

NOTICE

A meeting of the City of Evansville Board of Zoning Appeals will be held on the date and at the time stated below in City Hall, 31 South Madison Street, Evansville, Wisconsin 53536. Notice is further given that members of the City Council might be in attendance. Requests for persons with disabilities who need assistance to participate in this meeting should be made by calling City Hall: (608)-882-2266 with as much advance notice as possible. Please silence cell phones and electronic devices during the meeting.

City of Evansville **Board of Zoning Appeals**

Regular Meeting

~~Thursday, February 23rd, 6:00 p.m.~~

~~Rescheduled due to weather~~

New Date: Thursday, March 16th, 6:00 pm

3rd Floor, 31 South Madison Street, Evansville, WI 53536

AGENDA

1. Call to Order
2. Roll Call.
3. Motion to approve the agenda.
4. Motion to waive the reading of the July 7, 2020 minutes and approve them as printed.
5. Civility Reminder
6. Citizen Appearances
7. Action Items.
 - A. Public Hearing and review of variance application VAR-2022-0217 for parcel number 6-27-595.1 at 511 E Main Street to allow building setbacks less than allowed by Section 130-1004(11) of the Evansville Municipal Code.
 - i. Initial Staff and Applicant Comments
 - ii. Public Hearing
 - iii. Board of Zoning Appeals Questions and Comments
 - iv. Motion
 - B. Public Hearing and review of variance application VAR-2023-0032 for parcel number 6-27-589 at 469/471 East Main Street to allow a drive-thru stacking length less than allowed by Section 130-407(3) of the Evansville Municipal Code.
 - i. Initial Staff and Applicant Comments
 - ii. Public Hearing
 - iii. Board of Zoning Appeals Questions and Comments
 - iv. Motion
8. Next Meeting Scheduled for Thursday, May 25, 2023 at 6pm
9. Motion to Adjourn

These minutes are not official until approved by the City of Evansville Board of Zoning Appeals.

**City of Evansville Board of Zoning Appeals
Monday, July 6, 2020, 6:00 p.m.
Meeting Held Virtually**

MINUTES

1. Call to Order at 6:00 pm.

2. Roll Call:

Members	Present/Absent	Others Present
Chair Steve Stacy	P	Jason Sergeant, Community Development Director
Harlin Miller	A	Roger Berg, Applicant
Janice Turner	P	Dan Butcher, Applicant
Kent Englund	P	
Carol Endres	P	
First Alternate Jeff Vrstal	A	
Second Alternate Ry Thompson	A	

3. Motion to approve the agenda by Turner, seconded by Endres. Approved unanimously.

4. Motion to waive the reading of the minutes from the July 7, 2020 regular meeting and approve them as printed by Endres, seconded by Turner. Approved unanimously.

5. Civility Reminder. Stacy noted the City's commitment to civil discourse.

6. Citizen appearances other than agenda items listed. None.

7. Action Items.

A. Public Hearing and review of variance application VAR-2020-01 for parcel number 6-27-343 at 155 S Union Street to allow a setbacks less than is allowed by Section 130-202(3) of the Evansville Municipal Code.

- i. Initial Staff and Applicant Comments.** Sergeant shared his staff report.
- ii. Public Hearing.** Stacy opened the public hearing. Sergeant noted a sign was put up in front of the building last week as an extra notice, but was not required. Turner thought the signs are great idea and liked them. Stacy closed the public hearing with no additional comments from the public.
- iii. Board of Zoning Appeals Questions and Comments.** Englund asked if the access to the building would work. Berg said it would. Endres asked if there will be room for snow when the street is plowed. Sergeant said about 8-10 feet of space will remain between curb and building.
- iv. Motion. The Board of Appeals approves issuance of a variance to reduce the front setback to 1 foot and rear setback to zero feet from setbacks described in Section 130-202(3). The variance is approved noting the following findings of fact and conditions:**

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- *The variance will not cause a detriment to neighboring properties and is necessary due to an applicant presented hardship as a result of a narrow lot depth.*
 - *The granting of the variance does not suggest that setback standards should be changed throughout the entire zoning district.*
 - *The granting of the variance is not contrary to the purposes set forth in the zoning code.*
 - *The granting of the variance is not contrary to the public interest.*
- Motion by Englund, seconded by Turner. Approved Unanimously.*

