

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: September 17, 2009
Time: 7:00 p.m.
Place: Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802

**Note: NO ENTRANCE TO BUILDING
FROM WASHINGTON STREET PARKING
LOT AFTER 4:30 PM.
Use Northeast parking lot via Lierman Ave.,
and enter building through Northeast
door.**

*If you require special accommodations please notify the Department of Planning & Zoning at
(217) 384-3708*

EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes
5. Continued Public Hearings
6. New Public Hearings

*652-V-09 Petitioner: **Samuel Shreeves**

Request: **Authorize the use of an existing detached accessory storage building with a setback of 41 feet and a front yard of 11 feet in lieu of the required 55 feet setback and 25 feet front yard, in regard to CR 1200N, a minor street, in the CR Zoning District.**

Location: **A 12.8 acre tract in the South Half of the Southeast Quarter of the Southwest Quarter of Section 31 of South Homer township and commonly known as the house at 2546 CR 1200N.**

*654-V-09 Petitioner: **Kathy Oliger**

Request: **Authorize the division of a lot less than five acres.**

Location: **Lot 1 of Oliger First Subdivision located in the Northeast Quarter of Section 31 of Mahomet Township and commonly known as the house at 1889 CR 50 E, Seymour.**

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
NOTICE OF REGULAR MEETING
SEPTEMBER 17, 2009
PAGE 2

***656-V-09** Petitioner: **Larry and Helen McGee**

Request: **Authorize the following in the R-2 Single Family Residence Zoning District:**

A. The construction and use of a room addition to an existing dwelling with a side yard of five feet two inches in lieu of the required side yard of six feet; and

B. The use of an existing detached garage that will be connected to the room addition in Part A, which also has a side yard of five feet two inches in lieu of the required side yard of six feet.

Location: **Lot 76 in Dobbins Downs III Subdivision in Section 2 of Champaign Township and commonly known as the house at 2207 Dale Drive, Champaign.**

7. Staff Report

8. Other Business

A. Semi-Annual Review of Closed Session Minutes

B. Scheduling of wind farm zoning cases

9. Audience Participation with respect to matters other than cases pending before the Board

10. Adjournment

*** Administrative Hearing. Cross Examination allowed.**

CASE NO. 652-V-09

PRELIMINARY MEMORANDUM

September 11, 2009

Petitioner: **Samuel Shreeves**

Champaign
County
Department of

**PLANNING &
ZONING**

Site Area: **approx. 13 acres**

Time Schedule for Development:
N/A

Request: **Authorize the use of an existing detached accessory storage building with a setback of 41 feet and a front yard of 11 feet in lieu of the required 55 feet setback and 25 feet front yard, in regard to CR 1200N, a minor street, in the CR Zoning District**

Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

Location: **A 12.8 acre tract in the South Half of the Southeast Quarter of the Southwest Quarter of Section 31 of South Homer Township and commonly known as the house at 2546 CR 1200N.**

BACKGROUND

The petitioner submitted Zoning Use Permit Application (ZUPA) 188-09-02 to construct an attached garage to his existing house on July 7, 2009. At first the petitioner did not submit a complete site plan with the permit and based on inspection of the 2009 GIS aerial photograph staff requested the petitioner provide more detail. When the petitioner returned with a complete site plan staff discovered that an existing agricultural shed was too close to CR 1200N.

Upon discussing the building with the petitioner, he told staff that the building had been built in 1998 and when he contacted Planning & Zoning at that time he was told that he needed a variance, but all that was necessary for the variance was the Township Highway Commissioner's approval. The petitioner asserts that he obtained the highway commissioner's approval, and was informed that a public hearing was not necessary for approval of a variance.

The petitioner submitted an application for variance on July 9, 2009, and the Zoning Administrator determined that due to staff error in 1998 the petitioner would not be charged for the application. The Zoning Administrator also determined that ZUPA 188-09-02 could be processed and approved as long as the petitioner provided a signed statement from the petitioner indicating he would abide by any reasonable requirement of the Zoning Board in this case.

EXTRATERRITORIAL JURISDICTION

The subject property is not within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning. Municipalities with zoning do not have protest rights in variance cases and they are not notified of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single Family Dwelling	CR Conservation-Recreation
North	Homer Lake Forest Preserve	CR Conservation-Recreation
East	Single Family Dwelling	CR Conservation-Recreation
West	Homer Lake Forest Preserve	CR Conservation-Recreation
South	Homer Lake Forest Preserve	CR Conservation-Recreation

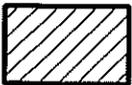
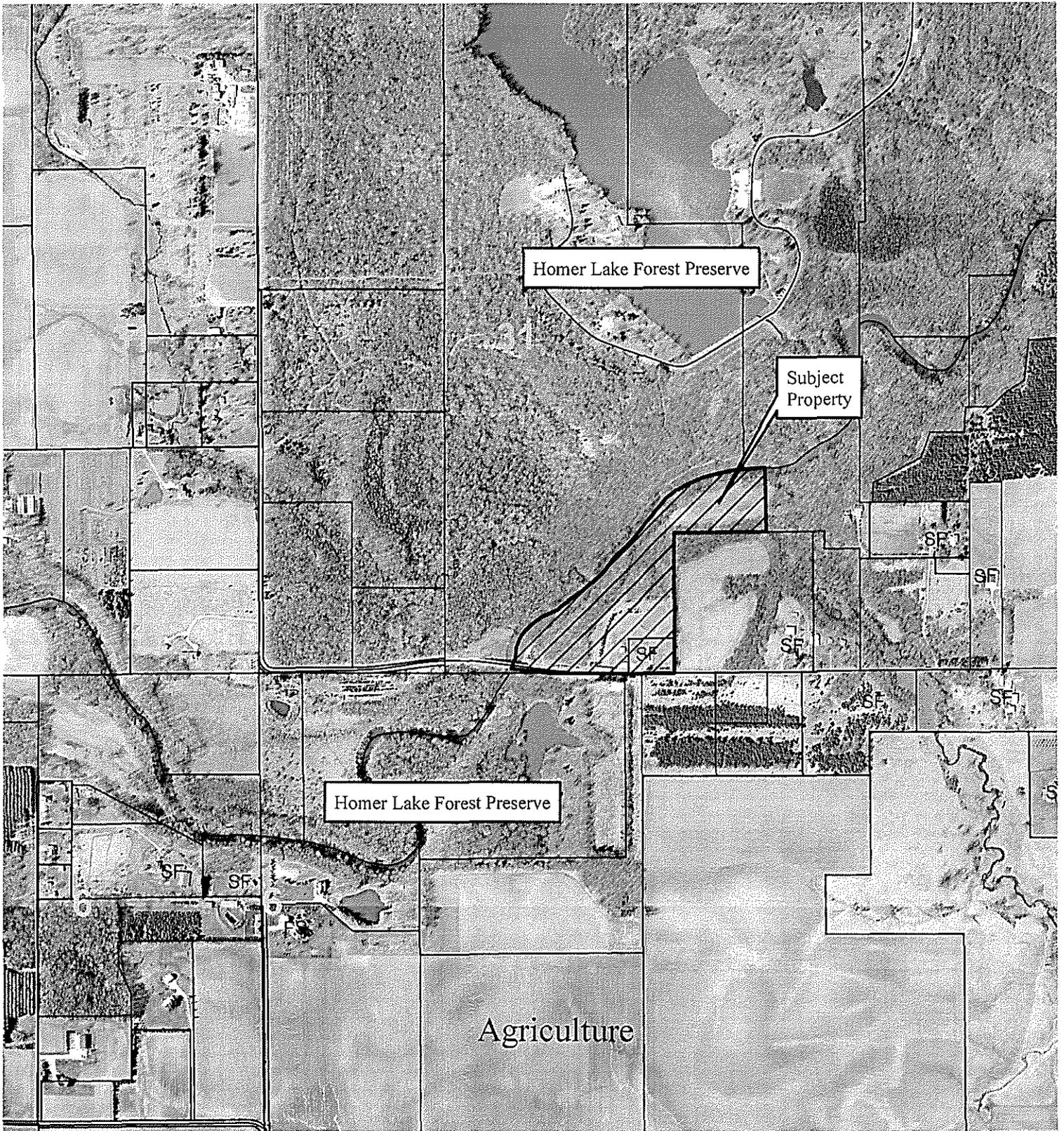
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Proposed site plan (2 pages)
- C Statement from petitioner regarding construction of shed submitted on July 9, 2009
- D Zoning Use Permit 188-09-02
- E Signed statement from petitioner regarding outcome of variance case
- F Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 652-V-09

