ZONING BOARD OF APPEALS MEETING
THURSDAY, JUNE 25, 2015
CITY HALL CONFERENCE ROOM – 5:30 P.M.

Present: Travis Dannelly, Byron David, Alex Hyman, Blake Hewitt, Georgia Johnson
Absent: James Shelley, James Battle
Staff: Adam Emrick, Planning Director; Barbara Tessier, Secretary
Others: W. Scott Rutherford, Mary Catherine Hyman, Gary Watson, Kathy Williams, Ronald Clarke, Tamika Williams, Billy Hughes, Jerry Johnson

I. CALL TO ORDER
Chairman Hewitt called the meeting to order at 5:25 p.m.

II. APPROVAL OF MINUTES
Johnson made a motion, seconded by Dannelly, to approve the May 28, 2015 meeting minutes as written. The vote in favor was unanimous. The motion carried.

III. VARIANCE REQUEST
Because it was felt item B would be less complicated, Hewitt asked the Board if they would approve taking item B first. David made a motion, seconded by Hyman, to approve hearing item B first. The vote in favor was unanimous. The motion carried.

B. Horry County government requests a variance from Section 5.2.1.B.4 and Section 5.2.1.B.6.c Accessory Structures of the City of Conway’s Unified Development Ordinance (UDO) for the property located at 2560 Main Street (TMS #123-00-02-139 / PIN 32513040011).

Mary Catherine Hyman, from Horry County Planning, was at the meeting representing Horry County.
Alex Hyman stated for the record that he was related to Mary Catherine Hyman by marriage. Emrick said the fact did not present a conflict and Alex Hyman did not need to recuse himself.

Emrick said Horry County had requested the addition of a metal carport building at the M.L. Brown Building. He said it was a 30' x 50' metal carport to house the County's special operation vehicle and mobile command center.

Emrick said the County was requesting variances to construct a fifth accessory building at the M.L. Brown Complex and to construct a 1,500 square foot metal carport. Emrick said it was his understanding the windows of the two vehicles to be housed were sensitive to UV rays. He said the structure and vehicles would not be seen from the street.

Emrick cited the sections of the ordinance that prohibited each of those requests. He said the applicants based their hardship upon being centralized and a secure facility. They also believe the M.L. Brown Building complex is unique in this respect.

Emrick said staff recommended that the Board conduct a thorough review of the request and determine if a hardship existed, and if best interests of the City of Conway would be served by granting the variances.

Hewitt asked if any of the public were here for this issue. Ms. Williams said she lived next door to the building and wanted to know which way the traffic would be entering the complex. Emrick said there would be no change in where vehicles would enter the complex.

Alex Hyman asked Emrick if the roof could be metal and the structure be stick built. Emrick said that was acceptable. David asked if this had been considered by the County. Gary Watson, also with the County, said it was a budget issue. Mary Catherine Hyman said the structure would not be seen by the public.

Hewitt told the applicants the Board had to go by four factors determined by the state to be considered before a variance could be granted. He said they were that there were exceptional and extraordinary conditions pertaining to this particular piece of property, that the extraordinary conditions must be peculiar to the particular piece of property, that application of the Ordinance on this particular piece of property would create an unnecessary hardship, and last, if granted, it must not cause substantial detriment to the public good or impair the purpose and intent of the Ordinance or the Comprehensive Plan.
Alex Hyman said the Board had routinely said no to other people requesting metal carports. He said although the request was from the County, the Board could not treat them any differently than they did anyone else. He said he did not mind the structure, and he did not think the structure needed to look like the other two accessory structures on the property.

Hewitt asked Emrick what the nonconformity was with the metal carport. He asked if it was the entire structure. Emrick said a metal roof was permitted, he said it was the base structure that was not permitted. He said if it were clad in another material, it would be permitted. Watson was asked if the County had gotten any quotes for a stick built structure. Watson said they had gotten other quotes and this metal carport was the most inexpensive. Mary Catherine Hyman said the thought process was that this was a secure, private area the public would not be viewing. She said the vehicles needed weekly maintenance and the maintenance area was located at this complex.

Emrick had shown the Board photographs of two other accessory structures on site that were brick. David asked if the other structures were open air. Mary Catherine Hyman said they were open air. She said those particular structures were not large enough to house the two vehicles.

Alex Hyman said because this was a centrally located area, this might be considered extraordinary. He said it was not the average situation a homeowner would face. Hewitt said he was having issues trying to find a hardship with the materials being used. David said he did not want to unduly burden the applicant.

