

CASE NO. 715-V-12

SUPPLEMENTAL MEMORANDUM

August 30, 2012

Champaign
County
Department of

**PLANNING &
ZONING**

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

(217) 384-3708

Petitioner: John Behrens Estate & Anne and Denny Anderson

Request: Authorize the following in the R-1 Single Family Residence Zoning District:

- Part A. Variance for a side yard and rear yard of an existing shed of 1 foot in lieu of the minimum required side and rear yards of 5 feet;
- Part B. Variance for a rear yard of an existing shed of 1 foot in lieu of the minimum required rear yard of 5 feet;
- Part C. Variance from Section 4.2.2D. requirement that no construction shall take place in a recorded utility easement;
- Part D. Variance from a minimum separation from a rear property line for parking spaces of 1 foot in lieu of the minimum required 5 feet, on the following property:

Location: Lot 1 of Windsor Park Subdivision in the Northwest Quarter of Section 25 of Champaign Township and commonly known as the home at 1 Willowbrook Court, Champaign.

Site Area: 11,500 square feet

Time Schedule for Development: Existing Structures

Prepared by: **Andy Kass**
Associate Planner

John Hall
Zoning Administrator

STATUS

This case was continued from the June 28, 2012, public hearing. New evidence and revisions are proposed to be added to the Summary of Evidence and are included below. A map of the area surrounding the subject property indicating where accessory structures have possibly been built too close to a property line or within a utility easement has also been included.

ACCESSORY STRUCTURES IN THE SURROUNDING NEIGHBORHOOD

Staff conducted an aerial photo analysis of accessory structures in the surrounding neighborhood of the subject property. Staff found multiple occurrences of accessory structures possibly located within a utility easement or too close to a property line. One of these occurrences includes a shed immediately to the east of the subject property. This shed is approximately 2 to 3 feet from the large shed (Parts A and C of the Variance) on the petitioner's property which also means that this shed is also within a utility easement and too close to the property line. It is not clear if this shed could

simply be moved. Attachment A is a map indicating the locations of other possible instances of a structure being with a utility easement or too close to a property line. Attachments B and C are photos of the shed on the property to the east of the subject property.

IMPACT OF THE LARGER SHED ON THE UTILITY EASEMENT

The larger shed does not have a perimeter concrete footing and at this time has only a small concrete slab in one corner. Because there is no full slab and no perimeter footing the building may pose fewer problems if allowed to remain in the easement. However, any portion of the shed that is allowed to remain in the easement would create undue costs for any utility company needing access to that part of the easement. If the Board approves the variance a condition not allowing any further addition to the existing concrete slab inside of the shed should be considered in order to prevent further difficulty in accessing the easement.

PROPOSED EVIDENCE AND REVISIONS

Add the following to Item 7. of the Summary of Evidence:

- I. The adjacent property to the east also has a shed that is located in the same utility easement. That shed appears to be approximately 10 feet by 12 feet in area and may not be anchored into the ground by footings. Sheds smaller than 150 square feet in area are only exempt from the fees for a Zoning Use Permit but they are required to meet all other requirements of the Zoning Ordinance.

Add the following to Item 8. of the Summary of Evidence:

- G. An aerial photo analysis of the surrounding neighborhood of the subject property was conducted, during this analysis staff found 9 accessory structures that appear to have been built within a recorded utility easement, including a shed which is immediately to the east of the subject property. Staff also found 9 accessory structures that appear to have been built too close to a property line. Without a field survey staff could not verify this, but it appears that the sheds that are subject to Parts A, B, and C of this variance are likely not the only sheds in the neighborhood built within a recorded utility easement or too close to a property line.

Make the following revision to Item 10.C.(2) of the Summary of Evidence:

- (2) Separation of structures to prevent conflagration: The subject property is within the Savoy Fire Protection District and the station is approximately 2 miles from the subject property. The nearest structure to the largest shed (Parts A and C of the Variance) is a shed on the property to the east. is approximately 11 feet from the shed. The shed is in close proximity and it is difficult to estimate how close the shed is from an aerial photograph, based on a site visit to the subject property on August 29, 2012, staff estimated that there is approximately 2 to 3 feet between the two sheds. The nearest structure to the smaller shed (Part B of the Variance) is the dwelling on the property to the south and the dwelling is approximately 14 feet (estimated from an aerial photo) from the smaller shed. The minimum separation required by the

Ordinance in the R-1 District between an accessory building on one lot and a principal building on an adjacent lot is 15 feet.

Add the following to Item 10. of the Summary of Evidence:

G. Regarding the considerations related to the prohibition on construction in drainage easements and utility easements:

- (1) The prohibition on construction in drainage easements and utility easements in paragraph 4.2.2 D. were added to the Zoning Ordinance in Ordinance No. 544 (Case 105-AT-97 Part D) that was adopted on November 18, 1997. The evidence, testimony, and Finding of Fact for Case 105-AT-97 Part D merely discussed that the amendment gave the Zoning Administrator the authority to prevent construction in these areas where construction is not supposed to occur.

