

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: April 14, 2016
Time: 7:00 P.M.
Place: **John Dimit 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

*Note: The full ZBA packet is now available
on-line at: www.co.champaign.il.us.*

*Case 823-S-15 Petitioner: **William and Christina Schultz, d.b.a. A1 Pavement Maintenance, d.b.a. BillyCo Properties, LLC.**

Request: **Authorize a Contractor's Facility with Outdoor Storage and Outdoor Operations as a Special Use in the B-4, General Business Zoning District with the following waivers:**

Part A: A waiver for a side yard of 0 feet in lieu of the minimum required 10 feet as per Section 5.3 of the Zoning Ordinance.

Part B: A waiver for a rear yard of 0 feet in lieu of the minimum required 20 feet as per Section 5.3 of the Zoning Ordinance.

Location: **A 2.13 acre tract comprised of Lots 4 and 5 of Van Winkle Subdivision in the Northeast Quarter of the Northeast Quarter of Section 33 of Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township and commonly known as the contractor business A1 Pavement Maintenance, 3809 North Cunningham Avenue, Urbana, Illinois.**

*Case 826-V-16 Petitioner: **Rodney and Ellen Vanous**

Request: **Authorize the following variance in the AG-2, Agriculture Zoning District: A detached shed with a rear yard of 2 feet 6 inches in lieu of the minimum required 10 feet for accessory structures.**

Location: **Lot 34 of the Willowdale 2nd Subdivision in Section 11 of St. Joseph Township and commonly known as the residence at 1699 Willow Park St, St. Joseph, Illinois.**

7. Staff Report
8. Other Business
 - A. Review of docket
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

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

CASE NO. 823-S-15

PRELIMINARY MEMORANDUM

April 7, 2016

Petitioner: William and Christina Schultz, d.b.a. A1 Pavement Maintenance, d.b.a. BillyCo Properties LLC

Request: Authorize a Contractor's Facility with Outdoor Storage and Outdoor Operations as a Special Use in the B-4 General Business Zoning District with the following waivers:

Part A: A waiver for a side yard of 0 feet in lieu of the minimum required 10 feet as per Section 5.3 of the Zoning Ordinance.

Part B: A waiver for a rear yard of 0 feet in lieu of the minimum required 20 feet as per Section 5.3 of the Zoning Ordinance.

Location: A tract of land comprised of Lots 4 and 5 of Van Winkle Subdivision in the Northeast Quarter of the Northeast Quarter of Section 33 of Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township and commonly known as the contractor business A1 Pavement Maintenance, 3809 North Cunningham Avenue, Urbana, Illinois.

Site Area: 2.13 acres

Time Schedule for Development: Already in use

Prepared by: Susan Chavarria
Senior Planner

John Hall
Zoning Administrator

BACKGROUND

This Special Use Permit case was prompted by the petitioners' application for a Zoning Use Permit to construct a garage on the subject property that has a contractor's paving business. Section 5.2: Table of Authorized Principal Uses states that Contractors Facilities (with outdoor storage and/or outdoor operations) can be established with a Special Use Permit in the B-4 General Business Zoning District. Footnote 5 (specific to the B-4 district) states, "Outdoor storage as an accessory use is allowed by right when all outdoor storage is located in the rear yard and is completely screened by a Type D screen meeting the provisions of Section 7.6.3. The petitioners' outdoor storage of equipment and materials is not limited to the rear yard and does not have a Type D screen completely surrounding the outdoor storage area, thus requiring the Special Use Permit.

There are five recommended Special Conditions regarding the on-site caretaker's dwelling, outdoor storage, screening, and accessibility.

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning.

EXISTING LAND USE AND ZONING**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Pavement contractor's business with a caretaker's dwelling	B-4 General Business
North	Commercial/Service	B-4 General Business
East	Agriculture/farmstead	AG-2 Agriculture
West	Agriculture	B-3 Highway Business
South	Commercial/Service	B-4 General Business

NEED TO RE-ADVERTISE THE CASE

The Zoning Administrator determined that waivers Part A and B need to be advertised as Variances rather than waivers to the Special Use Permit. Once a continued hearing date has been identified, staff will re-advertise this case.

REVISED SITE PLAN NEEDED

The site plan received December 23, 2015 has insufficient information. The petitioner will need to submit a complete site plan that indicates all buildings, all outdoor storage and operations, all required parking, the septic system, the driveway, the required screening, distances between all buildings and structures and the property line, and distances between all storage elements and the property line.

Staff has provided an Annotated Aerial to help illustrate some of these elements (Attachment E).

INCREASED USE OF THE PROPERTY

Since their establishment in 2007, the petitioners have installed buildings without permits, stored increasing amounts of equipment outdoors, and started construction on a new building without a permit, suggesting a lack of conformance with the Zoning Ordinance.

The petitioners applied for a Change of Use Permit (ZUP #110-07-01, approved May 22, 2007) and established their business on the subject property in 2007. The approved permit stated "any outdoor storage on the property will require a new Change of Use Permit/Zoning Use Permit. As per the permit application, Zoning staff noted that the petitioner had no plans for outdoor storage.

In 2009, the petitioners applied for a Zoning Use Permit (#245-09-02, approved September 14, 2009) to place a manufactured home on the subject property and build a detached garage for a caretaker's dwelling. The permit was amended on October 27, 2009 to add a covered porch to the manufactured home. As per a staff note to file dated September 9, 2009, staff spoke with Petitioner Chris Schultz, who indicated the following:

- The pod that is presently on the property houses her personal items which would be off the premises once the home is in place.
- The trucks are part of their use and it was their understanding that those trucks could stay parked outside.
- Staff faxed her the screening requirements and outdoor storage requirements the same day.

Aerial photography from 2008 shows a few vehicles/pieces of equipment, but no stockpiles. The next available photography from 2011 shows 15-20 vehicles/pieces of equipment, an improved drive looping through the west end of the property, and minimal stockpiling. The 2014 photography shows more than 30 vehicles/pieces of equipment and at least five stockpiles of various materials.

As of January 26, 2016, only the north side of the property has slats in the chain link fence; the other three sides are not screened. Most equipment is still stored outdoors.

PROPOSED SPECIAL CONDITIONS

- A. **In the event that the Contractor's Facility ceases to exist, the right to a second dwelling unit will become void.**

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

That the proposed Special Use complies with the Zoning Ordinance regarding number of dwellings allowed on a property.

- B. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and Operations) until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

That the proposed Special Use meets applicable state requirements for accessibility.

- C. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

- D. **Within 6 months of approval of Special Use Permit 823-S-15, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

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

That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

- E. **Within 60 days of approval of Special Use Permit 823-S-15, all empty or no longer used paint cans stored outdoors must be properly disposed of or stored indoors.**

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

That outdoor storage and operations are in compliance with the Champaign County Nuisance Ordinance.

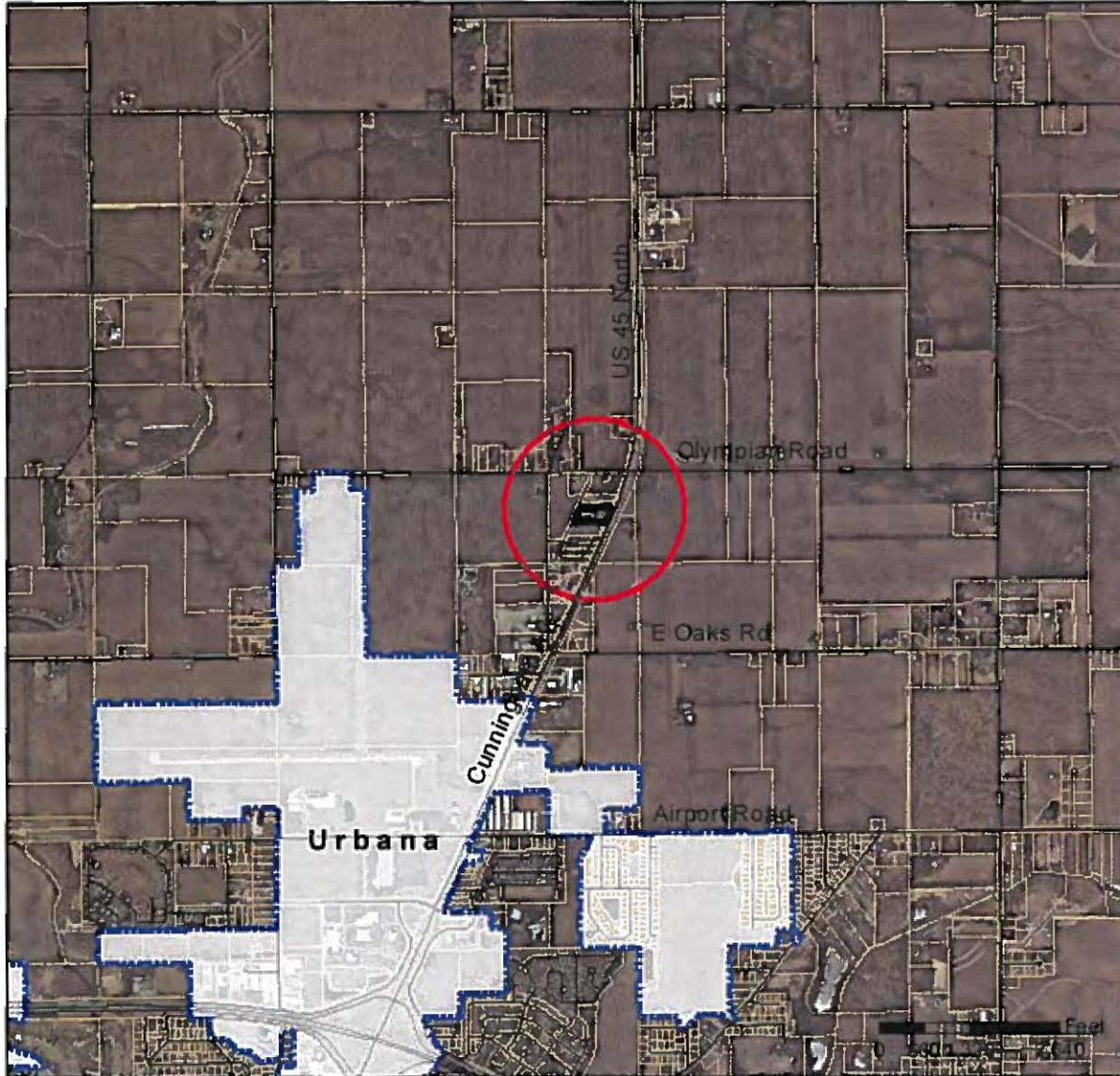
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received December 23, 2015
- C Approved Site Plan from Zoning Use Permit 110-07-01 dated May 22, 2007
- D Approved Site Plan from Zoning Use Permit 245-09-02 dated September 14, 2009
- E Annotated Aerial Photo dated April 14, 2016
- F Aerial photos: 2008, 2011, 2014
- G LRMP Appendix of Defined Terms
- H Site Visit Photos taken January 26, 2016 and March 14, 2016
- I Email from Petitioner Chris Schultz received March 14, 2016
- J Preliminary Summary of Evidence, Finding of Fact, and Final Determination dated April 7, 2016

