

Sangamon County, Illinois
ZONING BOARD OF APPEALS

The Zoning Board of Appeals met on May 21, 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
() Committee Member Wulf	(X) Committee Member Herbert
(X) Committee Member Spiro	(X) Alt. Committee Member Lucchesi
() 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
Trustin Harrison, Zoning Inspector, Sangamon County Zoning

Chairman Chimento called the meeting to order.

Docket 2015-008 for property located at 1664 & 1668 N. Farmingdale Rd., Pleasant Plains, IL. 62677

PETITIONER(S): Stacey Stubblefield

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: “R-1” Single-Family Residence District

REQUESTING: A variance to allow two (2) principal uses on one (1) parcel; a variance to allow a single-family residence to be within four (4) feet of a rear property line instead of the required twenty (20) feet; and, a variance to allow a garage to be within three (3) feet of the required side yard property line instead of the five (5) feet minimum.

STAFF RECOMMENDATION: Recommend denial of the variance request to allow two principal uses on one parcel. A basic premise of a zoning ordinance is to allow the continuance of legal, but non-conforming uses, frequently called “grandfathered” uses. However, the Sangamon County Board has imposed limits on how long a property can sit vacant prior to requiring the property owner to bring the property into compliance. This period has been set at six (6) months per Section 17.64.040 of the Sangamon County Zoning Ordinance. The basis for this case is the two residences on the subject property lost their legal non-conforming status because they sat vacant for a period in excess of six months.

The petitioners assert that the two existing residences and the garage have been in place for over sixty years. Aerial photography does indicate the existence of three buildings on this site in 1969. While there have likely been two residences on this property for an extended period, there are other properties in the county with two residences that have not been vacant for a period of six months. The petitioners did not assert any unique circumstances to the property to justify the variance request. Furthermore, the lot is one-half (1/2) acre in size. A lot of this size does not support two (2) residential units because there is insufficient space to handle septic system capacity.

Recommend denial of the variance to allow a single-family residence to be within four (4) feet of the rear lot line instead of the required twenty (20) feet. The petitioner did not assert any reasons to justify the variance request in the petition beyond the age of the property, and to caution that division of the subject property could result in two parcels less than one (1) acre each.

Recommend approval of the variance to allow a garage to be within three (3) feet instead of the minimum five (5) feet of the side lot line. While the garage is in a side yard, there is less of a detriment to the public interest in allowing a garage that is accessory to the residence to continue to encroach into a required setback than in allowing the second residence on the subject property.

Jason Adacott and Rodney Ashbury were sworn.

Jason Adacott stated that they are asking to allow a 2nd residence on the property. Both houses have been there for 60 plus years and I guess the grandfather status had run out. We would like a variance to reinstate the grandfather clause.

Chairman Chimento stated that they have had this property for almost 2 years.

Jason Adacott stated that they purchased it on 7-8-13.

Chairman Chimento asked if they have done anything with it since.

Jason Adacott stated that they just started on remodeling it.

Chairman Chimento asked how did you come about to find that you were no longer grandfathered.

Jason Adacott stated that they went for a bank loan to do the remodeling and needed a letter from the Zoning Department.

Chairman Chimento asked if there were any questions.

Committee Member Spiro asked what would happen if you were denied the variance? How would that impact you?

Jason Adacott stated, severely, my son is coming back, with my 2 granddaughters from Pennsylvania. He is looking for a job and I am established out here. My granddaughters would have nowhere to live.

Committee Member Mares asked what will be the end result.

Jason Adacott stated, the property will make no profit. My son will live there until he is up on his feet. Once that happens, he will move out, all her family is here but my family is from Pennsylvania. When they come out to visit, they could stay in their own place, in the house behind us but on the same property.

Committee Member Mares stated, so then the request is to have a variance...

Chairman Chimento stated, do you remember this one from last time; this is the one we continued.

Committee Member Mares stated, what are we trying to do?

Jason Adacott stated, the property had 2 houses on it and the banks will not loan on it because they are saying it is illegal.

Committee Member Mares stated, that I am pretty sure that even if a variance is granted, that you still will not be able to obtain a loan. You might want to check with your lenders first.

Jason Adacott stated, we have already done that; he has dealt with the lenders for over 30 years. All we need is the variance and the lenders are set to go on the loan.

Chairman Chimento asked if there were any questions.

County Board Member David Mendenhall stated that he has 2 questions. 1 is for the petitioner Are there 2 septic systems and 2 wells on this property.

Jason Adacott stated that they have city water, well Curran/Gardner water and 2 septic's.

County Board Member David Mendenhall stated, my next question is for professional staff. Molly, has the staff recommendation changed from last month, and if so, why?

