

Minutes of the City of Vandalia Board of Zoning Appeals
April 14, 2021

Agenda Items

1. Call to Order
2. Attendance
3. New Business
 - a. BZA 21-04A – Variance to City Code Section 1234.04(d) “Wheel Stops or Curbs” – 1090 W National Road
 - b. BZA 21-04B – Variance to City Code Section 1232.05(c) “Perimeter Landscaping of Vehicular Use Areas” – 1090 W National Road
 - c. BZA 21-04C – Variance to City Code Section 1232.06(b) “Screening of Vehicular Use Areas from Rights-of-Way” – 1090 W National Road
 - d. BZA 21-04D – Variance to City Code Section 1234.03(d) “Access” – 1090 W National Road
 - e. BZA 21-04E – Variance to City Code Section 1228.04(b)(5)(C) “Flat Roofs” – 1090 W National Road
 - f. BZA 21-04F – Variance to City Code Section 1228.04(b)(4) “Wall Openings” – 1090 W National Road
 - g. BZA 21-04G – Variance to City Code Section 1218.04(p) “Automobile and Motorcycle Sales and Leasing; Automotive Sales and Leasing; and Truck and Heavy Equipment Sales” – 1090 W National Road
4. Approval of BZA Minutes of March 10, 2021
5. Communications
6. Adjournment

Members Present:	Mr. Michael Flannery, Mr. Christopher Prokes, Ms. Amber Aivalotis-Weaver, Ms. Arlene Setzer, and Mr. David Arnold
Members Absent:	
Others Present:	Kara Burkhardt, Jamie Spencer, Dan Holdgreve, Jean Maychack, and David Marlow

1. Call to Order

Mr. Flannery called the meeting to order at 6:00 p.m. Mr. Flannery described the BZA as a recommending body that evaluated the BZA application and stated that the City Council made the final decision on all appeal and variance requests, but will not hold a public hearing such as BZA. He noted that City Council would hear the request at the meeting on May 03, 2021 at 7:00 p.m. Mr. Flannery then swore in those who intended to speak during the public hearing.

2. Attendance

It was noted that a quorum of members was present.

3. New Business

a. BZA 21-04A – Variance to City Code Section 1234.04(d) “Wheel Stops or Curbs” – 1090 W National Road

Mr. Flannery introduced the item and asked for the report from Staff.

Mr. Marlow noted he would give a quick description of all seven variance requests and have an open conversation related to all seven requests then the Board would review each criteria separately and vote on each request separately.

Mr. Marlow gave the report from Staff explaining for the first variance request the Applicant, Van Con General Contractor, had requested a variance to allow the construction of a new 16,000 square foot office and service facility at 1090 W National Road without installing wheel stop devices for 54 existing parking spaces.

Mr. Marlow gave the report from Staff explaining for the second variance request the Applicant, Van Con General Contractor, had requested a variance to allow the construction of a new 16,000 square foot office and service facility at 1090 W National Road without installing landscaping around the perimeter of the vehicular use area located in the rear yard.

Mr. Marlow gave the report from Staff explaining for the third variance request the Applicant, Van Con General Contractor, had requested a variance to allow a 5.5-foot wide setback, with no screening, between the public right-of-way and the adjacent vehicular use area, where pursuant to Code Section 1232.06(b) a 10-foot wide landscape screen between the public right-of-way and the adjacent vehicular use area was required at 1090 W National Road.

Mr. Marlow gave the report from Staff explaining for the fourth variance request the Applicant, Van Con General Contractor, had requested a variance to allow for two curb cuts on an interior lot at 1090 W National Road. Pursuant to Code Section 1234.03(d) “Access” interior lots shall be permitted a maximum of one curb cut.

Mr. Marlow gave the report from Staff explaining for the fifth variance request the Applicant, Van Con General Contractor, had requested a variance to allow the construction of a new 16,000 square foot office and service facility at 1090 W National Road without installing a parapet wall on the east, west, and south facing facades of a flat roof building.

Mr. Marlow gave the report from Staff explaining for the sixth variance request the Applicant, Van Con General Contractor, had requested a variance to allow the construction of a new 16,000 square foot office and service facility at 1090 W National Road without installing windows on the east and west facing building facades that occupy at least 25 percent of the total wall surface area.

Mr. Marlow gave the report from Staff explaining for the seventh variance request the Applicant, Van Con General Contractor, had requested a variance to allow an outdoor display, storage, and sales facility to be located at 1090 W National Road without full screening of the facility from the adjacent residential district.

