

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

The Zoning Board of Appeals met on July 16, 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

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Chairman Chimento called the meeting to order.

Approval of June minutes of the meeting.

**Docket 2015-020 for property located at 2936 S. Macarthur Blvd., 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 they wish to sell packaged liquor, Chinese alcohol, in their store. She feels it will help the business to flourish.

Chairman Chimento asked if she read the recommendation from staff.

Chin D. Hu stated yes.

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

Chairman Chimento read the recommendations from staff.

Committee member Spiro stated he has a few questions. There is a CVS that is at the corner of Wabash and they sell packaged liquor and Arco down the street does as well. Why do they not meet the requirements? I understand they don't have enough parking and I agree they should have. What is going on North of the building? There is some kind of construction going on. If they fix the parking, would there still be a problem?

Staff, Molly Berns, as per the staff recommendation, it appears, based on planning principal, the standards for variation and finding of fact would be met to allow the Conditional Permitted Use for packaged liquor in conjunction with the grocery store. The issue though is that we look at the whole package. In this case, she doesn't meet the parking requirements. So, providing a CPU for packaged liquor store on a parcel for which the parking regulations are not met, the CPU is not needed at that time. Evidence was not provided as to the parking regulations being able to be met.

Chin D. Hu stated that we already bought another property just south of this property. This way we have more space for parking. We have a back yard, right now it is grass and an old shed. We would tear down the shed, it was destroyed by a tornado in 2006, and we can make the whole thing a parking lot. I think that area would make like 40-50. We have some issue with the North side right now. North side of building, they have some issues, building been sitting empty for almost 2 years now. We have been talking to some contractor but he has been so busy, he hasn't had time to do something.

Committee Member Wulf stated, you say you have this property purchased or you are working on it.

Chin D. Hu stated yes, the south side property.

Committee Member Wulf asked if they have submitted or prepared any type of engineering drawing.

Chin D. Hu stated they have already got a contract, they are very busy and haven't been able to get to us yet.

Committee Member Wulf stated that the issue is what they have and we don't seem to have any of that information. If we do, it hasn't been presented. There is also still the issue if any of that is in the City of Springfield or not. I am going to have to talk to staff on this. Is the property that she has purchased, is it in the City?

Staff, Molly Berns, stated that yes it is. The parcel immediately to the south of your property, that you purchased, is under the jurisdiction of the City of Springfield. I contacted the zoning administrator, Matt McLaughlin, who said that in order for you to use a portion of that parcel, for additional parking for your grocery store. You would need to get a variance to allow commercial parking to be served as a use for an adjacent parcel and not on the use served on the parcel. So you would have to go through the zoning process for the city of Springfield to get their permission to be able to do that. That would be number 1. The other side to this, I believe there is a building that is on the parcel to the south, as a part of that, you would also have to make sure that Matt could help you with that at the City, to make sure that there is ample parking left after you use a part of it to serve the building that is on the south side. Before we can verify that you can use part to the south, you have to get permission from the City through their zoning process.

Chin D. Hu stated ok.

Committee Member Spiro asked if the paving was still an issue as well.

Staff, Molly Berns, stated yes.

Committee Member Spiro asked if there were any alternatives or will she be required to wait until she can see if she can get City approval on the other parking?

Staff, Cyndi Knowles, stated that she can hire an engineer to determine if she can fit 19 parking spaces onto the existing parcel.

Chin D. Hu stated that she has hired an engineer and has just been waiting for them to come out, we are on a list right now.

Committee Member Wulf asked if she understood. Do we need to reject this at this time so that she can get the parking worked out?

Chairman Chimento stated that we can table it.

**Committee Member Wulf makes a motion to table this petition for 1 month to allow Ms. Hu time to provide adequate proof of parking spaces.**

**Committee Member Spiro seconds the motion.**

**Motion carries 5/0/0**

**Docket 2015-021 for property located at 2805 South 16<sup>th</sup> Street, Springfield, IL 62703**

PETITIONER(S): Thomas & Jerry Gaston

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: “R-2” Single & Two-Family Residence District

REQUESTING: A variance to allow an eight (8) foot solid privacy fence along the rear property line and thirty (30) feet along the South side property line (in rear yard) instead of the allowed six (6) foot privacy fence.