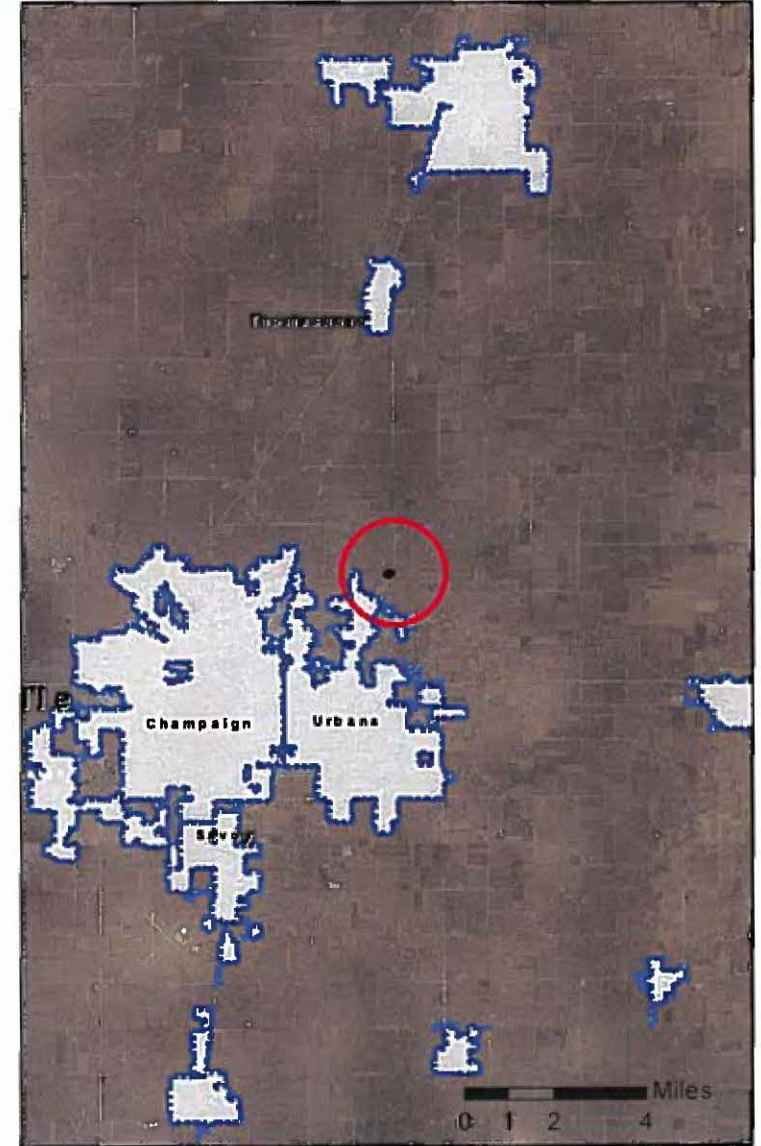
Location Map

Case 823-S-15
April 14, 2016

Subject Property



Property location in Champaign County



Legend

-  Subject Property
-  Municipal Boundary
-  Parcels



Land Use Map

Cases 823-S-15
April 14, 2016



Legend

- Parcels
- Subject Property

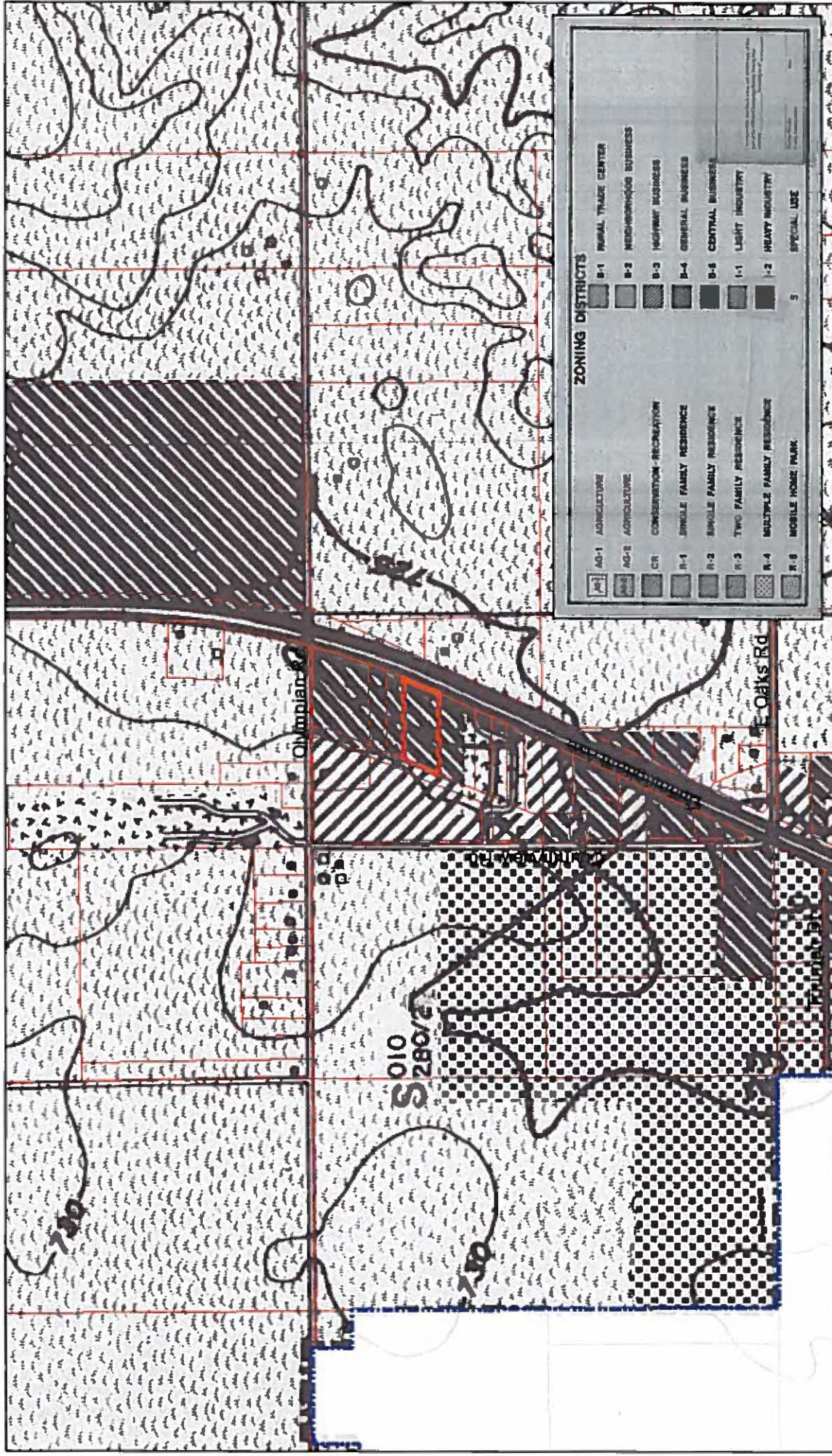
- SF Single Family Residential
- AG Agriculture
- COMM Commercial



Zoning Map

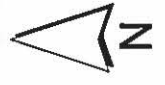
Case 823-S-15

April 14, 2016



Legend

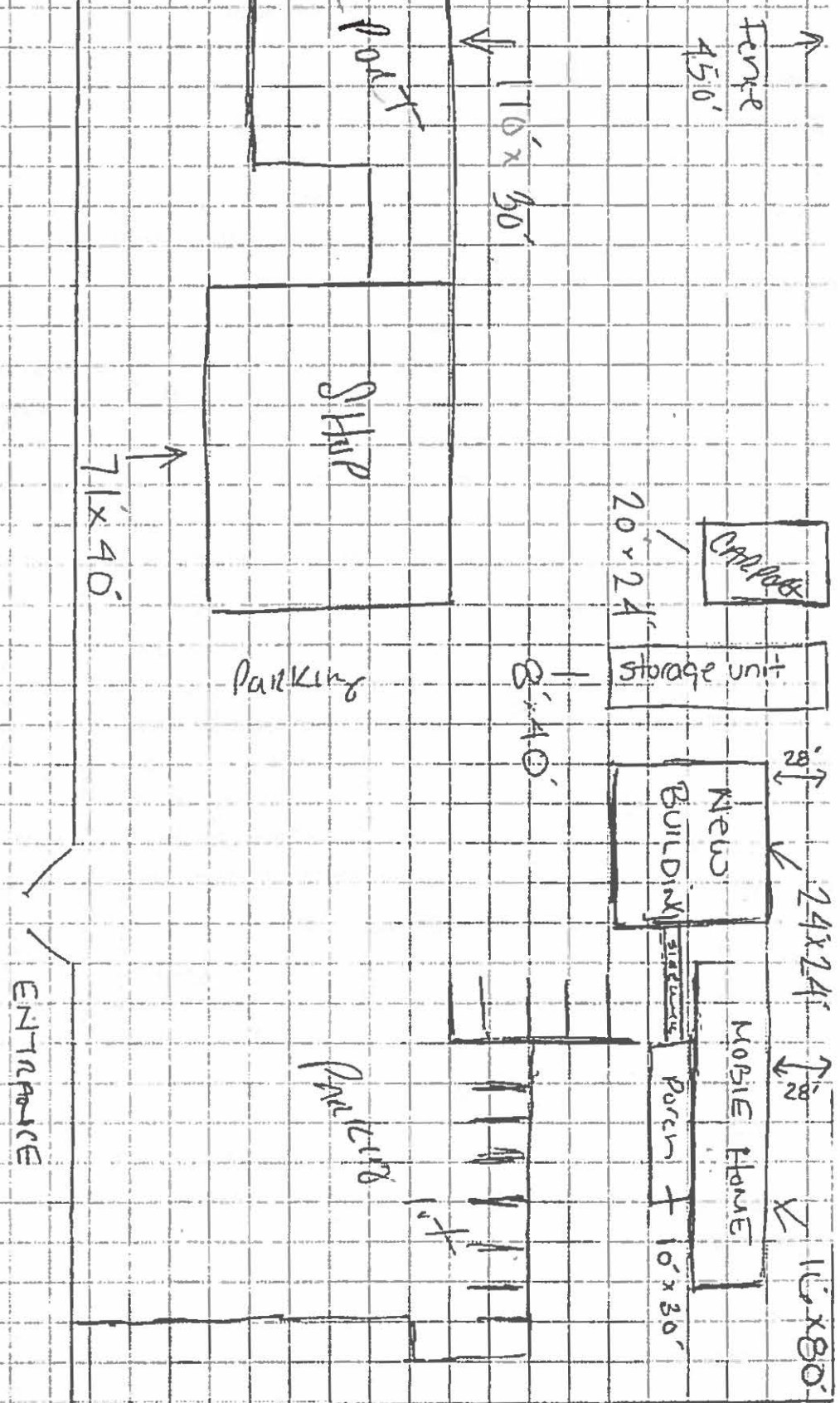
- Subject Property
- Parcels
- Urbana Corporate Limit



ZONING DISTRICTS	
	AG-1 AGRICULTURE
	AG-2 AGRICULTURE
	CR CONSERVATION-RECREATION
	R-1 SINGLE FAMILY RESIDENCE
	R-2 SINGLE FAMILY RESIDENCE
	R-3 TWO FAMILY RESIDENCE
	R-4 MULTIPLE FAMILY RESIDENCE
	R-5 MOBILE HOME PARK
	B-1 RURAL TRADE CENTER
	B-2 MEDIUM-DENSITY BUSINESS
	B-3 HIGHWAY BUSINESS
	B-4 GENERAL BUSINESS
	B-5 CENTRAL BUSINESS
	I-1 LIGHT INDUSTRY
	I-2 HEAVY INDUSTRY
	S SPECIAL USE

Champaign County
Department of
PLANNING &
ZONING

Property line



RECEIVED

DEC 23 2015

CHAMPAIGN CO. P & Z DEPARTMENT

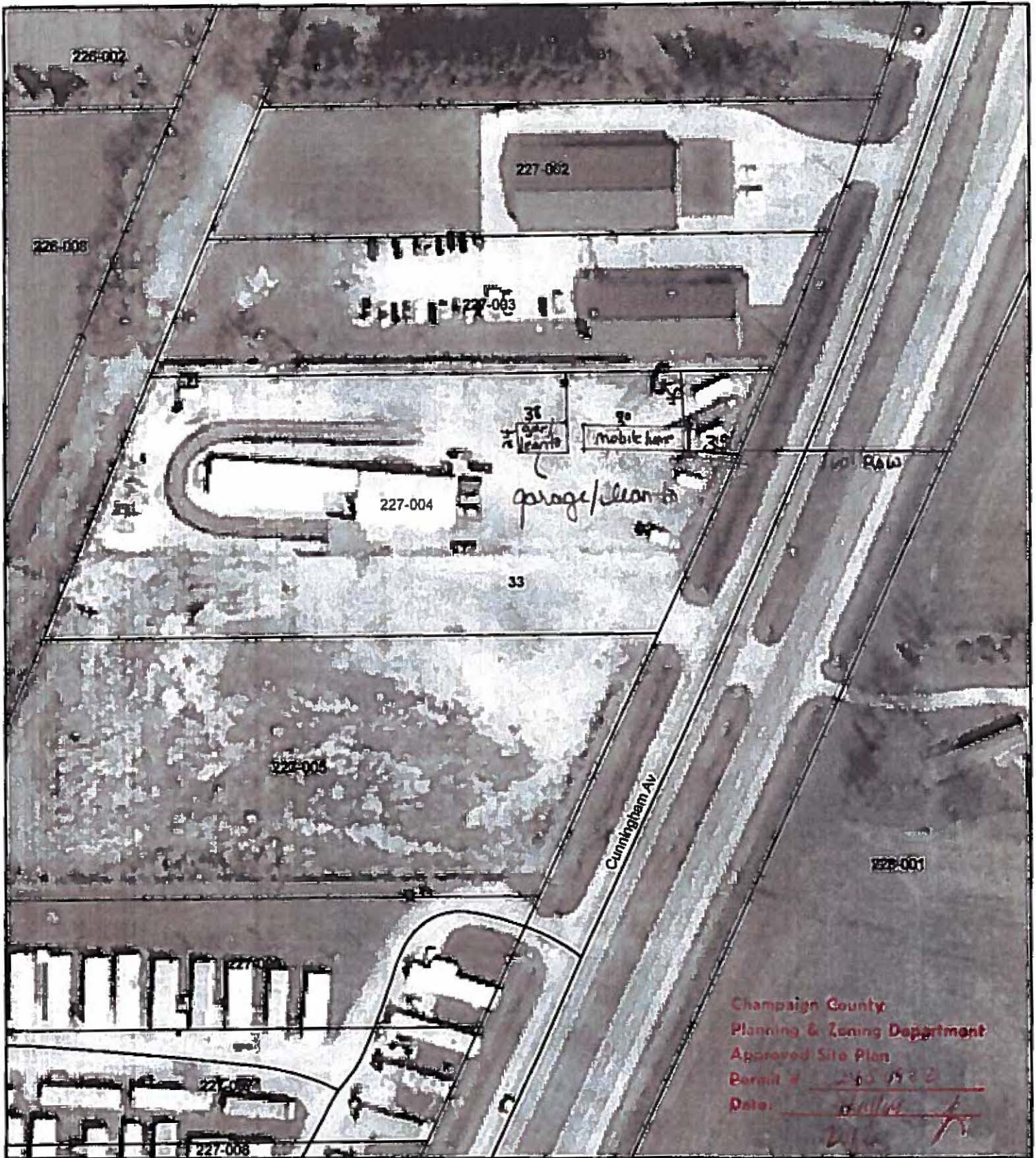
RT 45



1 inch equals 100 feet

Proposed Addition is 10' x 70' yr
4/20/07

Champaign County
 Planning & Zoning Department
 Approved Site Plan
 Permit # 110: 07-01
 Date: 5/22/07 yr



DISCLAIMER:

This map was prepared by the Champaign County GIS Consortium (CCGIS) using the best available data. This map and its underlying data is intended to be used as a general index to land related information and is not intended for detailed, site-specific analysis. CCGIS does not warranty or guarantee the accuracy of this information for any purpose.

