



AGENDA

**Carbondale Zoning Board of Appeals
May 10, 2017
City Hall/Civic Center, Room 108
200 South Illinois Ave.
6:00 p.m.**

- 1. Call to Order and Roll Call**
- 2. Approval of Minutes:** Minutes of June 15, 2016
- 3. Citizens Comments and Questions**
- 4. Hearings:**
 - a) ZBA 17-04-742** North Illinois Avenue Street, Variance from the minimum side yard setback for primary structures in an LI, Light Industrial, District
- 5. Old Business**

None
- 6. New Business**

None
- 7. Adjournment**



MINUTES
Carbondale Zoning Board of Appeals
Wednesday, June 15, 2016
Room 108, 6:00 p.m.
200 South Illinois Avenue

MEMBERS PRESENT: LeBeau, Sheffer, Anz, Lilly, Burnside, Love

MEMBERS ABSENT: Barke, Litecky, Field

STAFF PRESENT: Taylor, Sergeev

1. Call to Order and Roll Call

Roll call was completed and the determination of a quorum was made.

2. Approval of Minutes:

Mr. Sheffer moved, seconded by Ms. Lilly, to approve the minutes of May 25, 2016.

The motion was approved by a unanimous voice vote.

3. Citizen Comments or Questions:

None

4. Hearing:

ZBA 17-02 – Jerome Molumby is requesting a 340 ft² variance from Section 15-3.4.1.B of the Carbondale Revised Code, which limits the maximum floor area for accessory structures to 800 ft² in the R-1-15, Low-Density Residential, district for the following described property located at 29 Hill Haven Drive

Mr. LeBeau opened the Public Hearing at 6:05 p.m. and asked Mr. Taylor to read the Legal Notice.

Mr. Taylor, Senior Planner for the City of Carbondale, read the Legal Notice.

Mr. LeBeau asked Ms. Sergeev to present the staff report.

Ms. Sergeev, Planner for the City of Carbondale, was sworn in and presented the staff report for ZBA 17-02.

Mr. LeBeau asked if the applicant was present and would like to step forward and present their case.

Mr. Jerome Molumby came forward and stated that the variance is being requested to allow space for vehicles and farm equipment to be stored. Mr. Molumby requested that the Zoning Board of Appeals approve the variance.

Mr. LeBeau asked if there were any questions for the applicant.

There were none

Mr. LeBeau asked if there were any questions the Board had for staff.

There were none.

Mr. LeBeau asked if there was anyone in support.

There were none.

Mr. LeBeau asked if anyone would like to speak in opposition.

There were none

Mr. LeBeau asked Ms. Sergeev to read the conclusion of the staff report.

Ms. Sergeev read the conclusion of the staff report with the recommendation that the Zoning Board of Appeals deny ZBA 17-02.

Mr. LeBeau asked if there were any questions from the Board.

Mr. Sheffer states that he had comments about the granting of the variance. He stated that he disagree with the City because of the benefits it would have for the neighborhood and for the applicant. Mr. Sheffer asked Ms. Sergeev to explain the recommendation to deny.

Ms. Sergeev stated that the granting of the variance would not be in conflict with the harmony of the neighborhood it just does not meet the criteria required for granting a variance.

Mr. Sheffer then said that he agreed with the City's 4b statement the most, but not with the rest.

Mr. LeBeau stated that he agreed with Mr. Sheffer's comments, as well. He then asked if there were any further questions from the Board.

Mr. LeBeau asked if the applicant had any questions for City staff.

There were none.

Mr. LeBeau asked if there were any questions from anyone to anyone.

Mr. Burnside then stated that he had further questions about adding a structure to the existing home and the costs associated with the addition.

Ms. Eckert stated that it would be difficult and expensive to add onto the existing structure. Adding on to the existing structure may devalue the home for resale and cause the applicant financial hardship in the future.

Mr. LeBeau asked if there were further questions for anyone else.

There were none.

Mr. LeBeau asked if the applicants would like to give a closing statement.

Ms. Eckert spoke about the zoning ordinance on lot size and how the maximum square footage allowed for accessory structures does not work for every case.

Mr. Sheffer stated that while the City has to follow the ordinance, the ZBA's purpose is to grant variances such as this.

Mr. LeBeau asked for closing statements from any interested parties.

There were none.

