrick said while TRC found the connection unnecessary, the applicant chose to include it as a request to avoid any discrepancies or confusion.

Spruill said the dock area landscaping would be cleaned up and upgraded.

Hyman asked if there was egress to Mercedes Drive. Emrick said there was no egress.

Mr. Parker, who lives at 2850 Mercedes Drive and his wife, Katie, asked to speak. Mr. Parker said they had come to the city previously to have the dumpster at Ryan’s enclosed so they did not have to see it. Their concern was that they would have to see Aldi’s dumpsters. He said they were also concerned about traffic on Mercedes Drive. David explained that there was no egress onto Mercedes from the Aldi’s parcel so there would be no additional traffic.

Spruill said the dumpster would be included as part of the loading dock and would not be seen by residents.

Mr. Jones said he was concerned about noise from delivery trucks during the night. Spruill said their stores were open from 9 a.m. to 8 p.m. He said the last employees left by 9:30 p.m. He said they could control the deliveries to some extent. He said deliveries were only made four (4) times a week. He said there might be a late night delivery that would take about 30-40 minutes to unload. He said the rest of the deliveries would be made during business hours.

David asked how many parking space Ryan’s had. Emrick said they had 138 parking spaces.

David made a motion, seconded by Battle, to approve the requested variance requests due to the extraordinary conditions of the parcel having three road frontages, that they were actually reducing the number of parking spaces from what Ryan’s had, that the parcels in the area did not have the same extraordinary conditions, that granting the variance would not be a detriment to the character of the area.
F. Brian Nesbitt, applicant, requests a variance from Section 11.4.2 Window Signage of the City of Conway Unified Development Ordinance (UDO) for the property located at 2262 U.S. Highway 501 East (Power Comics) (TMS# 151-00-02-081 / PIN 383100030022)

Emrick said the ordinance limited window signage to a maximum of 24 square feet, and not to exceed 25% of any individual window and 50% of the glass pane of any door. He said Power Comics currently had 100% of their windows covered with comic books characters and scenes.

Nesbitt said the sun beat down on the windows and he had collectibles that he needed to protect. He said he did not consider what was in the windows as signage and he thought they looked good.

David said he was concerned about setting a precedence.

Hyman asked if the windows could be tinted. Nesbitt said they were already tinted. Hyman said collectibles were different than a clothing store.

David asked if the bottom 3' of the window covering could be eliminated. Nesbitt said it could be, but that the counter was at the window so people would be looking in at the back side of the counter.

Hyman asked if you could see through the windows. Nesbitt said you could not. Nesbitt suggested that perhaps he could take off the wording from each of the panels.

Battle made a motion, seconded by Dannelly, to approve the request as presented stating that the request met all the criteria to allow a variance to be granted. The vote in favor was unanimous. The motion carried.

V. PUBLIC INPUT

There was none.
VI. ADJOURN

There being no further business to come before the Board, David made a motion, seconded by Dannelly to adjourn the meeting. The vote in favor was unanimous. The motion carried. The meeting adjourned at 7:20 p.m.

Signed and approved this 26th day of January, 2017.

[Signature]

B. Alex Hyman, Chairman