



**VILLAGE OF MONTGOMERY**  
**Zoning Board of Appeals Meeting Agenda**  
**October 6, 2016 7:00 P.M.**  
**Village Hall Board Room**  
**200 River Street, Montgomery, IL 60538**

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- I. Call to Order
- II. Roll Call
- III. Approval of Minutes from September 1, 2016
- IV. Items for Zoning Board of Appeals Action
  - a. ZBA 2016-028 V Public Hearing and Consideration of a Front Yard Variance for Ruben Hernandez Located at 1415 Bohr Avenue.
  - b. ZBA 2016-029 V Public Hearing and Consideration of an East Side Yard Variance for Ruben Hernandez Located at 1415 Bohr Avenue.
  - c. ZBA 2016-030 V Public Hearing and Consideration of a West Side Yard Variance for Ruben Hernandez Located at 1415 Bohr Avenue.
  - d. ZBA 2016-031 V Public Hearing and Consideration of an Alternative Surface Setback Variance for Ruben Hernandez Located at 1415 Bohr Avenue.
- V. Other Business
- VI. Adjournment



**Zoning Board of Appeals**

**September 1, 2016**

**I. CALL TO ORDER:**

Chairman Hammond called the meeting to order at 7:54 p.m.

**II. ROLL CALL:**

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

Also present: Village President Matt Brolley; Village Attorney Laura Julien; Director of Community Development Richard Young; Senior Planner Jerad Chipman; Village Engineer Tim Paulson; Trustee Denny Lee; Trustee Theresa Sperling; Trustee Doug Marecek; Trustee Jungermann; 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 August 4, 2016 Zoning Board of Appeals Meeting. Commissioner Betsinger seconded.

*The roll call vote was 4-0 as follows:*

**Ayes:** Distajo, Betsinger, Kelsey, Hammond

**Abstain:** Yakaitis

**Nays:** None

**IV. NEW BUSINESS:**

**1. ZBA 2016-019 V Public Hearing and Consideration of a Light Pole Variance for CenterPoint Properties Located at 900 Knell Road.**

Petition withdrawn.

**V. OTHER BUSINESS:**

No other business to report at this time.

**VI. ADJOURNMENT:**

Having no further business to discuss, the Zoning Board of Appeals was adjourned at 7:56 p.m. by Chairman Hammond.

Respectfully submitted,

Toula Coffey  
Zoning Board of Appeals  
Administrative Assistant



**ZBA 2016-028**  
**ZBA 2016-029**  
**ZBA 2016-030**  
**ZBA 2016-031**  
**ZONING BOARD OF APPEALS ADVISORY REPORT**

**To:** Chair Hammond and Members of the Zoning Board of Appeals  
**From:** Jerad Chipman AICP  
Senior Planner  
**Date:** September 27, 2016  
**Subject:** 2016-028, 2016-029, 2016-030, 2016-031 V 1415 Bohr Avenue Setback Variances.

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**Petitioner:** Ruben Hernandez

**Location/Address:** 1415 Bohr Avenue

**Requests:** Variance to encroach into the front yard setback.  
Variance to encroach into the east side yard setback.  
Variance to encroach into the west side yard setback.  
Variance to allow alternative surfaces within 250 feet of a public right-of-way.

**Current Zoning:** M-2 General Manufacturing District

**Comprehensive Plan:** Heavy Industrial

**Surrounding Land Uses:**

<b>Location</b>	<b>Adjacent Land Use</b>	<b>Adjacent Zoning</b>
North	Industrial	M-2
East	Industrial	M-2
South	Residential	Unincorporated Farming District
West	Residential and Agricultural	Unincorporated Farming District

**Background:**

The Petitioner is requesting four variances to Section 11.02 of the Zoning Ordinance to allow setback encroachments and alternative surfaces within the 250 foot setback from a public right-of-way. All of the variance requests will be addressed one at a time in this report.

