MARANA BOARD OF ADJUSTMENT
REGULAR BOARD OF ADJUSTMENT MEETING
NOTICE AND AGENDA
11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, August 28, 2024 at or after 5:30 PM

Thomas Schnee, Chairman
Ronald Hill, Vice Chair
David Bowen, Board Member
John Flint, Board Member
John McIntyre, Board Member
Joseph Parsons, Board Member
Sharon Tyson, Board Member

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the Marana Board of Adjustment and to the general public that the Board of Adjustment will hold a meeting open to the public on August 28, 2024, at or after 5:30 p.m., located in the Council Chambers, of the Marana Municipal Complex, 11555 W. Civic Center Drive, Marana, Arizona 85653.

ACTION MAY BE TAKEN BY THE BOARD ON ANY ITEM LISTED ON THIS AGENDA. Revisions to the agenda can occur up to 24 hours prior to the meeting. Revised agenda items appear in *italics*.

Marana Board of Adjustment
The Board of Adjustment consists of the members of the Planning Commission. The seven-member quasi-judicial Board hears and decides appeals from the decisions of the Zoning Administrator and considers variances.

Meeting Times
Regular Board of Adjustment meetings are held on an as-needed basis at the Marana Municipal Complex. Meetings of the Board, when needed, are usually held on the last Wednesday of the month at 5:30 p.m.
Additional meetings may be called at other times and/or places.

Speaking at Meetings
If you are interested in speaking to the Board of Adjustment during Public Hearing, you must fill out a speaker card, located in the Council Chambers, and deliver it to the Board Secretary prior to the convening of the meeting.

All persons attending the Board of Adjustment meeting, whether speaking or not, are expected to observe the Board rules of politeness, propriety, decorum and good conduct. Any person interfering with the meeting in any way, or acting rudely or loudly will be removed from the meeting and will not be allowed to return.

Accessibility
To better serve the citizens of Marana and others attending our meetings, the Council Chambers are wheelchair and handicapped accessible. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Town Clerk at (520) 382-1999. Requests should be made as early as possible to arrange the accommodation.

Agendas
Copies of the agenda are available the day of the meeting in the Council Chambers or online at www.maranaaz.gov. This Notice and Agenda posted no later than 24 hours prior to the meeting, at the Marana Municipal Complex, 11555 W. Civic Center Drive, the Marana Operations Center, 5100 W. Ina Road, and at www.maranaaz.gov.

REGULAR BOARD OF ADJUSTMENT MEETING

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

INFORMATIONAL ITEMS

APPROVAL OF MEETING MINUTES
Approval of the Board of Adjustment Meeting Minutes of July 24, 2024.

PUBLIC HEARINGS

1. **VAR2406-001 [CONTINUED]:** A variance request by Lazarus & Silvyn, P.C., representing Hundredaire Investments, LLC, for a reduction in the required 20-foot side setback within the Village Commercial (VC) zoning district for an approximately 1.9-acre property located at 4535 W. Ina Road to allow for a one-foot side setback on the west side of the property for a commercial development (Brian Varney)

DISCUSSION / POSSIBLE ACTION ITEMS

EXECUTIVE SESSIONS
Pursuant to A.R.S. 38-431.03, the Board of Adjustment may vote to go into executive session, which will not be open to the public, to discuss certain matters.Executive Session pursuant to A.R.S. §38-431.03 (A), Board of Adjustment may ask for discussion or consideration, or consultation with designated Town representatives, or consultation for legal advice with the Town Attorney, concerning any matter listed on this agenda for any of the reasons listed in A.R.S. §38-431.03 (A).

ADJOURNMENT

Board of Adjustment
Meeting Date: 08/28/2024

To: Mayor and Council

From: Terri Byler, Executive Assistant

Date: August 28, 2024

Subject: **APPROVAL OF MEETING MINUTES**
Approval of the Board of Adjustment Meeting Minutes of July 24, 2024.

Attachments

2024.7.24_Board_of_Adjustment_Summary_Minutes

MARANA BOARD OF ADJUSTMENT
REGULAR MEETING

11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, July 24, 2024, at or after 5:30 PM

Thomas Schnee, Chairman
Ronald Hill, Vice Chair
David Bowen, Board Member
John Flint, Board Member
John McIntyre, Board Member
Joseph Parsons, Board Member
Sharon Tyson, Board Member

SUMMARY MINUTES

DRAFT

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

ROLL CALL

Chairman Schnee directed the board secretary to call roll. Vice Chair Hill, Board Member Tyson, and Board Member Bowen were absent. The board secretary stated a quorum was present.

APPROVAL OF AGENDA

Chairman Schnee moved to approve the agenda as presented. Board Member Flint seconded the motion. Motion passed, 4-0.

INFORMATIONAL ITEMS

APPROVAL OF MINUTES

Approval of the Board of Adjustment Meeting Summary Minutes of August 31, 2022.

Board Member Flint moved to approve the summary minutes. Board Member McIntyre seconded the motion. Motion passed, 4-0.

PUBLIC HEARING

VAR2406-001: Ina Road setback variance; Approving and granting a variance from the minimum building setbacks required for a 1.9-acre property within the Village Commercial (VC) zoning district located at 4535 W. Ina Road.

Senior Planner, Brian Varney presented on this item. Lazarus and Silvyn P.C., representing Hundredaire Investments, LLC, is requesting a variance for a reduction of a side setback on the west side from 20 feet to one (1) foot, to accommodate development of a restaurant and retail/commercial uses. The setbacks on all the other sides will remain as required by the code. The property is 1.9 acres and sits just east of Lifted Trucks facility on the south side of Ina Road. The zoning is Village Commercial (VC).

