DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES



Planning Division

memorandum

TO:	Mayor Laurel Lunt Prussing
FROM:	Elizabeth H. Tyler, FAICP, Community Development Director
DATE:	September 2, 2016
SUBJECT:	ZBA Case ZBA-2016-MAJ-09 : A request by Glenn Rahn for a Major Variance to install air conditioning units that will encroach 5.7 feet into the required front

Introduction & Background

The petitioner, Glenn Rahn, requests a Major Variance to allow the installation of air conditioning units that would encroach into the required front yard of the property at 1901 South Philo Road. The property is zoned B-3, General Business, and is a corner lot that fronts S. Philo Road and E. Colorado Avenue. Being a corner lot, the property has two front yards.¹ The air conditioning units would be placed in the front yard next to E. Colorado Avenue. They would be used by Marco's Pizza, a restaurant that plans to move into the northern portion of the Family Video building that is on the property. Mr. Rahn is an architect representing Marco's Pizza.

yard at 1901 S. Philo Road in the B-3, General Business District.

Table VI-3 of the Urbana Zoning Ordinance requires 15-foot front yards for properties zoned B-3. The front yard along E. Colorado Avenue is 15.3 feet. The proposed air conditioning units, concrete pad, and fence would extend 6 feet from the north wall of the building and encroach 5.7 feet into the required yard. This would reduce the required front yard from 15 feet to 9.3 feet.

At their August 17, 2016 meeting, the Urbana Zoning Board of Appeals heard the case. The ZBA voted five ayes and zero nays to forward the Major Variance request to the City Council with a recommendation for approval.

Description of the Site

The lot is at the southwest corner of S. Philo Road and E. Colorado Avenue. It contains a building on the west side that is built close to the required setbacks on the north and west sides.

The building contains a Family Video store, along with a vacant commercial space available for lease. The eastern two-thirds of the site is used for parking.

¹ Urbana Zoning Ordinance, Section VI-5.D.1

Across Colorado Avenue to the north is a BP gas station and Circle K convenience store, and the former County Market grocery store. To the east, across Philo Road, is the Renner Wikoff Chapel and Crematory. To the south is a car wash, and to the west, across a vacated alley, is a fitness center.

Zoning and Land Use Table

The following is a summary of surrounding zoning and land uses for the subject site:

Location	Zoning	Existing Land Use	Comprehensive Plan Future Land Use
Subject Property	B-3, General Business	Video Rental Store, Vacant Commercial Space	Community Business
North	B-3, General Business	Gas Station	Community Business
South	B-3, General Business	Car Wash	Community Business
East	B-3, General Business	Funeral Home	Community Business
West	B-3, General Business	Gym	Community Business

Discussion

The applicant would like to place air conditioning units for a proposed pizza restaurant on the north side of the existing building at 1901 S. Philo Road. The units would be placed in the required front yard along E. Colorado Avenue. According to Section VI-5.B of the Urbana Zoning Ordinance, "No building, structure, or portion thereof, mechanical equipment, or swimming pool shall be erected in, occupy, or obstruct a required yard". Air conditioning units are "mechanical equipment" and are therefore prohibited from being placed within the required front yard. The applicant requests a variance to reduce the required front yard to allow the air conditioning units to be placed on the north side of the building.

Marco's Pizza will occupy the north part of the existing building on the site. Since the air conditioning units must be placed outside and adjacent to the restaurant, the possible locations for the units are the west, north, or east sides of the building. The east (front) side of the building contains large windows and a sidewalk running along the building face (see Exhibit D). Placing the units there would obscure the front of the building and block the sidewalk. The west side of the building contains a vacated alley, and there is a utility easement directly behind, and running parallel to, the building. Putting the units there would place them over the easement, would make emergency access through the vacated alley more difficult, and would require a Major Variance to reduce the rear yard setback from 10 feet to 6 feet.² To the north side of the building is a grassy area next to the building and a landscaped area next to the sidewalk (see Exhibit D). The applicant proposes to build a fenced-in concrete pad in the grassy area next to the building. The units would be placed within the enclosure, which will screen them from view (see Exhibit D).

² The building is 12 feet from the rear property line, and the required rear yard is 10 feet. The air conditioning units would extend 6 feet from the building, or 4 feet into the required yard.

Placing the units in the proposed location on the north side of the building is the most feasible of the three options.