Johnson asked the public if they objected to the structure. Ms. Williams said she did not object. Her concern had been where the traffic would enter.

Mary Catherine Hyman said they felt the extraordinary conditions were that this is was in a location where the public would not see it, and it would be shielded by the other existing buildings. Johnson said if the support poles were other than metal, it would be acceptable. Emrick said from an approval standpoint, it would be acceptable.

Alex Hyman made a motion, seconded by Johnson, based on there being extraordinary conditions that did not apply to other properties in the vicinity, to grant a variance to permit Horry County to have the fifth accessory structure. The vote in favor was unanimous. The motion carried.
Watson said the Horry County officials mandated to him to be conscious of the budget. He said they went into this looking for a solution that served the most economical way to accomplish purchasing the structure. Alex Hyman asked what the budget for this structure was. Watson said it was $9,000.00. Watson said a wooden structure would be too expensive. Alex Hyman said the metal posts could be wrapped in another material, and that would be permitted.

Watson told the Board the County had already purchased the metal carport because they had to spend the money before the end of the fiscal year. He said if the Board did not grant the variance, the County could use the structure elsewhere.

David said with the structure would not be seen from the right-of-way or to the public could be extraordinary circumstances.

Hewitt said talking a relatively liberal view of the factors, you could say perhaps that the extraordinary conditions that did not apply to non-government buildings, utilization was taken care of by the need for the vehicles to be shielded from ultraviolet light, and the detriment part had been taken care of. Hewitt said he was not saying the case would carry the preponderance of the evidence burden. He said the alternative would be they could comply with the ordinance just like everybody else.

David made a motion, seconded by Dannelly, to approve the request for the metal shelter based on the fact it had already been purchased, the residents were paying for the structure, the structure was not visible to the public by being within a confined space, which was extraordinary, a factor which other properties did not have, without the variance, it would prohibit and unreasonably restrict the utilization of the property and the protection of the vehicles, and there would be no detriment to the public or the adjacent property. The vote in favor was unanimous. The motion carried.

A. A1 Signs and Graphics requests a variance on behalf of A&A Management LLC from Section 11.3 Sign Standards by Zoning Districts, Section 5.2.3 Fences and Walls, 8.3 Parking Requirements, Section 6.5.2.1. Landscaping and Buffer Requirements, and Section 12.1.6 Nonconforming Signs of the City of Conway Unified Development Ordinance (UDO) for the property located at 618 Church Street (TMS# 137-01-33-001 / PIN 36803010069) in order to add signage, landscaping, reconfigure parking and add a fenced area to accommodate a Pawn Shop.
Emrick said on May 20, 2015, the applicant submitted a site plan for the redevelopment and change of use for a commercial building located at 618 Church Street. The building had formerly been a restaurant and night club and would now be used as a pawn shop.

Emrick said the interesting thing about this lot was that it had four frontages, facing Church Street is what would normally be considered the front, Legion Street would normally considered the rear with Seventh Avenue and Hiland Avenues normally would be considered the sides. He said this configuration presented permitting issues from the standpoint of the UDO.

Emrick said the request consisted our four separate items being:

1. An 8’ high fence, approximately 100’x 100’ in the Hiland Avenue and Legion Street corner section of the existing parking area. He said this would be for outdoor storage. He said they proposed to install landscaping around the outside of the fencing. Emrick said the problem from the permitting standpoint was in normal circumstances, it would be permissible to have a 4’ tall fence in the front. Being on Church Street or any other high volume road, a 6’ tall fence would be permitted. He said this would not apply to the Hiland or Legion side. He said they would have to do 4’ and 6’, which made no sense in terms of the security they would need. The UDO required for outdoor storage a fence to be 7’ in height. He said that created an issue with a 6’ height maximum and a 7’ height requirement. He said the applicants wanted to have 8’ height for maximum security.

   He said the reason this was impactful first was that it limited the amount of parking square footage they would have. He said in the Gateway Corridor Overlay if you have over 30,000 square feet of parking area, it changed the type of landscaping buffer that would be required. He said for a 30,000 square foot parking area, a 15’ buffer in the front would be required. Emrick said if it was under 30,000 square feet, a 10’ buffer would be required. He said if the fence was permitted, the parking area would be smaller than 30,000 square feet and only a 10’ buffer would be required. He said they were only required to have 40 parking spaces. He said if the fencing variance was granted, they would not need the parking variance. Emrick said if the variance for the fence wasn’t granted, they would be over the parking maximum.