1 inch = 100 feet

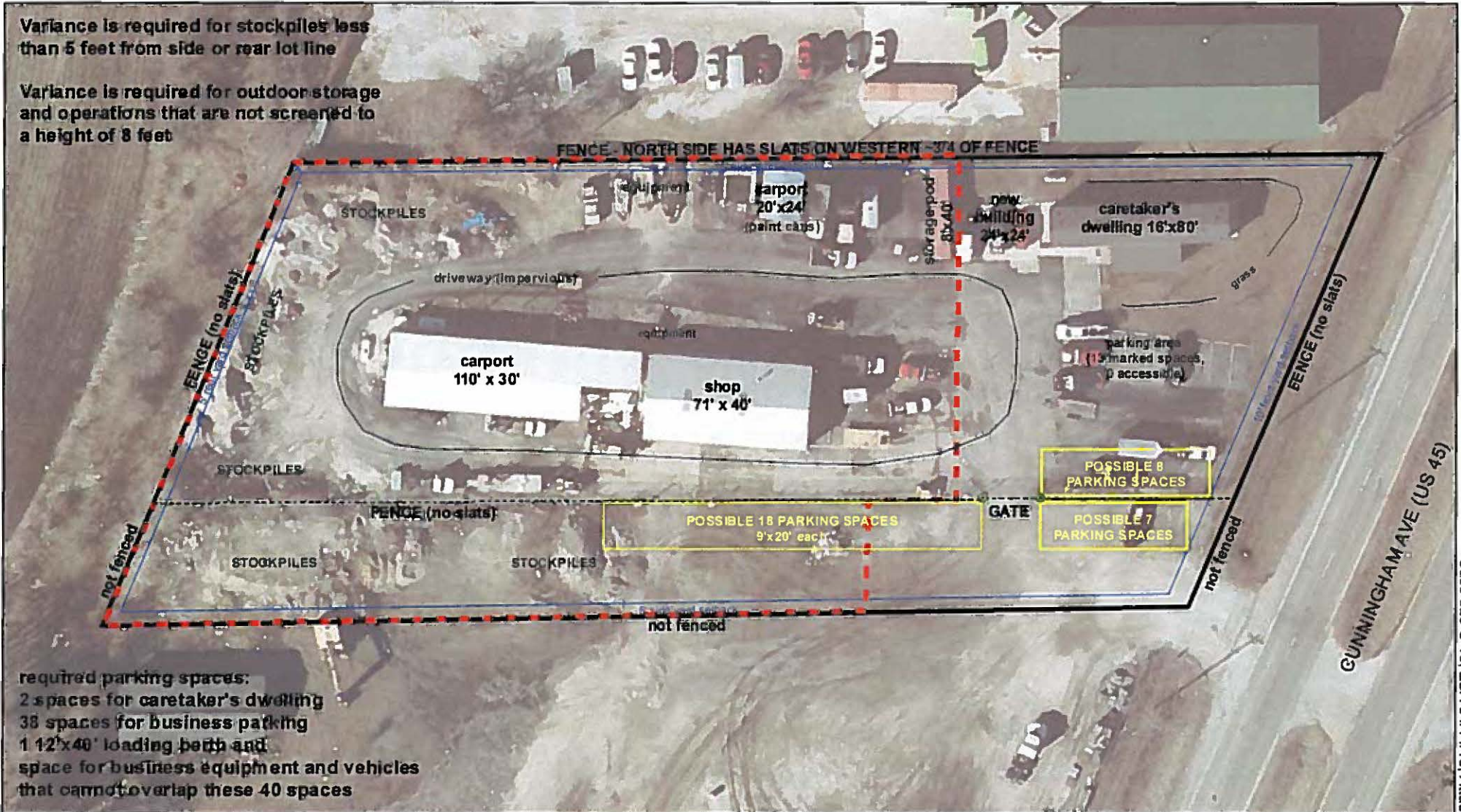


Map provided by
Champaign County
GIS Consortium
A program administered by the
Champaign County Regional Planning Commission




Annotated 2014 Aerial Photo

Case 823-S-15

April 14, 2016



Legend

-  Minimum Yard Requirement for Storage and Operations
-  Subject Property
-  Indoor/Outdoor Storage and Operations Area

0 15 30 60 Feet



Champaign County
 Department of
 PLANNING &
 ZONING

25-15-33-227-004 Case 823-S-15 2008 Aerial



This map was prepared with geographic information system (GIS) data created by the Champaign County GIS Consortium (CCGISC), or other CCGISC member agency. These entities do not warrant or guarantee the accuracy or suitability of GIS data for any purpose. The GIS data within this map is intended to be used as a general index to spatial information and not intended for detailed, site-specific analysis or resolution of legal matters. Users assume all risk arising from the use or misuse of this map and information contained herein. The use of this map constitutes acknowledgement of this disclaimer.



25-15-33-227-004 Case 823-S-15 2014 Aerial



This map was prepared with geographic information system (GIS) data created by the Champaign County GIS Consortium (CCGISC), or other CCGISC member agency. These entities do not warrant or guarantee the accuracy or suitability of GIS data for any purpose. The GIS data within this map is intended to be used as a general index to spatial information and not intended for detailed, site-specific analysis or resolution of legal matters. Users assume all risk arising from the use or misuse of this map and information contained herein. The use of this map constitutes acknowledgement of this disclaimer.



APPENDIX

DEFINED TERMS

The following defined terms can be found in italics within the text of the LRMP Volume 2 Chapters: Goals, Objectives and Policies; Future Land Use Map; and Implementation Strategy.

best prime farmland

'Best prime farmland' consists of soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System with a Relative Value of 85 or greater and tracts of land with mixed soils that have a LESA System Land Evaluation rating of 85 or greater.

by right development

'By right development' is a phrase that refers to the limited range of new land uses that may be established in unincorporated areas of the County provided only that subdivision and zoning regulations are met and that a Zoning Use Permit is issued by the County's Planning and Zoning Department. At the present time, 'by right' development generally consists of one (or a few, depending on tract size) single family residences, or a limited selection of other land uses. Zoning Use Permits are applied for 'over-the-counter' at the County Planning & Zoning Department, and are typically issued—provided the required fee has been paid and all site development requirements are met—within a matter of days.

contiguous urban growth area

Unincorporated land within the County that meets one of the following criteria:

- land designated for urban land use on the future land use map of an adopted municipal comprehensive land use plan, intergovernmental plan or special area plan, and located within the service area of a public sanitary sewer system with existing sewer service or sewer service planned to be available in the near- to mid-term (over a period of the next five years or so).
- land to be annexed by a municipality and located within the service area of a public sanitary sewer system with existing sewer service or sewer service planned to be available in the near- to mid-term (over a period of the next five years or so); or
- land surrounded by incorporated land or other urban land within the County.

discretionary development

A non-agricultural land use that may occur only if a Special Use Permit or Zoning Map Amendment is granted by the County.

discretionary review

The County may authorize certain non-agricultural land uses in unincorporated areas of the County provided that a public review process takes place and provided that the County Board or County Zoning Board of Appeals (ZBA) finds that the development meets specified criteria and approves the development request. This is referred to as the 'discretionary review' process.

The discretionary review process includes review by the County ZBA and/or County Board of a request for a Special Use or a Zoning Map Amendment. For 'discretionary review' requests, a

discretionary review (continued)

public hearing occurs before the County ZBA. Based on careful consideration of County [LRMP] goals, objectives and policies and on specific criteria, the ZBA and/or County Board, at their discretion, may or may not choose to approve the request.

good zoning lot (commonly referred to as a 'conforming lot')

A lot that meets all County zoning, applicable County or municipal subdivisions standards, and other requirements in effect at the time the lot is created.

parks and preserves

Public land established for recreation and preservation of the environment or privately owned land that is participating in a conservation or preservation program

pre-settlement environment

When used in reference to outlying Champaign County areas, this phrase refers to the predominant land cover during the early 1800s, when prairie comprised approximately 92.5 percent of land surface; forestland comprised roughly 7 percent; with remaining areas of wetlands and open water. Riparian areas along stream corridors containing 'Forest Soils' and 'Bottomland Soils' are thought to most likely be the areas that were forested during the early 1800s.

public infrastructure

'Public infrastructure' when used in the context of rural areas of the County generally refers to drainage systems, bridges or roads.

public services

'Public services' typically refers to public services in rural areas of the County, such as police protection services provided the County Sheriff office, fire protection principally provided by fire protection districts, and emergency ambulance service.

rural

Rural lands are unincorporated lands that are not expected to be served by any public sanitary sewer system.

site of historic or archeological significance

A site designated by the Illinois Historic Preservation Agency (IHPA) and identified through mapping of high probability areas for the occurrence of archeological resources in accordance with the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420/3). The County requires Agency Report from the IHPA be submitted for the County's consideration during discretionary review of rezoning and certain special use requests. The Agency Report addresses whether such a site is present and/or nearby and subject to impacts by a proposed development and whether further consultation is necessary.

suited overall

During the discretionary review process, the County Board or County Zoning Board of Appeals may find that a site on which development is proposed is 'suited overall' if the site meets these criteria:

- the site features or site location will not detract from the proposed use;
- the site will not create a risk to the health, safety or property of the occupants, the neighbors or the general public;
- the site is not clearly inadequate in one respect even if it is acceptable in other respects;
- necessary infrastructure is in place or provided by the proposed development; and
- available public services are adequate to support the proposed development effectively and safely.

well-suited overall

During the discretionary review process, the County Board or County Zoning Board of Appeals may find that a site on which development is proposed is 'well-suited overall' if the site meets these criteria:

- the site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative affects on neighbors or the general public; and
- the site is reasonably well-suited in all respects and has no major defects.

urban development

The construction, extension or establishment of a land use that requires or is best served by a connection to a public sanitary sewer system.

urban land

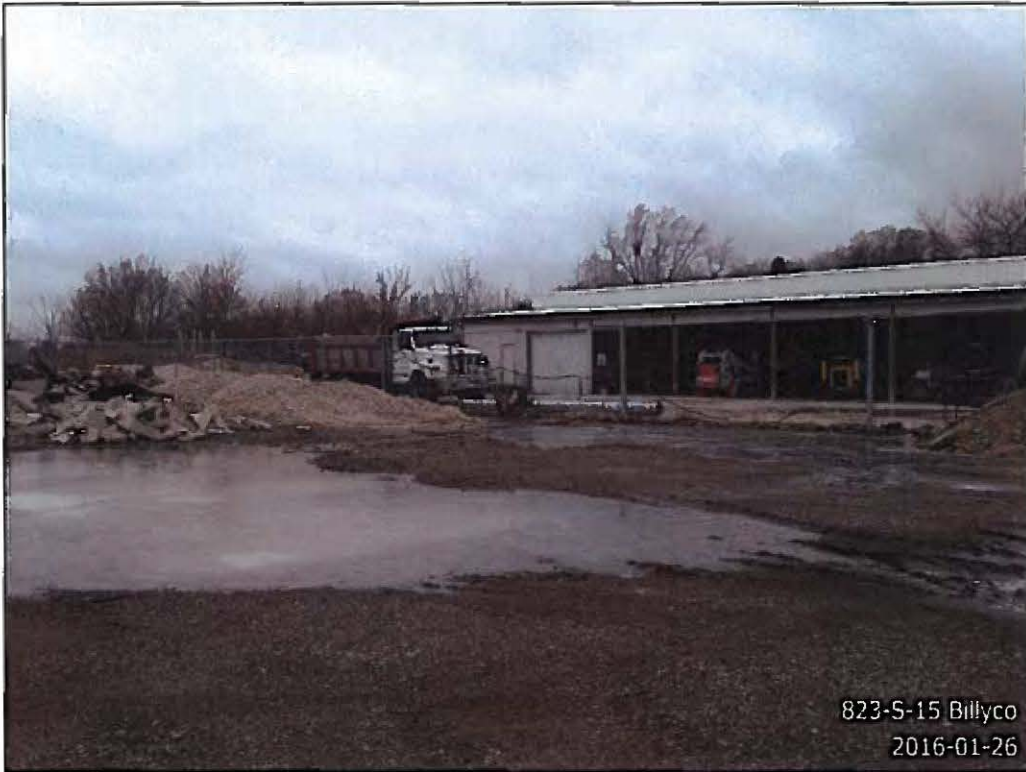
Land within the County that meets any of the following criteria:

- within municipal corporate limits; or
- unincorporated land that is designated for future urban land use on an adopted municipal comprehensive plan, adopted intergovernmental plan or special area plan and served by or located within the service area of a public sanitary sewer system.

urban land use

Generally, land use that is connected and served by a public sanitary sewer system.

