I. Invocation

II. Call to Order and Establishment of a Quorum

Chairman Brooks called the meeting to order and noted that a quorum was present.

Present
Oscar Brooks, Chairman
Samuel Murrell, Vice Chairman
Russ Campbell
Tim Carter
Victor Ghosheh

Others Present
Angela Reeder, Town Planner
Cathy Durant, Town Administrator

III. Approval of Minutes from the April 12, 2018 Meeting

Motion: Tim Carter made a motion to approve the minutes of the September 5, 2018 meeting. Russ Campbell seconded the motion.

Vote on Motion: The motion carried unanimously.

IV. Old Business

A. Other as Properly Presented

There was no old business to come before the Board.

V. New Business

A. ABRA Auto Collision – to consider a Conditional Use Permit – West side of Airline Road, roughly 600 feet south of Memphis Arlington Road.

Chairman Brooks recognized Angela Reeder, Town Planner, who provided the analysis (on file) and stated the applicant is requesting Board of Zoning Appeals (BZA) approval of a Conditional Use Permit for an auto body shop on Airline Road.

Ms. Reeder stated the property is located on the west side of Airline Road and is currently zoned SC: Shopping Center. Zoning ordinance allows some uses by right and others only with a Conditional use Permit from BZA after consideration of whether the business can integrate into the area and meet both general and specific provisions of the Code.
Ms. Reeder noted the project lot is just over 2 acres in size. The lot is currently undeveloped and primarily paved. Surrounding uses include Arlington Automotive to the north and retail shops across Airline to the east.

Ms. Reeder stated the applicant proposes to construct an 18,026 sf building for a new ABRA Auto Body location. The building will front Airline Road and share the existing driveway from adjacent Arlington Automotive. The driveway extends around the entire building, providing access to all sides.

Ms. Reeder reviewed the parking for the site plan noting it provides a total of 91 parking spaces, which includes 25 working bays inside the building and 3 handicap stalls. This is within Zoning Ordinance requirements.

Ms. Reeder mentioned a solid eight foot tall fence is proposed around the western portion of the lot, including all employee and repair vehicle spaces. This fence, along with landscaping proposed, should be adequate to screen the property. There will be one visible bay which is the “detail bay” or showroom bay for repaired vehicles.

Ms. Reeder reviewed the eight specific regulations for use, on file in the staff report. Ms. Reeder then reviewed the General CUP Provisions, also on file.

Ms. Reeder concluded by stating that the PC did recommend approval contingent on BZA approval and Staff recommends approval of the Conditional Use Permit for the ABRA Auto Repair Site Plan subject to the attached conditions.

Chairman Brooks called for a motion.

**Main Motion:** Samuel Murrell made a motion to approve a Conditional Use Permit on Airline Road. Tim Carter seconded the motion.

Chairman Brooks called for a motion

**Motion:** Tim Carter made a motion to suspend the Board of Zoning Appeals Meeting and open the Public Hearing. Samuel Murrell seconded the motion.

**Vote on Motion:** The motion carried unanimously.

Chairman Brooks opened the public hearing which was published in the Commercial Appeal on December 5, 2018. He asked anyone wishing to speak for or against the request to stand and be recognized by stating his or her name and address.

**Citizen Comments:** There were no comments.

**Motion:** Oscar Brooks made a motion to close the Public Hearing. Russ Campbell seconded it.

**Vote on Motion:** The motion carried unanimously.

**Discussion:** Mr. Ghosheh predicted the wrecked cars towed to ABRA on the weekends and after hours would create a problem of parked cars in front of the building until the business reopens.

Mr. Bailey, applicant, assured the members that ABRA is a high end business and only receives cars from insurance referrals. Mr. Bailey reviewed the process of ABRA’s intake and processing policy for vehicles. He reiterated to the members ABRA will have telescopic gates. He noted the goal is no car remaining on the lot for more than 15 days. He assured the board the wrecked cars would remain behind the 8 foot fence.

