

AS APPROVED

720-V-12

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

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

Date: **September 13, 2012**

Petitioners: **Robert Dorsey and Elizabeth Buck**

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

Part A. Variance from Section 4.2.1G. requirement that no accessory use or structure be established prior to a main or principal use or structure.

Part B. Variance from a maximum height of an accessory structure of 18.5 feet in lieu of the maximum 15 feet.

Table of Contents

General Application Information	2-3
Requested Variance	3
Specific Ordinance Requirements	3-6
Variance Evidence	6-13
Documents of Record	14
Case 720-V-12 Findings of Fact.....	15-17
Case 720-V-12 Final Determination.....	18-19

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **July 12, 2012, and September 13, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. Elizabeth Buck owns the subject property.
2. The subject property is lots 4, 5, 6, 7, and 8 of Block 4 of S.H. Busey's First Addition to the Town of Penfield in the Southwest Quarter of Section 4 of Compromise Township and commonly known as the dwelling at 209 Main Street, Penfield and appurtenant property at the location formerly known as 216 East Street, Penfield.
3. The subject property is not within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning. Municipalities do not have protest rights regarding variances, 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 Residence, and is in residential use.
 - B. Land to the north of the subject property is zoned R-2 Single Family Residence, and is in residential use.
 - C. Land to the south of the subject property is zoned R-2 Single Family Residence, and is in residential use.
 - D. Land to the east of the subject property is zoned R-2 Single Family Residence, and is in residential use.
 - E. Land to the west of the subject property is zoned R-2 Single Family Residence, and is in residential use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan of the subject property:
 - A. The subject property is 42,900 square feet (.98 acre) in area and consists of five non-conforming lots of record that are separated by a dedicated alley. The property is therefore actually two zoning lots. The western lot is 17,160 square feet in area. The eastern lot is 25,740 square feet in area.
 - B. The Site Plan received May 22, 2012, includes the following:
 - (1) The following has been indicated on the western lot:
 - (a) An existing house with a detached garage and shed.

- (2) The following has been indicated on the eastern lot:
 - (a) An existing 42' × 56' shed that is 16' 6½" in height and was authorized by Case 633-AV-06 and Zoning Use Permit 192-05-01.
 - (b) Five small portable sheds
 - (c) A proposed 40' × 56' shed (Parts A and B of this case).
 - (d) An existing 24' × 24' garage.
- C. A Screening Plan was received on September 6, 2012, and indicates the following:
 - (1) Three proposed Eastern White Pine trees along the north property line between the proposed shed and the property line.
 - (2) Two existing trees on the neighboring property and one tree fronting the subject property.
- D. The requested variance is as follows:
 - (1) Variance from Section 4.2.1G. requirement that no accessory use or structure be established prior to a main or principal use or structure.
 - (2) Variance from a maximum height of an accessory structure of 18.5 feet in lieu of the maximum 15 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) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.
 - (2) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT with the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE, either DETACHED from or ATTACHED to the MAIN OR PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE or the main or principal USE.

AS APPROVED

- (3) "ACCESSORY USE" is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
 - (4) "AREA, LOT" is the total area within the LOT LINES.
 - (5) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located. **(Note: The Ordinance does not define principal use)**
 - (6) "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.
 - (7) "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.
 - (8) "LOT LINES" are the lines bounding a LOT.
 - (9) "NONCONFORMING LOT, STRUCTURE, OR USE" is a LOT, SIGN, STRUCTURE, or USE which does not conform to the regulations and standards of the DISTRICT in which it is located.
 - (10) "RIGHT-OF-WAY" is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
 - (11) "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.
- "STRUCTURE, MAIN or PRINCIPAL" is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
- (12) "USE" is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted USE" or its equivalent shall not be deemed to include any NONCONFORMING USE.