**ZBA 2016-028 Front Yard Variance**

The Petitioner is requesting to encroach approximately eight (8) feet into the front yard setback.

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

**11.02 Zoning Standards and Bulk Regulations Table**

Zoning District	Front Yard Setback*	Side/ Corner Side Yard Setback*	Rear Yard Setback*	Transitional Yard Setback*+	Floor Area Ratio	Maximum Building Height
M-1	Min 25 ft	Min 10% of lot width but no greater than 20 ft/ 25 ft	Min 20 ft	Min 30 ft	1.5	45 ft**
M-2	<u>Min 25 ft</u>	Min 10% of lot width but no greater than 20 ft/ 25 ft	Min 20 ft	Min 30 ft	3.0	45 ft**

\*All yard setbacks shall be landscaped and meet the Village’s landscaping requirements except that curb cuts/drive entrances are permitted from the street and between lots for cross access. Parking/pavement areas and structures are prohibited in all yard setbacks except that the inner ten feet of the rear yard setback can be used for parking.

Attached is an exhibit that generally indicates the location of the variances 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 would have to be located further back on the property decreasing the amount of storage space located behind the building.***

**Staff understands that the outdoor storage area would be decreased in size, however, it is staff’s opinion that an eight (8) foot difference would not compromise the outdoor storage area.**

2) That the plight of the owner is due to unique circumstances; ***The Petitioner believes that their situation is unique as the parcel of land that they intend to develop is small for an industrial parcel and that parcel was previously divided to create the situation.***

**Staff believes that this is not entirely a unique situation. Staff agrees with the Petitioner that the parcel is small for an industrial parcel, however, many developer are forced to work within existing conditions including parcel constraints.**

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 building does not encroach into the front yard setback, only the parking lot drive aisle.***

**Staff believes that the variance would alter the essential character of the locality as other properties on Bohr Avenue have complied with the front yard setback standard.**

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 small parcel size.***

**It is staff's opinion that there are no physical characteristics of the site that render a hardship for the Petitioner, and that the loss of eight (8) feet in the storage area will not result in a hardship.**

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 site is small for the zoning.***

**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.**

6) That the need or purpose of the variation is not based exclusively upon a desire to make more money out of the property; ***The Petitioner has indicated that they do not want to decrease the rear yard storage area.***

**Staff believes that a larger 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; ***The Petitioner has indicated that they believe that the variance will not be injurious to other properties.***

**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.***

**Staff believes that the variation will not impair light, air and property values.**

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.**

**Action: Zoning Board of Appeals action should be taken on each individual request.**

**ZBA 2016-029 East Side Yard Variance**

The Petitioner is requesting to encroach approximately eleven (11) feet into the side yard setback with gravel outdoor storage. The request incorporates the entire side yard setback behind the building.

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

**11.02 Zoning Standards and Bulk Regulations Table**

Zoning District	Front Yard Setback*	Side/ Corner Side Yard Setback*	Rear Yard Setback*	Transitional Yard Setback*+	Floor Area Ratio	Maximum Building Height
M-1	Min 25 ft	Min 10% of lot width but no greater than 20 ft/ 25 ft	Min 20 ft	Min 30 ft	1.5	45 ft**
M-2	Min 25 ft	<u>Min 10% of lot width but no greater than 20 ft/ 25 ft</u>	Min 20 ft	Min 30 ft	3.0	45 ft**

\*All yard setbacks shall be landscaped and meet the Village’s landscaping requirements except that curb cuts/drive entrances are permitted from the street and between lots for cross access. Parking/pavement areas and structures are prohibited in all yard setbacks except that the inner ten feet of the rear yard setback can be used for parking.