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria as they pertain to this case and the criteria outlined in the ordinance:

1. Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?

Air conditioning units must be placed outside. Since the building is built almost right up to the west and north setback lines, the only location for the units which would not require a variance would be in front of the building. That location is not feasible, as it would obscure part of the building's front and occupy existing sidewalk space. Placing the units behind the building would also require a variance, and would place the units over a utility easement that runs parallel to the building just beyond the rear wall. Placing the units to the rear would also take up space in the vacated alley, which is still used to access this property and adjacent properties. Obstructing the vacated alley would also make emergency access more difficult. Placing the units in the grassy area on the north side of the building is the most feasible and desirable location.

2. The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.

As stated in the discussion of criterion "1" above, the existing building is built almost to the setback lines. Most newer commercial buildings in B-3 Districts are not built up to setback lines, and are usually sited to accommodate the building plus any mechanical equipment that needs to be placed outside of it. This building is unusually sited and creates a special circumstance on this site.

3. The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.

The building was constructed years before the petitioner or his clients were associated with the property. The request was not the result of a situation created by either.

4. The variance will not alter the essential character of the neighborhood.

The air conditioning units will be properly screened and will not alter the character of the neighborhood.

5. The variance will not cause a nuisance to the adjacent property.

The variance would not cause a nuisance to the adjacent property owners. The units will be screened appropriately, and their location on the north side of the building (rather than being in the alley to the west) may be beneficial to the adjacent property owner, as the alley will remain unobstructed.

6. The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.

The applicant has selected an air conditioning system that will have the smallest footprint possible and will keep the encroachment into the front yard to a minimum.

Summary of Findings

- 1. On behalf of Marco's Pizza, Glenn Rahn has requested a Major Variance to allow the installation of air conditioning units that would encroach 5.7 feet into the required 15-foot front yard at 1901 S. Philo Road. This would reduce the required front yard from 15 feet to 9.3 feet.
- 2. The site is located in Southeast Urbana, is zoned B-3, General Business, and is designated as "Community Business" in the Urbana Comprehensive Plan.
- 3. The proposed variance is requested due to special circumstances of the site, including the location of the building near the north and west setback lines and the presence of an existing utility easement to the rear of the building.
- 4. The proposed variance will not serve as a special privilege to the petitioner, and the request was not the result of a situation knowingly created by the petitioner.
- 5. The proposed variance will not cause a nuisance to adjacent property owners and will not alter the essential character of the neighborhood.
- 6. The proposed variance represents the minimal deviation possible from the Zoning Ordinance requirements to accommodate the request.

Options

The Urbana City Council has the following options in Case No. ZBA-2016-MAJ-09:

- 1. Approve the variances based on the findings outlined in this memo; or
- 2. Approve the variances along with certain terms and conditions. If conditions or findings differ from those recommended in the attached draft ordinance, these should be articulated accordingly; or

3. Deny the variance. If the City Council elects to do so, the Council should articulate findings supporting its denial.

Recommendation

At their August 17, 2016, meeting, the Zoning Board of Appeals voted five ayes and zero nays to recommend **APPROVAL** for the variance with the following condition:

1. The air conditioning units shall be screened with a fence.

Staff concurs with the ZBA recommendation, and recommends one additional condition:

2. The air conditioning units shall be placed in the location shown on the site plan attached to the draft ordinance as Attachment A.

The staff recommendation represents the professional opinions of the City's professional planning staff and does not bind or limit the recommendations and decisions which may be made by the City's appointed and elected officials.

Prepared by:

Kevin Garcia, AICP Planner II

Draft Ordinance and Attachment A (Site Plan) Draft ZBA Meeting Minutes 8/17/2016		
Zoning Map		
Future Land Use Map		
Renderings		
Application for Variance		

cc: Glenn Rahn, Keith Haza

ORDINANCE NO. 2016-09-079

AN ORDINANCE APPROVING A MAJOR VARIANCE

(To allow an encroachment of air conditioning units into a required front yard in the City's B-3, General Business District, at 1901 South Philo Road / ZBA Case No. 2016-MAJ-09)

WHEREAS, the Urbana Zoning Ordinance provides for a Major Variance procedure to permit the Zoning Board of Appeals and the Corporate Authorities to consider applications for a major variance where there is a special circumstance or condition with a parcel of land or a structure; and