2. A total of 40 parking spaces, using the existing asphalt parking area. He said this included 5 handicapped parking spaces.

3. To install the frontage buffer along Church Street only and to allow existing landscape to make up the required buffers along the remaining
street frontages. Emrick said the site had a lot of mature landscaping. He said they had Live Oaks and Crepe Myrtles, which had established an order of magnitude. He said these trees gave the lot the impact the city was looking for. He said the palm trees were also mature trees. He said the reason the landscaping buffers were triggered was because of the change of use. Emrick said the numbers of bushes the applicant proposed facing Church Street equaled what was required. He said they were asking for a variance from having to install the canopy and understory trees. He said they were proposing that the palm trees be accepted in lieu of the requirements to conform with the other mature palms on the site. He said the UDO considered a palm tree decorative tree that did not count for any canopy or understory trees.

Emrick said there were some landscape islands with mature trees. He said usually only 12 parking spaces were permitted and then an island was required. He said they would like to leave the islands as they were since they already had mature landscaping.

Emrick showed the Board photographs of where the fence and the existing landscaping was located on the property from each of the sides of the site.

Emrick said a few things the applicants were doing that were not required by the UDO was ingress and egress with limited curb cuts, which brought the site more into the parking requirements.

4. To install a 208 square foot wall sign on the brick parapet on the existing structure.

Emrick said the applicants had replaced the sign face in the existing road sign, while keeping the height and size of it. The sign does not conform with the UDO thus making it so they could not add anything additional to the current sign.

Emrick said they wished to put an additional sign on the brick parapet. Emrick corrected himself and said the parapet was 208 square feet and the sign would be 82.64 square feet. He said they would normally be limited to 100 square feet or 15% of the wall. He said not only were they asking for a variance to have a second sign, but also for the size of the parapet sign.

At this point, Hyman said he needed to recuse himself due to a civil action with A1 Signs and Mr. Johnson from participation in the sign variance request. He felt he could participate in the other requests.
Hewitt asked any of the public if they wished to speak. Mr. Ronald Jordan asked how long the fence on the back side on Legion would be going toward Hiland. Emrick said the applicant said he believed it was 10’ from the corner would be the separation from Hiland.

Johnson asked Mr. Barnes if there would be access from the Hiland Avenue side. He said it would not be a through way, but there would be a dumpster in the area and the trash truck would be able to get in to empty it. Emrick also said the dumpster would have to be screened.

Billy Hughes was also present and said his parents were concerned about visibly seeing the dumpster and the noise involved with trash pickup. There was a discussion about where the dumpster had been previously and it was determined if the dumpster pad was already in place, the dumpster had been in its current location.

Emrick said staff’s recommendation was for the Board to conduct a thorough review of the request and determine if a hardship existed and if the best interest of the City of Conway would be served by granting the multiple requests.

Hewitt suggested they start with the fence. Hewitt reminded the Board of the four findings they must consider in determining if a variance could be approved. Hewitt said from his perspective the applicant had a strong case for the approval of the storage fence in what would technically be their front yard, but was really their side yard because everyone knew the “front” was Church Street.

Hyman asked if the fence would be chain link. Emrick said chain link was not permitted in the Gateway Corridor Overlay. Barnes said it would wooden slats. Hyman said he saw no issue with the height of the fence especially due to the unusual configuration of the property and since it would be wooden. Barnes was asked about the color of the fence. Barnes said it would be gray like the building. He said it needed to be 8’ for security.

Johnson made a motion, seconded by Hyman, to approve the 8’ fence along the Hiland Avenue and Legion Street sides. The vote in favor was unanimous. The motion carried.

Emrick said since the fence had been approved, the parking item no longer was necessary.

Hewitt asked Emrick to briefly go over the buffering issue again. Emrick said given the vote on the fence, the buffer would only have to be 10’ on the Church Street frontage. Emrick said he would talk about the
front buffer first. He said the application had requested to allow the palm
trees to stand in place of the required understory and canopy trees. He
said the reason for that was to allow matching with some of the mature
palms already on the site.

Emrick said on the Seventh Avenue side and Legion Street sides
the request was to allow the existing landscaping to stand for the required
buffer.

Emrick said on the Hiland Street side the fence landscaping would
count in that regard.

