

**DENYING A REZONING, AND GRANTING A USE VARIANCE WITH CONDITIONS
AND A VARIANCE
FOR CERTAIN PROPERTY LOCATED AT
5818 STATE ROUTE 97, PLEASANT PLAINS
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 a rezoning, but in the alternative grant a Use Variance with conditions and a variance** to the Sangamon County Zoning Ordinance with respect to the following described property, to-wit:

See Exhibit A

WHEREAS, the Petitioner, **S and S Enterprise 2 LLC (Jason Sudeth)**, has petitioned the Sangamon County Board requesting **pursuant to Chapters 17.68 and 17.24, a rezoning from “A” Agricultural District to “B-2” Retail Business District; and, pursuant to Chapter 17.66, a variance of Section 17.50.060(A) 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 **October 21, 2021** 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 a rezoning, but in the alternative grant a Use Variance with conditions and a variance; and,**

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

FILED

OCT 28 2021


Sangamon County Clerk

NOW, THEREFORE, BE IT RESOLVED by the County Board of Sangamon County, Illinois, in session assembled this 9th Day of November, 2021 that the following request(s) on the above described property is hereby denied:

- Pursuant to Chapters 17.68 and 17.24, a rezoning from “A” Agricultural District to “B-2” Retail Business District.

The following recommendations on the above described property are hereby approved:

- Pursuant to Chapter 17.68.050(D), a Use Variance to allow a used auto sales business that is internet-based only provided that:
 1. All vehicles related to the business are stored inside,
 2. The auto sales business is strictly internet-based with no option of an open used car sales lot, and
 3. The business is not open to the public; and,
- Pursuant to Chapter 17.66, a variance of Section 17.50.060(A) to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat.

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

COUNTY BOARD CHAIRMAN

ATTEST:

SANGAMON COUNTY CLERK

EXHIBIT A

Part of the Southwest Quarter of Section 15 and Part of the Northwest Quarter of Section 22 in Township 16 North, Range 6 West of the Third Principal Meridian, situated in Sangamon County, Illinois being further described as follows:

Commencing at an iron pin at the Southwest corner of the Southwest Quarter of said Section 15; thence North 0 degrees 43 minutes 54 seconds West along the West line of the Southwest Quarter of said Section 15, 469.26 feet to the centerline of Beardstown Road; thence South 70 degrees 48 minutes 19 seconds East along the centerline of Beardstown Road, 802.56 feet; thence South 0 degrees 35 minutes 56 seconds East parallel to the East line of the West Half of the Northwest Quarter of said Section 22, 31.88 feet to the true point of beginning; thence continuing South 0 degrees 35 minutes 58 seconds East parallel to the East line of the West Half of the Northwest Quarter of said Section 22, 757.74 feet to an iron pin; thence North 89 degrees 33 minutes 00 seconds East, parallel to the South lie of the Northwest Quarter of the Northwest Quarter of said Section 22, 362.12 feet to an iron pin; thence North 0 degrees 35 minutes 58 seconds West, parallel to the East line of the West Half of the Northwest Quarter of said Section 22, 131.60 feet to an iron pin; thence South 89 degrees 33 minutes 00 seconds West, parallel with the South line of the Northwest Quarter of the Northwest Quarter of said Section 22, 150.00 feet to an iron pin; thence North 0 degrees 35 minutes 58 seconds West, parallel to the East line of the West Half of the Northwest Quarter of said Section 22, 306.68 feet to an iron pin; thence North 89 degrees 33 minutes 00 seconds East, parallel with the South line of the Northwest Quarter of the Northwest Quarter of said Section 22, 130.00 feet to an iron pin; thence North 0 degrees 35 minutes 56 seconds West, parallel with the East line of the West Half of the Northwest Quarter of said Section 22, 229.58 feet to an iron pin; thence North 70 degrees 48 minutes 19 seconds West, parallel with the centerline of Beardstown Road, 363.6 feet to the point of beginning.

Parcel Number: 13-22.0-100-016.

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RECAP
(For County Board Use)

COUNTY BOARD MEMBER: #1 NAME: Tom Fraase, Jr.

DOCKET NUMBER: 2021-037

ADDRESS: 5818 State Route 97, Pleasant Plains, IL 62677-3813

PETITIONER: S and S Enterprise 2 LLC (Jason Sudeth)

PRESENT ZONING CLASSIFICATION: "A" Agricultural District.

REQUESTED ZONING CLASSIFICATION: Pursuant to Chapters 17.68 and 17.24, a rezoning from "A" Agricultural District to "B-2" Retail Business District; and, pursuant to Chapter 17.66, a variance of Section 17.50.060(A) to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat.

AREA: 4.62 acres

COMMENTS: None

OBJECTORS: Yes

PLANNING COMMISSION STAFF RECOMMENDATION: Recommend denial of the requested B-2 zoning. The LESA score of 167 indicates the property is marginal requiring mitigating factors for non-agricultural development. In this case, the south side of State Route 97 has remained agricultural with some single-family residences, so an area of B-2 zoning is inappropriate. In the alternative, staff recommends approval of a Use Variance for a used auto sales business that is internet-based only provided that: 1) all vehicles related to the business are stored inside, 2) the auto sales business is strictly internet-based with no option of an open used car sales lot, and 3) the business is not open to the public. The subject property is 4.62 acres and consists of a smaller garage and the shed. Absent a farm operation being able to utilize the shed, a Use Variance for a used auto sales business that is internet-based only with the proposed limitations will provide for a good adaptive reuse of the subject property. Recommend approval of the paving variance. Based on the limitations proposed for the Use Variance, rocked parking is consistent with the agricultural trend in the area. The Standards for Variation are met.