Attached is an exhibit that generally indicates the location of the variances 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 installation of a landscaped setback would decrease the amount of outdoor storage space on the property.***

**Staff understands that the outdoor storage area would be decreased in size, however, it is staff’s opinion that an eleven (11) foot difference would not compromise the outdoor storage area.**

- 2) That the plight of the owner is due to unique circumstances; ***The Petitioner believes that their situation is unique as the parcel of land that they intend to develop is small for an industrial parcel and that parcel was previously divided to create the situation.***

**Staff believes that this is not entirely a unique situation. Staff agrees with the Petitioner that the parcel is small for an industrial parcel and that other properties on Bohr Avenue have encroached into the side yard setbacks in the past.**

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 other properties on Bohr Avenue utilize the side yard setbacks for drive aisles and storage.***

**Staff believes that the variance would not alter the essential character of the locality as other properties on Bohr Avenue have encroached into the side yard setbacks in the past.**

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 small parcel size.***

**It is staff's opinion that there are no physical characteristics of the site that render a hardship for the Petitioner, and that the loss of eleven (11) feet in the storage area will not result in a hardship.**

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 site is small for the zoning.***

**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.**

6) That the need or purpose of the variation is not based exclusively upon a desire to make more money out of the property; ***The Petitioner has indicated that they do not want to decrease the rear yard storage area.***

**Staff believes that a larger 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; ***The Petitioner has indicated that they believe that the variance will not be injurious to other properties.***

**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.***

**Staff believes that the variation has potential impacts to the surrounding properties as the outdoor storage area would extend to the property line.**

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.**

**Action: Zoning Board of Appeals action should be taken on each individual request.**

**ZBA 2016-030 West Side Yard Variance**

The Petitioner is requesting to encroach approximately eight (8) feet into the side yard setback with a paved drive aisle and on the rear of the site a gravel outdoor storage area. Three feet of landscaping in the form of grass is proposed on the western property line.

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

**11.02 Zoning Standards and Bulk Regulations Table**

Zoning District	Front Yard Setback*	Side/ Corner Side Yard Setback*	Rear Yard Setback*	Transitional Yard Setback*+	Floor Area Ratio	Maximum Building Height
M-1	Min 25 ft	Min 10% of lot width but no greater than 20 ft/ 25 ft	Min 20 ft	Min 30 ft	1.5	45 ft**
M-2	Min 25 ft	<u>Min 10% of lot width but no greater than 20 ft/ 25 ft</u>	Min 20 ft	Min 30 ft	3.0	45 ft**

\*All yard setbacks shall be landscaped and meet the Village’s landscaping requirements except that curb cuts/drive entrances are permitted from the street and between lots for cross access. Parking/pavement areas and structures are prohibited in all yard setbacks except that the inner ten feet of the rear yard setback can be used for parking.

Attached is an exhibit that generally indicates the location of the variances 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 installation of a complete landscaped setback would decrease the amount of outdoor storage space on the property and result in altering the proposed size or location of the building.***

**Staff believes that the building may have to be redesigned to accommodate the restriction of the site.**

2) That the plight of the owner is due to unique circumstances; ***The Petitioner believes that their situation is unique as the parcel of land that they intend to develop is small for an industrial parcel and that parcel was previously divided to create the situation. In addition, the Petitioner***

**owns the adjacent unincorporated property to the west, and therefore, the variance would not affect the neighboring parcel.**

**Staff believes that this is not entirely a unique situation. Staff agrees with the Petitioner that the parcel is small for an industrial parcel and that other properties on Bohr Avenue have encroached into the side yard setbacks in the past. Staff also understands that the Petitioner owns the neighboring parcel, and as that parcel is currently unincorporated it may not be used as a one zoning parcel. If the neighboring parcel was incorporated into the Village the two parcels could be considered one zoning parcel under the Zoning Ordinance.**

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 other properties on Bohr Avenue utilize the side yard setbacks for drive aisles and storage.***

**Staff believes that the variance would not alter the essential character of the locality as other properties on Bohr Avenue have encroached into the side yard setbacks in the past.**

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 small parcel size.***

**It is staff's opinion that there are no physical characteristics of the site that render a hardship for the Petitioner, and that the alignment or size of the building may have to be altered to comply with the Zoning Ordinance.**

