Sangamon County, Illinois
ZONING BOARD OF APPEALS

The Zoning Board of Appeals met on April 19, 2018 at 7:00 P.M. in the County Board Chamber in the County Complex.

ATTENDANCE **(X) denotes present**

(X) Chairman Chimento
(X) Committee Member Wulf
(X) Committee Member Spiro
(X) Committee Member Lathan
(X) Committee Member Mares
() Committee Member Sudeth
() Committee Member Beaty

STAFF PRESENT:
Molly Berns, Assistant Director, Spfld-Sang County Regional Planning Commission
Emily Prather, Associate Planner, Spfld-Sang County Regional Planning Commission
Steve Keenan, Senior Planner, Spfld-Sang County Regional Planning Commission
Dwayne Gabb, Assistant States Attorney, States Attorney's Office
Dan Mosher, Assistant States Attorney, States Attorney's Office
Trustin Harrison, Zoning Administrator, Sangamon County Zoning

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Chairman Chimento called the meeting to order.
Approval of March 15, 2018 Minutes

Committee Member Don Wulf made a motion to approve the March minutes.

Committee Member Andrew Spiro seconds the motion.

5/0/0

Docket 2018-010 Giodom LLC Series 5 for property located at 11380 Darnell Road, Mechanicsburg, IL 62545

PETITIONER(S): Giodom LLC Series 5

OBJECTOR(S): Yes

PRESENT ZONING CLASSIFICATION: A w/CPU for a campground with a watchman's quarters

REQUESTING: Petitioner requests a rezoning from "A" Agricultural District to "B-3" General Business District; a variance to allow three (3) uses on one (1) parcel: (1) campground, (2) banquet hall, and (3) inside storage; a variance to allow a previously granted Conditional Permitted Use (CPU) for a campground with a watchman's quarters (2012-037) in a "B-3" General Business District; and, a variance to allow the side yard

property line on a corner lot to be zero (0) feet instead of the required seven and one-half (7.5) feet.

Steve Luparell was sworn in.

Luparall: I have a piece of property and bought a year ago; looking to do a wedding venue. I plan on moving into the home that's on the property and using the building that's adjacent to the home as storage and the other buildings as a campground (what it has been last 30 years).

ZBA Chimento: Are you applying for a liquor license?

Luparell: I plan to yes, I don't know too many "dry" weddings.

ZBA Chimento: How many weddings do you plan on in a year?

Luparell: The research I have been looking at has been booked out 2 years…2019/2020.

ZBA Chimento: You figure there's a pretty good demand for your business?

Luparell: Yes, it's a country venue and that's really "hot" right now.

ZBA Chimento: Anyone have any questions?

CB Mendenhall: Mr. Luparell would you specify each building and its use?

Luparell: Building #1 for boat storage and winter storage/personal storage. Building #2 for the wedding venue. Building #3 for a single-family residence and I plan to live there. Building #4 is a 3-4 year project and it's a commercial kitchen and my intent it to get that up and running so I can utilize it for catering for wedding events. Building #5 is the 5-car garage and I have all my tools and lawn mowers.

ZBA Chimento: Any objectors?

Kirk Patton (10750 Darnell Road) was sworn in.

Patton: My question is that it will/will not fall under Sangamon County building code requirements? As far as building & zoning?

Harrison: Yes, all the codes will be required and will have to be met; of course the zoning has to be passed first. He has already applied for building permits thru the County. As he moves forward for any other projects he will have to get building permits, which all building permits have to be approved through the zoning department, too. Anything that he's doing we have to verify that the use will be allowed.

Patton: So, he has to follow the fire sprinkler code and ADA, occupancy, water filtration systems?

Harrison: Yes, that is correct. Any codes applied here in County he has to comply and apply for.

Patton: We are in a rural area. How will law enforcement be enforced, is it going to be strained with this additional volume of people?

Harrison: Unfortunately, I don't believe we have any law enforcement here to answer/support that question.

Patton: Next question, roadways/infrastructure…our roads are already in poor condition. Is there going to be funding set aside to repair the roads and be able to handle the workload?

Harrison: There are no funds set aside for this; that would be through the subdivision process.

Patton: I am talking about the main roads…Darnell specifically. What type of water retention?

