

Sangamon County, Illinois
ZONING BOARD OF APPEALS

The Zoning Board of Appeals met on **May 21, 2020** 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	() Committee Member Sudeth
(X) Committee Member Spiro	(X) Committee Member Beaty

STAFF PRESENT:

Joel Benoit, Assistant States Attorney, States Attorney's Office
Trustin Harrison, Zoning Administrator, Sangamon County Zoning
Steve Keenan, Senior Planner, Spfld-Sang County Regional Planning Commission

Chairman Chimento called the meeting to order.
Approval of **February 20, 2020** Minutes

Committee Member Tony Mares made a motion to approve the February 20, 2020 minutes.

Committee Member Don Wulf seconds the motion.
Motion carries 5/0/0

Docket 2020-006 Michael & Lynn Clark for property located at 11553 Leinberger Road, Athens, IL 62613

PETITIONER(S): Michael & Lynn Clark

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: Ag

Michael Clark was sworn in.

Steve Keenan: read the petitioner's request and staff recommendation.

REQUESTING: Petitioners request for Proposed Parcel 1 and Proposed Parcel 2: pursuant to Chapters 17.68 and 17.12, a rezoning from "A" Agricultural District to "R-1" Single-Family Residence District; and, for Proposed Parcel 2: pursuant to Chapter 17.66, a variance of Chapter 17.04 (Lot depth) to allow the lot depth to be greater than two and one-half (2.5) times the lot width.

STAFF RECOMMENDATION: Recommend approval. The purpose of the case is to allow the two non-conforming residences, constructed prior to 1969 (west house) and between 1969-1983 (east house) to be placed on two separate lots. While the LESA score of 211 indicates the subject property is suitable for agricultural use, its relatively small size (approximately 8 acres) and the presence of the two residences makes it unlikely the subject property will revert back to agricultural usage. The requested variance will facilitate a division of the subject property by placing each of the two residences on separate lots for sale. The Standards for Variation are met.

ZBA Chimento: Does the petitioner have anything to add?

Clark: I think you summed it up nicely.

ZBA Chimento: Ok, are there any objectors? County board? Hearing none entertained a motion.

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

**Committee Member Tony Mares seconded the motion.
Motion carries 5/0/0**

Docket 2020-007 Joseph Chernis Jr., for property located at 2348 Sand Hill Road, Springfield, IL 62707

PETITIONER(S): Joseph Chernis Jr.

OBJECTOR(S): Yes

PRESENT ZONING CLASSIFICATION: B-3

Attorney Tom Pavlik.

Steve Keenan: read the petitioner's request and staff recommendation.

REQUESTING: Petitioner requests pursuant to Chapters 17.68 and 17.30, a rezoning from "B-3" General Business District to "I-2" General Industrial District; pursuant to Chapter 17.58 Conditional Permitted Uses, a Conditional Permitted Use of Section 17.28.020 for compost facilities, landscape waste; and, a Conditional Permitted Use of Section 17.30.020 for automobile wrecking yards and junk yards completely enclosed by eight (8) foot solid fencing. Petitioner also requests pursuant to Chapter 17.66, a variance of Chapter 17.04 (Lot) to allow four (4) principal uses on one (1) parcel: (1) demolition contractor with outside storage, (2) auto wrecking/junk yard, (3) recycling center and (4) landscape waste/compost facility; and, a variance of Section 17.30.020 and Section 17.38.040(A) to allow a natural barrier (the existing trees) instead of an eight (8) foot solid fence along the rear and east sides.