B. Public Hearing and review of variance application VAR-2019-04 for parcel number 6-27-1200, 6-27-1200.1, 6-27-1160, and 6-27-1160.1 6524 N Cty M to allow outdoor structures to be constructed across property lines

- i. **Initial Staff and Applicant Comments.** Sergeant shared his staff report.
- ii. **Public Hearing.** Stacy opened the public hearing closing it with no comments from the public.
- iii. **Board of Zoning Appeals Questions and Comments.** Board members discussed alternatives to the variance as well as modifications to the motion.
- iv. **Motion.** *The Board of Appeals approves issuance of a variance for construction of outdoor storage structures to be constructed across parcel boundaries per Section 130-344. The variance is approved noting the following findings of fact and conditions:*
 - (a) *The variance will not cause a detriment to neighboring properties and is necessary due to an applicant presented hardship.*
 - (b) *The granting of the variance does not suggest that setback standards should be changed throughout the entire zoning district.*
 - (c) *The granting of the variance is not contrary to the purposes set forth in the zoning code.*
 - (d) *The granting of the variance is not contrary to the public interest.*
 - (e) *The affected parcel(s) will maintain ownership by same entity/ownership group until storage structures and corresponding foundations are removed.*

Motion by Stacy, seconded by Turner. Approved Unanimously.

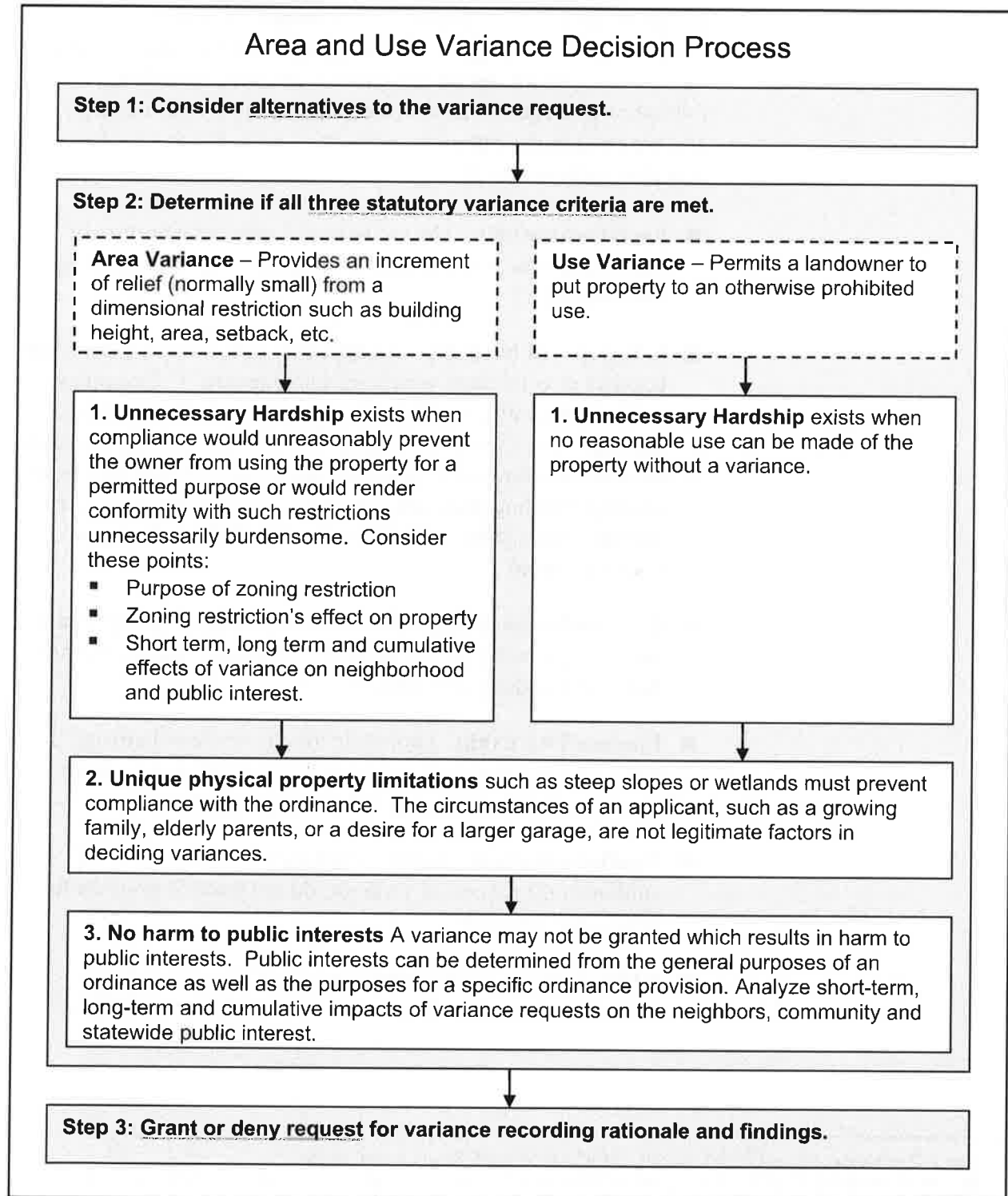
8. Election of Secretary. Sergeant shared that an appeal will not be able to be managed by himself, so a secretary will be needed. Committee discussed and did reach a consensus for a member to appoint. Stacy shared he plans to step down at the end of his term. Hurtley thanked him for all of his dedication.