The three primary challenges:

- The property is 120 feet wide.
- There is a large 200-foot-wide gas/electric easement that covers 40% percent of the property, restricting any structures being constructed in that portion.
- ADOT condemned some frontage of the property for right-of-way when the Ina Road Interchange work was done.

Mr. Varney noted the A.R.S. Section 9-462.06 and Section 17-2-2 requires the applicant demonstrate compliance with three criteria, for the BOA to grant a variance, if satisfied:

1. Special circumstances or conditions are applicable to the property, including size, shape, topography, location surroundings, and the strict application of the zoning ordinance will deprive the property owner of privileges enjoyed by other property owners within the same classification in the same zoning district.
    - Similar properties in the area have more width adequately accommodating standard setbacks.
    - The gas and electric easement in the south half of this property restricts development to a much smaller area than other properties of similar size.
    - The condemnation by ADOT further reduced the amount of land area to be developed.
    - The applicant has demonstrated that the circumstances and conditions applicable to this property have resulted in a hardship depriving the owner of privileges enjoyed by others with the same classification and zoning.

2. The special circumstances or conditions applicable to the property resulting in the alleged hardship are not self-imposed.
    - It is not evident that any land use decisions made by the property owner have resulted in the current limitations to the development of this site as specified by the applicant.

DRAFT

3. Granting the variance will not confer upon the property owner a special privilege that is inconsistent with the limitations upon other properties in the vicinity and zone in which the property is located.
    - The variance will simply establish parity between this property and others in the vicinity that are not subject to the same limitations.
    - The variance will provide for consistency in limitations among the properties in this area and does not appear to be more than the minimum necessary to establish the consistency.

Chairman Schnee reminded the board that they were only considering the variance for approval, not the preliminary site plan.

Keri Silvyn, Lazarus & Silvyn stated the request is to reduce the setback on the west side of the property from 20 feet. to one (1) foot. The current limitations on the property are 1. Access on Ina Road limits interior circulation and building placement. 2. An existing TEP gas/electric easement along the back portion of the property; 0.87 acres/40% of the property where no buildings are permitted. 3. ADOT securing the access point to the property.

Ms. Silvyn stated **Jesus Bonillas**, principal of "American Eat Co.", reached out to the adjacent property owner, Lifted Trucks, and spoke to the general manager, who liked the idea that a restaurant was planned for that location. Lifted Trucks did have concerns about their trucks being visible to the west-bound traffic on Ina Road. **Ms. Silvyn** noted her team is currently working with Lifted Trucks to find a solution, noting that Lifted Trucks is aware of the request for a one-foot variance but were not in attendance tonight.

Board Member Flint had concerns about granting the variance because it prevents the adjacent property owner from a potential use of their property. If they request a one-foot easement, now we have two feet between two buildings; making access impossible to maintain the side of their building. **Board Member Flint** noted that he wouldn't support a request for a one-foot easement, although he would support a five-foot easement.

Ms. Silvyn understood **Board Member Flint's** concerns. She noted when ADOT secured the access point on their property, they did the same on the adjoining property. No buildings are allowed within a certain distance of that access point. There are also building code requirements regarding allowed space between buildings. **Ms. Silvyn** noted this is a preliminary site plan. When the development plan is submitted to staff, any issues with the layout will be addressed at that time.

Board Member Parsons asked if they needed the one-foot variance in order to complete the project. Regarding any fire exits along the back of the building, **Board Member Parsons** asked how they would assure that Lifted Trucks didn't place anything on their lot line, potentially blocking access, if there was an emergency.

Ms. Silvyn noted the layout options are constrained. Even if the front of the building is repositioned, in order to accommodate Lifted Trucks' concerns, the one-foot setback would still be needed along the remainder of the building in order to make the project work.

Ms. Silvyn noted the architect can design the fire exits so they are placed in other locations. With a zero-lot line a fire rating system/protected-firewall will be required along the back of the building regardless of what is on the other side of the property line.

Board Member McIntyre was not in favor of the one-feet easement, suggesting a five-foot easement. He recommended moving the building five feet to the east and losing some of the initial patio space and parking to make the layout work.

Ms. Silvyn stated they will continue to work with Lifted Trucks regarding the front portion of the building. The one-foot variance would still be needed in order to make the project work.

Development Services Director, Jason Angell - as it was stated at the beginning of the meeting, the Boad is not asked to approve a site plan tonight. The design of this building has yet to be determined and it is really about what is a reasonable use of this property. The board needs to consider the minimum requirements tied to this variance: a minimum drive aisle of 24 feet, minimum parking depth of 16 feet. When you subtract that from the 120 width, you factor in what is left to work with. You also have to factor in the ADA accessibility and the fire code requirements.

Ms. Silvyn noted they would like this request to be approved but since there are some concerns and the comfort level isn't there, she suggested the item be continued so she can meet with the architect and potential owners to try and address the boards' concerns.

Seeing there were no speaker cards, **Chairman Schnee** opened and closed the public hearing at 6:07 pm.

Motion to continue Item VAR2406-001: Ina Road setback variance to August 28, 2024, by Board Member McIntyre, seconded by Board Member Flint. Motion to continue passed 4-0.

DISCUSSION/POSSIBLE ACTION ITEMS

ADJOURNMENT

Chairman Schnee called for a motion to adjourn the meeting.

Board Member Flint moved to adjourn the meeting, seconded by Board Member McIntyre. Passed unanimously. The meeting adjourned at 6:09 p.m.