Mr. Bailey also noted ABRA is open Mon-Sat. Sunday would be the only day that a towed car may possibly arrive on site and not be taken immediately behind the 8 foot fence. Mr.
Murrell asked the typical hours of operation. Mr. Bailey noted they are open 7 am until 6 pm.

Mr. Ghosheh maintained the vehicles would still be visible especially due to the elevation of the site. Mr. Campbell noted the cars needing work would be behind the fence and therefore not visible. Mr. Campbell asked if there was any recourse for the Town if wrecked cars were visible and left outside the fence line.

Ms. Reeder noted the Town does issue Code Violation warnings and if needed would be able to withdraw their CUP if the conditions were not met. The BZA could add provisions to the conditions to make it more explicit.

Mr. Brooks inquired if the landscaping would be tall enough to help screen the site. Mr. Baily agreed to plant more mature evergreens on the south side of the property.

EPA guidelines were discussed, and the regulations required for ABRA. Mr. Bailey described the equipment ABRA uses which is intended to keep air clean. ABRA also uses an oil/water separation system to make sure any wastewater is water only with no contaminants.

Ms. Reeder noted the two added conditions: To change condition number P. 7 to read: to add mature evergreens, a minimum of 12 feet and plant +/- 20 foot off center or as approved by the DRC on the south side to assure year-round screening. And to add a condition that no wrecked cars may be stored in front yard for more than 24 hours.

Chairman Brooks called for a vote on the Main Motion with the agreed upon conditions.

Vote on Main Motion: The motion carried unanimously.

STANDARD CONDITIONS:
S-1 It is found that the application as presented, with plans dated November 27, 2018, and with the conditions of approval meets the provisions of the Town of Arlington Zoning Ordinance and any other applicable regulations, and the project shall be constructed in accordance with those regulations.

S-2 This CUP approval shall become effective thirty (30) days from the date on which it is granted. No building permit shall be issued prior to the effective date of approval and verified compliance with any applicable site plan, nor prior to any required subsequent approvals from the Planning Commission, DRC and BMA.

S-3 The applicant shall begin construction of the conditional use authorized by the BZA within one (1) year of approval, and/or fully establish the conditional use within two (2) years of approval in conformance with all applicable provisions of the Zoning Ordinance and any conditions of approval imposed by the BZA and other boards and commissions. Failure to begin construction or establish the conditional use within the prescribed time period shall result in the voiding of the approval.

S-4 The applicant may request an extension from the BZA not to exceed one (1) year if the conditional use is not established in the time period prescribed.

S-5 All approved plans, conditions, restrictions and requirements made part of the approval by the BZA shall run with the land once the conditional use is established as provided in the Arlington Zoning Ordinance.

S-6 Any future changes or expansion will require separate review and approval by the BZA and Planning Commission.
S-7 All construction improvements within the development shall be in compliance with the Town of Arlington Zoning Ordinance, Subdivision Regulations and Technical Specifications, as directed and approved by the Town Engineer, unless otherwise noted on the Site Plan.

S-8 This project must comply with the Tennessee Department of Environment and Conservation NPDES Regulations governing stormwater discharge during construction activity.

S-9 Prepare and submit to the State of Tennessee (with a copy to Arlington) a notice of intent and a Stormwater Pollution Prevention Plan for the site.

S-10 Erosion control measures as approved by the Town Engineer shall be implemented in compliance with the applicant’s filed Notice of Intent, and approved Notice of Coverage prior to any earth disturbance activity.

S-11 The applicant is required to have a pre-construction meeting with Town of Arlington staff prior to commencing improvements.

PROJECT SPECIFIC CONDITIONS:

P-1. All sidewalk paths, including those across driveways, shall be ADA compliant, including the installation of truncated domes to provide tactile surfaces where ADA routes cross driveways. This requirement applies both in the public right-of-way and within the site.

P-2. Revise the Construction Plans to address comments as noted on the marked-up plan sheets provided by the Town Engineer and provide for Town review and approval.

P-3. Landscaping, lighting, building elevations and signage shall be reviewed and approved by the Design Review Committee in accordance with the Town Design Guidelines.

P-4. A final plat must be submitted for approval and then be recorded to create the lot in question prior to issuance of any building permits for the site. Ingress/egress easements are required where any shared access is provided.

