

Sangamon County, Illinois
ZONING BOARD OF APPEALS

The Zoning Board of Appeals met on August 15th, 2019 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 Sudeth
(X) Committee Member Spiro	(X) Committee Member Beaty

STAFF PRESENT:

Molly Berns, Executive Director, Spfld-Sang County Regional Planning Commission
Steve Keenan, Senior Planner, Spfld-Sang County Regional Planning Commission
Emily Prather, Associate Planner, Spfld-Sang County Regional Planning Commission
Dwayne Gab, Assistant States Attorney, States Attorney's Office
Trustin Harrison, Zoning Administrator, Sangamon County Zoning

Chairman Chimento called the meeting to order.
Approval of June 20, 2019 minutes.

Committee Member Anthony Mares made a motion to approve the June 20, 2019 minutes.

Committee Member Andrew Spiro seconds the motion.

Motion carries 5/0/0

Docket 2019-026 Paul R. LeJeune for property located at 2601 E. Clear Lake Avenue, Springfield, IL 62703

PETITIONER(S): Paul R. LeJeune

OBJECTOR(S): Yes

PRESENT ZONING CLASSIFICATION: B-3

REQUESTING: Petitioner requests pursuant to Chapter 17.58 Conditional Permitted Uses, a Conditional Permitted Use of Section 17.26.020 for a tavern including live entertainment and dancing (approximately 300-400 sq. feet).

STAFF RECOMMENDATION: Recommend approval of the requested Conditional Permitted Use with the following conditions: 1) the tavern is limited to the existing building footprint of approximately 300-400 square feet, 2) no live entertainment and dancing are allowed, and 3) the hours of operation are limited to the Sangamon County Liquor Ordinance. The subject property is located along a major commercial

thoroughfare with businesses located to the north, east, and south and trees located to the west, therefore this use at this location will not have an adverse impact on the area.

Paul LeJeune sworn in.

Emily Prather reads petitioners request and the staff recommendation.

Trustin Harrison: Mr. Chairman I just wanted to state for the record a comment from the Sangamon County Department of Public Health. In the event that this does pass through the county board that all permits will be required through the Sangamon County Department of Public Health as well.

ZBA Chimento: Ok

Paul LeJeune: I want to thank everybody for allowing me to come in. I'm actually from Boulder, Colorado. I am a transplant to Springfield, Illinois. I've been here since I was 19 years old and I've been doing business here the whole time. I started on that exact corner in 1992 and worked there for about 5 years and owned it for the last 12 years. I was across the street from that for 8 years at 2412. So my investment on Clear Lake is great. I've been on that street for over 20 years for 6 days a week, 12 hours a day. I've sold over 5000 retail cars in this town and my reputation is very good. The problem I've got is, I am out of energy. Buying and selling cars is a difficult business. You have to buy every car, transport every car, recondition every car, advertise every car, and sell every car, one at a time. It's a real load on me. My daughter is 15 years old now and I'm trying to have some free time. What my intention was to use the building I'm invested in, use the area of the town I'm invested in, and to have my same friends and customers come back and frequent me in a whole different manner. There are no pure gaming facilities on Clear Lake, period. So you've got a pretty good business opportunity if you're in the position that I'm trying to be in. I'm not interested in the live dancing or music. That portion was not my intention to show up in the application. I went up and down the street and got a petition signed from every person in the whole neighborhood who is supporting me. I called 28 out of the 29 members of the county board, 15 of them said yes, it sounded like a solid business plan. Trustin thought I had a good business plan. If there is any objections, hey there is always going to be objections in life. Overall I'm open to trying to overcome those objections in any possible way I can. I've done good clean business in this town and I'm not trying to do anything illegal. One of my main problems is, is that property has never increased in value. I gave \$110,000 dollars for that property 12 years ago. John Mullins bought it 12 years prior to that from Lonnie Sr., \$110,000. Lonnie Sr. gave the same \$110,000 to Dick Corbin 25 or 28 years ago. The street is dead. There is no businesses. There is a guy on Dirksen Parkway with 900 cars. I can't really compete anymore. The used car business is saturated. Even if I do put in the time. I'm only getting half the sales that I used to get. I need to have a business opportunity using the property that I'm well invested in and then also having to draw from the same neighbors that I've had such tremendous success with. In the past we used to sell 300 cars a year. Then it went down to 200 cars a year. I sold 140 cars last year. This year I'm not even on phase to do that. There is a flaw in my business plan, and I don't know how to fix it except to try something different. That's my intentions. The building is only about 900 square foot. I'm only using this first office side, I want to have something similar to Lucy's and Silver Sevens. Not a big foot print at all. The car lot will hold up to 40 easy, 50 packing. I only need seating for maybe 7 or 8, to have a successful business model. They also indicated that there might be a problem with the way traffic flows. And I'm up to suggestions on that. I have no problem opening up a gate on Clear Lake, if that seems like a good idea to you all. People have been coming in off of Forrest Avenue, since I was 20 years old and it's never been a problem. I think the traffic pattern is good. We also have a barbed wire chain link fence. I heard some