- (13) "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.
 - (14) "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.
 - (15) "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. Section 4.2.1 G. states: No ACCESSORY USE shall be established prior to the establishment of the main or principal USE, and no ACCESSORY STRUCTURE shall be CONSTRUCTED, erected, ALTERED, remodeled, extended or moved prior to the establishment or CONSTRUCTION of the MAIN or PRINCIPAL STRUCTURE except those ACCESSORY USES and STRUCTURES of a temporary nature required for the establishment of the main or principal USE, or for the CONSTRUCTION of the MAIN or PRINCIPAL STRUCTURE.
- C. Footnote 4 of Section 5.3 states": That the maximum HEIGHT of a residential ACCESSORY BUILDING shall be 15 feet on LOTS less than one acre in area and 24 feet on LOTS one acre or more in area.
- 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 9.1.9 C. 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.

AS APPROVED

- (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, **“We have a home on the west side of the property. Four of the five lots join in the middle of the alley and three lots join on the east side and 2 join on the west side.”**
 - B. Regarding Part A of the variance:
 - (1) The subject property is 42,900 square feet (.98 acre) in area and consists of five non-conforming lots of record that are separated by a 14 feet wide dedicated alley. The property is therefore actually two zoning lots. The western lot is approximately 17,424 square feet in area. The eastern lot is approximately 25,476 square feet in area.
 - (2) These NONCONFORMING LOTS of RECORD are in common use and the alley poses no significant obstruction to that use. A 14 feet wide alley is an area where home owners and the occasional maintenance vehicles travel, not an area where thru traffic travels.
 - (3) Both the petitioner and the Zoning Administrator have inquired with the Township Highway Commissioner about the possibility of vacating at least a 20 feet long portion of the alley and replacing that part of the alley with an easement but the Township Highway Commissioner was doubtful that the township would agree to vacate any part of the alley.

- (4) At the July 12, 2012, public hearing Elizabeth Buck, petitioner testified and that testimony can be summarized as follows:
 - (1) There was once two homes on the property, but one was tore down because they preferred to tear it down rather than investing money into it. The other home had burned and was torn down before they had purchased the property.
 - (2) They have purchased a camper which will not fit into the other shed on the property because it is too tall.
 - (3) They have additional equipment and supplies which require storage.
 - (4) They intend to keep all other existing sheds on the subject property because they have invested money into them.
- C. Regarding Part B of the variance:
- (1) The petitioner was previously granted an Administrative Variance in Case 633-AV-06 for a shed of 16' 6½ " in height on the same property.
 - (2) At the July 12, 2012, public hearing Elizabeth Buck, petitioner, testified and is summarized as follows:
 - (1) Raising the roof of the existing 42' × 56' shed would cost just as much as it would to build a new building.
 - (2) They have purchased a camper which will not fit into the other shed on the property because it is too tall.
 - (3) They have additional equipment and supplies which require storage.

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, **"We would have to include a minimal dwelling unit in the shed, which would double the cost. We cannot afford that and we would have no use for it. Also if the building is kept to an average height of 15 feet we wouldn't be able to get our camper in which is the main reason for the shed."**

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B. Regarding Part A of the variance:

- (1) Two homes once existed on the subject property. There was a home on the south side of the property where one of the petitioners lived. This home had been vacant for many years and has since been torn down because the petitioners did not want to invest the money to repair it. Another home existed on the property where the proposed shed is to be built, but it was damaged in a fire and was tore down before the petitioners purchased the property. The proposed new shed is to be constructed in the area where the home damaged by a fire once stood.
- (2) In order to have an accessory building on a property a principal use has to be established before an accessory use can be constructed or at the same time. If the petitioners had left the home on the east property the only variance necessary would be for height.
- (3) The petitioners intend to store their camper in the proposed shed and without Part A of the variance the camper will continue to be stored outdoors.
- (4) The lots are under common ownership but they are bisected by a 14 feet wide dedicated alley which creates the condition of not being considered one zoning lot. A 14 feet wide alley is an area where home owners and the occasional maintenance vehicles travel, not an area where thru traffic travels.