Mr. Flannery then opened the public meeting and invited the Applicant to speak on the seven variance requests.

Ms. Burkhardt introduced herself as the civil engineer for the project and with her was Mr. Holdgreve and Ms. Maychack from Van Con General Contractor and Mr. Spencer with Beau Townsend. Ms. Burkhardt noted the project started a few years ago and by March 2020 they were ordering the building and finalizing zoning approval and then COVID-19 hit. Ms. Burkhardt continued to note the project was put on hold until now but the concept was slightly different with an office space in the front and service facilities in the back. Ms. Burkhardt mentioned one side of the facility would be for commercial vehicles, similar to box trucks, and the other side would be for a quick lube. Ms. Burkhardt explained the office space would have a nice-looking front façade and, in the back, there would be service doors and bays but would be removed about 160-feet from the right-of-way. Ms. Burkhardt went on to say the drawings were ready and the building was on order. Ms. Burkhardt noted she understood they were asking for seven variances, but they were fully embracing the zoning code within their plan. Ms. Burkhardt mentioned they were complying with a piece of each variance request.

Ms. Burkhardt explained they were requesting a variance for the wheel stop devices, but the majority of the parking spaces would have a wheel stop device. Ms. Burkhardt noted they were only developing the first 200-feet of the 1000-foot deep lot. Ms. Burkhardt continued to note that in all of the new areas they were going to install a new 6-inch barrier curb. Ms. Burkhardt explained the existing parking lot in the back was already used for vehicle inventory and so they were requesting to not have to install wheel stop devices for an existing use and did not deem it practical to spend the money to improve that area.

Ms. Burkhardt noted they were requesting a screening variance from the residential district in the back where they were not doing any construction. Ms. Burkhardt continued to note they would be providing shrubs in the front part of the facility where there would be development and give it a nice look.

Ms. Burkhardt mentioned they were requesting a screening variance from the public right-of-way to allow for a 5.5-foot setback where the Code required a 10-foot setback from the parking lot to the right-of-way. Ms. Burkhardt continued to mention that Beau Townsend had already dedicated 5-feet of right-of-way a few years back when they were working on a project that no other car dealership had dedicated yet, so they were ultimately giving the requested 10-foot buffer. Ms. Burkhardt noted the Code also required a continuous evergreen hedge up to 3-feet high along the frontage, but they were requesting to not install the screening because they were a car dealership and wanted to sell cars. Ms. Burkhardt continued to note they would be moving the cars closer to National Road by extending the parking lot to the north where the existing detention area was located. Ms. Burkhardt mentioned there were other car dealerships that had their inventory of cars right up against the sidewalk with no buffer. Ms. Burkhardt explained they were proposing to provide the landscaping around the two entrances to draw the customers to the entry point.

Ms. Burkhardt mentioned they were requesting a variance to allow a second curb cut. Ms. Burkhardt continued to mention that area was a Beau Townsend campus with Ford, Nissan, and Lincoln. Ms. Burkhardt explained that at the request of the zoning department they would be combining the two lots that currently occupied Nissan new and Nissan pre-owned. Ms. Burkhardt noted the curb cut furthest to the west would be used for commercial vehicles and truck deliveries. Ms. Burkhardt continued to note currently the semi-trucks would be unloading inventory in the middle lane on National Road. Ms. Burkhardt went on to say they did not want their other customers to be stuck behind a semi-truck in the middle lane trying to turn into the facility and so they wanted a second curb cut to be used for passenger vehicles.

Mr. Prokes asked if the curb cut to the west would be used preferably for service and deliveries but were intentionally trying to direct customers to the eastern curb cut. Ms. Burkhardt replied yes and the east side of the building was the quick lube where customers would come to be serviced and would be back out in 30 minutes.

Ms. Burkhardt mentioned the middle lot which they were combining with the Nissan lot did not currently have a curb cut and so although they were requesting a second curb cut on the subject lot there essentially was three lots and three curb cuts.

Mr. Holdgreve noted they were requesting to not install the three-dimensional cornice treatment on the parapet wall that faced National Road but instead as an alternative would have the ACM panels on the front façade project out 8-inches which was required for the cornice treatment. Mr. Holdgreve mentioned he felt the intent of the Code would be satisfied. Mr. Holdgreve then provided the Board with a packet that showed what they were proposing to install on the front façade in lieu of the three-dimensional cornice treatment.