STAFF RECOMMENDATION: Denial. There is a concern that granting the variance could set a negative precedent for future requests. The zoning ordinance contemplates fences in residential areas to be six (6) feet in height in rear yards to allow emergency personnel to easily see over the fence and to easily access a site with gear. While staff recognizes that the proposed design of the fence at this location might not decrease emergency personnel visibility and access to the site, there is a concern that granting this variance could set a negative precedent for future cases; for instance, the number of requests for eight (8) feet fences in rear yards could increase. In addition, the standards of variation are not met because there is no reason the property cannot be economically used with a six (6) foot fence. The petitioner also did not specify any circumstance that is unique to the property that justifies granting the variance requested.

Thomas & Jerry Gaston were sworn.

Thomas Gaston stated that we are requesting an 8’ privacy fence along our rear property. We have a neighbor that is beyond belligerent, we have had the police out there 3 times. 1<sup>st</sup> time I could have had him thrown in jail but I didn’t want to start a war. We can’t go out into our back yard without feeling like we are being threatened. This man is 6’4” and a 6’ fence is just not big enough. He is composting over on that other property. His

daughter lives on that property and then he lives next door. You can't talk to him, can't reason with him.

Jerry Gaston stated that the reason we want the 8' fence is because their property is higher than ours and so a 6' fence will not do anything, he could still look over the fence.

Thomas Gaston stated the privacy fence we want to put up is not going all the way down. We do not want to completely close it in. Anyone could get to the adjacent properties with no problems. We only want to block the view and have it high enough that he cannot see over it. I have just had enough of it, we can't live normal back there because you never know what he is going to do or when he is going to do it.

Chairman Chimento asked what those poles were in the picture.

Thomas & Jerry Gaston stated that those are a part of his garden.

Chairman Chimento asked if it was going right up against the other fence.

Thomas Gaston stated no, it would sit about 2 feet in on the property.

Committee Member Spiro stated that I don't think your zoning problem is going to fix your neighbor problem.

Staff, Dwayne Gab, stated that he feels that although it is their testimony, he does not feel that the neighbor dispute is relevant to the zoning and they need to stick to the zoning at hand.

Committee Member Wulf stated that he is a little confused, who lives in the house behind you?

Thomas Gaston stated that Jennifer actually lives behind them, she inherited the house from her Grandmother. Jennifer is the step-daughter of the man who is threatening us. He lives next door to Jennifer and that is all his stuff that is in her back yard.

Committee member Wulf asked how long they have lived there.

Jerry Gaston stated 25 years.

Committee Member Wulf then asked how long he has lived there.

Jerry Gaston stated that he married Jennifer's mom maybe 8 years ago.

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

**Committee Member Wulf makes a motion to recommend denial as staff recommended.**

**Chairman Chimento seconds the motion.**

**Motion carries 5/0/0**

Chairman Chimento called out next case, Petitioner was not present. Petition was moved to the end.

**Docket 2015-024 for property located at 17020 Old Route 54, New Berlin, IL. 62670**

PETITIONER(S): Tommy Sheppard

OBJECTOR(S): Yes

PRESENT ZONING CLASSIFICATION: “B-3” General Business District with a CPU for public and private outdoor recreation (i.e. go kart track) and a variance to allow 2 principal uses on 1 parcel.

REQUESTING: Conditional Permitted Use to allow a tavern including live entertainment and dancing, and a variance to allow the parking area to remain dirt and gravel instead of being paved.