9. Education and News: Center for Land Use Education: Zoning Board of Adjustment and Appeals Workshop

10. Next Meeting Scheduled for Monday, May 24, 2021 at 6pm

11. Motion to Adjourn by Stacy, seconded by Turner, passed unanimously.

Figure 25: Area and Use Variance Decision Process




EVANSVILLE BOARD OF APPEALS – STAFF REPORT – February 22, 2023
APPLICATION NUMBER: VAR-2022-0217

Applicant: Jeff Porter

Parcel: 6-27-595.1 (511 East Main)

Prepared by: Colette Spranger, Community Development Director
 Prepared for: City of Evansville Board of Zoning Appeals



Description of request: The applicant is requesting approval of a variance from the Evansville Municipal and Zoning Code to allow building setbacks less than allowed by Section 130-1004(11) of the Evansville Municipal Code.

Background of Request: Tax parcel 6-27-595.1 contains a two-family residence (duplex) in the B-1 zoning district. A duplex is a conditional use in the B-1 district, which has been granted for this parcel. Residential uses in the B-1 zoning district must conform to the standards set for the R-2 zoning district.

The current tax parcel configuration is new as of 2022. Prior to this, the duplex was on the same parcel as the commercial building that shares the driveway access onto Main Street. For multiple reasons, the owner wished to split the lots so each building had its own tax parcel and valuation. The parcel that was created is legally conforming to the zoning code but the duplex itself is not. Not only does the duplex predate the City's Zoning

Code, but prior land surveys measured the front lot line from the centerline of Main Street. Per Section 130-643 of the zoning code, continuation of a nonconforming structure is allowed, but the structure "shall not be extended, enlarged, reconstructed, moved, or structurally altered."

The front yard setback for a residential building in the B-1 zoning district (using the R-2 standards) is 25 feet. When the lot was split, the lot line was adjusted to remove any road right-of-way. This shortened the front yard area. As a result, this duplex has a front yard setback of 20 feet. If the building were to be rebuilt and its footprint adjusted to meet the zoning standards, it would mean any subsequent building would need to be built closer to the commercial building on the adjacent parcel or begin to encroach within the shared driveway easement area.

Required Findings: The Board of Zoning Appeals must consider the standards in Section 130-131 prior to making its findings. The standards are as follows:

- (1) Site design and physical characteristics

- a. Existing topography, drainage patterns and vegetative cover and the suitability of the proposed use in this regard.
- b. Availability of water, sewer, rail and other services and the utility requirements of the proposed site.
- c. Where public sewers are not available, the percolation characteristics of the soil.
- d. Adequacy of the proposed internal circulation system, including safety considerations.
- e. Access to sites from the internal circulation system.
- f. The costs of providing various public services.
- g. Appearance (how the area will look).

Staff comments: No changes are proposed to the site's design and physical characteristics.

(2) Site location relative to public road network

- a. Convenient access to a public road network (safety of access points).
- b. Visibility from the proposed road and the need for visibility.
- c. Access; the location is to provide access primarily by right-hand turning movements.