Hyman asked what the requirements were based on. Emrick said it
was based on the linear feet of the frontage. Hewitt said new trees might
adversely affect the mature trees. Johnson said she thought the Seventh
Avenue and Legion Street landscaping looked fine as it was. Johnson said
Church Street was very busy and the trees would eventually become
overgrown. She said the palm trees would not affect the traffic.

Hyman made a motion, seconded by Johnson, to grant the
landscape variance for the sides and front on Church Street and to allow
the palm trees to take place of the canopy trees. The vote in favor was
unanimous. The motion carried.

The Board moved on to the signage request.

Hewitt said there was an existing, nonconforming sign. Emrick said
the face panel had been changed a week ago and he thought it looked
nice. Hewitt said under the UDO, rehabbing a nonconforming sign would
limit other signage to 100 square feet. Emrick said it actually did not permit
any other signage. Emrick said there could be no secondary signage. He
said the applicant was asking for a variance for that aspect, and then
another request regarding the size of sign permitted on the parapet.

Hewitt said they first had to decide if they could grant a variance for
the secondary signage and then how big it could be. Emrick said that was
correct.

Hewitt stated for the record that Hyman was recused for this
agenda item. Hyman said that was correct.

Dannelly asked why a nonconforming detracted from a new sign on
the building. Emrick said the motivation was that the city was trying to
encourage conforming signage. He said you can have a second sign if
you bring the nonconforming sign into conformance. He said to bring this
particular sign into conformity, they would have had to bring it down to 14'
in total height. He said the overall size of the sign would have had to have been reduced substantially. Emrick said the other motivation was that they already had a giant sign and was a second sign really necessary.

Hewitt said he struggled with the issue that although there was no opposition, they did have the four findings to address. He said he personally struggled with what the extraordinary conditions would be. He said the nonconforming sign was there when they took the space and they had rehabbed it as they were permitted to do.

Dannelly said he was trying to remember, but he thought Thorny’s had a sign on the parapet. Johnson agreed. Emrick said once the sign was removed from the parapet, another one could not just be placed back. Hewitt asked if any of the original structure was still there. Emrick said the brick wall still remained. Emrick was asked if the brick wall was not part of the sign structure and the letters just removed. Emrick said that was up for the Board to interpret. The Board noted that the brick structure had been there before and had recently been painted white. Dannelly asked if there would be lighting for the signage. Barnes said if approved, he wanted to have channel letters. It was discussed that the parapet wall was shielding the air conditioning units from being seen from Church Street.

Johnson said most businesses had wall signs, but she said she did not know how common it was to have one at the road as well.

Hewitt said the parapet was already there and it might be considered by some to be rather heinous. David said if they were inclined to permit a second sign, then they had to determine the size of that sign. Emrick said that was correct. He asked what would be permitted under the UDO. Emrick said it would be 15% of the face or 100 square feet, whichever was less. He said in this case, 15% it would be 32.2 square feet. He said what they had drawn was 82.64 square feet. He said another way to interpret the building face was to measure the whole building face toward Church Street and not just the parapet. He said in that case, the 100 square feet would be the lesser size.

Dannelly asked if it was had been the history of the Board to grant a variance in a situation like this. David asked if the sign could not just go back up because the letters had been removed. Emrick said he did not consider the parapet a sign structure because it was put up to hide the air condition units not necessarily to house a sign. Johnson asked why the sign couldn’t be used to decorate the parapet. She said it looked better with the lettering. Emrick said that was a possibility. Dannelly asked if the UDO had been written after it had been Thorny’s. Emrick said it had been rewritten in 2011. Emrick said the Community Appearance Board approved it before. Dannelly said using common sense, if it was
acceptable then what could have changed so much. He also agreed the parapet looked better with something there rather than nothing on it.

Hewitt asked Emrick if there had been any opposition. Emrick said only from Mr. Johnson and it was not about the signage.

Johnson made a motion, seconded by Dannelly, to approve the secondary signage and to approve the size of the secondary signage. The vote in favor was unanimous, with Hyman having recused himself. The motion carried.

IV. PUBLIC INPUT

There was none.

V. ADJOURN

David made a motion, seconded by Hyman, to adjourn the meeting. The vote in favor was unanimous. The motion carried. The meeting adjourned at 6:30 p.m.

Signed this 27th day of August, 2015.

[Signature]

Blake Hewitt, Chairman