Mr. Arnold asked why they were not proposing to install the three-dimensional cornice treatment and the 8-inch ACM panels. Mr. Holdgreve replied the reason was due to budgetary issues. Mr. Holdgreve continued to reply the proposed building was a techy and more contemporary look as was most of the other car dealerships on National Road whereas the cornice treatment would be more for downtown areas with older traditional style buildings. Mr. Arnold replied the new Chipotle building on National Road was a contemporary style building but would have the three-dimensional cornice.

Mr. Holdgreve mentioned the other architectural variance was for the glass windows. Mr. Holdgreve explained that by the time you get to the service bays you were 150 to 200-feet off the road. Mr. Holdgreve continued to explain that several of the other dealerships did not have 25 percent glass, but he realized it was a new Code as of January 2019. Mr. Holdgreve noted they were trying to meet an energy code that would be difficult if putting glass on overhead doors. Mr. Holdgreve continued to note the office space on the east and west side of the building was about 41-feet wide and the glass in that area was 21 percent and 23 percent respectfully. Mr. Holdgreve went on to say it could be revised to have the office area have 25 percent windows but the only way to have the entire wall surface area of the building side would be to replace four out of the seven overhead doors with a glass panel. Mr. Arnold replied he felt the intent of the Code was to prevent blank walls which he felt was being met by the overhead doors. Mr. Holdgreve replied that the majority of the summer the overhead doors would be up. Mr. Prokes agreed with Mr. Arnold's comment.

Mr. Flannery asked if they would increase the office area to 25 percent glass windows. Mr. Holdgreve replied he could not go any higher due to the ceiling, but he could expand the width of the windows.

Mr. Arnold asked if they were planning any signage on the building frontage. Mr. Holdgreve replied there would be signage on the building frontage for the quick lube and commercial vehicles.

Mr. Spencer explained there was no Ford franchised quick lane and commercial service facility. Mr. Spencer continued to explain he only wanted to speak about two variance requests the screening from the right-of-way and the second curb cut. Mr. Spencer noted they were spending \$500,000 to create underground detention so that they could move the parking lot north towards National Road and more visible to the public, but the code requirement of screening would defeat the purpose.

Mr. Spencer went on to say there were two major issues in his 28 years at Beau Townsend and that was the flat roof leaking on the Ford building and the second issue was the semi-trucks damaging curbs. Mr. Spencer went on to say semi-truck drivers was diversifying and they no longer had the same truck driver delivering inventory which meant they were not familiar with the facility. Mr. Spencer noted that truckers would turn onto Fordway Drive then it was an hour-long venture to get them to back up onto National Road.

Mr. Spencer explained it was highly recommended by Ford they provide separate driveway entrances between the customers and deliveries. Mr. Spencer continued to explain he felt their proposal would reduce the number of semi-trucks parked in the center lane on National Road. Mr. Spencer mentioned the semi-trucks in the middle lane on National Road also blocked visibility of vehicles leaving their facility and they recently had someone who totaled their car because a semi-truck blocked their visibility when traveling across the four lanes of traffic. Mr. Spencer continued to mention the dumpsters on the site would be relocated further to the back and now all the semi-trucks, box trucks, and trash pick-up would all enter through the same driveway and travel through the site in a forward motion which was exciting for him. Mr. Spencer noted the entire dynamics of the project would change if only one curb cut was permitted.

Mr. Arnold asked what would prevent a semi-truck from entering into the facility from the eastern curb cut. Mr. Spencer replied they planned to provide signage and identification to Code. Mr. Arnold replied the Code only allowed for 2'x3' direction signage. Mr. Spencer replied that he understood and that all deliveries for Ford and Nissan would be funneled through the proposed second curb cut. Ms. Aivalotis-Weaver replied she was impressed with the level of detail that went into the plan from a safety standpoint.

Ms. Setzer asked if the 6-foot tall wood privacy fence was their fence or the residents who lived on Bosco Avenue. Mr. Spencer replied he believed it was their fence and a few years ago they did some repairs to the fence to better support it. Mr. Spencer mentioned the fence acted as safety for both Beau Townsend and the residents. Ms. Setzer agreed and felt the fence was better for the neighbors than landscaping. Mr. Prokes agreed that fencing was better for security than landscaping. Mr. Prokes mentioned visually it may not be better but the sound would not go away. Mr. Prokes asked if residents had contacted Staff. Mr. Marlow replied no. Mr. Prokes noted he was in favor of the fence and acknowledged the proposal to further setback the vehicle inventory from the rear property line. Mr. Marlow replied that installing the screening would not cause the fence to be removed. Mr. Marlow continued to reply the Code required full screening from the residents which the existing fence was not providing. Ms. Setzer asked if a taller fence was installed would that satisfy the Code requirement. Mr. Marlow replied that would satisfy the screening requirement, but landscaping would still need provided just not as much.

