

FILED

DEC 28 2018

CASE# 2018-055
RESOLUTION NUMBER 2-1


Sangamon County Clerk

DENYING A REZONING AND GRANTING A USE VARIANCE AND VARIANCES
FOR CERTAIN PROPERTY LOCATED AT
4040 TUXHORN ROAD, 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 an amendment, but in the alternative, grant a Use Variance and variances** to the Sangamon County Zoning Ordinance with respect to the following described property, to-wit:

See Exhibit A

WHEREAS, the Petitioner, **Erik Karhliker**, has petitioned the Sangamon County Board for a **rezoning from “A” Agricultural District to “B-3” General Business District; a variance to allow an “A” Agricultural District Conditional Permitted Use (CPU) for a landscaping business in a “B-3” General Business District; a variance to allow a single-family residence in a “B-3” General Business District; a variance to allow three (3) uses on one (1) parcel: (1) plumbing business, (2) landscaping business and (3) single-family residence; and, a variance to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat;** and,

WHEREAS, a public hearing was held at the Sangamon County Building on **December 20, 2018** 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 rezoning but, in the alternative, grant a Use Variance and variances;** and,

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

NOW, THEREFORE, BE IT RESOLVED by the County Board of Sangamon County, Illinois, in session assembled this **8th Day of January, 2019** that the request for a rezoning from **“A” Agricultural District to “B-3” General Business District is denied, but, in the alternative, a Use Variance to allow both a plumbing business and a landscaping business in the “A” Agricultural District, provided there is no outside storage of materials or equipment related to the proposed businesses and the businesses are not open to the public; a variance to allow three (3) uses on one (1) parcel: (1) plumbing business, (2) landscaping business and (3) single-family residence; and, a variance to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat on the above described property is hereby approved.**

Signed and passed by the Sangamon County Board in session on this **8th day of January, 2019.**

Respectfully submitted,

PUBLIC HEALTH, SOLID WASTE & ZONING
COMMITTEE OF THE SANGAMON COUNTY BOARD



GREG STUMPF, CHAIRMAN

DAVID MENDENHALL, VICE CHAIRMAN

CRAIG HALL

SAM SNELL

ABE FORSYTH

JASON RATTS

LINDA DOUGLAS WILLIAMS

ANNETTE FULGENZI

LINDA FULGENZI

LISA HILLS

MIKE SULLIVAN

ROSE RUZIC

ATTEST:

SANGAMON COUNTY CLERK

COUNTY BOARD CHAIRMAN

EXHIBIT A

Part of the Northwest Quarter of the Southwest Quarter of the Section 5, Township 15 North, Range 4 West of the Third Principal Meridian; described more particularly as follows:

Commencing at a stone marking the Northwest corner of the Southwest Quarter of the aforementioned Section 5, thence North 20 degrees 00 minutes 00 seconds East along the Quarter section line a distance of 115.00 feet to a mag nail marking the true point of beginning, thence continuing North 90 degrees 00 minutes 00 seconds East along the quarter section line a distance of 140.00 feet to a mag nail on the Southwesterly right of way line of the former B&O Railroad, thence South 63 degrees 43 minutes 35 seconds East along said right of way line a distance of 1145.16 feet to an iron pipe, thence South 90 degrees 00 minutes 00 seconds West a distance of 1258.31 feet to an iron pipe on the section line, thence North 02 degrees 44 minutes 59 seconds West along the section line a distance of 3452.50 feet measured. (342.38 feet deed) to a point, thence North 90 degrees 00 minutes 00 seconds East a distance of 115.00 feet to an iron pipe, thence North 02 degrees 44 minutes 59 seconds West a distance of 165.00 feet to the true point of beginning. Said parcel contains 8.375 acres more or less, all in the county of Sangamon, State of Illinois.

Basis of bearing is North 90 degrees 00 minutes 00 seconds East along the Quarter section line of Section 5.

AND

That part of the North Half of the Southwest Quarter of Section 5, Township 15 North, Range 4 West of the Third Principal Meridian, Sangamon County, Illinois, formerly owned by the Cincannati, Indianapolis & Western Railroad Company (subsequently CSX Transformation, Inc.), containing 9.19 acres, more or less.

Except the coal, oil, gas, and other materials underlying such real estate. Situated in Sangamon County.

Common Address: 4040 Tuxhorn Rd., Springfield, IL 62712

Parcel Number: 23-05-300-034

RECAP
(For County Board Use)

COUNTY BOARD MEMBER: #9 NAME: Tom Madonia, Jr.