823-S-15 Images



823-S-15 Billyco
2016-01-26

South end of subject property, from property to south facing NW



823-S-15 Billyco
2016-01-26

Southeast part of subject property, from south facing NE

823-S-15 Images



823-S-15 Billyco
2016-01-26

East end of subject property, from US45 facing west



03-14-2016
823-S-15 A1 Pavement

North side, inside fence, from west end of property facing east

823-S-15 Images



New building at left, facing east



North side of property between storage pod and north slatted fence, facing west

823-S-15 Images



03-14-2016
823-S-15 A1 Pavement

West side of SW carport, facing north



03-14-2016
823-S-15 A1 Pavement

One of west end stockpiles, facing west

Susan Chavarria

From: Chris -A1 Pavement <chris_a1@yahoo.com>
Sent: Monday, March 14, 2016 9:19 PM
To: Susan Chavarria
Subject: RE: A1 Pavement Zoning Case - information request

Follow Up Flag: Follow up
Flag Status: Flagged

From: Susan Chavarria [<mailto:schavarr@co.champaign.il.us>]
Sent: Monday, March 14, 2016 2:07 PM
To: 'Chris -A1 Pavement'
Subject: RE: A1 Pavement Zoning Case - information request

Hi Chris,

Hope you're doing well. I stopped by your property this morning to get some measurements and pictures for your hearing. Could you please help clarify some questions I have?

1. The lot to the south of yours – do you use their property for any storage and/or operations? A portion of it is ours , we sometimes store old asphalt/concrete there, we work all 7 days of the week. The recycling plants are not so when we are working well store it there till we can get it to the plants.
2. Are you connected to public sanitary or does the property have a septic system? Septic
3. What is the approximate construction cost of the new building and what will it be used for? We have garage listed on the construction permit, but I didn't see any garage doors on the building. No garage. We were using it for storage because my office is on overflow with inventory, with hopes of moving the office in there too eventually but that will probably be another year or so.
4. There are several 4x4 support beams standing up on the north side of the larger carport with asphalt laid below. Is this going to be a structure? Those have been there since we bought the place. We've never done anything with it. We just put the asphalt there this year.
5. Could you please identify what is held in the large tanks on the west end of the property? Water tanks
6. What is in the 5 gallon buckets that are under the smaller carport? Old paint buckets. Do you know where we can dispose them? Most of them are empty.
7. If you have not already, you will need to apply for a Natural Resources Report from the Champaign County Soil and Water Conservation District. All Special Use Permit cases require this report. You can apply at their office over on Park Court in Champaign (west of Schnucks/Texas Roadhouse area). They charge by acreage, and you pay the fee to them. They will give a copy of the report to us. It could take 2-3 weeks to produce the report. Ok

(#7 not necessary as per JH)

Thanks,
Susan

RECEIVED

MAR 15 2016

CHAMPAIGN CO. P & Z DEPARTMENT

04/07/16 PRELIMINARY DRAFT

823-S-15

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

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

Date: ***{April 14, 2016}***

Petitioners: William and Christina Schultz, d.b.a. A1 Pavement Maintenance, d.b.a. BillyCo Properties LLC

Request: Authorize a Contractor’s Facility with Outdoor Storage and Outdoor Operations as a Special Use in the B-4 General Business Zoning District with the following waivers:

Part A: A waiver for a side yard of 0 feet in lieu of the minimum required 10 feet as per Section 5.3 of the Zoning Ordinance.

Part B: A waiver for a rear yard of 0 feet in lieu of the minimum required 20 feet as per Section 5.3 of the Zoning Ordinance.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 14, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioners William and Christina Schultz, d.b.a. BillyCo Properties LLC, d.b.a. A1 Pavement Maintenance, own the subject property.
2. The subject property is a 2.13 acre tract comprised of Lots 4 and 5 of Van Winkle Subdivision in the Northeast Quarter of the Northeast Quarter of Section 33 of Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township and commonly known as the contractor business A1 Pavement Maintenance, 3809 North Cunningham Avenue, Urbana, Illinois.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning. Municipalities with zoning do not have protest rights on Special Use Permits within their ETJ; however, they do receive notice of such cases and they are invited to comment.
 - (1) Regarding the City of Urbana Comprehensive Plan: The City of Urbana Comprehensive Plan adopted April 11, 2005 shows the subject property in the Light Industrial/Office future land use area, with a notation that it is in a Rural/Agri Business Opportunities area along US 45 North.
 - B. The subject property is located within Somer Township, which does not have a Plan Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity adjacent to the subject property are as follows:
 - A. The subject property is zoned B-4 General Business and is in use as a pavement contractor's business with a caretaker's dwelling. The caretaker's dwelling was authorized under Permit #249-09-02.
 - B. Land on the north, south, east, and west of the subject property is zoned and is in use as follows:
 - (1) Land to the north and south is zoned B-4 General Business and is in commercial use.
 - (2) Land to the west is zoned B-3 Highway Business and is in agricultural production.
 - (3) Cunningham Avenue (US 45 North) abuts the subject property to the east. Land east of Cunningham Avenue is zoned AG-2 Agriculture and is in agricultural production with a farmstead.

04/07/16 PRELIMINARY DRAFT**Case 823-S-15
Page 3 of 28****GENERALLY REGARDING THE PROPOSED SPECIAL USE**

5. Regarding the site plan and operations of the proposed Special Use:
- A. The Site Plan received December 23, 2015 indicates the following:
- (1) A 16 feet by 80 feet manufactured home with a 10 feet by 30 feet porch (caretaker's dwelling);
 - (2) A 24 feet by 24 feet "new building" under construction just west of the mobile home, with a sidewalk connecting the two buildings;
 - (3) An 8 feet by 40 feet storage unit west of the new building;
 - (4) A 20 feet by 24 feet carport;
 - (5) A 71 feet by 40 feet "shop";
 - (6) A 30 feet by 110 feet carport west of the shop;
 - (7) A chain-link fence surrounding most of the subject property;
 - (8) 13 parking spaces on the south side of the mobile home; and
 - (9) A partially paved open area outside the gated entrance to the fenced part of the business, approximately 0.6 acre in area as measured by CCGIS aerial photography.
 - (10) The Site Plan received December 23, 2015 did not indicate the outdoor storage that is occurring on the property, all required parking, or the septic system. Staff has created an Annotated Aerial photo to assist with some of these elements that were not included in the Site Plan received December 23, 2015.
- B. The following are previous Zoning Use Permits on the subject property:
- (1) ZUP application #304-15-01, submitted November 20, 2015, for the 576 square feet "new building" prompted the current Special Use Permit case.
 - a. Two previously installed structures (the carport and the storage pod) that were not permitted were amended to this permit application on December 23, 2015.
 - b. During a site visit on January 26, 2016 to take photos for the Special Use case, staff noted that the building was under construction (without permit approval). Approval of the post-construction permit is contingent upon the property being compliant with the Zoning Ordinance.
 - c. During a site visit on March 14, 2016, it was clear that the "new building" was not a detached garage as the permit application indicates; rather, it is a building with two man-doors and two windows and no garage door access.

04/07/16 PRELIMINARY DRAFT

- (2) Permit #245-09-02 approved September 14, 2009 was to place a manufactured home on the subject property and build a detached garage for a caretaker's dwelling. The permit was amended on October 27, 2009 to add a covered porch to the manufactured home.
 - a. As per a staff note to file dated September 9, 2009, staff spoke with Petitioner Chris Schultz, who indicated the following:
 - (a) The pod that is presently on the property houses her personal items which would be off the premises once the home is in place.
 - (b) The trucks are part of their use and it was their understanding that those trucks could stay parked outside.
 - (c) Staff faxed her the screening requirements and outdoor storage requirements the same day.
- (3) Permit #110-07-01 approved May 22, 2007 was to change the use to establish a seal coat business and to construct an addition to enclose a portion of an existing lean-to.
- (4) Permit #167-03-07 was to construct a lean-to addition to an existing storage building for Riley Homes (prior owners). The lean to was not built until permit #110-07-01 was issued to BillyCo d.b.a. A1 Pavement & Maintenance.
- C. There was one previous zoning case on the subject property:
 - (1) Case 130-AM-98 was approved on October 29, 1998 and rezoned 4.55 acres that included the subject property (Lots 4 & 5 in Van Winkle Sub) and Lots 6 & 7 to the south from B-3 Highway Business to B-4 General Business.
- D. There have been no other zoning cases adjacent to the subject property. The North Cunningham Avenue/US45 North corridor has been a commercial area for many years and most zoning cases in the area have involved rezoning to B-3 or B-4 Districts and/or obtaining Special Use Permits for retail and service businesses.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

- 6. Regarding authorization for contractors' facilities with outdoor operations and storage in the AG-1 Agriculture Zoning DISTRICT in the *Zoning Ordinance*:
 - A. Section 5.2: Table of Authorized Principal Uses states that Contractors Facilities (with outdoor STORAGE and/or outdoor OPERATIONS) can be established with a Special Use Permit in the B-4 General Business Zoning District. Footnote 5 (specific to the B-4 district) states, "Outdoor STORAGE as an ACCESSORY USE is allowed by right when all outdoor STORAGE is located in the REAR YARD and is completely screened by a Type D SCREEN meeting the provisions of Section 7.6.3."
 - B. Section 4.3.3 H.1.d. defines a Type D screen as a landscaped berm, or an opaque fence or wall, or SCREEN PLANTING with a minimum HEIGHT of eight feet as measured from the highest adjacent grade.

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- C. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
- (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
 - a. All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
 - b. No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
 - c. Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
 - d. The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
 - e. The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.
 - (2) Subsection 6.1.3 establishes the following standard conditions for Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS:
 - a. In all DISTRICTS other than the B-5 DISTRICT, outdoor STORAGE and/or outdoor OPERATIONS are allowed as an ACCESSORY USE subject to subsection 7.6.
 - b. Section 7.6 establishes the following conditions for Outdoor Storage and/or Outdoor Operations:
 - (a) Part 7.6.1 states that "Outdoor STORAGE and/or OPERATIONS shall be allowed in all DISTRICTS only as ACCESSORY USES unless permitted as a principal USE in Section 5.2 and shall be allowed in any YARD in all DISTRICTS subject to the provisions of Section 7.2 without a permit provided that outdoor STORAGE and/or outdoor OPERATIONS shall not be located in any required off-street PARKING SPACES or LOADING BERTHS.
 - (b) Part 7.6.2 states that "a Type D SCREEN shall be located so as to obscure or conceal any part of any YARD used for outdoor STORAGE and/or outdoor OPERATIONS which is visible within 1,000 feet from any of the following circumstances:
 - i. Any point within the BUILDING RESTRICTION LINE of any LOT located in any R DISTRICT or any LOT occupied by a DWELLING conforming as to USE or occupied by a

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SCHOOL; church or temple; public park or recreational facility; public library, museum, or gallery; public fairgrounds; nursing home or HOSPITAL; recreational business USE with outdoor facilities; or

- ii. Any designated urban arterial street or MAJOR STREET.”
 - (c) Part 7.6.3 A. states that “The screen shall meet the requirements of Sections 4.3.3 E, F and G.”
 - (d) Part 7.6.3 B. states that “when the HEIGHT of items to be stored is taller than eight feet, trees of a minimum three inch caliper shall be planted at a spacing sufficient to ensure that once the trees achieve maturity the taller items will be screened in addition to screening required by Section 7.6.2.
- D. Section 7.4 establishes requirements for off-street PARKING SPACES and LOADING BERTHS:
- (1) Section 7.4.1 A. states, “All off-street PARKING SPACES shall be located on the same LOT or tract of land as the USE served”.
 - (2) Section 7.4.1 C.1. states, “Parking spaces for heavy motor trucks, motor buses or other vehicles shall be of dimensions specified for off-street loading berths.
 - (3) Section 7.4.1 C.2. states, “The number of such PARKING SPACES shall be the sum of the individual requirements of the various individual ESTABLISHMENTS computed separately in accordance with this section. Such PARKING SPACES for one such ESTABLISHMENT shall not be considered as providing the number of such PARKING SPACES for any other ESTABLISHMENT.”
 - (3) Section 7.4.1 C.3.e. states, “Any other establishments than specified will provide one parking space for every 200 square feet of floor area.”
 - (4) Section 7.4.1 C.4. states, “Required parking SCREENS for commercial ESTABLISHMENTS shall be provided as follows:
 - a. Parking areas for more than four vehicles of no more than 8,000 pounds gross vehicle weight each, excluding any vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials, located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type A SCREEN except that a TYPE B SCREEN may be erected along the rear LOT LINE of the business PROPERTY.
 - b. Parking areas for any number of vehicles exceeding 8,000 pounds in gross vehicle weight each or any number of vehicles used for hauling solid waste

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except those used for hauling construction debris and other inert materials located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type D SCREEN.”