WHEREAS, on behalf of Marco's Pizza, Glenn Rahn has submitted a petition for a major variance to allow the installation of air conditioning units that would encroach 5.7 feet into the required 15-foot front yard at 1901 S. Philo Road in the B-3, General Business zoning district; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in ZBA Case No. 2016-MAJ-09; and

WHEREAS, after due publication in accordance with Section XI-10 of the Urbana Zoning Ordinance and with Chapter 65, Section 5/11-13-14 of the Illinois Compiled Statutes (65 ILCS 5/11-13-14), the Urbana Zoning Board of Appeals held a public hearing on the proposed major variance on August 17, 2016 and voted 5 ayes to 0 nays in Case No. ZBA-2016-MAJ-09 to recommend that the Corporate Authorities approve the requested variance with conditions; and

WHEREAS, after due and proper consideration, the Corporate Authorities of the City of Urbana have determined that the major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-4.B of the Urbana Zoning Ordinance; and

WHEREAS, the Corporate Authorities have considered the variance criteria established in the Urbana Zoning Ordinance and have determined the following findings:

1

- Marco's Pizza has requested a Major Variance to allow the installation of air conditioning units that would encroach 5.7 feet into the required 15-foot front yard at 1901 S. Philo Road. This would reduce the required front yard from 15 feet to 9.3 feet.
- The site is located in Southeast Urbana, is zoned B-3, General Business, and is designated as "Community Business" in the Urbana Comprehensive Plan.
- 3. The proposed variance is requested due to special circumstances of the site, including the location of the building near the north and west setback lines and the presence of an existing utility easement to the rear of the building.
- 4. The proposed variance will not serve as a special privilege to the petitioner, and the request was not the result of a situation knowingly created by the petitioner.
- 5. The proposed variance will not cause a nuisance to adjacent property owners and will not alter the essential character of the neighborhood.
- 6. The proposed variance represents the minimal deviation possible from the Zoning Ordinance requirements to accommodate the request.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. In ZBA Case Nos. 2016-MAJ-09, the variance requested on behalf of Marco's Pizza to allow the installation of air conditioning units that would encroach 5.7 feet into the required 15-foot front yard at 1901 S. Philo Road in the B-3, General Business zoning district is hereby approved in the manner proposed in the application and subject to the following conditions:

2

- 1. The air conditioning units shall be screened with a fence.
- 2. The air conditioning units are placed in the location shown on the site plan attached as Attachment A.

The Major Variance described above shall only apply to the property located at 1901 South Philo Road, more particularly described as follows:

LEGAL DESCRIPTION:

Tract 1: Lot 500 in Ennis Ridge Sixth Subdivision, as per plat recorded in Plat Book "O" at page 12, situated in the City of Urbana, in Champaign County, Illinois.

Tract 2: The East half of the vacated alley lying West of the adjoining Lot 500 in Ennis Ridge Sixth Subdivision, as per plat recorded in Plat Book "O" at page 12, situated in the City of Urbana, in Champaign County, Illinois.

P.I.N. 93-21-21-176-013

Section 2. The Urbana City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

3

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the _____ day of _____, 2016

PASSED by the City Council this ____ day of _____, 2016.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2016.

