

**Sangamon County, Illinois**  
**ZONING BOARD OF APPEALS**

The Zoning Board of Appeals met on February 21, 2019 at 7:00 P.M. in the County Board Chamber in the County Complex.

**ATTENDANCE**      **(X) denotes present**

<b>(X) Chairman Chimento</b>	<b>(X) Committee Member Mares</b>
<b>(X) Committee Member Wulf</b>	<b>(X) Committee Member Sudeth</b>
<b>(X) Committee Member Spiro</b>	<b>() Committee Member Beaty</b>

**STAFF PRESENT:**

Molly Berns, Executive Director, Spfld-Sang County Regional Planning Commission  
Steve Keenan, Senior Planner, Spfld-Sang County Regional Planning Commission  
Emily Prather, Associate Planner, Spfld-Sang County Regional Planning Commission  
Dwayne Gab, Assistant States Attorney, States Attorney's Office  
Trustin Harrison, Zoning Administrator, Sangamon County Zoning

---

Chairman Chimento called the meeting to order.  
Approval of January 17, 2019 Minutes

**Committee Member Don Wulf made a motion to approve the January 17, 2019 minutes.**

**Committee Member Anthony Mares seconds the motion.**

**Motion carries 5/0/0**

**Docket 2019-004 Russell & Dawn Schwartz for property located at 20 Pin Oak Lane, Springfield, IL 62711**

**PETITIONER(S):** Russell & Dawn Schwartz

**OBJECTOR(S):** None

**PRESENT ZONING CLASSIFICATION:** R-1

**REQUESTING:** Petitioners request a variance to allow the side yard setback to be approximately three (3) feet instead of the required ten (10) feet.

Scott Sievers: This concerns the petitioners property at 20 Pin Oak Lane, they are seeking a variance for the shed/carport, now let me begin by saying my clients screwed up there's no question about it, they did not get a building permit for this. What happened was they applied for the building permit to replace the existing shed with a new shed. They contacted a contractor and the contractor told them you can either

get this shed built right now or wait months from now, and rather than be threatened by this delay they decided to go forth with this, absolutely a mistake. Now later on they were cited for not having a permit and fined \$500 for not having a building permit, and they promptly paid that because they recognized that they should have had that building permit. Now in the process of this, they were informed about a setback that was an issue they were told/it was their understanding that there was a 3ft setback that applied to this accessory building, but the county was telling them no, 10ft setback. If you knew this property, you would understand where their mistake comes from. Their property has a substantial wooded portion in the back, about a 1/3 or so of their property is wooded with trees and at the very back is a creek and the property slopes down to the creek. The very back portion which would be the rear yard of this property is heavily wooded, serious slopes, and a creek. It's an area where you wouldn't want to put a structure at all, and they never even considered putting a structure there. They just wanted to put a structure where there already had been a structure and that's what they did. So they put it in the portion of their yard where they considered their back yard. The yard that's behind their home. This is the portion that has its mode, the deck, and so forth. In their minds, this was the back yard, this was their rear yard, and this was the portion that should have, in their minds this is where they thought the 3yd set back applied, not the 10 yard setback. That is where their mistake was made. So this was built and now they're trying to address this problem and they are asking for a variance tonight. Now, this shed that's there, it's in the same relation to the side yard property line as the old shed is. No closer than the previous shed was. Also, this shed doesn't even begin until it's past the adjacent property owner's property. The adjacent property owner's property ends about a foot before this shed is even put up. And then behind this shed/carport it's a substantial building, I'm not going to deny that it is, it's a bigger building than the previous building. But that's not an issue tonight. But behind this building is completely undeveloped property. In fact, it is anticipated that this would remain undeveloped property because it is Salem Estates West's homeowner's association's property. So, there is no developed property behind, adjacent to or near this shed or carport that's at issue. But now if they have to move the shed, well first off, if they are unable to get this variance they face the possibility that they have to demolish the shed, they face possibility that they have to move the shed and it gets damaged when it's moved. But even if it's moved in the 7ft to comply, this is also a shed that's designed to store a car, there wasn't a car there recently but they have a lawn tractor and garden equipment and so forth in there. But if you're trying to turn a car around to moving into this building you'd be going right over their septic laterals, also you'd lose a lot of space in this back yard. Also, you would obstruct their view of the woods, that they so appreciate. So it's a substantial problem that they would like to have addressed here. And also, if they were to not get this variance, it would be a great detriment to them, but no real benefit to the neighbors. It doesn't really change the fact that this shed is no closer to the property line than the previous shed was. And again, there is no developed property behind it. So, we would ask that this board approve the petition for the zoning variance.

Charlie Chimento: Any questions?

Don Wulf: You indicated that there are septic laterals that are in play here. Looking at the picture and while I was out there, it does not look like a septic system to me. It looks like an aeration system which will only have 1 drain pipe.

Scott Sievers: I only understand that they have a septic system. Maybe I misinterpreted my clients. I understood that it was a septic system and I believed that they thought it was a septic system as well.

Don Wulf: So what does your client say on this?