ATTACHMENT A. LAND USE MAP

Case 652-V-09

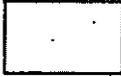
SEPTEMBER 11, 2009



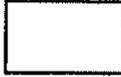
Area of Concern



Single Family



Farmstead



NORTH

1 inch = 800 feet

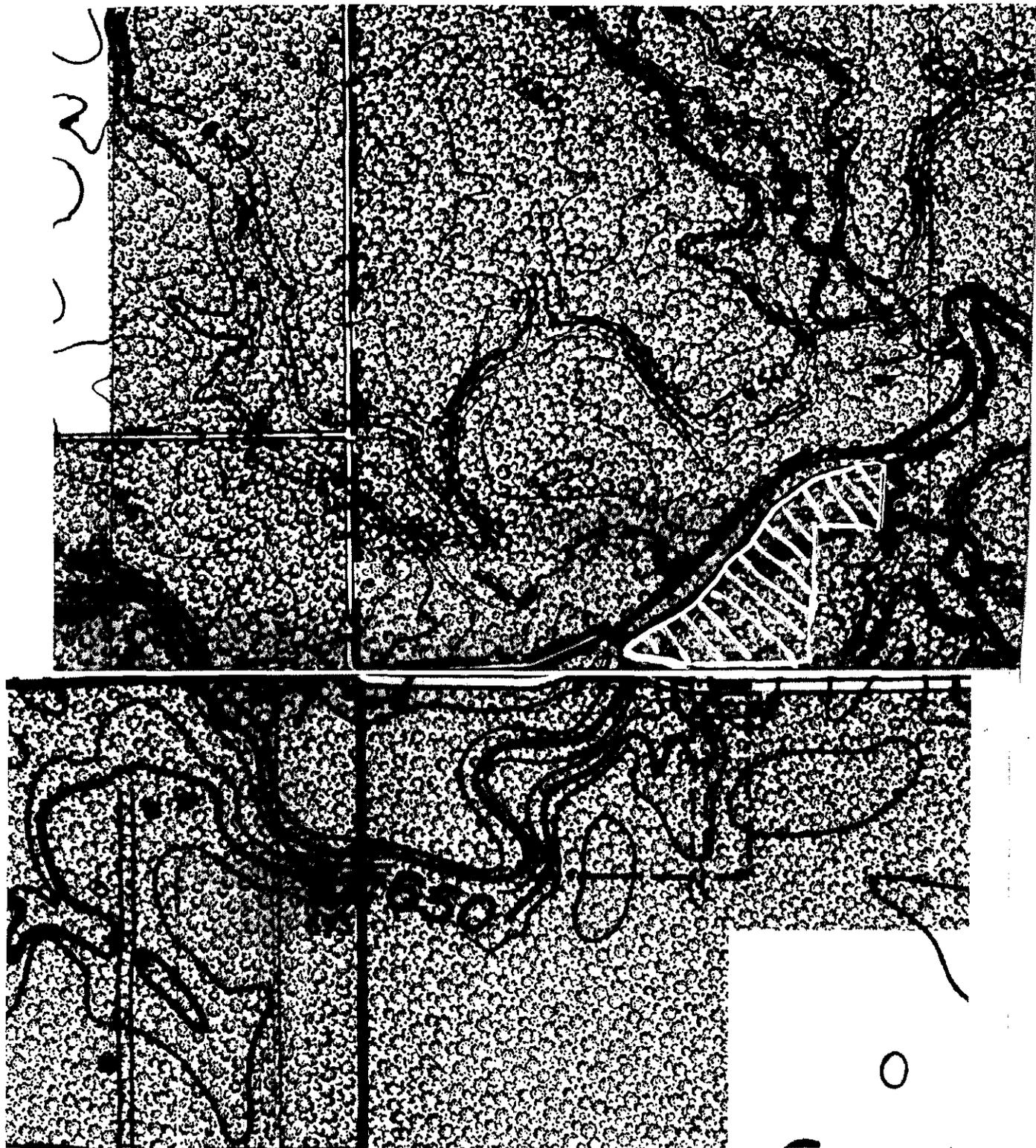
Champaign
County
Department of

**PLANNING &
ZONING**

ATTACHMENT A. ZONING MAP

Case 652-V-09

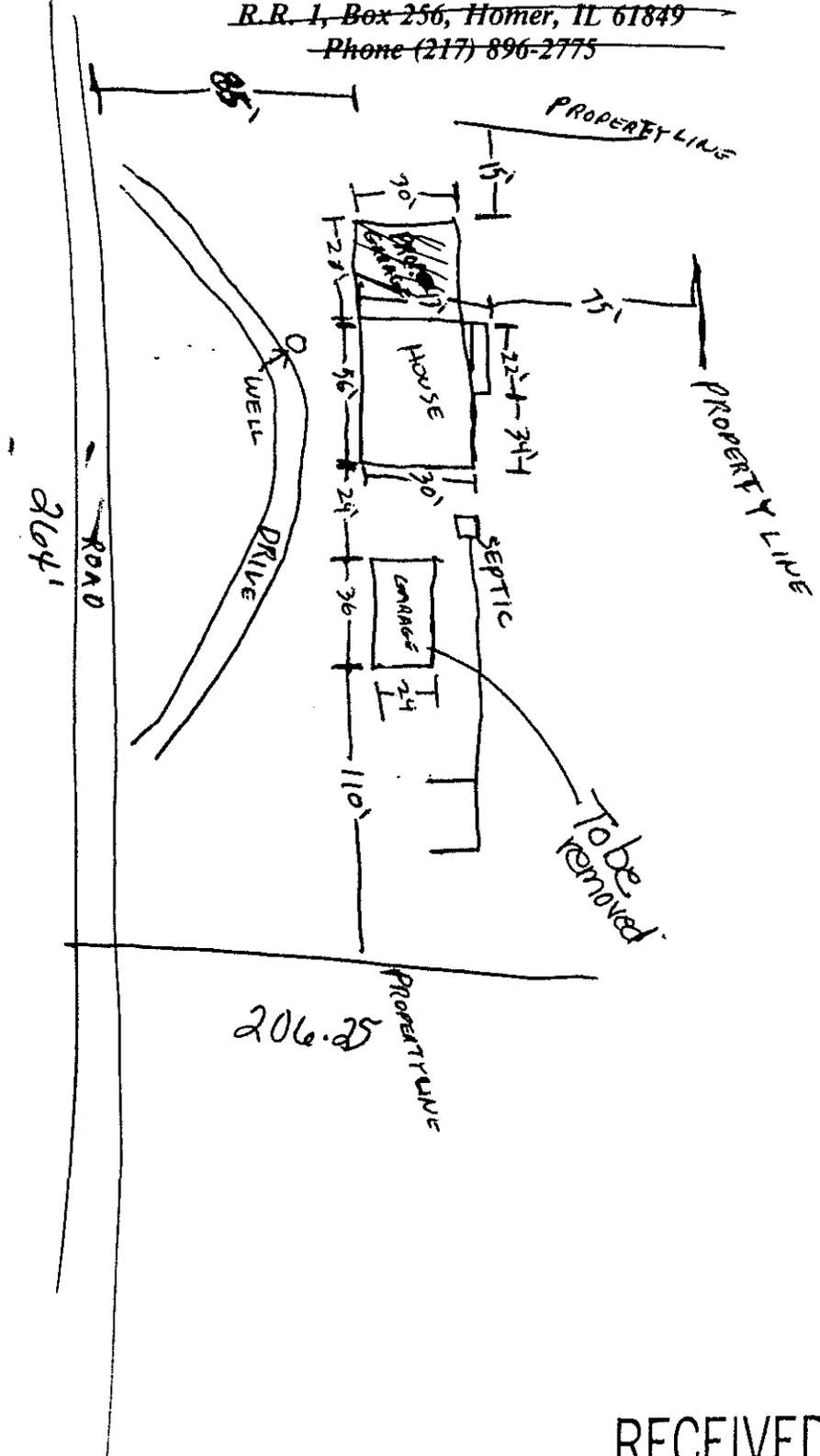
SEPTEMBER 11, 2009



	AG-1 Agriculture		R-1 Single Family Residence		R-4 Multiple Family Res.		B-2 Neighborhood Business		B-5 Central Business	 NORTH Champaign County Department of PLANNING & ZONING
	AG-2 Agriculture		R-2 Single Family Residence		R-5 Mobile Home Park		B-3 Highway Business		I-1 Light Industry	
	CR Conservation- Recreation		R-3 Two-family Residence		B-1 Rural Trade Center		B-4 General Business		I-2 Heavy Industry	

(Scrap Paper)
~~Shreeves Painting~~

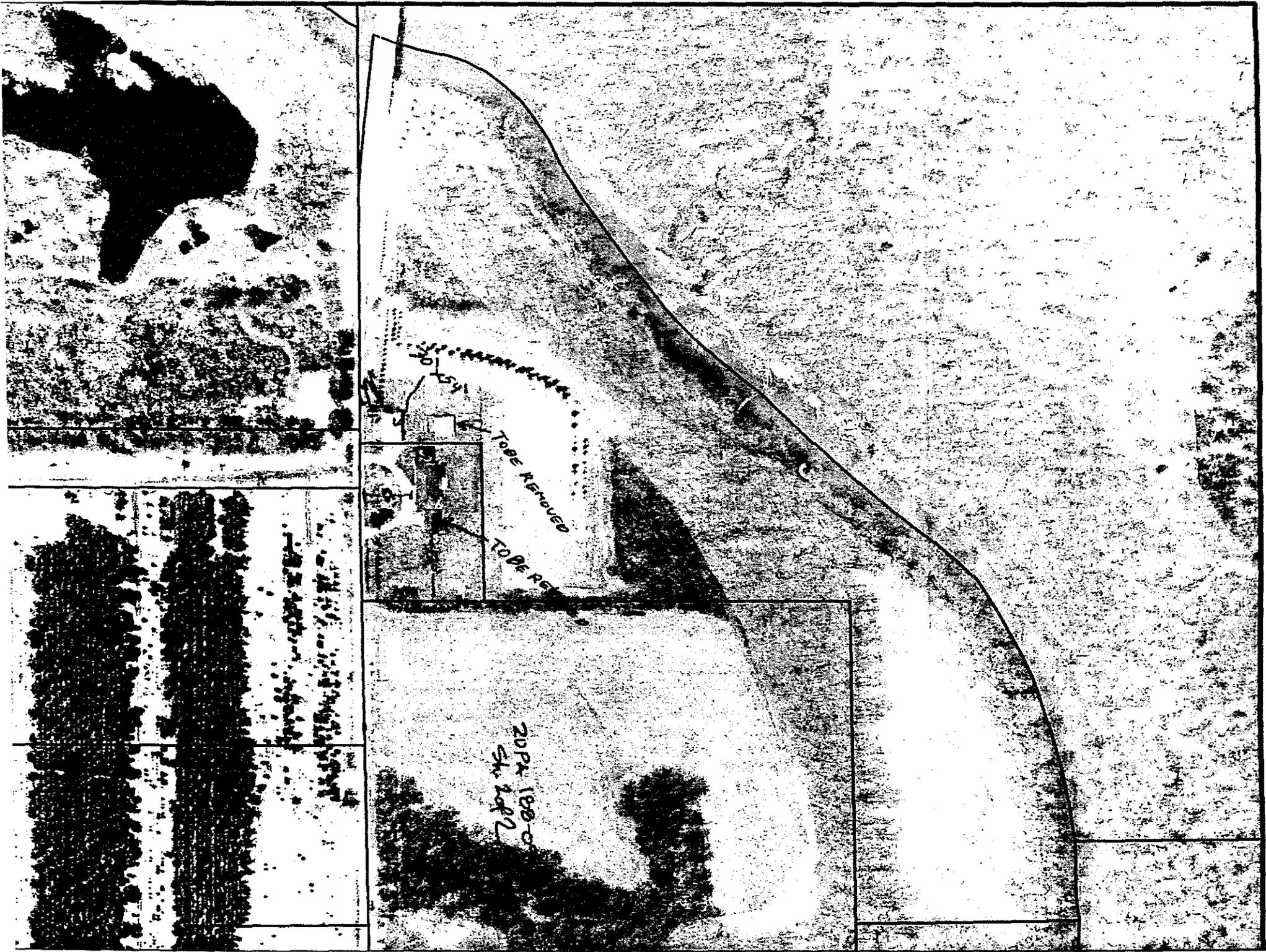
~~R.R. 1, Box 256, Homer, IL 61849~~
~~Phone (217) 896-2775~~



RECEIVED

JUL 7 2009

CHAMPAIGN CO. P & Z DEPARTMENT
ZOPA 1880402 Sh. 1 of 2



20px 188-03
4x 1492

TO BE REMOVED
TO BE REMOVED

To whom it may concern:

The Pole Barn, which is located at 2546 Cr1200N homer, Illinois Owned by Mr. Sam shreeves was built in 1998. At time of construction county zoning office was contacted about a variance of 40 feet from center of road based upon fact that original road bed could not be determined. Road has been changed over the years due to construction of new Salt Fork river bridge and various other road construction. Zoning office employee stated all that was required for this variance was approval by township road commissioner Elbert Rogers

At the time of construction I contacted Mr. Rogers and he verified and approved location of pole shed.

Sam Shreeves



Elbert Rogers



South Homer Township Road Commissioner

RECEIVED

JUL 09 2009

CHAMPAIGN CO. P & Z DEPARTMENT

CHAMPAIGN COUNTY, ILLINOIS

ZONING USE PERMIT

No.: 188-09-02

Application Date: 07/07/09

Township: South Homer Section: 31 Receipt #: 3811

P.I.N.: 26-24-31-400-006 & 007 Fee: \$161.00

Location (Address, directions, etc.): 2546 CR 1200N, Homer, Illinois

Owner/s: Samuel Shreeves

Issued to: Owner: X Agent: Zoning District: CR Lot Area: 12.38 acres

Legal Description: Two tracts of land located in the SE Corner of the SW 1/4 of Section 31, South Homer Township

Project Is To: construct an attached garage addition to an existing single family home

Use Is: Accessory: Principal: X Conforming: X Non-Conforming:

By: Appeal #: Special Use #: Variance #: 652-V-09

Special Conditions: This is a joint lot development. Neither lot can be used independently of the other. The Variance is for the previously constructed detached storage shed.

Standard Conditions

1. This permit is issued with the understanding that all construction, use and occupancy will be in compliance with the application as filed with the Planning and Zoning Department, and with all provisions of the Champaign County Zoning Ordinance.

2. This Zoning Use Permit expires if the work described in the application has not begun within 180 consecutive days from issuance or if the work is not substantially completed within 365 consecutive days from issuance.

3. As evidenced in the Zoning Use Permit Application, the owner has expressly granted permission for representatives of the Champaign County Department of Planning & Zoning to enter the premises at reasonable times for the purpose of inspection to ensure compliance with the Champaign County Zoning Ordinance.

4. A Zoning Compliance Certificate must be obtained from the Department of Planning and Zoning, in writing, prior to occupancy or use of the work or structures covered by this permit (Section 9.1.3).

Date: 7/30/09

Signed By: [Signature] Zoning Administrator Authorized Agent

I will be willing to abide by
any ~~res~~ reasonable requirement of
the Zoning Board of Appeals in
the determination regarding the
variance required for the shed
on my property.

A handwritten signature in black ink, appearing to be "A. Johnson", written in a cursive style.

RECEIVED

JUL 09 2009

CHAMPAIGN CO. P & Z DEPARTMENT

PRELIMINARY DRAFT

652-V-09

**FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: *{GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED}*

Date: September 17, 2009

Petitioner: Samuel Shreeves

Request: Authorize the use of an existing detached accessory storage building with a setback of 41 feet and a front yard of 11 feet in lieu of the required 55 feet setback and 25 feet front yard, in regard to CR 1200N, a minor street, in the CR Zoning District

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 17, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Samuel Shreeves, owns the subject property.
2. The subject property is a 12.8 acre tract in the South Half of the Southeast Quarter of the Southwest Quarter of Section 31 of South Homer Township and commonly known as the house at 2546 CR 1200N.
3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning. Municipalities do not have protest rights in variance cases and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned CR Conservation-Recreation, and is being used jointly with property to the east as a single family dwelling.
 - B. Land to the north, west, and south of the subject property is zoned CR Conservation-Recreation, and is in use as Homer Lake Forest Preserve.
 - C. Land to the east of the subject property is zoned CR Conservation-Recreation, and is in use as a single family dwelling.

PRELIMINARY DRAFT

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the proposed site plan, it was submitted in two pages, as follows:
 - A. Page 1 depicts the existing house along with a detached garage that is to be removed and the attached garage that is the subject of Zoning Use Permit 188-09-02.
 - B. Page 2 is an aerial photograph illustrating the entirety of the joint lot development that makes up the subject property and indicates the dimension between the subject building and the center of the road as 41 feet with a front yard of 11 feet where the minimum required setback is 55 feet and the minimum front yard is 25 feet.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
 - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
 - (1) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
 - (2) "DWELLING, SINGLE FAMILY" is a DWELLING containing one DWELLING UNIT.
 - (3) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (4) "LOT LINE, FRONT" is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
 - (5) "SETBACK LINE" is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY line.
 - (6) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
 - (a) MAJOR STREET: Federal or State highways
 - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
 - (c) MINOR STREET: Township roads and other local roads.

- (7) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or Zoning Board of Appeals are permitted to grant.
 - (8) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
 - (9) "YARD, FRONT" is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
- B. In the *Zoning Ordinance*, setback requirements are established in two sections, as follows:
- (1) Subsection 4.3.2. Setback Line states, "All BUILDINGS and all MAIN or PRINCIPAL STRUCTURES shall be positioned in conformance with the SETBACK LINE regulations and standards specified hereinafter for the DISTRICT in which they are located," and drawings in 4.3.2 further specify that in the case of a MINOR STREET the required setback is 55 feet with a front yard of 25 feet.
 - (2) Section 5.3 is the Schedule of Area, Height, and Placement Regulations by District and indicates that the setback from a MINOR STREET is 55 feet and footnote 3 further specifies that in no case shall the FRONT YARD be less than 25 feet from a MINOR STREET.
- C. The Department of Planning and Zoning measures yards and setbacks to the nearest wall line of a building or structure and the nearest wall line is interpreted to include overhanging balconies, projecting window and fireplace bulkheads, and similar irregularities in the building footprint. A roof overhang is only considered if it overhangs a property line.
- D. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.

PRELIMINARY DRAFT

- (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- E. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application that, **“At time of construction permission for variance obtained by Zoning Office”**
 - B. The petitioner submitted a statement with his application that indicates the following:
 - (1) The subject building was constructed in 1998.
 - (2) At that time Planning & Zoning was contacted regarding a variance to place the subject building 40 feet from the centerline of the road.
 - (3) The petitioner asserts that the Planning and Zoning employee that the petitioner spoke to in 1998 indicated that the only requirement to obtain a variance for the subject building was approval of the proposed location from the Township Highway Commissioner.
 - (4) At the time of construction the petitioner contacted his Township Highway Commissioner who approved the location of the subject building because the original road base could not be found.
 - C. Regarding the use of the building for agricultural purposes:
 - (1) The agricultural use of the subject building exempts it from most zoning requirements. However, agricultural buildings should meet the requirements for front yard and setback from the center of the road.

- (2) In 1998 when the subject building was constructed Planning & Zoning did not encourage the use of courtesy permits for agricultural buildings as regularly as they are used now. A courtesy permit is a Zoning Use Permit issued at no cost to the applicant which documents the construction of the building and its use for agriculture, and allows staff to check for any violations of the *Zoning Ordinance* based on the proposed site plan.
- (3) If a courtesy permit had been issued in 1998 it is likely that the issue of the location of the shed would have been discovered at that time and staff could have followed up with the petitioner regarding altering his site plan or obtaining a variance to fix the violation.

D. Regarding the need for the variance:

- (1) The need for the variance was first discovered when the petitioner submitted Zoning Use Permit Application (ZUPA) 188-09-02, which was for the construction of an attached garage onto the existing single family dwelling.
- (2) After the petitioner submitted a complete site plan for the subject property staff was able to determine that the subject building was too close to the road.
- (3) Staff discussed the building with the petitioner, and the petitioner made staff aware of his discussions with staff in 1998. Based on the misunderstanding that occurred at that time the Zoning Administrator determined that the need for the variance was based on staff error and the application for variance was accepted at no charge to the petitioner.
- (4) The Zoning Administrator also determined that ZUPA 188-09-02 could be issued so long as the petitioner was willing to abide by any reasonable requirements that might result from this case.

GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE

- 8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
 - A. The Petitioner has testified on the application that, **“At time of construction large trees were located on north edge of shed. Trees were removed and stumps ground but would require years for roots to rot in order to compact ground to pour floor. On the other side of the house is the leach field.”**
 - B. The only aerial photographs that could be used to verify the existence of mature trees in the vicinity of the subject building are the Supervisor of Assessments aerial photographs from 1988, which staff reviewed. However, there was insufficient detail to determine the presence or absence of mature trees in the vicinity of the subject building.

PRELIMINARY DRAFT

- C. The petitioner constructed the subject building in its nonconforming location under the misunderstanding that he had done everything that was required of him to approve that location. This occurred despite contacting both the Planning and Zoning office and the Township Highway Commissioner.

GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

- 9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioner has testified on the application that, **“Trees and leach field established years ago.”**

GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

- 10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
 - A. The Petitioner has testified on the application that, **“Old unsafe structures can be removed and replace by new pole barn that is in uniform line with the tree line and drive (old barn and old garage).”**
 - B. The Zoning Ordinance does not clearly state the considerations that underlay the setback and front yard requirements. In general, the setback is presumably intended to ensure the following:
 - (1) Right of way acquisition:
 - (2) Off-street parking: The subject property provides the required amount of off-street parking outside of the setback.
 - (3) Aesthetics: Aesthetic benefit may be a consideration for any given front yard and setback but can be very subjective.
 - C. Regarding compliance with the *Zoning Ordinance* and the *Special Flood Hazard Areas Ordinance*:
 - (1) A portion of the subject property is located within the Special Flood Hazard Area as indicated by staff review of data from the Champaign County GIS Consortium. However, none of the structures on the subject property are located in the mapped 100-year floodplain.
 - (2) The subject property conforms to all other zoning requirements.
 - D. The proposed front yard of 11 feet is 44% of the required 25 feet for a variance of 56%, and the proposed setback of 41 feet is 75% of the required 55 feet for a variance of 25%.
 - E. The requested variance is not prohibited by the *Zoning Ordinance*.

GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The Petitioner has testified on the application that, **“Closes neighbor is ¼ mile away. Directly across the road is the Homer Lake Pond. The shed is set back enough not to impact sight of road in anyway...shed has been in place for 11 years and no complaints have come from anyone.”**
 - B. The Township Highway Commissioner has signed a statement from the petitioner that indicates that he approved of the location of the shed when it was constructed in 1998.
 - C. The Fire Protection District has been notified of this variance but no comments have been received.
12. On the application the Petitioner has also testified that, **“Shed would be impossible to move at this point, 11 years late. See attached letter by road commissioner.”**

GENERALLY REGARDING PROPOSED CONDITIONS OF APPROVAL

13. No special conditions of approval are proposed at this time.

DOCUMENTS OF RECORD

1. Zoning Use Permit Application 188-09-02 submitted on July 7, 2009, with attachment:
 - A Site plan (2 pages)

2. Variance Application from Samuel Shreeves, received on July 9, 2009, with attachment:
 - A Site plan (2 pages)
 - B Statement from petitioner regarding construction of shed

3. Preliminary Memorandum for Case 652-V-09, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Proposed site plan (2 pages)
 - C Statement from petitioner regarding construction of shed submitted on July 9, 2009
 - D Zoning Use Permit 188-09-02
 - E Signed statement from petitioner regarding outcome of variance case
 - F Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 652-V-09

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **652-V-09** held on **September 17, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: _____

2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because: _____

3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because: _____

4. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}** in harmony with the general purpose and intent of the *Ordinance* because: _____

5. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {WILL / WILL NOT}** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____

6. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}** the minimum variation that will make possible the reasonable use of the land/structure because: _____

7. **{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}**

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.9.C *{HAVE / HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case 652-V-09 is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioner, Samuel Shreeves, to authorize the use of an existing detached accessory storage building with a setback of 41 feet and a front yard of 11 feet in lieu of the required 55 feet setback and 25 feet front yard, in regard to CR 1200N, a minor street, in the CR Zoning District.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

CASE NO. 654-V-09

PRELIMINARY MEMORANDUM

September 11, 2009

Petitioners: **John and Kathy Olinger**

Request: **Authorize the division of a lot less than five acres in area.**

Champaign
County
Department of

**PLANNING &
ZONING**

Site Area: **3.369 acres**

Location: **Lot 1 of Olinger First Subdivision located in the Northeast Quarter of Section 31 of Mahomet Township and commonly known as the house at 1889 CR 50E, Seymour.**

Time Schedule for Development:
N/A

Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

BACKGROUND

The petitioners' engineer first contacted staff regarding the proposed subdivision on March 10, 2009, but the petitioners did not decide to go through with the subdivision until August and they submitted an application for variance on August 19, 2009. Because this case has moved so quickly staff has not had time to discuss with the petitioners whether they have attempted to purchase additional land to mitigate the need for the variance. Evidence regarding the availability of land will likely be important in evaluating Item 9 of the Summary of Evidence.

The subject property is located in the subdivision jurisdiction of the village of Mahomet and the actual subdivision will require the plat to be approved by the Village.

EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet. Municipalities with zoning do not have protest rights in variance cases and they are not notified of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single Family Dwelling	CR Conservation-Recreation
North	Agriculture	CR Conservation-Recreation
East	Agriculture	CR Conservation-Recreation
West	Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

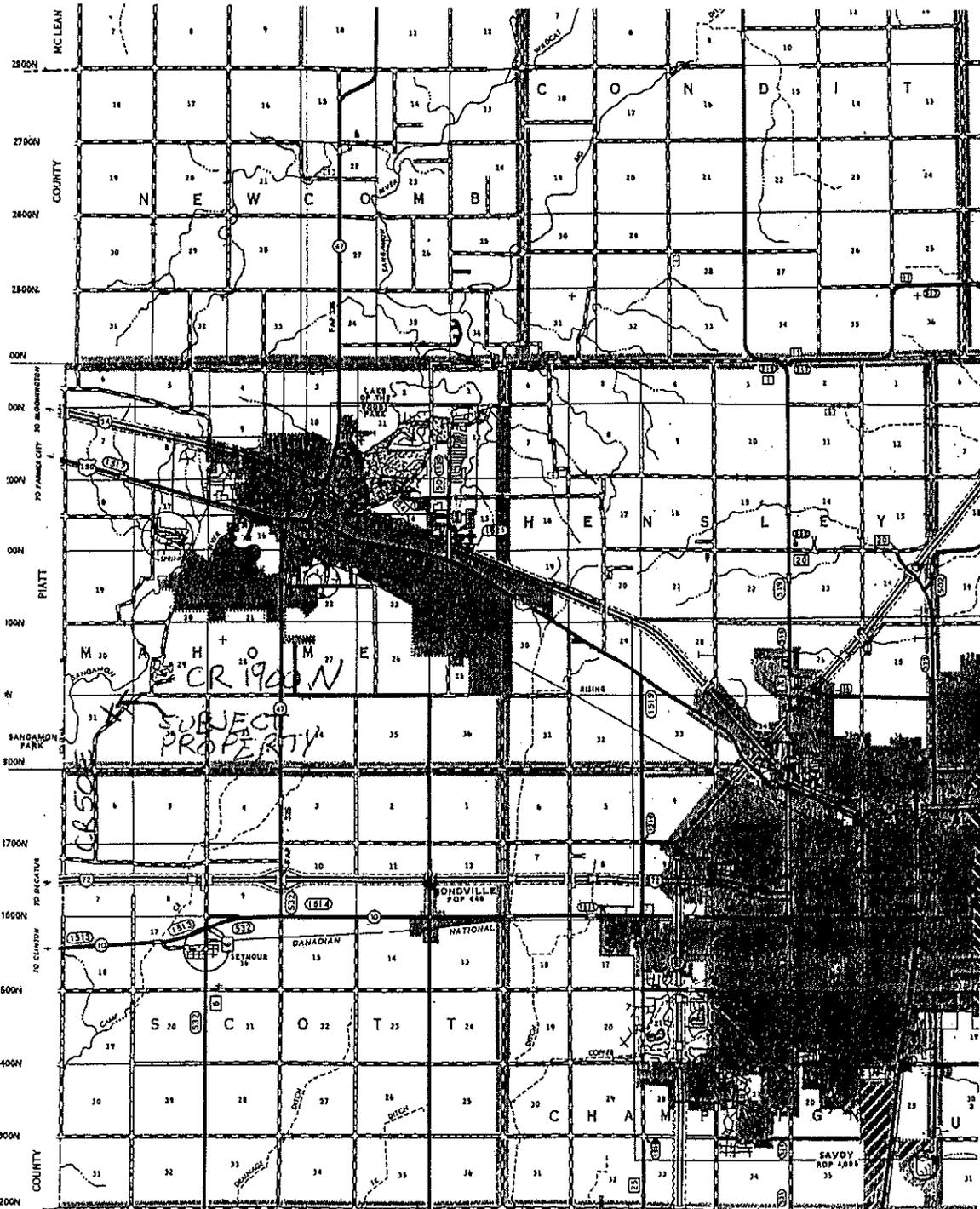
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Preliminary Plat of Replat of Lot 1 of Olinger First Subdivision, submitted on August 19, 2009
- C Aerial Photograph of Olinger First Subdivision
- D Table of Common Conditions Influencing the Suitability of Locations for Rural Residential Development in Champaign County
- E Comparing the Proposed Site Conditions to Common Champaign County Conditions
- F Excerpt of Champaign County Soil Survey
- G Excerpts of *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois*
- H Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 654-V-09

ATTACHMENT A. LOCATION MAP

Case 654-V-09

SEPTEMBER 11, 2009



Champaign
County
Department of

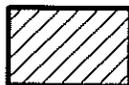
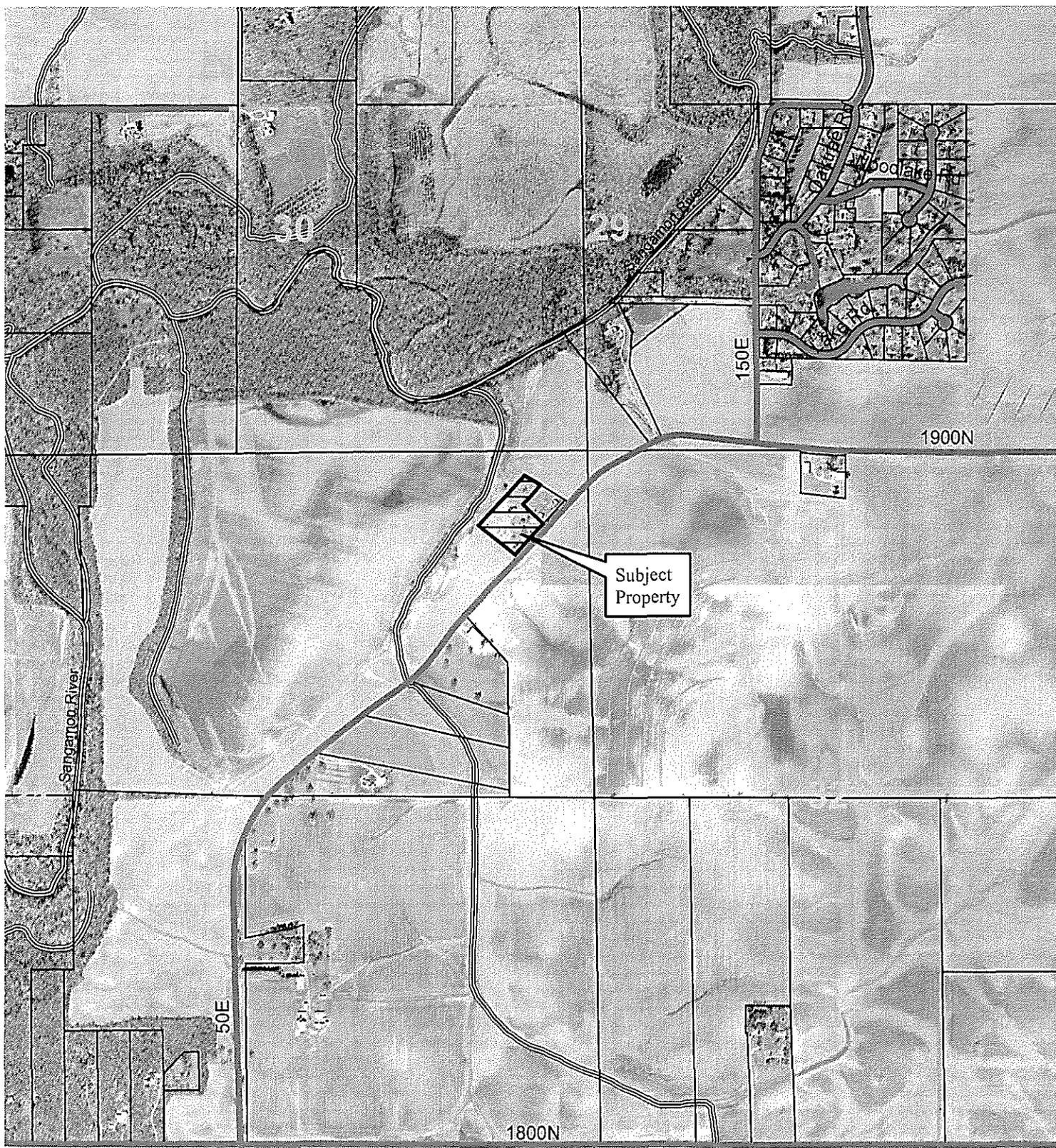
**PLANNING &
ZONING**