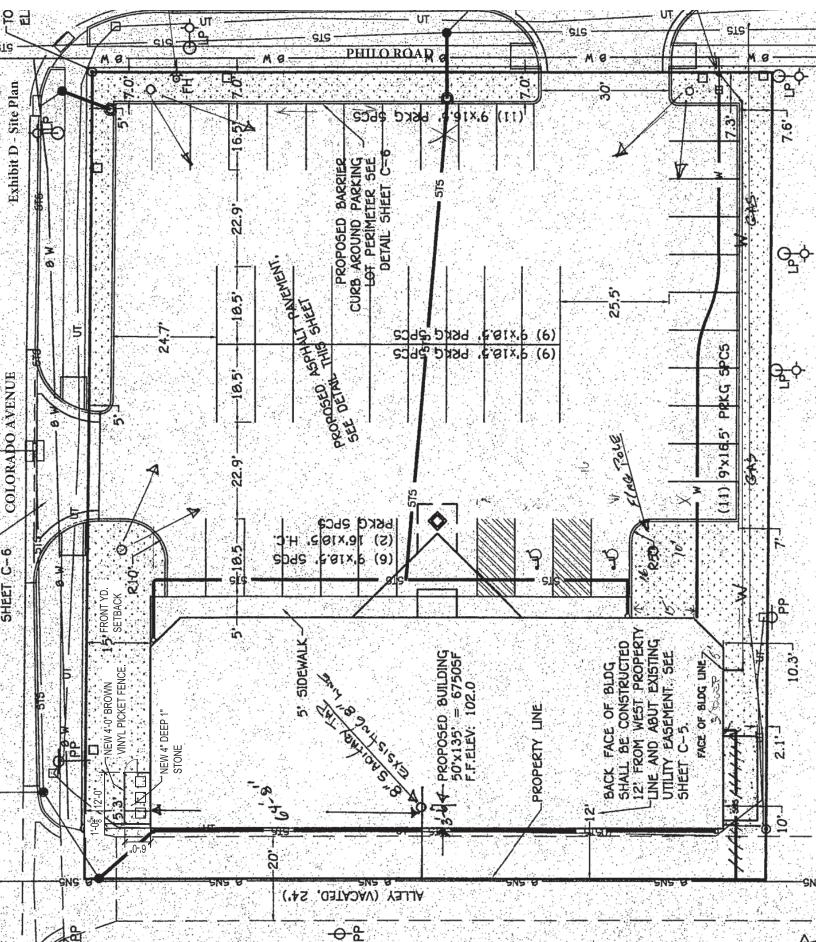
Laurel Lunt Prussing, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the _____ day of ______, 2016, the corporate authorities of the City of Urbana passed and approved Ordinance No. ______, entitled AN ORDINANCE APPROVING A MAJOR VARIANCE (To allow an encroachment of air conditioning units into a required front yard in the City's B-3, General Business District, at 1901 South Philo Road / ZBA Case No. 2016-MAJ-09) which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. ______ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the ______ day of ______, 2016, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this _____ day of _____, 2016.

Attachment A



MINUTES OF A REGULAR MEETING

URBANA ZONING BOARD OF APPEALS

DATE:	August 17,	2016 DRAFT
TIME:	7:30 p.m.	
PLACE:	City Counc	il Chambers, 400 South Vine Street, Urbana, IL 61801
MEMBERS P	PRESENT	Matt Cho, Ashlee McLaughlin, Charles Warmbrunn, Jonah Weisskopf, Harvey Welch
MEMBERS E	EXCUSED	Joanne Chester, Nancy Uchtmann
STAFF PRES	ENT	Lorrie Pearson, Planning Manager; Kevin Garcia, Planner II; Christopher Marx, Planner I; Teri Andel, Administrative Assistant II
OTHERS PR	ESENT	Robert Acheampong, Keith Haza, Kim Marino, A.J. Thoma

NEW PUBLIC HEARINGS

ZBA-2016-MAJ-09 – A request by Glenn Rahn for a Major Variance to install air conditioning units that will encroach 5.7 feet into the required front yard at 1901 South Philo Road in the B-3, General Business Zoning District.

Chair Welch opened the public hearing for this case. Kevin Garcia, Planner II, presented this case to the Zoning Board of Appeals. He began by stating the reason for the proposed major variance request. He noted the location and zoning of the subject property. He talked about the required setbacks according to Table VI-3 of the Urbana Zoning Ordinance. He mentioned that during discussions with the applicant, they had discussed alternative locations to place the air conditioning units; however, the north side was the most feasible and most desirable for all parties involved. He reviewed how the variance request related to the criteria in Section XI-3 of the Urbana Zoning Ordinance. He read the options of the Zoning Board of Appeals and presented City staff's recommendation for approval. He mentioned that a representative for the owner of the property was in the audience and was available to answer questions.

Chair Welch asked the members of the Zoning Board of Appeals if they had any questions for City staff.

Mr. Warmbrunn asked where the existing air conditioning units were located. Mr. Garcia replied that they are located on the south side of the building. Marco's Pizza would occupy a portion of the northern end of the building and the additional units were for Marco's Pizza and need to be located closer to the space they would occupy.

Mr. Warmbrunn questioned if the encroachment of 5.7 feet would include the slab and the fencing for the air conditioning units. If so, should the Zoning Board include the fencing in the motion? Mr. Garcia replied yes, the units would be fenced in. It would be a good idea to include language requiring it in the motion.

