

DENYING A CONDITIONAL PERMITTED USE AND VARIANCE
FOR CERTAIN PROPERTY LOCATED AT
2700 S. SPRING, SPRINGFIELD
SANGAMON COUNTY, ILLINOIS

WHEREAS, the Zoning Board of Appeals has presented to the Sangamon County Board, Sangamon County, Illinois, its Findings of Fact and Recommendation that the Sangamon County Board **deny a conditional permitted use and variance** to the Sangamon County Zoning Ordinance with respect to the following described property, to-wit:

See Exhibit A

WHEREAS, the Petitioner, **Brian J. Shirley**, has petitioned the Sangamon County Board for a **conditional permitted use to allow a drive-thru package liquor store and tavern with the sale of alcoholic beverages and packaged liquor sales, and a variance to allow a liquor store and tavern to be within 100 feet of a residential structure; and**

WHEREAS, a public hearing was held at the Sangamon County Building on **November 18, 2010** after proper notice was posted on said property and given by news publication, as is required by said Ordinance, and all procedural and jurisdictional requirements of the Sangamon County Zoning Ordinance have been met; and

WHEREAS, the Sangamon County Zoning Board of Appeals has presented to the Sangamon County Board of Sangamon County its Findings of Fact and Recommendation that the Sangamon County Board **deny the conditional permitted use and variance; and**

WHEREAS, the Sangamon County Board does hereby adopt the recommendation of the Sangamon County Zoning Board of Appeals.

FILED

DEC 02 2010

Joe Aiello
Sangamon County Clerk

NOW, THEREFORE, BE IT RESOLVED by the County Board of Sangamon County, Illinois, in session assembled this 14th day of December, 2010 that the request for a conditional permitted use to allow a drive-thru package liquor store and tavern with the sale of alcoholic beverages and packaged liquor sales, and a variance to allow a liquor store and tavern to be within 100 feet of a residential structure on the above described property is hereby denied.

Signed and passed by the Sangamon County Board in session on this 14th day of December, 2010.

Respectfully submitted,

PUBLIC HEALTH, SAFETY & ZONING COMMITTEE OF THE SANGAMON COUNTY BOARD

Tim Moore/cx
TIM MOORE, CHAIRMAN

ABE FORSYTH, VICE CHAIRMAN

JOHN FULGENZI

DAVID MENDENHALL

SAM SNELL

DON STEPHENS

GREG STUMPF

LINDA DOUGLAS WILLIAMS

ATTEST:

SANGAMON COUNTY CLERK

COUNTY BOARD CHAIRMAN

Exhibit A

Lots (11), Twelve (12), Thirteen (13), Fourteen (14) and Fifteen (15) of the Highlands, Sangamon County, Illinois.

Except part of Lot 11 of the Highlands, a Subdivision of part of the North Half of Section 9, Township 15 North, Range 5 West of the Third Principal Meridian, Sangamon County, Illinois, more particularly described as follows;

Beginning at the Northeast corner of said Lot 11; thence South 01 degrees 14 minutes 23 seconds East along the East line of said Lot 11 a distance of 0.59 feet to a point on the Southeast Corner of said Lot 11, said point being on a non-tangent curve having a radius of 8,546.42 feet whose center bears North 38 degrees 47 minutes 12 seconds West from said point; thence Southwesterly along the South line of said Lot 11 and along said curve through a central angle of 00 degrees 10 minutes 52 seconds, a distance of 27.00 feet; thence North 03 degrees 39 minutes 04 seconds East 16.83 feet to the North line of said Lot 11; thence North 88 degrees 03 minutes 22 seconds East along the North line of said Lot 11, a distance of 20.00 feet to the point of beginning.

