



VILLAGE OF MONTGOMERY

***Zoning Board of Appeals Meeting Agenda
January 7, 2016 7:00 P.M.
Village Hall Board Room
200 N. River Street, Montgomery, IL 60538***

- I. Call to Order
- II. Roll Call
- III. Approval of Minutes from November 5, 2015
- IV. New Business
 - I. ZBA 2016-006 V Public Hearing and Consideration of an Alternative Surfaces Setback Variance for ATMI Precast, Inc. Located at 900 Knell Road.
- V. Other Business
- VI. Adjournment



Zoning Board of Appeals
November 05, 2015

I. CALL TO ORDER:

Chairman Hammond called the meeting to order at 7:21 p.m.

II. ROLL CALL:

Tom Betsinger	Present	John Francis	Absent
Tom Yakaitis	Present	Mildred McNeal-James	Present
Patrick Kelsey	Present	Butch Distajo	Present
Mike Hammond	Present		

Also present: Senior Planner Jerad Chipman; Village Attorney Laura Julien; Director of Community Development Richard Young; Village Engineer Tim Paulson; Trustee Denny Lee; Trustee Doug Marecek; Trustee Theresa Sperling; Executive Director of MEDC Charlene Coulombe-Fiore and members of the audience.

III. APPROVAL OF MINUTES:

MOTION: Motion was made by Commissioner Distajo to approve the minutes of the November 6, 2014 Zoning Board of Appeals Meeting. Commissioner Kelsey seconded.

The roll call vote was 6-0 as follows:

Ayes: Distajo, Betsinger, Yakaitis, Kelsey, Hammond and McNeal-James
Nays: None.

IV. NEW BUSINESS:

1. ZBA 2015-011 V Public Hearing and Consideration of a Sign Variance for Chiquita Food Market Located at 1525 Douglas Road.

Senior Planner Chipman stated the Petitioner is requesting a variance to Sections 12.09(A)(2)(d) of the Zoning Ordinance to construct a 14 foot high monument sign with an electronic reader board on the upper half of a proposed sign. The 45 degree angle of the building to the street frontage makes it challenging to advertise their location and the proposed sign would serve to improve the aesthetic of Douglas Road.

Attorney John Philipchuck representing Chiquita Food Market explained the need for the electronic message board to be located on the top of the sign. The electronic sign will allow proper exposure for the multiple businesses operating in one building to market the food marketplace, bakery and restaurant.

Chairman Hammond opened the public hearing. No comment from the public and the public hearing was closed.

Commissioners Betsinger and McNeal-James expressed having issues with electronic signs, and taking into consideration the building location they believe it is appropriate to allow the sign variance.

Chairman Hammond read through the findings of fact:

1) That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located; *It is the Petitioner's opinion that the property would yield a lower return as the building is at an acute angle in relation to Douglas Road creating challenges to the visibility of the businesses located there.*

Staff understands that the building is located at an unusual angle.

2) That the plight of the owner is due to unique circumstances; *The Petitioner believes that their situation is unique as the building is located at an angle to Douglas Road.*

Staff believes that this is a rare occurrence as the majority of the retail buildings in the Village are orientated parallel to the primary street that they front.

3) That the variation, if granted, will not alter the essential character of the locality; *The Petitioner believes that the variance will not alter the essential character of the locality as an existing non-conforming sign on Douglas Road contains an electronic message board at a similar height to what the petitioner is proposing.*

Staff agrees with the Petitioner that the requested variances will not alter the essential character of the locality. The sign as a whole will closer resemble the current zoning ordinance and uphold the vision of the community. The other electronic reader board that the petitioner has used as an example was permitted under a previous zoning ordinance that has since been amended.

4) That the particular physical surroundings, shape, or topographical conditions of the specific property involved will bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out; *The Petitioner believes that if the electronic message board is placed on the lower half of the sign, per the zoning ordinance, then south bound traffic would block the reader board from the view of north bound traffic.*

It is staff's opinion that there are no physical characteristics of the site that render a hardship for the Petitioner. Many businesses have signs that are shorter than the half-way point of the proposed signs

5) That the conditions upon which the application for variation is based would not be applicable generally to other property within the same zoned classification. *The Petitioner has indicated that they believe that the conditions of hardship are unique to their property due to the diagonal orientation of the building to Douglas Road.*

It is staff's opinion that the conditions upon which the application is based would be applicable to other properties within the same zoning classification. Other properties in the B-2 General Retail Business District may desire to locate an electronic message board on the upper half of a sign.