of the people in the back saying that they are worried about the neighborhood. You should be worried about it, because Clear Lake has gone downhill, but I've been a staple on that street for 3 decades almost. I go to church around the corner at St. Cabrini since 1995. The little old ladies at my church are not going to go to a liquor store to game. There not going to want to go to a restaurant to do some gaming. I'll be the only person in walking distance, period. If you want to go and get some gaming, you will have to go all the way up to Dirksen Parkway, about the 500 block headed north, or you would have to walk yourself all the way to Grandview, where there is about 6 or 7 within 3 blocks. And they are all doing really good and having tremendous success, I just want to get in on some of that success and stick with the same customers and same neighborhood that I've been serving for a very long time.

ZBA Chimento: Ok, any questions?

ZBA Mares: In regards to the existing business, is there enough parking? If that would become an issue with a gaming parlor?

Trustin Harrison: Based on the site plan that he provided, he will have enough parking for the area.

ZBA Mares: Thank you.

ZBA Sudeth: Are you going to discontinue your auto business or will you continue?

LeJeune: No, I will not continue it on the same spot. Used automobile dealers have the highest bonding of any state bonding there is. You've got to be a good citizen to be a used car dealer. And I am such. But they don't allow dis-similar businesses within the same building. So I will sacrifice quite a great thing. I've only done one thing all these years. You can only do something so long. I'm getting old and I've got to have a different plan. I need the help of the community because I've helped the community myself. I feel like I've earned the right to do any business I please on that street. I've collected over a million dollars in estate sales, tax and secretary of state fees. I have not enjoyed anywhere near that in my own money. So I'm great at collecting fees. This new business model should actually do very well for the state and county.

ZBA Chimento: County Board got any questions? Objectors?

Objectors speak up.

LeJeune: I would like to have any questions from the objectors.

ZBA Chimento: If you want to come up.

Dwayne Gab: Just so we understand the rules Mr. Chairman, this is an opportunity for objectors to speak at the committee. This isn't a question and answer, or a dialog between you and the other people. You will have an opportunity to respond, but we don't want an argument back and forth about anything. And I understand you're excited about your opportunities. I just want to make it clear that we want to keep everything in order.

LeJeune: This is my first meeting ever, I have no concept.

Dwayne Gab: I appreciate that sir, and I am the attorney here, I'm the parliamentary and that's why I bring it up.

LeJeune: Thank you.

Gary Budd sworn in.

Gary Budd: I am the Township Supervisor, I've been the supervisor since 2001. One of the reasons I am going to object to this, there's numerous, but one major reason is, when I got this report on this, it says a tavern, live entertainment, what have you. If you notice I brought some packets and had them recorded and you will see the pictures of where this place is. I've known this place, I've been a north ender my whole life. You have to understand, this corner is a very hazardous corner. It's hard to get on and off this street. The City of Springfield and County both are getting saturated with these video gaming's. If you look in the paper, the Springfield area is one of the highest areas of video gaming. I'm completely opposed to the live entertainment, which I understand you guys have denied that, I think. The businesses he said he has everybody that agrees to it, I can show you where businesses have signed against it. You have a letter that is from the road commissioner and myself, and you will also see objection petitions that have been signed by all 9 elected officials in Springfield Township that were at our Board meeting last night. The reason we're opposing this is not because of the business, we want all the businesses we can get in the Township, but this is not a good situation to put at that corner. If you look at one of the pictures, directly across the street from it is a Mass Transit bus stop. The neighbors are concerned. I tried to get ahold of Adams Wildlife Sanctuary, they were not there when I went by. I have talked to the Manager at Cardinal Roofing. He is not in favor of it, but then again he is not against businesses. The people behind there which is Modern Mailing, both the co-owners are here tonight. They are the ones that contacted me. When they seen that it was going to be a tavern, that is not what was told to them about the live entertainment. What they were told was, it would be a video gaming business. And I don't think they object to that. Here is the final thing that I want everyone to understand, and I don't know how many in this room know this. Next Tuesday night at 5:30, across the street at City Chambers. There is about 25 pieces of property in Springfield Township that is going to be annexed. 150 Forrest Ave., 2601 Clear Lake Ave., and 2699 Clear Lake Ave. are on there to be annexed into the city next Tuesday night. So, I'm going to ask that you put a hold on this until we find out what the City of Springfield is. And I hate to say this, but I believe that the City Council, the Mayor has the vote to annex this into the city. And if that happens, this is going to pertain to the City after next Tuesday night. I am asking for a recommendation, from myself the Supervisor, the Assessors here from the township, that you put this on hold at least until we find out what the City Council is going to do next Tuesday night. I don't want it to happen, but it's called a hole in the donut. Everyone who has been involved with the City knows what I'm saying. You get surrounded by the City of Springfield. Years ago there was a law passed back in the 80's, to where once you get surrounded, the city corporate areas have a legal right to take you into the City. And the law states that you can't stop it. It's basically a done deal. I will show you the papers. Here is the annexation, if you look, it's in this document. And in all fairness to you Paul, I don't know if you knew that beforehand. I received the zoning hearing last Tuesday. The very next day, certified letter from the City of Springfield. I have went to every piece of property that is in Springfield Township that is going to be annexed into the City on this list. It's sad. I have talked to the Assessor in Woodside Township, which they are against it too. Please do not approve this tonight until we see what's going to happen next Tuesday. I just think that the City needs to be the one that gives them the liquor license.