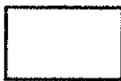
ATTACHMENT A. LAND USE MAP

Case 654-V-09

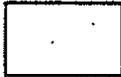
SEPTEMBER 11, 2009



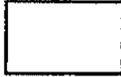
Area of Concern



Single Family



Farmstead



NORTH

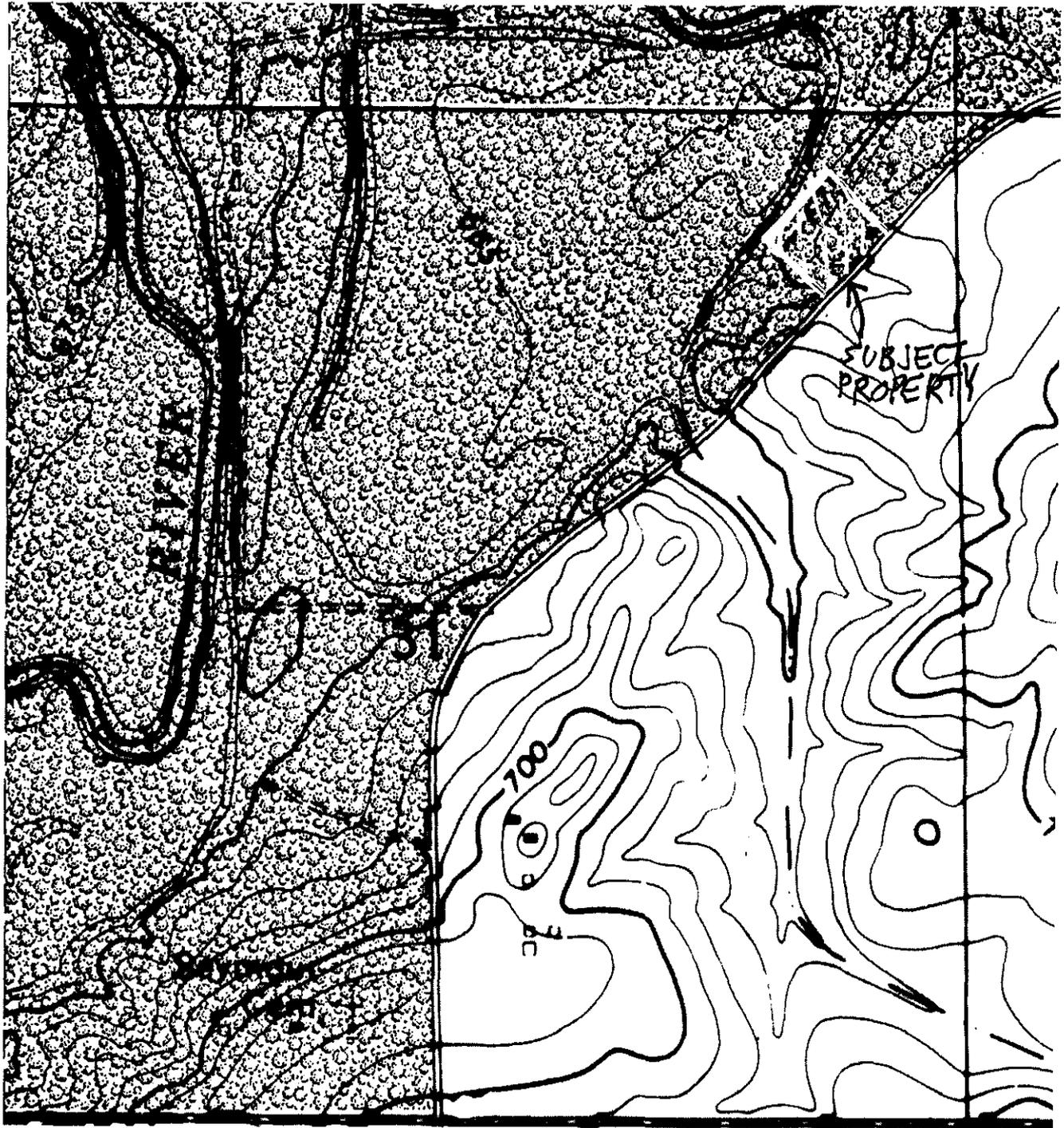
1 inch = 1,047.675712

Champaign
County
Department of
**PLANNING &
ZONING**

ATTACHMENT A. ZONING MAP

Case 654-V-09

SEPTEMBER 11, 2009



AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	 NORTH Champaign County Department of PLANNING & ZONING
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation-Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry	

**MINOR PLAT
AND SUBSIDIARY DRAINAGE PLAT
REPLAT OF LOT 1 OF OLIGER FIRST SUBDIVISION
VILLAGE OF MAHOMET
CHAMPAIGN COUNTY, ILLINOIS
A PART OF THE NE 1/4 OF THE NE 1/4 SEC. 31, T20N, R7E, 3rd PM**

OWNER/DEVELOPER
JOHN W. AND KATHERINE W. OLIGER
1891 CR 50 E
SEYMOUR, IL 61875

ENGINEER/SURVEYOR
TDC ENGINEERING
201 W. SPRINGFIELD AVENUE
CHAMPAIGN, IL 61821

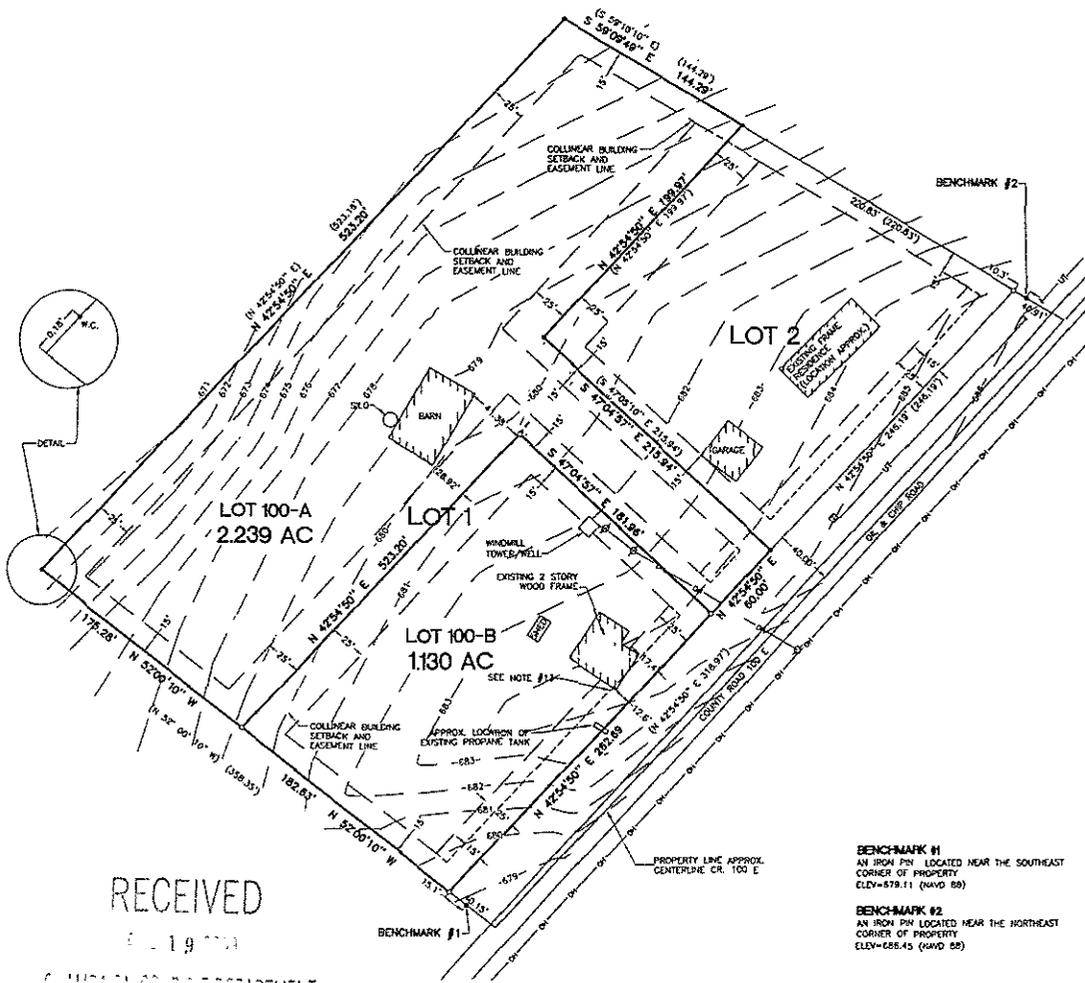
PRESENTED FOR RECORDING BY:
RETURN TO:

LEGEND

- FOUND IRON ROD
- SET 1/2"ØØØ" IRON ROD WITH PLASTIC CAP "100C FIRM #3223"
- TELEPHONE PEDESTAL
- ⊕ POWER POLE
- W.C. WITNESS CORNER
- 100.04' MEASURED DIMENSION
- (100.00') RECORDED DIMENSION
- BOUNDARY OF SUBDIVISION
- BUILDING SETBACK LINE
- - - EASEMENT FOR PUBLIC UTILITIES AND/OR DRAINAGE
- 00— EXISTING CONTOUR LINE
- 04— 04— OVERHEAD ELECTRIC



SPACE RESERVED FOR RECORDER'S STAMP



NOTES:

1. FIELD WORK WAS COMPLETED FOR THIS PROJECT ON JUNE 20, 2008.
2. THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.
3. I SET OR FOUND THE CORNER MONUMENTS AS SHOWN ON THE PLAT.
4. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THE SURVEY TO VERIFY EXISTENCE, EXACT LOCATION, SIZE, DEPTH OR CONDITION OF ANY BURIED UTILITIES OR STRUCTURES.
5. THERE HAS BEEN NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE OR ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE. THERE MAY EXIST OTHER DOCUMENTS OF RECORD WHICH WOULD AFFECT THIS PARCEL.
6. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY.
7. THIS TRACT OF LAND IS LOCATED IN ZONE "O" ON THE SPECIAL FLOOD HAZARD AREA IDENTIFIED FOR THE COUNTY OF CHAMPAIGN, ILLINOIS BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY ON THE FLOOD INSURANCE RATE MAP, PANEL NUMBER 170294 0100 B, DATED MARCH 1, 1984.
8. A STRIP OF LAND ALONG THE SOUTHEAST SIDE OF THE TRACTS OF LAND IS USED BY THE PUBLIC FOR A ROADWAY.
9. A PART OF THE PROPERTY COVERED BY THIS PLAT IS SITUATED WITHIN 500 FEET OF A WATERCOURSE SERVING A TRIBUTARY AREA OF 640 ACRES OR MORE.
10. THE SUBDIVISION IS WITHIN 1 1/2 MILES OF THE VILLAGE OF MAHOMET.
11. ALL BEARINGS BASED ON BEARINGS OF RECORD AS SHOWN ON OLIGER FIRST SUBDIVISION.
12. THE PROPERTY IS ZONED CR (CONSERVATION RECREATION) PER CHAMPAIGN COUNTY ZONING ORDINANCES WITH SETBACKS AS FOLLOWS:
FRONT YARD=25'
SIDE YARD=15'
REAR YARD=25'
13. EXISTING BUILDINGS PRE-DATE ZONING REGULATIONS AND MAY NOT MEET ALL ZONING SETBACK REQUIREMENTS.
14. NO BUILDING CONSTRUCTION, UTILITY LINE IMPROVEMENTS OR SITE WORK IS PROPOSED AS PART OF THIS REPLAT.

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS }
COUNTY OF CHAMPAIGN } S.S.

I, STEPHEN J. PEIDL, BEING ILLINOIS PROFESSIONAL LAND SURVEYOR NUMBER 3176, DO HEREBY CERTIFY THAT AT THE REQUEST OF THE OWNERS, JOHN W. AND KATHERINE W. OLIGER, I HAVE CAUSED A SURVEY TO BE MADE AND A PLAT TO BE DRAWN UNDER MY DIRECT SUPERVISION OF THE FOLLOWING DESCRIBED TRACT OF LAND:
LOT 1 IN THE "FIRST PLAT OF OLIGER FIRST SUBDIVISION" CHAMPAIGN COUNTY, ILLINOIS, AS RECORDED AS DOCUMENT #5987308 IN THE CHAMPAIGN COUNTY RECORDER'S OFFICE.
FOR SAID OWNER WHO DESIRES TO FACILITATE THE SALE OF SAID LAND BY SUBDIVIDING IT INTO LOTS, STREET RIGHT-OF-WAYS AND OTHER AREAS INTO WHICH SAID LANDS HAVE BEEN SO SUBDIVIDED, AND HAVE NUMBERED THE LOTS WHICH NUMBERS ARE SHOWN IN LARGER SIZE ON SAID PLAT; AND HAVE STATED THE PRECISE DIMENSIONS IN FEET AND HUNDRETHS OF FEET OF SAID LOTS, STREETS, AND OTHER AREAS; AND THAT REFERENCE HAS BEEN MADE UPON SAID PLAT TO PERMANENT SURVEY MONUMENTS; AND HAVE PLACED SURVEY MONUMENTS AS SHOWN ON THE PLAT; AND THE SUBDIVISION SHALL BE KNOWN AS "REPLAT OF LOT 1 OF OLIGER FIRST SUBDIVISION."
SIGNED AND SEALED THIS 12TH DAY OF AUGUST, 2009.

STEPHEN J. PEIDL
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3176
LICENSE EXPIRES 11-30-10



DRAINAGE STATEMENT:

WE HEREBY STATE THAT TO THE BEST OF OUR KNOWLEDGE AND BELIEF THE DRAINAGE OF SURFACE WATERS OF THIS PLAT WILL NOT BE CHANGED BY THE CONSTRUCTION OF THIS SUBDIVISION OR ANY PART THEREOF OR THAT IF SUCH SURFACE WATER DRAINAGE WILL BE CHANGED, REASONABLE PROVISIONS HAVE BEEN MADE FOR COLLECTION AND DIVERSION OF SUCH SURFACE WATERS INTO PUBLIC AREAS, OR DRAINS WHICH THE SUBDIVIDER HAS A RIGHT TO USE; AND THAT SUCH SURFACE WATERS WILL BE PLANNED FOR IN ACCORDANCE WITH GENERALLY ACCEPTED ENGINEERING PRACTICES SO AS TO REDUCE THE LIKELIHOOD OF DAMAGE TO THE ADJOINING PROPERTY BECAUSE OF THE CONSTRUCTION OF THE SUBDIVISION.

SIGNED: William E. Johnson, Ill. E., No. 29387
License Expires 11/30/09

DATED: _____

OWNER & SUBDIVIDER: _____
DATE: _____

APPROVED:

APPROVAL OF THIS MINOR SUBDIVISION SHALL BE HEREBY GRANTED UNDER THE AUTHORITY OF THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAHOMET THIS PLAT SHALL BE RECORDED WITH THE RECORDER OF DEEDS OF CHAMPAIGN COUNTY, ILLINOIS, WITHIN ONE (1) YEAR OF THIS DATE, OTHERWISE THIS PLAT SHALL BECOME VOID.

