

Sangamon County, Illinois
ZONING BOARD OF APPEALS

The Zoning Board of Appeals met on August 20, 2015, at 7:00 P.M. in the County Board Chamber in the County Complex.

ATTENDANCE (X) denotes present

(X) Chairman Chimento	(X) Committee Member Mares
(X) Committee Member Wulf	(X) Committee Member Herbert
(X) Committee Member Spiro	(X) Alt. Committee Member Lucchesi
(X) Alt. Committee Member Dobrinsky	

STAFF PRESENT:

Molly Berns, Senior Planner, Spfld-Sang County Regional Planning Commission
Steve Keenan, Associate Planner, Spfld-Sang County Regional Planning Commission
Dwayne Gabb, Assistant States Attorney, States Attorneys Office
Cyndi Knowles, Zoning Administrator, Sangamon County Zoning

Chairman Chimento called the meeting to order.

Docket 2015-020 for property located at 2936 S. MacArthur Boulevard, Springfield, IL. 62704

PETITIONER(S): Chun D. Hu & Yi Lu

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: "B-3" General Business District

REQUESTING: Conditional Permitted Use for package liquor; and, a variance to allow liquor sales within seventy-one (71) feet of a residence.

STAFF RECOMMENDATION: Recommend denial of the requested CPU. It appears only approximately ten (10) parking spaces are available on the subject property; nineteen (19) are required. Also, much of the current parking area is graveled, making it difficult to tell if ample parking spaces are available. The petitioner should provide evidence that the parking area will be paved, and provide a parking plan to show that the requirements of the zoning ordinance can be met. The petition states additional parking would be provided on the property immediately to the south. However, this property is in the City of Springfield. The City Zoning Administrator has indicated to staff that further zoning relief would be required from the City to allow parking on the adjacent lot to the south to serve the subject property. A parking arrangement would need to be arranged to not inhibit use of the property immediately to the south. If the parking deficiencies are

resolved, staff recommends the closing time be limited to 7:00 pm on Sunday through Thursday, and 8:30 pm on Friday and Saturday per the business plan. This could limit negative impacts on the surrounding area. Recommend denial of the variance request. While the standards of variation appear to be met to allow a packaged liquor store within one hundred (100) feet of a residence, the variance is not needed in the absence of the CPU for packaged liquor sales.

Chin D. Hu was sworn.

Chin D. Hu stated that last time we talked about our parking lot. Right now we got one professional company for our parking lot. They will make parking lot, will pave for us. We have a bill for no less than 20 parking spots just for 2936 S. MacArthur.

Chairman Chimento asked how she was coming along with the City on their zoning.

Chin D, Hu stated that we have received the paperwork and there is a lot of requirement. We think that there is enough parking available on 2936 S. MacArthur. We don't need to involve another property.

Chairman Chimento stated, you mean the City property, is that what your engineer says.

Chin D. Hu stated yes. I have an estimate here with me for the parking at 2936 S. MacArthur.

Staff, Cyndi Knowles asked if that was stated on there, can staff get a copy of that.

Chin D. Hu stated yes, I have 2 copies.

Chairman Chimento asked if anyone had any questions. Hearing none, he asked County Board.

County Board Member Linda Fulgenzi asked if the parking lot was going to be paved.

Chin D. Hu stated yes, it will be paved.

County Board Member Linda Fulgenzi asked staff if the estimate met with Staff's needs and requirements.

Staff, Cyndi Knowles stated yes, on the requirements for that. One thing it doesn't address is how traffic will come in and out, will it be on just the north side.

Chin D. Hu stated they will enter on the North side, come in one way. The vehicles on the other side go out, south side. But, south side is our property, since same owner, should be no problem for them to go out.

Committee Member Spiro asked if that was an estimate, a contract, proposal or...

Staff, Molly Berns stated that it is an estimate.

Chin D. Hu stated that yes; we just got it and haven't had a chance to schedule them to do it. We just accepted this offer.

Staff, Molly Berns stated, so what you are proposing then is that, with your parking area, is it only going to be on the North side of the building or is it going to be in the rear of the building?

Chin D. Hu stated it would be in the rear of the building.

Staff, Molly Berns asked if the shed structure was going to be removed.

Chin D. Hu stated yes, that way we can make enough room for parking.