STAFF RECOMMENDATION: Recommend denial as submitted. In the alternative, staff recommends approval of I-1 zoning with a Use Variance for a metal recycling center with no can recycling, a demolition contractor with outside storage, and a wrecking yard with no retail sales on-site or long-term storage (junkyard), provided that: (1) hours of operation of the metal recycling center shall be limited to 7:00 am

to 5:00 pm on Monday through Friday with drop offs allowed only by appointment on Saturdays, and (2) recycling operations shall be conducted behind the existing building and the front area is used only for employee parking. Although the subject property is unincorporated, the Springfield Comprehensive Plan designates the subject property industrial/utility and there are several surrounding properties zoned I-1. Recommend approval of the requested variance to Section 17.38.040(A). There is a thick natural line of trees to the east of the subject property which screens the nearest adjacent residence, which is over 200 feet from the property line; and, there is an approximately ten foot difference in topography between the proposed industrial uses and the nearest residence. To the south, the two nearest parcels are railroad right-of-way and a vacant property separated by a four-lane arterial road from the subject property. Staff denied the proposed request for a landscape waste compost facility in I-1 because of concerns about how long potential landscape waste materials would be on the subject property. The Conditional Permitted Use for a wrecking/junkyard and the variance for Section 17.30.020 are not needed due to the recommended denial of the requested I-2 zoning.

ZBA Chimento: Petitioner you need to state your testimony.

Attorney Pavlik: The petitioner is present through his counsel, Attorney Tom Pavlik. I have with me and ready to be sworn, Mr. Chernis the IV.

Chernis was sworn in.

Attorney Pavlik: Good evening and with me tonight I have Mr. Joe Chernis IV who will be operating this operation. First thing I want to address are what are these proposed operations and what are they going to be, the first is recycling of cars and demo material that they are either going to purchase from the public or auction. They is going to be no long term storage of materials outside and once there is enough mass of material that they have processed they will ship it out of their lot to the appropriate place to sell it. So again there is no intent to have long term storage. This isn't going to be a junk lot or aluminum cans. The Chernis' are into demolition materials and recycling. Next is thank you to staff and their recommendation and the applicant is happy to accept the recommendation in its entirety. However, I don't think it's going to be as simple as that, from the objection petition I received. I think the real issue you have to consider is if the proposed use is in fact a "good fit" for the area. I think this is a point that is particular in favor of the petitioner. Let me address what is surrounding the property. Immediately to the East is Fuhrmann Paving which is engaged in concrete and paving recycling which is an I-1 use, to the North is zoned I-1 but currently has no use on that property, then to the Northeast is a landfill that's zoned Ag but is pretty similar to an I-1 use. Significantly the operators of that landfill run about a 150 trucks down that road and that is a Class 3 road each day, so why is that relevant? The landfill operator has agreed to reimburse the Township, for upkeep on that road. The extent of any issue of the Chernis' causing any damage to that road I don't see being an issue. Again, further north of the subject property is yet another I-1 use of mobile home demolition and wrecking, I believe it is now used for storage. Again another significant point is to the West is Donnelly's which is another concrete recycling, again that's concrete recycling which is an I-1 use. My point is Mr. Chairman is that the property is surrounded by more or less industrial than its neighbors; perhaps this clutter of industrial uses related to the fact that the comprehensive plan is to be related to utility and industrial use and that's what they are wanting to do. So let me address what I think is the "elephant in the room", we all know that Mr. Chernis' son has had some problems relates to Pillsbury and I expect that is what the objectors what to talk about. First I want to say that the Joe IV has learned some lessons and has severely been chasing by the process he went through with Pillsbury. I want to say

that we don't zone people we zone property. The Chernis' are business owners and their business is demolition and recycling and they want to expand their business. And to do that they need some relief and staff recommendation met all the technical elements and the petitioner is happy to live with staff recommendation. I think I have shown that the area around is used for intense industrial use and I ask for approval of staff recommendation.

ZBA Chimento: Any objectors?

Trustin Harrison: I like to address the people that have contacted my office. Judy are you there?

Judy Fortune was sworn in.