C. Regarding Part B of the variance:

- (1) Without Part B of the variance the camper would not be able to be stored in the shed because it would be too tall to fit into the shed.
- (2) At the July 12, 2012, public hearing Elizabeth Buck, petitioner, testified that raising the roof of the existing 42' × 56' shed would cost just as much as it would to build a new building.
- (3) If the petitioners were to raise the roof of the existing 42' × 56' shed it would require the same variance being sought in Part B of this case.

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, **“We did not know you had to have a residence on the property to build the shed and we tore down the old house that was there.”**

- B. There was a home on the south side of the property where one of the petitioners lived. This home has since been torn down because it had been vacant for several years and rather than fixing it up the petitioners chose to demolish the home.
- C. Another home existed on the property where the proposed shed is to be built, but it was damaged in a fire and was tore down before the petitioners purchased the property.

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, **“Improves the looks of neighborhood, by letting us store our camper trailers and other items that would set outside.”**
 - B. Regarding Part A of the variance:
 - (1) Variance from Section 4.2.1G. requirements is a 100% variance.
 - (2) The requested variance is apparently not prohibited by the *Zoning Ordinance*, but this part of the variance is almost the same thing as authorizing a shed as a principal use and a “shed” or “personal storage building” is not an authorized principal use in the Section 5.2 Table of Authorized Principal Uses.
 - (3) The lots are under common ownership but they are bisected by a 14 feet wide dedicated alley which creates the condition of not being considered one zoning lot. A 14 feet wide alley is an area where home owners and the occasional maintenance vehicles travel, not an area where thru traffic travels.
 - C. Regarding Part B of the variance:
 - (1) A height of 18.5 feet for an accessory structure in lieu of the maximum height of 15 feet is 123% of the maximum allowed.
 - (2) 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, **“Lot is in the middle of block and building would not cause any vision problem with the street, sidewalks, or driveways.”**

AS APPROVED

- B The Township Highway 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.
- D. Testimony at the July 12, 2012, public hearing from neighbors who had concerns or were opposed to the variance, can be summarized as follows:
 - (1) At the July 12, 2012, public hearing Lucy Sparks, 202 Busey Street, Penfield, neighbor to the subject property testified, and that testimony can be summarized as follows:
 - (a) She lives in the home owned by her son-in-law next door to the subject property.
 - (b) If the shed is constructed there will be a double garage and two sheds which will compromise the integrity of the neighborhood because it will appear commercial.
 - (c) Her son-in-law is concerned that that the shed might reduce property values or increase the taxes of the neighborhood because it would appear commercial.
 - (d) She has lived in the home since 1976 and people move to Penfield because it is very nurturing and everyone knows everyone else and she is concerned about how the shed may change the nurturing appeal of the neighborhood.
 - (e) Screening or landscaping would help relieve some of her concerns about the appearance of the shed.
 - (2) At the July 12, 2012, Renee Wilcoxon, 121 East Street, Penfield, testified and that testimony can be summarized as follows:
 - (a) She can see the subject property and the existing structures from her yard.
 - (b) She does not like the existing sheds that are already on the subject property. There are a total of five sheds that can be seen from the alley as well as the large utility shed and the double car garage.
 - (c) She has put \$60,000 into her own property to improve it therefore she is concerned about the properties that are around her.

- (d) From where the petitioner's house is located they have a row of trees that block the view of the sheds but when she walks out her front door she can see the sheds.
- (e) The planting of trees would help but those trees would have to be planted along the west side of East Street.