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 site is small for the zoning.***

**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.**

6) That the need or purpose of the variation is not based exclusively upon a desire to make more money out of the property; ***The Petitioner has indicated that they do not want to alter the plan for the building or decrease the rear yard storage area.***

**Staff believes that the requested relief has 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; ***The Petitioner has indicated that they believe that the variance will not be injurious to other properties.***

**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.***

**Staff believes that the variation has potential impacts to the neighboring property as it is unknown as to what the neighboring development will be in the future.**

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.**

**Action: Zoning Board of Appeals action should be taken on each individual request.**

## **ZBA 2016-031 Variance to Allow Alternative Surfaces within the 250 Foot Setback from a Public Right-of-Way**

The Petitioner intends to utilize the rear of the site for a storage yard consisting of a gravel base. The site is two hundred eighty-three (283) feet deep and the Zoning Ordinance requires a setback from a right-of-way of two hundred fifty (250) feet. Therefore, a very small portion of the property would be eligible to utilize alternative surfaces.

Below is the section 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.

Attached is an exhibit that generally indicates the location of the variances 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 rear storage yard would be required to be paved.***

**Staff believes that the storage yard could be paved and yield a reasonable return.**

- 2) That the plight of the owner is due to unique circumstances; ***The Petitioner believes that their situation is unique as the parcel of land that they intend to develop is small, and therefore, the storage yard is closer to Bohr Avenue.***

**Staff believes that this is not a unique situation and that many properties may not meet the setback requirements.**

- 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 a gravel surface does affect the essential character of the locality as the Village has been working towards improving the Bohr Avenue subarea.**

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 small parcel size.***

**It is staff's opinion that physical characteristics due affect the site, however, the alternative of paving the storage area is a possibility.**

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 site is small for the zoning.***

**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.**

6) That the need or purpose of the variation is not based exclusively upon a desire to make more money out of the property; ***The Petitioner has indicated that they do not want to pave the storage yard due to the use of heavy equipment and the impact that the equipment will have on a paved surface.***

**Staff believes that the requested relief has 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; ***The Petitioner has indicated that they believe that the variance will not be injurious to other properties.***

**Staff believes that the variation should not cause detriment or injury due to the dust mitigation requirements of the special use. The neighboring properties to the south are utilized as residential home, even though they are zoned Farming and staff are concerned with potential affects to those properties.**