Mr. LeBeau asked if there were any rebuttal statements.

Hearing none, Mr. LeBeau declared Public Hearing 17-02 closed at 6:24 p.m.

Mr. LeBeau then asked for motion on the five items of the case.

Mr. Love moved, seconded by Ms. Lilly, that the City has jurisdiction over this case.

The motion was approved by a unanimous voice vote.

Mr. Love moved, seconded by Mr. Sheffer, that the applicant has standing to bring the case to the Board.

The motion was approved by a unanimous voice vote.

Mr. Love moved, seconded by Ms. Lilly, of the finding of facts, which the applicant was present to speak in support of the application and no one spoke in opposition.

The motion was approved by a unanimous voice vote.

Mr. Sheffer moved, seconded by Mr. Love, to vote on the criteria as one.

The motion was approved by a unanimous voice vote.

Mr. Love moved, seconded by Ms. Lilly, that the applicant has met all 5 criteria.

Roll Call Vote

Yes – 5 (LeBeau, Sheffer, Anz, Burnside, Lilly)

No – 1 (Love)

Mr. Sheffer moved, seconded Mr. Love, to approve the variance in case 17-02.

Roll Call Vote

Yes – 5 (LeBeau, Sheffer, Anz, Burnside, Lilly)

No – 1 (Love)

Mr. Taylor thanked Mr. Molumby and Ms. Eckert, for their application and stated that they would receive written notification of the Board's decision within 10 days.

5. Old Business:

None

6. New Business:

None

7. Adjournment:

Mr. LeBeau adjourned the meeting at 6:30 p.m.



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Fax: 618-457-3283
www.ci.carbondale.il.us

M-E-M-O-R-A-N-D-U-M

TO: City of Carbondale Zoning Board of Appeals

FROM: Travis Taylor, AICP, Senior Planner

RE: ZBA 17-04, 742 North Illinois Avenue Street, Variance from the minimum side yard setback for primary structures in an LI, Light Industrial, District

DATE: April 5, 2017

(Zoning Board of Appeals Public Hearing on Wednesday, May 10, 2017, 6:00 p.m.)

Applicant/Owner: Prairie Farms Dairy
1100 Broadway
Carlinville, IL 62626

PART A. BACKGROUND AND SUMMARY

Prairie Farms Dairy, located at 742 North Illinois Avenue, is requesting a twelve foot (12') variance from the side yard setback in the LI, Light Industrial, District (Please refer to Exhibit A – Location Map). The Carbondale Revised Code Section 15-2.24.9 states that the minimum side yard setback for primary structures in the LI district shall be no less than twelve feet (12'). This variance, if granted, would reduce the side yard setback for the Prairie Farms addition down to zero (0).

The applicant is making this request to allow for the construction of a building addition to accommodate additional cooler space (Please refer to Exhibit B – Applicant's Brief; and, Exhibit C – Proposed Development Plans). As shown on the construction plans, only approximately 36.87' feet of the building will impose into the side yard setback. This section of the building will be located on the west property line which abuts an approximately 20 foot wide, unowned parcel. This parcel currently contains railroad tracks which were once used to serve the buildings on the Prairie Farms Parcel (Please refer to Exhibit D – Photographs of the Subject Property).

It is staff's understanding that upon being notified of the unowned parcel and the LI District's setback requirements, Prairie Farms sought to obtain ownership of the adjacent property so they would meet the side yard width requirements. However, as the property has no owner of record, the process to obtain ownership will take longer than a normal property transfer. As the applicant wishes to build the addition as soon as possible to meet the demand of the growing business the

applicant is making the variance request while the owner begins the lengthy process of obtaining ownership of the west parcel. Once obtained, the currently unowned strip would provide enough of a separation from the property line for the addition to meet the LI District's required twelve foot (12') side yard setback.

