



Zoning Board of Appeals

March 2, 2017

I. CALL TO ORDER:

Chairman Hammond called the meeting to order at 8:07 p.m.

II. ROLL CALL:

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

Also present: Village Attorney Laura Julien; Senior Planner Jerad Chipman; Trustee Denny Lee; Executive Director of the Montgomery Economic Development Corporation 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 October 6, 2016 Zoning Board of Appeals Meeting. Commissioner Francis seconded.
The roll call vote was 6-0 as follows:

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

IV. NEW BUSINESS:

- a. **ZBA 2017-004 V Public Hearing and Consideration of an Alternative Surfaces Setback Variance for ATMI Precast, Inc. located at 1100 SW Lake Street and 1150 S. Lake Street.**

Senior Planner Chipman stated the Petitioner is requesting a variance to Sections 11.02 Standards: (5) of the Zoning Ordinance to allow alternative surfaces within the two-hundred and fifty (250) foot setback from a public right-of-way.

Chipman 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 a large portion of the site will be unusable for concrete panel storage as concrete panel storage will quickly degrade pavement.***

Staff understands that a large portion of the property would be required to be paved and the depth of pavement that would be required to accommodate the weight of concrete panels would be substantial.

2) That the plight of the owner is due to unique circumstances; ***The Petitioner believes that their situation is unique as a portion of the site is already utilized for outdoor storage with an alternative surface.***

Staff believes that this is not a unique situation. Other properties in the M-2 General Manufacturing District contain non-conforming surfaces.

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 on a portion of the location that the Petitioner intends to use.***

Staff believes that the expansion of the alternative surface in areas currently paved will not alter the existing 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 use that the Petitioner is proposing quickly degrades pavement.***

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-2 General Manufacturing District utilize heavy equipment and storage 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; ***The Petitioner has indicated their belief that the property would be unusable for outdoor panel storage if it is paved.***

Staff believes that the storage area would have a positive financial effect 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 granting the variance will not cause detriment to other properties in the neighborhood.***

Staff believes that the variation should not cause detriment or injury as long as dust mitigation practices are strictly adhered to.

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. However, Village staff and the Petitioner have worked together regarding dust control measures and staff believes that the measures will decrease the likelihood of dust being distributed off site.

Kathleen West with Dommermuth, Brestal, Cobine & West, Ltd. representing ATMI Precast requested that the Zoning Board of Appeals to include all the referencing Petitioner testimony from the Plan Commission public hearing.

The Petitioner provided and read through their own findings of fact in response to the staff 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:

The Petitioner proposes to utilize an alternative surface over most of the property for the following reasons:

- ***The storage of concrete panels and the use of the required equipment and crane quickly degrades concrete pavement.***
- ***The storage of concrete panels requires a flat surface which can be achieved through the alternative surface. For drainage purposes, concrete pavement would need to be pitched.***
- ***The use of an alternative surface allows for more efficient stormwater drainage in that stormwater drains through the alternative surface.***

If the required 250 foot setback were maintained, approximately 52% of the usable area of the site would need to be paved in concrete. This would require the augmentation of the concrete pavement, the redesign of the stormwater management system, and an increase in the size and capacity of the stormwater management facility resulting in less concrete panel storage area. Those modifications would increase the cost of the proposed redevelopment of the site by approximately \$1,000,000.00. This additional cost would seriously impact the economic viability of the property.

2. That the plight of the owner is due to unique circumstances:

The unique circumstance of this situation is the proposed use of the property for the storage of concrete panels. These panels are up to 60 feet in length and therefore, the Petitioner needs flexibility in laying out the site in order to efficiently store these panels. Concrete panels will be stored on the entire site, thereby creating a need for an innovative solution for stormwater management. The use of the alternative surface over most of the site, including within the 250 foot setback, is a major component to the stormwater management system.

3. That the variation, if granted, will not alter the essential character of the locality:

This area of the Montgomery community is a heavily industrial area. Various surfaces are used and various setbacks are maintained in this area. The Petitioner is proposing screening and landscaping along Lake Street. Due to the existing conditions of the area and the addition of screening and landscaping, the requested variation to reduce the alternative surface setback will not alter 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 physical configuration of the property creates a hardship. The property is triangular in shape. The north lot is deep, but the south two lots are much shallower. Also, the concrete panels are up to 60 feet in length. These conditions make the site more difficult to design. If the alternative surface setback were applied to this property, approximately 52% of the property could not use the alternative surface, thereby tremendously reducing the functionality and usability of the property.

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 is proposing to utilize the property for concrete panel storage. The storage of this material requires a flat surface. The use of the alternative surface provides a flatter surface than concrete pavement which needs to be pitched. Further, the alternative surface is a component of the stormwater management system. These conditions are not necessarily applicable to other properties zoned M-2.

