

# FILED

AUG 28 2015

*Don J. Hay*  
Sangamon County Clerk

CASE# 2015-030  
RESOLUTION NUMBER 6-1

**GRANTING A CONDITIONAL PERMITTED USE AND VARIANCE**  
FOR CERTAIN PROPERTY LOCATED AT  
**4136 N. PEORIA 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 **grant 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, **Drink-Em Up Inc.**, has petitioned the Sangamon County Board for a **Conditional Permitted Use for a tavern and for the sale of alcoholic beverages & live entertainment within a beer garden; and, a variance to allow a tavern property line to be within twelve (12) feet of a residential structure; and**

WHEREAS, a public hearing was held at the Sangamon County Building on **August 20, 2015** 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 for a tavern and for the sale of alcoholic beverages & live entertainment within a beer garden providing that any live entertainment, including but not limited to any dancing, band, DJ music, or any other noise generating music of any kind that is outside the structure cease no later than 9:00 p.m. on Sunday through Thursday nights, and 10:00 p.m. on Friday and Saturday nights;**

and, a variance to allow a tavern property line to be within twelve (12) feet of a residential structure; and

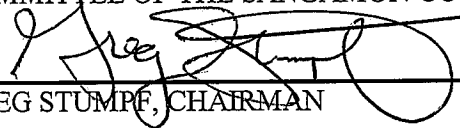
WHEREAS, the Sangamon County Board does hereby adopt the recommendation of the Sangamon County Zoning Board of Appeals.

**NOW, THEREFORE, BE IT RESOLVED** by the County Board of Sangamon County, Illinois, in session assembled this 8<sup>th</sup> Day of September, 2015 that the request for a **Conditional Permitted Use for a tavern and for the sale of alcoholic beverages & live entertainment within a beer garden providing that any live entertainment, including but not limited to any dancing, band, DJ music, or any other noise generating music of any kind that is outside the structure cease no later than 9:00 p.m. on Sunday through Thursday nights, and 10:00 p.m. on Friday and Saturday nights; and, a variance to allow a tavern property line to be within twelve (12) feet of a residential structure on the above described property is hereby approved.**

Signed and passed by the Sangamon County Board in session on this 8<sup>th</sup> day of September, 2015.

Respectfully submitted,

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

  
\_\_\_\_\_  
GREG STUMPF, CHAIRMAN

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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**

Parcel 1: Part of Lot 13 of Michael Burke's Subdivision, Springfield, Sangamon County, Illinois, more particularly described as follows: Beginning at an iron pin set at the Northeast corner of said Lot 13; thence South 00 degrees 03 minutes 47 seconds East , a distance of 84.00 feet to a point; thence North 89 degrees 52 minutes 48 seconds West, a distance of 43.58 feet to a point; thence North 39 degrees 19 minutes 08 seconds West, a distance of 80.03 feet to an iron pin set on the South right of way line of Peoria Road; thence North 49 degrees 40 minutes 00 seconds East on said South right of way line, a distance of 34.21 feet to an iron pin set; thence south 89 degrees 52 minutes 48 seconds East, a distance of 68.11 feet to the point of beginning. Containing 0.14 acres, more or less.

All shown as Parcel 1 on Plat of Survey Recorded August 5, 2011 as Document Number 2011R24367.

AND

Parcel 2: Part of Lot 13 of Michael Burke's Subdivision, Springfield, Sangamon County, Illinois, more particularly described as follows: Commencing at an iron pin set at the Northeast corner of said Lot 13; thence South 00 degrees 03 minutes 47 seconds East, a distance of 84.00 feet to the point of beginning, from said point off beginning; thence continuing South 00 degrees 03 minutes 47 seconds East, a distance of 41.99 feet to a pipe found; thence South 89 degrees 21 minutes 32 seconds West, a distance of 9.07 feet to an iron pin set; thence North 39 degrees 19 minutes 08 seconds West a distance of 54.53 feet to a point; thence south 89 degrees 52minutes 48 seconds East, a distance of 43.58 feet to the point of beginning. Containing 0.03 acres, more or less.

All as shown as Parcel 2 on Plat of Survey Recorded August 5, 2011 as Document Number 2011R24367

AND

Parcel 3: Lot 10 in Michael Burke's Subdivision Except the East 65.15 feet thereof, Situated in the South part of the East Half of the Northeast Quarter of Section 11 and the Southwest part of the West Half of the Northwest Quarter of Section 12, Township 16 North, Range 5 West of the Third Principal Meridian.

All Situated in Sangamon County, Illinois.

**RECAP**

(For County Board Use)

COUNTY BOARD MEMBER: 16 NAME: Greg Stumpf

DOCKET NUMBER: 2015-030

ADDRESS: 4136 N. Peoria Road, Springfield, IL 62702

PETITIONER: Drink-Em Up Inc.

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

REQUESTED ZONING CLASSIFICATION: "B-3" General Business District with a Conditional Permitted Use for a tavern and for the sale of alcoholic beverages & live entertainment within a beer garden; and a variance to allow a tavern property line to be within twelve (12) feet of a residential structure.

AREA: 0.8 acres

COMMENTS: None

OBJECTORS: Yes

PLANNING COMMISSION  
RECOMMENDATION:

**Recommend approval of the Conditional Permitted Use. Staff recommends a condition that the live entertainment including but not limited to any dancing, band, DJ music, or any other noise generating music of any kind be limited to areas inside the existing structure and not be allowed in any outside area to include but not limited to any beer garden or other outdoor area available to the public. This condition could help decrease off-site noise impacts on the nearby residences. Recommend approval of the requested variance. It is difficult to tell from sources of evidence available to staff whether the tavern or the residence was in its present location first. The standards of variation are met.**

**AMENDED: Recommend approval of the conditional permitted use provided that any live entertainment, including but not limited**

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to any dancing, band, DJ music, or any other noise generating music of any kind that is outside the structure cease no later than 9:00 p.m. on Sunday through Thursday nights, and 10:00 p.m. on Friday and Saturday nights. Placing these restrictions on the beer garden and outside areas should help to minimize the negative impact on the immediate area. Recommend approval of the requested variance to allow the tavern to be within (12) feet of a residence. It is difficult to tell from the sources of evidence available to staff whether the tavern or the residence was constructed first. The Standards for Variations are met.

SANGAMON COUNTY BOARD OF APPEALS

RECOMMENDATION:

Approval of amended staff recommendation.

  
\_\_\_\_\_  
RECORDING SECRETARY

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SANGAMON COUNTY ZONING BOARD OF APPEALS

SANGAMON COUNTY, ILLINOIS

IN THE MATTER OF THE PETITION OF: ) DOCKET NO: **2015-030**  
**Drink-Em Up Inc.** )  
) )  
) ) PROPERTY LOCATED AT:  
) ) **4136 N. Peoria Road**  
) ) **Springfield, IL 62702**

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 **August 20, 2015** 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: **4136 N. Peoria Road, Springfield, IL 62702** 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 **Weebles Bar and Beer Garden.**
5. That the proposed land use of said property is **Weebles Bar and Beer Garden..**
6. That the requested **Conditional Permitted Use and variance** of said property are a **Conditional Permitted Use for a tavern and for the sale of alcoholic beverages & live entertainment within a beer garden; and, a variance to allow a tavern property line to be within twelve (12) 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** support the proposition that the adoption of the proposed **Conditional Permitted Use provided that any live entertainment, including but not limited to any dancing, band, DJ music, or any other noise generating music of any kind that is outside the structure cease no later than 9:00 p.m. on Sunday through Thursday nights, and 10:00 p.m. on Friday and Saturday nights and, a variance to allow a tavern property line to be within twelve (12) feet of a residential structure** 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 provided that any live entertainment, including but not limited to any dancing, band, DJ music, or any other noise generating music of any kind that is outside the structure cease no later than 9:00 p.m. on Sunday through Thursday nights, and 10:00 p.m. on Friday and Saturday nights and variance** be approved.

Charles Chimento/cx  
CHAIRMAN

MINUTES OF THE  
SANGAMON COUNTY ZONING BOARD OF APPEALS

There was a motion by Zoning Board Member, **Merilyn Herbert**, to concur with the findings of fact and amended recommendation of the Regional Planning Commission and recommend to the County Board that the petition be **approved provided that any live entertainment, including but not limited to any dancing, band, DJ music, or any other noise generating music of any kind that is outside the structure cease no later than 9:00 p.m. on Sunday through Thursday nights, and 10:00 p.m. on Friday and Saturday nights**, which was duly seconded by **Anthony Mares**.



The vote of the Board was as follows:

YES: **Charles Chimento, Anthony Mares, Andrew Spiro, Merilyn Herbert & John Lucchesi**

NO:

PRESENT:

ABSENT: **Don Wulf & Janet Dobrinsky**

  
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RECORDING SECRETARY

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

Case #: 2015-030

Address: 4136 North Peoria Road, Springfield

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.

**It is questionable whether having a tavern will cause compatibility issues given that it has been in existence for fifty (50) or more years according to the petition. The site could decrease its potential off-site noise impacts through live entertainment and dancing conditions placed on the conditional permitted use, if the County Board sees fit. Staff recommends a condition that any live entertainment including but not limited to any dancing, band, DJ music, or any other noise generating music of any kind be limited to areas inside the existing structure and not be allowed in any outside area to include but not limited to the beer garden or other outdoor area available to the public. This condition could help decrease off-site noise impacts on nearby residences.**

**AMENDED: Evidence was provided during the hearing regarding the location, design and method of operation of the use that any negative impacts will minimize the adjacent effects on the neighborhood providing that limitations are placed on the noise generating activities in the beer garden.**

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

**There appears to be adequate space for the petitioner to place the required forty-seven (47) paved parking spaces on the subject property. The existing beer garden appears to be enclosed with a privacy fence that provides an additional barrier between the tavern and the residences in the vicinity. Any expansion of the beer garden should continue the privacy fence, so long as it complies with the zoning ordinance.**

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

**The fencing material for the beer garden could provide an adequate barrier to lessen off-site impacts from the tavern. No other negative impacts are anticipated given that the tavern has been in existence for many years.**

(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 to allow a tavern within twelve (12) feet of a residence is requested.**

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**SANGAMON COUNTY  
RECOMMENDED - STANDARDS FOR VARIATIONS**

Case #: 2015-030

Address: 4136 North Peoria 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.

**The property has been a tavern, presumably legal non-conforming, since the late 1950s to early 1960s according to the petition. It is difficult to tell from sources of evidence available to staff whether the tavern or the residence was located in its present location first. The residence immediately to the east appears to have been in existence along with the tavern since at least 1969. There is a residence in the area within one hundred (100) feet. However, it fronts on an adjacent street, making the distance from the public entrance to the tavern greater than one hundred (100) feet.**

- (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 a long established tavern with a beer garden installed by a previous owner.**

- (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.

**Provided the suggested conditions for live entertainment and dancing are adopted, the essential character of the locality should remain similar to its present state. No negative impacts pertaining to the other factors are anticipated.**