CERTIFICATION

I hereby certify that the foregoing are the true and correct minutes of the Marana Board of Adjustment meeting held on July 24, 2024. I further certify that a quorum was present.

Terri Byler

Terri Byler, Board Secretary

DRAFT

Board of Adjustment **1.**

From: Brian Varney, Senior Planner

DATE: 08/28/2024

SUBJECT: **VAR2406-001 [CONTINUED]:** A variance request by Lazarus & Silvyn, P.C., representing Hundredaire Investments, LLC, for a reduction in the required 20-foot side setback within the Village Commercial (VC) zoning district for an approximately 1.9-acre property located at 4535 W. Ina Road to allow for a one-foot side setback on the west side of the property for a commercial development (Brian Varney)

Discussion:

Summary

This public hearing is a continuance from the July 24, 2024 hearing held by the Board of Adjustment to consider a request for a variance from the minimum side building setback required for an approximately 1.9 acre property located within the Village Commercial (VC) zoning district. Lazarus & Silvyn, P.C., representing Hundredaire Investments, LLC, has submitted an application requesting the variance. The property is located at 4535 W. Ina Road and further described as Pima County Assessor's Parcel Number 101-05-009E. Section 17-4-7.E of the Marana Town Code requires a minimum front setback of 30 feet, and side and rear setbacks of 20 feet. The applicant is requesting approval to reduce the setback to 1 foot on the west side of the property only to facilitate the development of a restaurant and retail/commercial uses on the property.

It should be noted that the applicants have recently informed staff that they will need additional time to resolve pending uncertainties involved with this project and will most likely request another continuance. At the time this report was written, it was not certain how much additional time would be needed. The next two potential regular meeting dates for the Board are September 25, 2024 and October 30, 2024. The applicant should have a better idea as to how much additional time will be required to resolve the outstanding issues when they address the Board on August 28, 2024.

Site Development Standards

The property subject to this application is zoned Village Commercial (VC). The property was part of a 1,300-acre annexation approved by the Marana Town Council in September 1993. The zoning of the annexed property was subsequently translated in February 1994 from Pima County Suburban Homestead (SH) to Town of Marana R-36 (Residential). The adoption of Ordinance No. 2021.002 in February 2021 changed the zoning for the property from R-36 to Village Commercial (VC). Section 17-4-7.E of the Marana Town Code requires a standard front setback of 30 feet, and side and rear setbacks of 20 feet for a commercial use in the Village Commercial (VC) zone. The property is currently vacant but has recently been used for the operation of a storage shed sales business.

Variance Request

The applicant appeals for a variance from Section 17-4-7.E to allow a reduction in the setback on the west side of the property from the required 20 feet to 1 foot. The applicant requests the setback reduction for only the west side of the property. If the Board grants the variance, all other setbacks will be maintained as required by the development standards for the Village Commercial zoning district.

Basis for the variance request

The applicant's narrative, included within the agenda materials, presents the existing limitations on the property that the applicant believes support the request for a variance. The limitations are described as follows:

1. The property is unusually narrow at only approximately 120 feet in width, restricting the ability to provide the desired structures and the required 24-foot parking area access lane.
2. An existing 200-foot wide gas and electric easement occupies roughly 40 percent of the property and precludes construction within the easement area.
3. During the construction work for the Ina Road interchange, the driveway for this property was relocated and constructed in the east portion of the property, forcing the construction of the needed 24-foot access lane along this side of the lot.
4. During the construction work for the Ina Road Interchange, ADOT condemned additional right-of-way along the property's frontage to accommodate the construction of a right-turn lane and sidewalks along Ina Road, further reducing developable area.

Variance Criteria
A.R.S. Section 9-462.06 and Section 17-2-2 of the Marana Town Code provide the Board of Adjustment with the authority to hear and decide appeals for variances. After a public hearing, the Board of Adjustment may grant a variance if it has been demonstrated that each of the following criteria has been satisfied:

1. **Special circumstances or conditions are applicable to the property, including size, shape, topography, location, or surroundings, and the strict application of the zoning ordinance will deprive the property owner of privileges enjoyed by other property owners within the same classification in the same zoning district.**
   The property is extremely narrow at roughly 120 feet in width. Similar properties in the area typically have more width adequately accommodating standard setbacks. The limitations posed by the gas and electric easement in the south half of this property restrict development to a much smaller area than other properties of similar size. The condemnation by ADOT for additional right-of-way further reduced the amount of land area to be developed. In the opinion of staff, the applicant has demonstrated that the circumstances and conditions applicable to this property have resulted in a hardship depriving the owner of privileges enjoyed by others with the same classification and zoning.

2. **The special circumstances or conditions applicable to the property resulting in the alleged hardship are not self-imposed.**
   It is not evident that any land use decisions made by the property owner have resulted in the current limitations to the development of this site as specified by the applicant.

3. **Granting the variance will not confer upon the property owner a special privilege that is inconsistent with the limitations upon other properties in the vicinity and zone in which the property is located.**
   In the opinion of staff, granting the variance will simply establish parity between this property and others in the vicinity that are not subject to the same limitations. The variance will provide for consistency in limitations among the properties in this area and does not appear to be more than the minimum necessary to establish the consistency.

Per A.R.S. Section 9-462.06, the Board may not make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning ordinance, that exceed the Board's legal authority to grant variances.

Public Notice
Public notice for this hearing was completed in accordance with the Arizona Revised Statutes, by publishing notice of the public hearing in The Daily Territorial and posting a notice in a conspicuous place on the property. Notice was also mailed to all owners of property located within 300 feet of the subject property informing of the date, time, and location of the public hearing.