Harrison: That would be an erosion control permit…any use or disturbances of dirt…he would have to obtain an erosion control permit.

Patton: I haven't seen the County enforce the code that was enforced on me 3 years ago when I built my home…and disturbances of dirt being dumped in to the County ditches. I am perplexed because I know these codes exist.

Harrison: The hearing tonight we are dealing with the issues in regards to the zoning and anything that will be applied to him through the building code would have to be applied through the building department. So, the issues tonight will be specifically to the zoning issues and the use of the property.

Dwayne Gab: Call of Point of Order. I appreciate his questions and input, but sir this is your opportunity to bring up points and testify your concerns to the ZBA. We are looking for your viewpoints rather than a questions and answer period. If you have further questions you will need to contact the zoning administrator.

Patton: My concerns are basically how project will go moving forward.

CB Greg Stumpf: I just want to say everything you just said can be used with your County Board Member or law enforcement and next month at County Board meeting we will "hash" all this out and discuss further….and if this hearing was passed…he will still have to meet all the other codes/regulations.

Attorney Matthew Cate was sworn in.

Attorney Cate: [summarizes a written objection letter by Dorothy Taft].

ZBA Chimento: Any questions?

Hearing none…next objector

Phil Sidles (11624 Darnell Road) was sworn in.

Sidles: I currently am a tenant to the property to the East side of the property. I am concerned about the changes coming to the area. Two of the variances that staff has suggested doesn't really concern me too much. I farm on the property next door to that…I am concerned due to the water table on the livestock farms. All of my water is dependent on the wells and water table. The increase in traffic concerns me and water usage in the past…seems like a negative impact to me. I am also concerned about the liquor license…we have 3 taverns and 2 package liquor stores already within 5 miles of the property. My second concern is the noise. I am worried about the loud music and going late into the night.

ZBA Chimento: Any questions?

ZBA Wulf: Where is your home in relation to the property?

Harrison: I am to the East.

Sidles: As far as the banquet halls go….what are the parameters of the music and alcohol? Are those maintained within the building or can they be exposed outside? Outdoor concerts? Three potential uses to this property…it could be multiple businesses.

Gab: You are getting into a compound question and may be difficult to answer.

Harrison: The liquor license that he would request is a 1K Caterer's permit and it will be held just for the catering event just for the wedding/s or events. The way it's stated as far as banquet hall is he would like to use both the buildings as banquet halls but the way staff has written their recommendation there would only be 1 banquet hall going at a time. It would be limited to one. The noise coincides with the liquor ordinance and have enforcement. The noise will be limited to indoors and there is a statement within the liquor ordinance that limits the noise.

Sidles: The noise would be contained indoors? No outdoor concerts?

Harrison: According to the request...no it will be limited to the banquet hall and that's the way the liquor license will be granted, as well.

CB Hall: I just wanted to say there's a theme going on in the County who have bought land, built something and come before us and say "Well I have paid so much for this and I have to do something with it. Is it the role of the CB to help people clean up the properties? Did you purchase the property expecting to have these or as it is right now?

Luparell: [summarizes why he bought property]. I went out there to buy restaurant equipment. My understanding is campground has been around 30+ years and had no clue it was zoned agricultural. The price was right… "I'm in". I saw a lot of potential at this property.

Michael Boggs (1168 Darnell Road) was sworn in.

Boggs: Building #4 possible commercial kitchen… of course the money spent the kitchen will become a restaurant and full-service bar. I'm not here to represent the school board of Tri-City (I am on the board) and would we love to have the tax revenue? Yes, we would; however, my opinion our school has devoted a lot of time and resources to protecting the children. I feel it's my duty as a parent to protect kids from drunk drivers leaving these venues. Building #1 being a storage facility…is that going to be strictly indoor? Because currently there's a boat sitting outside.

Stephen Petrilli (1751 Young Road) was sworn in.

Petrilli: My concerns are the use of the former bunk-houses. I am concerned will be used as housing…once changed from Agriculture to B-3. I do have a concern with open air venues taking place as far as the noise. I am not that far from that subject property. I agree about Mr. Luparell bought the property knowing it was zoned agricultural. My additional concerns is once you grant liquor licenses the next steps are…ATM, video gaming and nightclub/bars. We have Buckhart Tavern down the road and 3 or 4 places in Mechanicsburg. We have enough traffic as it is. I am concerned about drunk driving and the traffic.