PRESIDENT, MAHOMET BOARD OF TRUSTEES _____ DATE _____
MAHOMET VILLAGE ATTORNEY _____ DATE _____
MAHOMET VILLAGE ADMINISTRATOR _____ DATE _____
MAHOMET VILLAGE ENGINEER _____ DATE _____

BENCHMARK #1
AN IRON PIN LOCATED NEAR THE SOUTHEAST CORNER OF PROPERTY
ELEV=579.11 (NAVD 88)

BENCHMARK #2
AN IRON PIN LOCATED NEAR THE NORTHEAST CORNER OF PROPERTY
ELEV=686.45 (NAVD 88)

RECEIVED

CHAMPAIGN COUNTY RECORDS DEPARTMENT

HDC ENGINEERING	291 West Springfield, Suite 200, Champaign, Illinois 61821-1140	Revision Date: 6/12/09
	Phone No. 217-337-6976	Revision Date: 08/27/09
	Professional Design Firm: License No. 184-003293	Drawn Date: 08/27/09
	Professional Engineer Expires: 4/30/2011	
Field Book	Project Number: 08217	Drawn By: JDE
		Sheet 1 of 1

Aerial Photograph of Oligier First Subdivision



1 inch = 100 feet

Table Of Common Conditions¹ Influencing The Suitability Of Locations For Rural Residential Development In Champaign County

(continued) REVISED November 17, 2005

p. of

Worst Or Nearly Worst Condition³ 	Much Worse Than Typical Condition⁴ 	More Or Less Typical Condition⁵ 	Much Better Than Typical Condition⁴ 	Ideal Or Nearly Ideal Conditions⁶ 
RRO² ZONING FACTOR: Availability of water supply				
In the area with suspected problems of groundwater availability near existing wells which have experienced reliability problems and for which no investigations have proven otherwise.	An area with suspected problems of groundwater availability and for which no investigations have proven otherwise.	Reasonable confidence of water availability (area with no suspected problems of groundwater availability) and no reason to suspect impact on neighboring wells.	?	Virtual certainty of water availability (ie, located above the Mahomet-Teays Aquifer) or where anywhere that investigations indicate availability with no significant impact on existing wells.
RRO² ZONING FACTOR: Suitability for onsite wastewater systems				
100% of site with Low or Very Low Potential for septic tank leach fields.	More than 50% of site (but less than 95%) with Low Potential for septic tank leach fields.	No more than 50% of site with Low Potential for septic tank leach fields.	More than 50% of site with at least a Moderate Potential for septic tank leach fields.	100% of site with at least a High Potential for septic tank leach fields or positive soil analysis (regardless of soil potential).
RRO² ZONING FACTOR: Flood hazard status				
Every lot is entirely within the SFHA (based on actual topography) as is the road that provides access.	Some of the proposed lots and parts of the road that provide access are in the SFHA. Some lots may require fill to have adequate buildable area above the BFE.	Small portions of the site may be in the SFHA but all lots have adequate buildable area outside of the SFHA.	?	No part of the proposed site nor the roads that provide emergency access are located in the Special Flood Hazard Area (SFHA, which is the 100-year floodplain).
RRO² ZONING FACTOR: The availability of emergency services⁷				
Located more than five road miles from a fire station within the district with an intervening railroad crossing with heavy rail traffic.	Located more than five road miles from a fire station within the district.	Located about five road miles from a fire station within the district.	Located between two-and-half and five road miles from a fire station within the district.	Located less than two-and-half road miles from the fire station within the district and with no intervening railroad grade crossings.
RRO² ZONING FACTOR: The presence of nearby natural⁸ or manmade hazards				
More than one man-made hazard is present or adjacent to the site. Access roads from fire protection station are prone to snow drifts.	One or more man-made hazards are present or adjacent to the site. Access roads from fire protection station are prone to snow drifts.	It is not unusual for a site to be close to some kind of hazard such as a pipeline, high tension electrical transmission lines, or railroad tracks. Snow drifts may block access from fire protection station.	Not close to any man-made hazard although snow drifts may block access from fire protection station.	Not close to any man-made hazard and relatively close to urbanized areas.

Table Of Common Conditions¹ Influencing The Suitability Of Locations For Rural Residential Development In Champaign County

(continued) REVISED November 17, 2005

p. of

Worst Or Nearly Worst Condition³ 	Much Worse Than Typical Condition⁴ 	More Or Less Typical Condition⁵ 	Much Better Than Typical Condition⁴ 	Ideal Or Nearly Ideal Conditions⁶ 
RRO² ZONING FACTOR: Effects on wetlands, historic or archeological sites, natural or scenic areas, and/or wildlife habitat				
Significant negative effects for more than one concern.	?	Archaeological concerns may apply to a small part of the site but in general no negative effects. ⁶	?	Nothing present to be concerned about.
RRO² ZONING FACTOR: Effects of nearby farm operations on the proposed development				
Bordered by row crop agriculture on three sides and an existing livestock and/or stable operation on the fourth side.	Bordered by row crop agriculture on three sides but also close to and downwind of an existing livestock and/or stable operation.	Bordered on all sides by significant (more than a few acres) row crop agriculture so there are some incompatibilities that may lead to complaints from residences.	Bordered on no more than two sides by significant row crop agriculture	No effects because not adjacent to significant row crop agriculture nor downwind of any animal operations.
RRO² ZONING FACTOR: The LESA score				
292 to 286 (Very high rating for protection) Land Evaluation part: 100 to 98 (100% of soil in Ag. Value Groups 1 & 2; Flanagan & Drummer soils generally) Site Assessment part: 192 to 188 (See hypothetical worksheet for assumptions)	285 to 256 (Very high rating for protection) Land Evaluation part: 97 to 93 (remainder between worst & overall average) Site Assessment part: 187 to 163 (remainder between worst & overall average)	254 to 238 (Very high rating for protection) Land Evaluation part: 92 (reflects overall average for entire County) Site Assessment part: 162 to 146 (See hypothetical worksheet for assumptions)	237 to 188 (Very high rating to moderate rating for protection) Land Evaluation part: 91-85 (remainder between overall average & ideal) Site Assessment part: 145 to 103 (remainder between overall average & ideal)	186 to 121 (Moderate rating to low (170) rating for protection) Land Evaluation part: 84 to 41 ⁴ (No best prime farmland soils) Site Assessment part: 102 to 80 (Conditions intended to reflect a rural location within a municipal ETJ without sewer or water; typical urban subdivision at or near municipal boundary has site assessment of 82 to 54; see hypothetical worksheet for assumptions)

Table Of Common Conditions¹ Influencing The Suitability Of Locations For Rural Residential Development In Champaign County

(continued) REVISED November 17, 2005

p. of

Worst Or Nearly Worst Condition³ 	Much Worse Than Typical Condition⁴ 	More Or Less Typical Condition⁵ 	Much Better Than Typical Condition⁴ 	Ideal Or Nearly Ideal Conditions⁶ 
RRO⁴ ZONING FACTOR: Adequacy and safety of roads providing access				
<p>Access for all trips is from a Township Highway that has serious deficiencies (based on existing traffic load) in terms of both pavement width and shoulder width. There may also be other deficiencies in the roadway.</p> <p>The point of access to the Township Highway is a location with serious visibility problems.</p> <p>The site is at more than five miles from a County or State highway. The intersections are uncontrolled and have visibility problems.</p>	<p>Access for all trips is from a Township Highway that has serious deficiencies (based on existing traffic load or traffic speed) in terms of both pavement width and shoulder width between the proposed site and where the road connects to a County or State Highway OR there is an uncontrolled railroad crossing between the proposed site and where the road connects to a County or State Highway. The site is within five miles of a County or State highway. The road intersections are uncontrolled and have visibility problems. The point of access to the Township Highway has reasonable visibility.</p>	<p>Access from a Township Highway which does not have adequate shoulder width and may also have insufficient (based on either existing traffic load or traffic speed) pavement width for a small portion of the distance between the proposed site and where the road connects to a County or State Highway. The site is within five miles of a County or State highway. The intersections are uncontrolled and have visibility problems. The point of access to the Highway has good visibility. See discussion of Effects On Farms for farm related traffic concerns.</p>	<p>Access is from a Township Highway with no deficiencies (even including the proposed increase in ADT) between the proposed site and where the road connects to a County or State Highway.</p> <p>The intersections are uncontrolled and have visibility problems.</p> <p>Access is at a location with good visibility.</p>	<p>Access from any of the following: 1) a County Highway or 2) a Township Highway with no deficiencies (even including the proposed increase in ADT) and is less than one mile travel to a County or State Highway.</p> <p>Access is at a location with good visibility.</p> <p>Access should not be directly to a State or Federal highway because vehicle turning movements could create safety concerns.</p>
RRO² ZONING FACTOR: Effects on drainage both upstream and downstream				
<p>100% of site has wet soils that must be drained for development. Large parts of the site also pond. There is no natural drainage outlet for either surface or subsurface flows so offsite improvements are necessary. An alternative problem is the condition in which the site is bisected by a natural drainageway with large flows from upstream offsite areas which have significant effects on site development.</p>	<p>Between 90% and 100% of the site has wet soils that must be improved for development.</p> <p>Only about half of the site drains to existing road ditches. The rest of the site drains over adjacent land that is under different ownership which require offsite improvements. Ponding is a significant problem.</p>	<p>Approximately 90% of the site has wet soils that must be improved for development. There may also be large areas where ponding occurs. Most of the site drains through township road ditches that do not have adequate capacity.</p>	<p>Probably less than half of the site has wet soils.</p> <p>The site drains to Township road ditches that are more or less adequate or to other natural drainage features that have adequate capacity.</p>	<p>No wet soils so no "dry weather flows" problems OR if wet soils are present the site drains directly to a drainage district facility with adequate capacity or to a river.</p>

Table Of Common Conditions¹ Influencing The Suitability Of Locations For Rural Residential Development In Champaign County

(continued) REVISED November 17, 2005

p. of

Worst Or Nearly Worst Condition ³ 	Much Worse Than Typical Condition ⁴ 	More Or Less Typical Condition ⁵ 	Much Better Than Typical Condition ⁴ 	Ideal Or Nearly Ideal Conditions ⁶ 
<p>NOTES</p> <ol style="list-style-type: none"> 1. Five different "typical" conditions are identified that are representative of the range of conditions that exist in Champaign County. The characterization of these conditions are based solely on the opinions of County Staff. 2. RRO= Rural Residential Overlay 3. The WORST conditions are based on the worst possible conditions <u>for each factor</u> that can be found in rural Champaign County regardless of the amount of land that might be available and regardless of whether or not any individual site would likely ever combine "worst" ratings on all factors. 4. MUCH WORSE THAN TYPICAL and MUCH BETTER THAN TYPICAL conditions are Staff judgements. 5. Where possible, TYPICAL Champaign County rural residential development site conditions are based on averages for the entire County. For example, the overall average Land Evaluation is for all of the land in the County. Some factors are based on a review of data for all major rural subdivisions (such as the gross average lot size). Differences in water availability are localized and not averaged over the entire County. 6. The IDEAL Champaign County rural residential development site conditions are based on the best possible conditions <u>for each factor</u> that can be found in rural Champaign County regardless of the amount of land that might be available and regardless of whether or not any individual site would likely ever combine "ideal" ratings on all factors. 7. Ambulance service can presumably be further than five miles distance and be acceptable. <i>NO STANDARD OF COMPARISON IS PROPOSED FOR EMERGENCY AMBULANCE SERVICE.</i> 8. Any location in the County is subject to natural hazards such as tornadoes, freezing rain, etc. 				

RRO Rezoning Factor	Conditions At The Proposed Site Are Most Comparable To The Following Common Conditions:
<p>NOTES</p> <ol style="list-style-type: none">1. Typical Champaign County rural residential development site conditions are based on averages for the entire County except for water availability. For example, the overall average Land Evaluation is for all of the land in the County. Some factors are based on a review of data for all major rural subdivisions (such as the gross average lot size).2. The ideal Champaign County rural residential development site conditions are based on the best possible conditions <u>for each factor</u> that can be found in rural Champaign County regardless of the amount of land that might be available and regardless of whether or not any individual site would likely ever combine ideal ratings on all factors.3. Typical factor is based on a review of data from major rural subdivisions in the AG-1 and CR districts and does not reflect conditions found in rural residential development that occurred under the requirements of the Illinois Plat Act and without County subdivision approval. These Plat Act Developments typically take up much more land since the minimum lot size is five acres.4. Ambulance service can presumably be further than five miles distance and be acceptable. <i>NO STANDARD OF COMPARISON IS PROPOSED FOR EMERGENCY AMBULANCE SERVICE.</i>5. Any location in the County is subject to natural hazards such as tornadoes, freezing rain, etc.	