APPLICABLE REGULATIONS:

15.2.24: LI Light Industrial District:

15.2.24.1: Statement of Intent:

This district is established to provide space for certain types of industrial and/or manufacturing and/or warehousing or storage operations which are compatible with adjoining districts. Such uses generally require open storage of materials, goods, or equipment before, during, or after the manufacturing process, but are of a low noise or nuisance level. Land designated for this district should be located in relation to the thoroughfare network of the community, as well as rail and air, if required, so as not to disrupt normal traffic flow. (Ord. 2013-20)

15.2.24.9: Minimum Side Yard Width:

Twelve feet (12')

Sec. 15-6.9.1 Provisions for Hearing and Deciding upon Appeals and Variances:

B. Variances

1. A variance may be granted by the Zoning Board of Appeals after a public hearing upon the following conditions:
 - a. That the party seeking a variance makes written application to the Board demonstrating:
 - (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 - (2) That literal interpretation of the provisions of this Article would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Article;
 - (3) That the special conditions and circumstances do not result from the actions of the applicant.
 - (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Article to other lands, structures, or buildings in the same district.
 - b. That the granting of the variance will be in harmony with the general purpose and intent of this Article and will not be injurious to the neighborhood, or detrimental to the public welfare. A variance shall not be granted merely to serve as a convenience to the applicant, but only if it is necessary to alleviate some demonstrable hardship or difficulty. Under no circumstances shall the Board grant a variance to allow a use not expressly permissible under the terms of this Article in the district involved.

CORRESPONDENCE RECEIVED: City Staff has received no correspondence in regards to this request.

PART B. ANALYSIS

Sec. 15-6.9.1.B.1: A variance may be granted by the Zoning Board of Appeals after a public hearing upon the following conditions:

Staff's responses to the criteria in Section 15-6.9.1.B.1 for granting a variance are as follows:

- a. (1) ***That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.***

It is staff's opinion that there is a special circumstance peculiar to the land which is not applicable to other lands in the same district. As the adjacent parcel has no owner, it makes the process of obtaining ownership of the parcel more difficult than that of other parcels in the district. There are no other special conditions or circumstances that are peculiar to the property.

- (2) ***That literal interpretation of the provisions of this Article would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Article.***

The literal interpretation of the provisions of this article would not deprive the applicant of rights enjoyed by other properties in the LI district. While staff does consider the lack of ownership for the adjacent parcel to be a unique circumstance, the Prairie Farms property does have adequate room to construct the addition and still meet the setback from the property line. Any other property owner in this district would be required to build to the appropriate setbacks.

- (3) ***That the special conditions and circumstances do not result from the actions of the applicant.***

It is staff's opinion that while the ownership of the adjacent parcel is not a result of actions of the applicant, the requested location of the building addition is a result of action of the applicant. It is staff's opinion that the building addition could be constructed in such a way as to meet the applicable setbacks.

- (4) ***That granting the variance request will not confer on the applicant any special privilege that is denied by this Article to other lands, structures, or buildings in the same district.***

Granting the variance will confer on the applicant a special privilege not available to other property owners in the area. The side yard setback requirements limit all property owners in the City from expanding structures within the minimum setback area.

5. ***That the granting of the variance will be in harmony with the general purpose and intent of this Article and will not be injurious to the neighborhood, or detrimental to the public welfare. A variance shall not be granted merely to serve as a convenience to the applicant, but only if it is necessary, to alleviate some demonstrable hardship or difficulty. Under no circumstances shall the Board grant a variance to allow a use not expressly permissible under the terms of this Article in the district involved.***

It is Staff's opinion that the granting of the variance would not be in harmony with the general purpose and intent of this Article. The intent of the variance process is to allow for flexibility in the zoning code only where the strict enforcement of the zoning code would cause an undue hardship upon the applicant due to unique circumstances surrounding the property or structure. Unfortunately, as this size and shape of the lot does not prevent the property owner from constructing an addition which meets the setbacks, there is not a legal justification for granting the variance.

It is Staff's opinion, however, that granting the variance would neither be injurious to the neighborhood nor detrimental to the public welfare. The proposed addition will not alter the general character and layout of the district. The adjacent strip's lack of ownership, not only temporarily prevents Prairie Farms from obtaining ownership of the property, but also any other potential owner. The adjacent property owner west of this strip of land is the City of Carbondale. The City, the only other potential owner for this unbuildable piece of property, has no interest in obtaining ownership. Therefore, should Prairie Farms successfully obtain ownership or not, the setback for the building from the adjacent City of Carbondale property should be retained and will meet the intent of the side yard setback requirement. Should the property owner successfully obtain ownership of the adjacent parcel, the building addition will meet all applicable setbacks.