Mr. Holdgreve mentioned the distance from the fence to the back of the building was 736-feet. Mr. Spencer noted if the exterior condition of the fence was not appropriate then they would address it. Ms. Setzer noted she felt the repair and maintenance of the fence was more important than evergreens that would take years to grow tall enough to screen the property. Mr. Marlow replied you would be able to see the evergreens within just a few years because the Code required evergreen trees to be planted at a minimum height of 6-feet. Mr. Marlow continued to reply the purpose of the required screening was to block visibility from the outdoor sales and storage of vehicles. Mr. Prokes replied the inventory would always be changing. Ms. Aivalotis-Weaver replied the residents knew they lived behind a car lot. Mr. Spencer replied they would be willing to install new fencing to appease the neighborhood.

Mr. Arnold mentioned he would like to see more landscaping out near National Road where there would be no display of vehicles. Mr. Spencer replied the parking in front of the new building would be retail parking for the quick lane customers and the new parking area to the east on the Nissan lot would be for vehicle display. Mr. Flannery was concerned about the visual consistency when traveling on National Road and seeing one area dropped back. Mr. Arnold replied there were other retention areas that caused the parking area to be setback. Ms. Burkhardt mentioned they would be willing to include more landscaping in front of the quick lube facility as there were no displaying of vehicles in front of that building, but they would like to keep the 5.5-foot setback.

Mr. Arnold noted he felt the vehicles that were adjacent to the sidewalk at other dealerships were too close to National Road and should be setback further. Ms. Burkhardt agreed.

Mr. Marlow mentioned Staff was recommending the Board of Zoning Appeals recommend approval of the requested variance from City Code Section 1234.04(d) "Wheel Stops or Curbs" for the purposes of allowing 54 parking spaces to remain without a wheel stop device at 1090 National Road.

Mr. Flannery closed the public hearing and proceeded through the variance criteria.

Variance Criteria

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance;

BZA Response: The Board agreed that the property in question can have a beneficial use without granting of the variance.

- (2) Whether the variance is substantial;

BZA Response: The Board did not feel the variance request to allow for 54 parking spaces to be without a wheel stop device was substantial.

- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

BZA Response: The Board did not feel the essential character of the neighborhood or adjoining properties would suffer a substantial detriment as a result of the variance.

- (4) Whether the variance would adversely affect the delivery of government services (i.e., water, sewer, garbage);

BZA Response: The Board did not feel the variance would adversely affect the delivery of government services.

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;

BZA Response: The Board did not feel the property owner purchased the property with knowledge of the zoning restriction.

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

BZA Response: The Board agreed that the property owner's predicament could not be feasibly obviated through some method other than a variance.

- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance; and

BZA Response: The Board did not feel the spirit and intent behind the zoning requirement would be observed or substantial justice done by granting the variance.

- (8) Any other relevant factor to assist the Board of Zoning Appeals in weighing and balancing the public and private benefits and harms of the requested relief.

BZA Response: The Board agreed that the following are all relevant factors: the subject parking spaces are only used for inventory purposes, the subject spaces are adjacent to other parking lots used for inventory purposes, the parking spaces already exist without wheel stop devices, and the spaces are not adjacent to pedestrian walkways.

Mr. Prokes made a motion to recommend approval of the requested variance from City Code Section 1234.04(d) "Wheel Stops or Curbs" for the purposes of allowing 54 parking spaces to remain without a wheel stop device at 1090 W National Road.

Ms. Setzer seconded the motion. The motion passed 5-0.

b. BZA 21-04B – Variance to City Code Section 1232.05(c) "Perimeter Landscaping of Vehicular Use Areas" – 1090 W National Road

Mr. Flannery introduced the item and asked for the recommendation from Staff.

Mr. Marlow noted that Staff was recommending the Board of Zoning Appeals recommend denial of the requested variance from City Code Section 1232.05(c) "Perimeter Landscaping of Vehicular Use Areas" for the purposes of allowing no perimeter landscaping of vehicular use areas located in the rear yard at 1090 W National Road.