DOCKET NUMBER: 2018-055

ADDRESS: 4040 Tuxhorn Road, Springfield, IL 62712

PETITIONER: Erik Karhliker

PRESENT ZONING CLASSIFICATION: "A" Agricultural District.

REQUESTED ZONING CLASSIFICATION: "B-3" General Business District; a variance to allow an "A" Agricultural District Conditional Permitted Use (CPU) for a landscaping business in a "B-3" General Business District; a variance to allow a single-family residence in a "B-3" General Business District; a variance to allow three (3) uses on one (1) parcel: (1) plumbing business, (2) landscaping business and (3) single-family residence; and, a variance to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat.

AREA: 17.77 acres

COMMENTS: None

OBJECTORS: None

PLANNING COMMISSION RECOMMENDATION: Recommend denial of the requested B-3 zoning. The LESA score of 169 indicates the property is marginal requiring mitigating factors for non-agricultural development. B-3 is considered to be inappropriate spot zoning and the list of uses is deemed too intense. The petition indicates no one from the public will be coming to the subject property and all equipment will be stored inside the shed along the west property line. It is reasonable that the businesses will be located on the

same site as the single-family residence as is the case with other businesses located in a rural area. Therefore, staff recommends approval of a Use Variance to allow both a plumbing business and a landscape business on the subject property in the Agricultural District, provided there is no outside storage of materials or equipment related to the proposed businesses and the businesses are not open to the public. Recommend approval of the requested variance to allow three (3) uses on one (1) parcel: 1) plumbing business, 2) landscaping business, and 3) single-family residence. As staff recommends approval of a Use Variance to allow the two additional principal uses on the subject property, the requested variance is necessary to bring the subject property into compliance with the code.

Recommend approval of the paving variance. There will be only one truck and trailer for both businesses which will be stored inside the shed by the west property line not unlike which may be the case for a pole barn storing agricultural equipment. Requiring paving could have a negative impact on the reasonable return on the subject property as it would be in excess of what is required for other similarly situated properties in the area, which are not required to pave because they are residences. The Standards for Variation are met.

The variance requests to allow an A Agricultural District Conditional Permitted Use (CPU) for a landscaping business in a B-3

General Business District and to allow a single-family residence in a B-3 General Business District are not necessary due to staff's recommendation of denial for the B-3 rezoning request.

SANGAMON COUNTY BOARD OF APPEALS
RECOMMENDATION:

Approval of Staff Recommendation.



RECORDING SECRETARY

SANGAMON COUNTY ZONING BOARD OF APPEALS

SANGAMON COUNTY, ILLINOIS

IN THE MATTER OF THE PETITION OF:)	DOCKET NO: 2018-055
Erik Karhliker)	
)	PROPERTY LOCATED AT:
)	4040 Tuxhorn Road
)	Springfield, IL 62712

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 an **amendment and variances** 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 **December 20, 2018** 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: **4040 Tuxhorn Road, Springfield, IL 62712** and more particularly described as:

See Exhibit A

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- 3. That the present zoning of said property is **“A” Agricultural District.**
- 4. That the present land use of said property is a **former horse barn and equestrian facility.**
- 5. That the proposed land use of said property is a **single-family residence, landscaping business, and plumbing business.**
- 6. That the requested **rezoning and variances** of said property is a **rezoning from “A” Agricultural District to “B-3” General Business District; a variance to allow an “A” Agricultural District Conditional Permitted Use (CPU) for a landscaping business in a “B-3” General Business District; a variance to allow a single-family residence in a “B-3” General Business District; a variance to allow three (3) uses on one (1) parcel: (1) plumbing business, (2) landscaping business and (3) single-family residence; and, a variance to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat.**
- 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 **rezoning** is in the public interest and is not solely in the interest of the petitioner(s) but, in the alternative **does** support the proposition that the adoption of a **Use Variance to allow both a plumbing business and a landscaping business in the “A” Agricultural District, provided there is no outside storage of materials or equipment related to the proposed businesses and the businesses are not open to the public; a variance to allow three (3) uses on one (1) parcel: (1) plumbing business, (2) landscaping business and (3) single-family residence; and, a variance to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat** 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 **rezoning** be **denied, but in the alternative, a Use Variance and variance** be approved.