Board of Adjustment action - July 24, 2024 public hearing
Board member Flint stated during the hearing that he could not support the requested variance as

proposed, and suggested that the applicants consider revising their proposal to request a reduction from the required 20 foot setback to 5 feet. The applicant stated that they would like to request a continuance of the hearing to the August 28, 2024 Board of Adjustment meeting to allow time to meet with their consultant team and discuss the feasibility of modifying the request. A motion to continue was made by Board Member McIntyre, and seconded by Board Member Flint. The motion to continue passed 4-0.

Suggested Motion
Should the applicant decide to move forward with the variance request at this time, staff suggests the following motion:
I move to approve VAR2406-001, setback variance for 4535 W. Ina Road.

Should the applicant decide to request a continuance to a future Board of Adjustment meeting, staff suggests one of the following motions:

I move to continue VAR2406-001 to the September 25, 2024 Board of Adjustment meeting.
or
I move to continue VAR2406-001 to the October 30, 2024 Board of Adjustment meeting.

Attachments

Project Application
Location Map
Variance Request Form
Project Narrative and Preliminary Site Plan
Summary Meeting Minutes from July 24, 2024

MARANA AZ

Development Services / maranaAZ.gov
11555 West Civic Center Drive / Marana, AZ 85653
Ph (520) 382-2600 / Fax (520) 382-2641

PROJECT APPLICATION

APPLICATION TYPE

❑ Annexation	❑ Development Plan	❑ Development Plan Package	❑ General Plan Amendment
❑ Rezone	❑ Minor Land Division	❑ Translational Rezone	❑ Conditional Use Permit
❑ Specific Plan	❑ Landscape Plan	❑ Native Plant Plan/Exception	❑ SWPP
☒ Variance	❑ Hydraulic Model	❑ Sewer Capacity Assurance	❑ Sign Program
❑ Plat	❑ Improvement Plan	❑ Report (Type): _____	❑ Other: _____

PROJECT INFORMATION

Project Name: 4535 W Ina Rd Variance	
Description of Project: request for setback variance	Number of Lots: 1
Parcel No.(s): 101-05-009E	Gross Area (Acres): 1.92
Project Address: 4535 W Ina Rd, Tucson, AZ 85741	
Ref. Project No.: Ordinance No. 2021.002	

CONTACT INFORMATION

Owner: Henry Toole & Phillip Toole (call broker)	Contact Name: John Buette - Broker		
Address: 3060 W Bartlett Pl	City: Tucson	State: AZ	Zip: 85741
Email: john@bcapdevelopment.com	Phone No.: 520-907-3003		
Applicant: Lazarus & Silvyn, PC	Contact Name: Keri Silvyn & Robin Large		
Address: 5983 E Grant Rd, Ste 290	City: Tucson	State: AZ	Zip: 85712
Email: RLarge@LSLawAZ.com	Phone No.: (520) 207-4464		
Consultant/Engineer: Hundredaire Investments, LLC	Contact Name: Jesus Bonillas		
Address:	City:	State:	Zip:
Email: jbonillas@thecommongroup.com	Phone No.: (520) 909-5515		

APPLICANT AUTHORIZATION

By signing below, I hereby acknowledge that I have read the information provided online at maranaaz.gov/arsnotice and certify that the information set forth in this application are true and correct to the best of my knowledge. I am either the owner of the property or I have been **authorized in writing** by the owner to file this application. (If the applicant is not the owner, attach written authorization from the owner)

Jesus Bonillas Jr.		6-20-2024
Applicant Name (PRINT)	Signature	Date

FOR OFFICIAL USE ONLY

Project No._____ **Date Received**_____

Revision Date 05/16/2023

Town of Marana Planning

VAR2406-001 Ina Road Setback Variance





Legend

- Marana Town Limits
- Parcel Labels
- Parcels (Black)

Notes

0.1 0 0.07 0.1 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere

© Latitude Geographics Group Ltd.

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Development Services / maranaplanning@maranaAZ.gov
11555 West Civic Center Drive / Marana, AZ 85653
Ph (520) 382-2600 / Fax (520) 382-2641 / maranaAZ.gov

VARIANCE REQUEST FORM

PROJECT NARRATIVE

Provide a complete summary and description of the application request.

PROJECT INFORMATION

Describe the unique conditions and circumstances (including size, shape, topography, locations or surroundings) which are peculiar to the land, structure or building which are not applicable to other lands, structures or buildings in the same zoning district in other locations.

Describe how the literal interpretations of the provisions of the zoning ordinance deprive you of development rights commonly enjoyed by other properties in the same zoning district.

Describe how the alleged hardships caused by the literal interpretations of the provisions of the zoning ordinance include more than personal inconvenience and financial hardship and that the alleged hardships were not created or self-imposed by the property owner.

Indicate why granting the requested variance will not result in your receiving any special privileges that are denied by the zoning ordinance to others owning lands, structures or buildings in the same zoning district.

Indicate why granting the variance will not interfere with or injure the rights of other properties in the same zoning district.

FOR OFFICIAL USE ONLY **Project No.**_____ **Date Received**_____

Law Offices of
Lazarus & Silvyn, P.C.

June 21, 2024

Board of Adjustment Members
Town of Marana Development Services Department
11555 W. Civic Center Drive
Marana, Arizona 85653

SUBJECT: 4535 W. Ina Road – Variance for Setback

Dear Board of Adjustment Members ("Board"):

On behalf of Hundredaire Investments, LLC ("Hundredaire"), this is a variance request for the real property at 4535 W. Ina Road, Assessor's Parcel No. 101-05-009E ("Property") in the Town of Marana ("Town"). (*See **Enclosure 1**, Location Map*.) The Property is approximately 1.9 acres and is zoned Village Commercial ("VC"). Hundredaire is interested in purchasing the Property to develop a restaurant and retail/commercial uses (the "Project"). (*See **Enclosure 2**, Site Plan*.) Specifically, this variance request will allow a reduction to the minimum required site setback along the Property's western boundary (the "Variance"), as described below.