RECAP
(For County Board Use)

COUNTY BOARD MEMBER: #21 NAME: Clyde Bunch

DOCKET NUMBER: 2010-050

ADDRESS: 2700 S. Spring, Springfield, IL. 62704

PETITIONER: Brian J. Shirley

PRESENT ZONING CLASSIFICATION: "B-3" General Business District

REQUESTED ZONING CLASSIFICATION: "B-3" General Business District with a conditional permitted use to allow a drive-thru package liquor store and tavern with the sale of alcoholic beverages and packaged liquor sales, and a variance to allow a liquor store and tavern to be within 100 feet of a residential structure

AREA: Approximately 1 acre

COMMENTS: None

OBJECTORS: Yes

PLANNING COMMISSION RECOMMENDATION: Recommend approval of the CPU and variance. The subject property was rezoned to B-3 in 2008 and the County Board deemed it appropriate for heavy commercial uses at that time. Spring Street, which divides the subject property from residences, is narrow thus reducing the amount of available space to separate the property line from the residential structure. There is some concern regarding noise that may result from a tavern and liquor store at this location. However, B-3 zoning permits other uses, such as pool halls, bowling alleys, ambulance services, and resturants including live entertainment, which may also result in increased noise and activity at this property.

SANGAMON COUNTY BOARD OF APPEALS
RECOMMENDATION:

Denial

Cyndi Knowles
RECORDING SECRETARY

SANGAMON COUNTY ZONING BOARD OF APPEALS

SANGAMON COUNTY, ILLINOIS

IN THE MATTER OF THE PETITION OF:) DOCKET NO: **2010-050**
 Brian J. Shirley)
)
) PROPERTY LOCATED AT:
) **2700 S. Spring**
) **Springfield, IL. 62704**

RECOMMENDATION OF THE BOARD OF APPEALS

THIS MATTER, Coming on for a hearing before the Sangamon County Zoning Board of Appeals of Sangamon County, Illinois, and it appearing to said Board that a petition for a **conditional permitted use and variance** of the Zoning Regulations of said County has been filed herein by the above captioned petitioner (s); that legal publication has been made pursuant to law; and that a public hearing was held on **November 18, 2010** pursuant to law; and that said Board took testimony of witnesses, examined the evidence, and otherwise being fully advised in the premises, therefore finds as follows:

1. That said Board has jurisdiction to consider the petition filed herein.
2. That the above-captioned petitioner(s) is the owner(s) and/or has a beneficial interest in, contract to purchase, or is the County Board Member representing the property commonly known as: **2700 S. Spring, Springfield, IL.** and more particularly described as:

See Exhibit A

3. That the present zoning of said property is "**B-3**" **General Business District**.
4. That the present land use of said property is **vacant**.
5. That the proposed land use of said property is "**B-3**" **General Business District with a conditional permitted use to allow a drive-thru package liquor store and tavern with the sale of alcoholic beverages and packaged liquor sales, and a variance to allow a liquor store and tavern to be within 100 feet of a residential structure.**
6. That the requested **conditional permitted use and variance** of said property is "**B-3**" **General Business District with a conditional permitted use to allow a drive-thru package liquor store and tavern with the sale of alcoholic beverages and packaged liquor sales, and a variance to allow a liquor store and tavern to be within 100 feet of a residential structure.**
7. That required findings and standards of the Sangamon County Board of Appeals are accurately stated on the attached exhibit (s).
8. The evidence adduced at the hearing **does not** support the proposition that the adoption of the proposed **conditional permitted use and variance** is in the public interest and is not solely in the interest of the petitioner(s).

IT IS, THEREFORE, the recommendation of the Sangamon County Zoning Board of Appeals to the County Board of Sangamon County that the requested **conditional permitted use and variance** be **denied**.

Charles Chimento
 CHAIRMAN

MINUTES OF THE
SANGAMON COUNTY ZONING BOARD OF APPEALS

There was a motion by Zoning Board Member, **Byron Deaner**, to not concur with the findings of fact and recommendation of the Regional Planning Commission and recommend to the County Board that the petition be **denied**, which was duly seconded by **Judith Johnson**.

The vote of the Board was as follows:

YES: **Charles Chimento, Byron Deaner, John Luchessi, Judith Johnson, Don Wulf**

NO:

ABSENT: **Peggy Egizii, Marvin Traylor**

Cyndi Knowles
 RECORDING SECRETARY

**SANGAMON COUNTY
RECOMMENDED - STANDARDS FOR VARIATIONS**

Case #: 2010-050

Address: 2700 S. Spring St.