Comparing The Proposed Site Condition To Common Champaign County Conditions

Case 654-V-09

DRAFT

SEPTEMBER 11, 2009

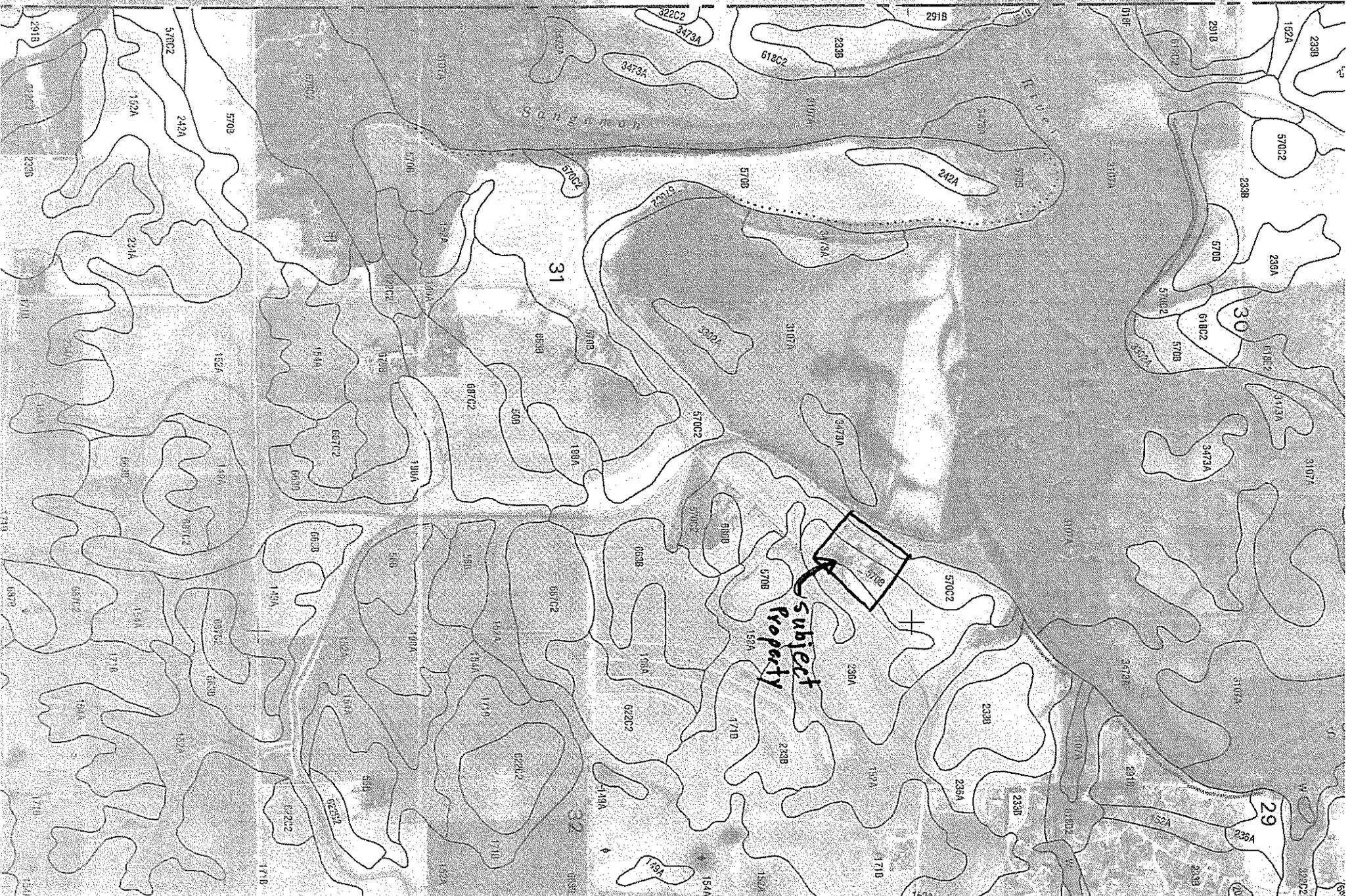
p. 1 of 2

RRO Rezoning Factor	Conditions At The Proposed Site Are Most Comparable To The Following Common Conditions:
1) Availability of water supply	☑ Ideal Or Nearly Ideal Condition. Virtual certainty of water availability
2) Suitability for onsite wastewater systems	☆ Much Better Than Typical Conditions. About 90% of the subject property consists of soils with a high or very suitability compared to the approximately 51% of the entire County that has various soils rated as having a Low Potential for septic suitability. See the Natural Resource Report for an analysis of soil types.
3) Flood hazard status	☑ Ideal Or Nearly Ideal Condition. No part of the proposed site nor the roads that provide emergency access are located in the Special Flood Hazard Area (SFHA,
4) The availability of emergency services ⁴	○ More or Less Typical Conditions. Located about five road miles from a fire station within the district.
5) The presence of nearby natural or manmade hazards ⁵	☆ Much Better Than Typical Conditions. Not close to any man-made hazard.
6) Effects on wetlands, historic or archeological sites, natural or scenic areas, and/or wildlife habitat	☑ Ideal Or Nearly Ideal Condition. Nothing present to be concerned about.
7) Effects of nearby farm operations on the proposed development	○ More or Less Typical Conditions. Bordered on all sides by significant (more than a few acres) row crop agriculture so there are some incompatibilities that may lead to complaints from residences.
8) The Land Evaluation score from the LESA manual	☑ Ideal Or Nearly Ideal Condition. Access is from a Township Highway with no deficiencies (even including the proposed increase in ADT) between the proposed site and where the road connects to a County or State Highway.
9) Adequacy and safety of roads providing access	☆ Much Better Than Typical Conditions. Access is from a Township Highway with no deficiencies (even including the proposed increase in ADT) between the proposed site and where the road connects to a County or State Highway.
10) Effects on drainage both upstream and downstream	☑ Ideal Or Nearly Ideal Conditions. No wet soils so no "dry weather flows" problems

LEGEND (Also see the Descriptions of Prototypical Champaign County Conditions)

- ☑ *WITH NO CORRECTIVE IMPROVEMENTS*, the proposed site is more or less equal to the ideal Champaign County site
- ☆ *WITH NO CORRECTIVE IMPROVEMENTS*, the proposed site is much better than typical but not equal to the ideal Champaign County site
- *WITH NO CORRECTIVE IMPROVEMENTS*, the proposed site is equal to or somewhat better than the typical Champaign County site
- _ *WITH NO CORRECTIVE IMPROVEMENTS*, the proposed site is worse than the typical Champaign County site
- _ *WITH NO CORRECTIVE IMPROVEMENTS*, the proposed site is more or less equal to the worst Champaign County site for

PIATT COUNTY



Subject Property

WORKSHEET FOR PREPARING SOIL POTENTIAL RATINGS

Soil Use: Septic Tank Absorption Fields

Area: Champaign County, Illinois

Mapping Unit: Martinsville silt loam, 2 to 5 percent slopes 570B

Evaluation Factors	Soil and Site Conditions	Degree of Limitation	Effects On Use	Typical Corrective Measures		Typical Continuing Limitations	
				Kinds	Index	Kinds	Index
Flooding	None	Slight	None	None		None	
Depth to High Water Table (Ft.)	>6.0	Slight	None	None		None	
Permeability (IN/HR): (24-60")	0.6-6.0	Moderate	None	Standard Adsorption Field 210-290 Sq.Ft./Bedroom	0	None	
Slope (PCT)	2-5	Slight	None	None		None	
				Total	0	Total	0

-32-

$$\frac{100}{\text{Performance Standard Index}} - \frac{0}{\text{Measure Cost Index}} - \frac{0}{\text{Continuing Limitation Cost Index}} = \frac{100}{\text{Soil Potential Index 1/ (VERY HIGH)}}$$

1/ If performance exceeds the standard increase SPI by that amount.

WORKSHEET FOR PREPARING SOIL POTENTIAL RATINGS

Soil Use: Septic Tank Absorption Fields

Area: Champaign County, Illinois

Mapping Unit: Martinsville loam, 5 to 10 percent slopes, eroded 57002

Evaluation Factors	Soil and Site Conditions	Degree of Limitation	Effects On Use	Typical Corrective Measures		Typical Continuing Limitations	
				Kinds	Index	Kinds	Index
Flooding	None	Slight	None	None		None	
Depth to High Water Table (Ft)	> 6.0	Slight	None	None		None	
Permeability (IN/HR): (24-60")	0.6-6.0	Moderate	None	Standard Absorption Field 210-290 Sq.Ft./Bedroom	0	None	
Slope (PCT)	5-10	Slight	Surfacing of Effluent on Sideslopes, Possible Exposure of System and Erosion	Serial Distribution or Slope Design	4	Monitor Erosion Over System	1
				Total	4	Total	1

-37-

$$\frac{100}{\text{Performance Standard Index}} - \frac{4}{\text{Measure Cost Index}} - \frac{1}{\text{Continuing Limitation Cost Index}} = \frac{95}{\text{Soil Potential Index 1/ (HIGH)}}$$

1/ If performance exceeds the standard increase SPI by that amount.

WORKSHEET FOR PREPARING SOIL POTENTIAL RATINGS

Soil Use: Septic Tank Absorption Fields

Area: Champaign County, Illinois

Mapping Unit: Colo silty clay loam 402

185-

Evaluation Factors	Soil and Site Conditions	Degree of Limitation	Effects On Use	Typical Corrective Measures		Typical Continuing Limitations	
				Kinds	Index	Kinds	Index
Flooding	Common (Floodplain position)	Severe	System Failure	Check Federal, State, & local laws Consult Engineer Special Design	65	System Maintenance	10
Depth to High Water Table (Ft)	+1.0-2.0	Severe	System Failure	Subsurface Drainage Locate Outlet	12 5	Possible Surfacing of Effluent	5
Permeability (IN/HR): (24-60")	0.6-2.0	Moderate	None	None 2/		None	
Slope (PCT)	0-2	Slight	None	None		None	
Total					82	Total	15

$$\frac{100}{\text{Performance Standard Index}} - \frac{82}{\text{Measure Cost Index}} - \frac{15}{\text{Continuing Limitation Cost Index}} = \frac{3}{\text{Soil Potential Index 1/ (VERY LOW)}}$$

- 1/ If performance exceeds the standard increase SPI by that amount.
- 2/ Moderate permeability limitation is overcome with Special Design.

PRELIMINARY MEMORANDUM

654-V-09

**FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: { **GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED** }

Date: September 17, 2009

Petitioners: John and Kathy Oliger

Request: Authorize the division of a lot less than five acres in area.

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 17, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners, John and Kathy Oliger, own the subject property.
2. The subject property is Lot 1 of Oliger First Subdivision located in the Northeast Quarter of Section 31 of Mahomet Township and commonly known as the house at 1889 CR 50E, Seymour.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Mahomet. Municipalities do not have protest rights in variance cases and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned CR Conservation-Recreation and is in use as a single family dwelling.
 - B. Land to the north and west of the subject property is zoned CR Conservation-Recreation and is in use as row crop agriculture.
 - C. Land to the south and east of the subject property is zoned AG-1 Agriculture and is in use as row crop agriculture.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. The proposed lot division will require a Plat of Subdivision to be approved by the Village of Mahomet, a preliminary draft of the proposed plat was submitted as the site plan for the proposed variance, as follows:

PRELIMINARY DRAFT

- A. Lot 1 of Oliger First Subdivision, the subject property is the southwest lot in the subdivision, and is shown on the proposed plat to be divided into Lot 100-A and Lot 100-B, as follows:
- (1) Lot 100-A is 2.239 acres in area and consists of approximately the rear half of the southwestern part of Lot 1; the part of Lot 1 behind Lot 2; and an access strip between Lot 100-B and Lot 2 that is 60 feet wide.
 - (2) Lot 100-B is 1.13 acres in area and consists of the southeastern corner of Lot 1.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
- (1) "AREA, LOT" is the total area within the LOT LINES.
 - (2) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (3) "LOT LINES" are the lines bounding a LOT.
 - (4) "SUBDIVISION" is any division, development, or re-subdivision of any part, LOT, area, or tract of land by the OWNER or agent, either by LOTS or by metes and bounds, into LOTS two or more in number, for the purpose, whether immediate or future, of conveyance, transfer, improvement, or sale, with the appurtenant STREETS, ALLEYS, and easements, dedicated or intended to be dedicated to public use or for the use of the purchasers or OWNERS within the tract subdivided. The division of land for AGRICULTURAL purposes not involving any new STREET, ALLEY, or other means of ACCESS, shall not be deemed a SUBDIVISION for the purpose of the regulations and standards of this ordinance.
 - (5) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
- B. As amended on August 19, 2004, subparagraph 5.4.2.A.3. states the following:
- No lot that is 5 acres or less may be further divided.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:

- (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- D. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application that, **“Lot is less than 5 acres and needs a variance to be divided.”**
 - B. The subject property is part of an existing subdivision and is proposed to be subdivided.
 - C. The prohibition on division of lots less than five acres was first added to the Zoning Ordinance on an interim basis by Ordinance No. 709 (Case 431-AT-03 Part A) on February 19, 2004, and made permanent by Ordinance No. 729 (Case 464-AT-04 Parts A and B) on April 19, 2004.
 - D. The total area of the land that was part of the original Oliger First Subdivision was 5.04 acres, as follows:
 - (1) A 40 feet deep strip across the front of the subdivision, 0.525 acres, was dedicated as right-of-way for CR 50E.
 - (2) Lot 1 is 3.369 acres in area and Lot 2 is 1.106 acres in area.

PRELIMINARY DRAFT

GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
 - A. The Petitioner has testified on the application that, **“None, each lot will meet the Zoning Ordinance requirements.”**
 - B. Purchase of additional land to bring the lot area up to more than five acres may be possible, and would not affect any best prime farmland.

GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioner has testified on the application that, **“Yes, we want to divide our tract of land, however each lot will meet the zoning requirements.”**
 - B. Land adjacent to the subject property that could be added to increase the area of the subject property is under different ownership.
 - C. Purchase of additional land in this location could remove existing farmland from production. However, it would not be best prime farmland. Land northwest of the subdivision appears to mostly consist of a drainage ditch and would not remove much land from production.

GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
 - A. The Petitioner has testified on the application that, **“Previously the house had been rented and because we had several bad renters it is better for the neighborhood if it is owner occupied.”**
 - B. The subject property conforms to all other Zoning Requirements.
 - C. The Zoning Ordinance does not clearly state the considerations that underlay the restriction on division of lots that are 5 acres or less. This amendment resulted from zoning Case 431-AT-03 Part B and so is related to the County’s desire to limit the number of new lots in the rural areas. The Rural Residential Overlay (RRO) Zoning District is an overlay zoning designation that is the primary method by which Champaign County limits the number of new lots in the rural zoning districts. The RRO District is established using the basic rezoning procedure except that specific considerations are taken into account in approvals for rezoning to the RRO District. Paragraph

5.4.3 C.1. of the *Zoning Ordinance* requires the Zoning Board of Appeals to consider the following factors in making the required findings:

- (1) Adequacy and safety of roads providing access to the site.
- (2) Effects on drainage both upstream and downstream..
- (3) The suitability of the site for onsite wastewater systems.
- (4) The availability of water supply to the site.
- (5) The availability of emergency services to the site.
- (6) The flood hazard status of the site.
- (7) Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat.
- (8) The presence of nearby natural or man-made hazards.
- (9) Effects on nearby farmland and farm operations.

- (10) Effects of nearby farm operations on the proposed residential development.
- (11) The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated.
- (12) The LESA (Land Evaluation and Site Assessment) score of the subject site.

E. Regarding the RRO factors for the subject property:

- (1) Adequacy and safety of roads providing access to the site. Without the proposed variance only one dwelling could be permitted on the subject property. With the variance an additional dwelling could be permitted, which would lead to an increase of approximately 10 ADT for CR 50E.
 - (a) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* are general design guidelines for local road construction using Motor Fuel Tax funding and relate traffic volume to recommended pavement width, shoulder width, and other design considerations. The *Manual* indicates the following pavement widths for the following traffic volumes measured in Average Daily Traffic (ADT):
 - A local road with a pavement width of 16 feet has a recommended maximum ADT of no more than 150 vehicle trips.
 - A local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.
 - A local road with a pavement width of 20 feet has a recommended maximum ADT between 250 and 400 vehicle trips.
 - A local road with a pavement width of 22 feet has a recommended maximum ADT of more than 400 vehicle trips.