- (5) Section 7.4.2 refers to off-street LOADING BERTHS:
- a. All LOADING BERTHS shall have vertical clearance of at least 14 feet.
 - b. All LOADING BERTHS shall be designed with appropriate means of vehicular access to a STREET or ALLEY in a manner which will least interfere with traffic movement.
 - c. No VEHICLE repair or service work shall be performed on any LOADING BERTH.
 - d. No LOADING BERTH shall be located less than 10 feet from any FRONT LOT LINE and less than five feet from any side or REAR LOT LINE.
 - e. Section 7.4.2 C. states, “Off-street LOADING BERTHS for commercial ESTABLISHMENTS shall be provided as follows:
 - (a) All LOADING BERTHS shall be located on the same LOT or tract of land as the ESTABLISHMENT served except when serving adjacent ESTABLISHMENTS when the LOADING BERTH requirement is sufficient to serve both ESTABLISHMENTS.
 - (b) No such BERTH shall be located within any YARD abutting a residential DISTRICT or located less than 100 feet from the BUILDING RESTRICTION LINE of any LOT in the R DISTRICT or any LOT containing a DWELLING conforming as to USE unless such BERTH is screened from public view by a Type C SCREEN. If the berth is located adjacent to an elevated loading dock, however, a Type D SCREEN shall be used to screen both the loading berth and the loading dock.
 - (c) No LOADING BERTH shall be located within 50 feet of the nearest point of intersection of two STREETS.
 - (d) All LOADING BERTHS shall be improved with a compacted base at least six inches thick and shall be surfaced with at least two inches of some all-weather dustless material.
 - (e) Schedule of off-street LOADING BERTHS is provided under Section 7.4.2 C.5. on page 7-23 of the Zoning Ordinance.
- E. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):

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- (1) "ACCESS" is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
- (2) "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.
- (3) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT within 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.
- (4) "ACCESSORY USE" is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
- (5) "AREA, BUILDING" is the total area taken on a horizontal plane at the largest floor level of the MAIN or PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and nonpermanent CANOPIES and planters.
- (6) "AREA, LOT" is the total area within the LOT LINES.
- (7) "BERTH, LOADING" is a stall of dimensions herein specified, adjacent to a LOADING DOCK for the maneuvering and parking of a vehicle for loading and unloading purposes.
- (8) "BUILDING" is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
- (9) "BUILDING, DETACHED" is a BUILDING having no walls in common with other BUILDINGS.
- (10) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
- (11) "BY RIGHT" is a term to describe a USE permitted or allowed in the DISTRICT involved, without review by the BOARD or GOVERNING BODY, and complying with provisions of the Zoning Ordinance and with other applicable ordinances and regulations.
- (12) "CONSTRUCTION" is the excavation of earth to provide for a foundation, basement or cellar; and/or, the addition to or removal from a LOT or tract of land of earth or water so as to prepare said LOT or tract of land for the

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CONSTRUCTION of a STRUCTURE: and/or, the act of placing or affixing a component of a STRUCTURE upon the ground or upon another such component; and/or, the placing of CONSTRUCTION materials in a permanent position and fastening in a permanent manner; and /or, the demolition, elimination, and/or removal of an existing STRUCTURE in connection with such CONSTRUCTION.

- (13) **“COVERAGE”** is the percentage of the LOT AREA covered by the BUILDING AREA.
- (14) **“DOCK, LOADING”** is a platform-like STRUCTURE adjacent to a LOADING BERTH from which goods are loaded on and on which goods are unloaded from a vehicle parked in such LOADING BERTH.
- (15) **“DWELLING UNIT”** is one or more rooms constituting all or part of a DWELLING which are used exclusively as living quarters for one FAMILY, and which contains a bathroom and kitchen.
- (16) **“ESTABLISHMENT”** is a business, retail, office, or commercial USE. When used in the singular this term shall be construed to mean a single USE, BUILDING, STRUCTURE, or PREMISES of one of the types here noted.
- (17) **“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.
- (18) **“LOT DEPTH”** is the distance between the midpoint of the FRONT LOT LINE and the midpoint of the REAR LOT LINE or LINES.
- (19) **“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.
- (20) **“LOT LINES”** are the lines bounding a LOT.
- (21) **“NONCONFORMING LOT, STRUCTURE or USE”** is a LOT, SIGN, STRUCTURE, or USE that existed on the effective date of the adoption or amendment of this ordinance which does not conform to the regulations and standards of the DISTRICT in which it is located.
- (22) **“OPERATIONS”** are processing, assembly, fabrication, or handling of materials or products or movement of bulk materials or products not in containers or pipelines.
- (23) **“PARKING SPACE”** is a space ACCESSORY to a USE or STRUCTURE for the parking of one vehicle.

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- (24) "SCREEN" is a STRUCTURE or landscaping element of sufficient opaqueness or density and maintained such that it completely obscures from view throughout its height the PREMISES upon which the screen is located.
- (25) "SCREEN PLANTING" is a vegetative material of sufficient height and density to filter adequately from view, in adjoining DISTRICTS, STRUCTURES, and USES on the PREMISES upon which the SCREEN PLANTING is located.
- (26) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
- (27) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- (28) "STORAGE" is the presence of equipment, or raw materials or finished goods (packaged or bulk) including goods to be salvaged and items awaiting maintenance or repair and excluding the parking of operable vehicles.
- (29) "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.
- (30) "STRUCTURE" is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
- (31) "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.
- (32) "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.
- F. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;

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- (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare except that in the CR, AG-1, and AG-2 DISTRICTS the following additional criteria shall apply:
- a. The property is either BEST PRIME FARMLAND and the property with proposed improvements in WELL SUITED OVERALL or the property is not BEST PRIME FARMLAND and the property with proposed improvements is SUITED OVERALL.
 - b. The existing public services are available to support the proposed SPECIAL USE effectively and safely without undue public expense.
 - c. The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.
- (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
- (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
- (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- G. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
 - a. That the waiver is in accordance with the general purpose and intent of the ordinance; and
 - b. That the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
 - (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
 - a. Special conditions and circumstances 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.

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- b. 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.
 - c. The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
- H. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
- A. The Petitioner has testified on the application, **“Growing and running out of room in existing buildings.”**
 - B. The subject property is located on US45 North (North Cunningham Avenue) approximately 1.6 miles northeast of the I-74 exit at Cunningham Avenue.
 - C. The petitioner’s business has operated from the subject property since 2007.

GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
- A. The Petitioner has testified on the application, **“It is just a building being added to existing business location. We’ve been in business here since 2007.”**
 - B. Regarding surface drainage:
 - (1) No Natural Resources Report from Champaign County Soil and Water Conservation District was required because the property has been in commercial use for many years.
 - (2) The property drains to the south, east and west. There are large roadside ditches along North Cunningham Avenue (US45 North).
 - (3) Site images taken by staff show standing water in a number of locations in the areas where equipment and vehicles traverse.
 - C. Regarding traffic in the subject property area:

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- (1) The subject property has one shared access point on the west side of North Cunningham Avenue (US45 North).
 - (2) North Cunningham Avenue (US45 North) is a 4-lane divided highway. There is a median break directly across from the property access drive.
 - (3) 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 Average Daily Traffic (ADT). The most recent ADT data is from 2013 near the subject property. North Cunningham Avenue (US45 North) had an ADT of 10,600 east of its intersection with Oaks Road.
 - (4) The subject property is located about 1.6 miles northeast of the I-74 Interchange at Cunningham Avenue.
 - (5) The Somer Township Road Commissioner has been notified of this case and no comments have been received.
- D. Regarding fire protection on the subject property, the subject property is located approximately 3.2 miles from the Carroll Fire Protection District station in Urbana. The FPD Chief was notified of this case and no comments have been received.
- E. No part of the subject property is located within a mapped floodplain.
- F. The subject property is considered BEST PRIME FARMLAND. The soil on the subject property consists of Drummer silty clay loam 152A, and has an average LE of 98 to 100. The property has not been in agricultural production for many years.
- G. Regarding outdoor lighting on the subject property:
(1) The Petitioners did not provide this information with their application.
- H. Regarding wastewater treatment and disposal on the subject property:
(1) The subject property has a septic system.
- I. Regarding outdoor storage of empty or no longer used paint cans, a special condition has been proposed for their proper storage or disposal.
- J. Regarding life safety considerations related to the proposed Special Use:
(1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
a. The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.

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- b. The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
- c. The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
- d. Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
- e. Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
- f. The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required.
- g. The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
- h. The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
- i. When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
- j. Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.

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- K. Other than as reviewed in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
- A. The Petitioner has testified on the application: **“Contractor’s business is compatible with B-4 Zoning District.”**
- B. Regarding compliance with the *Zoning Ordinance*:
- (1) Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS are authorized by right in the B-1, I-1, and I-2 Zoning DISTRICTS and by right in the B-4 DISTRICT provided that all Outdoor STORAGE is located in the REAR YARD and is completely screened by a Type D SCREEN.
 - a. Outdoor storage on the subject property is not limited to the REAR YARD.
 - b. A Type D SCREEN is a landscaped berm, or an opaque fence or wall, or SCREEN PLANTING with a minimum HEIGHT of eight feet as measured from the highest adjacent grade.
 - c. The chain link fence on the north side of the property has slats with some gaps. The rest of the chain link fence has no screening.
 - (2) A caretaker’s dwelling is allowed as an accessory use in the Business and Industrial Districts.
 - (3) Regarding parking on the subject property for the proposed Special Use:
 - a. The building area (not including the caretaker’s dwelling) totals 7,516 square feet, which will require 38 parking spaces at least 9 feet by 20 feet each.
 - b. The caretaker’s dwelling requires 2 parking spaces, for a total of 40 spaces.
 - c. Commercial uses of less than 9,999 square feet require one 12 feet by 40 feet loading berth, which cannot overlap other required parking.
 - d. A preliminary review of potential parking completed by staff indicates there may be sufficient room for about 40 parking spaces beyond the general outdoor storage and operations activity area under current conditions. There is sufficient area for additional parking spaces if existing stockpiles could be removed on the south side of the fence.

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- e. As per Part 7.4.1 C.4., required parking screens for commercial establishments are for parking areas that are less than 100 feet from the nearest dwelling conforming as to use. The nearest dwelling conforming as to use is over 100 feet from the current parking area on the subject property. No parking screen is thus required.
- C. Regarding compliance with the *Stormwater Management and Erosion Control Ordinance*, the subject property is exempt from the Policy as per Section 4.2.C. because construction of additions to existing structures have increased the impervious area by less than 10,000 square feet relative to the impervious area that existed on February 20, 2003.
- D. Regarding the Special Flood Hazard Areas Ordinance, no portion of the subject property is located within the mapped floodplain.
- E. Regarding the Subdivision Regulations, the subject property is part of the City of Urbana subdivision jurisdiction and the subject property appears to be in compliance.
- F. Regarding the requirement that the Special Use preserve the essential character of the B-4-General Business Zoning District:
 - (1) Contractors Facilities with Outdoor Storage and/or Operations are allowed with a Special Use Permit in the B-4 General Business Zoning District.
 - (2) Outdoor Storage and/or Operations are allowed by right when all outdoor storage is located in the rear yard and is completely screened by a Type D screen.
- G. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.
 - (1) Accessibility requirements have yet to be determined for the new building currently under construction. A special condition has been proposed to ensure compliance.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

- 10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use be in harmony with the general intent and purpose of the Ordinance:
 - A. Section 5.2: Table of Authorized Principal Uses states that Contractors Facilities (with outdoor STORAGE and/or outdoor OPERATIONS) can be established with a Special Use Permit in the B-4 General Business Zoning District.
 - B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
 - (1) Subsection 5.1.12 of the Ordinance states the general intent of the B-4 General Business DISTRICT and states as follows (capitalized words are defined in the Ordinance):

The B-4, General Business DISTRICT is intended to accommodate a range of commercial USES and is intended for application only adjacent to the urbanized areas of the COUNTY.

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- (2) The types of uses authorized in the B-4 District are in fact the types of uses that have been determined to be acceptable in the B-4 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:

- (1) Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.
- a. The side and rear yard waivers seek to allow for existing construction material stockpiles, equipment, a storage pod, and a small carport. These items are pushed toward the property line in order to maintain a central access drive for equipment and vehicles.
 - b. The nearest building on an adjacent property is 25 feet north of the caretaker's dwelling.
- (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

The proposed Special Use will conserve the value of real estate throughout the COUNTY, based on the following:

- a. It is not clear whether or not the proposed special use will have any impact on the value of nearby properties without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.
 - b. The proposed Special Use could only have an effect on the value of real estate in the immediate vicinity. Regarding the effect on the value of real estate in the immediate vicinity other than the subject property, no new construction is anticipated for the proposed Special Use, so adjacent property values should not be impacted.
 - c. In regards to the value of the subject property it also is not clear if the requested Special Use Permit would have any effect. Regarding the effect on the value of the subject property, the subject property has been in use as a contractor's facility with caretaker's dwelling for several years. Value of the subject property should not change due to the Special Use Permit.
- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public streets.

The proposed Special Use will lessen and avoid congestion in the public streets, as follows:

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- a. The petitioner states on their application that their business is growing, but did not quantify that in terms of changes to traffic related to the business.
 - b. The business has been there since 2007 and the most recent traffic volumes are within the capacity of the roadway.
- (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.
- a. No Natural Resources Report from Champaign County Soil and Water Conservation District was required because the property has been in commercial use for many years.
 - b. The property drains to the south, east and west. There are large roadside ditches along North Cunningham Avenue (US45 North).
 - c. The subject property is exempt from the Champaign County *Stormwater Management and Erosion Control Ordinance*.
- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.