Mr. Flannery then opened the public meeting and invited the Applicant to speak on the matter.

The Applicant did not have any further comments.

Mr. Flannery closed the public hearing and proceeded through the variance criteria.

Variance Criteria

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance;

BZA Response: The Board did not feel the property in question could have a beneficial use without granting of the variance.

- (2) Whether the variance is substantial;

BZA Response: The Board did not feel the variance request to not install 159 shrubs was substantial.

- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

BZA Response: The Board did not feel the essential character of the neighborhood or adjoining properties would suffer a substantial detriment as a result of the variance.

- (4) Whether the variance would adversely affect the delivery of government services (i.e., water, sewer, garbage);

BZA Response: The Board did not feel the variance would adversely affect the delivery of government services.

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;

BZA Response: The Board did not feel the property owner purchased the property with knowledge of the zoning restriction.

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

BZA Response: The Board did not feel the property owner's predicament feasibly can be obviated through some method other than a variance by providing 159 shrubs.

- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance; and

BZA Response: The Board felt the spirit and intent behind the zoning requirement would be observed or substantial justice done by granting the variance.

- (8) Any other relevant factor to assist the Board of Zoning Appeals in weighing and balancing the public and private benefits and harms of the requested relief.

BZA Response: The Board did not feel there are other relevant factors.

Ms. Setzer made a motion to recommend approval of the requested variance from City Code Section 1232.05(c) "Perimeter Landscaping of Vehicular Use Areas" for the purposes of allowing no perimeter landscaping of vehicular use areas located in the rear yard at 1090 W National Road.

Mr. Arnold seconded the motion. The motion passed 5-0.

c. **BZA 21-04C – Variance to City Code Section 1232.06(b) "Screening of Vehicular Use Areas from Rights-of-Way" – 1090 W National Road**

Mr. Flannery introduced the item and asked for the recommendation from Staff.

Mr. Marlow noted that Staff was recommending the Board of Zoning Appeals recommend approval of the requested variance from City Code Section 1232.06(b) "Screening of Vehicular

Use Areas from Rights-of-Way” for the purposes of allowing a 5.5-foot wide setback between the public right-of-way and the adjacent vehicular use area at 1090 W National Road with the following condition:

- The 13 shrubs proposed for perimeter landscaping are replaced with a continuous evergreen hedge to be planted at a minimum height of 3-feet and shall extend to the south an additional 10-feet on both sides

Mr. Flannery then opened the public meeting and invited the Applicant to speak on the matter.

Ms. Burkhardt asked if Mr. Arnold was requesting additional screening. Mr. Arnold replied he would like to see additional screening in front of the oil change. Mr. Arnold mentioned he felt 3-feet in height was excessive but would be fine with a smaller shrub that was 1-foot tall. Ms. Burkhardt noted they were requesting landscaping on the ends of the driveway entrances. Mr. Prokes showed the photo in the packet of the landscaping in front of the Nissan building and asked if that was the landscaping being requested by the Applicant. Ms. Burkhardt replied yes, but maybe a little more enhanced. Mr. Marlow replied that the photo of the Nissan building was provided by Staff to show what Staff was proposing. Mr. Marlow continued to reply that the Applicant’s request would not have the continuous hedge and instead would only consist of 13 shrubs. Ms. Burkhardt mentioned they were willing to add more than 13 shrubs but did not want to add additional screening in front of the parking spaces but rather on the sides near the driveway entrances.

Mr. Flannery closed the public hearing and proceeded through the variance criteria.

Variance Criteria

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance;

BZA Response: The Board felt the property in question could have a beneficial use without granting of the variance.

- (2) Whether the variance is substantial;

BZA Response: The Board felt the variance to allow for a 5.5-foot setback with no screening was substantial.

- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

BZA Response: The Board did not feel the essential character of the neighborhood or adjoining properties would suffer a substantial detriment as a result of the variance.

- (4) Whether the variance would adversely affect the delivery of government services (i.e., water, sewer, garbage);

BZA Response: The Board did not feel the variance would adversely affect the delivery of government services.

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;

BZA Response: The Board did not feel the property owner purchased the property with knowledge of the zoning restriction.

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

BZA Response: The Board felt the property owner's predicament feasibly can be obviated through some method other than a variance by providing a 10-foot setback with screening.

- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance; and

BZA Response: The Board did not feel the spirit and intent behind the zoning requirement would be observed or substantial justice done by granting the variance.

- (8) Any other relevant factor to assist the Board of Zoning Appeals in weighing and balancing the public and private benefits and harms of the requested relief.

BZA Response: The Board did not feel there were other relevant factors.

Mr. Prokes made a motion to recommend approval of the requested variance from City Code Section 1232.06(b) "Screening of Vehicular Use Areas from Rights-of-Way" for the purposes of allowing a 5.5-foot wide setback between the public right-of-way and the adjacent vehicular use area at 1090 W National Road with the following condition:

- The 13 shrubs proposed for perimeter landscaping were replaced with a continuous evergreen hedge to be planted at a minimum height of 3-feet and shall extend to the south an additional 10-feet on both sides

Mr. Arnold seconded the motion. The motion was denied 3-2.

Ms. Aivalotis-Weaver made a motion to recommend approval of the requested variance from City Code Section 1232.06(b) "Screening of Vehicular Use Areas from Rights-of-Way" for the purposes of allowing a 5.5-foot wide setback between the public right-of-way and the adjacent vehicular use area at 1090 W National Road with no conditions.

Ms. Setzer seconded the motion. The motion passed 3-1 with Mr. Prokes abstaining.

d. BZA 21-04D – Variance to City Code Section 1234.03(d) "Access" – 1090 W National Road

Mr. Flannery introduced the item and asked for the recommendation from Staff.

Mr. Marlow noted that Staff was recommending the Board of Zoning Appeals recommend denial of the requested variance from City Code Section 1234.03(d) "Access" for the purposes of allowing a second curb cut at 1090 W National Road.

Mr. Flannery then opened the public meeting and invited the Applicant to speak on the matter.

Mr. Spencer noted their proposal for the second curb cut was safer and customer friendly.

Mr. Arnold mentioned he was concerned with the second curb cut due to the amount of traffic on National Road and that a vehicle may be stopped in the middle turn lane on National Road trying to turn left into the facility and not know which curb cut to enter from. Mr. Flannery noted there was a gas station on National Road with two curb cuts on the front and another on the side of a corner lot. Mr. Arnold asked if he was referring to Sunoco. Mr. Flannery replied yes. Mr. Arnold explained that building was constructed a long time ago and they took a curb cut out on the side. Mr. Flannery replied that for the trucks going in and out of the facility a second curb cut would make it easier and less likely to cause the back up of vehicles on National Road. Mr. Marlow noted that Sunoco only had one curb cut on National Road and the adjacent curb cut was for the Imperial Shopping Center.

Ms. Burkhardt noted she felt the requested second curb cut was a strategic curb cut that would create less traffic and problems on National Road and their customers would know where to go.

Mr. Holdgreve explained there used to be three lots in total and so they were requesting three curb cuts for the three lots.

Ms. Setzer noted that the type of business and use should be considered. Ms. Setzer continued to note the Applicant detailed the purpose for each curb cut.

Mr. Flannery closed the public hearing and proceeded through the variance criteria.

Variance Criteria

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance;

BZA Response: The Board determined that the property in question could have a beneficial use without granting of the variance.

- (2) Whether the variance is substantial;

BZA Response: The Board agreed that the variance request was not substantial.

- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

BZA Response: The Board did not feel the essential character of the neighborhood or adjoining properties would suffer a substantial detriment as a result of the variance.

- (4) Whether the variance would adversely affect the delivery of government services (i.e., water, sewer, garbage);

BZA Response: The Board did not feel the variance would adversely affect the delivery of government services.

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;

BZA Response: The Board agreed that the property owner did not purchase the property with knowledge of the zoning restriction.

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

BZA Response: The Board did not feel the property owner's predicament could be feasibly obviated through some method other than a variance.

- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance; and

BZA Response: The Board determined that the spirit and intent behind the zoning requirement would be observed or substantial justice done by granting the variance.

- (8) Any other relevant factor to assist the Board of Zoning Appeals in weighing and balancing the public and private benefits and harms of the requested relief.

BZA Response: The Board did not feel there were other relevant factors.

Mr. Prokes made a motion to recommend approval of the requested variance from City Code Section 1234.03(d) "Access" for the purposes of allowing a second curb cut at 1090 W National Road.