Charlie Chimento

 CHAIRMAN /s/

MINUTES OF THE
SANGAMON COUNTY ZONING BOARD OF APPEALS

There was a motion by Zoning Board Member, **Don Wulf**, to concur with the findings of fact and recommendation of the Regional Planning Commission and recommend to the County Board that the petition be **denied, but in the alternative, grant a Use Variance to allow both a plumbing business and a landscaping business in the "A" Agricultural District, provided there is no outside storage of materials or equipment related to the proposed businesses and the businesses are not open to the public; a variance to allow three (3) uses on one (1) parcel: (1) plumbing business, (2) landscaping business and (3) single-family residence; and, a variance to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat** which was duly seconded by **JD Sudeth**.

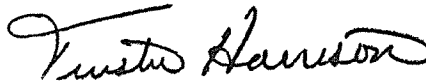
The vote of the Board was as follows:

YES: **Charlie Chimento, Don Wulf, Andrew Spiro, JD Sudeth, Larry Beaty**

NO:

PRESENT:

ABSENT: **Tony Mares**



RECORDING SECRETARY

**SANGAMON COUNTY
RECOMMENDED - FINDINGS OF FACT**

Case #: **2018-055**

Address: **4040 Tuxhorn Road, Springfield**

- (i) Existing uses of property within the general area of the property in question.

North & West – Residences. East – Residences and cropland. South – Cropland.

- (ii) The zoning classification of property within the general area of the property in question.

North, East, South, & West – Agricultural.

- (iii) The suitability of the property in question to the uses permitted under the existing zoning classification.

The LESA score of 169 indicates the property is marginal requiring mitigating factors for non-agricultural development. Granting B-3 zoning would be considered spot zoning.

- (iv) The trend of development, within the vicinity since the property was originally classified.

The area has a rural residential trend.

RECOMMENDED STANDARDS FOR USE VARIATIONS

Case #: **2018-055**

Address: **4040 Tuxhorn Road, Springfield**

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.

The petition indicates no one from the public will be coming to the subject property and all equipment will be stored inside the shed along the west property line. It is reasonable that the businesses will be located on the same site as the single-family residence as is the case with other businesses located in a rural area.

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

Since the proposed plumbing business and landscaping business will not be open to the public and the materials and equipment used for the business will be stored inside, there should not be a negative impact on the rural residential trend in the area.

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

The proposed plumbing business and landscaping business will not be open to the public and will be contained within the existing shed on the west property line of the subject property, and therefore should be in harmony with the general purpose of the Zoning Ordinance to minimize incompatible uses.

- (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.

Negative impacts are not anticipated in granting the requested variance.

**SANGAMON COUNTY
RECOMMENDED - STANDARDS FOR VARIATIONS**

Case #: **2018-055**

Address: **4040 Tuxhorn Road, Springfield**

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.

There will be only one truck and trailer for both businesses which will be stored inside the shed by the west property line not unlike which may be the case for a pole barn storing agricultural equipment. Requiring paving could have a negative impact on the reasonable return on the subject property as it would be in excess of what is required for other similarly situated properties in the area, which are not required to pave because they are residences.

- (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 nature of the proposed plumbing business and landscaping business will have the petitioner driving to customers' houses instead of customers coming to the subject property. This creates a unique circumstance to grant the requested paving variance since the proposed business on the subject property is not open to the public.

- (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.

Negative impacts are not anticipated in granting the requested variance.

LAND EVALUATION AND SITE ASSESSMENT

Part 1: Site Assessment

	Available Points	Points
<u>AGRICULTURAL/RURAL LAND WITHIN .5 MILE</u>		
90% or more	20	
75-89%	10	10
50-74%	5	
Under 50%	0	
<u>CONTIGUOUS AGRICULTURAL/RURAL LAND</u>		
90% or more	20	
75-89%	10	
50-74%	5	5
Under 50%	0	
<u>PERCENTAGE OF SITE AGRICULTURAL/RURAL</u>		
75-100%	10	
50-74%	5	10
Under 50%	0	
<u>COUNTY SECTOR</u>		
Rural	20	
0.5 mile from incorporated area	10	20
Incorporated area	0	
<u>SOIL WITH SEVERE RESTRICTIONS FOR ON-SITE WASTE DISPOSAL</u>		
75% or more	20	
50-74%	10	10
25-49%	5	
Less than 25% or sewer available	0	
<u>ENVIRONMENTAL IMPACT OF PROPOSED USE</u>		
Negative impact	15	
Little or none with protective measures	5	0
Little or none	0	
<u>IMPACT ON UNIQUE HISTORICAL/CULTURAL FEATURES</u>		
Negative impact	10	
No impact	0	0