F. On August 23, 2012, the petitioners submitted a petition of support with the following signatures of Penfield residents and landowners:

- (1) Robert Kettner, 205 East Street, Penfield.
- (2) Robert Hendrich, 314 West Street, Penfield.
- (3) Sandy Curtis, 205 Main Street, Penfield.
- (4) Lindsey Saathoff, 304 South Street, Penfield.
- (5) Harlan Dillman, 109 Franklin Street, Penfield.
- (6) Debra Nale, 108 Franklin Street, Penfield.
- (7) Carla Philips, 116 Franklin Street, Penfield.
- (8) Robert Rawlings, 116 East Street, Penfield.
- (9) Josh and Nicole Faulkner, 209 East Street, Penfield.
- (10) Donald Buck, 225 Franklin Street, Penfield.
- (11) William Wernigk and Patricia Junkin-Wernigk, 222 Franklin Street, Penfield.
- (12) Brittani Stalter, 222 Franklin Street, Penfield.
- (13) Dale and Nancy Stamm, 209 South Franklin Street, Penfield.
- (14) Brian Wernigk, 222 Franklin Street, Penfield.
- (15) David Henney, 221 South Franklin Street, Penfield.
- (16) Jennifer Kilhoffer, 221 South Franklin Street, Penfield.
- (17) Randall Zinder, 308 East Busey Street, Penfield.
- (18) Dennis Reed, 213 East Street, Penfield.
- (19) Walter Cher, 421 Walnut Street, Penfield.
- (20) Sandy Weaver, 327 East Street, Penfield.
- (21) Bob Miles, 214 Main Street, Penfield.
- (22) Julian Ellis, Busey Street, Penfield.
- (23) Delmar Johnson, 221 South Street, Penfield.
- (24) Melquiades Salcido, 301 West Street, Penfield.
- (25) Richard and Phyllis Willfong, 401 South East Street, Penfield.
- (26) Jim Evans, 404 East Street, Penfield.
- (27) Bobbette Asbury, 301 East Street, Penfield.
- (28) Jamie Asbury, 324 East Street, Penfield.
- (29) John W. Birch, 405 Elm Steet, Penfield.
- (30) Sandy Bishop, 112 Elm Street, Penfield.
- (31) Mark Richardson, 320 Main Street, Penfield.
- (32) Christine Rowland, 221 East Street, Penfield.

AS APPROVED

- (33) Raul San Miguel, 204 Main Street, Penfield.
- (34) Rick Johnson, 307 Busey Street, Penfield.
- (35) John D. Reardon, 113 East Street, Penfield.
- (36) Brenda Todd, 224 East Street, Penfield.
- (37) Royce M. Wolfe, 224 East Street, Penfield.
- (38) Kenneth E. Mizell, 124 Busey Street, Penfield.
- (39) Paul Ray, 324 Elm Street, Penfield.
- (40) Bianka Lowther, 401 Elm Street, Penfield.
- (41) Amanda O'Brien, 107 Walnut Street, Penfield.
- (42) Phillip Zindars, 401 South Main Street, Penfield.
- (43) Richard J. Early, 150 Busey Street, Penfield.
- (44) Billy and Shelia Bions, 201 West Street, Penfield.
- (45) Mike Trione, 109 East Street, Penfield.
- (46) Sam Nale, 108 Franklin Street, Penfield.
- (47) Sheri Kaufman, 106 Walnut Street, Penfield.
- (48) Bill Beenie, 106 Walnut Street, Penfield.
- (49) Barb Little, 404 Main Street, Penfield.
- (50) Katherine M. Schwing, 117 Elm Street, Penfield.
- (51) David Foster, 114 Elm Street, Penfield.
- (52) Kevin Foster, Penfield.
- (53) Michelle Cler, 305 Elm Street, Penfield.
- (54) Clara Titler, 105 Franklin Street, Penfield.
- (55) Jamie Dorsey, 110 Walnut Street, Penfield.
- (56) Dan Stamm, 113 West Street, Penfield.
- (57) Barb Kettler, 205 East Street, Penfield.
- (58) Kenneth W. Grove, 100 Main Street, Penfield.
- (59) Steve Parrish 117 East Street, Penfield.
- (60) Brian Lile, 419 South Main Street, Penfield.
- (61) Jason McNeely, 309 West Street, Penfield.
- (62) Brenda Wilken, 200 Block Walnut, Penfield.
- (63) Linda Monroy, 105 Front Street, Penfield.
- (64) Michael Greg, 102 East Street, Penfield.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. A. The Variance shall be deemed void if any of the following occur:

- (1) If the petitioners sell either the current home or the garage property to a buyer who does not also purchase the other property, except that concurrent sale of both properties can happen provided the garage property shall have a dwelling.**
- (2) If at least a 20 feet length of the alley between the relevant properties is ever vacated.**

- (3) **If any building on the eastern portion of the property is ever converted to include a dwelling unit with a septic system.**
- (4) **If any part of lots 4, 5, and 6 are sold off without a dwelling being established on the remaining portion of the property.**

The special condition stated above are required to ensure the following:

That the variance is void should it not ever be necessary and ensures that the properties will be in common ownership.

- B. The garages on the subject property shall not be rented out as storage space.**

The special condition stated above is required to ensure the following:

That the storage buildings on the subject property do not become warehouses of any kind, which are not authorized in the R-2 Zoning District.

- C. Landscape screening on the north side of the proposed shed sufficient to provide a 50% opaque screen to a height of 8 feet in 4 years for the length of the shed shall be maintained at all times.**

The special condition stated above is required to ensure the following:

That the proposed shed is properly screened from neighboring properties.

- D. The petitioners shall file a miscellaneous document with the Champaign County Recorder of Deeds documenting the Special Conditions proscribed in Zoning Case 720-V-12.**

The special condition stated above is required to ensure the following:

That future landowners are aware of the conditions imposed in Zoning Case 720-V-12.

DOCUMENTS OF RECORD

1. Variance Application received on May 22, 2012, with attachment:
 - A Site Plan

2. Preliminary Memorandum dated July 6, 2012, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received May 22, 2012
 - C Draft Summary of Evidence, Finding of Fact, and Final Determination

3. Photos submitted by Renee Willcoxon at the July 12, 2012, public hearing

4. Petition of support received August 23, 2012

5. Photos with petitioner comments received August 23, 2012

6. Screening Plan received September 6, 2012

7. Supplemental Memorandum dated September 7, 2012 with attachments:
 - A Petition of Support submitted August 23, 2012
 - B Screening Plan received September 6, 2012
 - C Proposed Miscellaneous Document
 - D Photos submitted by Renee Willcoxon at the July 12, 2012, public hearing
 - E Photos with petitioner comments submitted by the petitioners on August 23, 2012
 - F Excerpt of minutes of Case 720-V-12 from the July 12, 2012 public hearing
 - G Revised Summary of Evidence, Finding of Fact, and Final Determination

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 720-V-12 held on **July 12, 2012, and September 13, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances **DO** 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:
 - The petitioners own several connected lots which will be difficult to build on because of septic issues.
 - The petitioners need additional storage space that requires additional height for a tall camper.
 - The lot with the proposed storage shed is divided by a 14 feet wide alley from the lot with the dwelling.
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **WILL** prevent reasonable or otherwise permitted use of the land or structure or construction because:
 - Without the variance the construction of a shed large enough to accommodate the storage needs on a lot without a principal use cannot take place.
3. The special conditions, circumstances, hardships, or practical difficulties **DO NOT** result from actions of the applicant because:
 - They are small lots, and septic fields would take up a large area of the small lots.
 - The 14 feet wide alley divides the three lots from the lot with the dwelling.
4. The requested variance **SUBJECT TO THE PROPOSED CONDITIONS IS** in harmony with the general purpose and intent of the Ordinance because:
 - This allows an accessory shed to be placed in close proximity to a principal residence.
 - The special conditions imposed help it fit better into the neighborhood and provide for the variance to be void should the property be sold separately.