- (2) If the larger shed is allowed to remain in the utility easement the shed may result in additional costs for any utility that needs to access something within the easement such as the interceptor sewer line. And, provided that the property owner reimburses that utility for any additional costs incurred, allowing the shed to remain may be acceptable. However, the presence of the shed in the utility easement is a hidden cost for any future owner of the property and a future owner might be less agreeable about paying those costs. If the Zoning Board allows the shed to remain in the easement the Board may require a Miscellaneous Document to be filed with the Recorder of Deeds and the Document could make any future owner of this zoning case and any and all conditions that apply to the shed. The actual text of that Document should be established in the public hearing.

ATTACHMENTS

- A Neighborhood Analysis Map
- B Photo submitted by Charlotte Padgett at June 28, 2012, public hearing
- C Photo from Staff Site Visit on August 29, 2012

Neighborhood Analysis Map

CHAMPAIGN TWP.

N.W. 1/4 SEC. 25

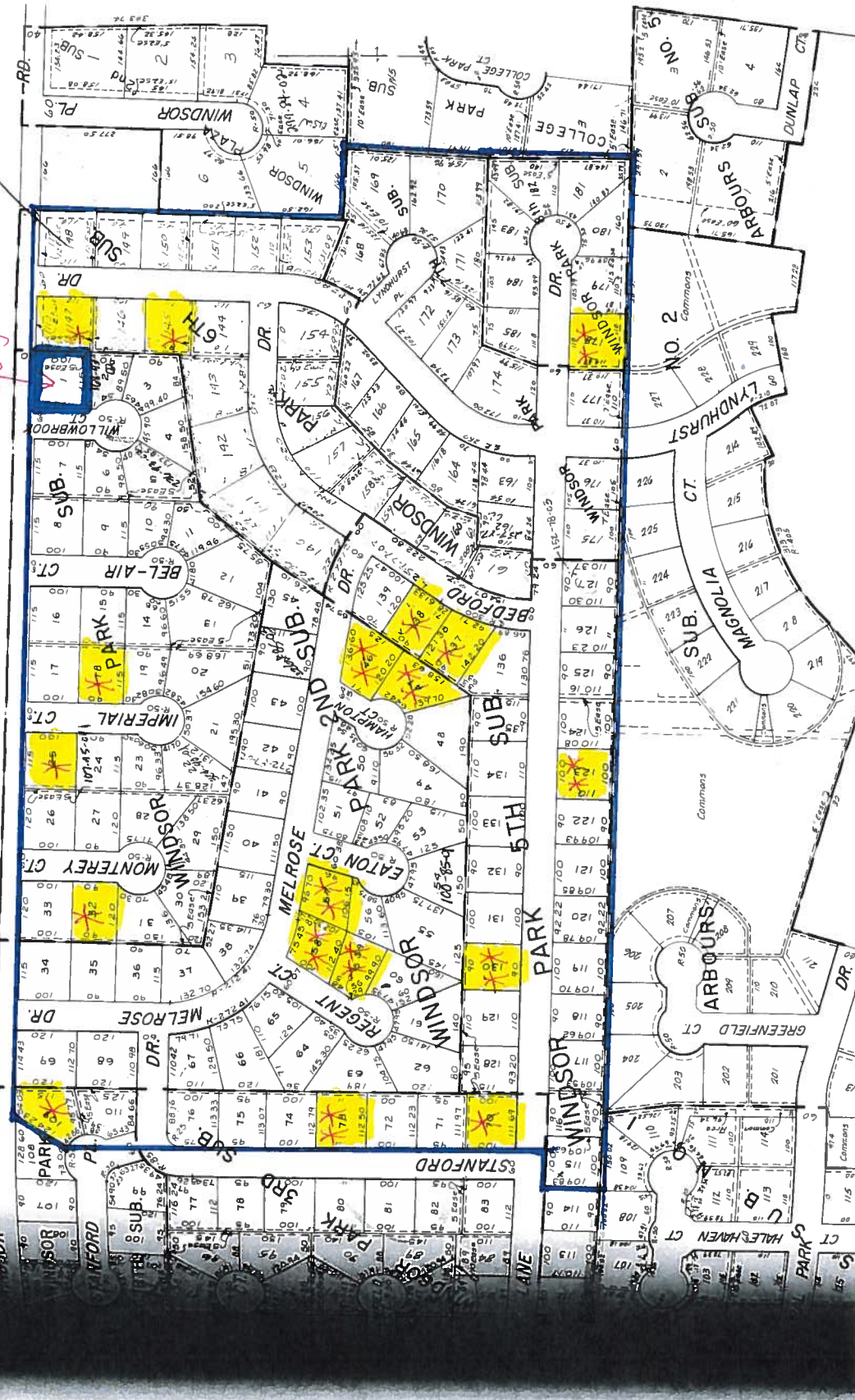
SCALE: 200 FT. TO 1 INCH T.19N.R.15E. OF THE 3RD P.M.
SEE PAGE 42C



= Survey area

* Accessory Structure Possibility
This is a copy of the page
** Accessory Structure Possibility too close to property line
to property line
Subject Property

101-4-05-D1



SEE PAGE 41E

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