The proposed Special Use will promote the public health, safety, comfort, morals, and general welfare as follows:

- a. In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
 - b. In regards to public comfort and general welfare, no comments have been received from neighbors or other parties.
- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.
- a. The proposed Special Use does not exceed the limit on lot coverage, which is 40% in the B-4 Zoning District. Lot coverage is 6%.
 - b. If the setback waivers are granted, the setback lines will be in compliance; otherwise, special conditions can be approved that would bring the property into compliance.
- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified

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industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate any problematic conditions.

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and alteration or remodeling of existing buildings, structures, or uses in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

This purpose is directly related to maintaining compliance with the Zoning Ordinance requirements for the District and the specific types of uses and the proposed Special Use will have to be conducted in compliance with those requirements.

- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses.

The proposed Special Use will not subject the most productive agricultural lands to haphazard and unplanned intrusions of urban uses as follows:

- a. Soils on the subject property are BEST PRIME FARMLAND. The subject property has not been in agricultural production for many years.
- b. The proposed Special Use meets the definition of “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan because it is within the Urbana-Champaign Sanitary District service area.
- c. The subject property is within the Contiguous Urban Growth Area (CUGA), which according to the Land Resource Management Plan should develop in conformance with the relevant municipal comprehensive plan.
 - (a) Regarding the City of Urbana Comprehensive Plan: The City of Urbana Comprehensive Plan adopted April 11, 2005 shows the subject property in the Light Industrial/Office future land use area, with a notation that it is in a Rural/Agri Business Opportunities area along US 45 North.

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- (10) Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

The subject property does not contain any natural features.

- (11) Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.
- a. The proposed Special Use meets the definition of “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan because it is within the Urbana-Champaign Sanitary District service area.
 - b. The proposed Special Use has existed since at least 2007 and will not require additional public utilities or transportation facilities.

- (12) Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

The subject property has not been in agricultural production for many years.

- (13) Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed Special Use will not hinder the development of renewable energy sources.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
- A. The Petitioner has testified on the application: “Yes.”
 - B. The existing use on the property is not a nonconforming use.

GENERALLY REGARDING OTHER CONSIDERATIONS RELATED TO THE WAIVERS OF STANDARD CONDITIONS

12. Regarding the necessary waivers of standard conditions:
- A. Regarding Part A of the proposed waivers, for a minimum side yard of 0 feet in lieu of 10 feet, as per Section 5.3 of the Zoning Ordinance:
 - (1) As per the Site Plan received December 23, 2015, the new building under construction is 28 feet from the north property line.

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- (2) Stockpiles of construction material and soil, vehicles, equipment, and temporary structures such as the storage pod and smaller carport are the items that sit within 10 feet of the side (north) property line.
- B. Regarding Part B of the proposed waivers, for a minimum rear yard of 0 feet in lieu of 10 feet, as per Section 5.3 of the Zoning Ordinance:
- (1) Stockpiles of construction material and soil are the only items that sit within 10 feet of the rear (west) property line.
 - (2) The petitioners use these stockpiles in their paving projects.
 - (3) With the exception of the stockpiles in the southwest corner of the property, all other items along the property line are within a fenced area.
- C. Regarding whether special conditions and circumstances 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:
- (1) The petitioners' business does not have a retail aspect, so generally there are no non-employee vehicles on the property.
 - (2) The petitioners do not limit materials and equipment storage to the rear yard; if the petitioners stored all materials in the rear yard and surrounded it with a Type D screen, the contractor's facility with outdoor storage and/or operations would be a by-right use in the B-4 General Business Zoning District.
- D. Regarding whether 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:
- (1) The central access drive to equipment and materials within the fenced area of the subject property limits available space for storing materials and equipment.
- E. Regarding whether the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant:
- (1) Stockpiles and equipment were placed along the property lines after the 2008 Champaign County aerial photography was taken; the petitioners purchased the lot in 2007. Aerial photography from 2008 shows a few vehicles/pieces of equipment, but no stockpiles. The next available photography from 2011 shows 15-20 vehicles/pieces of equipment, an improved drive looping through the west end of the property, and minimal stockpiling. The 2014 photography shows more than 30 vehicles/pieces of equipment and at least five stockpiles of various materials.
 - (2) Despite staff sending the screening requirements and outdoor storage requirements on September 9, 2009, the petitioners continued to increase outdoor storage and operations without seeking the necessary permits.
 - (3) The petitioners installed the small carport and storage pod without first obtaining a Zoning Use Permit; those permits have since been added to the current building permit for construction of the "new building".

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:
- A. **In the event that the Contractor's Facility ceases to exist, the right to a second dwelling unit will become void.**

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

That the proposed Special Use complies with the Zoning Ordinance regarding number of dwellings allowed on a property.

- B. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and Operations) until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

That the proposed Special Use meets applicable state requirements for accessibility.

- C. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

- D. **Within 6 months of approval of Special Use Permit 823-S-15, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

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

That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

- E. **Within 60 days of approval of Special Use Permit 823-S-15, all empty or no longer used paint cans stored outdoors must be properly disposed of or stored indoors.**

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

That outdoor storage and operations are in compliance with the Champaign County Nuisance Ordinance.

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DOCUMENTS OF RECORD

1. Application for Special Use Permit received December 23, 2015, with attachments:
 - Site Plan
 - Warranty Deed
2. Zoning Use Permit Application 324-15-01 received November 20, 2015
3. File for Zoning Use Permit 110-07-01 with Approved Site Plan dated May 22, 2007
4. File for Zoning Use Permit 245-09-02 with Approved Site Plan dated September 14, 2009
5. File for Zoning Case 130-AM-98 Riley Manufactured Homes
6. Email from Petitioner Chris Schultz received March 14, 2016
7. Preliminary Memorandum dated April 7, 2016 with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received December 23, 2015
 - C Approved Site Plan from Zoning Use Permit 110-07-01 dated May 22, 2007
 - D Approved Site Plan from Zoning Use Permit 245-09-02 dated September 14, 2009
 - E Annotated Aerial Photo dated April 14, 2016
 - F Aerial photos: 2008, 2011, 2014
 - G LRMP Appendix of Defined Terms
 - H Site Visit Photos taken January 26, 2016 and March 14, 2016
 - I Email from Petitioner Chris Schultz received March 14, 2016
 - J Preliminary Summary of Evidence, Finding of Fact, and Final Determination dated April 7, 2016

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 823-S-15 held on April 14, 2016 the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location because: _____
2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
 - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
 - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because*}*: _____
 - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because*}*: _____
 - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because*}*: _____
 - e. Public safety will be *{ADEQUATE / INADEQUATE}* *{because*}*: _____
 - f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* *{because*}*: _____

(Note the Board may include other relevant considerations as necessary or desirable in each case.)

*The Board may include additional justification if desired, but it is not required.

- 3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the DISTRICT in which it is located.
- 3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located because:
 - a. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
 - b. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.
 - c. Public safety will be *{ADEQUATE / INADEQUATE}*.
4. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
 - a. The Special Use is authorized in the District.
 - b. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location.

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- c. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL / WILL NOT}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
- d. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located.

5. The requested Special Use *IS NOT* an existing nonconforming use.

6. **SUBJECT TO THE FOLLOWING WAIVERS OF STANDARD CONDITIONS:**

A. Regarding Part A, the waiver of Section 5.3 of the Zoning Ordinance that requires a **minimum side yard of 0 feet in lieu of 10 feet:**

- (1) The waiver *{IS/ IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL/ WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare because _____
- (2) 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 _____
- (3) 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 _____
- (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because _____
- (5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because _____

B. Regarding Part B, the waiver of Section 5.3 of the Zoning Ordinance that requires a **minimum rear yard of 0 feet in lieu of 10 feet:**

- (1) The waiver *{IS/ IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL/ WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare because _____
- (2) 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 _____
- (3) 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 _____
- (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because _____

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- (5) The requested waiver **{SUBJECT TO THE PROPOSED SPECIAL 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:

- A. **In the event that the Contractor’s Facility ceases to exist, the right to a second dwelling unit will become void.**

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

That the proposed Special Use complies with the Zoning Ordinance regarding number of dwellings allowed on a property.

- B. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and Operations) until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

That the proposed Special Use meets applicable state requirements for accessibility.

- C. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

- D. **Within 6 months of approval of Special Use Permit 823-S-15, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

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

That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

- E. **Within 60 days of approval of Special Use Permit 823-S-15, all empty or no longer used paint cans stored outdoors must be properly disposed of or stored indoors.**

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

That outdoor storage and operations are in compliance with the Champaign County Nuisance Ordinance.

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval *{HAVE/ HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case 823-S-15 is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicant William and Christina Schultz, d.b.a. BillyCo Properties LLC, d.b.a. A1 Pavement Maintenance, to authorize the following as a Special Use on land in the B-4 General Business Zoning District:

Authorize a Special Use Permit for a Contractor’s Facility with outdoor storage and outdoor operations in the B-4 General Business Zoning District.

SUBJECT TO THE FOLLOWING WAIVERS OF STANDARD CONDITIONS FOR CONTRACTORS FACILITIES WITH OUTDOOR STORAGE AND/OR OUTDOOR OPERATIONS:

Part A: A waiver for a side yard of 0 feet in lieu of the minimum required 10 feet as per Section 5.3 of the Zoning Ordinance.

Part B: A waiver for a rear yard of 0 feet in lieu of the minimum required 20 feet as per Section 5.3 of the Zoning Ordinance.

{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

A. **In the event that the Contractor’s Facility ceases to exist, the right to a second dwelling unit will become void.**

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

That the proposed Special Use complies with the Zoning Ordinance regarding number of dwellings allowed on a property.

B. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Contractors Facility (with or without Outdoor Storage and Operations) until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

That the proposed Special Use meets applicable state requirements for accessibility.

C. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

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That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.

- D. **Within 6 months of approval of Special Use Permit 823-S-15, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

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

That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

- E. **Within 60 days of approval of Special Use Permit 823-S-15, all empty or no longer used paint cans stored outdoors must be properly disposed of or stored indoors.**

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

That outdoor storage and operations are in compliance with the Champaign County Nuisance Ordinance.

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

CASE NO. 826-V-16

PRELIMINARY MEMORANDUM

April 7, 2016

Petitioners: Rodney and Ellen Vanous

Request: Authorize a detached shed with a rear yard of 2 feet 6 inches in lieu of the minimum required 10 feet for accessory structures in the AG-2 Agriculture Zoning District

Subject Property: Lot 34 of the Willowdale 2nd Subdivision in Section 11 of St. Joseph Township and commonly known as the residence at 1699 Willow Park St, St. Joseph.

Site Area: 16,200 square feet lot (0.37 acre)

Time Schedule for Development: As Soon as Possible

**Prepared by: Susan Chavarria
Senior Planner**

**John Hall
Zoning Administrator**

BACKGROUND

The petitioner requests a variance to replace a 96 square feet detached storage shed with a 120 square feet detached shed that would partially sit within the required rear yard setback. The Petitioner stated that the shed's proposed location (where the existing shed sits) is limited by a septic field, trees, bushes, and a well.

The original Subdivision Plat approved by the St. Joseph Board of Trustees on February 13, 1973 has a 10 feet wide utility easement on the west property line and 5 feet on the south property line, but staff has found no evidence that it is an active easement. There is no sewer service or public water lines in the subdivision, nor are there above ground power lines. The Petitioner has stated that when utilities have come out to flag their lines in the area, he has not seen any flags in the easement area.

The lot was created prior to the adoption of the Zoning Ordinance on October 10, 1973. The existing shed and residence were constructed after October 10, 1973.

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of St. Joseph, a municipality with zoning.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single Family Residence	AG-2 Agriculture (east 75 feet) and R-1 Single Family Residence (west 15 feet)
North	Single Family Residence and agricultural land in production	AG-2 Agriculture
East	Single Family Residence	R-1 Single Family Residence
West	Single Family Residence	R-1 Single Family Residence
South	Single Family Residence	AG-2 Agriculture

PROPERTY'S FIT WITH SURROUNDING NEIGHBORHOOD

The subject property is one of five in a subdivision of 58 residences that has mixed R-1 and AG-2 Zoning. All other properties in the subdivision have R-1 zoning. There are existing sheds in the neighborhood, at least one of them adjacent to the subject property, that have a detached shed sitting within one or more required setback areas. The subject property appears to conform to the rest of the neighborhood.

PROPOSED SPECIAL CONDITIONS

No special conditions are currently proposed.