P-5. Revise the Site Plan to note: Tree density units required, that all ground mounted equipment will require screening through fencing and/or landscaping as appropriate, and that the screening fence around the rear of the site must be a minimum of 8 feet tall and opaque.

P-6. The project shall meet the Town adopted 2012 International Fire Code, including all referenced appendices, to the satisfaction of the Arlington Fire Department.

P-7. Landscape plans shall include the installation of more mature landscaping and evergreens a minimum of 12 foot tall and planted +/- 20 foot off center on the south side to ensure year-round screening of the storage area, or as approved by the DRC, due to elevation differences between the site and Airline Road.

P-8. No wrecked cars shall be stored in the front yard (outside the fencing) for more than 24 hours.

B. Wendy’s – Parking Waiver – Southwest corner of Airline and Memphis Arlington Road.

Chairman Brooks recognized Angela Reeder, Town Planner, who provided the analysis (on file) and stated the applicant, Wendelta Property Holdings, is requesting Board of Zoning Appeals (BZA) approval of a Parking Waiver for more parking than is otherwise allowed.
Zoning Ordinance allows for consideration of Parking Waiver requests from Town regulations subject to a set of procedures.

Ms. Reeder noted the site is located on the Southwest corner of Airline Road and Memphis-Arlington Road and is zoned SC: Shopping Center. The site is 1 acre in size and is undeveloped and largely paved.

Ms. Reeder stated the applicant proposes to construct a 2,562 sf building for a new Wendy’s restaurant on this corner lot. The building will front Airline Road with a drive-through that wraps around 3 sides of the building. Ms. Reeder explained the new restaurant will provide inside seating for 55 customers. A proposed queue area for the drive through will be able to serve at least eleven vehicles behind the pickup window.

Ms. Reeder noted the site currently provides 29 parking spaces including 2 handicap stalls. This exceeds Zoning Ordinance requirements, which call for a minimum of 13 spaces (1:200 sf) and a maximum of 20 spaces (1:125 sf) for fast food uses.

Ms. Reeder remarked a waiver for extra parking requires less justification than for reduced parking. The BZA must find the Town’s requirements do not allow the provision of the number of parking spaces needed to accommodate the parking needs of the proposed use, and the requested increase is the minimum needed to do so.

Ms. Reeder presented the applicants argument that the maximum spaces allowed by Code is not adequate for their use. Wendy’s had asked to be considered a “sit down restaurant” with a drive-through. This classification would permit the additional parking. However, the Code clearly identifies this use as a “fast food restaurant” and thus those parking regulations apply.

Ms. Reeder summarized the points the applicant provided in support of their request and noted the letter of request from the applicant is on file. The applicant noted their recent restaurants built include at least 30 parking spaces, they provided the Wendy’s corporate ideal parking standards for their restaurants, and they noted that Wendy’s currently supports a 65% drive through business. Decreasing parking, they argued, would increase drive through percentage and negatively impact traffic around the site.

Ms. Reeder noted the Planning Commission recommended approval of the Site Plan if they felt the added spaces could be justified since and the site exceeded the required open space percentage. The Planning Commission approved a condition of approval that states their approval of the site as proposed was contingent on approval of the extra parking by the BZA.

Ms. Reeder concluded by stating that Staff recommends approval of the Parking Waiver for Wendy’s subject to the attached conditions.

Chairman Brooks called for a motion.

Main Motion: Samuel Murrell made a motion to approve a Parking Waiver Permit on Airline Road. Tim Carter seconded the motion.

Chairman Brooks called for a motion

Motion: Russ Campbell made a motion to suspend the Board of Zoning Appeals Meeting and open the Public Hearing. Samuel Murrell seconded the motion.

Vote on Motion: The motion carried unanimously.
Chairman Brooks opened the public hearing which was published in the Commercial
Appeal on December 5, 2018. He asked anyone wishing to speak for or against the request
to stand and be recognized by stating his or her name and address.

Citizen Comments: There were no comments.

Hearing no comments, Chairman Brooks made a motion to close the Public Hearing.