PRELIMINARY DRAFT

- Review of an aerial photograph from the Champaign County GIS Consortium indicates that CR 50E appears to be approximately 19 feet wide where the subject property would have access to it.
- (b) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Annual Average Daily Traffic (AADT). The most recent (2006) AADT data in the vicinity of the subject property is 50 ADT for CR 50E in front of the subject property.
- (2) Effects on drainage both upstream and downstream. The subject property appears to drain overland to a ditch just beyond the northwestern lot line. The preliminary plat indicates that a part of the property covered by the plat is located within 500 feet of a watercourse serving a tributary area of 640 acres or more.
- (3) Regarding the suitability of the site for onsite wastewater systems:
- (a) There is no Natural Resource Report for the subject property but the Soil Survey indicates that the subject property likely consists of the following soils:
- i. Martinsville silt loam, map unit 570B
 - ii. Martinsville loam, map unit 570C2
 - iii. Colo silty clay loam, map unit 3107A
 - iv. Sabina silt loam, map unit 236A
- (b) The pamphlet *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois*, is a report that indicates the relative potential of the various soils in Champaign County for use with subsurface soil absorption wastewater systems (septic tank leach fields). The pamphlet reviews 60 different soils that have potential ratings (indices) that range from 103 (very highest suitability) to 3 (the lowest suitability). Excerpts from this pamphlet were included for the soils on the subject property as attachments to the Preliminary Memorandum. The excerpts indicate that these soils have the following general characteristics:
- i. Martinsville silt loam, map unit 570B, has Very High suitability for septic tank leach fields with a soil potential index of 100. Martinsville silt loam has a very low groundwater level. It has moderate permeability and only a slight problem due to slope. There are no typical corrective measures.
 - ii. Martinsville loam, map unit 570C2, has a High suitability for septic tank leach fields with a soil potential index of 95. Martinsville loam has a very low groundwater level. It has moderate permeability and only a slight problem due to slope. The typical corrective measure is a serial distribution or slope design to deal with slope.

- iii. Colo silty clay loam, map unit 3107A, has a Very Low suitability for septic tank leach fields with a soil potential index of 3. Colo soil is a floodplain soil and has a severely high groundwater level. It has moderate permeability and only a slight problem due to slope. The typical corrective measures are consulting federal, state, and local laws, a special engineer to deal with flooding; and subsurface drainage to deal with the high water table.
 - iv. Sabina silt loam, map unit 236A, is only located near the road on the subject property and so it would be impractical to place a septic leach field in the area covered by Sabina soil.
- (4) The availability of water supply to the site. The subject property is not located in the area of limited groundwater availability. The proposed subdivision should have little or no affect on water availability.
 - (5) The availability of emergency services to the site. The subject property is approximately 5.1 road miles from the Cornbelt Fire Protection District station in the Village of Mahomet.
 - (6) The flood hazard status of the site. The subject property is not within the Special Flood Hazard Area.
 - (7) Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat. The subject property contains no historic or archeological sites, and the proposed subdivision would have no effect on such sites.
 - (8) The presence of nearby natural or man-made hazards. There are no known man-made hazards nearby.
 - (9) Effects on nearby farmland and farm operations. The proposed variance and resulting subdivision would result in twice the development of the subject property than would be otherwise allowed and would therefore result in twice the impacts on nearby farmland.
 - (10) Effects of nearby farm operations on the proposed residential development. The proposed variance and resulting subdivision would divide the existing property into smaller lots which would provide a lesser amount of buffer from farm operations.
 - (11) The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated. The proposed variance and resulting subdivision do not propose to take any current farmland out of production.

PRELIMINARY DRAFT

- (12) The LESA (Land Evaluation and Site Assessment) score of the subject site. The overall Land Evaluation score is approximately 76, and the Site Assessment is approximately 102, for an assumed LESA score of 178 which is a low rating for farmland preservation. Because there is no Natural Resources report for this property staff has only estimated a LESA score at this time.
- F. It is impossible to calculate the percent variance mathematically but for practical purposes the requested variance is a 100% variance.
- G. The requested variance is not prohibited by the *Zoning Ordinance*.

GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Petitioner has testified on the application that, **“It will not be injurious because each lot will meet the minimum zoning requirements.”**
- B. The Township Road Commissioner has received notice of this variance but no comments have been received.
- C. The Fire Protection District has been notified of this variance but no comments have been received.

DOCUMENTS OF RECORD

1. Variance Application from John and Kathy Oliger, received on August 19, 2009, with attachment:
 - A Preliminary Plat of Replat of Lot 1 of Oliger First Subdivision

2. Preliminary Memorandum for Case 654-V-09, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Preliminary Plat of Replat of Lot 1 of Oliger First Subdivision, submitted on August 19, 2009
 - C Aerial Photograph of Oliger First Subdivision
 - D Table of Common Conditions Influencing the Suitability of Locations for Rural Residential Development in Champaign County
 - E Comparing the Proposed Site Conditions to Common Champaign County Conditions
 - F Excerpt of Champaign County Soil Survey
 - G Excerpts of *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois*
 - H Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 654-V-09

PRELIMINARY DRAFT

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 654-V-09 held on **September 17, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: _____

2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: _____

3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: _____

4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* in harmony with the general purpose and intent of the *Ordinance* because: _____

5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____

6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: _____

7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW;}***

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case 654-V-09 is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioners, **John and Kathy Oliger**, to authorize the division of a lot less than five acres in area.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals
Date

CASE NO. 656-V-09

PRELIMINARY MEMORANDUM

September 11, 2009

Petitioners: **Larry and Helen McGee**

Champaign
County
Department of

**PLANNING &
ZONING**

Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

Site Area: **9,100 square feet**

Time Schedule for Development:
Immediate

Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

Request: **Authorize the following in the R-2 Single Family Dwelling Zoning District:**

- A. The construction and use of a room addition to an existing dwelling with a side yard of five feet two inches in lieu of the required side yard of six feet; and**
- B. The use of an existing detached garage that will be connected to the room addition in Part A, which also has a side yard of five feet two inches in lieu of the required side yard of six feet**

Location: **Lot 76 in Dobbins Downs III Subdivision in Section 2 of Champaign Township and commonly known as the house at 2207 Dale Drive, Champaign.**

BACKGROUND

The petitioners first submitted Zoning Use Permit Application 225-09-01 on August 14, 2009. During staff review it was discovered that part of the proposed addition would be located only five feet, two inches from the side lot line instead of the required six feet. At first staff indicated to Mr. McGee that the problem could be resolved by only moving the wall of the addition south ten inches. However, upon further review staff realized that the currently detached garage would become attached to the existing dwelling and become nonconforming with regard to its current side yard.

It was also discovered that in 1984 when the petitioners constructed the covered sun porch they are now replacing the same issue of nonconformity was created but not noticed by staff at that time. This staff error is no longer relevant to this case because the sun roof has been demolished. However, it did cause some confusion on the part of the petitioner due to receiving a permit in 1984 with no issues and applying for the same permit in 2009, but with some issues of nonconformity.

The petitioner's determined that moving the garage wall would be impractical for their purposes and submitted a variance application on August 28, 2009.

EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign. Municipalities with zoning do not have protest rights in variance cases and they are not notified of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single Family Dwelling	R-2 Single Family Dwelling
North	Single Family Dwelling	R-2 Single Family Dwelling
East	Single Family Dwelling	R-2 Single Family Dwelling
West	Vacant	City of Champaign CG Commercial
South	Single Family Dwelling	R-2 Single Family Dwelling

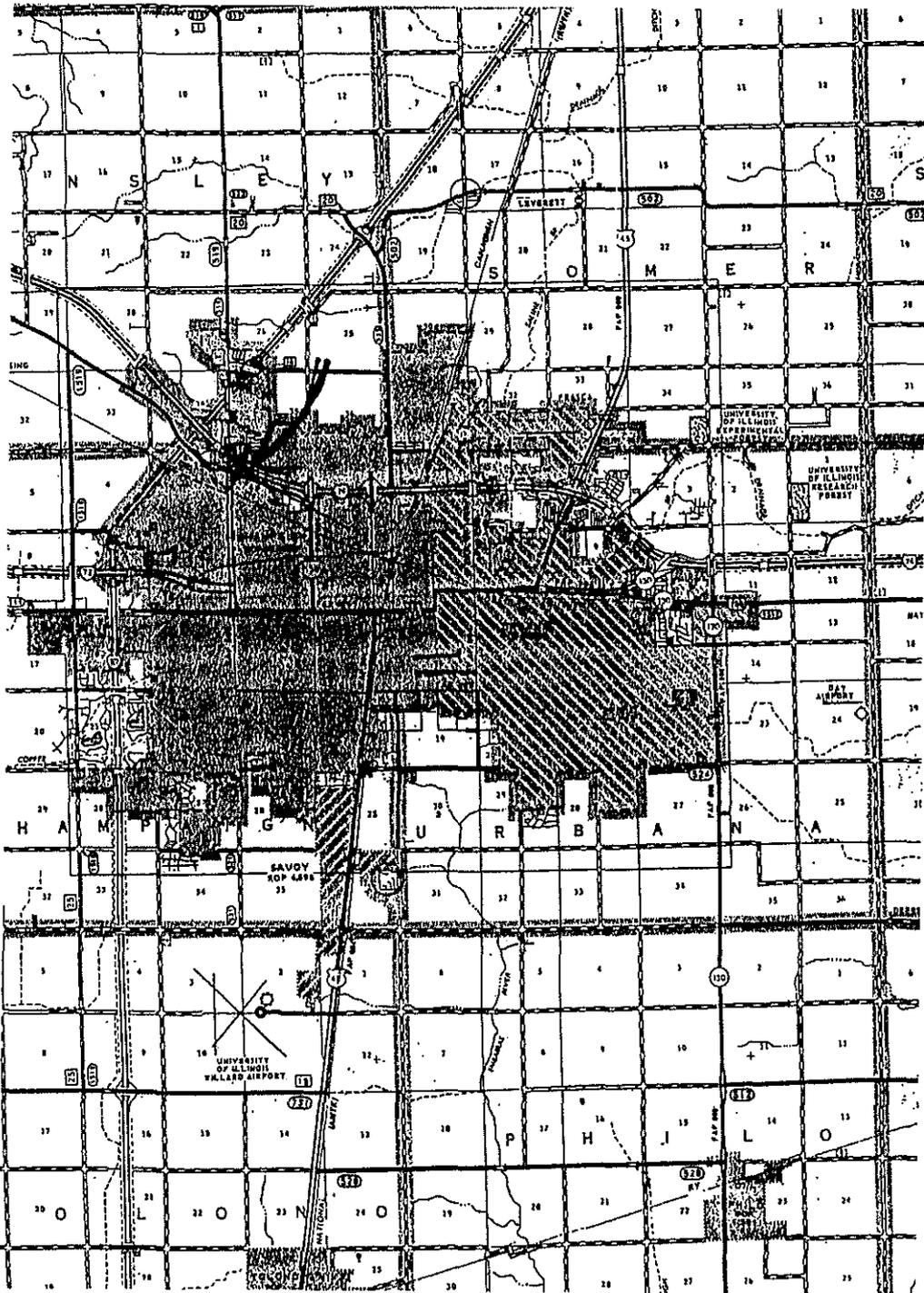
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Proposed site plan
- C Statement regarding requirements of Zoning Board in variance case
- D Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 650-V-09

ATTACHMENT A. LOCATION MAP

Case 656-V-09

SEPTEMBER 11, 2009



Champaign
County
Department of

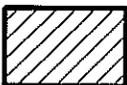
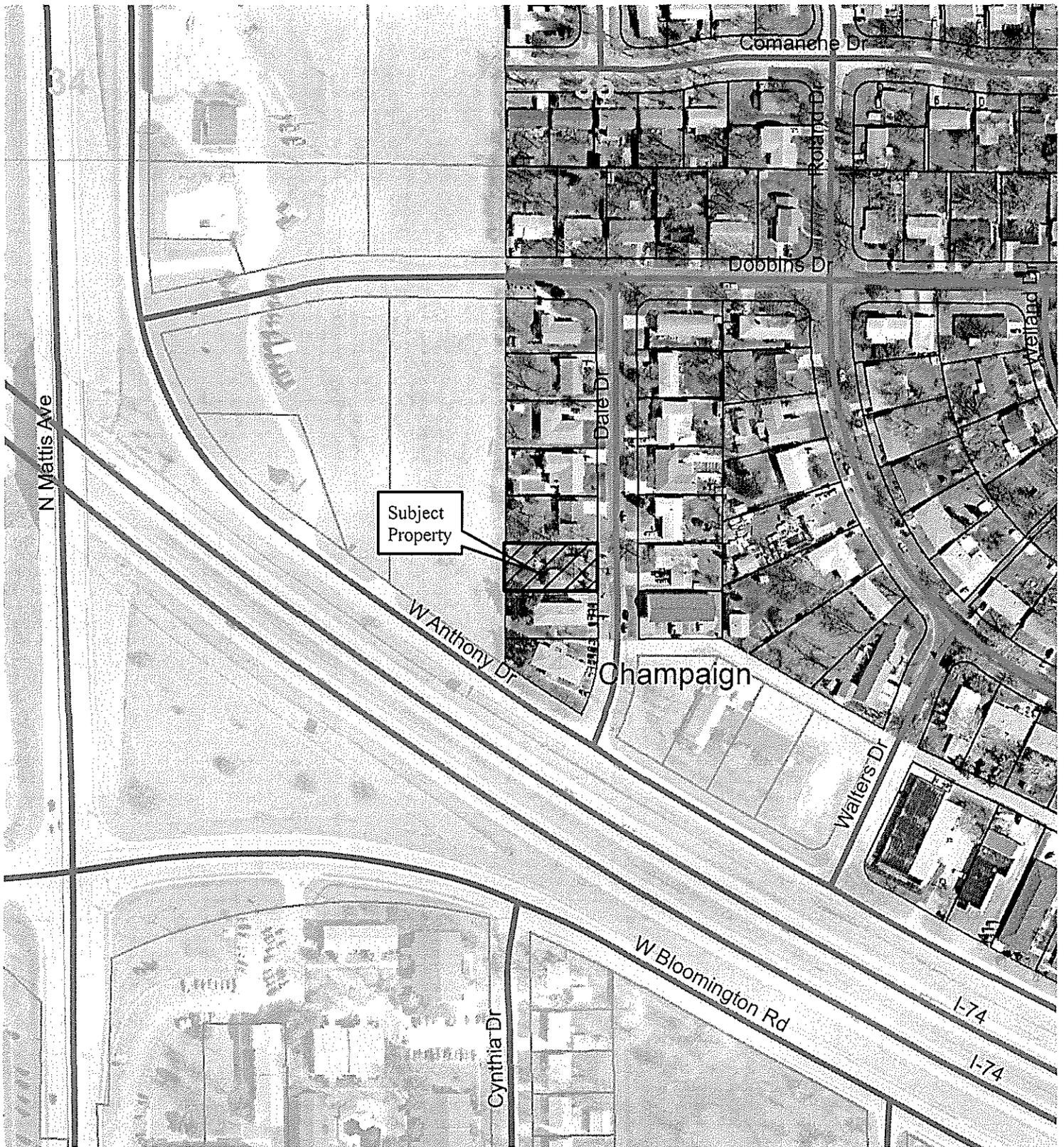
**PLANNING &
ZONING**