ZBA Chimento: Any Questions?

ZBA Spiro: I saw the annexation packet, what would be the ramifications if the City were to annex this next week?

Dwayne Gab: That is the staffs understanding as well. It is before the City Council next Tuesday. We did speak before this hearing on whether or not tabling would be appropriate at County Board if action wasn't taken. If it's annexed next Tuesday, the County Board would lose jurisdiction. We wouldn't be able to do anything no matter what happens at ZBA tonight. I don't know if that will happen, but if you're asking me if you could table it until after next Tuesday, I believe that is within your authority.

ZBA Spiro: Ok.

Dwayne Gab: You could also take action, then by the next County Board we will know what happened at the City. If it's still pending at the City, the County Board could table it. You have options available.

ZBA Spiro: If we were to make a decision, it would be moot depending on what the City.

Dwayne Gab: If you make a decision tonight without County Board action, the County Board would lose jurisdiction to take action even if you do. But you could certainly table it tonight waiting to see what would happen. That's within your authority.

ZBA Chimento: Any more objectors?

Ron Kamerad sworn in.

Ron Kamerad: Paul came to me a couple weeks ago asking me how I felt about putting games in there. Anything creating a business, I am a business man too. But the problem I had was, when I get something in the mail stating alcohol and dancing, it just did not make sense to me.

Lejeune: There was a...

Dwayne Gab: Objection. There is a point of order. This is a time for testimony, not time for dialog between you. So please sir, keep presenting your evidence. Sir, as I instructed you earlier, it's not a time for you to ask questions. You'll get an opportunity.

Lejeune: I thought he asked me a question, Sir.

Dwayne Gab: Well nobody should be asking any. We don't want a dialog. Make your testimony with the ZBA, don't engage in a conversation with the petitioner please.

Ron Kamerad: Not a problem. Over the years I've seen the neighborhood go down, and I'm just afraid that putting a bar with liquor there would increase the problems that we already have there. Myself last year had to call the Sangamon County Sheriff's Office 6 times because of issues. We have break-ins. I own a building right behind Patriot Auto Sales, and I'm just very concerned about bringing more trouble to the neighborhood. We have people walking up and down the street, we have vehicles, we have trash at the wildlife that we pick up a lot ourselves and I'm afraid it's going to add a lot more problems in the neighborhood than we have now.

ZBA Chimento: Any questions? County Board got any questions?

Trustin Harrison: Mr. Chairman, let me make a clarification. As the petitioner stated a tavern with live entertainment, that was based on the zoning classification. The clarification in the petition was that there would be no live entertainment. But for video gaming to exist under state law, he would have to have a liquor license with Sangamon County. Just some clarification to kind of clear that up.

ZBA Chimento: Springfield is different than the County?

Trustin Harrison: They have some different regulations, correct.

LeJeune: Thank you, Yea we are neighbors...

Dwayne Gab: Mr. Chairman, I'm sorry I didn't know if there were anybody else. Any more objections?

ZBA Chimento: Ok Paul.