Fortune: I live directly to the North of Chernis' property. I went around the neighborhood and got signatures for the petition, another lady who is here also did some other roads and got signatures. They don't want to add any more traffic or problems and all that activity going on. There are going to be 15-20 vehicles a day going in and out. What's going to happen if you approve him and have more traffic? We want to have a "home setting" and quiet environment and with what's being proposed we aren't going to have that. The noise that currently goes on is so much activity and early and banging, knocking and squishing metal and you can hear it down the road, add more to that, is a negative impact and we don't want that. We are a residential neighborhood. We don't want to add anymore industrial or traffic to the area. Those train tracks I know at least twice a year get shutdown; we have to be detoured over to Farm n Home and more traffic. There is numerous traffic and you are going to compound that. We would like to keep it residential. We want you to consider us neighbors, I have been there since 2012 and older couple have been there a very long time. I think a good suggestion for Mr. Chernis is, since he is a business man that he needs to move over to Dirksen Parkway and donate part of that property he has to the City and let him go in and out on Dirksen Parkway, they operate on the South end of the property coming and going. And they can exit on Dirksen Parkway and use of the property and that would eliminate everything from us.

Debbie Monroe was sworn in.

Monroe: We own the property directly across the street. One of my concerns is how many acres does he really have to facilitate to operate all of this? I understand there is acreage there that is not useable. My next concern is the traffic and then not putting a fence around the tree line to hide the debris and what about the children and if they are on the property. On our road it's a residential neighborhood we are on only asking to keep the tranquility of the neighborhood. We have children that play and the noise and fumes and for me those have not been addressed. And then the comment about the vehicles not being left on the property for any length of time and that's broad and then my concern is what's leaking on the ground and being left there. Those are all concerns that have not been answered. We are asking to keep the tranquility of neighborhood and if you allow this then we are going to lose that and that's an issue.

Gary Budd was sworn in.

Budd: I have been supervisor of Springfield Township since 2001. I have a couple questions. The neighbors called me and I went there Monday and there are already 6-8 cars stacked out there and they are already operating, so I have somewhat of a concern that he's already doing it. I told that to Greg Stumpf and have concern about that. What about the oil, transmission fluid, antifreeze, gasoline that would still

be in the gas tanks? The ground is going to be saturated and can go over to the railroad property, naturally have they thought about the tires that come off the cars and are going to be stacked up. I have concerns about this.

Harrison: A lot of these activities were already in place, he chose to bring his property into compliance and to add another use to do the landscaping.

Budd: Are we going to be watching the ground to make sure not saturated?

Harrison: Yes, all of that would fall under EPA. I believe that once we get through all the objectors then counsel will answer those questions. Next, person I have is Katie Weir.

Katie Weir was sworn in.

Weir: I live to the South of the property. We have the same issue wondering about the water safety issue with the fluid and have so many junkyards on this side and not in favor of another one and the noises they generate. I know there are hours they can operate and they are not. Trustin can you clarify about the ground water.

Harrison: Mr. Pavlik we will allow you to have a rebuttal once objectors are done.

Weir: I think that's all we have.

Harrison: Is there anyone else that would like to speak on this matter.

Rosalin Stein was sworn in.

Stein: I live at 2688 Piper Lane. I collected signatures solely because we get the railroad blocked by the amount of traffic and are going to get more traffic now. When I was getting petitions they told me how they can already hear noise and the problem. The other thing is that one house after another is against it. When we got done there were 53 people that signed. I had one person that said they were very libertarian and would support it. The industrial uses there really are none, except for way down on Peoria Road. One out on Valley View near Jefferson there is a flower shop. Other than that Riverside Drive is really residential area. The people want quiet and have already been punished by the landfill and it was terrible initially and this is terrible for the board to ask us to take on more noise and have to deal with this. There is good reason for you to say no and stop it.

Harrison: Are there any other additional objectors?