A. Background Facts

The Property was annexed into the Town as part of a larger, 1,300-acre annexation effort to expand the Town Limits in 1993.[1] The Pima County zoning of Suburban Homestead ("SH"), with a 36,000 square feet minimum parcel area, was translated to Town zoning designation R-36 (Residential). Prior to and since annexation, the current Property owner, who has owned the Property since 1959, has had a private residence and has operated a commercial business (retail sheds) on the Property.

In 1965, Tucson Gas and Electric Company (which became Tucson Electric Power Company in 1979) obtained a 200-foot-wide gas and electric easement (the "Easement") that continues to exist today on the Property. Among other limitations, the Easement does not permit construction of any buildings along the southern approximately 40 percent of the Property.

[1] Ordinance No. 1993.12

206 E. Virginia Avenue | Phoenix, AZ 85004-1110
602.340.0900 | Fax 602.340.8955

5983 E. Grant Road, Suite 290 | Tucson, AZ 85712-2365
520.207.4464 | Fax 520.300.9662

In 2019, Arizona Department of Transportation ("ADOT") made improvements to Ina Road as part of the Ina/Interstate 10 ("I-10") traffic interchange construction. In order to accommodate construction of a right-turn lane and installation of sidewalks and landscaping, ADOT condemned additional right-of-way ("ROW") from the Property which reduced the Property's size.

Shortly thereafter in 2021, the Town approved a rezoning on the Property from R-36 to VC to align the zoning with that of other properties along the Ina Road corridor. Marana's General Plan, *Make Marana 2040*, designates this area as Commercial, which supports the VC zoning and the restaurant and retail/commercial land uses proposed with this Project. The Property is within the Town's South Growth Area, an area that is largely built out and well served by existing public infrastructure. Per the General Plan, the South Growth Area is *"…envisioned to grow incrementally over time through infill development and redevelopment …"* Both the General Plan and the Property's current VC zoning support the Project on this infill parcel.

B. Proposed Variance Request

The Property features several physical constraints that pose challenges to its development. The Property is only 120 feet (approx.) wide for its full length, which includes only 120 feet of Ina Road frontage. When the Ina traffic interchange and roadway improvements were constructed, the Property's access driveway, formerly positioned at the western end of its Ina Road frontage, was relocated to the east. Per ADOT, that access may not be relocated. In addition, ADOT was required to condemn a portion of the Property for the improvements. In order to redevelop the site with the access on the eastern edge, the minimum 24-foot parking area access lane ("PAAL") must also be located along the eastern portion of the Property to provide adequate onsite maneuvering and to maximize its buildable area.

Additionally, the 200-foot-wide Easement that encumbers approximately 40 percent of the Property prohibits buildings within the southern portion of the Property. Due to the Easement, only vehicular access, parking and landscaping can be proposed in roughly the southern half of the Property.

The Town's VC zone requires a 20-foot side yard setback. The Variance request is to reduce the side yard setback only on the west side of the Property. In order to accommodate the 24-foot PAAL and parking along the eastern Property boundary, as necessitated by the fixed access drive location from Ina Road, the three proposed buildings must be positioned along the western Property boundary with a one-foot setback. The Project is able to accommodate the required 20-foot side and rear setbacks on the east and south, as well as the required 30-foot front setback adjacent to Ina Road on the north.

C. Variance Standards

The Variance request meets the Town's variance standards, in accordance with State requirements, as described below:

1. **Unique conditions and circumstances not applicable to other lands, structures or buildings in the same zoning district in other locations.**

   As described above, the Property is physically constrained by a narrow parcel configuration with limited Ina Road frontage. The access drive location is restricted by ADOT to the eastern portion of the Ina frontage. The Property is also encumbered by an electric/gas easement on the south end, rendering nearly half of the Property undevelopable for structures.

2. **Zoning ordinance deprives development rights commonly enjoyed by other properties in the same zoning district.**

   VC zoning supports community- and regional-level commercial development, which is appropriate along the Ina Road corridor near the I-10 interchange. Like this Property, most of the properties along the Ina Road corridor are zoned VC and are able to support a wide range of commercial uses.

   Unlike other VC-zoned properties in this area, this Property has unique physical constraints that restrict the placement of buildings. The buildings must be located along the western Property line due to the fixed access drive location. To ensure adequate vehicular maneuverability, the PAAL stemming from the access drive, which much be a minimum 24 feet in width for two-way traffic, is also limited in its alignment and location.

3. **Hardships caused not created or self-imposed.**

   The physical constraints were not created or self-imposed by the Property owner, but rather, they are the result of limitations imposed by ADOT with the construction of the I-10 traffic interchange at Ina Road and the existing 200-foot electric/gas easement.

4. **Variance will not result in special privileges denied by the zoning ordinance to others owning lands, structures or buildings in the same zoning district.**

   Other VC-zoned properties do not have the same unique physical constraints that limit this Property's ability to accommodate/locate buildings, as described above.

