

CASE# 2011-036
RESOLUTION NUMBER 2-1

GRANTING A CONDITIONAL PERMITTED USE AND VARIANCE
FOR CERTAIN PROPERTY LOCATED AT
6435 WESLEY CHAPEL ROAD, CHATHAM
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 **grant a conditional permitted use and variance** to the Sangamon County Zoning Ordinance with respect to the following described property, to-wit:

The South 623.95 feet of the North 1439.40 feet of the East 500.00 feet of the Northeast Quarter of Section 33, Township 15 North, Range 6 West of the Third Principal Meridian, containing 7.16 acres, more or less. Situated in Sangamon County, Illinois.

WHEREAS, the Petitioner, **Don W. Herron**, has petitioned the Sangamon County Board for a **conditional permitted use to allow for a greenhouse and a variance to allow three (3) principal uses on one (1) parcel; and**

WHEREAS, a public hearing was held at the Sangamon County Building on **October 20, 2011** 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 **grant 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

OCT 28 2011

Joe Aiello
Sangamon County Clerk

NOW, THEREFORE, BE IT RESOLVED by the County Board of Sangamon County, Illinois, in session assembled this 8th day of November, 2011 that the request for a conditional permitted use to allow for a greenhouse providing that the business hours are by appointment only and that the greenhouse is not to be intended for general retail operations, and a variance to allow three (3) principal uses on one (1) parcel on the above described property is hereby approved.

Signed and passed by the Sangamon County Board in session on this 8th day of November, 2011:

Respectfully submitted,

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



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

RECAP
(For County Board Use)

COUNTY BOARD MEMBER: #1 NAME: Harry "Tom" Fraase Jr.

DOCKET NUMBER: 2011-036

ADDRESS: 6435 Wesley Chapel Road, Chatham, IL 62629

PETITIONER: Don W. Herron

PRESENT ZONING CLASSIFICATION: "A" Agricultural District with a single family residence and a conditional permitted use to allow for a lawn care and landscaping business.

REQUESTED ZONING CLASSIFICATION: "A" Agricultural District with a conditional permitted use to allow for a greenhouse and a variance to allow three (3) principal uses on one (1) parcel.

AREA: 7.37 acres

COMMENTS: None

OBJECTORS: Yes

PLANNING COMMISSION RECOMMENDATION: **Recommended denial of the requested conditional permitted use to allow for a greenhouse. The petitioner did not provide enough information regarding the method of operation and the intent of the proposed greenhouse. It is unclear if the greenhouse will be used privately in conjunction with the lawn care and landscaping business or if the intent is a retail greenhouse for general public use. If the intent is for general public use, then a suitable parking plan in accordance with County regulations must be submitted. There is a concern regarding location and availability of parking for general public use at this location. Also, testimony should be obtained regarding the hours of operation of the greenhouse. Staff recommends denial of the**

requested variance to allow three (3) uses on one (1) parcel. The standards for variation are not met.

Staff Recommendation AMENDED
Based on testimony provided during the hearing regarding the non-retail and limited intended use of the greenhouse, staff amends its analysis to recommend approval of the Conditional Permitted Use for a greenhouse providing that the business hours are by appointment only and that the greenhouse is not to be intended for general retail operations, and to approve the variance to allow three (3) principal uses on one (1) parcel.

**SANGAMON COUNTY BOARD OF APPEALS
RECOMMENDATION:**

Approve amended staff recommendation. Approval of the conditional permitted use for a greenhouse providing that the business hours are by appointment only and that the greenhouse is not to be intended for general retail operations, and to approve the variance to allow three (3) principal uses on one (1) parcel.

Cyndi Knowles
RECORDING SECRETARY

SANGAMON COUNTY ZONING BOARD OF APPEALS
SANGAMON COUNTY, ILLINOIS

IN THE MATTER OF THE PETITION OF:) DOCKET NO: 2011-036
Don W. Herron)
)
) PROPERTY LOCATED AT:
) 6435 Wesley Chapel Road,
) Chatham, IL 62629

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 a 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 **October 20, 2011** 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: **6435 Wesley Chapel Road, Chatham, IL.** and more particularly described as:

The South 623.95 feet of the North 1439.40 feet of the East 500.00 feet of the Northeast Quarter of Section 33, Township 15 North, Range 6 West of the Third Principal Meridian, containing 7.16 acres, more or less. Situated in Sangamon County, Illinois.