Ms. Setzer seconded the motion. The motion passed 4-1.

e. BZA 21-04E – Variance to City Code Section 1228.04(b)(5)(C) "Flat Roofs" – 1090 W National Road

Mr. Flannery introduced the item and asked for the recommendation from Staff.

Mr. Marlow noted that Staff was recommending the Board of Zoning Appeals recommend approval of the requested variance from City Code Section 1228.04(b)(5)(C) "Flat Roofs" for the purposes of allowing a flat roof to be visible from a public street and an adjacent residential district without providing a parapet wall with three-dimensional cornice treatments on the east, west, and south facing building facades at 1090 W National Road with the following condition:

- A parapet wall with a three-dimensional cornice treatment projecting a minimum of eight inches from the parapet façade plane shall be installed on the north facing building façade to conceal the flat roof

Mr. Flannery then opened the public meeting and invited the Applicant to speak on the matter.

The Applicant did not have any further comments. Mr. Prokes asked if the Applicant had any issue with the Board recommending approval with the condition that the ACM panels project 8-inches from the building façade. Mr. Holdgreve replied he did not have any issues with that condition.

Mr. Flannery closed the public hearing and proceeded through the variance criteria.

Variance Criteria

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance;

BZA Response: The Board agreed that the property in question could have a beneficial use without granting of the variance.

- (2) Whether the variance is substantial;

BZA Response: The Board did not feel the variance was substantial.

- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

BZA Response: The Board agreed that the essential character of the neighborhood would not be substantially altered nor would adjoining properties suffer a substantial detriment as a result of the variance.

- (4) Whether the variance would adversely affect the delivery of government services (i.e., water, sewer, garbage);

BZA Response: The Board did not feel the variance would adversely affect the delivery of government services.

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;

BZA Response: The Board agreed that the property owner did not purchase the property with knowledge of the zoning restriction.

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

BZA Response: The Board agreed that the property owner's predicament could be feasibly obviated through some method other than a variance by providing a parapet wall on all four sides of the building.

- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance; and

BZA Response: The Board agreed that the spirit and intent behind the zoning requirement would not be observed nor substantial justice done by granting the variance.

- (8) Any other relevant factor to assist the Board of Zoning Appeals in weighing and balancing the public and private benefits and harms of the requested relief.

BZA Response: The Board agreed that other relevant factors include the proposal to not include any visible rooftop equipment on the subject building, and Staff's recommendation to require full screening from the adjacent residential district.

Mr. Prokes made a motion to recommend approval of the requested variance from City Code Section 1228.04(b)(5)(C) "Flat Roofs" for the purposes of allowing a flat roof to be visible from a public street and an adjacent residential district without providing a parapet wall with three-dimensional cornice treatments on the east, west, and south facing building facades at 1090 W National Road with the following condition:

- A parapet wall is provided on the north facing building façade and the ACM panels project 8-inches out from the building facade

Ms. Setzer seconded the motion. The motion passed 5-0.

**f. BZA 21-04F – Variance to City Code Section 1228.04(b)(4) "Wall Openings"
– 1090 W National Road**

Mr. Flannery introduced the item and asked for the recommendation from Staff.

Mr. Marlow noted that Staff was recommending the Board of Zoning Appeals recommend denial of the requested variance from City Code Section 1228.04(b)(4) "Wall Openings" for the purposes of allowing the east and west facing building elevations to only contain windows that occupy 4.5 percent of the total wall surface area at 1090 W National Road.

Mr. Flannery then opened the public meeting and invited the Applicant to speak on the matter.

Mr. Holdgreve mentioned they were really close to the required 25 percent of wall surface area if only looking at the office space. Mr. Holdgreve continued to mention they had 21 and 23 percent respectfully. Mr. Holdgreve explained they could widen those windows to meet the 25 percent requirement if only looking at the 41-feet of office space.

Mr. Flannery closed the public hearing and proceeded through the variance criteria.

Variance Criteria

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance;

BZA Response: The Board agreed the property in question could have a beneficial use without granting of the variance.

- (2) Whether the variance is substantial;

BZA Response: The Board did not feel the variance was substantial.

- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

BZA Response: The Board did not feel the essential character of the neighborhood would be substantially altered nor would adjoining properties suffer a substantial detriment as a result of the variance.

- (4) Whether the variance would adversely affect the delivery of government services (i.e., water, sewer, garbage);

BZA Response: The Board agreed that the variance would not adversely affect the delivery of government services.