Staff comments: There is sufficient access to Main Street from this location.

(3) Land use

- a. Compatibility with existing or proposed uses in the area.
- b. Relation to any existing land use plan.
- c. Relation to existing or proposed development at nearby interchanges.
- d. In reviewing an application for a zoning district change to a business district, the plan commission and city council shall consider whether the proposed zoning district change likely will result in increased vehicular traffic on nearby local streets in areas of existing residential development and whether such increased traffic will have an adverse impact on the existing residential development.

Staff comments: This part of Main Street is a mixture of residential and commercial uses.

(4) Traffic generation

- a. Amount of daily and peak hour traffic to be generated, related to site size. Traffic shall be sub-classified as to arterial, collector and local streets.
- b. Amount of traffic generated relative to existing and anticipated ultimate generated traffic in the area.
- c. Expected composition of site-generated traffic by vehicle types.
- d. Effect of site-generated traffic on the operation of the area.
- e. Safety and convenience of future users.

Staff comments: No change in traffic generation is anticipated with this variance.

(5) Community effects

- a. Immediate and long-range tax base.
- b. Access to market or service area.
- c. Relation to scenic or recreation values.
- d. Relation to the public interest, the purpose and intent of this chapter and substantial justice to all parties concerned.
- e. Compliance with the master plan's goals and objectives.

Staff comments: The requested variance would have no adverse community effects.

(6) Other relevant factors

- a. Compliance with the Performance Standards in Article III of the zoning code.
- b. Additional impacts.

Staff comments: *The requested variance would have no additional impacts.*

Board Consideration: The Board must determine whether exceptional circumstances are present and that there is an absence of detriment, as specified above, in order to grant the variance. Specific conclusions must be noted by the Board in the motion. Per Section 130-153:

“No variance to the provisions of this chapter shall be granted by the board of appeals unless it has considered the standards in section 130-131 and it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

- (1) *Exceptional circumstances.* There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance would not be of such a general or recurrent nature as to suggest that this chapter should be changed.
- (2) *Absence of detriment.* The variance shall not create substantial detriment to adjacent property and shall not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
- (3) *Conclusions of law.* The findings of the board shall be accompanied by findings of fact and conclusions of law. “

Staff conclusion: The applicant has indicated an unusual circumstance that the structure was built prior to the setbacks outlined in the Zoning Code. The duplex was previously on the same tax parcel as a commercial building. When the lot the buildings sat on was split, it created a lot that conformed to the B-1 zoning district but the duplex itself remains a non-conforming structure to the bulk standards set forth the Zoning Code. If the structure were to be altered at a future date, it would be next to impossible to conform to the City’s Zoning Code. A variance for a non-residential building is not necessary, as the front yard setback for that use is only 5 feet in the B-1 district.

Staff recommended motion: The board can choose to approve, deny, or approve with conditions the variance request(s). If the board chooses to approve, the following motion can be used:

The Board of Appeals approves issuance of a variance on parcel 6-27-595.1 to reduce the front yard setback to 20 feet for a residential building on the property. The variance is approved noting the following findings of fact and conditions:

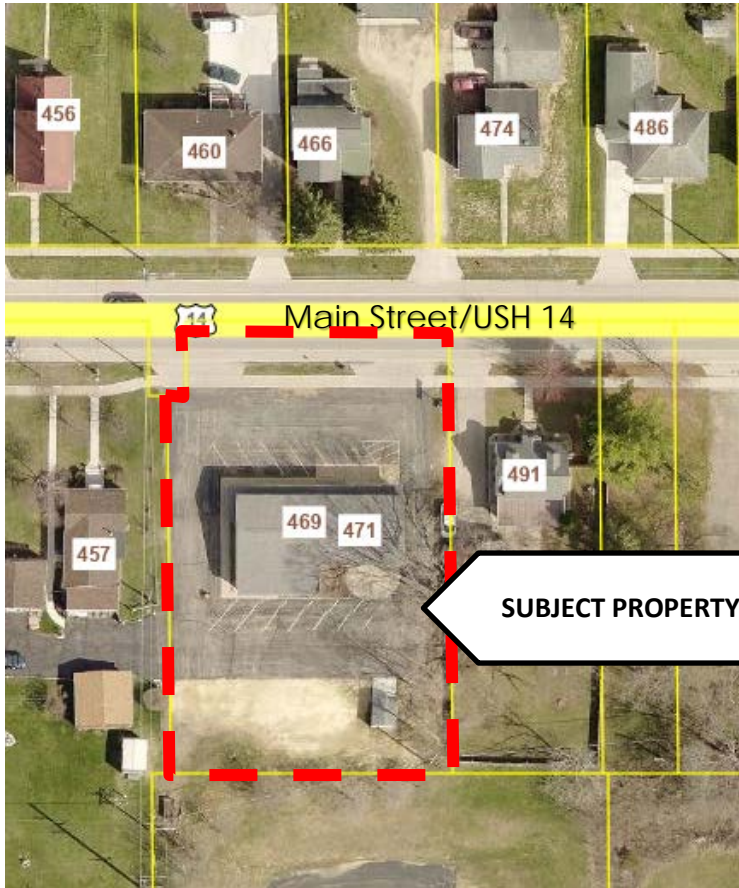
- *The variance will not cause a detriment to neighboring properties and is necessary due to an applicant presented hardship as a result of the building’s presence predating the existing zoning code.*
- *The granting of the variance does not suggest that the setbacks should be changed in any zoning district.*
- *The granting of the variance is not contrary to the purposes set forth in the zoning code.*
- *The granting of the variance is not contrary to the public interest.*


EVANSVILLE BOARD OF APPEALS – STAFF REPORT – February 22, 2023
APPLICATION NUMBER: VAR-2023-0030

Applicant: Molly Leeder, Mary Leeder

Parcel: 6-27-589 (469/471 East Main)

Prepared by: Colette Spranger, Community Development Director
 Prepared for: City of Evansville Board of Zoning Appeals



Description of request: The applicant is requesting approval of a variance from the Evansville Municipal and Zoning Code for a drive-through stacking length less than what is required in section 130-407 to accommodate a pick-up window for in-vehicle service on an existing building.

Background of Request: The applicant is requesting this variance to allow for a stacking length of 40 feet. Plan Commission reviewed a rezone request and will review a site plan and conditional use request on the same property.

Required Findings: The Board of Zoning Appeals must consider the standards in Section 130-131 prior to making its findings. The standards are as follows:

- (1) Site design and physical characteristics
 - a. Existing topography, drainage patterns and vegetative cover and the suitability of the proposed use in this

regard.

- b. Availability of water, sewer, rail and other services and the utility requirements of the proposed site.
- c. Where public sewers are not available, the percolation characteristics of the soil.
- d. Adequacy of the proposed internal circulation system, including safety considerations.
- e. Access to sites from the internal circulation system.
- f. The costs of providing various public services.
- g. Appearance (how the area will look).

Staff comments: *The proposed use has public services readily available and the current utility requirements would not be impacted. Internal site access should be improved with the proposed changes, as traffic for both commercial spaces on the site will be directed in one direction. The pick-up window lane will still be curbed, which will prevent parking along the side of the building*

as is the case now. This will also protect the driveway access easement shared with the neighboring property, located at 6-27-587 (457 East Main).

(2) Site location relative to public road network

- a. Convenient access to a public road network (safety of access points).
- b. Visibility from the proposed road and the need for visibility.
- c. Access; the location is to provide access primarily by right-hand turning movements.

Staff comments: There are two access points to Main Street on site at the moment with no restrictions on ingress and egress. While not part of the variance, site plan improvements discussed with the applicant include expanded parking in the back of the building. The west side of the building will have the pick-up window. The west driveway access will be designated as an entrance, with traffic going around the building to access parking, and exiting through the eastern driveway. This should improve traffic flow along East Main Street.

(3) Land use

- a. Compatibility with existing or proposed uses in the area.
- b. Relation to any existing land use plan.
- c. Relation to existing or proposed development at nearby interchanges.
- d. In reviewing an application for a zoning district change to a business district, the plan commission and city council shall consider whether the proposed zoning district change likely will result in increased vehicular traffic on nearby local streets in areas of existing residential development and whether such increased traffic will have an adverse impact on the existing residential development.

