

CASE# 2016-021 5-1  
RESOLUTION NUMBER \_\_\_\_\_

**GRANTING CONDITIONAL PERMITTED USES AND VARIANCES**  
FOR CERTAIN PROPERTY LOCATED AT  
**17020 Old Route 54, New Berlin, IL 62670**  
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 Conditional Permitted Uses and variances** to the Sangamon County Zoning Ordinance with respect to the following described property, to-wit:

See Exhibit A

WHEREAS, the Petitioner, **Tommy Sheppard**, has petitioned the Sangamon County Board to **replace the existing Conditional Permitted Use and variances granted by petitions 2013-028 & 2015-024 which limit the hours of operation for the outdoor recreation to Sundays from 11:00 AM to 6:00 PM with the following: a Conditional Permitted Use for a tavern with a beer garden and live entertainment allowed outside, limited by the Sangamon County Liquor Ordinance; a Conditional Permitted Use for a private outdoor recreation center; a variance to allow two (2) uses on one parcel (tavern and private outdoor recreation center); a variance to allow the paving to remain rock; and a variance to allow non-standard fencing materials, subject to approval by the Zoning Administrator, to be used on the East, South, and West sides of the recreation area; and,**

WHEREAS, a public hearing was held at the Sangamon County Building on **July 21, 2016** 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,

**FILED**

JUL 29 2016

*Don J. May*  
Sangamon County Clerk

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 Uses 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 9<sup>th</sup> Day of August, 2016 that the following, on the above described property, is adopted:

- A. Approve the requested Conditional Permitted Use for a tavern with live entertainment and dancing with the condition that the hours of operation of the tavern, and all live entertainment, including but not limited to any dancing, band, DJ music, or any other noise generating music of any kind, is governed by the Sangamon County Liquor Ordinance.
- B. Approve the requested Conditional Permitted Use for a private outdoor recreation center with the following conditions:
  - 1. Activities in the private outdoor recreation center shall be limited to the following: tractor pulls, go-kart racing and practicing, and one outdoor volleyball court;
  - 2. Outdoor activities associated with go-karts, tractor pulls, and volleyball shall cease no later than 8:00 PM;
  - 3. A solid fence, eight (8) feet in height, shall be constructed and maintained around the perimeter of the private outdoor recreation center with standard fencing materials required along the north side of the subject property and non-standard fencing materials, subject to approval of the Zoning Administrator, allowed along the south, west, and east sides of the private outdoor recreation center.
- C. Approve the requested variance to allow two (2) principal uses on one (1) parcel (a tavern, with live entertainment and dancing outside, and a private outdoor recreation center).
- D. Approve the requested variance to allow non-standard fencing materials, subject to approval by the Zoning Administrator, to be used on the east, south, and west sides of the recreation area.

E. Deny the requested variance to allow the unpaved portion of the parking lot to remain rock; but, in the alternative, grant a variance to allow one (1) year to pave the remaining unpaved lot (the west approximately 200 feet) with asphalt millings.

Signed and passed by the Sangamon County Board in session on this 9<sup>th</sup> day of August,

2016.

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

**ATTEST:**

\_\_\_\_\_  
SANGAMON COUNTY CLERK

\_\_\_\_\_  
COUNTY BOARD CHAIRMAN

**EXHIBIT A**

The East 460 feet of the following described tract of land:

All that part of the Northeast Quarter of Section 27, Township 15 North, Range 8 West of the Third Principal Meridian lying North of the Wabash Railroad right of way, EXCEPT the North 30 feet thereof and the East 22 ½ feet thereof. Except all coal, minerals and mining rights heretofore conveyed of record. Situated in Sangamon County, Illinois.

**RECAP**

(For County Board Use)

COUNTY BOARD MEMBER: # 7                      NAME: Craig Hall

DOCKET NUMBER: 2016-021

ADDRESS: 17020 Old Route 54, New Berlin, IL 62670

PETITIONER: Tommy Sheppard

PRESENT ZONING CLASSIFICATION: **“B-3” General Business District with a Conditional Permitted Use to allow a public and private outdoor recreation area with the hours of operation being limited to Sundays from 11:00 am to 6:00 pm only, a variance to allow two (2) principal uses on one (1) parcel to allow a thrift/consignment shop and a go-cart tract and, a Conditional Permitted Use to allow a tavern with live entertainment and dancing provided that all live entertainment, including but not limited to any dancing, band, DJ music or any other noise generating music of any kind is limited to areas inside the existing structure and is not allowed in any outside area to include but not be limited to any beer garden or the public and private outdoor recreation area, and provided that the tavern closes at 1:00 AM.**

REQUESTED ZONING CLASSIFICATION: **Petitioner requests to replace the existing Conditional Permitted Use and variances (petitions 2013-028 & 2015-024) which limit the hours of operation for the outdoor recreation to Sundays from 11:00 AM to 6:00 PM with the following: a Conditional Permitted Use for a tavern with a beer garden and live entertainment allowed outside, limited by the Sangamon County Liquor Ordinance; a Conditional Permitted Use for a private outdoor recreation center; a variance to allow two (2) uses on one parcel (tavern and private outdoor recreation center); a variance to allow the paving to remain rock; and a variance to allow non-standard fencing materials, subject to approval by the Zoning Administrator, to be**

used on the East, South, and West sides of the recreation area.

AREA: 4.2 acres

COMMENTS: None

OBJECTORS: Yes

PLANNING COMMISSION  
RECOMMENDATION:

**Recommend approval of a Conditional Permitted Use for a tavern with live entertainment and dancing with the condition that the hours of operation of the tavern, and all live entertainment including but not limited to any dancing, band, DJ music, or any other noise generating music of any kind, is governed by the Sangamon County Liquor Ordinance.**

**Recommend approval of a Conditional Permitted Use for a private outdoor recreation center with the following conditions: (1) activities in the private outdoor recreation center shall be limited to the following: tractor pulls, go-kart racing and practicing, and one outdoor volleyball court; (2) outdoor activities associated with go-karts, tractor pulls, and volleyball shall cease no later than 10:00 PM; (3) a solid fence, eight (8) feet in height, shall be constructed and maintained around the perimeter of the private outdoor recreation center with standard fencing materials required along the north side of the subject property and non-standard fencing materials, subject to approval of the Zoning Administrator, allowed along the south, west, and east sides of the private outdoor recreation center.**

**Recommend approval of a variance to allow two (2) principal uses on one (1) parcel (a tavern [with live entertainment and dancing] and a private outdoor recreation center). Given the recommended approval of the conditional permitted uses for the two individual uses, the requested variance is necessary to bring the property into compliance with the Zoning Ordinance.**

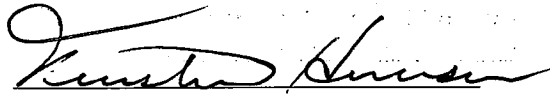
**Recommend approval of the requested variance to allow non-standard fencing materials, subject to approval by the Zoning Administrator, to be used on the east, south, and west sides of the recreation area. As non-standard fencing materials are a recommended condition for the private outdoor recreation center, to the extent the requested condition is adopted, the requested variance is necessary to bring the property into compliance with the Zoning Ordinance.**

**Recommend denial of the requested variance to allow the parking area to remain rock. While there appears to be enough space to adequately park on the site, the nature of the uses increases the need to pave the parking area. Paving will help with internal vehicular circulation and could decrease the risk for accidents, which could have the benefit of increasing the economic yield on the property. The Standards for Variation are not met for the paving request.**

SANGAMON COUNTY BOARD OF APPEALS

RECOMMENDATION:

**Approval of Staff Recommendation with conditions.**

  
RECORDING SECRETARY

SANGAMON COUNTY ZONING BOARD OF APPEALS

SANGAMON COUNTY, ILLINOIS

IN THE MATTER OF THE PETITION OF: )	DOCKET NO: <b>2016-021</b>
<b>Tommy Sheppard</b> )	
)	PROPERTY LOCATED AT:
)	<b>17020 Old Route 54</b>
)	<b>New Berlin, IL 62670</b>

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 **Conditional Permitted Uses 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 **July 21, 2016** 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: **17020 Old Route 54, New Berlin, IL 62670** and more particularly described as:

**See Exhibit A**



3. That the present zoning of said property is **“B-3” General Business District with Conditional Permitted Use for a private recreation outdoor area; a Conditional Permitted Use for a tavern with beer garden and live entertainment allowed outside; and, a variance to allow multiple principal uses.**
4. That the present land use of said property is a **bar with private outdoor recreation.**
5. That the proposed land use of said property is a **bar with private outdoor recreation with no limitations plus tractor pulls.**
6. That the requested **Conditional Permitted Uses and variances** of said property is to **replace the existing Conditional Permitted Use and variances (petitions 2013-028 & 2015-024) which limit the hours of operation for the outdoor recreation to Sundays from 11:00 AM to 6:00 PM with the following: a Conditional Permitted Use for a tavern with a beer garden and live entertainment allowed outside, limited by the Sangamon County Liquor Ordinance; a Conditional Permitted Use for a private outdoor recreation center; a variance to allow two (2) uses on one parcel (tavern and private outdoor recreation center); a variance to allow the paving to remain rock; and a variance to allow non-standard fencing materials, subject to approval by the Zoning Administrator, to be used on the East, South, and West sides of the recreation area**
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 Uses with limitations and variances with conditions** 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 Uses with limitations and variances with conditions** be approved.

  
CHAIRMAN YO

MINUTES OF THE  
SANGAMON COUNTY ZONING BOARD OF APPEALS

There was a motion by Zoning Board Member, **Merilyn Herbert**, to **add an additional condition on the Conditional Permitted Use to limit the outdoor activities with go-Karts, tractor pulls, and volleyball to ceasing activities by 8:00 pm and to concur with the remaining findings of fact and recommendation of the Regional Planning Commission and**

recommend to the County Board that the petition be **approved** which was duly seconded by **Andrew Spiro**.

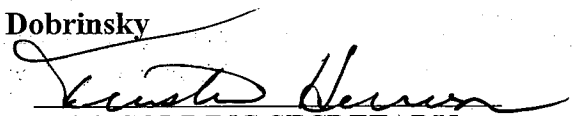
The vote of the Board was as follows:

YES: **Charles Chimento, Don Wulf, Andrew Spiro, Merilyn Herbert and John Lucchesi**

NO:

PRESENT:

ABSENT: **Anthony Mares and Janet Dobrinsky**

  
RECORDING SECRETARY

**ZONING BOARD OF APPEALS  
RECOMMENDED – STANDARDS FOR VARIATIONS – PAVING  
JULY 21, 2016**

Case #: 2016-021

Address: 17020 Old Route 54, New Berlin

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 up on 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 cost of standard paving would cause an economic hardship for the property owner.**

- (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 west 200' will have heavy trucks and tractors which will cause maintained.**

- (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.

**Asphalt grinding will reduce the tracking of mud onto a state highway.**

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

Case #: 2016-021

Address: 17020 Old Route 54, New Berlin

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.

**Tavern with live entertainment and dancing:** The method of operation for the tavern is proposed to be governed by the Sangamon County Liquor Ordinance according to the petition and the suggested conditions.

**Private outdoor recreation center:** Restrictions are suggested regarding the nature of the outdoor activities, a time limit on outdoor activities, and screening.

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

**Tavern with live entertainment and dancing:** The hours of operation for the tavern are proposed to be governed by the Sangamon County Liquor Ordinance according to the petition and the suggested conditions.

**Private outdoor recreation center:** The location of the private outdoor recreation center meets the additional standard below in that it is located along Old Route 54, which is seen as a secondary thoroughfare. A solid fence is a suggested condition to help shield the private outdoor recreation center from the residence to the north.

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

**The proposed uses might not cause any more injury to property values than what currently exists as several of the proposed uses can already occur on the subject property.**

- (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.

Yes.

- (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.

N/A

**RECOMMENDED STANDARDS FOR USE VARIATIONS  
[TWO (2) PRINCIPAL USES (TAVERN & PRIVATE  
OUTDOOR RECREATION CENTER)]**

Case #: 2016-021

Address: 17020 Old Route 54, New Berlin

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 subject property is B-3, consists of approximately four acres and contains a commercial structure currently in use as a tavern. Typically, a commercial property does not support enough acreage to allow multiple uses, however the subject property is located in a rural area and is large enough to support several uses.**

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

**The property is currently zoned B-3, which is the most intensive business district. The proposed uses are arguably no less compatible to the area than several permitted uses in the B-3 district, e.g. bowling alley, automobile sales, or recreation buildings.**

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

**If there is a benefit to the community from the proposed uses, it is more likely to be in harmony with the general purpose and intent of the Zoning Regulation to site the proposed uses in a location such as the subject property which is located along a quality hard road and away from major population centers.**

- (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 greatly exceeding current conditions are not anticipated in granting the requested variance.**

**SANGAMON COUNTY  
RECOMMENDED - STANDARDS FOR VARIATIONS  
[PAVING MATERIALS]**

Case #: 2016-021

Address: 17020 Old Route 54, New Berlin

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 contains a parking lot that is currently graveled. While there appears to be enough space to adequately park on the site, the nature of the uses increases the need to pave the parking area. Paving will help with internal vehicular circulation, help ensure compliance with federal laws such as the Americans with Disabilities Act, and could decrease the risk of accidents, which could have the benefit of increasing the economic yield of 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.

**No particularly unique circumstances were mentioned in the petition.**

- (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.

**Paving and striping the lot will help with internal vehicular circulation on the site. Additional negative impacts over what currently exist are not anticipated pertaining to the other factors.**