The Zoning Board of Appeals shall not recommend to the Sangamon County Board that the regulations of this ordinance be varied as authorized in F. (1) hereof, unless it shall make findings of fact based upon the evidence presented to it in each specified case:

- (i) that the property in question cannot be economically used or yield a reasonable return, if permitted to be used only for the conditions allowed by the regulations.

The property is currently vacant and available for development. As such, the property could possibly be developed with an alternative use which is permitted under the B-3 zoning classification. However, the petitioner seeks to develop the property with a liquor store and tavern and is requesting a variance to allow the property line to be within 100 feet of a residential structure.

- (ii) that the plight of the owner is due to circumstances unique to the property and not generally applicable to other property in the area.

The property is zoned B-3 and is bordered by other commercial uses. Spring Street divides the property line from the residential structures and is narrow thereby reducing the available distance to separate the property line from the residential structures. This request seems appropriate, given the circumstances with the property and similar nearby uses.

- (iii) that the variation, if granted, will not alter the essential character of the locality, 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.

The subject property was rezoned to B-3 in 2008 but has not been developed with a permitted use. In 2009, the property was denied a variance request to allow a tavern to be within 100 feet of a residential structure as well as a conditional permitted use to allow operation of a tavern including live entertainment and dancing in a B-3 district. The subject property is bordered on two sides by commercial and industrial zoning.

**SANGAMON COUNTY - RECOMMENDED FINDINGS OF FACT
FOR CONDITIONAL PERMITTED USES**

Case #: 2010-050

Address: 2700 S. Spring St.

No conditional permitted uses shall be granted by the County Board unless the conditional permitted use:

- (i) Is so proposed that the proposed location, design and method of operation of such use will minimize the adjacent effects on the character of the surrounding area.

The property is located across from industrial zoning with business zoning and uses directly north. Residential uses are directly west and north. The property is currently vacant so any developed commercial use will affect the character of the locality, impair light and air to adjacent properties and increase the congestion of traffic. There is a concern regarding the noise that may result from late hour of operation. However, other permitted uses in the B-3 district include: "restaurants, including live entertainment and dancing, and including drive-in restaurants", "fuel sales - retail only", "pool halls", and "dance halls". It is likely that these uses would also have an impact on the character of the surrounding area by resulting in increased noise and congestion.

- (ii) Is so proposed to be operated, designed and located so that the public health, safety, and welfare will be protected.

This appears to be the case.

- (iii) Will not cause substantial injury to the value of other property in the vicinity in which it is located.

No negative impact is anticipated.

- (iv) In addition to the above general standards for all conditional permitted uses that may be allowed, no conditional permitted use listed below shall be granted unless the proposed use can meet the standards as noted:

- (a) Fairgrounds, public or private outdoor recreation centers - that the principal vehicle access for such use is located on a major thoroughfare or a secondary thoroughfare or within one-quarter mile of a major thoroughfare, that such use is so located as to draw a minimum of vehicular traffic to and through minor and collector streets in residential areas.

N/A

- (b) Mobile home parks - must meet the requirements of Section III(R) Large Scale Development.

N/A

- (c) Tourist home, motels, hotels - that the proposed use must be located on or within 400 feet of a major thoroughfare.

N/A

- (d) Taverns and liquor stores - that the following distances be maintained: (1) schools - 100' from the property line of the school to the property line of the tavern or liquor store; (2) churches - 100' from the church building to the tavern or liquor store building; and (3) residences - 100' from the tavern or liquor store property line to the residential structure or institutional care facility.

A variance request to allow the property line to be within 100 feet of a residential structure has also been requested.

liquor store property line to the residential structure or institutional care facility.

A variance request to allow the property line to be within 100 feet of a residential structure has also been requested.

ZONING BOARD OF APPEALS FINDINGS OF FACT:

Related to finding (iv)(d):

The Zoning Board of Appeals finds that based on the evidence presented at the hearing that the operation of a package liquor store and tavern within 100 feet of a residential structure would be inappropriate at this location. The area to the north and west consists of residences, and the proximity of the package liquor store and tavern to the existing residences would have a negative impact on the area as it relates to noise, congestion, and traffic.