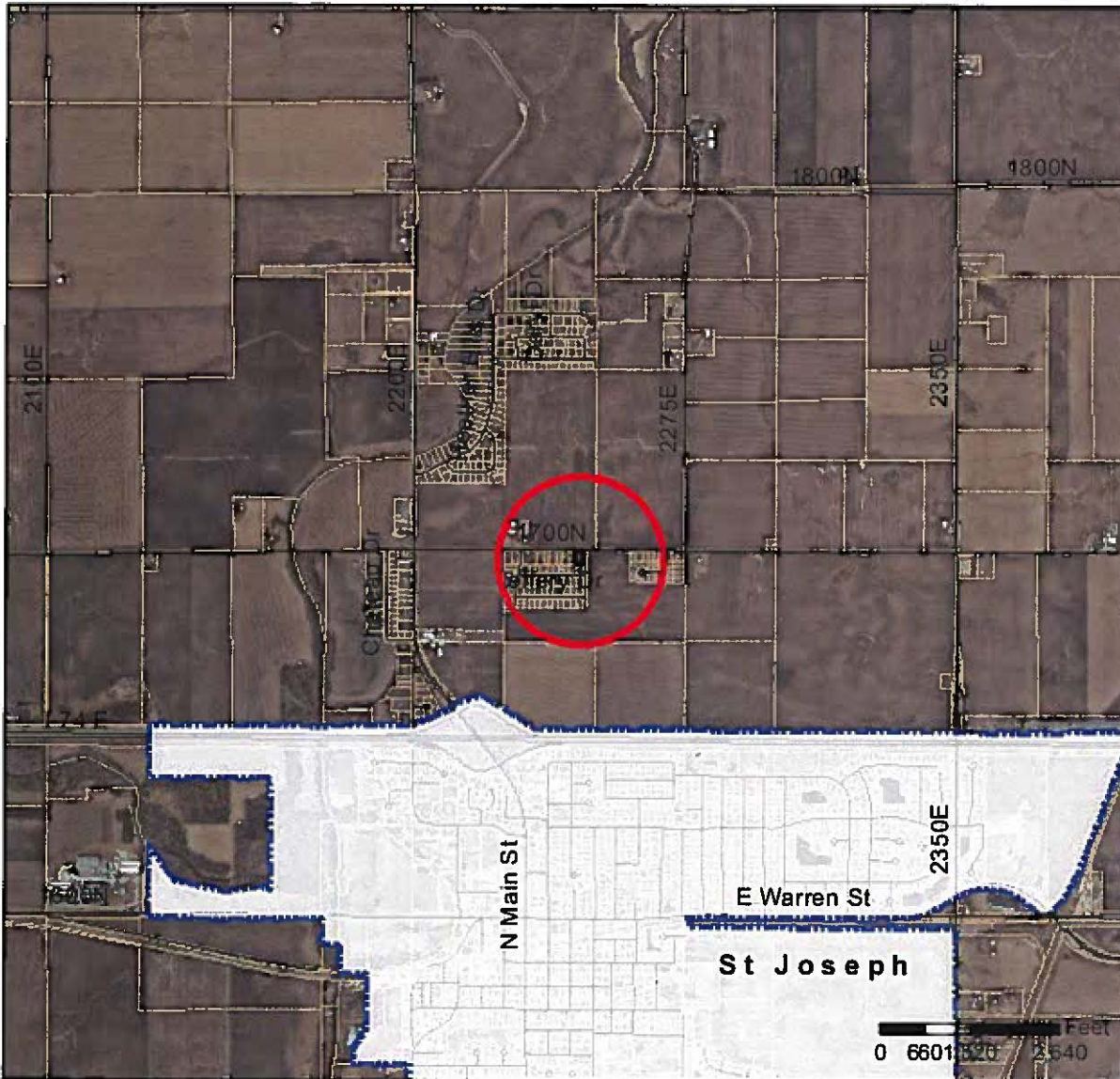
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received January 14, 2016
- C Images of Subject Property taken January 26, 2016
- D Plat of Willowdale 2nd Subdivision showing utility easement, received January 14, 2016
- E Draft Summary of Evidence, Finding of Fact, and Final Determination

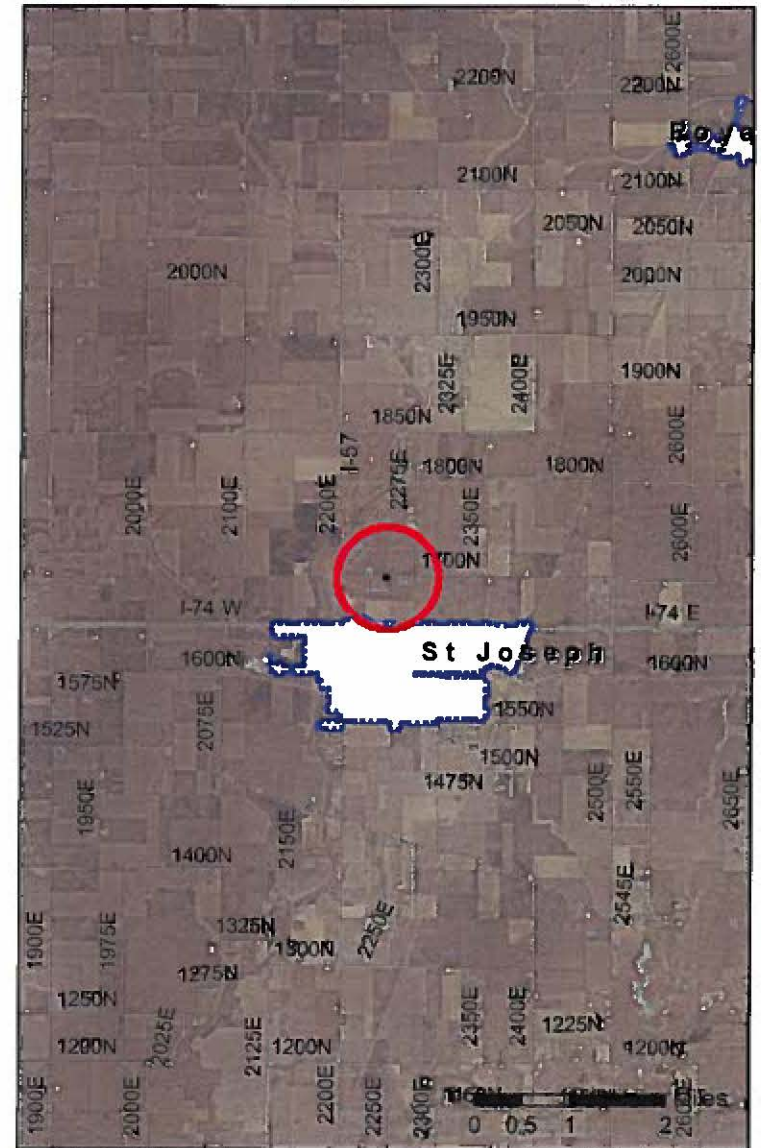
Location Map

Case 826-V-16
April 14, 2016





Subject Property



Property location in Champaign County



Legend

-  Subject Property
-  Municipal Boundary
-  Streets
-  Parcels



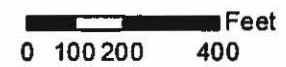
Land Use Map

Case 826-V-16
April 14, 2016



Legend

-  Subject Property
-  Parcels
-  Streets
- SF Single Family Residential
- AG Agriculture



Zoning Map

Case 826-V-16
 April 14, 2016

Note: Original Mylar Zoning background is slightly skewed from the approved GIS Parcel layer. The western 15 feet of the property is in the R-1 District and the eastern 75 feet is in the AG-2 District.

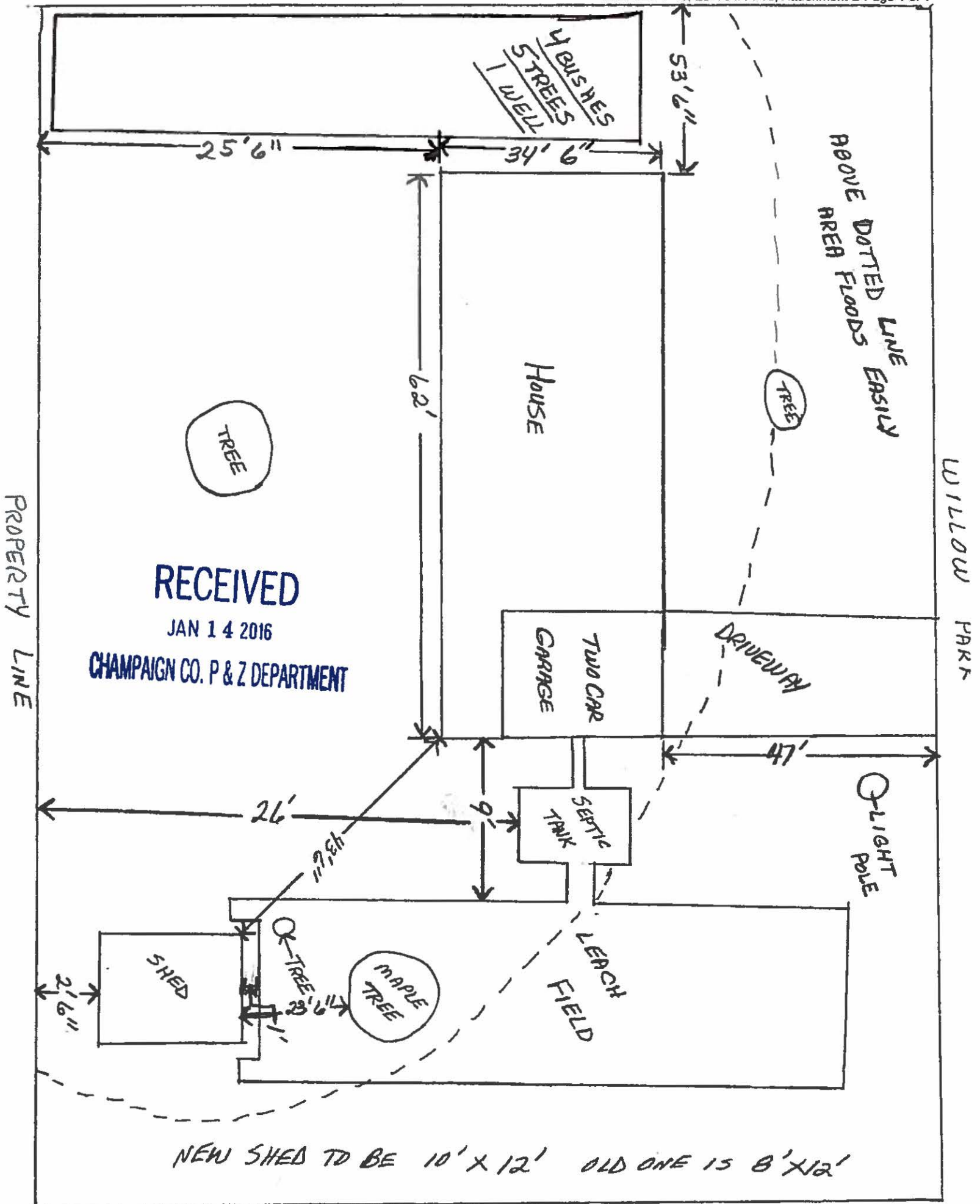


Legend
 Subject Property
 Parcels

0 100 200 400 Feet



Champaign County
 Department of
**PLANNING &
 ZONING**



RECEIVED
 JAN 14 2016
 CHAMPAIGN CO. P & Z DEPARTMENT

NEW SHED TO BE 10' X 12' OLD ONE IS 8' X 12'

PROPERTY LINE

826-V-16 Images



Existing shed (light green one) in SW corner of property



Existing shed and nearby trees; septic field is in front of the shed

826-V-16 Images

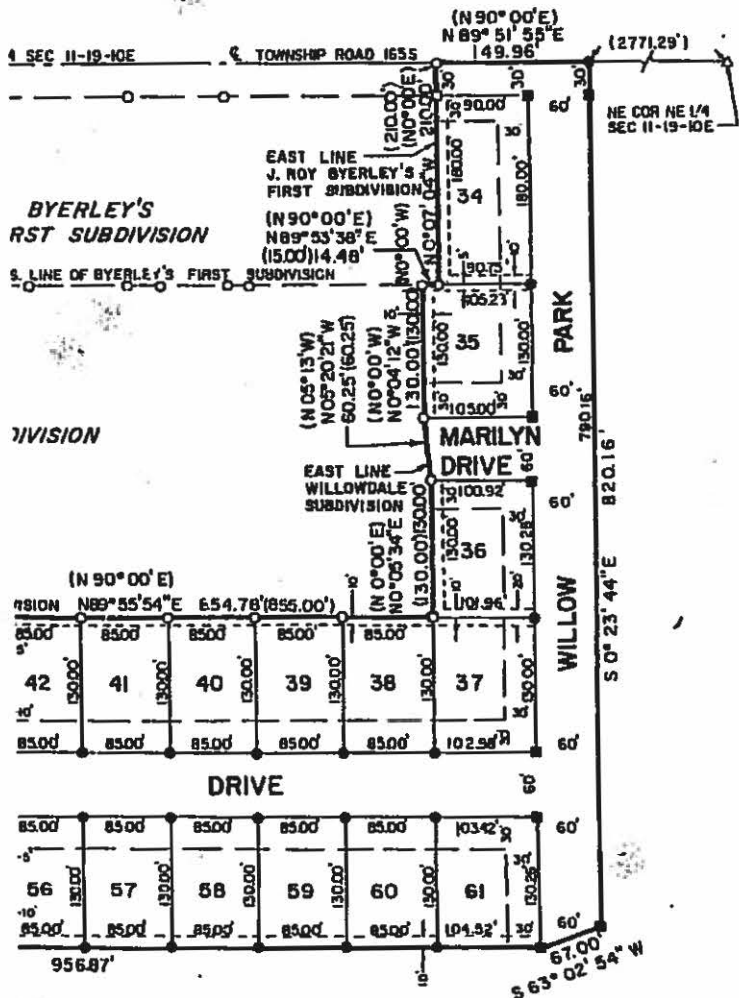


Existing shed (left) and neighbor's shed on west property line



Existing shed from SW corner facing NE toward petitioners' residence

PLAT OF WILLOWDALE SECOND SUBDIVISION ST. JOSEPH, ILLINOIS



STATE OF ILLINOIS }
COUNTY OF CHAMPAIGN } S. S. SURVEYOR'S CERTIFICATE

I, Charles S. Danner, a Registered Illinois Land Surveyor, Number 1470, do hereby certify that at the request of St. Joseph Development Corporation, I have made a survey of a part of the Northwest Quarter of Section 11, Township 19 North, Range 10 East of the Third Principal Meridian, Champaign County, Illinois more particularly described as follows:

Commencing at the Northwest Corner of the Northeast Quarter of the Northwest Quarter of Section 11, Township 19 North, Range 10 East of the Third Principal Meridian, Champaign County, Illinois; thence S 0° 22' 03" E, along the West line of the Northeast Quarter of the Northwest Quarter of said Section 11, 550.00 feet for a true place of beginning, said point being the Southwest Corner of Lot 23 of Willowdale Subdivision, Champaign County, Illinois; thence N 09° 34' 30" E, along the South line of said Willowdale Subdivision, 130.00 feet; thence N 71° 55' 42" E, along the South line of said Willowdale Subdivision, 62.94 feet; thence N 89° 55' 54" E, along the South line of said Willowdale Subdivision, 854.78 feet, to the East line of said Willowdale Subdivision; thence N 0° 05' 34" E, along the East line of said Willowdale Subdivision, 130.00 feet; thence N 05° 20' 21" W, along the East line of said Willowdale Subdivision, 60.25 feet; thence N 0° 04' 12" W, along the East line of said Willowdale Subdivision, 130.00 feet to the South line of J. Roy Byerley's First Subdivision, Champaign County, Illinois; thence N 89° 53' 38" E, along the South line of said Byerley's First Subdivision, 14.48 feet; thence N 0° 07' 04" W, along the East line of said Byerley's First Subdivision, 210.00 feet to the North line of the Northwest Quarter of said Section 11; thence N 89° 51' 55" E, along the North line of the Northwest Quarter of said Section 11, 149.96 feet; thence S 0° 23' 44" E, 820.16 feet; thence S 63° 02' 54" W, 67.00 feet; thence S 89° 56' 11" W, 956.87 feet; thence S 50° 14' 02" W, 77.52 feet; thence S 89° 41' 39" W, 130.00 feet to the West line of the Northeast Quarter of the Northwest Quarter of said Section 11; thence N 0° 22' 03" W, along the West line of the Northeast Quarter of the Northwest Quarter of said Section 11, 350.00 feet more or less to the place of beginning all as shown on the accompanying plat of survey, said tract containing 10.87 acres more or less all situated in Champaign County, Illinois.

I further certify that I have subdivided said tract into lots and streets all as shown on the accompanying plat entitled "PLAT OF WILLOWDALE SECOND SUBDIVISION, ST. JOSEPH, ILLINOIS" and that I have found and/or set the survey monuments all as shown on the accompanying plat.

The area covered by this plat is within the one and one-half mile contiguous area to the village of St. Joseph, Illinois.

No part of the area covered by this plat is within five hundred feet of a surface drain or water course serving a tributary area of 640 acres or more.

Signed and sealed this 26th day of June A.D., 1972

Charles S. Danner
Charles S. Danner
Registered Illinois Land Surveyor
Urbana, Illinois

APPROVED:

THE PLAN COMMISSION OF THE VILLAGE OF ST. JOSEPH, ILLINOIS

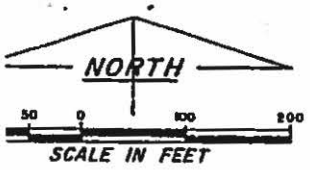
Aug 14 1972
DATE

William W. ...
CHAIRMAN

THE BOARD OF TRUSTEES OF THE VILLAGE OF ST. JOSEPH, ILLINOIS

2/13/73
DATE

1/16/73
DATE



TOTAL AREA: 10.87 ACRES ±

- LEGEND
- 1 IRON PIPE SET (I.L.S. 1470)
 - 1 IRON PIPE FOUND
 - 1 STONE FOUND
 - UTILITY EASEMENT
 - BUILDING SET BACK LINE
 - 1 CONCRETE MONUMENT SET (I.L.S. 1470)
 - C DENOTES CHORD DISTANCE
 - 1 DENOTES 90° ANGLE
 - 1 CONCRETE MONUMENT FOUND
 - 1 RECORD MEASUREMENT

RECEIVED

JAN 14 2016

CHAMPAIGN CO. P & Z DEPARTMENT

11/16/72
11/16/72
11/16/72

04/07/16 PRELIMINARY DRAFT

826-V-16

**SUMMARY OF EVIDENCE, FINDING OF FACT
AND FINAL DETERMINATION**

of

Champaign County Zoning Board of Appeals

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

Date: ***{April 14, 2016}***

Petitioners: Rodney and Ellen Vanous

Request: Authorize a Variance in the AG-2 Agriculture Zoning District for a detached shed with a rear yard of 2 feet 6 inches in lieu of the minimum required 10 feet for accessory structures.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on April 14, 2016, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners, Rodney and Ellen Vanous, own the subject property.
2. The subject property is a 16,200 square foot lot (0.37 acre) that is on Lot 34 of the Willowdale 2nd Subdivision in Section 11 of St. Joseph Township and commonly known as the residence at 1699 Willow Park St, St. Joseph.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of St. Joseph, a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of such cases.
 - B. The subject property is located within St. Joseph Township, which has a Plan Commission. Township Plan Commissions do not have protest rights on a variance and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is a 16,200 square foot lot and is currently zoned AG-2 Agriculture on its eastern 75 feet and R-1 Residential on its western 15 feet. Land use is a single family residence.
 - B. Land on the north and south is zoned AG-2 Agriculture with a single family residence and agricultural production to the north and single family residential to the south.
 - C. Land to the west is zoned R-1 Single Family Residence and is residential in use.
 - D. Land to the east is zoned AG-2 Agriculture and is in agricultural production.
 - E. There is a 10 feet wide utility easement on the west property line and a 5 feet wide utility easement on the south side of the subject property as per the Plat of Survey for Willowdale Second Subdivision dated June 26, 1972.
 - (1) The Champaign County GIS database indicates that this easement is no longer active.
 - (2) In a phone call with Susan Chavarria on March 15, 2016, the Petitioner stated that when utilities come to mark flags for upcoming land disturbance, the easement area from the 1972 plat remains unmarked.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Petitioner's Site Plan, received January 14, 2016, indicates the following:

- (1) Existing buildings consist of the following:
 - a. One 34.5 feet by 62 feet residence;
 - b. One 12 feet by 8 feet shed in the southwest corner of the property;
 - c. One leach field and septic tank in the south end of the property;
 - d. One well in the north end of the property; and
 - e. Several large trees and bushes throughout the property.
- (2) Proposed buildings consist of the following:
 - a. One 12 feet by 10 feet shed that will replace the existing shed.
- B. There is one previous Zoning Use Permit for the subject property to construct the residence with attached garage, approved on July 25, 1977.
- C. The required variance is as follows: A detached shed with a side yard of 2 feet 6 inches in lieu of the minimum required 10 feet.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variance:
 - A. Section 4.2.2 D. states, “no USE shall be established, CONSTRUCTION undertaken, nor fill placed in any recorded drainage or utility easement that would interfere with the function of the easement.”
 - B. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (capitalized words are defined in the Ordinance):
 - (1) “ACCESSORY BUILDING” is a BUILDING on the same LOT within 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) “BUILDING, DETACHED” is a BUILDING having no walls in common with other BUILDINGS.
 - (3) “DWELLING” is a BUILDING or MANUFACTURED HOME designated for non-transient residential living purposes and containing one or more DWELLING UNITS and/or LODGING UNITS.
 - (4) “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.
 - (5) “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

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STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.

- (6) "LOT LINE, REAR" is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE or to a tangent to the midpoint of the FRONT LOT LINE. In the case of a triangular or gore shaped LOT or where the LOT comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at the maximum distance from the FRONT LOT LINE or said tangent.
 - (7) "LOT LINES" are the lines bounding a LOT.
 - (8) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
 - (9) "STRUCTURE" is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
 - (10) "STRUCTURE, DETACHED" is a STRUCTURE not connected to another STRUCTURE.
 - (11) "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.
 - (12) "YARD" is an OPEN SPACE, other than a COURT, of uniform width or 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.
 - (13) "YARD, REAR" is a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.
- B. The AG-2, Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.
- C. The R-1 Single Family Residence DISTRICT is intended to provide areas for single FAMILY detached DWELLINGS, set on LOTS and is intended for application in mainly non-urban and developing areas where community facilities can be made readily available.

- 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.
 - 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 9.1.9 D.2.
- E. The proposed shed location is in the R-1 portion of the property. Minimum REAR YARD for an accessory structure in the R-1 Residential District is established in Section 7.2.2.B. of the *Zoning Ordinance* as 5 feet. Minimum REAR YARD for an accessory structure in the AG-2 Agriculture District is established in Section 7.2.2.A. of the *Zoning Ordinance* as 10 feet.

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, **“New Shed will be located in same place of the old shed in order to avoid the leach field. To relocate it anywhere else is a problem with flooding and on CR 1700 North it will block sight line at intersection and the ditch is always flooded.”**
 - B. The lot was created prior to *Zoning Ordinance* adoption on October 10, 1973.
 - C. There is a 10 feet wide utility easement on the west property line and a 5 feet wide utility easement on the south side of the subject property as per the Plat of Survey for Willowdale Second Subdivision dated June 26, 1972.

- (1) The Champaign County GIS database indicates that this easement is no longer active.
- (2) In a phone call with Susan Chavarria on March 15, 2016, the Petitioner stated that when utilities come to mark flags for upcoming land disturbance, the easement area from the 1972 plat remains unmarked.

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, **"Same as letter 'A' above."** (see Item 7.A.)
 - B. Regarding the proposed Variance: without the proposed variance, the Petitioner would not be able to replace the existing shed.

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, **"Old shed was there when we bought the property."**
 - B. According to the Assessor's property records, the Petitioner has owned the property since 1997.
 - C. The petitioner did not plant the trees, change the location/size of the septic system or move the well.

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, **"There is plenty of space between buildings and other parts of our neighborhood is in a zoning district that only requires five feet."**
 - B. Regarding the proposed Variance for an accessory building with a side yard of 2 feet 6 inches in lieu of the minimum required 10 feet in the AG-2 Agriculture District: the requested variance is 25% of the minimum required, for a variance of 75%.
 - C. Regarding the proposed Variance, the Zoning Ordinance does not clearly state the considerations that underlie the rear yard requirements. In general, the rear yard is presumably intended to ensure the following:
 - (1) Adequate light and air: The subject property is in residential use. The surrounding properties are in residential use or agricultural production.

- (2) Separation of structures to prevent conflagration: The subject property is within the St. Joseph-Stanton Fire Protection District and the station is approximately 1.6 road miles from the subject property. The nearest structure on adjacent property to the shed is another shed that is approximately 12 feet away.
- (3) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.
- D. No variance was required for average lot width or lot area because the property was platted prior to adoption of the Zoning Ordinance on October 10, 1973 and was not in common ownership with adjacent properties after December 22, 1972.
- E. Item 7.C. above provides information on the utility easement on the west and south property lines.

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: **“The old shed has been there since the 70’s and has not been a problem in the neighborhood.”**
 - B. The Township Road Commissioner has been notified of this variance but no comments have been received.
 - C. The St. Joseph-Stanton Fire Protection District has been notified of this variance but no comments have been received.
 - D. No comments have been received to date regarding the proposed variance.
 - E. The nearest building on neighboring property is another shed that is approximately 5 feet from the shared property line.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

- 12. Generally regarding and other circumstances which justify the Variance:
 - A. The Petitioner has testified on the application: **“Leach field, flooding, maple tree, septic tank.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 13. Regarding proposed special conditions of approval:

No special conditions are proposed at this time.

DOCUMENTS OF RECORD

1. Variance Application received on January 14, 2016, with attachments:
 - A Site Plan received January 14, 2016
 - B Plat of Survey for Willowdale Second Subdivision dated June 26, 1972 and received January 14, 2016

2. Preliminary Memorandum dated April 7, 2016 with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received January 14, 2016
 - C Images of Subject Property taken January 26, 2016
 - D Draft 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 826-V-16 held on April 14, 2016, 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 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 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 Variances requested in Case 826-V-16 are hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners **Rodney and Ellen Vanous** to authorize the following variance in the AG-2 Agriculture Zoning District:

A detached shed with a rear yard of 2 feet 6 inches in lieu of the minimum required 10 feet for accessory structures.

{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:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date