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;

BZA Response: The Board did not feel the property owner purchased the property with knowledge of the zoning restriction.

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

BZA Response: The Board did not feel the property owner's predicament feasibly could be obviated through some method other than a variance.

- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance; and

BZA Response: The Board determined the spirit and intent behind the zoning requirement would be observed or substantial justice done by granting the variance.

- (8) Any other relevant factor to assist the Board of Zoning Appeals in weighing and balancing the public and private benefits and harms of the requested relief.

BZA Response: The Board did not feel there were other relevant factors.

Ms. Aivalotis-Weaver made a motion to recommend approval of the requested variance from City Code Section 1228.04(b)(4) "Wall Openings" for the purposes of allowing the east and west facing building elevations to only contain windows that occupy 4.5 percent of the total wall surface area at 1090 W National Road with the following condition:

- The east and west facing building elevations shall contain windows that occupy 25 percent of the total wall surface area that is occupied by office space

Ms. Setzer seconded the motion. The motion passed 5-0.

g. BZA 21-04G – Variance to City Code Section 1218.04(p) “Automobile and Motorcycle Sales and Leasing; Automotive Sales and Leasing; and Truck and Heavy Equipment Sales” – 1090 W National Road

Mr. Flannery introduced the item and asked for the recommendation from Staff.

Mr. Marlow noted that Staff was recommending the Board of Zoning Appeals recommend denial of the requested variance from City Code Section 1218.04(p) for the purposes of allowing an outdoor display, storage, and sales facility to be located at 1090 W National Road without full screening from the adjacent residential district.

Mr. Flannery then opened the public meeting and invited the Applicant to speak on the matter.

Mr. Holdgreve mentioned the fence in the back would be brought up to new standards. The Board mentioned they would like to see the fence repaired and maintained.

Mr. Flannery closed the public hearing and proceeded through the variance criteria.

Variance Criteria

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without a variance;

BZA Response: The Board agreed that the property in question could have a beneficial use without granting of the variance.

- (2) Whether the variance is substantial;

BZA Response: The Board agreed that the variance was substantial.

- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

BZA Response: The Board did not feel the essential character of the neighborhood would be altered, nor felt that adjoining residential properties would suffer a substantial detriment.

- (4) Whether the variance would adversely affect the delivery of government services (i.e., water, sewer, garbage);

BZA Response: The Board did not feel the variance would adversely affect the delivery of government services.

- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;

BZA Response: The Board agreed that the property owner did not purchase the property with knowledge of the zoning restriction.

- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

BZA Response: The Board agreed that the predicament could be feasibly obviated through some method other than a variance.

- (7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance; and

BZA Response: The Board agreed that the spirit and intent behind the zoning requirement would not be observed nor substantial justice done by granting the variance.

- (8) Any other relevant factor to assist the Board of Zoning Appeals in weighing and balancing the public and private benefits and harms of the requested relief.

BZA Response: The Board did not feel there were other relevant factors.

Mr. Arnold made a motion to recommend approval of the requested variance from City Code Section 1218.04(p) for the purposes of allowing an outdoor display, storage, and sales facility to be located at 1090 W National Road without full screening from the adjacent residential district with the following condition:

- The Applicant repair and maintain the existing 6-foot tall wood fence

Mr. Prokes seconded the motion. The motion passed 5-0.

Mr. Marlow advised that the variance items addressed that night would be discussed at the City Council Workshop on Monday, April 19 at 5:30 p.m. and voted on Monday, May 03 at 7:00 p.m. Mr. Marlow noted both meetings would be hybrid meetings where any interested party may attend via Zoom or in-person in the Council Chambers. Mr. Marlow explained that virtual attendees may contact the DES Department to request log in information.

4. Approval of March 10, 2021 Meeting Minutes

Ms. Aivalotis-Weaver made a motion to recommend approval of the March 10, 2021 meeting minutes. Ms. Setzer seconded the motion. The motion was approved 4-0 with Mr. Flannery abstaining.

5. Communications

Mr. Marlow mentioned the April 28 BZA meeting had been cancelled due to no items on the agenda. Mr. Marlow continued to mention this was his last BZA meeting with the Board and his last day at the City was May 10. Mr. Marlow noted he would be moving out West that Summer. Mr. Marlow thanked the Board for the volunteer hours they had provided to the City.

6. Adjournment

The meeting was adjourned at 8:28 p.m.

Mike Flannery
Chairman