PART C. RECOMMENDATIONS:

Based on the analysis presented in this report, and the applicant having not met the five criteria for granting a variance, Staff recommends the Zoning Board of Appeals deny ZBA 17-05.

However, staff recognizes that while the adjoining property remains unowned and unbuildable, the Zoning Board of Appeals may determine that the intent of the side yard setback is met, and therefore grant the variance. Should the Zoning Board of Appeals move to approve the variance request, Staff would recommend the Board apply the following condition:

- 1) The variance approved with ZBA 17-04 shall apply only to the building addition approved with SP 17-08.

ATTACHMENTS

Exhibit A: Location Map
Exhibit B: Applicant's Brief
Exhibit C: Proposed Development Plans
Exhibit D: Photos of the Subject Property

Exhibit A - Location Map

Zoning Board of Appeals Case ZBA 17-04

N Illinois Ave (US HWY 51)

N Michaels St

LI

BWA

LI

BWA

Public Hearing Date & Time

May 10, 2017
6:00 p.m.

Case Description

Prairie Farms is requesting
a variance from
Section 15-2.24.9
of the Carbondale Revised
Code for property located
at 742 N Illinois Ave

Zoning Classifications

BWA Wholesale & Automotive
LI Light Industrial

Legend

-  Subject Property
-  Parcels

0 50 100 Feet





March 29, 2017

The City of Carbondale
ATTN: Mr. Travis Taylor, Senior Planner
200 South Illinois Avenue
Carbondale, IL 62901

Dear Mr. Taylor:

Prairie Farms Dairy, Inc. is requesting a 12' foot variance from the side yard setback in the Light Industrial district for the purpose of a refrigerated cooler expansion. We need this expansion to accommodate the business growth required to keep the Carbondale cultured product manufacturing facility viable for the future.

It came as a surprise to us in this process to discover that there is a 20 foot strip of land adjacent to a property that we purchased in 2001, which lies between our property and property owned by the City of Carbondale, that has no owner of record and has not had property tax paid on it for some number of years. It is our recollection that this was at one time a railroad line that served our plant and the Illinois Fruit Exchange, and subsequently, the Southern Illinoisan newspaper. We are investigating the current status of this property with intent to acquire it if possible. If this were to come to pass, the variance we are requesting would become moot.