Staff, Molly Berns stated that your proposal then is that traffic will come in on the north side of the building and exit on the south side of the building...

Chin D. Hu stated yes, that is how we are looking at it.

Staff, Molly Berns stated that is still kind of a problem because, that parcel, although you own it, it doesn't meet the City of Springfield's regulations then. So, the parking, the exit and the entrance would need to be on the parcel with the store in order to be compliant with the zoning regulations for the County, as well as, the zoning regulations for the City. It would be helpful if we had a drawing of what the company is proposing.

Chin D. Hu stated, yes, I just told them that but, we wanted to see if we could exit from the south side. Right now we are just using that.

County Board Member Linda Fulgenzi stated so, this CPU would allow the sale of packaged liquor but, they still have to get the liquor license before they can do this.

Chin D. Hu stated yes, we know this. After approve this, we will go to get that.

County Board Member Linda Fulgenzi asked if she anticipated having gaming machines.

Chin D. Hu stated, no haven't thought about that.

Staff, Molly Berns stated that they are only requesting for packaged liquor so...

County Board Member Linda Fulgenzi stated that it does state to allow for liquor sales.

Staff, Molly Berns stated, liquor sales but, it is for packaged liquor and to allow liquor sales within 71' of a residence. She will not be pouring by the drink.

Chin D. Hu stated, no, just the packaged.

Chairman Chimento then asked what Staff's recommendation then.

Committee Member John Lucchesi stated that maybe while pondering that, can we get the history of maybe the last 5 years, what has been the history in terms of variances for liquor stores regarding setbacks from residences.

Staff, Molly Berns stated that those are looked at as aspects of the property. The commercial nature of this particular property, we did recommend approval of that because, the packaged liquor store and the residence. In this case, the grocery store faces the front; the house is to the south and is within 71 feet of it. We kind of look at it from where the entrance and exits are for each of the uses. We found her to meet the standards for variation for the 71 feet.

Staff, Molly Berns stated that I know she is trying to get up and running with this but I would feel more comfortable if we would use the normal procedures and that for a commercial property, of this nature, when asking for a Conditional Permitted Use that we actually have a parking plan. I appreciate all the work she has done in terms of getting the estimate but to actually see where that layout is and the ingress and egress of that with MacArthur Boulevard being such a busy street. It would be helpful if she could put forth some sort of a parking plan.

Committee Member Herbert asked how long she thought it would take to get the parking plan in here.

Chin D. Hu stated that she thought, maybe 1 week.

Chairman Chimento asked, what if we approve that with the stipulation that she would have that no later than a week before the County Board, would that work.

Staff, Dwayne Gab stated as a point of law, I don't know that you can approve ahead of time without actually seeing it. It would be very difficult to make it conditional.

Chairman Chimento stated that it looks like we are going to have to continue it.

Staff, Molly Berns suggested that if she could get the parking plan to the zoning office well ahead of time, the zoning administrator could look it over and get it to us for review so that if any alterations need to be made, it can be done in plenty of time.

Committee Member Lucchesi makes a motion to table for one more month.

Committee Member Herbert seconds the motion.

Motion carries 5/0/0

Docket 2015-026 for property located at 3036 Peoria Rd., Springfield, IL. 62702

PETITIONER(S): Tails To Remember

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: “B-3” General Business District

REQUESTING: Petitioner requests a variance to allow five (5) principal uses on one (1) parcel and a variance to allow the parking lot to remain gravel and dirt instead of fully paved.

STAFF RECOMMENDATION: Approval of the requested variance to allow five (5) principal uses: a pet cremation center with viewing parlor, a retail pet store (supplies), a pet park, a pet grooming and boarding center, and a not more than three (3) animal self-service pet wash, on the subject property.

The subject property is located on a commercial corridor in a business zoning classification, B-3, which permits a wide variety of business uses. Several pet-oriented businesses are not unreasonable at this location given the intensity of uses that access Peoria Road in the area, e.g. a metal recycler and a gas station. The County Board also granted a variance request for a very similar mixture of five (5) principal uses in 2011 (Case #2011-041). Further, the requested variance to allow five (5) principal uses appears to be in harmony with the general purpose of the zoning ordinance. The property is currently zoned B-3, General Business District, and is located along a commercial corridor. The zoning ordinance states that the B-3 district; “is created to permit a wide spectrum of commercial uses... and also include[s] goods and services which are durable or industrial in character and semi-commercial industrial services that support the retail functions in nearby retail centers.” An argument could thus be made that several proposed uses on the property in effect create a small pet services center for which the parcel is large enough to accommodate.

Recommend denial of the requested variance to allow a gravel and dirt parking lot. Staff recognizes that a variance for a short period of time to allow part of the parking spaces to remain dirt and gravel during the construction period may be warranted. Testimony should be provided as to the timing of construction to expand the existing structure and the timeframe by which the remaining proposed businesses will become operations. As presented, the petition did not provide any evidence supporting the variance for paving. Without pavement and striping, it is difficult to determine if the appropriate handicapped and regular parking spaces are provided. Paving the lot will further help with internal vehicular circulation. The standards of variation are not met.

AMENDED: Recommend approval of the requested variance to allow five (5) principal uses: a pet cremation center with viewing parlor, a retail pet store (supplies), a pet park, a pet grooming and boarding center, and a not more than three (3) animal self-service pet wash, on the subject property.

The subject property is located on a commercial corridor in a business zoning classification, B-3, which permits a wide variety of business uses. Several pet-oriented

businesses are not unreasonable at this location given the intensity of uses that access Peoria Road in the area, e.g. a metal recycler and a gas station. The County Board also granted a variance request for a very similar mixture of five (5) principal uses in 2011 (Case # 2011-041). Further, the requested variance to allow five (5) principal uses appears to be in harmony with the general purpose of the zoning ordinance. The property is currently zoned B-3, General Business District, and is located along a commercial corridor. The zoning ordinance states that the B-3 district: "is created to permit a wide spectrum of commercial uses...and also include[s] goods and services which are durable or industrial in character and semi-commercial industrial services that support the retail functions in nearby retail centers." An argument could thus be made that several proposed uses on the property in effect create a small pet services center for which the parcel is large enough to accommodate.

Recommend approval of the requested variance to allow a gravel and dirt parking lot for a period not to exceed two (2) years. Testimony was provided related to the anticipated schedule of when each of the uses would be open and available for public use. Allowing two (2) years to pave the parking area will eliminate any conflicts with construction of the addition.

Steve Dunker was sworn.

Steve Dunker stated I am looking at putting in a pet service business. I came before this board several years ago to do this on another piece of property but then I got a chance to get this property. The building has been dilapidating over the last couple of years, we had the opportunity to purchase it. We have a retail shop and want to do a grooming shop, also a crematory, and self-service pet washes. We went ahead and put in a request for more, just in case, in the future I would like to expand our business to include a dog park. That business will be at least a year or two before it is a possibility. There is a lot to clear out there. I want to make it a better place.

Chairman Chimento asked if he was aware of the recommendation regarding paving the lot.

Steve Dunker stated yes.

Chairman Chimento stated that you have concrete on both sides of that building.

Steve Dunker stated yes. I did re-measure and I found there to be 12 spaces and do not believe that I will need 2 handicapped parking spots. We do have 12 existing paved parking spots.

Chairman Chimento asked how many parking spots does he need.

Staff, Cyndi Knowles stated that he needed 25 spaces total which would require 2 handicapped spaces.

Committee Member Spiro asked if the whole parking lot had to be paved.

Chairman Chimento stated that only 25 spots.

Steve Dunker stated that one other issues we have noticed since we bought the property. With the railroad right behind us, we do already have drainage issues. We have had 3 times this year already where Peoria Rd. has been flooded. The ground does help absorb a lot of that excess water. We are trying to clear out the ditches and drains so that it drains a little better. We don't want water coming into the building because we have to pave more. When we do pave, we will slant the paving towards the ditches of course.

Committee Member Spiro stated so you intend to pave the lot.

Steve Dunker stated we just need some time to do it in. We need some time to get open and get business going. A couple of the requested businesses won't be going for at least a year.

Chairman Chimento asked what kind of traffic do you have in a day.

Steve Dunker stated well, there are people dropping off their pets, once we get the pet washes, we will expect that to increase. On the retail side, it is already there, it is very minimal, maybe 4 or 5 a day over a 5 hour period.

Chairman Chimento stated so your parking lot is never full.

Steve Dunker stated no, would like it to be.

Chairman Chimento asked if there were any other questions.

Committee Member Mares asked what is currently there now.

Steve Dunker stated that currently there is a retail shop which will basically become ancillary to the crematory; we sell urns, gifts, treats. Currently we are sending out to an outside crematory. Once we have our approval, we will get the crematory started on our site.

Committee Member Mares asked if he would be the principal for the other 4 uses or will there be somebody else besides yourself.

Steve Dunker stated that the groomer will be on their own. I don't know how to groom, I tried once, it wasn't a good time.

Committee Member Mares asked staff, are there special requirements for the crematorium?

Staff, Molly Berns stated that he will have to meet State licensing requirements and he is well aware of that based on the petition that he did about 3 years ago and so that would be regulated at an entirely different level.

Steve Dunker stated there will also be permits from EPA.

Chairman Chimento asked if there were any other questions...hearing none; County Board...hearing none; any objectors...hearing none.

Staff, Molly Berns stated she has a question. Your retail is going now; your groomer is going to be going pretty fast. You said the dog park and boarding would be 1-2 years down the road. What about the crematory, how long do you think it will be before you are ready to be open on that?

Steve Dunker stated that if this is approved on the 8th and construction starts on the 10th, they should have it done quick.

Staff, Molly Berns stated so in the next 6 months.

Steve Dunker stated yes, the crematory itself basically is like a funeral home. It is low traffic.

Committee Member Lucchesi stated that haven't we in the past, given a certain time frame for petitioners who are just starting out to allow them a year or two to pave their lots.

Staff, Molly Berns stated that yes we have and with your permission, I would like to amend the staff recommendation, please.

Committee Member Spiro makes a motion to recommend approval of the amended staff recommendation.

Committee Member Herbert seconds the motion.

Motion carries 5/0/0

Docket 2015-027 for property located at 6895 Mansion Rd., Chatham, IL. 62629

PETITIONER(S): Justin Dennis

OBJECTOR(S): Yes

PRESENT ZONING CLASSIFICATION: "A" Agricultural District

REQUESTING: A Conditional Permitted Use to allow for a lawn care business and a variance to allow parking to stay gravel instead of being paved.

STAFF RECOMMENDATION: Approval of the conditional permitted use. In the petition, it indicates that the building will house equipment, and the parking is to be for

employees rather than the public. Hence, staff recommends the following conditions: that all storage and equipment be placed inside the existing pole barn; that there will be no retail operations or availability for the public at this location; that the hours of operation remain as stated in the petition, i.e. no later than 8:00 PM; and, that a maximum of six (6) employee vehicles be parked on the subject property at any given time. Recommend denial of the requested variance. The petition did not provide any evidence to justify the request. The standards of variation are not met.

AMENDED:

Recommend approval of the conditional permitted use. In the petition, it indicates that the building will house equipment, and the parking is to be for employees rather than the public. Hence, staff recommends the following conditions: that all storage and equipment be placed inside the existing pole barn; that there will be no retail operations or availability for the public at this location; that the hours of operation remain as stated in the petition, i.e. no later than 8:00 PM; and, that a maximum of six (6) employee vehicles be parked on the subject property at any given time. Recommend approval of the requested variance not to pave the employee parking area for a period not to exceed two (2) years. There will be no additional negative impact on the area if the petitioner is given two (2) years to pave.

Justin Dennis was sworn.

Justin Dennis stated that I would like a CPU to be granted based on the conditions of the staff and I would like a variance to allow the entrance to the parking area to remain gravel instead of paved. It would cause a financial burden on me and interfere with other financial plans that I have.

Chairmen Chimento asked if there were any questions.

Committee Member Mares stated that when I visited the site, it appears that the parking is on the lawn, just outside of the building. It appears you are going to expand that.

Justin Dennis stated that we intend to put in a road that goes around the west side of the building and have all the employees' park in the back of the smaller building.

Committee Member Mares asked if they have 6 employees.

Justin Dennis stated that we have more employees than that but they meet us at an office building in town, they do not come to the property. Crew leaders come to the property in the morning to pick up dump trucks and leave their trucks. They are not back until they drop those off in the evening and they leave again at that time.

Chairman Chimento asked what the hours of operation are out there.

Justin Dennis stated, as far as employee interaction with the property, from about 7 AM until about 7:45 PM when they leave. It is quiet all day long, until they come back in in the evening which is usually around 7 or 7:30 PM.

Chairman Chimento asked what the nature of the business is.

Justin Dennis stated lawn care.

Chairman Chimento asked if that meant trimming trees and bushes and having stuff come back and burn on your property.

Justin Dennis stated absolutely and yes we have.

Chairman Chimento stated, I'm not sure but I don't think you are supposed to burn on your property unless you produce there.

Staff, Molly Berns stated that is correct.

Justin Dennis stated that when I built the building, I did push over a large tree, there is a big part of that burning which has been going on. We have taken a lot of stuff to Evan's recycling for disposal of waste.

Chairman Chimento asked Mr. Dennis if he has read what some of his neighbors are saying, do you have anything to say about that?

Justin Dennis stated Joe and I got along really well when I first moved into the property. I sectioned off 2 ½ acres of my land in the back part of my parcel at 6895 Mansion Rd so that he could feed cows at no additional charge, no charge what-so-ever. There were a couple of instances that happened with wind damage, due to a storm. My insurance company denied his claim, from that time; he has not been very helpful.

Chairman Chimento asked if it was wind damage to your property.

Justin Dennis stated to both. There were 3 fence posts that were his that were damaged and damage to mine, plus my buildings and my roof on my wood shed. My insurance company paid my claim and denied his. They said I was not responsible because it was an act of god.

Committee Member Spiro asked what brought the fireworks and stuff on. It wasn't just about burning, what about shooting fireworks off late into the night?

Justin Dennis stated that is an exaggeration of the truth. It was right around the 4th of July, we did have a little gift giving but we did not have any illegal fireworks.

Committee Member Herbert asked, now your crew leaders, do they check the machinery in the morning to see if it is working properly before leaving with it.

Justin Dennis stated that they will load out the trucks with what is needed to do that days' work.

Committee Member Herbert stated that I was wondering if that was the noise that your neighbor was talking about.

Justin Dennis stated that is a possibility.

Committee Member Spiro asked if they do any mechanical work on the site.

Justin Dennis stated that we do a little blade sharpening on site. We try to conclude all of that by 8 PM. There is usually only 1 employee there from about 5 PM until 8PM every night.

Chairman Chimento asked if that was done inside.

Justin Dennis stated yes it is done inside the smaller of the 2 buildings.

Chairman Chimento asked County Board if they had any questions...hearing none he asked if there were any objectors....hearing none.

Justin Dennis asked what sufficient evidence is for the variance. He stated it would be a financial burden of approximately \$10,000.00 for him to pave the entire driveway and the parking area.

Staff, Molly Berns stated that she would clarify, the parking area itself is what we are talking about paving, not the road coming in because, the road coming in, you cross through flood plain and the preferable surface for the driveway in that particular since is the aggregate you already have down. So, what we are talking about is the parking area for the employees.

Chairman Chimento asked how many spaces he would need.

Staff, both Cyndi Knowles and Molly Berns stated 6. Molly went on to say, keep in mind, financial burden is not considered a justification. Although I feel your plight, it is not (tape seemed to cut out)...

Justin Dennis stated that we did do some research of the area, there seems to be a few properties by with similar CPU's that do not have paved driveways and I am not aware of any variance. We could probably provide those addresses if you requested.

Chairman Chimento asked if he was talking along Curran Rd.

Justin Dennis stated, along Curran Rd., Mansion Rd., Wesley Chapel Rd.

Committee Member Mares asked if he currently resides at this address.

Justin Dennis stated that he lives at 6929, a separate parcel. The CPU is for 6895. I own the home on the adjacent parcel. I do not own the lawn care business; I lease the property to my employer.

Committee Member Mares stated so then your residence is not located on this parcel with the business.

Justin Dennis stated that no, his home is on a separate parcel.

Committee Member Spiro asked where is the neighbor who is complaining, is he to the West, North or where?

Justin Dennis stated that Joe Jones is just northwest of me. His house actually sits back behind my own. My business and my barn are at least a couple hundred feet away from him.

Chairman Chimento asked staff what they need to do to allow a time frame to pave the parking area.

Staff, Molly Berns stated, if the board so chose, you could go ahead and recommend approval of the variance but give them a certain amount of time to pave. Molly stated that she can amend the staff recommendation.

Committee Member Herbert makes a motion to recommend approval of the amended staff recommendation.

Committee Member Lucchesi seconds the motion.

Motion carries 5/0/0

Docket 2015-028 for property located at 15 Holiday Ln, Riverton, IL. 62561

PETITIONER(S): Ronald & Sherrill Esserine

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: "A" Agricultural District

REQUESTING: A rezoning from "A" Agricultural District to "R-1" Single-Family Residence District.

STAFF RECOMMENDATION: Approval. The character of the area is predominantly single-family residential. It is unlikely the property would revert to agricultural usage given its relatively small size, location next to a residential subdivision, and proximity to a pond. The LESA score of 81 indicates the property is acceptable for non-agricultural development. Granting the rezoning will allow the parcel to be combined with the parcel immediately to the west and will facilitate placement of a new septic field. Also, granting the rezoning will make two parcels owned by the petitioner have the same zoning classification, which is preferable from a planning perspective.

Ronald Esserine was sworn.

Ronald Esserine stated that for 35 years they have lived there and have always had 2 separate tax bills. We are selling the house, trying to downsize and when the sewer inspector came, he didn't pass our sewer. The only place they can put the new one is on the back parcel which would have to be on the same parcel as the house. They wouldn't give me the permit because it is a separate piece of property so we want to combine.

No additional testimony was given.

Committee Member Herbert makes a motion to recommend approval as staff recommended.

Committee Member Spiro seconds the motion.

Motion carries 5/0/0

Docket 2015-029 for property located at 16839 Red Lane, New Berlin, IL. 62670

PETITIONER(S): Francis L. Fromme Estate

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: "A" Agricultural District

REQUESTING: Proposed Parcel 1: a variance to allow one (1) parcel less than forty (40) acres in the "A" Agricultural District, a variance to allow the lot depth to be greater than two and one-half (2 ½) times the lot width for one (1) parcel, and a variance to allow one (1) parcel zero (0) foot of road frontage instead of the required one hundred-fifty (150) feet.

STAFF RECOMMENDATION: Approval. Granting the requested variances will help the owner facilitate a division and settle an estate. The subject property is and will continue to remain in crop production. The currently landlocked seventy (70) acre tract will be reduced below forty (40) acres in size, with part of the parcel being combined with a parcel to the south. The standards of variation are met.

Patrick Sheehan was the attorney representing the petitioners. Mr. Sheehan stated that we have a request that rises from an estate. The Frommes were the proud parents of 11 children. They have 11 different shares that some of this division will be retained by family and some of it will be sold. The result of that is that we will end up with a parcel which needs a couple of variances that are set forth in the petition and is recognized by the staff recommendation. It is all unimproved farmland and currently we have 3 separate tax parcels. At the result of this proposal those 3 will become 2. We will be combining a couple areas, the maps that are included tell the story of what we are trying to do.

No additional testimony was given.

Committee Member Lucchesi makes a motion to recommend approval as staff recommended.

Committee Member Spiro seconds the motion.

Motion carries 5/0/0

Docket 2015-030 for property located at 4136 N. Peoria Rd., Springfield, IL. 62702

PETITIONER(S): Drink Em Up Inc.

OBJECTOR(S): Yes

SUPPORTER(S): Yes

PRESENT ZONING CLASSIFICATION: "B-3" General Business District

REQUESTING: A Conditional Permitted Use for a tavern and for the sale of alcoholic beverages & live entertainment within a beer garden; and a variance to allow a tavern property line to be within twelve (12) feet of a residential structure.

STAFF RECOMMENDATION: Approval of the Conditional Permitted Use. Staff recommends a condition that the live entertainment including but not limited to any dancing, band, DJ music, or any other noise generating music of any kind be limited to areas inside the existing structure and not be allowed in any outside area to include but not limited to any beer garden or other outdoor area available to the public. This condition could help decrease off-site noise impacts on the nearby residences. Recommend approval of the requested variance. It is difficult to tell from sources of evidence available to staff whether the tavern or the residence was in its present location first. The standards of variation are met.

AMENDED: Recommend approval of the conditional permitted use provided that any live entertainment, including but not limited to any dancing, band, DJ music, or any other noise generating music of any kind that is outside the structure cease no later than 9:00 p.m. on Sunday through Thursday nights, and 10:00 p.m. on Friday and Saturday nights. Placing these restrictions on the beer garden and outside areas should help to minimize the negative impact on the immediate area. Recommend approval of the requested variance to allow the tavern to be within (12) feet of a residence. It is difficult to tell from the sources of evidence available to staff whether the tavern or the residence was constructed first. The Standards for Variations are met.

Blair Suprehant and Donald Thompson were sworn.

Donald Thompson stated we want to expand our beer garden and have live music out in our beer garden. We bought the bar May 15th of this year. Up until we started planning expansion for the beer garden, we found out that our beer garden was not properly permitted. We are trying to rectify that situation by being here this evening. We have

been making some strides to eliminate any neighbor concerns. We put an 8' fence along the east side of the property to help maintain any garbage blowing, and block some of the noise. We are addressing parking issues, I have called department of transportation. Our first weekend we took over we had a band there. We have been running fairly, crazy busy. Cars parked up and down the street, called Department of Transportation on Monday, had them put up no parking signs. We understand the concerns of staff about music. With the new expansion, we are going to do a solid picket fence around the beer garden instead of doing the shadow box like the previous owner did. Our sound guy will keep the sound down around 85 decibels, 90 decibels is about the sound of an electric drill. A few people have complained that they hear noise quite a ways from us, on calm nights, without the wind, sound does carry but, at 90 decibels I don't feel it is too overpowering. We try to have bands done by 10 o'clock. A few times it has been 10:15 or so. We have speakers outside; we can eliminate that problem through the jukebox. We put a separate switch on them so at 9:30 in the evenings throughout the week and 10:30 on weekends, we can flip that switch and cut off the speakers outside. We have 4 fund raisers coming up. Most of our bands we line up are from Memorial Day through Labor Day. In October, we do have a couple of small bands lined up. With the expansion, instead of the bands facing south, they will be facing to the northwest where they will point towards the building. Our 2 story building will help buffer the noise.

Chairman Chimento asked what time do they start.

Donald Thompson stated at 6 o'clock. On Sunday's it could be 3 to 7 or 3 to 6, we try to do happy hour stuff.

Committee Member Spiro stated originally beer gardens were set up for people to go out and smoke.

Donald Thompson stated originally, when I bought the Curve Inn, we built our building 15 feet away to meet all the same codes. Some people came along and said hey, you should put some bands out there. We also have an area separated out for those who don't smoke and don't want to be around it, this way they can still sit and enjoy the music and drink.

Committee Member Spiro asked if they had problems like this at the Curve Inn.

Donald Thompson stated at first, yes we did. By putting up the sound buffers and changing things around to correct problems as they were arising.

Chairman Chimento asked if anybody had any questions...hearing none, County Board have any questions....Greg.

County Board Member Greg Stumpf stated I walked the property. I saw the position that they intend to put the beer garden in. I am concerned about the nature of the neighborhood with the residential and commercial. I have also been over to their property at the Curve Inn as a customer. I know they do keep their music at a lower decibel rating

and I do know...I tried to compare it to our area on this side of town which is Industrial to commercial, residential, it is all a mix right in that area and so is the area where the Curve Inn is. They have the St Joseph's home and the residential neighborhood right across the parking lot of Little Flower School. Also the same as what it would be on the north end right here. I told them my concerns about the music, the loudness of the music but, I have not really seen any problem that they have had at the Curve. I have listened to the music they have had at this side and they would definitely have to keep it down to a low area and talk about the time here tonight. I do think they are an asset to the community and I do think they would be good neighbors. I do believe that when they say they will take care of problems as they come up that they will take care of those problems as they come up.

County Board Member Linda Fulgenzi stated I just have a question; I am a little confused about the pictures, the one on page 3 it shows where the existing beer garden is and where the expansion is going to be.

Donald Thompson stated that I am glad you brought that up, the fence area here, we put up. We are going to have bathrooms put in out there. The beer garden is going to be to the north and east and to the south and east.

County Board Member Linda Fulgenzi stated, so on this one it shows where it is going to be to the back of the existing beer garden, not to the side.

Donald Thompson stated that is correct.

Chairman Chimento asked if there were any objectors.

Chris Worth was sworn.

Chris Worth stated I live next to the bar; I have sold the place and will be moving. The new owners are here. I have lived there for 10 years; the last 6 months have been the loudest, noisiest and most unruly it has ever been in those 10 years. I started the petition that is in front of you. Some of those names are from houses more than 1000 feet away. There are some from the trailer park across Peoria Rd. They all complain about the noise and loud music. I agree they have done some things, such as the fence. Some of those sound deafening things he has talked about have not shown a real effect yet. The parking he is talking about, Springfield Township has already put those no parking signs on the frontage road, those have been there for about 5-6 years, so you did not do that. I have video on my phone from 7 houses away where you can hear the music. I have had local deputies come in my house and say that they could hear the music up over my tv.

Chairman Chimento asked if there were any questions for the witness.

Committee Member Lucchesi stated, did you say you have sold your home?

Chris Worth stated yes, I close tomorrow.

Chairman Chimento asked if there were any other questions for this witness...hearing none, does anyone else want to speak?

Mary Francis DeRosa was sworn.

Mary Francis DeRosa stated, I live approximately half a block away from the bar. We can hear the music in our house, over our television. The other night, not sure if they have late music right now, there was still music going on at 2 o'clock in the morning.

Chairman Chimento asked if anyone had any questions...hearing none, does anyone else wish to speak.

Tara David was sworn.

Tara David stated, I live farther than any of them. I probably live a block, block and a half away from the bar. I can hear the music in my house, in my living room. This week, they are open until 3 o'clock, during the fair and they are having live music outside until 3. I have a daughter who started school yesterday and even when they play music outside until 11 o'clock, hearing it in my house is inappropriate when I have a child that has to get up and go to school.

County Board Member Greg Stumpf stated that he was glad she brought that up. If it was to be approved, this is directed at professional staff...if approved, and they were given restrictions to stop live entertainment at a specific time, they would have to, is that correct.

Staff, Molly Berns stated yes.

County Board Member Greg Stumpf stated that the decimal rating indoors would have to be below a certain decimal rating and if not, the police would take care of that through a call to the police department. I just wanted to verify.

Staff, Molly Berns stated that would only be to an extent that the decimal condition is placed on the CPU.

Chairman Chimento asked if there were any other objectors.

Voice came from back stating she isn't an objector but I would like to say something.

Amanda Wyatt was sworn.

Amanda Wyatt stated that she is the one who just purchased Mr. Worth's house but, I live closer than the rest of them, other than the gentleman whose house I bought. We have never had an issue and ever since Don has owned the place, he has done multiple things to try and work with us. I don't know anything about our house verses theirs but we do

not hear anything inside and we have young children that are at our house all the time. They have had no issues sleeping at night.

Chairman Chimento asked Tara David if she had something further to say.

Tara David stated that the people who owned it before never had late night music out in the beer garden and it was never as loud or as frequent as it is now.

Chairman Chimento asked if there were any other questions or statements...hearing none... gave Mr. Thompson the floor for rebuttal.

Donald Thompson stated regarding our music during fair week. We have not had bands or open mike in the last 10 days. That is a waste of my money to have people come to play when drowned out by the music coming from the fair. We have just common house speakers outside and inside. We will shut off the outside speakers at the given times.

Chairman Chimento asked if there were any questions.

County Board Member Greg Stumpf stated that given the testimony of the petitioner and their opponents, I would still like to see some stipulations on times of outdoor entertainment, when they can and cannot play. Also, he said that he shuts off the outdoor music for the indoor dj, don't know if we can talk about that too about time. If this goes forward to the County Board, I would like to see stipulation of times on it.

Staff, Molly Berns asked if they have their beer garden liquor permit yet.

Donald Thompson stated yes. It wasn't until we wanted to expand the beer garden that we found out that we were not in compliance of zoning so that is why we are here.

Staff, Molly Berns amended the staff recommendation.

Committee Member Herbert makes a motion to recommend approval of the amended staff recommendation.

Committee Member Mares seconds the motion.

Motion carries 5/0/0

Meeting adjourned.

Respectfully submitted,

Cyndi Knowles

Recording Secretary

Chairman

Minutes of August 20, 2015

Full record of minutes available upon request in the Zoning Department