Chair Welch wondered if the building was currently one space that the owner intended to split to allow space for Marco's Pizza. Mr. Garcia stated that this was correct.

There were no further questions for City staff, so Chair Welch opened the hearing for public input.

Keith Haza, Regional Manager for Highland Ventures (aka Family Video), approached the Zoning Board of Appeals to speak. He mentioned that they started franchising Marco's Pizza and co-locating next to Family Video about four years ago. It has been a successful concept for them in their 130 locations.

The existing building is 135 feet long. Even if it were possible for them to locate the new air conditioning units on the south side of the building it would not be efficient because it would be on the opposite end of the building where Marco's Pizza would be located.

With there being no further questions or comments from the audience, Chair Welch closed the public input portion of the hearing. He, then, opened the hearing for Zoning Board of Appeals discussion and/or motion(s).

Mr. Warmbrunn moved that the Zoning Board of Appeals forward Case No. ZBA-2016-MAJ-09 to the City Council with a recommendation for approval with the condition that that the air conditioning units be screened appropriately with a fence. Ms. McLaughlin seconded the motion. Roll call on the motion was as follows:

Ms. McLaughlin	-	Yes	Mr. Warmbrunn	-	Yes
Mr. Weisskopf	-	Yes	Mr. Welch	-	Yes
Mr. Cho	-	Yes			

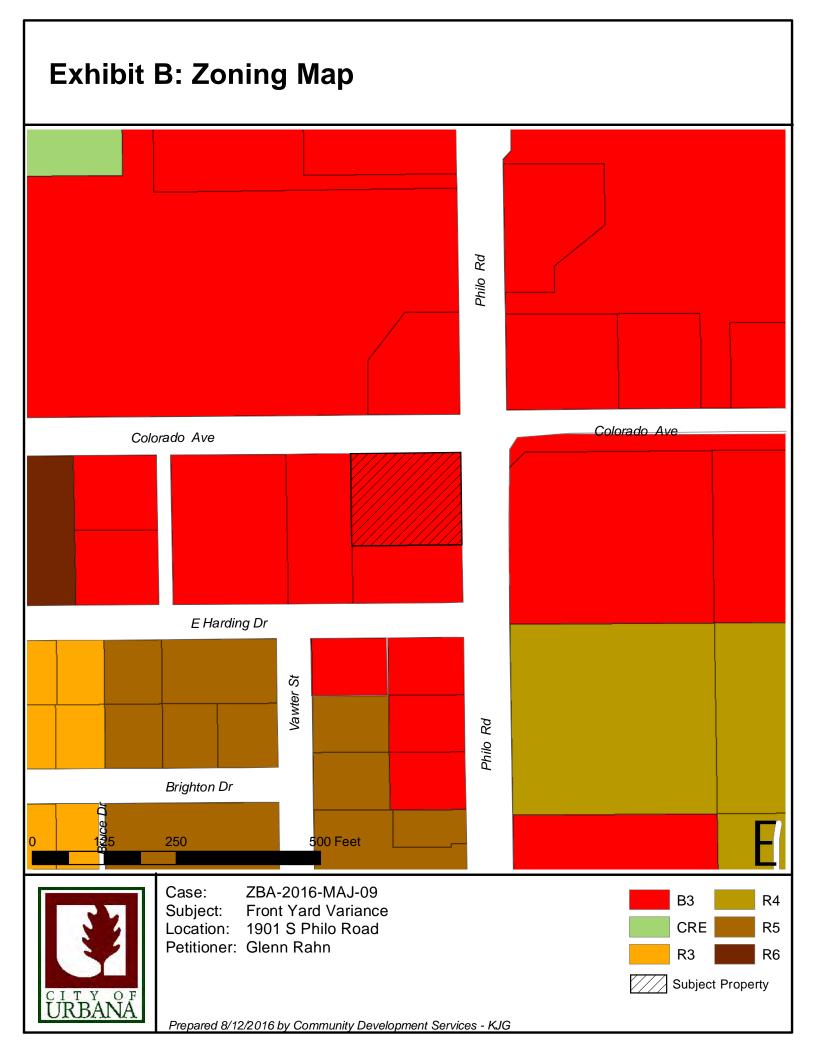
The motion was passed by unanimous vote. Mr. Garcia noted that this case would be forwarded to City Council on September 6, 2016.