6) That the need or purpose of the variation is not based exclusively upon a desire to make more money out of the property;

Staff believes that the elevated message board would promote the various services and products sold at this location.

7) That the granting of the variation will not be detrimental to the public welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located;

Staff believes that the variation should not cause detriment or injury.

8) That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.”

Staff believes that the variation should not impair light or air supply, or diminish property values.

Commissioner Kelsey requested the Petitioner to respond to item four (4) since that criteria was not met.

Mr. Philipchuck stated the hardship is not allowing the proper signage orientation as the closest corner of the building to the street is 250 feet along with the acute angle of the building. The building does not allow the opportunity to compete with other businesses that are closer and have their whole frontage facing the street.

Commissioner Kelsey expressed the sign variance is worth supporting to redevelop Douglas Road. Kelsey concurs with Mr. Philipchucks response to item four (4) that the conditions are unique with the combination of the distance back and the acute angle of the site relative to Douglas Road.

Chipman enquired if there was a consensus to include the modifications of the findings of fact.

Attorney Julien questioned if items four (4) and five (5) need to be modified.

The Commissioners agreed that both needed modifying and modified the findings of fact accordingly.

MOTION: Motion was made by Commissioner Kelsey to move to approve the ZBA 2015-011V Chiquita Food Market Sign Variance. Commissioner Yakaitis seconded.

The roll call vote was 6-0 as follows:

Ayes: Kelsey, Hammond McNeal-James; Distajo, Bettsinger and Yakaitis,

Nays: None

V. OTHER BUSINESS:

No other business to report at this time.

Senior Planner Chipman addressed an additional Community Development update and apologized as he was unaware of the opening date for the Chiquita Food Market.

VI. ADJOURNMENT:

Having no further business to discuss, the Zoning Board of Appeals was adjourned at 7:45 p.m. by
Chair Hammond

Respectfully submitted,

A handwritten signature in black ink that reads "Tola Coffey". The signature is written in a cursive style with a large, looping initial "T" and a long, sweeping underline.

Tola Coffey
Zoning Board of Appeals
Administrative Assistant

2016-006 ATMI Precast, Inc. Variance Request

ASHLAND AVE

250 Feet From the Ashland Right-of-Way

900

250 Feet From the Route 31 Right-of-Way

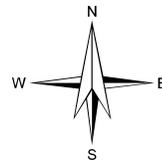
LAKE ST

1200

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community



Village of Montgomery
200 N. River Street
Montgomery, IL 60538
630-896-8080





ZBA 2016-006
ZONING BOARD OF APPEALS ADVISORY REPORT

To: Chair Hammond and Members of the Zoning Board of Appeals
From: Jerad Chipman AICP
Senior Planner
Date: December 31, 2015
Subject: 2016-006 V ATMI Precast Setback Variance.

Petitioner: ATMI Precast, Inc.
Location/Address: 900 Knell Road.
Requests: Variance to allow alternative surfaces within 250 feet of a public right-of-way.
Current Zoning: M-1 Limited Manufacturing District
Comprehensive Plan: Light Industrial/Business Park

Surrounding Land Uses:

Location	Adjacent Land Use	Adjacent Zoning
North	Commercial/Open Space	R-6, B-2 and M-1
East	Industrial	M-1 and M-2
South	Industrial	M-1
West	Industrial	M-1

Background:

The Petitioner is requesting a variance to Sections 11.02 Standards: (5) of the Zoning Ordinance to allow alternative surfaces within the 250 foot setback from a public right-of-way.

Below is the sections of the Zoning Ordinance that relief is being requested from:

11.02 Standards: (5)

5. The alternative surface cannot be located closer than 250 feet from a public right of way.

Currently, the building and the majority of the parking area is being leased by a separate entity other than the petitioner. The Petitioner is leasing a portion of the parcel located east of the building with access from Ashland Avenue to the north.