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5. The requested variance **SUBJECT TO THE PROPOSED CONDITIONS WILL NOT** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because:
- The proposed building location will not hinder traffic visibility.
 - The proposed building will clean up the property by providing additional storage.
 - The proposed building will have screening on the north side.
 - The road commissioner and fire district had no comments.
6. The requested variance **SUBJECT TO THE PROPOSED CONDITIONS IS** the minimum variation that will make possible the reasonable use of the land/structure because:
- The variance is the minimum variance that will allow that structure to be built with that height on a lot that has no principal dwelling.
7. **THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:**
- A. The Variance shall be deemed void if any of the following occur:**
- (1) **If the petitioners sell either the current home or the garage property to a buyer who does not also purchase the other property, except that concurrent sale of both properties can happen provided the garage property shall have a dwelling.**
 - (2) **If at least a 20 feet length of the alley between the relevant properties is ever vacated.**
 - (3) **If any building on the eastern portion of the property is ever converted to include a dwelling unit with a septic system.**
 - (4) **If any part of lots 4, 5, and 6 are sold off without a dwelling being established on the remaining portion of the property.**

The special condition stated above are required to ensure the following:

That the variance is void should it not ever be necessary and ensures that the properties will be in common ownership.

- B. The garages on the subject property shall not be rented out as storage space.**

The special condition stated above is required to ensure the following:

That the storage buildings on the subject property do not become warehouses of any kind, which are not authorized in the R-2 Zoning District.

- C. Landscape screening on the north side of the proposed shed sufficient to provide a 50% opaque screen to a height of 8 feet in 4 years for the length of the shed shall be maintained at all times.**

The special condition stated above is required to ensure the following:

That the proposed shed is properly screened from neighboring properties.

- D. The petitioners shall file a miscellaneous document with the Champaign County Recorder of Deeds documenting the Special Conditions proscribed in Zoning Case 720-V-12.**

The special condition stated above is required to ensure the following:

That future landowners are aware of the conditions imposed in Zoning Case 720-V-12.

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 for approval in 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 720-V-12 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Robert Dorsey & Elizabeth Buck** to authorize the following in the **R-2 Zoning District**:

Part A. Variance from Section 4.2.1G. requirement that no accessory use or structure be established prior to a main or principal use or structure.

Part B. Variance from a maximum height of an accessory structure of 18.5 feet in lieu of the maximum 15 feet.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

A. The Variance shall be deemed void if any of the following occur:

- (1) If the petitioners sell either the current home or the garage property to a buyer who does not also purchase the other property, except that concurrent sale of both properties can happen provided the garage property shall have a dwelling.**
- (2) If at least a 20 feet length of the alley between the relevant properties is ever vacated.**
- (3) If any building on the eastern portion of the property is ever converted to include a dwelling unit with a septic system.**
- (4) If any part of lots 4, 5, and 6 are sold off without a dwelling being established on the remaining portion of the property.**

The special condition stated above are required to ensure the following:

That the variance is void should it not ever be necessary and ensures that the properties will be in common ownership.

B. The garages on the subject property shall not be rented out as storage space.

The special condition stated above is required to ensure the following:

That the storage buildings on the subject property do not become warehouses of any kind, which are not authorized in the R-2 Zoning District.

- C. Landscape screening on the north side of the proposed shed sufficient to provide a 50% opaque screen to a height of 8 feet in 4 years for the length of the shed shall be maintained at all times.**

The special condition stated above is required to ensure the following:

That the proposed shed is properly screened from neighboring properties.

- D. The petitioners shall file a miscellaneous document with the Champaign County Recorder of Deeds documenting the Special Conditions proscribed in Zoning Case 720-V-12.**

The special condition stated above is required to ensure the following:

That future landowners are aware of the conditions imposed in Zoning Case 720-V-12.

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

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date