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: 2021-037
S and S Enterprise 2 LLC)	
(Jason Sudeth))	
)	PROPERTY LOCATED AT:
)	5818 State Route 97
)	Pleasant Plains, IL 62677-3813

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 **rezoning 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 21, 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: **5818 State Route 97, Pleasant Plains, IL 62677-3813** and more particularly described as:

See Exhibit A

- 3. That the present zoning of said property is **“A” Agricultural District.**
- 4. That the present land use of said property is **Two outbuildings.**
- 5. That the proposed land use of said property is **Used car/internet sales.**
- 6. That the request(s) for the subject property **are pursuant to Chapters 17.68 and 17.24, a rezoning from “A” Agricultural District to “B-2” Retail Business District; and, pursuant to Chapter 17.66, a variance of Section 17.50.060(A) 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 a used auto sales business that is internet-based only with conditions and a variance.**

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) **is hereby denied:**

- **Pursuant to Chapters 17.68 and 17.24, a rezoning from “A” Agricultural District to “B-2” Retail Business District.**

The following recommendations on the above described property are hereby approved:

- **Pursuant to Chapter 17.68.050(D), a Use Variance to allow a used auto sales business that is internet-based only provided that:**
 - 1. **All vehicles related to the business are stored inside,**
 - 2. **The auto sales business is strictly internet-based with no option of an open used car sales lot, and**
 - 3. **The business is not open to the public; and,**
- **Pursuant to Chapter 17.66, a variance of Section 17.50.060(A) to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat.**

Charlie Chimento

 CHAIRMAN

MINUTES OF THE
SANGAMON COUNTY ZONING BOARD OF APPEALS

There was a motion by Zoning Board Member, **Phil Sidles**, 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) **is hereby denied**:

- Pursuant to Chapters 17.68 and 17.24, a rezoning from “A” Agricultural District to “B-2” Retail Business District.

The following recommendations on the above described property are hereby approved:

- Pursuant to Chapter 17.68.050(D), a Use Variance to allow a used auto sales business that is internet-based only provided that:
 1. All vehicles related to the business are stored inside,
 2. The auto sales business is strictly internet-based with no option of an open used car sales lot, and
 3. The business is not open to the public; and,
- Pursuant to Chapter 17.66, a variance of Section 17.50.060(A) to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat.

The vote of the Board was as follows:

YES: **Tony Mares, Don Wulf, Richard Thompson, Phil Sidles**

NO:

PRESENT:

RECUSE: **Charlie Chimento, JD Sudeth**



 RECORDING SECRETARY

**SANGAMON COUNTY
RECOMMENDED - FINDINGS OF FACT**

Case #: **2021-037**

Address: **5818 State Route 97, Pleasant Plains**

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

North, South, & West – Cropland. East – Residence and 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 167 indicates the property is marginal requiring mitigating factors for non-agricultural development. In this case, the south side of State Route 97 has remained agricultural with some single-family residences, so an area of B-2 zoning is inappropriate.

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

The trend of development is predominantly agricultural with some rural residences in the area. In 2021, B-3, a multiple use variance, a paving variance, and a variance to allow an agricultural use in the B-3 District was granted northwest of the subject property.

**SANGAMON COUNTY
RECOMMENDED STANDARDS FOR USE VARIATIONS**

Case #: **2021-037**

Address: **5818 State Route 97, Pleasant Plains**

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 4.62 acres and consists of a smaller garage and the shed. Absent a farm operation being able to utilize the shed, a Use Variance for a used auto sales business that is internet-based only with the proposed limitations will provide for a good adaptive reuse of the subject property.

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

Limiting the vehicles being sold to being stored inside is not unlike farm equipment being stored on other properties in this area and this proposed use will not be detrimental to the agricultural 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 Use Variance with the proposed limitations will insure the business is in harmony with the purpose and intent of the Zoning Ordinance.

- (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 unlikely, provided the proposed conditions are accepted.

**SANGAMON COUNTY
RECOMMENDED - STANDARDS FOR VARIATIONS**

Case #: **2021-037**

Address: **5818 State Route 97, Pleasant Plains**

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.

Based on the limitations proposed for the Use Variance, rocked parking is consistent with the agricultural trend in the area.

- (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 proposed used car/internet sales business will not be open to the public and all vehicles will be stored inside the existing building on the subject property.

- (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.

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Parcel # 13-22-100-016

Zoning Case # 2021-037

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	20
50-74%	5	
Under 50%	0	
<u>CONTIGUOUS AGRICULTURAL/RURAL LAND</u>		
90% or more	20	
75-89%	10	5
50-74%	5	
Under 50%	0	
<u>PERCENTAGE OF SITE AGRICULTURAL/RURAL</u>		
75-100%	10	
50-74%	5	5
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	5
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	
18'-20' pavement, 40' ROW	10	0
> 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	5
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	0
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		75
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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	42	100	42
7148A	Proctor	P		100	
46A	Herrick	P		100	
7037A	Worthen	P		100	
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	58	87	50
684B	Broadwell	P		87	
50A	Viriden	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		75	
7075B	Drury	P		75	
8396A	Vesser	P2		75	
3074A	Radford	P3		75	
3073A	Ross	P3		75	
3284A	Tice	P3		75	
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		74	
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	0	74	
134C2	Camden	I		74	

259C2	Assumption	I	74
685C2	Middletown	I	74
280D2	Fayette	I	74
119D3	Elco	N	74
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	92
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GRAND TOTAL	167
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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.