Staff, Molly Berns stated, no it has not. I do feel and have empathy for the petitioner but, from a professional staff perspective, we look at the history of a case, how long the property remained vacant and non-compliant. We then make a decision; our main stumbling field on this one is that it is only a ½ acre lot. Then it has the 2 houses and the garage as well. It is a lot of floor area ratio on one parcel to be able to handle the septic infrastructure. Bottom line is, no we haven't, no evidence has been presented to us that would change our position. It is one of those cases that where to allow 2 single family residences on a lot of this size, in our opinion is, more planning principals and it sets a

more negative precedent for future cases of this nature that might come forward before this board.

Rodney Ashbury stated that right down the street there is a duplex on a 60 X 120 size lot.

Chairman Chimento stated that they are not up for zoning, you are.

Staff, Molly Berns asked the petitioner, if it was 2 parcels before, why don't you just split them back apart.

Rodney Ashbury stated that the Zoning Staff stated that they could not split it apart.

Staff, Molly Berns then asked, if it at one time had 2 parcel numbers.

Rodney Ashbury stated no, it has always been 1 lot however; it is the size of 2 lots compared to all the other lots out there in the area.

Staff, Dwayne Gab, States Attorney Office, I wasn't here last month and I did not get to review the case. The memo that was provided was simply procedural, it had nothing to do with the facts for this particular case. The memo addressed, and this has come up before, where the County Board has remanded back to the ZBA for findings of fact. If you do not follow staff analysis, you have to make a different findings of fact. So I believe the legal counsel you sought had nothing to do with factual situation in this case. What you were concerned about was if you came to a conclusion different from the facts, that you actually make a ruling at this tribunal that would be supported by finding of fact. I wasn't at the last meeting but what I got was just a procedural question, meaning, how do we do this if we want to do this right.

Chairman Chimento asked if there were any more questions...hearing none. Any objectors?...hearing none.

Chairman Chimento read recommendation and asked for a motion.

Committee Member Lucchesi makes a motion to recommend approval of the variance. Standards given were:

Purchaser relied upon information from officials that the property could be utilized the same as the prior use dates, yielding a reasonable economic return.

The property has been used in the past as two residences and a garage on one lot and there appears to have never been an intent to abandon the property.

The variation will not alter the essential character of the location or the past history usage of the property.

Committee Member Spiro seconds the motion.

Motion carries 5/0/0

Docket 2015-014 for property located at 1120 Willowbrook Dr. & 4065 Oakbrook Ct., Springfield, IL. 62711

PETITIONER(S): William R. & Janet E. Muncy & Dorothy J. Smith

OBJECTOR(S): None

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

REQUESTING: “R-2” Single-Family and Two-Family Residence District with a variance to allow a rear yard setback of six (6) feet instead of the required twenty (20) feet.

STAFF RECOMMENDATION: Recommend approval of the requested variance. Given the placement of the structure on the corner lot, the existing rear yard is quite small for the condominium unit in question. If the petitioner seeks to convert the condominium into a zero lot line duplex in the future, other zoning variances may be required. The standards of variation are met.

William Muncy was sworn.

No additional Testimony was given.

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

Committee Member Mares seconds the motion.

Motion carries 5/0/0

Docket 2015-015 for property located at 2801 Ridge Ave., Springfield, IL. 62702

PETITIONER(S): Jacob Mitrione

OBJECTOR(S): Yes

PRESENT ZONING CLASSIFICATION: “B-2” Retail Business District

REQUESTING: “B-2” Retail Business District with a Conditional Permitted Use for a tavern and a variance to allow a tavern property line to be seventy-two (72) feet from a residence instead of the required one hundred (100) feet.

STAFF RECOMMENDATION: Recommend denial of the CPU to allow a tavern in the B-2 district. There is no indication from the evidence submitted that the petitioner intends to limit the square footage of the requested CPU. There is also a concern with allowing what could be a relatively large tavern, which is considered to be a potentially intense use, adjacent to an established residential neighborhood. Recommend denial of the requested variance. The property contains a commercial building that is suitable for various uses permitted in the existing B-2 district for which an economic yield can be obtained. It is questionable whether there is a public benefit to allowing a tavern at the proposed location relative to the residences in the area.

Jacob Mitrione & Herman Louise were sworn.

Jacob Mitrione stated that they were hoping to open a gaming parlor. I was informed that you have to obtain a liquor license in order to obtain a gaming license. I just want to inform the board that it is not my intention to have a tavern. It is my understanding that you have to have the CPU for a liquor license and a liquor license in order to have the gaming. I do not want a full blown tavern at all.

Chairman Chimento asked if he was closing the car lot.

Jacob Mitrione stated yes.

Chairman Chimento asked if the hours of operation were going to be 8 am to 1 am.

Jacob Mitrione stated he believes they will be from 9 am to 1 am. Actually I believe it says 10 am to 1 am on the paperwork.

Committee Member Herbert asked how many gaming systems he intended to have.

Jacob Mitrione stated 5.