3. That the present zoning of said property is "A" Agricultural District with a conditional permitted use for a lawn care and landscaping business.
4. That the present land use of said property is a single family residence, lawn care & tree (landscaping) business and a greenhouse.
5. That the proposed land use of said property is a single family residence, lawn care & tree (landscaping) business and a greenhouse.
6. That the requested conditional permitted use and variance of said property is a conditional permitted use to allow for a greenhouse and a variance to allow three (3) principal uses on one (1) parcel.
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 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 for a greenhouse providing that the business hours are by appointment only and that the greenhouse is not to be intended for general retail operations and the variance to allow three (3) principal uses on one (1) parcel be approved.

Charles Chimento
CHAIRMAN

MINUTES OF THE
SANGAMON COUNTY ZONING BOARD OF APPEALS

There was a motion by Zoning Board Member, **John Lucchesi**, to concur with the amended findings of fact and recommendation of the Regional Planning Commission and recommend to the County Board that the petition be approved for a conditional permitted use for a greenhouse providing that the business hours are by appointment only and that the greenhouse is not to be intended for general retail operations, and a variance to allow three (3) principal uses on one (1) parcel, which was duly seconded by **Don Wulf**.

The vote of the Board was as follows:

YES: Charles Chimento, Don Wulf, Peggy Egizii, Judith Johnson, John Lucchesi

NO:

ABSENT: Byron Deaner, Marvin Traylor

Cyndi Knowles
RECORDING SECRETARY

**RECOMMENDED STANDARDS FOR USE VARIATIONS
AMENDED STAFF REPORT**

Case #: 2011-036

Address: 6435 Wesley Chapel Road, Chatham

The Zoning Board of Appeals shall not recommend to the Sangamon County Board that the regulations of the zoning ordinance be varied as authorized in Section 17.66.010 thereof, unless it shall make findings of fact based upon the evidence presented to it in each specified case:

- (i) that the variance is justified by a showing of special circumstances demonstrating practical difficulties or particular hardship in the way of carrying out the strict letter of the Zoning Regulations.

A use variance was previously granted for a landscaping and lawn care company at this location. The evidence provided during the hearing was that the use of greenhouse would only be used to supplement the landscaping business and would not be a retail operation. Some hardship related to the integration of the greenhouse with the existing business was demonstrated.

- (ii) that the variance is compatible with the trend of development in the area.

The use variance for the greenhouse to supplement the landscaping and lawn care company is compatible with the area which is a mix of single-family residential and cropland.

- (iii) that the variance will benefit the community and be in harmony with the general purpose and intent of the Zoning Regulations.

One of the general purposes of Zoning Regulations is to ensure that proposed development is compatible with other uses in the area. Staff finds that the greenhouse is consistent with the agriculture nature of the area.

- (iv) that the variance will not create a negative impact on the area, 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.

Evidence was provided at the hearing which limited the use of the greenhouse to supplement the landscaping and lawn care company, customers would only visit the location by appointment only, and that there would be no general retail use of the greenhouse which requires set business hours. As such, staff finds that there will be no additional negative impact on the area due to the limitations associated with the operation of the greenhouse.

**SANGAMON COUNTY
RECOMMENDED - STANDARDS FOR VARIATIONS**

AMENDED STAFF REPORT

Case #: 2011-036

Address: 6435 Wesley Chapel Road, Chatham

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.

Evidence provided during the hearing indicated that the greenhouse will supplement the existing landscaping and lawn care business. Further evidence indicated that this would result in an increased economic yield for the property.

- (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 owner has an existing landscaping and lawn care business which was granted a use variance. The parcel is large and contains trees which the owner sells to clients as part of his landscaping business. The greenhouse will be used to house plants and bushes to also be used with the landscaping business.

- (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.

Since the greenhouse is a non-retail operation with hours by appointment only, there should be no additional negative impact on the area.