<u>CONDITION OF ROAD</u>		
unpaved, <40' ROW, or < 16' pavement	20	
16'-18' pavement, 40' ROW	15	15
18'-20' pavement, 40' ROW	10	
> 20' pavement, 40' ROW or County or State Highway	0	

<u>AVAILABILITY OF PUBLIC SEWER</u>		
Not available	15	
Sewer over 600'-1200' away	8	15
Private central sewage system	5	
Sewer 600' or less away and available	0	

<u>AVAILABILITY OF PUBLIC WATER</u>		
Not available	20	
1,000-1,500' away	15	0
Less than 1,000' away	5	
Public water available at site	0	

<u>DISTANCE FROM RESPONDING FIREHOUSE</u>		
Not in fire protection district	20	
More than 5 miles or fire protection by assignment	10	5
2.6-5 miles	5	
0-2.5 miles	0	

<u>DRIVING TIME TO HIGH SCHOOL</u>		
Over 30 minutes	10	
15-30 minutes	5	0
Less than 15 minutes	0	

SITE ASSESSMENT TOTAL		90
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Part 2: Agricultural Land Evaluation (Based on Sangamon County Soil Survey)

<u>Soil</u>	<u>Name</u>	<u>Type</u>	<u>%</u>	<u>Relative Value</u>	<u>Points</u>
198A	Elburn	P		100	
199A	Plano	P		100	
43A	Ipava	P		100	
7148A	Proctor	P		100	
46A	Herrick	P		100	
7037A	Worthen	P	23	100	23
705A	Buckhart	P		98	
199B	Plano	P		98	
36B	Tama	P		98	
244A	Hartsburg	P2		98	
257A	Clarksdale	P2		98	
68A	Sable	P2		87	
679B	Blackberry	P		87	
705B	Buckhart	P		87	
86B	Osco	P	0	87	
684B	Broadwell	P		87	
50A	Virden	P2		87	
712A	Spaulding	P2		87	
127B	Harrison	P		87	
3077A	Huntsville	P3		87	
138A	Shiloh	P2		87	
249A	Edinburg	P2		87	
242A	Kendall	P2		87	
7242A	Kendall	P2		87	
134A	Camden	P		87	
17A	Keomah	P2		87	
3451A	Lawson	P3		75	
3107A	Sawmill	P5	43	75	32
7075B	Drury	P		75	
8396A	Vesser	P2		75	
3074A	Radford	P3		75	
3073A	Ross	P3		75	
3284A	Tice	P3	4	75	3
279B	Rozetta	P		75	
45A	Denny	P2		75	
134B	Camden	P		75	
112A	Cowden	P2		75	
685B	Middletown	P		75	
3405A	Zook	P5		75	
131C2	Alvin	P		75	
86C2	Osco	I	11	74	8
36C2	Tama	I		74	
684C2	Broadwell	I		74	
119C2	Elco	I		74	
119D	Elco	I		74	
127C2	Harrison	I		74	
119D2	Elco	I		74	
567C2	Elkhart	I		74	

134C2	Camden	I		74	
259C2	Assumption	I		74	
685C2	Middletown	I		74	
280D2	Fayette	I		74	
119D3	Elco	N	18	74	13
259D2	Assumption	I		74	
212C2	Thebes	I		74	
630C2	Navlys	I		74	
630D2	Navlys	I		74	
630D3	Navlys	I		57	
131D2	Alvin	I		57	
8D	Hickory	I		50	
8D2	Hickory	I		50	
280D3	Fayette	I		44	
8D3	Hickory	I		44	
8F	Hickory	N		44	
549G	Marseilles	N		0	
533	Urban Land	N			
536	Dumps	N			
830	Orthents, Land	N			
862	Pits, Sand	N			
864	Pits, Quarries	N			
801C	Orthents, Silty	N			
W	Water				

Prime/Important Farmlands Designations:

P: Prime farmland

P2: Prime where drained

P3: Prime where protected from flooding or flooding is less often than once in two years during the growing season.

P5: Prime where drained and either protected from flooding or flooding is less often than once in two years during the growing season.

I: Important farmland

N: Not Prime/Important Farmland

AGRICULTURAL LAND EVALUATION TOTAL	79
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GRAND TOTAL	169
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Fewer than 150 points shall be deemed acceptable for non-agricultural development.

From 150 - 175 points is considered marginal requiring mitigating factors for non-ag development.

Greater than 175 points shall be considered suitable for agricultural use only.