Lejeune: Thank you. Yes he and I are neighbors, and the neighborhood is pretty crappy. We get broke into, but the more presence we have the less you get broke into. I have more light in that area than anybody. There is a second light I can add by Cilco on the other side. That is going to help with the safety in that area. Also, if I could have an attendant on that street, we are the first to call the police. We are the first responders to pull you out when someone is broke down on the street. If I've got a store that is going to be open later hours than a car lot that closes at 6:00pm. I can absolutely assure you, you will see a down turn in the crime in the area just because there will be additional lighting. That is actually going to be a plus in the neighborhood. I've been there for 28 years. Nobody has more time on that street than I do. I will ask the board to make your recommendation today, because you're helping me to build momentum with my business proposal. My business proposal was put in a timely manner, a legal lawful manner I don't think there is any reason to not look it over, because your recommendation is going to mean something when I'm further down the line. Whether or not the City annexes that property, that is in the air and not a sure thing. Woodside did not get annexed last time around. I think to hold up my business plan would be disenfranchising to me. If this is the proper way to respond, respond. If the City annexes me then I can work my way through that. Also, I'm sort of caught in the middle of a political scene that I had no concept it even existed. I thought the City and the County would be excited for me to continue to do business in any capacity that I would be willing to put more energy into that street. The street is dying, that's the truth of it. I would ask that you go ahead and make your recommendation. If you turn me down I'm going to make a new proposal and try all over again. If the City annexes me then I will fight my way through that one next. I've contacted all 10 of the Alderman, I'm in contact with Corporate Council Zerkle and the Mayor. I did hire some council to help me through this process better. And that is how I was able to get in contact with the Mayor directly. It's his ordinance, and he is the one who put it forth. I didn't want to step on any toes, but I do need this new business proposal. It's essential to my livelihood, I'm suffering. I would like you guys to please make your recommendation. I think that is very reasonable for the timeframe I've asked for. I would invite any of these objectors behind me, tell me what your objections are. I will cure your problems.

ZBA Chimento: Ok, time for a vote.

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

Committee Member Anthony Mares seconded the motion.

Motion carries 5/0/0

Docket 2019-027 Carl Fryman for property located at 3700 West Grand Avenue, Springfield, IL 62704

PETITIONER(S): Carl Fryman

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: I-1

REQUESTING: Petitioner requests pursuant to Chapter 17.58 Conditional Permitted Uses, a Conditional Permitted Use of Section 17.28.020 for a garage for storage, repair and servicing of motor vehicles including body shops and spray painting; and, pursuant to Chapter 17.66 Variations, a variance of Chapter 17.04 (Lot) to allow three (3) principal uses on one (1) parcel: (1) storage facility, (2) office space and (3) garage for storage, repair and servicing of motor vehicles including body shops and spray painting; and, a variance of Section 17.50.060(A) to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat.

STAFF RECOMMENDATION: Recommend approval of the Conditional Permitted Use provided all painting shall be conducted inside a paint booth enclosed in the building. Recommend approval of the variance to allow multiple uses on the subject property. Predominantly industrial areas, like the one containing the subject property, could expect to have multiple businesses on a parcel. The buildings on the subject property are large enough to accommodate the multiple uses. Recommend approval of the paving variance for a period not to exceed one (1) year. The petitioner's business will involve use and frequent movement of cars. The cost to maintain pavement over the entire property could negate the reasonable return the owner expects on the property. Allowing one year to pave will allow the owner a way to pave while continuing to economically use the property. The Standards for Variation are met.

Wendy Fryman sworn in.

Carl Fryman sworn in.

Emily Prather reads petitioners request and the staff recommendation.

Trustin Harrison: Mr. Chairman, I would like to reiterate that the Public Health made a statement that all building permits including a Change of Occupancy Permit will be required before moving forward with anything on this property.

ZBA Chimento: Ok, your turn Carl.

Carl Fryman: I have been in business for 12 years. I was at another shop for 20 years, ran that for 16 years. We have outgrown what we have. We are just out of room and are looking to grow our business and take care of our customers better.

ZBA Chimento: Where was your business at? Glenarm?

Carl Fryman: No, On Hoover. It's over off of Stevenson Drive.

ZBA Chimento: Hoover, over in the cabbage patch.

Carl Fryman: It was my father's business and I took it over and I was at a previous shop for about 20 years. Taking care of customers is our goal.

Wendy Fryman: We are out of space. We purchased the property at 3700 West Grand Avenue to give us a little more space to add on to our staff.

ZBA Chimento: So you own the whole complex now?