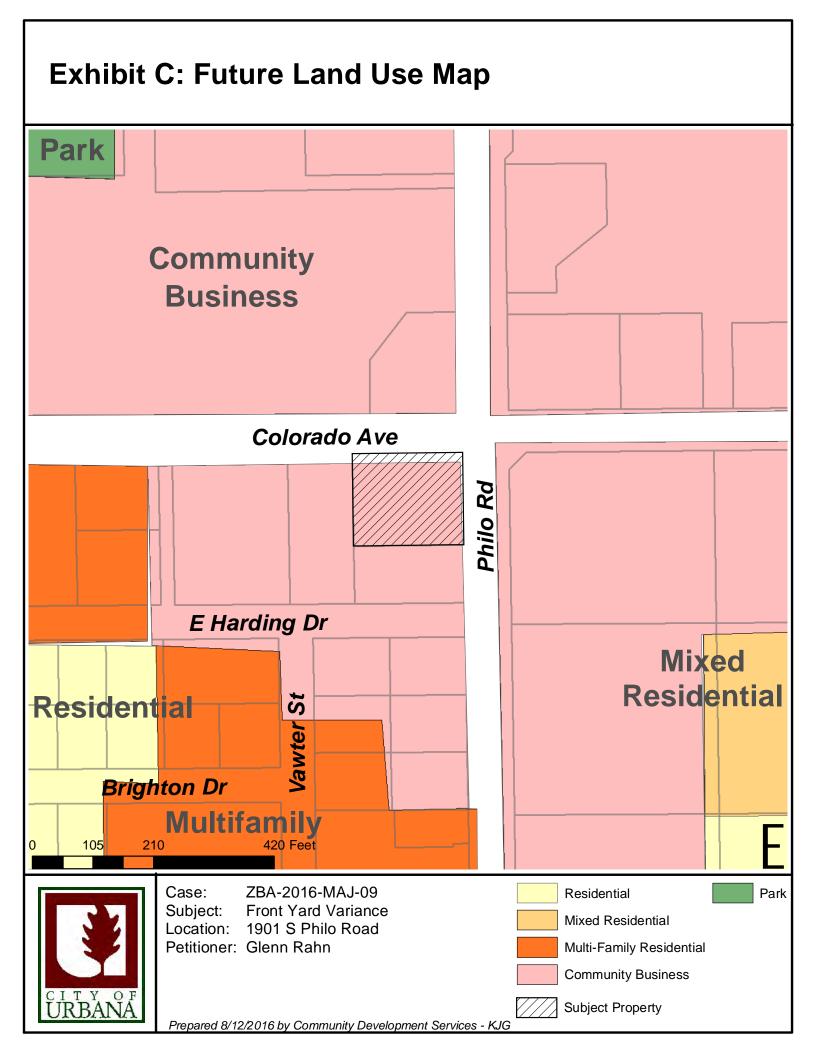
Exhibit A: Location & Existing Land Use Map





Case: ZBA-2016-MAJ-09 Subject: Front Yard Variance Location: 1901 S Philo Road Petitioner: Glenn Rahn Subject Property





Utility Easement

Potential A/C Location (West)

08/12/2016 12:05







Exhibit D - Renderings







Application for Variance

ZONING BOARD OF APPEALS

APPLICATION FEE – \$175.00 (Major) and \$150.00 (Minor)

The Applicants are responsible for paying the cost of legal publication fees as well. Estimated costs for these fees usually run between \$75.00 to \$225.00. The applicant is billed separately by the News-Gazette

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed _____ ZBA Case No. _____

 Fee Paid - Check No.
 Amount
 Date

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A VARIATION is requested in conformity with the powers vested in the Zoning Board of

Appeals to permit the following variation (Describe the extent of the Variation Requested)

Allow an encroachment of 5.7 ft (38%) into a required 15 ft front yard for HVAC equipment in the B-3 Zoning District on the

property described below, and in conformity with the plans described on this variance request.