CB Greg Stumpf: I represent the area. This is a hard thing for a County Board member when there are so many variations. I have been out there and have been here with the landfill and the closing and re-opening. I do realize there are a lot of residences there and I realize Joey has had issues with the neighbors and when it comes down to it, we doing the zoning not the person. To address Gary Buddy, regarding the fluids and the cars, we would get with the EPA and shut him down, if we have to. Also with the noise being out of the hourly times that's allocated here, you have the industrial in three different areas and Ag use with the landfill. I know it's hard for the residences to see another business going in there, but quite frankly this meets all of the criteria for the area and zoning. Right now we are talking about the zoning

and we zone the property, not the people. So, in my eyes and what I represent this is a good fit for the zoning but if he didn't meant the health part he would deal with Public Health, if he didn't meant the environment part he would deal with EPA, and or both. If any of you wanted to open a business here meeting the criteria I would not say no and cant to Joe. It's very hard and I am sorry to the residences who disagree but he does meet all of the criteria.

ZBA Spiro: With the environmental issues that's a separate consideration all together. We are just dealing with the zoning and comprehensive plan. I sympathize with the residents but you have had a landfill there for years and dealt with that. I am ok with the zoning, but the environmental are good concerns and those would follow under Public Health and EPA.

ZBA Chimento: Anyone else?

CB Annette Fulgenzi: I like to know what exactly they are doing out there. Are they currently crushing cars? It sounds like there are currently cars there, are they dealing with these tires? What is being down on the property?

Harrison: I addressed some of that early, these operations were currently happening, but when Mr. Chernis came in to request the landscaping be added to the zoning, at that time I told him he needed to bring this into compliance, as far as the tires maybe let Mr. Pavlik speak on his rebuttal.

ZBA Chimento: Yes, Mr. Pavlik.

Attorney Pavlik: County Board member Stumpf addressed many of my points and answered them. Those 6-8 cars have been there for quite some time and we want to come in to compliance. We went over to the County and asked to make sure we were in compliance and see what it is we needed to do. Mr. Chernis have you been operating since then?

Chernis: No, we have been working to come into compliance since Day 1 to get this in compliance.

Attorney Pavlik: The tires don't come off the car, they stay on the car ultimately once it goes to the junkyard.

CB Fulgenzi: So it's not being crushed on site?

Attorney Pavlik: No. Is that right Joey?

Chernis: The cars are crushed but the tires stay with the car. The junkyard that the cars go to the tires go with the car.

CB Fulgenzi: Ok, so you have the equipment to crush the cars there on site?

Chernis: Yes.

CB Fulgenzi: Ok, I am going to share some information through Trustin on environmental guide book for auto salvage yards and the requirements you have to meet.

Attorney Pavlik: And Mr. Chernis and I discussed that we know the EPA will be watching anyone its Joey. I would ask that the zoning board of appeals would accept the staff recommendation.

ZBA Chimento: Entertained a motion.

Committee Member Larry Beaty made a motion to recommend approval of staff recommendation.

Committee Member Andrew Spiro seconded the motion.

Motion carries 5/0/0

Docket 2020-008 Mary Garvert & Trustee for property located at 1570 & 1572 New Salem Church Road, New Berlin, IL 62670

PETITIONER(S): Mary Garvert & Trustee

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: Ag

Rita McCarthy was sworn in.

Steve Keenan: read petitioner's request and staff recommendation.

REQUESTING: Petitioner requests for Proposed Parcel 1: pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 14.5 acres) and a variance of Chapter 17.04 (Lot depth) to allow the lot depth to be greater than two and one-half (2.5) times the lot width; for Proposed Parcel 2: pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 4 acres) and a variance of Chapter 17.04 (Lot depth) to allow the lot depth to be greater than two and one-half (2.5) times the lot width; for Proposed Parcel 3: pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 8.5 acres); and, for Proposed Parcel 4: pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 21 acres).