Attached is an exhibit that generally indicates the location of the 250 foot setback on the property.

Findings of Fact:

According to Section 14 of the Montgomery Zoning Ordinance “the Zoning Board of Appeals shall recommend approval of a variation from the provisions of this ordinance as authorized in this section only if the evidence, in the judgment of the Zoning Board of Appeals, sustains each of the following conditions:

Please note that the Petitioners complete application is attached to this report. Staff summarizes the Petitioner’s comments in the findings of fact in this report.

1) That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located; ***It is the Petitioner’s opinion that the property would yield a lower return as the building is located diagonally in relation to Route 31 creating challenges to the usability of the side yard.***

Staff understands that the building is located at an angle to Route 31, however, Route 31 borders the side of the building and the building is parallel to the street that it fronts onto, Knell Road.

2) That the plight of the owner is due to unique circumstances; ***The Petitioner believes that their situation is unique as Route 31 proceeds diagonally past the storage area.***

Staff believes that this is not a unique situation. The building on this property was constructed to be parallel to Knell Road to the south and Ashland Avenue to the north, and the third street that borders the property is located diagonally to the building. Other properties in the M-I Limited Manufacturing District are situated similarly, as they often parallel the street that they front and have another adjacent street border them at an angle.

3) That the variation, if granted, will not alter the essential character of the locality; ***The Petitioner believes that the variance will not alter the essential character of the locality as the non-conforming surface is already in existence in the location that the Petitioner intends to use.***

Staff believes that allowing continued use of the buffer area as an alternative surface does affect the essential character of the locality.

4) That the particular physical surroundings, shape, or topographical conditions of the specific property involved will bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out; ***The Petitioner believes that the physical surroundings create a hardship due to the diagonal orientation of Route 31 to the building.***

It is staff's opinion that there are no physical characteristics of the site that render a hardship for the Petitioner. Many businesses have smaller side yards than this site, rendering them unable to obtain a special use for alternative surfaces.

5) That the conditions upon which the application for variation is based would not be applicable generally to other property within the same zoned classification. ***The Petitioner has indicated that they believe that the conditions of hardship are unique to their property as the Petitioner would be the only parcel in the Village to use an outdoor overhead crane to stack the panels.***

It is staff's opinion that the conditions upon which the application is based would be applicable to other properties within the same zoning classification. Other properties in the M-I Limited Manufacturing District utilize heavy equipment in their operations.

6) That the need or purpose of the variation is not based exclusively upon a desire to make more money out of the property;

Staff believes that the storage area would have a positive financial effect on the property owner and the Petitioner.

7) That the granting of the variation will not be detrimental to the public welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located;

Staff believes that the variation should not cause detriment or injury.

8) That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood." ***The Petitioner has indicated that they believe that the variance will not impair light, air and property values as measures will be taken to control dust.***

Staff believes that the variation has potential impacts to the neighborhood as there is the potential for dust to be generated and distributed off site.

Following the Public Hearing, the Zoning Board of Appeals should discuss the standards for granting a variation and make the findings of fact by reading each criteria and entering into the minutes the consensus on each.

Recommendation:

It is staff's opinion that the Petitioner has not met all of the conditions to grant a variance, and recommends that the variance be denied.

164956/1

Village of Montgomery
APPLICATION FOR ZONING VARIATION

Case Number: _____
Date Filed: _____

PART I. Applicant Information

APPLICANT (Please Print or Type)

Name: ATMI Precast, Inc. - Paul Carr
Address: 960 Ridgeway Avenue, Aurora, Illinois 60506
Email: pcarr@atmiprecast.com
Phone: (630) 896-4679 Fax: (630) 896-4871

CONTACT PERSON (If different from Applicant)

Name: John. F. Philipchuck
Address: 111 East Jefferson Avenue, Suite 200, Naperville, Illinois 60540
Email: jfp@dbcw.com
Phone: (630) 355-5800 Fax: (630) 355-5976

IS THE APPLICANT THE OWNER OF THE SUBJECT PROPERTY? YES [] NO [X]

(If the Applicant is not the owner of the subject property, a letter from the Owner authorizing the Applicant to file the Application for Zoning Variation must be attached to this application).