STAFF RECOMMENDATION: **Recommend approval of the requested CPU for a tavern provided all live entertainment, including but not limited to any dancing and any band or DJ music, is limited to areas inside the existing structure and is not allowed in any outside area to include but not limited to any beer garden, or the public and private outdoor recreation area. The petition indicates live entertainment could extend until 2:00 AM depending on the type of liquor license granted. Staff recommends a 1:00 AM close as a condition for the CPU. Recommend denial of the variance request. While there appears to be enough space to adequately park on the site, the nature of the uses increases the need to pave the parking area. Paving will help with internal vehicular circulation and could decrease the risk of accidents, which could have the benefit of increasing the economic yield of the property.**

AMENDED: **Recommend approval of the requested CPU for a tavern provided all live entertainment, including but not limited to any dancing, band, DJ music, or any other noise generating music of any kind is limited to areas inside the existing structure and is not allowed in any outside area to include but not limited to any beer garden, or the public and private outdoor recreation area. The petition indicates live entertainment could extend until 2:00 AM depending on the type of liquor license granted. Staff recommends a 1:00 AM close as a condition for the CPU. Recommend denial of the variance request. While there appears to be enough space to adequately park on the site, the nature of the uses increases the need to pave the parking area. Paving will help with internal vehicular circulation and**

**could decrease the risk of accidents, which could have the benefit of increasing the economic yield of the property.**

Tommy Sheppard was sworn.

Tommy Sheppard stated that he recently purchased the property being discussed. For the last 4-5 years it was a consignment shop, for many years before that it was a bar. I purchased the place because of the race track that is on the property. We want to run the go kart track that is there. We figured we would open it up as a bar again and keep the track and maybe put up a tractor pull at the far south end of the property and also a volleyball court.

Chairman Chimento asked if there were any questions.

Committee Member Wulf asked if he had read the staff recommendation.

Tommy Sheppard stated yes.

Committee Member Wulf asked if he was ok with the 1 AM closing and such.

Tommy Sheppard stated yes.

Chairman Chimento asked if there were any questions.

County Board Member Craig Hall asked, on the changing of your hours of operation, if the hours of operation right now were only on Sunday's, is that correct. I am asking staff in the front row there, please.

Staff, Cyndi Knowles stated, for the go kart track, yes.

County Board Member Craig Hall asked about changes that they wish to make in regards to the hours of operation.

Staff, Cyndi Knowles stated that they wish to have 2 practice days during the week and then run the track on Saturdays, Sundays, and holidays.

Staff, Molly Berns stated, Mr. Hall, as it stands now, Staff did not address that recommendation so they would be bound by the current standing which would only allow go karts on Sundays. The petitioner may want to address that issue.

Tommy Sheppard stated that yes he would like to change the hours and days for the track. Here is why, we have 2 other go kart tracks in the area and the racers travel to different places. I don't want to step on any of their toes, I am the last man into this deal. So Saturday mornings, if I am able to run them, I would free up to where they could race out in Rochester on Saturdays and then on Sundays they race out by Sand crest and then head to Quincy.

Chairman Chimento asked what he has to do to do this, amend his petition.

Staff, Molly Berns stated, what the board could do...hold on a moment.

County Board Member Craig Hall stated that where the issue is that there are neighbors nearby that may have concerns. I don't want to limit you as a business but I want to encourage you to be a good neighbor. Now we have 12 to 6 only on Sunday and you are wanting to do 4-5 days.

Chairman Chimento stated that he may have misunderstood, are you wanting to run 2 days on the weekends?

Tommy Sheppard stated mostly just on Saturdays but would like the flexibility due to if it rains on Saturday or something to be able to do it on Sunday. Then towards the end of the season would like they have some events that run 2 days and you have to be able to run both those days in order to participate under the ARK sanctioning body. It would not be an every week deal, if we got what we wanted. We have only run the track 1 time since we took over. It was on a Sunday, we were there about 11:30 and were out of there by 5:30.

Chairman Chimento asked, If you ran on Saturday's what would your hours be?