Lisa Schmidt (??) was sworn in.

Schmidt: I am here to support Steve. I know when I travel…people will spend money at hotels/restaurants in surrounding area. I understand drunk driving a concern but I don't think that's what we need to focus on. I own RV and I spend money when I travel and I see many positive aspects of this project.

ZBA Chimento: Ok, Mr. Luparell you have a chance to rebuttal.

Luparell: I have heard many times…that I knew what I bought when I purchased the property. I had no clue. The only reason I want a liquor license is to benefit the wedding venue. I had no idea that this was agriculture…I always thought this place was a campground.

ZBA Chimento: The campground was there before 198, our zoning ordinance didn't come in effect till 1969.

Dwayne Gab: Its "grandfathered" in the campground…you can have the campground. The questions is the multiple uses in addition to the campground.

ZBA Chimento: Will you still be operating the campground?

Luparell: Absolutely.

Molly Berns: The campground with the watchman's quarters will remain…you have the authority to maintain those under the current zoning.

Luparell: Ok, so this isn't about the campground? Its mainly for the banquet hall.

Berns: Yes, the banquet hall that is what triggered this.

Luparell: Ok, I heard another concern about the water. There are 2- 12,500 reserve tanks for the well system that's sitting on the property already. i don't see an issue down the road to maintain those.

ZBA Chimento: Where are you going to get the water to fill the tanks?

Luparell: You can get bulk water service for $150 to fill both, that's not a concern in my opinion.

CB Mendenhall: I agree with you Mr. Luparell that it's been a campground forever. I have lived within 5 miles of there my entire life and farmed within 2 miles of there my entire life. I have never seen 1,200 kids there at any time…if there were 1,200 people there within a year time…that's a lot.

ZBA Mares: The uses of the property…have we talked about issues in regards to parking? And also access in the event of an emergency situation? Capacity of the halls? Adequate fire/police enforcement?

Harrison: The site plan in front of Building #2 they have already torn out this area for parking and anything based on the occupancy of that building he will have to meet parking requirements. I asked during our meeting if Mr. Luparell thought he would need a variance for the parking requirements. He did not. The occupancy is handled through the building department. The fire safety is a question that I can't answer.

ZBA Lathan: Where is the space for the parking lot?

Harrison: The parking lot is near Darnell Road in the North in front of Building #2.

ZBA Chimento: Read Staff Recommendation.

<u>STAFF RECOMMENDATION:</u> Recommend denial of the requested B-3 zoning. The uses permitted in the B-3 district are too intense for the immediate area and considered spot zoning. The LESA score of 155 indicates the property is marginal requiring mitigating factors for non-agricultural development. However, due to the property being used as a campground since the 1960's, it is unlikely that the property could be

economically converted to cropland. Therefore, staff recommends approval of a Use Variance in the Agricultural Zoning District and three (3) uses on one parcel to allow a banquet hall and inside storage in addition to the existing campground (with a watchman's quarters). Recommend approval of the corner side yard variance. Granting the variance will bring the property into compliance with the current regulations and have no negative impact on the immediate area. The Standards for Variation are met.

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

Committee Member Charlie Chimento seconded the motion.

Motion fails 2/3/0

*Dwayne Gab: You ruled against the motion, so you will need to do your own findings and recommendation to the Sangamon County Board. You need to decide what you're going to allow to the findings to the denial. Perhaps one of the "nays" would be the trend of development not in conformity.

ZBA Wulf: I am not against business but #1 I really do believe this is spot zoning in that area and don't think it's a situation that calls to have a business. The closest business to there is at the tavern on Mechanicsburg Road.

Dwayne Gab: Suggest what variance, if any that you are wanting and clarify.

Molly Berns: I have the findings in front of me and in no way nullifies staff's recommendation. If you aren't in favor of the banquet hall…then state why it's not compatible with the trends in the area. And that related to the benefit of the community provide your reasons against the negative impacts to the banquet hall in your opinion.

ZBA members discuss their findings

ZBA Lathan: Explains her "nay". I took in consideration the testimonies as well as the documentation from staff and objection statement. *Explains her reason for her vote.