Scott Sievers: They thought it was a septic system. They had told me it was a septic system. If that's incorrect, I apologize. That's what we understood it to be.

Tony Mares: The original 12 by 14 standard shed, what was the original flooring. Was it concrete, or stone, rocked in gravel? What did they have?

Scott Sievers: As I understand it, it was a wooden platform. In fact, that wooden platform is integrated into this new shed as well. So part of that is built into the existing newly replaced shed.

Charlie Chimento: It's not on a solid foundation?

Scott Sievers: It's on a wooden foundation with timbers into the ground and some of the timbers I believe are set in some concrete. It's a wooden structure.

Tony Mares: From what I understand, you were talking about possibly storing a vehicle in this?

Scott Sievers: That's correct

Tony Mares: Question for staff, these are unique footings, let's just say we were within the 10ft, are these kind of footings.....I know were not contractors, but I don't know if I would want a wooden platform to support a vehicle. A vehicle could run anywhere from 2500 pounds up.

Trustin Harrison: In a case like this, if the intent was to store a building, of course through the construction process the inspector would inspect that to make sure that the footings are correct and that the floor joists can support the weight. Through the building process if that was the intent with the wooden floor, then that would have been addressed through the permit process.

Andrew Spiro: In your testimony you eluded to the fact that the contractor told your clients that they had to build now or wait several months, and they decided to go on the advice of this contractor, and assuming this contractor was on the up and up, wouldn't he be aware that they needed to have a building permit and meet certain requirements. And if he did, could they not have recourse to him to mediate their plight in this situation?

Scott Sievers: Well I would certainly hope that a contractor would know that you needed a building permit, your right, I can't speak for them but there is really no question that my clients erred in going forward with this structure without having any building permit. We are not even remotely contesting that, they were fined \$500 dollars, they paid it in full. That was a mistake and we own up to it completely. We absolutely should have gotten a building permit beforehand and we did not. But before we can go back and seek a building permit, we have to get a zoning variance to go to that next step. And that is what we are hoping to do here.

Andrew Spiro: My question was, do they have recourse against the contractor for not complying with the building and zoning ordinance. He should have told his clients that they needed to do that, and he didn't, so isn't he liable in some way? I'm not a lawyer, that's why I'm asking you.

Scott Sievers: He very well be responsible for that, but we have not moved into that. At this point we are just trying to address the variance issue.

J. D. Sudeth: were your clients the original builder of the original shed?

Scott Sievers: Yes, I believe that they put the shed up.

J.D. Sudeth: Originally?

Scott Sievers: Yes, I believe that's correct

Don Wulf: In the documents I have it says that the construction company had to build the carport right away or they needed to wait until other customers got theirs done, did they not even try to get a permit in time for this to be built?

Scott Sievers: I understand that they did fill out an application. I understand that they did not get a building permit beforehand, so they looked into that and they did not follow through and actually get the building permit. That was their mistake, they have been fined for that and have paid that fine.

Don Wulf: What's the timeframe for getting a permit, if I could ask the staff?

Trustin Harrison: In most cases a permit like this, the turnaround time is an average of less than 72 hours. Especially if it a solid permit with all the information on it and nothing is missing on it.

Don Wulf: Did they attempt to file with you?

Trustin Harrison: A permit was attempted to be filed for. We were contacted by the building department that they instructed the applicant at that time, cause they wanted the 3ft setback. They notified the applicant that the 3ft would not be allowed and they would have to go 10ft. at that point the applicant did not file the permit at that time. And we kept an eye on it, went back out several months later and found that the shed had been constructed.

Don Wulf: Ok, thank you.

Charlie Chimento: Any other questions? County Board? No objectors I guess, I'll read the recommendation.

**STAFF RECOMMENDATION:** Recommend denial. The property can continue to be used economically without the requested variance. The petition states that the "Petitioners replaced a dilapidated 12' x 14' shed before obtaining a permit for a new, larger structure." The new shed is 24' x 21' which is three times the size of the previous shed. The petitioner placed the shed on the subject property without receiving a valid building permit. The petition states that complying with the 10 foot setback regulation "would place the shed/carport in the middle of the Petitioner's yard..." Upon the site visit, staff did not find this to be the case. The subject property contains buildable area where the shed could be located in order to meet the 10 foot side yard setback. The Standards for Variation are not met.

**Committee Member Andrew Spiro made a motion to recommend approval of staff recommendation.**

**Committee Member Anthony Mares seconded the motion.**

**Motion carries 5/0/0**

**Motion to Adjourn:**

**Committee Member J.D Sudeth made a motion to adjourn.**

**Committee Member Tony Mares seconded the motion.**

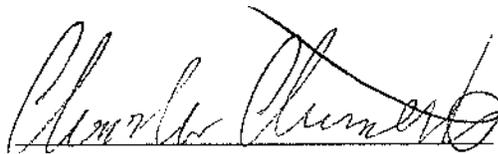
**Motion Carries 5/0/0**

Meeting adjourned.

Respectfully submitted,



Recording Secretary



Chairman

Minutes of February 21, 2019

Full record of minutes available upon request in the Zoning Department