5. Variance will not interfere with or injure the rights of other properties in the same zoning district.

   The Project Team has discussed the Project and Variance with the General Manager of Lifted Trucks, which operates on the property directly to the west. Overall, the General Manager was excited about the prospect of a restaurant and retail next door, and requested we reach out to the corporate office, which is based out of town. The location of the Project's buildings setback one foot (versus 20 feet) from the west Property line should not impact Lifted Trucks' business since their eastern boundary is their ADOT-prescribed access and parking area. The Lifted Trucks business already operates out of an existing building in the center of their property, and the remainder of the property is used for parking and inventory (also encumbered by the Easement). Approval of the Variance will not limit the adjacent property owner's ability to operate the business.

D. Conclusion

The Variance is requested based on the Hundredaire's desire to improve the Property with an economically feasible Project, despite its physical constraints, without adversely impacting adjacent properties. The request meets all the variance standards, as described above, and therefore, we respectfully request that the Board approve this Variance.

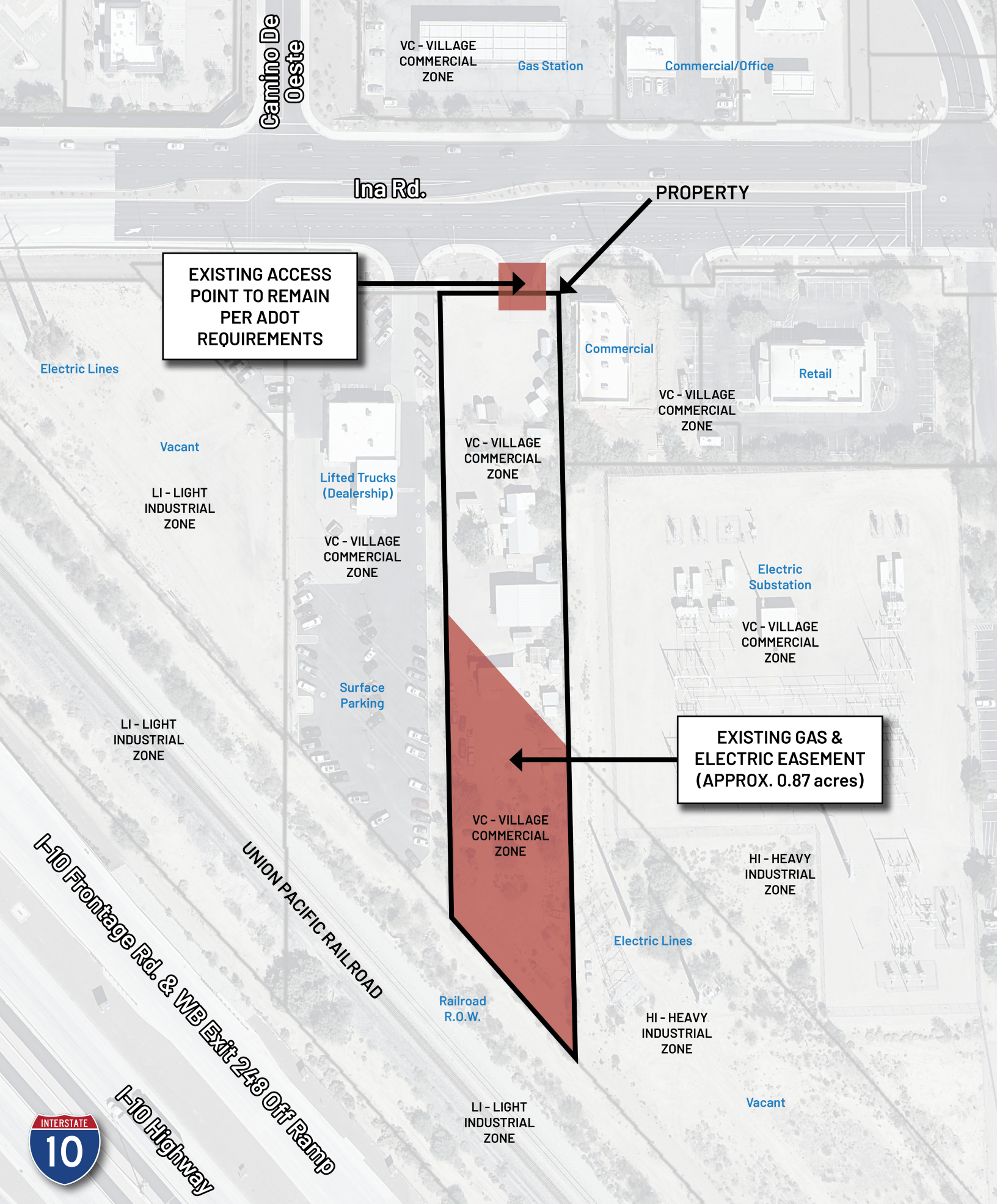
Sincerely,



Keri Silvyn, Esq.