ZBA Mares: We have had other individuals in similar situations and when variances were recommended by staff there was a clear outline of what was going to be expected and issues in the past with other zoning cases in regards to 911, water issues, etc. so usually they are clearer and laid out.

Molly Berns: the main problem we are hearing is the banquet hall…the easiest way if someone going to amend refer to page 6 and to remove anywhere that it references banquet hall. The campground and the watchman's quarters will remain along with the inside storage granted. On page 1 under the analysis again remove one of the uses under banquet hall and then will just be 2 uses to allow for the existing campground with the watchman's quarters and inside storage.

Dwayne Gab: This is not a change in staff recommendation. This is an assist for you to get a motion that you can vote on.

ZBA Wulf: I move to adopt the suggestions by staff with the changes they have suggested referencing the banquet hall.

Dwayne Gab: So you mean you want to adopt staffs suggestion of following through with the orientation?

Committee Member Don Wulf made a motion to recommend approval of staff suggestion on the banquet hall.

Committee Member Tony Mares seconded the motion.

Motion carries 4/1/0

Docket 2018-011 Glenn Braker & John Braker for property located at 17000 Block of Mansion Road, New Berlin, IL 62670

PETITIONER(S): Glenn Braker & John Braker

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: A

REQUESTING: Petitioners request a variance to allow one (1) parcel less than forty (40) acres (approximately 3 acres) and a variance to allow a parcel without public road frontage.

Attorney Sheehan sworn in.

Attorney Sheehan: I am representing John & Glenn Braker. John and Glenn are the co-owners, as tenants, in common of a parcel of land that is approximately 77.5 acres; currently 47 acres is in Sangamon County and 30 acres is in Morgan County. Their mom had a lifetime interest in property and is now deceased. John & Glenn own the property as tenants in common and they wish to divide the property so that each owns individually a portion of it. And in order to do so and have value of the land and the way it's farmed…they had a preliminary survey and the odd thing about the case is the Morgan County/Sangamon County line runs diagonally thru the property. So, when we make our division we end up with an "orphan triangle" highlighted in yellow in Sangamon County that will go with most of which is in Morgan County and not possible to combine for tax purposes because have two different Counties and one owner. The result is we end up with 3.214 acres more or less as a result of this division that is land locked, no frontage and is under the required minimum acreage. We are asking for a variance to allow the creation of that parcel. We have specified on survey this parcel will be non-buildable.

ZBA Chimento: Asked if any questions by ZBA and County Board? Hearing none read the staff recommendation.

STAFF RECOMMENDATION: Recommend approval. Granting the variance would facilitate a division of the property to help settle an estate. The property is and will remain in cropland. Given that the approximately three (3) acre parcel to be created will be landlocked, cropland is the only allowable use for the subject property. No change in land use is contemplated. The Standards for Variation are met.

Committee Member Tony Mares made a motion to recommend approval of staff recommendation.

Committee Member Don Wulf seconded the motion.

Motion carries 5/0/0

Docket 2018-012 Michael Hoyle for property located at 12750 Edgewater Way, New Berlin, IL 62670

PETITIONER(S): Michael Hoyle

OBJECTOR(S): Yes

PRESENT ZONING CLASSIFICATION: A

REQUESTING: Petitioner requests a variance to allow the side yard setback to be approximately seven (7) feet instead of the required ten (10) feet and a variance to allow the lot depth to be greater than two and one-half (2.5) times the lot width.

Attorney Tom Pavlik and Michael Hoyle were sworn in.

Attorney Pavlik: We pulled our petition previously because the County Board was under false facts. We are here asking for two variances…1 is on the setback and 1 is on the lot depth variance. The lot depth is granted and reasons they stated are accurate and the way the parcel was created when platted. The setback is more difficult and the history that explains this. There's an addendum Exhibit 1 2009 zoning petition and he was granted a 10' setback. One of the things that's important in 2009 is that he is building a 90'x 25' building. The County staff findings go on to say that the residents to the South (Elam's) had no objections to a 90' x 25' with a 10' setback. 2012 when Mr. Hoyle had the money and applied for a building permit to construct this building. The building permit is Exhibit 2 and important to look at that because the building permit 90' x 25' x 16' building and a sketch showing that. The building permit was executed by Pat Patterson, who was Mr. Hoyle's contractor. Mr. Hoyle never changed the layout of the building and he built a 90' x 25'x16' building and complied. Pat Patterson poured the concrete pad

wrong on the east-west access. The east it's off 1 ½ inches and on the west little less than 2 ½ feet.