Staff comments: The building on the parcel contains two commercial units, one of which is currently vacant. The other is a hair salon. Historically, the other site served as a realty office. Both generated modest amounts of traffic. The surrounding area is primarily residential with some commercial interspersed throughout along Main Street. The pick-up window will be used as part of a Subway restaurant franchise. Restaurants are allowable uses in the B-3 zoning district through issuance of a conditional use permit. The restaurant use is the main use that will be increasing traffic on the site. Per State law, if the applicant shows that they can meet the standards set by the City, the City must allow the use. Therefore: pick-up window itself is not causing increased traffic, but the presence of the pick-up window is requiring the site owners to adjust the traffic pattern of the site. As stated previously, these changes should improve the overall traffic flow throughout the site and East Main.

As part of the conditional use permit, which has not yet been issued, the City can request additional conditions that would help mitigate potential nuisances on the site. Neighbors on either side of this parcel – both of which are residential – have reached out to the City about this request. On the west side of the parcel, the property owner wanted to be assured that their driveway access easement would be honored. It is my belief that the site improvements proposed by the property owners will lessen the probability that Mr. Redders' driveway access will be blocked by parked vehicles. On the eastern side, the property owners have been concerned about increased traffic with regards to pedestrian safety and the potential for encroachment on to their property. The pick-up window that would be enabled by this variance would be part of the considerations for the conditional use permit, but it would not be the cause for concerns raised by either neighbor.

(4) Traffic generation

- a. Amount of daily and peak hour traffic to be generated, related to site size. Traffic shall be sub-classified as to arterial, collector and local streets.
- b. Amount of traffic generated relative to existing and anticipated ultimate generated traffic in the area.
- c. Expected composition of site-generated traffic by vehicle types.
- d. Effect of site-generated traffic on the operation of the area.
- e. Safety and convenience of future users.

Staff comments: *The requested variance would have the potential to lessen the amount of time a vehicle spends on the site. The argument is that the pick-up window doesn't need the full 100 feet of stacking length for cars is that users have already ordered and purchased their product, as opposed to ordering and purchasing while in line. The location of the pick-up window benefits from the reordering of direction of traffic around the building, which improves overall flow. The direction of traffic around the site will happen*

(5) Community effects

- a. Immediate and long-range tax base.
- b. Access to market or service area.
- c. Relation to scenic or recreation values.
- d. Relation to the public interest, the purpose and intent of this chapter and substantial justice to all parties concerned.
- e. Compliance with the master plan's goals and objectives.

Staff comments: *The requested variance would have no adverse community effects.*

(6) Other relevant factors

- a. Compliance with the Performance Standards in Article III of the zoning code.
- b. Additional impacts.

Staff comments: *The requested variance would have no additional impacts.*

Board Consideration: The Board must determine whether exceptional circumstances are present and that there is an absence of detriment, as specified above, in order to grant the variance. Specific conclusions must be noted by the Board in the motion. Per Section 130-153:

"No variance to the provisions of this chapter shall be granted by the board of appeals unless it has considered the standards in section 130-131 and it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

- (1) *Exceptional circumstances.* There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance would not be of such a general or recurrent nature as to suggest that this chapter should be changed.
- (2) *Absence of detriment.* The variance shall not create substantial detriment to adjacent property and shall not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
- (3) *Conclusions of law.* The findings of the board shall be accompanied by findings of fact and conclusions of law."

Staff conclusion: The applicant has indicated an unusual circumstance that the intended use – a pick-up window – is functionally different than a drive-thru lane, which requires a stacking length of 100 feet per the Municipal Code.

Staff recommended motion: The board can choose to approve, deny, or approve with conditions the variance request(s). If the board chooses to approve, the following motion can be used:

The Board of Appeals approves issuance of a variance to reduce the stacking length for a pick-up window as described in Section 130-407 to 40 feet on this property. The variance is approved noting the following findings of fact and conditions:

- *The variance will not cause a detriment to neighboring properties and is necessary due to an applicant presented hardship as a result of the building's orientation and proximity to the street and the needed location of the pick-up window.*
- *The granting of the variance does not suggest that the required stacking length for drive-thrus should be changed.*
- *The granting of the variance is not contrary to the purposes set forth in the zoning code.*
- *The granting of the variance is not contrary to the public interest.*