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 is expanding its product line and needs additional storage capacity for this product. Because of its proximity to the Petitioner's plant, the Petitioner determined that this property would be an ideal site for the storage of this new product. This property is important to the Petitioner for the growth of its business. However, if the alternative surface setback is strictly enforced, the cost to develop the site would increase significantly, which may negatively impact the Petitioner's ability to develop the property from an economic perspective. The requested variation of the alternative surface setback is not based exclusively upon a desire to make more money out of the property, but rather based upon the site conditions, stormwater management considerations, site operation concerns, and product characteristics (ie. 60 foot length).

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:

This property is located in a mixed use area containing heavy industrial, commercial and storage uses. These properties have varying surface materials and setbacks. Further, the Petitioner, working with the Village's engineering consultant, has refined the alternative surface material so as to maximize dust mitigation. It should be noted that the residential area is located on the other side of the railroad embankment. Therefore, the requested variation will not be detrimental to the public welfare or unduly injurious to other properties or improvements in the neighborhood.

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 proposes to utilize the property for the outdoor storage of concrete panels. They will be stacked to a maximum height of 18'4". The Petitioner will implement dust control measures, if necessary, and based on the input and recommendations of the Village's engineering consultant, has refined the design of the alternative surface material so as to maximize dust control. Therefore, the requested variation to the alternative surface setback 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.

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

Mike May P.E., with Cemcon Ltd., Civil Engineer for ATMI Precast answered questions regarding the stormwater management and type of stone being used. ATMI Precast will be using a portion of the storage yard for stormwater management in addition to a naturalized detention facility in the rear.

Commissioner Francis asked if there has been any talk or thought about making the driveway concrete which would then put the setback at one-hundred (100) feet rather than twenty-five (25) feet.

Mike May pointed out that both entrances will be made out of concrete to the one-hundred (100) feet setback. They will install an approximate seventy-five (75) by seventy-five (75) foot concrete apron to the north entrance and will expand the existing concrete surface to the south entrance. The entire frontage will be curbed and contained which will allow the stone to be fully locked in tight.

Commissioner Distajo questioned if the concrete driveway reduces the amount of run off on the streets.

Mr. May replied the run off on Route 31 should be greatly reduced by using the alternative washed stone which does not create dust.

Commissioner McNeal-James asked Village Engineer Paulson to explain the advantages for allowing the variance so close to the street.

Engineer Paulson clarified they are trying to mitigate the concerns by allowing the type of alternative material installed for dust control. In addition the stormwater system will be filtering through the stone and the underdrain to move to the basin which will help with maintaining the dust free surface. Paulson believes the setback distance off the road and with the materials proposed adequately addresses dust concern.

Commissioner Distajo asked what type of material will be used for the circulation isle.

Mr. May responded that the material for the circulation isle will be a CA7 washed stone.

Commissioner Hammond questioned how often they anticipate having to regrade the storage yard and the driveway.

Mr. May replied that it would be determined as they evaluate the type of soils and how well they will be able to reinforce some of the soils with geogrid. ATMI Precast will want to minimize the amount of maintenance as much as possible.

Commissioner Yakaitis asked if the Petitioner would entertain creating the circulation isle out of concrete.

Mike May replied they would have to entertain the thought.

Commissioner Hammond asked what the distance is between the two driveways.

Civil Engineer May replied approximately three-hundred (300) feet.

Commissioner Distajo inquired if staff would consider compromising between the twenty-five (25) and two-hundred and fifty (250) foot setback.

Chipman answered that the Plan Commissioners have the discretion.

Commissioner Yakaitis indicated his request for the circular isle to be constructed out of concrete.

Planner Chipman explained that a proposed nuisance deposit will be built into the alternative surfaces section to the variance. The bond will be collected from the Petitioner to help mitigate stone and debris being drug out on the street.

MOTION: Motion was made by Commissioner Francis to approve ZBA 2017-004 V Public Hearing and Consideration of an Alternative Surfaces Setback Variance for ATMI Precast, Inc. located at 1100 SW Lake Street and 1150 S. Lake Street. Commissioner Distajo seconded. *The roll call vote was 3-3 as follows:*

Ayes: Francis, Distajo and Hammond

Nays: McNeal-James, Betsinger and Yakaitis

V. OTHER BUSINESS:

No other business to report.

VI. ADJOURNMENT:

Having no further business to discuss, the Zoning Board of Appeals was adjourned at 8:49 p.m. by Chairman Hammond.

Respectfully submitted,



Toulia Coffey
Zoning Board of Appeals
Administrative Assistant