Committee Member Spiro asked what made him decide to do this rather than the car lot.

Jacob Mitrione stated that he has been in the car lot business for about 10 years not. There has just been a lack of interest lately so I wish to make changes to keep the property maintained and making money. I believe there is a big interest in the gaming industry at this time.

Committee Member Herbert stated she had a question for staff. In regards to space of parking rather than defined, how many will you have that is reasonable?

Staff, Molly Berns stated that at this time, there is no official parking determination. Based on the Zoning Administrator, it would not necessarily be based on the number of gaming machines because he is going to be using the entire building, it would be based on the public space and size of the building. Unfortunately that is not part of the petition

or known yet. It appears that there is ample parking there, has it been measured...I can only attest to what we saw on our site visit, there is no official parking yet.

Herman Louise stated that he will only be using the front of the building. Back towards the back is a garage area where he use to work on the cars.

Committee Member Spiro asked what they would use the garage area for.

Jacob Mitrione stated it would be used for storage purposes.

Staff, Molly Berns stated that she is a little unclear. So the gaming is going to be in the front of the building and what is going to be in back, on the north side?

Herman Louise stated that it was a garage and will remain a garage.

Staff, Molly Berns stated, you said something about detailing work?

Herman Louise stated, yes, in the past, it was part of his car lot.

Jacob Mitrione stated, it is part of the business of the car lot. It is still open and running.

Staff, Molly Berns then asked, how many businesses are going to be at this location?

Jacob Mitrione stated, one. I want to make it just a gaming parlor. I will dispose of the car lot.

County Board Member Jason Ratts asked how much square footage will you be using for the gaming parlor.

Jacob Mitrione stated that he could not give an exact square footage at this time. Approximately 1,200 square feet.

County Board Member Greg Stumpf asked how many square feet is the building.

Jacob Mitrione stated around 2800 square feet. The majority of that is garage though.

County Board Member Greg Stumpf asked professional staff, the way he is presenting this, he is asking for a tavern that will be approximately 2900 square feet, which could turn into a full blown tavern, is that correct?

Staff, Molly Berns, stated that is correct.

County Board Member Greg Stumpf stated, so all the other...my understanding is that we zone for a tavern, not a gaming parlor.

Jacob Mitrione stated, that is my understanding also.

County Board Member Greg Stumpf stated, we have cut that down to roughly a 1,000 square foot area, is that correct.

Staff, Molly Berns, all the other petitions that have been around have been around or under 1,000 square feet but I do not believe that has been requested in this petition.

Jacob Mitrione, if I need to be in a smaller square footage, I can accommodate. We can factor in the way of this, we can remodel or construct it to the regulations that you all see fit.

Chairman Chimento asked if there were any other questions....hearing none. Any objectors.

Staff, Molly Berns, where there are no objectors here this evening, we do have a written objection. My apologize for not getting them out earlier, it came in late.

Committee Member Mares asked staff if the petitioner has had a chance to review this.

Chairman Chimento stated that now that you have had a chance to review, would you like a rebuttal?

Jacob Mitrione stated that he believe that everyone is thinking this will be a full blown tavern and that is not my intent. There is a gaming parlor 2 blocks down, I don't know why I wouldn't be allowed to do the same thing. I just want to continue my livelihood. Once again, I didn't want a tavern. This was presented to me when I applied for the gaming license.

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

Committee Member & Chairmen Chimento seconds the motion.

Motion carries 5/0/0

Docket 2015-016 for property located at 601 North Oak Rd., Rochester, IL. 62563

PETITIONER(S): David Goranson

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: "A" Agricultural District

REQUESTING: For Proposed Lots 1 and 2: "R-1" Single-Family Residence District; Proposed Lot 2: "A" Agricultural District with a variance to allow the lot depth to be

greater than two and one-half (2.5) times the lot width; and for Proposed Lot 3: "A" Agricultural District with a variance to allow one (1) parcel less than forty (40) acres.

STAFF RECOMMENDATION: Recommend approval of the requested R-1 zoning for proposed Lots 1 and 2. The LESA score of 143 indicates the subject property is acceptable for non-agricultural development. Recommend approval of the requested variances for proposed Lots 2 and 3. Granting the variances will allow the owner to separate the existing residence (proposed Lot 1) and a possible future home site (proposed Lot 2) from the tillable acreage (proposed Lot 3). It would be difficult for proposed Lot 2, i.e. the possible future home site, to be economically converted to agricultural usage given the varied terrain, the stream, and the timber area. The standards of variation are met.

Roger Leach was sworn.

No additional testimony was given.

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

Committee Member Spiro seconds the motion.

Motion carries 5/0/0

Meeting adjourned.

Respectfully submitted,

Cyndi Knowles

Recording Secretary

Chairman

Minutes of May 21, 2015

Full record of minutes available upon request in the Zoning Department