Carl Fryman: Yes, and we have an environmental company out front.

Wendy Fryman: As far as the proposal, they have been great. They have been renting there for 15 years. We want to keep them there as well.

ZBA Chimento: Any questions? County Board? Objectors?

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

Committee Member Andrew Spiro seconded the motion.

Motion carries 5/0/0

Docket 2019-028 Adam & Lacy Ehrman for property located at 7130 Fulton Road, New Berlin, IL 62670

PETITIONER(S): Adam & Lacy Ehrman

OBJECTOR(S): None

PRESENT ZONING CLASSIFICATION: A

REQUESTING: Petitioners request pursuant to Chapter 17.66 Variations, a variance of Section 17.36.010(A) and Section 17.38.010 to allow an accessory structure within the front yard with a front yard setback to be approximately zero (0) feet instead of the required thirty (30) feet; and, a variance of Section 17.42.010(B) to allow an accessory structure to be located approximately ten (10) feet within the proposed right-of-way of forty (40) feet.

STAFF RECOMMENDATION: Recommend denial. While the petition cites a number of circumstances, none of these circumstances are unique to the subject property to warrant granting the requested variances. Upon the site visit, staff determined there were other areas on the 4.6 acre subject property where the accessory structure could be placed to be in compliance with the Zoning Ordinance and not within the proposed right-of-way. The Standards for Variation are not met.

Adam Ehrman sworn in.

Emily Prather reads petitioners request and the staff recommendation.

ZBA Chimento: Your turn.

Adam Ehrman: Thank you for your time. I would like to apologize I'm even here. I didn't know that these things even existed. We moved to the country a year ago. We needed some storage to be able to take care of the property. So we called a reputable builder. Ask him if he could build one of these things, and he said sure no problem. We leave for vacation and come back. The concrete is poured, and it's about 85% built. We checked the mail and found a letter that said to stop doing this. I called him and there must have been a miscommunication. He thought that it was my job to do a building permit, to which I have never done before. I went down the next morning to do a building permit, and realized that I don't know how to do a building permit, so the office staff help me through that process. Then she said you need to go see zoning. I then realized this might be more serious issue. So I started making phone calls to see if this was a real problem. I reached out to the Township Supervisor and the Road Commissioner. If you have never been out that way, it's pretty far out in the county. I was wondering what the issue of impact that this was going to be. So I tried to represent in my packet that I can't fathom that that road is ever going to be expanded in my lifetime. The topography is that the property sits higher than the actual roadway. It seems to me that everybody has the same opinion in that the road is not going to be widened anytime in the near future. And if it would be, I don't see it being widened into that side of the property. This is not one of those situation where you do something and say sorry. I didn't know that we had to do this. This is more of a ask for mercy. I don't know what I'm going to do if this has to be moved.

ZBA Chimento: What's the reason you put it where you did?

Adam Ehrman: I have 157 trees on the property. There is not a lot of space to put one of these things. There are pond issues, sinkhole in the dam of the pond. Requiring \$25,000 to fix. I have inherited this problem that has been going on for 15 years. With the pond overflowing there were issues on where to put it. Where he put it was the only spot where there wasn't a chunk of trees. I have even considered moving it forward. I had inherited a large residential wind turbine, it doesn't work, but the cost of taking that down way more expensive that what I can do at this point in time. I don't believe I have any objectors here. I did not reach out to my neighbors to ask for their support. I didn't feel like that was good form. I did get a letter from one of my neighbors that saw the zoning sign and he asked what could he do. He wrote a letter that I didn't present it in the packet because I didn't know if that was good form. It appears to be one of the situations that I don't see the impact of how it's going to be a problem in the future. The property has so many trees on that side that if the road were to ever be expanded, the trees would be just as big as a problem as a 28 by 24 shed.

ZBA Chimento: Any questions?

ZBA Mares: When you have a contractor come out, did you both discuss where this was going to be? Was this his general idea?

Adam Ehrman: I'm not here to blame anybody. The first spot that I wanted to put it, he said I can't put it there. That's going to be a problem because of the sloping and the trees. And I didn't want it right on top of the house. And he said how about right over there, ok. This is where my ignorance begins. I did not know what variances and setbacks were as an entire process. I don't know what to do. I have all this metal sitting there, the concretes poured, and all this framing is up.

ZBA Mares: Yes the framing is up. I went out and surveyed it. My question for staff. I know the general rule of thumb is halfway from the street back. This is a unique circumstance as the petitioner has mentioned. His property sits very high. What is the potential for expanding the road given the current condition?