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:**

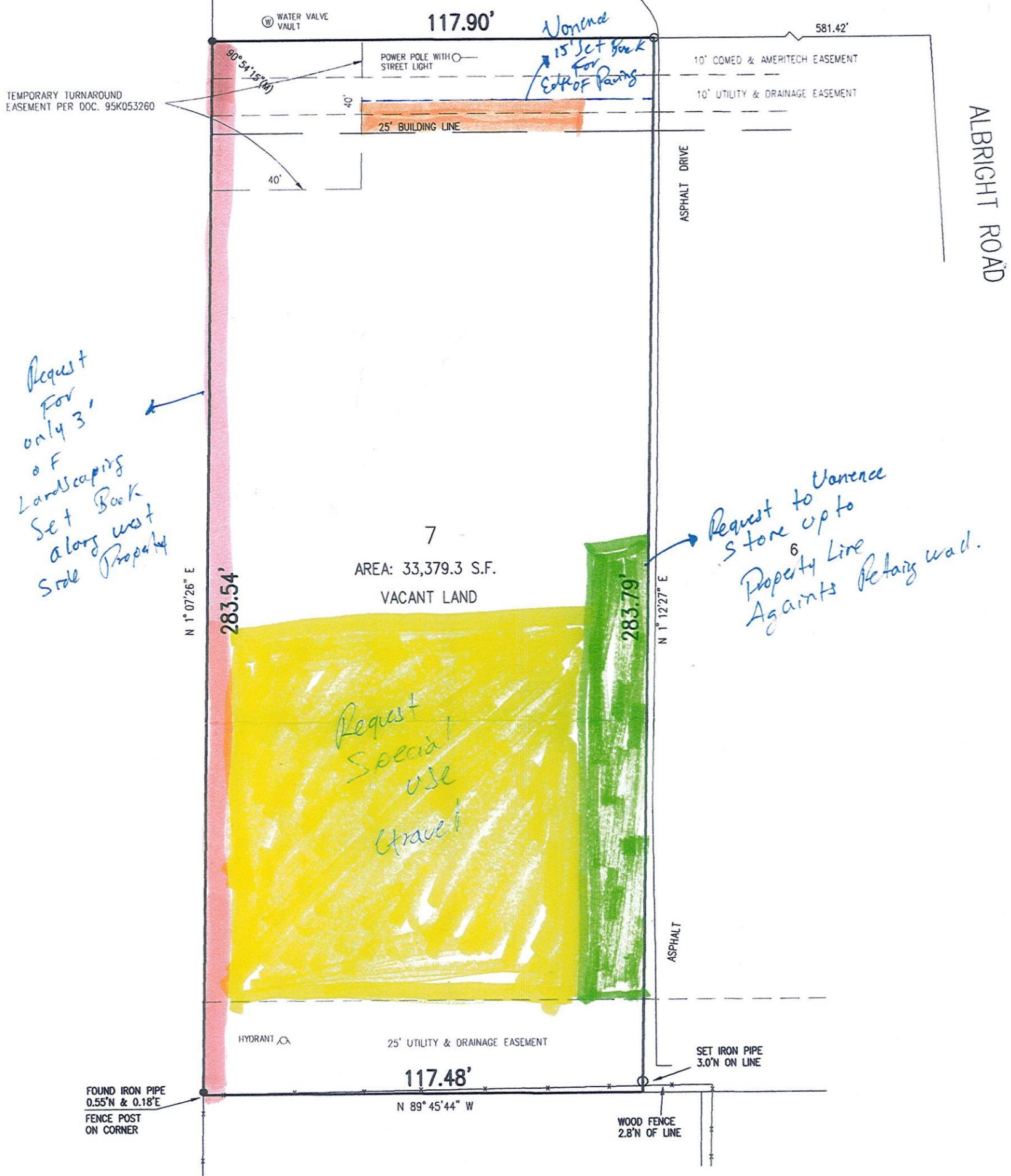
**It is staff's opinion that the Petitioner has not met all of the conditions to grant a variance, and recommends that the variance be denied.**

**Action: Zoning Board of Appeals action should be taken on each individual request.**

# PLAT OF SURVEY

BOHR AVENUE

(CONCRETE PAVEMENT)



LEGAL DESCRIPTION: LOT 7 IN BOHR INDUSTRIAL PARK, IN THE VILLAGE OF MONTGOMERY, KANE COUNTY, ILLINOIS.

STATE OF ILLINOIS )  
COUNTY OF KANE ) SS

THIS IS TO CERTIFY THAT I, TED BERGESON, AN ILLINOIS REGISTERED LAND SURVEYOR, HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY. THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY. FIELD WORK WAS COMPLETED ON JANUARY 28, 2016.

DATED: JANUARY 29, 2016

*Ted Bergeson*  
ILLINOIS PROFESSIONAL LAND SURVEYOR #1977



- - FOUND IRON PIPE OR BAR
- - SET IRON PIPE
- (M) - MEASURED DISTANCE OR ANGLE
- (R) - RECORD DISTANCE OR ANGLE

## CONSULTING ENGINEERING SERVICES

CIVIL ENGINEERS - LAND SURVEYORS  
724 McClaran Avenue - Aurora, IL. - 60506  
630.606.0437 Email: [civilengineer25@aol.com](mailto:civilengineer25@aol.com)

SCALE: 1" = 30'  
ADDRESS: 1415 BOHR AVE  
MONTGOMERY, IL  
CLIENT: DOLAN & MURPHY

MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF.