

**GRANTING A CONDITIONAL PERMITTED USE AND VARIANCES (IN PART)
FOR CERTAIN PROPERTY LOCATED AT
1559 PARKES KINNER ROAD, NEW BERLIN
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 variances (in part)** to the Sangamon County Zoning Ordinance with respect to the following described property, to-wit:

**LOTS 1 AND 2 OF ARCHER MINI FARMS, AS TO THE PLAT THEREOF,
FILED FEBRUARY 1, 1974 IN BOOK 21 OF PLATS, PAGE 69, BEING A PART OF
THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 24,
TOWNSHIP 16 NORTH, RANGE 7 WEST OF THE THIRD PRINCIPAL MERIDIAN.
PARCEL NUMBERS: 12-24.0-276-001, 002.**

WHEREAS, the Petitioners, **Michael & Tricia Kinner**, have petitioned the Sangamon County Board requesting for **Proposed Parcel 1: pursuant to Chapter 17.58 and Section 17.10.020, a Conditional Permitted Use for dog kennels; pursuant to Chapter 17.66, a variance of Section 17.50.060(A) to allow the parking to remain unpaved (rock/grass) instead of the required bituminous seal coat; a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre); and, a variance of Section 17.38.010 to allow the rear yard setback for the existing structure to be approximately twenty (20) feet instead of the required thirty (30) feet; and, for Proposed Parcel 2: pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre); and,**

WHEREAS, a public hearing was held via Zoom on **February 18, 2021** after proper notice

FILED

was posted on said property and given by news publication, as is required by said Ordinance, and

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Sangamon County Clerk

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 a Conditional Permitted Use and variances (in part)**; 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 **9th Day of March, 2021 that the following request(s) on the above described property are hereby approved:**

For Proposed Parcel 1:

- **Pursuant to Chapter 17.58 and Section 17.10.020, a Conditional Permitted Use for dog kennels;**
- **Pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre);**
- **Pursuant to Chapter 17.66, a variance of Section 17.38.010 to allow the rear yard setback for the existing structure to be approximately twenty (20) feet instead of the required thirty (30) feet; and,**
- **Pursuant to Chapter 17.66, a variance of Section 17.50.060(A) to allow the access drives to remain unpaved subject to the approval of the Zoning Administrator. The six (6) customer parking spaces as shown on the site plan in the petition shall be paved also subject to the approval of the Zoning Administrator; and,**

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For Proposed Parcel 2:

- Pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre).

Signed and passed by the Sangamon County Board in session on this 9th day of March, 2021.

COUNTY BOARD CHAIRMAN

ATTEST:

SANGAMON COUNTY CLERK

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RECAP
(For County Board Use)

COUNTY BOARD MEMBER: # 7 NAME: Craig Hall

DOCKET NUMBER: 2021-005

ADDRESS: 1559 Parkes Kinner Road, New Berlin, IL 62670

PETITIONER: Michael & Tricia Kinner

PRESENT ZONING CLASSIFICATION: "A" Agricultural District.

REQUESTED ZONING CLASSIFICATION: For Proposed Parcel 1: pursuant to Chapter 17.58 and Section 17.10.020, a Conditional Permitted Use for dog kennels; pursuant to Chapter 17.66, a variance of Section 17.50.060(A) to allow the parking to remain unpaved (rock/grass) instead of the required bituminous seal coat; a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre); and, a variance of Section 17.38.010 to allow the rear yard setback for the existing structure to be approximately twenty (20) feet instead of the required thirty (30) feet; and, for Proposed Parcel 2: pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre).

AREA: 1.26 acres

COMMENTS: None

OBJECTORS: None

PLANNING COMMISSION STAFF RECOMMENDATION: **Recommend approval of the requested CPU for a dog kennel. Recommend approval of the variances to allow the parcels to be less than forty acres and to allow the rear yard setback to be approximately twenty feet. The subject property is being reconfigured in order to place the existing dog kennel entirely on one parcel, and the requested variances will bring the subject property into compliance.**

Recommend denial of a portion of the paving variance. Staff recommends the petitioners be required to pave the six parking spaces as shown on the site plan in the petition subject to the approval of the Zoning Administrator. Requiring paving for the six customer parking spaces will provide a safe surface for customers dropping off their dogs. Recommend approval to allow the access drives to remain unpaved. The petitioners will continue to use the access drives for their farming operation, which would cause continuous repairs to a paved surface.

SANGAMON COUNTY ZONING 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: **2021-005**
Michael & Tricia Kinner)
))
)) PROPERTY LOCATED AT:
)) **1559 Parkes Kinner Road**
)) **New Berlin, IL 62670**

RECOMMENDATION OF THE ZONING 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 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 **February 18, 2021** 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: **1559 Parkes Kinner Road, New Berlin, IL 62670** and more particularly described as:

LOTS 1 AND 2 OF ARCHER MINI FARMS, AS TO THE PLAT THEREOF, FILED FEBRUARY 1, 1974 IN BOOK 21 OF PLATS, PAGE 69, BEING A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 16 NORTH, RANGE 7 WEST OF THE THIRD PRINCIPAL MERIDIAN. PARCEL NUMBERS: 12-24.0-276-001, 002.

3. That the present zoning of said property is **“A” Agricultural District.**
4. That the present land use of said property is **Single-family residence and dog kennels.**
5. That the proposed land use of said property is **Proposed Parcel 1: Dog kennels. Proposed Parcel 2: Single-family residence.**
6. That the request(s) for the subject property are for **Proposed Parcel 1: pursuant to Chapter 17.58 and Section 17.10.020, a Conditional Permitted Use for dog kennels; pursuant to Chapter 17.66, a variance of Section 17.50.060(A) to allow the parking to remain unpaved (rock/grass) instead of the required bituminous seal coat; a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre); and, a variance of Section 17.38.010 to allow the rear yard setback for the existing structure to be approximately twenty (20) feet instead of the required thirty (30) feet; and, for Proposed Parcel 2: pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre).**
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 variances (in part)** are 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 following request(s) on the above described property are hereby approved:**

For Proposed Parcel 1:

- Pursuant to Chapter 17.58 and Section 17.10.020, a Conditional Permitted Use for dog kennels;
- Pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre);
- Pursuant to Chapter 17.66, a variance of Section 17.38.010 to allow the rear yard setback for the existing structure to be approximately twenty (20) feet instead of the required thirty (30) feet; and,
- Pursuant to Chapter 17.66, a variance of Section 17.50.060(A) to allow the access drives to remain unpaved subject to the approval of the Zoning Administrator. The six (6) customer parking spaces as shown on the site plan in the petition shall be paved also subject to the approval of the Zoning Administrator; and,

For Proposed Parcel 2:

- Pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre).


 CHAIRMAN

MINUTES OF THE
SANGAMON COUNTY ZONING BOARD OF APPEALS

There was a motion by Zoning Board Member, **Don Wulf**, which was duly seconded by **Tony Mares**, to concur with the findings of fact and recommendation of the Regional Planning Commission and recommend to the County Board that **the following request(s) on the above described property are hereby approved:**

For Proposed Parcel 1:

- Pursuant to Chapter 17.58 and Section 17.10.020, a Conditional Permitted Use for dog kennels;
- Pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre);
- Pursuant to Chapter 17.66, a variance of Section 17.38.010 to allow the rear yard setback for the existing structure to be approximately twenty (20) feet instead of the required thirty (30) feet; and,
- Pursuant to Chapter 17.66, a variance of Section 17.50.060(A) to allow the access drives to remain unpaved subject to the approval of the Zoning Administrator. The six (6) customer parking spaces as shown on the site plan in the petition shall be paved also subject to the approval of the Zoning Administrator; and,

For Proposed Parcel 2:

- Pursuant to Chapter 17.66, a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre).

The vote of the Board was as follows:

YES: **Charlie Chimento, Tony Mares, Don Wulf, JD Sudeth**

NO:

PRESENT:

ABSENT: **Andrew Spiro**



RECORDING SECRETARY

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

Case #: **2021-005**

Address: **1559 Parkes Kinner Road, 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.
The effects on the character of the surrounding area will be limited as the kennel has been operating on the subject property for approximately 30 years with no known negative effects on the surrounding area. The kennel and play yard is also located on the southwest portion of the subject property, so the petitioner's residence and Parkes Kinner Road separate the kennel use from the neighboring residences.
- (ii) Is so proposed to be operated, designed and located so that the public health, safety, and welfare will be protected.
The kennel has been operating for approximately 30 years with no known negative effects, so the kennel will continue to operate without impact to the public health, safety, and welfare.
- (iii) Will not cause substantial injury to the value of other property in the vicinity in which it is located.
There is no foreseen impact.
- (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) Manufactured home parks - must meet the requirements of Chapter 17.48 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

- (e) Wind energy conversion systems - a WECS shall not be located within 1½ miles of an incorporated area with a population over 10,000 or within ½ mile of an incorporated area with a population of less than 10,000. WECS shall not be located so that they interfere with contiguous urban development.

N/A

- (f) Adult-use cannabis business establishments as defined in Chapter 17.04:
 - 1) that the following distances be maintained from the principal structure of an adult-use cannabis business establishment to the property line of a use defined in Chapter 17.04 as a "sensitive area":
 - (A) Adult-use cannabis craft grower – 1,500 feet
 - (B) Adult-use cannabis cultivation center – 1,500 feet
 - (C) Adult-use cannabis dispensing organization (dispensary) – 250 feet
 - (D) Adult-use cannabis infuser organization (infuser) – 1,500 feet
 - (E) Adult-use cannabis processing organization (processor) – 1,500 feet
 - (F) Adult-use cannabis transporting organization (transporter) – 1,500 feet
 - 2) On-premise consumption of cannabis at cannabis dispensing organizations and smoking lounges in unincorporated Sangamon County is prohibited.

N/A

**SANGAMON COUNTY
RECOMMENDED - STANDARDS FOR VARIATIONS**

Case #: **2021-005**

Address: **1559 Parkes Kinner Road, 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.

Staff is recommending the petitioners have to pave the six parking spaces as shown on the site plan in the petition subject to the approval of the Zoning Administrator. Staff does agree that the access drives may remain unpaved as the petitioners will continue to use the access drives for their farming operation, which would cause continuous repairs to a paved surface. The subject property is being reconfigured in order to place the existing dog kennel entirely on one parcel, and the requested variances to allow the parcels to be less than forty acres and to allow the rear yard setback to be approximately twenty feet will bring the subject property into compliance.

- (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 subject property is not only being utilized for a dog kennel business, but also for the petitioners farming operation. This provides a unique situation to justify allowing the access drives to remain unpaved; however, staff is recommending paving subject to the approval of the Zoning Administrator for the six customer parking spaces as indicated on the site plan. The existing dog kennel straddles the property line, so the petitioner is reconfiguring the subject property in order to correct this non-conformity, which triggers the need for the lot area and rear yard setback variances.

- (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.

Requiring paving for the six customer parking spaces will provide a safe surface for customers dropping off their dogs, and additional negative impacts are not anticipated from the other variances.