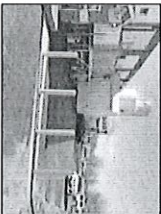
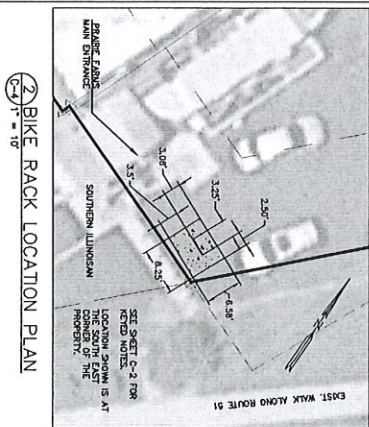
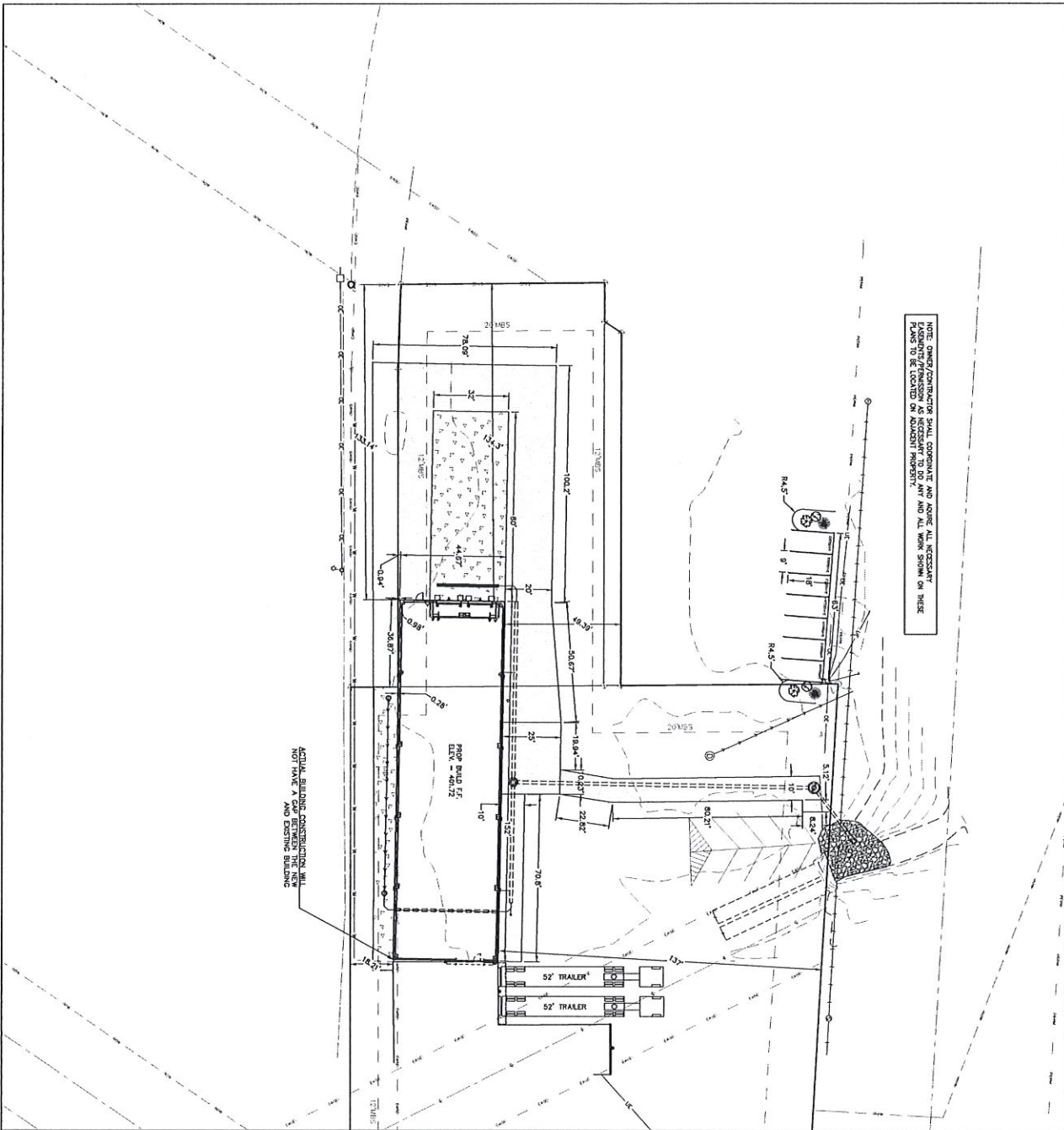
Yours truly,

A handwritten signature in blue ink that reads "David E. Lattan". The signature is fluid and cursive, with the first name "David" being the most prominent.

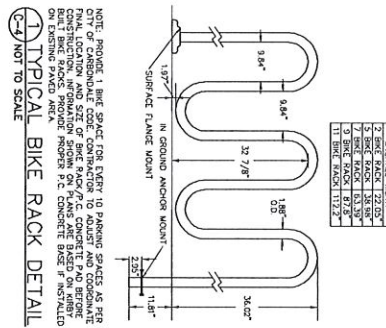
David E. Lattan
Vice President, Engineering
Prairie Farms Dairy, Inc.
618/407-2832
dlattan@prairiefarms.com

PRAIRIE FARMS DAIRY, INC.

Exhibit C - Proposed Development Plans



3 BIKE RACK LOCATION PIC
C-4 NOT TO SCALE



Sheet Title: SITE DIMENSION PLAN

Project Title: Prairie Farms Building Addition
Carbondale, IL
United Insulated Structures Corp., Berkeley, IL

C-4

OF 6 SHEETS

JOB NO: 3384
DRAWN BY: PS
DATE: 03-28-17
REVISIONS:



**ASATURIAN
EATON**
and Associates P.C.
ENGINEERING and LAND SURVEYING

1440 Old West Main, P.O. Box 369, Carbondale, IL 62903

[illegible]

Exhibit D - Photographs of Subject Property



View of Subject Property



View east across North Illinois Avenue

Exhibit D - Photographs of Subject Property (Cont.)



View north along North Illinois Avenue



View south along North Illinois Avenue

Exhibit D - Photographs of Subject Property (Cont.)



View northwest of unowned parcel from the corner of the existing building