STAFF RECOMMENDATION: Recommend approval. The purpose of the requested variances is to allow division of the subject property into four tracts for estate planning purposes. Proposed Parcel 1 will be reconfigured with parts of parcels -028 and -035 to allow much of the pasture to be provided with one residence and approximately 150 feet of road frontage. Proposed Parcel 2 will reconfigure parts of parcels -028 and -035 to provide a second residence on the subject property with approximately 155 feet of road frontage, which is more than the current approximately 20 feet of road frontage that the residence has. Proposed Parcel 3 will include the remaining cropland, which the petitioner desires to remain in Agricultural use. Proposed Parcel 4, which is approximately 21 acres, will be combined with PIN 21-04-300-036, located immediately south of the subject property. Furthermore, due to placement of the structures approximately 770 - 810 feet off the road, the requested variances are necessary to reconfigure portions of parcels -028 and -035 to give each residence its own parcel and adequate road frontage to meet the code requirements. The Standards for Variation are met.

ZBA Chimento: Ok, we will now hear the testimony of the petitioner.

McCarthy: I am speaking for my family. My mother, Mary Garvert is in attendance. My siblings and I have had meetings to discuss and decide who is and who isn't interested in the family farm and keeping it in the family, in the future. My dad, Dr. Garvert passed away in 2006, my mother is going to be 99 years old next month and why they are letting me talk. We were advised that it would be wiser to develop a plan, while mom is still around. I own the section of the farm that is labeled #2 on the conceptual layout. My property line is being adjusted and ROW adjusted according to the plan. The section labeled #4 backs up to the Restrepo's land, which is my sister and brother-in-law. We have divided the rest into sections that has the family's interest the most, but still keep the farm in tact as farmland. I am asking that you accept the plans as proposed, and thank you for your consideration.

ZBA Chimento: Ok. Any objectors? County board? Hearing none entertained a motion.

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 2020-010 David C. Jostes for property located at 1400-1600 Block of Jostes Road, Rochester, IL 62563

PETITIONER(S): David C. Jostes

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: Ag

Duane Weiss was sworn in.

David Jostes was sworn in.

Steve Keenan: read the petitioner's request and staff recommendation.

REQUESTING: Petitioner requests for Proposed Parcel 1: pursuant to Chapters 17.68 and 17.12, a rezoning from "A" Agricultural District to "R-1" Single-Family Residence District; and, pursuant to Chapter 17.66, a variance of Chapter 17.04 (Lot depth) to allow the lot depth to be greater than two and one-half (2.5) times the lot width.

STAFF RECOMMENDATION: Recommend approval of the requested rezoning. Although the LESA score of 179 indicates the subject property is suitable for agricultural use, there is R-1 zoning immediately north of the subject property and there are several smaller lots containing rural residences along the east side of Jostes Road between Gaule and Walnut. Recommend approval of the requested variance. The bank is requiring the larger parcel be split into a smaller lot for financing reasons to construct a single-family residence. The Standards for Variation are met.

ZBA Chimento: Ok, let's hear your testimony.

Weiss: The area that David intends to build the house has been out of agricultural production for some time, it was in a government program and had to be withdrawn from that program, in the particular area that we are concerned with. Part of the area that David is going to build the house on will remain in agriculture it's not going to be taken out of production. The roadway going back to that area has long been a farm field road and so not really disrupting the agricultural aspect of the property.

ZBA Chimento: Are there any objectors? County board? Hearing none entertained a motion.

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

Committee Member Andrew Spiro seconded the motion.

Motion carries 5/0/0

Docket 2020-011 Ryan Maltby for property located at 12400-12500 Block of Horse Creek Road, Pawnee, IL 62558

PETITIONER(S): Ryan Maltby

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: Ag

Ryan Maltby was sworn in.

Steve Keenan: read the petitioner's request and staff recommendation.

REQUESTING: Petitioner requests for Proposed Parcel 1: pursuant to Chapters 17.68 and 17.12, a rezoning from "A" Agricultural District to "R-1" Single-Family Residence District; and, pursuant to Chapter 17.66, a variance of Chapter 17.04 (Lot depth) to allow the lot depth to be greater than two and one-half (2.5) times the lot width.

STAFF RECOMMENDATION: Recommend approval. The requested Conditional Permitted Use is to establish a field tile business, which is an agriculture-related business and one which could be expected to be in a rural area. There are limited residential uses in the area and no negative impacts are anticipated.