Motion: Russ Campbell made a motion to close the Public Hearing and resume the BZA
Meeting. Samuel Murrell seconded it.

Discussion: Mr. Campbell acknowledged he was a PC member and as such would like to
address issues raised at the PC meeting. Mr. Campbell noted the increase from the
maximum 20 spaces to 29 spaces is a large increase.

Additionally, the PC members cited two parking areas they found concerning. The first is
the NE corner of the lot. This spot is particularly hard to access. The second is the area
around the SE corner. PC members had discussed removing one or two of those spaces
with the intent to move the landscaped median further back.

Mr. Campbell noted the applicant had addressed this at the PC meeting and he would ask
the applicant to explain the reasoning to this board; moving the median would have a
detrimental affect on the flow of traffic both around the site and entering/exiting Airline
Road.

Mr. Campbell stressed that the Town of Arlington will follow Town guidelines and Code,
not what corporate standards dictate.

Mr. Brooks concurred with Mr. Campbells assessment. He agreed the entrance/exit does
not look easy to maneuver.

Mr. Nichols, applicant, explained Wendy’s would like to request 29 spots. Mr. Nichols
agreed the upper right parking spot in the NE corner is particularly hard to navigate. That
space, Mr. Nichols predicted, will be used by employees.

He continued, if Wendy’s has a reduced amount of parking at this site, more people will
be forced to use the drive through. This will increase traffic problems on this site.

Wendy’s would like to provide sit down dining service and have space available for its
customers to park. Mr. Nichols pointed to Oakland as an example which has 32 parking
spots and at times still does not have adequate parking.

Mr. Campbell indicated he had recently visited several Wendy’s establishments over the
lunch hour. At most they are staffed with 7-9 employees at lunch hour not the 16 Mr.
Nichols has suggested. Mr. Campbell asked how many seats were in the Oakland location.
Mr. Nichols responded Oakland has 55 seats and is the same square footage as the
proposed site here in Arlington.

Mr. Campbell asked Ms. Reeder if the definition, or Town standard, of a drive through
restaurant was contingent on the percentage of drive through business vs. sit down
customers. Ms. Reeder replied that the percentage does not have a role when determining
whether an establishment is classified as drive through or sit down restaurant. The
determining factor is based on whether the establishment provides a drive through but
also offers sit down service at the table or whether they offer walk up counter service. Ms.
Reeder clarified, an establishment with a drive through and walk up counter service is
classified as a fast food establishment.

Mr. Campbell asked the applicant to explain to the BZA the reasoning provided to PC
members to keep the parking spaces at SE corner and not push back the landscape median
at the entrance. Mr. Brooks agreed this looked to be a tight entrance/exit to the establishment and seemed to create traffic problems for drivers exiting the parking and the drive through.

Mr. Nichols explained the Town has required continuity between the three parcels on Airlne Road with shared access to the rear of the lots. Initially, Wendy’s had proposed the driveway off Airlne to be slightly shifted; due to conflicting left turns the Town Engineer mandated the driveway align with the driveway across Airlne Road.

Mr. Nichols predicts returning customers will loop around and use the rear exit thus eliminating some of the traffic flow to Airlne Road. Some customers though may try to make a left turn onto Airlne. In theory removing a few spaces and pushing back the landscape median would allow for a wider space for traffic to navigate. In reality though, this will create problems with drivers creating their own path. Mr. Nichols believes providing drivers with engineered requirements to determine how the traffic will proceed will generate less havoc in the parking lot. He maintains pushing back the median and allowing drivers an additional 20 feet will not benefit traffic flow but will have a negative impact by producing a more chaotic entrance/exit. Mr. Nichols agreed left turns are problematic, but they also create business access.

Mr. Ghosheh inquired if the Town would be able to require a No Left Turn Allowed from the Wendy’s driveway and instead make it a Right in/Right out driveway. Ms. Reeder replied that the Town has certainly required that in other situations and although it has not necessarily stopped drivers from making a left turn it can make it more difficult.