Trustin Harrison: I can't answer that. That would be a County Highway or a Road Commissioner question. But what I can say is that. Based on the request, he is approximately 10 feet across the property line.

ZBA Sudeth: So he is in the right of way?

Trustin Harrison: That is correct.

ZBA Chimento: So he's not on his property?

Trustin Harrison: If you look at that blue line, that is the 40 foot line from the center of the road. So where the building is, it's approximately 10 feet across.

ZBA Chimento: Is the yellow line the property line?

Trustin Harrison: The blue line, the yellow line is what we call a sidwell line. The blue line is where the proposed property line is. That's 40 foot from the center line of the road.

ZBA Spiro: Since he is elevated, could you count that elevated slope?

Trustin Harrison: No.

ZBA Sudeth: So that fence is technically not on his property either?

Trustin Harrison: That is correct. If for some reason the right of way was ever conveyed, it would be requested that the fence be removed.

Adam Ehrman: I'm now more confused than I was before. I thought that was definitely on our property. On the GIS System, it appears that our property is actually across the road. I don't understand that. The 49901 from my understanding is owned by the Township. So it would appear to me that that's where the road would be widened.

ZBA Mares: This is obviously a unique situation. My understanding is that the setbacks are from the middle of the current road.

Trustin Harrison: That is correct.

ZBA Mares: 40 feet back on each side. And I don't know if you were not made aware of that. I have had the opportunity to go out to your property and it is pretty much straight up. You have your drainage ditch then it goes straight up. The current situation is that its 40 feet on both sides, north, south, east, or west from the middle of the current road back.

Adam Ehrman: One of my points in the exhibit is that I just can't fathom that this road is going to be widened and that the building is going to impede that process. Part of my request is based upon the variance of the situation. As I said in my exhibit, I'm really just asking for mercy. I don't know what I'm going to do.

ZBA Mares: It's a sad situation that the concrete has already been poured. That puts you in a unique situation.

Adam Ehrman: Right.

ZBA Mares: Question for staff. Where it currently sits now, how far back are we from where the proposed setback should be?

Trustin Harrison: If he met the setback, he would be where the wind turbine is.

ZBA Mares: He could ask for a variance on that too, right?

Trustin Harrison: That is correct. But that's where the building line in the front yard is.

ZBA Mares: So where the current pad has been poured, that's not even negotiable?

Trustin Harrison: Lacking a variance, no.

ZBA Spiro: Could he leave the pad there?

Trustin Harrison: The pad can stay. Concrete is easier to remove than what an actual structure is.

Adam Ehrman: That was confusing to me. I'm not a construction person but the wood and the metal, I could get knocked down in 20 minutes, but the concrete can stay?

Trustin Harrison: For clarification, the 8 feet of concrete would have to be removed. From that property line back, we would treat it no different that the driveway. It's not an actual structure. The portion that is crossing the property line would have to be removed.

ZBA Beaty: Did your builder not tell you that you had to have this? I would go back to my builder.

Adam: Ehrman: No. Very nice gentleman. He is well known in our community and does good work. I don't know why he would have thought I would be doing the building permit or have not known about setbacks and variances.

Dwayne Gab: Mr. Chairman, just a point of order so the ZBA is clear on this. This isn't just a setback issue. This is a building built on another entities possessory property. I do believe you have a legal authority to grant the variance, however that doesn't affect the property rights of the township. There will still be issues regarding title of this property. As well as puts possible township action. No matter what the road commissioner says, or anyone else about the fact that the buildings actually built on the property. Often times we see situations where they've encroached on the setback requirement. Once we waive that, I think that solves those problems. But this is a much more complex issue than just a setback violation. I would also urge Mr. Ehrman to talk to a lawyer about what his best financial avenue of redress. All the parameters involved in this, this is not a simple get a variance type of situation. There will be other things that potentially could occur in this situation in the future in regards to his interest in this building and the property in general.

ZBA Spiro: Is there some kind of regulation or duty on the part of the builder or contractor to at least inform the person contracting the business to make sure that they have the proper permits?

Dwayne Gab: It's really going to be contract dependent and fact specific. It's hard for me to express an opinion on that issue. I am really hesitant to start saying that someone is at fault and someone isn't. A different private attorney that has a background in real estate law would be able to council this gentleman. He is in a very difficult position no matter what happens at this meeting tonight.

Adam Ehrman: Am I understanding that this petition is capable of being approved or not? The confusing part is I've gone through the process and paid the money. I was understanding that it would be possible. It would just be up to the board's decision whether they wanted to or not.