Harrison: The variances granted 15' instead of required 30' for the front yard.

Attorney Pavlik: They were confused over what the setbacks were when they said back I think they thought that was the side.

Hoyle: My understanding was that it was always supposed to be 10' on the sides.

Attorney Pavlik: Yes, thank you, but we are talking about a 10' setback to the south.

Attorney Pavlik: We are here again because of a 2 ½ foot mess up on the south and a couple inch miss to the east on a setback. The structure is not on the Elam's property. I believe the Elam's will say this building is an eyesore and it blocks light. I don't think 2 ½ feet makes a difference and again this is exactly what Mr. Hoyle always said he would build. The Elam's requested $30K for an easement…that was re-buffed. Mr. Hoyle talked to the objectors and agreed to have an appraisal done and it came back at $64,500 and Mr. Hoyle agreed to pay that and they couldn't reach an agreement. The offer was rejected. Mr. Hoyle did ask for a variance and did get a building permit. It was an innocent mistake on the contractor's part and he has no re-course against the contractor. And moving the building could really do some damage. In 2009 the objectors didn't object to the building and now years later are objecting to 2 ½ feet setback.

ZBA Chimento: You mentioned $30,000…what was that for?

Mr. Hoyle: The appraised value was rejected and the easement cost was $30,000 is what Jenny's son threw out there. The purchase of the easement would resolve the issue is what they were saying.

Dwayne Gab: Point of order on negotiations with adjacent owner. It's not important to the zoning.

ZBA Spiro: The denial of the setback variance would require the building be removed?

Harrison: The building either be moved or removed…yes, to meet the side yard setbacks.

ZBA Chimento: Any objectors?

Jenny Elam was sworn in.

J. Elam: My objection is there is no mention of $30,000 for an easement…I did tell him that if he gave me a reasonable offer I would sell it, but I won't sell it for less than $80,000. The appraisal came in at $64,500. He offered me $5,000 for an easement settlement but I refused that as well. I can't get back to my yard unless I go out around my building. I have to readjust my fencing so I can get to my backyard. Is there any way

to show my house on there with the building? The building is so huge and close to my house.

Harrison: Explains the aerial with the house and building. The property lines are reference only. This does not represent 100% accurate property lines.

J. Elam: I had it surveyed twice. The first time it was by Joe Green and a stake was found in back but no pin found in the road.

Dwayne Gab: You can't rely on that picture for the accuracy for the property line because it's not accurate.

J. Elam: The first surveyor didn't finish the job and the other survey has been done and put into the record. She continued discussing the property lines. My problem is I can't get to my backyard and I feel like it's depreciated the value of my property.

ZBA Chimento: Isn't Hoyle's building all on his property?

J. Elam: Yes it is, but not the 10'.

ZBA Chimento: So, you have to get on his property to get in your backyard?

J. Elam: Yes.

Attorney Pavlik: They are trespassing through Mr. Hoyle's property to access their backyard.

ZBA Wulf: When was your home built?

J. Elam: We moved in 1977. We built maybe 5 years before that.

ZBA Wulf: What were the setbacks in 1977?

Harrison: The setbacks have not changed since today…would have been 30' front, 10' sides, 30' rear.

ZBA Wulf: So she's technically in violation?

Harrison: Yes, that's correct.

ZBA Wulf: How long has the building been there?

J. Elam: It has been there 5 years. We were never told the dimensions of the building.

Harrison: The original petition in 2009; there was documentation provided on the dimensions, and you were notified.

CB Scaife: For clarification…has the building been there since 2009 or 5 years?

J. Elam: No, since 2012.

CB Scaife: How come there's issue now?

J. Elam: I would like to know that I can sell my property without any boundary issues but I just want to know that I can sell it.

Matt Elam was sworn in.