1. APPLICANT CONTACT INFORMATION

Phone: 616-634-2253 Name of Applicant(s): Glenn R. Rahn Address (street/city/state/zip code): 7580 48th St SE, Grand Rapids, MI 49512 Email Address: glenn@rdc-llc.com Property interest of Applicant(s) (Owner, Contract Buyer, etc.): Architect

2. OWNER INFORMATION

Name of Owner(s): Family Video Movie Club, Inc

Phone: 847-904-9000

Address (street/city/state/zip code): 2500 Lehigh Ave, Glenview, IL 60026

Email Address: dave.nall@hooglandfoodsllc.com

Is this property owned by a Land Trust? Yes V No If yes, please attach a list of all individuals holding an interest in said Trust.

3. PROPERTY INFORMATION

Location of Subject Site: Southwest Corner of Philo Road and Colorado Avenue

PIN # of Location: 93-21-21-176-013

Lot Size: 160 x 180 (28,800 sq.ft.)

Current Zoning Designation: B-3 General Business

Current Land Use (vacant, residence, grocery, factory, etc: Video Rental Store

 $Proposed \ Land \ Use: \ \textbf{Carry Out Pizza Store (in addition to Video Rental Store)}$

Legal Description (If additional space is needed, please submit on separate sheet of paper):

Tract 1: Lot 500 in Ennis Ridge Sixth Subdivision, as per plat recorded in Plat Book "O" at page 12, situated in the City of Urbana, in Champaign County, Illinois.

Tract 2: The East half of the vacated alley lying West of the adjoining Lot 500 in Ennis Ridge Sixth Subdivision, as per plat recorded in Plat Book "O" at page 12, situated in the City of Urbana, in Champaign County, Illinois.

4. CONSULTANT INFORMATION

Name of Architect(s): Glenn R. Rahn	Phone:	616-634-2253
Address (street/city/state/zip code): 7580 48th St SE, Grand Rapids, MI 49512	2	
Email Address: glenn@rdc-llc.com		
Name of Engineers(s):	Phone:	
Address (street/city/state/zip code):		
Email Address:		
Name of Surveyor(s):	Phone:	
Address (street/city/state/zip code):		
Email Address:		
Name of Professional Site Planner(s):	Phone:	
Address (street/city/state/zip code):		
Email Address:		
Name of Attorney(s):	Phone:	
Address (street/city/state/zip code):		
Email Address:		

5. REASONS FOR VARIATION

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

The variance is for allowing condensing units in the front yard setback which requires ZBA approval. This property is unique in that the rear yard is occupied by a vacated alley which is currently paved. The rear yard also has a utility easement as well making encroachment infeasible. Currently all of the mechanical equipment is located on the South end of the building. The Marco's Pizza is to occupy the north end of the building and running the refrigerant lines to the south end of the building would be too far for the equipment to work properly. Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

The mechanical equipment (air conditioning condensers in this case) need to be next to the building. The South end of the building is too far away and already has mechanical for the rest of the building. The West side is occupied by a vacated alley with utility easement. The East Side is occupied by the parking lot with sidewalks along the front of the building. This leaves only the North end of the building which has a green space adequate in size for the condensers.

Explain how the variance is <u>not</u> the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

Building uses change over time and in an effort to keep the building fully occupied, this new use is being introduced. It is the physical location of the building on the lot and the lot constraints that are causing the issue.

Explain why the variance will not alter the essential character of the neighborhood.

The owner would like the building to maintain an attractive appeal and is proposing a decorative fencing just tall enough to shield the equipment from view. See the attached renderings of the intended look. The fence will be vinyl so no maintenance will be required to keep its look.

Explain why the variance will not cause a nuisance to adjacent property.

Area in question faces the back of building with a vacated alley in between and Colorado Ave with commercial property on all 4 corners. The equipment will be shielded from view and is a small area in size.

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

Yes, when choosing the type of air conditioning system, I took into consideration keeping the foot print as small as possible and the way to do that was to use a split air conditioning system as opposed to a much larger ground mount packaged air conditioning system. This way there are furnaces inside and only the condensing units outside which are about 34" square as opposed to 2 units that are approx. 5'x8' in area and about a foot taller than condensers.

NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.

By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.

CERTIFICATION BY THE APPLICANT

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.

Applicant's Signature

7-25-16

Date

PLEASE RETURN THIS FORM ONCE COMPLETED TO:

City of Urbana Community Development Department Services Planning Division 400 South Vine Street, Urbana, IL 61801 Phone: (217) 384-2440 Fax: (217) 384-2367