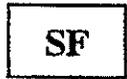
ATTACHMENT A. LAND USE MAP

Case 656-V-09

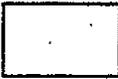
SEPTEMBER 11, 2009



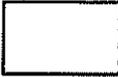
Area of Concern



Single Family



Farmstead



NORTH

1 inch = 200 feet

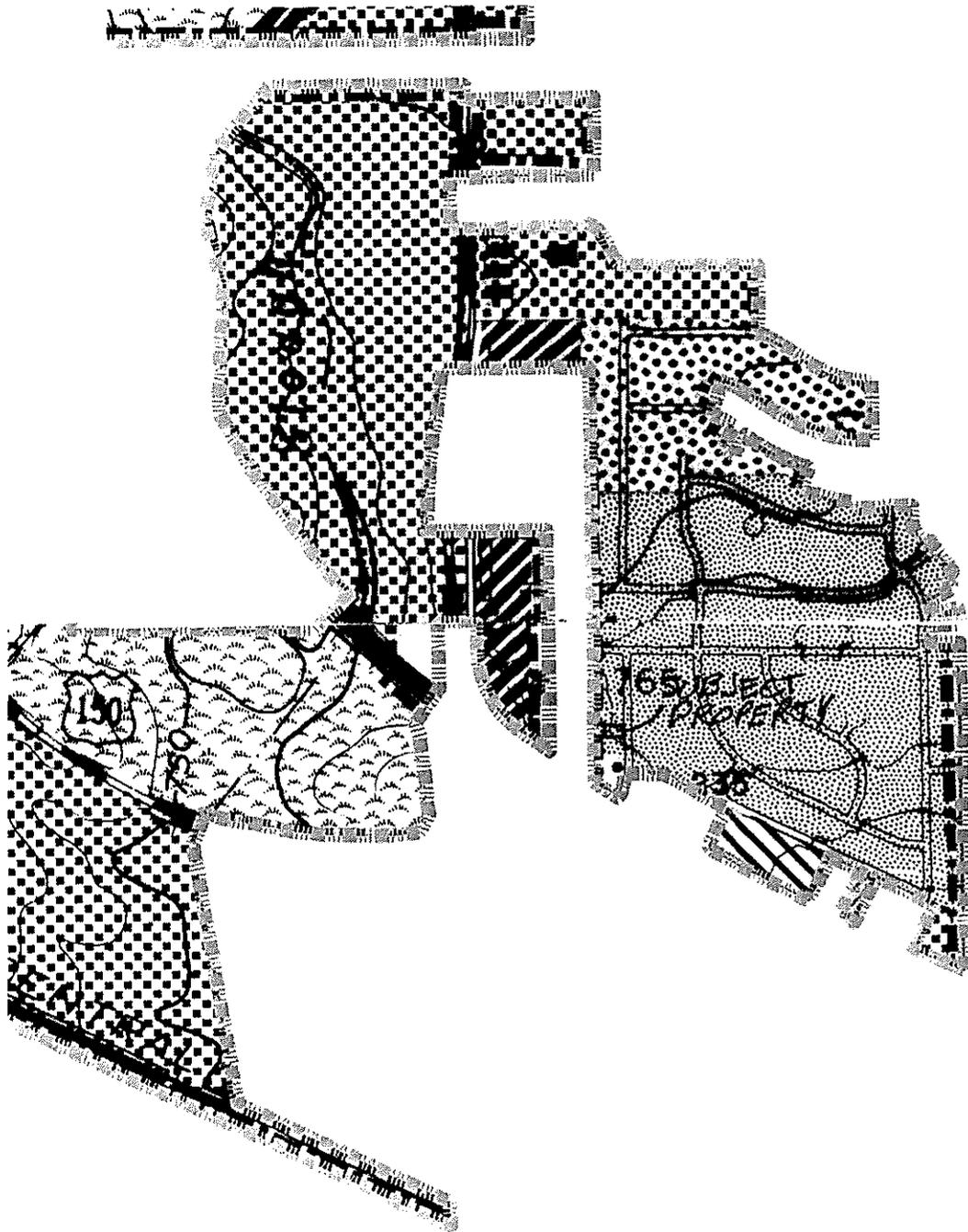
Champaign
County
Department of

**PLANNING &
ZONING**

ATTACHMENT A. ZONING MAP

Case 656-V-09

SEPTEMBER 11, 2009



City
of
Champaign

AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	NORTH Champaign County Department of PLANNING & ZONING
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation- Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry	

CHAMPAIGN COUNTY, ILLINOIS

ZONING USE PERMIT

No.: 225-09-01

Application Date: 08/14/09

Township: Champaign Section: 2 Receipt #: 3835

P.I.N.: 03-20-02-103-006 Fee: \$81.00

Location (Address, directions, etc.): 2207 Dale Drive, Champaign, Illinois

Owner/s: Larry and Helen McGee

Issued to: Owner: X Agent: Zoning District: R-2 Lot Area: 9,100 sq.ft.

Legal Description: Lot 76, Dobbins Downs III Subdivision

Project Is To: construct an addition to an existing single family home

Use Is: Accessory: Principal: X Conforming: X Non-Conforming:

By: Appeal #: Special Use #: Variance #: 656-V-09 (pending)

Special Conditions: Applicant agrees to abide by any reasonable decision of the Champaign County Zoning Board of Appeals regarding Case 656-V-09 at the September 17, 2009 public hearing.

Standard Conditions

1. This permit is issued with the understanding that all construction, use and occupancy will be in compliance with the application as filed with the Planning and Zoning Department, and with all provisions of the Champaign County Zoning Ordinance.

3. As evidenced in the Zoning Use Permit Application, the owner has expressly granted permission for representatives of the Champaign County Department of Planning & Zoning to enter the premises at reasonable times for the purpose of inspection to ensure compliance with the Champaign County Zoning Ordinance.

2. This Zoning Use Permit expires if the work described in the application has not begun within 180 consecutive days from issuance or if the work is not substantially completed within 365 consecutive days from issuance.

4. A Zoning Compliance Certificate must be obtained from the Department of Planning and Zoning, in writing, prior to occupancy or use of the work or structures covered by this permit (Section 9.1.3).

Date: 9/2/09

Signed By: [Signature] Zoning Administrator Authorized Agent

August 31, 2009

I, Larry McGee, will abide by any reasonable decision of the Champaign County Zoning Board of Appeals in Zoning Case 656-V-09 to be heard on September 17, 2009 regarding the addition to my home at 2207 Dale Drive, Champaign, Illinois, which attaches an existing single family dwelling to an existing detached garage with a side yard of 5' 2" in lieu of the required 6' side yard.

Larry McGee
8-31-09

PRELIMINARY DRAFT

656-V-09

**FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: *{GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED}*

Date: September 17, 2009

Petitioners: Larry and Helen McGee

Request: Authorize the following in the R-2 Single Family Dwelling Zoning District:

- A. The construction and use of a room addition to an existing dwelling with a side yard of five feet two inches in lieu of the required side yard of six feet; and
- B. The use of an existing detached garage that will be connected to the room addition in Part A, which also has a side yard of five feet two inches in lieu of the required side yard of six feet

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 17, 2009**, the Zoning Board of Appeals of Champaign County finds that:

- 1. The petitioners, Larry and Helen McGee, own the subject property.
- 2. The subject property is Lot 76 in Dobbins Downs III Subdivision in Section 2 of Champaign Township and commonly known as the house at 2207 Dale Drive, Champaign.
- 3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Champaign. Municipalities do not have protest rights in variance cases and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

- 4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned R-2 Single Family Dwelling, and is in use as a single family dwelling.
 - B. Land to the north, east, and south of the subject property is zoned R-2 Single Family Dwelling and is in use as single family dwellings.

PRELIMINARY DRAFT

ITEM 4. CONTINUED

- C. Land to the west of the subject property is in the City of Champaign and is zoned CG Commercial General and is not currently in use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

- 5. The proposed site plan was submitted with Zoning Use Permit Application (ZUPA) 225-09-01 on August 14, 2009, and was for the construction of a room addition to the rear of the existing single family dwelling on the subject property. The subject property is 70 feet wide by 130 feet deep. There are three structures located on the subject property, as follows:
 - A. A single family dwelling that is 1,532 square feet in area, and is proposed to have a room addition constructed on the northern, rear side of the house. A portion of this addition will be five feet, two inches from the northern lot line, necessitating a side yard variance.
 - B. A detached garage that is located north of the existing house and that will become attached to the house when the proposed addition is constructed. The garage is currently located five feet, two inches from the northern lot line, which is a conforming yard for a detached, accessory structure, but is nonconforming for a part of the principal structure on the subject property.
 - C. A small 64 square feet shed is located in the rear yard, and appears to conform to all zoning requirements.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

- 6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
 - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
 - (1) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
 - (2) "DWELLING, SINGLE FAMILY" is a DWELLING containing one DWELLING UNIT.
 - (3) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (4) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or Zoning Board of Appeals are permitted to grant.
 - (5) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.

- (6) “YARD, SIDE” is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. In the *Zoning Ordinance*, the requirements for SIDE YARDS for principals structures is established in Section 5.3, as follows:
- (1) Table 5.3 indicates that in the R-2 Single Family Dwelling District the minimum required side yard is 10 feet.
 - (2) However, Footnote 8 of Section 5.3 specifies that within the one and one-half mile extraterritorial jurisdiction of a zoned home rule municipality (such as the City of Champaign) the minimum side yard shall equal the side yard requirement of the equivalent zoning district in the municipality as based on the translation table of the municipality’s zoning ordinance.
 - (3) Section 37-43 of the City of Champaign Zoning Ordinance classifies the zoning of annexed land, and indicates that land zoned R-2 in the County shall become SF1 under city zoning.
 - (4) The required minimum side yard in the City of Champaign SF1 Single Family Zoning District is six feet.
- D. The Department of Planning and Zoning measures yards and setbacks to the nearest wall line of a building or structure and the nearest wall line is interpreted to include overhanging balconies, projecting window and fireplace bulkheads, and similar irregularities in the building footprint. A roof overhang is only considered if it overhangs a property line.
- E. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.

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- (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- F. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application that, **“The existing building is not moving at all it is staying the same. Only going west with new three feet.”**
 - B. The side yard is not being made any narrower. The proposed addition is extending the amount of structure that is located next to the side lot line.
 - C. The existing detached garage is conforming with regard to the required minimum side yard for accessory structures in the R-2 Single Family Dwelling Zoning District. However, when it is attached to the existing house as part of the construction of the addition it will become nonconforming with regard to the required minimum side yard for principal structures in the R-2 Zoning District within one and one-half mile of the City of Champaign.
 - D. ZUPA 225-09-01 was approved by the Zoning Administrator on September 2, 2009, on the basis of the petitioner’s submittal of a statement that he would abide by any reasonable requirements of the Zoning Board in this case.

GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. The Petitioner has testified on the application that, **“By having to change the existing garage wall would not leave me with a usable garage with the space it would consume, if I couldn’t use what is already there.”**

- B. In order to conform to the requirements of the *Zoning Ordinance* the north wall of the garage would have to be moved ten inches to the south. The garage is currently 14 feet wide by 20 feet deep.

GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

- 9. Generally regarding the *Zoning Ordinance* requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioner has testified on the application that, **“The garage and house was already there, patio is being replaced because it is worn out and needs to be replaced for up-keep and value of the property.”**
 - B. The location of the house and garage were determined by a previous owner.
 - C. The subject property is conforming with regard to minimum average lot width and minimum lot area in the R-2 *Zoning District* due to its connection to city water and sanitary sewer.

GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

- 10. Generally regarding the *Zoning Ordinance* requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
 - A. The Petitioner has testified on the application that, **“All I am doing is trying to maintain property for ourselves as well as the neighborhood to keep everyone’s property value up.”**
 - B. The *Zoning Ordinance* does not clearly state the considerations that underlay the side yard requirements. In general, the side yard is presumably intended to ensure the following:
 - (1) Adequate light and air: The proposed additions will not adversely affect the amount of light and air on the subject property or neighboring properties.
 - (2) Separation of structures to prevent conflagration: Structures in the urban fringe are presumably closer to fire protection services than structures in the rural zoning districts and can presumably be closer together than rural structures. There are no structures within five feet of the north lot line on the neighboring lot. Additional information regarding possible recommended fire proofing of the north wall of the garage will be available at the meeting.
 - (3) Aesthetics may also play a part in minimum yard requirements.
 - E. The subject property appears to conform to all other zoning requirements.
 - F. Although there are two parts to this case they both require the same amount of variance. The proposed side yard of five feet, two inches is 86% of the required six feet for a variance of 13%.
 - G. The requested variance is not prohibited by the *Zoning Ordinance*.

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GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The Petitioner has testified on the application that, **“I am not going toward the property line just going back of it. What I am doing will not cause harm to anyone no existing or future building or structure hurts no one.”**
 - B. The Township Road Commissioner has received notice of this variance, but no comments have been received.
 - C. The Fire Protection District has been notified of this variance but no comments have been received.
12. On the application the Petitioner has also testified that, **“I am not going near the property line just going straight back west keeping line of garage same on old boundaries.”**

GENERALLY REGARDING PROPOSED CONDITIONS OF APPROVAL

13. No special conditions of approval are proposed at this time.

DOCUMENTS OF RECORD

1. Zoning Use Permit Application 225-09-01 submitted on August 14, 2009, with attachment:
 - A Site plan
 2. Variance Application from Larry and Helen McGee, received on August 28, 2009
 3. Preliminary Memorandum for Case 656-V-09, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Proposed site plan
 - C Statement regarding requirements of Zoning Board in variance case
 - D Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 650-V-09
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FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 656-V-09 held on **August 13, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: _____

2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: _____

3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: _____

4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in harmony with the general purpose and intent of the *Ordinance* because: _____

5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____

6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: _____

7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW;}***

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.9.C *{HAVE / HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case 650-V-09 is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioners, **Larry and Helen McGee**, to authorize the following in the R-2 Single Family Dwelling Zoning District:

- A. **The construction and use of a room addition to an existing dwelling with a side yard of five feet two inches in lieu of the required side yard of six feet; and**
- B. **The use of an existing detached garage that will be connected to the room addition in Part A, which also has a side yard of five feet two inches in lieu of the required side yard of six feet.**

{SUBJECT TO THE FOLLOWING CONDITION(S):}

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals
Date