M. Elam: The reason this is coming about is because my father has passed away and my mother needs to sell the property. The building is encroaching on property. You can't get in between the two buildings because it is less than 10' and yes we have to trespass on Mr. Hoyle's property because there's no access. The second issue is if we decide to sell the house her property taxes are $75,828 appraised and the commercial size building is the cause and diminishes the value of your property. It has a lift in it and a commercial building in a residential area. $65,000 appraisal. *Goes on to discuss financial issues*

ZBA Spiro: What is in backyard that you have to drive to it?

M. Elam: There is a pool and the gate to get back there to mow. There is an open building permit and nothing ever was signed off on and nothing has been finalized.

CB Scaife: Clarify on building permits.

Harrison: Mr. Hoyle applied for building permits and never a final inspection by the building department but currently there have been inspections by the County.

ZBA Chimento: His building is on his property?

M. Elam: It is, but it's over the setback.

ZBA Chimento: Don't you have a setback?

M. Elam: I believe ours is 7' setback.

ZBA Chimento: You have a fence down the north side?

J. Elam: Yes, Mike thought the fence was the property line.

M. Elam: he went off the cyclone fence that's there and we actually set the fence off the property line by 2' to 3'.

ZBA Mares: Were the setbacks in compliance? Her house built prior to 2012.

Berns: Trustin already gave his best interpretation of setbacks on both parties building permits and compliance to setbacks.

ZBA Wulf: The zoning question is about that building and whether we are going to approve a variance or not.

Berns: That's correct and when a person accesses their property in rear yard, it should be through their own property not the neighbor's. The zoning case for 12750 Edgewater Way are whether the findings of fact are met to meet a setback variance.

ZBA Chimento: Any other questions?

Attorney Pavlik: I have stated Mr. Hoyle's case and that no objections were brought up in 2009 and that fact that Ms. Elam doesn't think she can trespass on her property, or not; we don't feel are valid objections.

CB Hall: Is this building built in the wrong spot?

Harrison: Per the survey that was provided based on the reference to building permit that they applied for…yes.

CB Hall: Is the other building going on the Township road and into the subdivision…is that building in the wrong spot?

Harrison: Currently at this time I am not sure a building permit was approved for the shed. I know there was a building permit applied for, but not sure anything has ever been granted…not only does the shed cross the property line into the right-of-way but it doesn't meet any setbacks. The shed currently is not in compliance.

CB Hall: Is the contractor or the owner of the property responsible?

Harrison: The responsibility falls solely on the property owner.

CB Hall: The home to the South of the building has a water line that goes through the other property where the building is…is that water line in compliance or not? Is that a zoning matter?

Harrison: That's not a zoning matter.

CB Hall: That would be a civil matter?

Harrison: Yes.

CB Hall: The property on the East is that in compliance, the entrance on to Wake Road?

Harrison: Yes.

CB Hall: On the appraisal…legal…is that a zoning matter or a civil matter?

Dwayne Gab: The negotiations that go on here are not relevant. The value to the property is relevant. I do think there is some relevance in regards to the impacts of the property with regards to the value.

CB Hall: The property was owned by another gentleman prior…on the house whether or not you can gain entrance from the backyard or not…is that a civil matter or a zoning matter?

Dwayne Gab: I believe that is a zoning matter. It doesn't violate the property line, it only violates our zoning requirements.

CB Hall: The County Board will look at the facts and the facts are that the building was built incorrectly and does it affect the value of the neighbor? My opinion is…these two neighbors have both tried and we have even tried to settle it outside of here….unfortunately it comes down to...does one property affect the value of the other? And I think yes, it does.

Attorney Pavlik: Does 2 ½ feet affect the value of their property? Because if Mr. Patterson had met the setback all of the things they are complaining about would still be an issue. I think this is a question of… If this is relevant does 2 ½ feet make a difference?

ZBA Chimento: Read staff recommendation.

ZBA Chimento: I have a question for Mike…can you take 2 ½ feet off the side of that building?

Hoyle: Yes, I mean it would be the entire South side of the building.

<u>STAFF RECOMMENDATION:</u> Recommend denial of the setback variance. The petition cites that the unique circumstances are that the contractor poured the concrete pad in the wrong location. While this may be the case, this is not a circumstance related to the property nor does it alleviate the responsibility of the property owner to ensure that the regulations of the ordinance are met. The Standards for Variation are not met for this request.