Enclosures:
1 – Location Map
2 – Site Plan

cc: Jesus Bonillas
Guillermo Gallegos

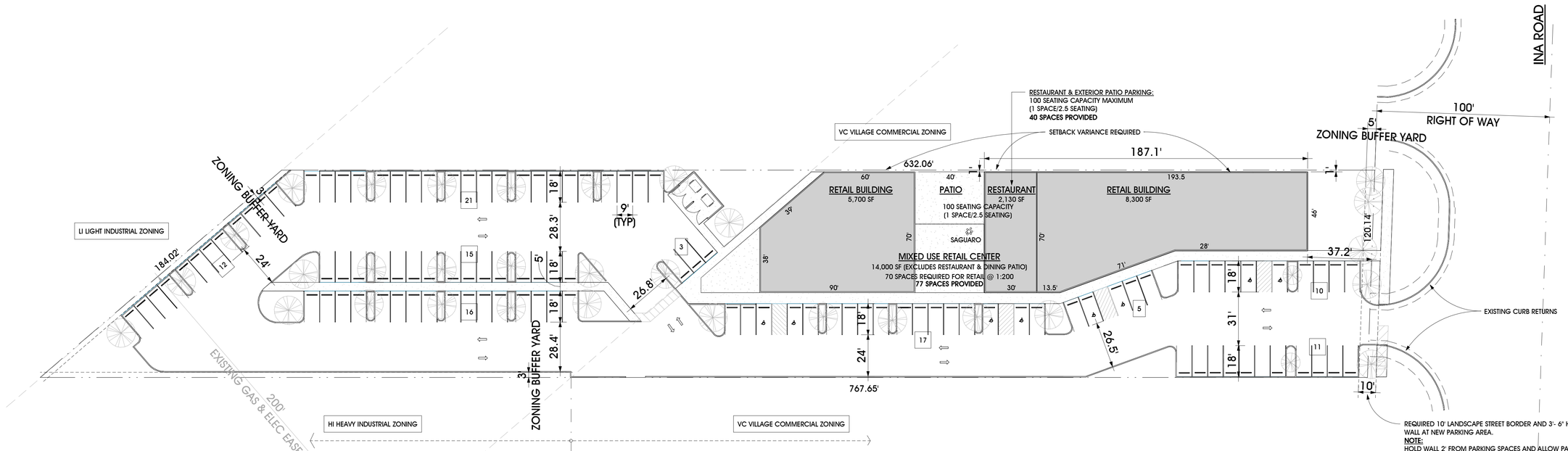


Location Map & Physical Constraints

NORTH

DO NOT SCALE MAP - FOR REFERENCE ONLY

0 50 100 200 Feet



REQUIRED 10' LANDSCAPE STREET BORDER AND 3'- 6" HIGH WALL AT NEW PARKING AREA.
NOTE:
HOLD WALL 2' FROM PARKING SPACES AND ALLOW PARTIAL AREA OF 10' LANDSCAPE BORDER TO BE LOCATED WITHIN THE R.O.W. WITH THE PLANNING ADMINISTRATOR'S APPROVAL

PARKING CALCULATION NOTES:

1. PARKING SHOWN FOR THE RESTAURANT IS BASED ON THE TOWN OF *MARANA'S LAND DEVELOPMENT CODE* FOR PERMANENT SEATING.

2. PARKING SHOWN FOR THE MIXED USE BUILDING AND COURTYARD IS BASED ON A RETAIL USE AT 1 SPACE PER 200 SF OF BUILDING. IN THE EVENT THAT SOME OR ALL OF THESE BUILDINGS ARE LEASED TO AN OFFICE USE, THE REQUIRED NUMBER OF SPACES REQUIRED CAN BE REDUCED TO 1 SPACE PER 300 SF OF BUILDING. IN SUCH EVENT, AREAS COULD BE LEASED TO RESTAURANTS OR OTHER USERS WHICH EXCEED 1:200.

PARKING PROVIDED:

RETAURANT & EXTERIOR PATIO:	40 SPACES
RETAIL USES:	70 SPACES
TOTAL PROVIDED:	110 SPACES

PRELIMINARY SITE PLAN
1" = 30'-0"

PRELIMINARY DRAWING
NOT FOR CONSTRUCTION

Preliminary Site Development Plan for:

WEST INA ROAD DEVELOPMENT
RESTAURANT & RETAIL BUILDING

4535 W INA ROAD
MARANA, ARIZONA

Steven C. Shell
Architect
12141 E. Avenida Hacienda
Tucson, Arizona 85748
(Tel) 298-6733
(Fax) 298-6733
scshell@cox.net
www.scshell.com

DATE
10 JUNE 2024

JOB NO.
24 - 101

REVISED

No	Description	Date

SHEET
SP- 1

MARANA BOARD OF ADJUSTMENT
REGULAR MEETING

11555 W. Civic Center Drive, Marana, Arizona 85653
Council Chambers, July 24, 2024, at or after 5:30 PM

Thomas Schnee, Chairman
Ronald Hill, Vice Chair
David Bowen, Board Member
John Flint, Board Member
John McIntyre, Board Member
Joseph Parsons, Board Member
Sharon Tyson, Board Member

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SUMMARY MINUTES

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

ROLL CALL

Chairman Schnee directed the board secretary to call roll. Vice Chair Hill, Board Member Tyson, and Board Member Bowen were absent. The board secretary stated a quorum was present.

APPROVAL OF AGENDA

Chairman Schnee moved to approve the agenda as presented. Board Member Flint seconded the motion. Motion passed, 4-0.

INFORMATIONAL ITEMS

APPROVAL OF MINUTES

Approval of the Board of Adjustment Meeting Summary Minutes of August 31, 2022.

Board Member Flint moved to approve the summary minutes. Board Member McIntyre seconded the motion. Motion passed, 4-0.

PUBLIC HEARING

VAR2406-001: Ina Road setback variance; Approving and granting a variance from the minimum building setbacks required for a 1.9-acre property within the Village Commercial (VC) zoning district located at 4535 W. Ina Road.

Senior Planner, Brian Varney presented on this item. Lazarus and Silvyn P.C., representing Hundredaire Investments, LLC, is requesting a variance for a reduction of a side setback on the west side from 20 feet to one (1) foot, to accommodate development of a restaurant and retail/commercial uses. The setbacks on all the other sides will remain as required by the code. The property is 1.9 acres and sits just east of Lifted Trucks facility on the south side of Ina Road. The zoning is Village Commercial (VC).