IS THE APPLICANT AND/OR OWNER A TRUSTEE OR A BENEFICIARY OF A LAND TRUST? YES [] NO [X]

(If the Applicant and/or Owner of the subject property is a Trustee of a land trust or beneficiary(ies) of a land trust, a disclosure statement identifying each beneficiary of such land trust by name and address and defining his/her interest therein shall be verified by the Trustee and shall be attached hereto).

PART II. Property Information

ADDRESS OF PROPERTY: 900 Knell Road, Montgomery, Illinois

PARCEL INDEX NUMBER(S): 15-32-201-002

LEGAL DESCRIPTION: See attached.

A legal description must be provided or attached to this application, include a digital copy

Is the property in question currently subject to a zoning variation or a Special Use Permit? YES [X] NO []

If so, please describe its nature: Ordinance 1239; Ordinance 1430

Is the property in question currently non-conforming in any respect? YES [X] NO []

If so, please describe its nature: current lot has gravel surface

PART III. Reasons for the Zoning Variation Request

Please note that the following questions must be answered completely. If additional space is needed, attach extra pages to application.

- 1. Briefly describe the characteristics of your property that prevent you from complying with the requirements of the Montgomery Zoning Ordinance, giving dimensions where necessary. *(Please Print or Type)*

This variation is a request to reduce the setback from an alternate surfaced lot to a public right of way from 250' to a minimum of 130' along Route 31 and 180' along Ashland Avenue. The lot is existing with no asphalt surface but the angles of the property lines to the right of ways present the necessary setbacks from being achieved.

- 2. Are these characteristics or conditions the result of other man-made changes, such as relocation of a road or highway? Please describe.

The buildings were constructed to not be parallel with Route 31 thus creating a unique relationship to the public right of way.

- 3. What specific requirement(s) of the Montgomery Zoning Ordinance prevent you from establishing the proposed use or construction on your property?

Section 11.02 prohibits the use of an alternate surface in this instance, crushed limestone, with 250' of a public right of way.

- 4. What is the minimum reduction of the requirements of the Montgomery Zoning Ordinance that would permit the proposed use or construction on your property?

Allow the alternate surface to remain within 130' of the Route 31 public right of way and 180' from Ashland Avenue right of way.

- 5. What is the practical difficulty or particular hardship that would result if the requirements of the Montgomery Zoning Ordinance were strictly applied to your property?

The tight maneuvering of the overhead crane in moving the precast panels destroys hard surfaces such as asphalt in short order. The crushed limestone allows for good traction for the crane.

6. To the best of your knowledge, can you affirm that the hardship you described above was not created by you or anyone having a proprietary interest in the subject property? YES NO

If not, explain why the hardship should not be regarded as self-imposed (self-imposed hardships are not entitled to a zoning variation).

The Zoning Ordinance creates an artificial 250' setback from public right of way when dust control measures can reduce or eliminate dust and the 250' applies even if there is no access to the given right of way. Route 31 angles in relationship to how the building and storage lot sit on the lot. The storage lot meets the 250' setback along Route 31 at the north end but because of the diagonal running of the road, it is only 130' at the south end of the lot.

7. Are the conditions of hardship for which you request a zoning variation true only of your property? YES NO

If not, how many other properties in the Village are similarly affected?

Only parcel in Village storing precast panels and utilizing an outdoor overhead crane. The lot sits square to the building but the right of way for Route 31 is not Parallel to the front of the building, thus causing a unique hardship.

8. Will the granting of a variation in the form requested be in harmony with the Neighborhood and not contrary to the intent and purpose of the Zoning Ordinance and why?

It is a commercial/industrial area. No new access drives are being proposed. The right of way being used for access is Ashland Avenue, a little used dead end street. Dust control measures will be used. The nature of the vehicles using the lot, overhead crane necessitate an alternate surface in this instance.

I certify that all of the above statements and the statements and information contained in any papers, plans and other documents submitted herewith are true to the best of my knowledge and belief.

I (we) consent to the entry in or upon the premises described in this application by any authorized official of the Village of Montgomery for the purpose of posting, maintaining and removing such notices as may be required by law.


Applicant's Signature

12.23.15.
Date