Tommy Sheppard stated that the gates would open at 8 for them to sign in. We would start racing around 11 and then however long it would go, we run a pretty tight program. The other day we ran 3 sets of races in about 3 ½ hours. I am sure as the kart count grows, that will change and we would need more hours. I would say a 7 hour deal, maybe 5 hour deal.

Staff, Dwayne Gab stated that he has reviewed the petition and the go kart was based upon the CPU and his current petition doesn't try to amend that CPU so, the issues that are being discussed regarding the days, hours and such for the go-kart track is not properly before the board. If he wants it to be part of this petition then he needs to withdraw and file a new petition or he needs to file an amended petition.

Tommy Sheppard asked if he could just apply for the bar and then bring that back before the board later.

Chairman Chimento asked if there were any objectors.

Henry Hermes was sworn.

Henry Hermes stated he does not feel it should be a tavern. Especially without outside music. Back when it was a tavern before, there were cops around there often.

Patty Bloomfield was sworn.

Patty Bloomfield stated since the bar has been gone it has been very peaceful. When the bar was there, we have cars turned over in the ditch, one car hit a tree, people banging on our door late at night.

County Board Member Craig Hall asked if the hours of operation will be normal hours, will music only be inside the bar, will the beer garden be active and are you going to...is there any way that this board, the concern will be having alcohol outside, near the pit, near the track, near those things.

Tommy Sheppard stated he would address the alcohol near the pit area. Insurance with ARKA, they do not allow alcohol at their events. So when there is an event going on, no there would be no alcohol around there. As far as music outside, I talked to Mr. Hermes the day I bought this place, and he stated he didn't have a problem with it. I told him if he ever had any problems, to come talk to me but apparently that was not an option. As far as music outside in the beer garden, I will not do that out of respect for him and his wife.

**Committee Member Spiro makes a motion to recommend approved as stated in the amended staff recommendation.**

**Committee Member Herbert seconds the motion.**

**Motion carries 5/0/0**

**Docket 2015-025 for property located at 740 W. Camp Sangamo Rd., Springfield, IL. 62707**

PETITIONER(S): Sean Bandy

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: "R-1" Single-Family Residence District

REQUESTING: Use Variance to allow an automotive repair business in the "R-1" Single-Family Residence District, a variance to allow two (2) principal uses on one (1) parcel, and a variance to allow the parking area to remain dirt and gravel instead of being paved.

**STAFF RECOMMENDATION: Recommend approval of the requested use variance. In 1975, the County Board granted a B-3 zoning classification on the property to the immediate south of the subject property after staff recommended denial. The City of Springfield has also granted a use variance to allow a motorcycle repair business on a residential property in the area. The City of Springfield 2020 Comprehensive Plan calls for the area to be industrial, given its proximity to the airport. Hence, as this area is also in the City's 1.5 mile extraterritorial jurisdiction, it could conceivably be annexed to the City in the future. In the absence of annexation to the City, and given that the City's comprehensive plan calls for the whole area to be industrial, and given that there is a slight trend toward business uses in the vicinity, staff sees the B-3 zoning classification to the immediate south as setting a precedent that could contemplate a use variance for the subject property. If the use variance is approved, staff recommends the following conditions: that the petitioner will hook up to a public water supply with adequate fire suppression measures within two (2) years; that all work will be done inside the existing accessory three (3) bay garage building, limited to an approximately two thousand four hundred (2,400) square foot area of the existing building; that there will no outside storage anywhere on the subject property other than three (3) cars to be worked on at a time; and, that the hours of operation will be Monday through Saturday from 7:00 AM to 5:00 PM. Many of these conditions were granted in a similar use variance recommended in Case # 2014-026.**

**Recommend approval of the variance for two (2) principal uses on the subject property. Given the recommended approval of the use variance, the two (2) principal uses variance is necessary to complete the request.**

**Recommend denial of the requested variance from paved parking. The construction business at 719 Estill, i.e. the B-3 lot mentioned above, has paved its publicly accessible parking area, including the driveway apron. Also, the lack of pavement makes it difficult to determine how many parking spaces are provided, including handicap accessible spaces required under the law, i.e. the ADA.**