The three primary challenges:

- The property is 120 feet wide.
- There is a large 200-foot-wide gas/electric easement that covers 40% percent of the property, restricting any structures being constructed in that portion.
- ADOT condemned some frontage of the property for right-of-way when the Ina Road Interchange work was done.

Mr. Varney noted the A.R.S. Section 9-462.06 and Section 17-2-2 requires the applicant demonstrate compliance with three criteria, for the BOA to grant a variance, if satisfied:

1. Special circumstances or conditions are applicable to the property, including size, shape, topography, location surroundings, and the strict application of the zoning ordinance will deprive the property owner of privileges enjoyed by other property owners within the same classification in the same zoning district.
    - Similar properties in the area have more width adequately accommodating standard setbacks.
    - The gas and electric easement in the south half of this property restricts development to a much smaller area than other properties of similar size.
    - The condemnation by ADOT further reduced the amount of land area to be developed.
    - The applicant has demonstrated that the circumstances and conditions applicable to this property have resulted in a hardship depriving the owner of privileges enjoyed by others with the same classification and zoning.

2. The special circumstances or conditions applicable to the property resulting in the alleged hardship are not self-imposed.
    - It is not evident that any land use decisions made by the property owner have resulted in the current limitations to the development of this site as specified by the applicant.

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3. Granting the variance will not confer upon the property owner a special privilege that is inconsistent with the limitations upon other properties in the vicinity and zone in which the property is located.
    - The variance will simply establish parity between this property and others in the vicinity that are not subject to the same limitations.
    - The variance will provide for consistency in limitations among the properties in this area and does not appear to be more than the minimum necessary to establish the consistency.

Chairman Schnee reminded the board that they were only considering the variance for approval, not the preliminary site plan.

Keri Silvyn, Lazarus & Silvyn stated the request is to reduce the setback on the west side of the property from 20 feet. to one (1) foot. The current limitations on the property are 1. Access on Ina Road limits interior circulation and building placement. 2. An existing TEP gas/electric easement along the back portion of the property; 0.87 acres/40% of the property where no buildings are permitted. 3. ADOT securing the access point to the property.

Ms. Silvyn stated **Jesus Bonillas**, principal of "American Eat Co.", reached out to the adjacent property owner, Lifted Trucks, and spoke to the general manager, who liked the idea that a restaurant was planned for that location. Lifted Trucks did have concerns about their trucks being visible to the west-bound traffic on Ina Road. **Ms. Silvyn** noted her team is currently working with Lifted Trucks to find a solution, noting that Lifted Trucks is aware of the request for a one-foot variance but were not in attendance tonight.

Board Member Flint had concerns about granting the variance because it prevents the adjacent property owner from a potential use of their property. If they request a one-foot easement, now we have two feet between two buildings; making access impossible to maintain the side of their building. **Board Member Flint** noted that he wouldn't support a request for a one-foot easement, although he would support a five-foot easement.

Ms. Silvyn understood **Board Member Flint's** concerns. She noted when ADOT secured the access point on their property, they did the same on the adjoining property. No buildings are allowed within a certain distance of that access point. There are also building code requirements regarding allowed space between buildings. **Ms. Silvyn** noted this is a preliminary site plan. When the development plan is submitted to staff, any issues with the layout will be addressed at that time.

Board Member Parsons asked if they needed the one-foot variance in order to complete the project. Regarding any fire exits along the back of the building, **Board Member Parsons** asked how they would assure that Lifted Trucks didn't place anything on their lot line, potentially blocking access, if there was an emergency.

Ms. Silvyn noted the layout options are constrained. Even if the front of the building is repositioned, in order to accommodate Lifted Trucks' concerns, the one-foot setback would still be needed along the remainder of the building in order to make the project work.

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Ms. Silvyn noted the architect can design the fire exits so they are placed in other locations. With a zero-lot line a fire rating system/protected-firewall will be required along the back of the building regardless of what is on the other side of the property line.

Board Member McIntyre was not in favor of the one-feet easement, suggesting a five-foot easement. He recommended moving the building five feet to the east and losing some of the initial patio space and parking to make the layout work.

Ms. Silvyn stated they will continue to work with Lifted Trucks regarding the front portion of the building. The one-foot variance would still be needed in order to make the project work.

Development Services Director, Jason Angell - as it was stated at the beginning of the meeting, the Boad is not asked to approve a site plan tonight. The design of this building has yet to be determined and it is really about what is a reasonable use of this property. The board needs to consider the minimum requirements tied to this variance: a minimum drive aisle of 24 feet, minimum parking depth of 16 feet. When you subtract that from the 120 width, you factor in what is left to work with. You also have to factor in the ADA accessibility and the fire code requirements.

Ms. Silvyn noted they would like this request to be approved but since there are some concerns and the comfort level isn't there, she suggested the item be continued so she can meet with the architect and potential owners to try and address the boards' concerns.

Seeing there were no speaker cards, **Chairman Schnee** opened and closed the public hearing at 6:07 pm.

Motion to continue Item VAR2406-004: Ina Road setback variance to August 28, 2024, by Board Member McIntyre, seconded by Board Member Flint. Motion to continue passed 4-0.

DISCUSSION/POSSIBLE ACTION ITEMS

ADJOURNMENT

Chairman Schnee called for a motion to adjourn the meeting.

Board Member Flint moved to adjourn the meeting, seconded by Board Member McIntyre. Passed unanimously. The meeting adjourned at 6:09 p.m.

CERTIFICATION

I hereby certify that the foregoing are the true and correct minutes of the Marana Board of Adjustment meeting held on July 24, 2024. I further certify that a quorum was present.

Terri Byler

Terri Byler, Board Secretary

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