Ms. Reeder explained there is already a full access driveway just south of the establishment. The applicant had proposed their driveway to be located further south predicting the left-hand turn problem. The Town required them to move the driveway to its current location to line up with the opposite driveway at the bank.

Mr. Nichols responded during non-peak hours this will not be an issue and the access is important to the business. Mr. Campbell noted the PC brought this up as well. It was determined that creating a right in/right out will not necessarily fix the problems. Drivers will try to make a left turn and create a more dangerous situation by doing the unexpected. It is not a practical solution.

Ms. Durant noted the Town Engineer has reviewed the Site Plan and proposed the driveway’s current location. Ms. Durant stated Staff will propose a traffic study for Airlne Road and Memphis Arlington intersection to consider the addition of left turn signals.

Ms. Durant explained that two engineers have reviewed and approved the plans; the applicants and the Town Engineer. Ms. Durant concluded the main consideration to allow additional parking for this site is whether there is enough pervious surface compared to the impervious surface. Currently this site provides 36% open space which includes the proposed 29 parking spaces.

Additionally, the site poses very little impact to drainage as the current site is mostly asphalt and concrete; there is no on-site detention required. Staff has reviewed the plans and feels this the proposal is adequate and safe. Furthermore, the applicant has been cooperative and has worked to develop what will fit with the Town including adequate landscaping and outdoor seating.

Mr. Nichols assured the board the store will be managed and maintained well.

Chairman Brooks called for a vote on the Main Motion.

**Vote on Main Motion:** The motion carried unanimously.
STANDARD CONDITIONS:

S-1. It is found that the application as presented, with plans dated December 5, 2018, and with the conditions of approval meets the provisions of the Town of Arlington Zoning Ordinance and any other applicable regulations, and the project shall be constructed in accordance with those regulations.

S-2. All construction improvements within the development shall be in compliance with the Town of Arlington Zoning Ordinance, Subdivision Regulations and Technical Specifications, as directed and approved by the Town Engineer, unless otherwise noted on the Site Plan.

S-3. This project must comply with the Tennessee Department of Environment and Conservation NPDES Regulations governing stormwater discharge during construction activity.

S-4. Prepare and submit to the State of Tennessee (with a copy to Arlington) a notice of intent and a Stormwater Pollution Prevention Plan for the site.

S-5. Erosion control measures as approved by the Town Engineer shall be implemented in compliance with the applicant’s filed Notice of Intent, and approved Notice of Coverage prior to any earth disturbance activity.

S-6. All signage design and location is subject to the review and approval of the Design Review Committee.

S-7. The applicant is required to have a pre-construction meeting with Town of Arlington staff prior to commencing improvements.

PROJECT SPECIFIC CONDITIONS:

P-1. All sidewalk paths, including those across driveways, shall be ADA compliant, including the installation of truncated domes to provide tactile surfaces where ADA routes cross driveways. This requirement applies both in the public right-of-way and within the site.

P-2. Revise the Construction Plans to address comments as noted on the marked-up plan sheets provided by the Town Engineer and provide for Town review and approval.

P-3. The applicant must construct the access drive and curb cut located adjacent to the west boundary of the site.

P-4. Approval is contingent on approval of parking in excess of Town standards by the Board of Zoning Appeals. If additional parking is denied, the site plan may be revised to convert the extra spaces to landscaping without additional PC review.

P-5. Landscaping, lighting, building elevations and signage shall be reviewed and approved by the Design Review Committee in accordance with the Town Design Guidelines.

P-6. A revised final plat must be recorded for the site to add a shared access easement and remove existing slope and temporary construction easements that were acquired during the construction of road improvements. The plat shall also dedicate a drainage easement for the existing storm drain pipe crossing the northeast corner of the site.

C. Other as Properly Presented

There was no other business.
VII. Adjourn

Chairman Brooks called for a motion to adjourn.

Motion: Tim Carter made the motion. Victor Ghosheh seconded the motion.

The motion carried unanimously.

Meeting adjourned.

[Signature]
Oscar Brooks, Chairman

[Date]
June 25, 2019

Submitted By: Janet Lucci, Planning Administrative Assistant