ZBA Chimento: Ok. Gives us your testimony.

Maltby: I am just asking for a variance to move my business from Christian County to Sangamon County. I am a field tile installer and I don't feel I am going to have a negative impact on anyone, but more of a positive impact.

ZBA Chimento: Any objectors? County board? Hearing none entertained a motion.

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

Committee Member Larry Beaty seconded the motion.

Motion carries 5/0/0

Docket 2020-014 James & Gail Cravens for property located at 11000 Block of Maurer Road, Buffalo, IL 62515

PETITIONER(S): James & Gail Cravens

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: Ag

Attorney Mark Cochran.

Steve Keenan: read the petitioner's request and staff recommendation.

REQUESTING: Petitioner requests for Proposed Parcel 1: pursuant to Chapters 17.68 and 17.12, a rezoning from "A" Agricultural District to "R-1" Single-Family Residence District; and, for Proposed Parcel 2: pursuant to Chapter 17.66, a variance of Chapter 17.04 (Lot depth) to allow the lot depth to be greater than two and one-half (2.5) times the lot width; and, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 39 acres).

STAFF RECOMMENDATION: Recommend approval of the requested rezoning to R-1. While the LESA score of 222 indicates agricultural use, a variance was granted to facilitate other rural residential parcels in the area. Recommend approval of the requested variances. The Standards for Variation are met.

Attorney Mark Cochran: We have no testimony to offer.

ZBA Chimento: Any questions?

CB David Mendenhall: This has been in the family farm for many years and his son is going to build a house. Most people will remember this is the location of the 1969 Farm Progress Show and the land will be maintained and the remainder will stay in Ag.

ZBA Chimento: Entertained a motion.

Committee Member Larry Beaty made a motion to recommend approval of staff recommendation.

Committee Member Andrew Spiro seconded the motion.

Motion carries 5/0/0

Docket 2020-015 Jayson Entwistle for property located at 8300 Block of Book Road, Williamsville, IL 62693

PETITIONER(S): Jayson Entwistle

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: Ag

Jayson Entwistle was sworn in.

Steve Keenan: read petitioner's request and staff recommendation.

REQUESTING: Petitioner requests for Proposed Parcel 1: pursuant to Chapters 17.68 and 17.12, a rezoning from "A" Agricultural District to "R-1" Single-Family Residence District; and, pursuant to Chapter 17.66, a variance of Chapter 17.04 (Lot depth) to allow the lot depth to be greater than two and one-half (2.5) times the lot width.

STAFF RECOMMENDATION: Recommend approval of the requested R-1 zoning. While the LESA score of 198 indicates the property is suitable for continued agricultural use, residences on parcels less than five acres have been established slightly south of the subject property establishing a rural residential trend. Recommend approval of the requested variance. The variance will facilitate separating the proposed residence on a proposed approximately 7-acre tract from the remaining cropland which will be an approximately 76-acre tract. The Standards for Variation are met.

ZBA Chimento: Jayson, state your testimony.

Jayson Entwistle: We have less than 83 acres that we would like to take 7 acres out from and build a house on. And we will continue to farm the remainder 76 acres.

ZBA Chimento: Is this house for you?

Entwistle: Yes.

ZBA Chimento: Any objectors? County board? Hearing none entertained a motion.

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

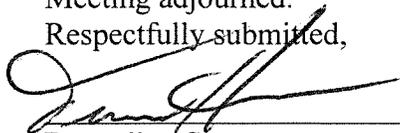
**Committee Member Larry Beaty seconded the motion.
Motion carries 5/0/0**

Motion to Adjourn:

Committee Member Don Wulf made a motion to adjourn.

**Committee Member Tony Mares seconded the motion.
Motion Carries 5/0/0**

Meeting adjourned.
Respectfully submitted,



Recording Secretary



Chairman

Minutes of May 21, 2020 Full record of minutes available upon request in the Zoning Department