ZBA Chimento: You're in a tough position.

Dwayne Gab: I did say it was possible, I just said it didn't solve all the problems.

ZBA Sudeth: It opens up the door for him down the road to who knows what.

Dwayne Gab: You can grant this relief and the county board can. I just wanted to bring this to everyone attention.

ZBA Sudeth: I think your point is for him to seek council for what could happen if he builds that.

Dwayne Gab: I am giving the advice to you guys.

ZBA Mares: I think the situation might be, if its built and you decide to sell this you might have problems.

Adam Ehrman: If this variance is allowed, I might have to enter some documents with the county to express what would happen in the event of a sale.

Dwayne Gab: That is not the type of relief we are talking about tonight. And I don't know of any documents that would solve that function. I just want everybody to be aware that there are more issues than just a variance here.

ZBA Spiro: Essentially he built on township land.

Dwayne Gab: That is my understanding.

ZBA Mares: You might want to seek outside representation. Is that a fair statement council?

Dwayne Gab: Yes, but I would be more specific on all the potential issues here. I don't think that that necessarily effects your decision here. You have a right to make a decision on whether or not the variance should be allowed under our code and what equals the findings of fact in regards to why a variance would be granted. So you would have to do a findings of fact if you're not in agreeance with the staff recommendations.

ZBA Chimento: Any objectors?

CB Craig Hall: I've driven out there and looked at this parcel. There is not a lot of traffic on this road. I question whether this road will ever be developed. It's in a very isolated area. I spoke to the Road Commissioner and Township Supervisor they submitted a letter in favor of this. You've spoke to the people in this area, are there any objectors?

Adam Ehrman: No objectors.

CB Craig Hall: Is this any different than any other cases where we have asked for a building to be moved closer?

ZBA Chimento: It's over the property lines.

CB Craig Hall: Ok.

ZBA Chimento: If it was on his property there wouldn't be a problem. But it's on township property. When he sells it, he will have problems.

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

Committee Member Anthony Mares seconded the motion.

Motion carries 5/0/0

Docket 2019-029 RCM Co-op for property located at 8100 Block of Sherman Road, Riverton, IL 62561

PETITIONER(S): RCM Co-op

OBJECTOR(S): Yes

PRESENT ZONING CLASSIFICATION: A

REQUESTING: Petitioner requests pursuant to Chapter 17.58 Conditional Permitted Uses, a Conditional Permitted Use of Section 17.10.020 for a grain elevator; and, pursuant to Chapter 17.66 Variations, a variance of Section 17.50.060(A) to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat.

STAFF RECOMMENDATION: Recommend approval. Negative impacts are not anticipated due to the location of the proposed grain elevator being surrounded by cropland and the nearest residence being approximately 0.3 miles away. The petition states, “paving the amount required by the ordinance would deem the project too expensive and not yield a reasonable rate of return. Traffic will consist of semi-truck loading and unloading. The weight would cause continuous repair costs, maintaining a rock drive is more practical.” Staff agrees the weight from the semi-trucks would cause continuous repairs to a paved surface so allowing rock would allow the petitioner to yield a reasonable rate of return. The Standards for Variation are met.

Don Ray sworn in.

Emily Prather reads petitioners request and the staff recommendation.

ZBA Chimento: Do you have anything you want to say?

Don Ray: RCM Co-op has about 10 locations, 990 customers. I’ve got 2 facilities, one in Williamsville and one in Dawson that are needing replaced. We are wanting to better serve our customers by building an upgraded facility. It’s out in the country away from the traffic in Williamsville. Which we are right downtown and at the entrance to Dawson, so by doing this it will help out a lot of our customers. It will be a more modern facility. It will relieve some of the traffic in Dawson and Williamsville. And it will increase the tax base for the County.

ZBA Chimento: You building a whole new facility?

Don Ray: Yes.

ZBA Chimento: Office and sales, the whole thing?

Don Ray: That is what we are proposing.

ZBA Chimento: Any questions? County Board?

CB David Mendenhall: I would agree with what Don has said. Where the elevator is in Williamsville, the traffic goes right past the school and this is going to alleviate a lot of traffic in both Dawson and Williamsville, but it will help Williamsville a bunch. Also, once the development starts it could entice other Ag related developments in that same area. It will be a benefit all around.

ZBA Chimento: Any Objectors?

Carolyn McMiller sworn in.