Recommend approval of the lot depth variance. The subject property was created in 1996, so granting the lot depth variance will bring the parcel into compliance. The Standards for Variation are met for this request.

Committee Member Andrew Spiro made a motion to reject staff's recommendation on the first variance and accept staff's recommendation on the second variance.

ZBA Spiro: One of the standards I would address is that it is an economic hardship on Mr. Hoyle for him to have to tear down his building. That is a finding of fact.

M. Elam: It's an economic hardship for my mother who has owned her property for 42 years.

Molly Berns: Mr. Chairman he has 2 more standards to address. The next standard would be…that the plight of the owner is due to circumstances unique to the property and not generally applicable to other property in the area.

ZBA Spiro: I don't believe I can meet that standard of fact…because it's not.

Molly Berns: Counselor (addressing Mr. Gab)?

ZBA Spiro: The only standard I can come up with is the fact that it's an economic hardship for both of them. I can't see making him tear down his building.

Dwayne Gab: To qualify for a variance you have to meet all 3 factors, so you would have to have a finding as to all 3 factors.

Attorney Pavlik: I think are circumstances unique to the property….is the slight mistake on the contractor's end is going to result in this problem?

ZBA Spiro: I agree with that but then it shouldn't have been built.

Dwayne Gab: Point of order. We have a motion on the floor.

ZBA Spiro: I withdraw my motion because I can say is that it's a hardship on both sides.

Committee Member Don Wulf made a motion to recommend approval of staff recommendation.

Committee Member Gina Lathan seconded the motion.

Motion fails 2/3/0

Dwayne Gab: There still needs to be a motion to send forth to the County Board.

*ZBA Members were unable to come up with their own Standards for Variations. The petitioner's Attorney stated the following Standards for Variations for standards 2 & 3 to be added to standard 1 from Mr. Spiro: that there is an economic hardship for the petitioner to remove the building.

2. The subject property was not platted…that it was a remnant, a deformed piece of property.

3. The variance of 2 ½ feet will not alter the essential character of the locality. The variance will not impair an adequate supply of light and air to adjacent property, increase the congestion of traffic, or diminish or impair property values in the locality.

M. Elam: Yes, it's a small piece of property that shouldn't have had a building but it was allowed/granted.

ZBA Chimento: If he is going to move the building 2 ½ feet…how much is that going to help you?

M. Elam: It's not….moving the building is something that he probably won't have to do but removing it would get the value of our property back to what it should be.

Committee Member Charlie Chimento made a motion to approve the petition and adopt the standards for variation provided by the petitioner's attorney.

Committee Member Andrew Spiro seconded the motion.

Motion carries 3/2/0

Docket 2018-013 Fields Family Corporation, Inc. for property located at 10001 Palm Road, Glenarm, IL 62536 WITHDRAWN

Docket 2018-014 Price Street Pub Inc. and Price Street Properties LLC for property located at 2833 Price Avenue, Springfield, IL 62704 POSTPONED TIL MAY 17

Docket 2018-015 Michael Kinner for property located at 1559 Parkes Kinner Road, New Berlin, IL 62670

PETITIONER(S): Michael Kinner

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: A

REQUESTING: Petitioner requests a variance to allow an accessory structure to be placed approximately three (3) feet from the north property line instead of the required ten (10) feet.

Michael Kinner was sworn in.

Kinner: I would like to move a garage/shed to my property and I am requesting a variance to allow it to be 3' instead of the required 10' to avoid having to cut down a tree and avoid having to be on top of a septic.

ZBA Chimento: Asked if any objectors or questions from ZBA or County Board? Hearing none read the staff recommendation.

STAFF RECOMMENDATION: Recommend approval. The petitioner submitted photographs that during a heavy rain the middle of the subject property floods and a large established tree in the back yard both limit where a garage may be located on the subject property. The Standards for Variation are met.

Committee Member Don Wulf made a motion to recommend approval of staff recommendation.

Committee Member Tony Mares seconded the motion.

Motion carries 5/0/0

Committee Member Andrew Spiro made a motion to adjourn.

Committee Member Tony Mares seconded the motion.

Meeting adjourned.

Respectfully submitted,

Trustin Harrison
Recording Secretary

Charles Chimento
Chairman

Minutes of April 19, 2018
Full record of minutes available upon request in the Zoning Department