**AMENDED:**

**Recommend approval of the requested use variance. In 1975, the County Board granted a B-3 zoning classification on the property to the immediate south of the subject property after staff recommended denial. The City of Springfield has also granted a use variance to allow a motorcycle repair business on a residential property in the area. The City of Springfield 2020 Comprehensive Plan calls for the area to be industrial, given its proximity to the airport. Hence, as this area is also in the City's 1.5 mile extraterritorial jurisdiction, it could conceivably be annexed to the City in the future. In the absence of annexation to the City, and given that the City's comprehensive plan calls for the whole area to be industrial, and given that there is a slight trend toward business uses in the vicinity, staff sees the B-3 zoning classification to the immediate south as setting a precedent that could contemplate a use variance for the subject property. If the use variance is approved, staff recommends the following conditions: that the petitioner will hook up to a public**

**water supply with adequate fire suppression measures as quickly as possible; that all work will be done inside the existing accessory three (3) bay garage building, limited to an approximately two thousand four hundred (2,400) square foot area of the existing building; that there will no outside storage anywhere on the subject property other than three (3) cars to be worked on at a time; and, that the hours of operation will be Monday through Saturday from 7:00 AM to 5:00 PM. Many of these conditions were granted in a similar use variance recommended in Case # 2014-026.**

**Recommend approval of the variance for two (2) principal uses on the subject property. Given the recommended approval of the use variance, the two (2) principal uses variance is necessary to complete the request.**

**Recommend approval of the requested variance from paved parking for a period not to exceed two (2) years. The construction business at 719 Estill, i.e. the B-3 lot mentioned above, has paved its publicly accessible parking area, including the driveway apron. Allowing a two (2) year period to pave the parking area will not have any additional negative impact on the immediate area.**

Sean Bandy was sworn.

Sean Bandy stated he is requesting a use variance to allow an automotive repair shop in my garage and a variance to allow 2 uses.

Chairman Chimento asked if there were any questions.

Committee Member Mares asked if this was a continuance from last month.

Sean Bandy stated yes.

Chairman Chimento asked if there were any objectors...hearing none.

Staff, Molly Berns, stated that she would like to amend the staff recommendation. (amended above).

**Committee Member Wulf makes a motion to recommend approval as amended by staff.**

**Committee Member Mares seconds the motion.**

**Motion carries 5/0/0**

**Docket 2015-022 for property located at 1401 E. Cottonwood, Springfield, IL. 627003**

PETITIONER(S): Janet Cripe

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: “R-2” Single & Two-Family Residence District

REQUESTING: “B-2” Retail Business District and a variance to allow two (2) principal uses on one (1) parcel

STAFF RECOMMENDATION: Recommend denial of the requested rezoning to B-2. The amendment is seen as spot zoning and is not appropriate given the residential nature of the area. However, a use variance was granted by the County Board in 1995 for a dance studio (Case 1995-05) creating an historical precedence for the subject property and indicating that the County Board thought this to be an appropriate second use for the property, and as such staff believes that this precedent warrants a use variance. Therefore, recommend approval of a use variance to allow a dance studio. Recommend approval of the variance request to allow two (2) principal uses on one (1) parcel with those being a church and a dance studio. The variance request is necessary to support the requested variance to allow the dance studio. The standards of variation are met.

No one was in attendance to speak on behalf of the case.

County Board Member Tjelmeland spoke about what the petitioner is requesting. No additional testimony was given.

**Committee Member Wulf makes a motion to recommend denial of the B-2 but, in the alternative, grant a use variance and variance as staff recommended.**

**Committee Member Spiro seconds the motion.**

**Motion carries 5/0/0**

Meeting adjourned.

Respectfully submitted,

*Cyndi Knowles*

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Recording Secretary

*Charles Chimento*

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Chairman

Minutes of July 16, 2015

Full record of minutes available upon request in the Zoning Department