Carolyn McMiller: I am part owner in land that is directly adjacent to this planned elevator. It butts up to the west of our property. This is a family owned farm that has been in our family for generations. I and my 2 sisters own this parcel of land. We are trying to be good steward of this land. It is a farming operation and we need elevators. It's in a pastoral setting and there are no other commercial things around it. We feel that the land value would decrease. It might cause other commercial enterprises to come and locate there as well. Which would not be desirable for us, as farmers.

CB Chimento: How many acres do you have there?

Carolyn McMiller: 160 acres. The parcel that is adjacent to where the planned 20 acres is an 80 acre parcel. Family members that might want to build a residence on that area might not want to be that close to an elevator. I'm familiar with them and their necessary, but their noisy, dusty and they do increase traffic in that area. My bigger concern would be that the land which is proposed to build on has been heavily mined underneath and I don't know what the ramifications would be with that heavy of structures. All the area around there has been mined. It is not actively being mined. But there are many pockets or cells that have been empty directly under that. We would also be concerned that our land value would decrease.

ZBA Chimento: Any questions?

Eric Smith sworn in.

Eric Smith: This property adjoins the petitioner's property to the north. I am here representing all the owners, I am part owner in that property. We would ask that this petition or request for variance be tabled until a proper road weight limit evaluation could be done on Sherman Rd. We do not believe it would pass such a test to run 80,000 pound trucks up and down the road consistently. Specifically one location at the corner Kodiak and Sherman west of this area, the weight limit that is there now is not holding up. To increase the weight limit on that road is a concern. As we understand it, that road is currently a restricted weight limit road. It's not a full 80,000 road currently. We understand that the county is trying to preserve prime production agricultural land. This proposed site, we believe is prime farm land. To take that out of crop rotation, I believe goes against the counties policy. If this project were to be granted, we would like to ask for conditions to be placed on the permit that no drainage from this site would be allowed to encroach on other properties around it. All drainage be made to go to the Sherman Road ditch to ensure that we don't have problems on our adjacent properties. We would like a sound and/or sight barrier to protect the residences in the area. All lighting would be directed in a way so it doesn't affect the neighbors least as possible. We would also like to see this property if it gets approved, to be fenced in with a gate. A site like this in a rural area invites kids and/or malicious adults with intent, a place to hide and park and do things that we as property owners don't want to see in that area. We would ask that that be considered.

ZBA Chimento: Any questions?

ZBA Mares: Do you have prior knowledge of Sherman?

Eric Smith: Yes, I do.

ZBA Mares: I think your previous position was Chief of Police?

Eric Smith: Yes it was.

ZBA Mares: With this property, during your tenure, were there issues with this property?

Eric Smith: With this specific site? No. It's a farm field. So no, at this point.

ZBA Chimento: Don, you have to rebuttal if you want to say anything.

Don Ray: What's the closest neighbor, ½ mile?

ZBA Chimento: .3 mile.

Don Ray: The lighting, I don't think that is an issue. I can understand that he doesn't want a bunch a surface water. I am not familiar enough with the property to know if there is tile under there that we can drain to. But we will try to work with them on that. We want to be good neighbors too.

Trustin Harrison: For clarifications. Some of the questions that were stated as far as drainage. There will be building permits and architectural plans that will have to be approved through the building department. So a lot of this may be addressed through that process as well. It's not necessarily a zoning matter, it's more through the building permit portion. With the roads, that's not a zoning matter. Typically we may grant zoning, but just because we grant it, doesn't mean it will be able to be built.

ZBA Spiro: Isn't Sherman Road a county designated highway?

Trustin Harrison: Yes it is.

ZBA Spiro: They have certain things they have to conform to.

Trustin Harrison: That is correct. The petitioner is aware with any potential issues with the road and have started that process as well.

Don Ray: The County Highway hired a firm to do the testing on the road to find out if it will need to be updated or if it will handle the weight right now. We don't have the results back, but it is being conducted right now.

Eric Smith: It is our request that this be tabled until that study is completed.

ZBA Chimento: That doesn't have anything to do with zoning.

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

Motion to Adjourn:

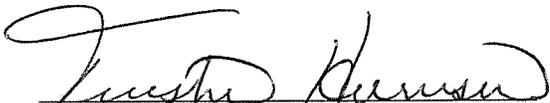
Committee Member Anthony Mares made a motion to adjourn.

Committee Member J.D. Sudeth seconded the motion.

Motion Carries 5/0/0

Meeting adjourned.

Respectfully submitted,


Recording Secretary


Chairman

Minutes of August 15, 2019

Full record of minutes available upon request in the Zoning Department