

CASE NO. 832-V-16

PRELIMINARY MEMORANDUM

June 9, 2016

Petitioner: **Christopher Schultz**

Request: **Authorize the following Variance in the AG-2 Agriculture Zoning District:**

Part A: Authorize the use of an existing lot that is 12,800 square feet in area in lieu of the minimum required lot size of 30,000 square feet; and

Part B: Authorize the use of an existing lot that has an average lot width of 80 feet in lieu of the minimum required lot width of 150 feet; and

Part C: Authorize the construction and use of a proposed detached garage with a setback of 43 feet from the centerline of Olympian Road in lieu of the minimum required setback of 55 feet and a front yard of 13 feet in lieu of the minimum required 30 feet.

Subject Property: **A 0.3 acre tract in the Northwest Quarter of the Northwest Quarter of Section 33, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township, and commonly known as the residence at 707 East Olympian Road, Urbana.**

Site Area: **12,800 square feet lot (0.3 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 place a 24 feet by 24 feet detached garage that would partially sit within the required setback from street centerline.

Prior to constructing the proposed garage, the lot must be made a “good zoning lot” because it does not meet dimensional requirements of the Zoning Ordinance. The existing home on the subject property was built prior to the adoption of the Zoning Ordinance on October 10, 1973.

- The subject property is the western 80 feet of “Lot B”, one of the two lots shown in the Paul Lytle survey signed by land surveyor M.H. Kinch in 1961. Lot B was still undivided as of December 28, 1973, as per a mortgage release from Champion Federal Savings and Loan recorded August 13, 1990. The subject property was thus created after the adoption of the Zoning Ordinance on October 10, 1973. A Warranty Deed signed July 30, 1974, includes a legal description for the subject property that describes it as Lot B of the Paul Lytle survey except the east 85.5 feet thereof; no other recorded document was found regarding the creation of the subject property lot.

- The lot was a part of a larger tract of land until February 1976, at which time a portion was conveyed to others. When the larger tract of land was split in two, each lot did not have the proper lot area, lot width, or front yard setback to meet the County minimum standards for a lot in the AG-2 Agriculture Zoning District. Further, no variance has been approved to date, so the lot still has not been created lawfully and thus falls under the minimum lot area and average lot width requirements in Section 4.3.4. for lots created after 1993.
- Zoning Case 207-V-99 was approved with on November 4, 1999, with no special conditions, for the eastern part of Lot B (711 East Olympian Rd) to permit construction and use of a porch addition on an illegal lot with insufficient lot width, lot area, and setback from street centerline.

Olympian Road has a narrow right-of-way east of Willow Road. See the section Olympian Road Concerns below for more information.

EXTRATERRITORIAL JURISDICTION

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

The subject property is located within Somer Township, which does not have a Plan Commission.

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
North	Single Family Residence	AG-2 Agriculture
South	Single Family Residence	AG-2 Agriculture
East	Single Family Residence	AG-2 Agriculture
West	Single Family Residence	AG-2 Agriculture

OLYMPIAN ROAD CONCERNS

The proposed detached garage would be built about 43 feet from the centerline of Olympian Road.

- The proposed extension and expansion of Olympian Road is planned to be constructed approximately 0.5 mile north of the existing alignment of Olympian Road east of Willow Road.
- The 1961 Paul Lytle survey shows a 20 feet half right-of-way within the subject property front property line, which extends to the centerline of Olympian Road.
- The 2005 Fitsimmons Subdivision Final Plat also shows a 20 feet half right-of-way within the subject property front property line.

- An email received May 16, 2016, from Jeff Blue, Champaign County Highway Engineer, indicates that the current right of way for this part of Olympian Road is 42 feet (21 feet from street centerline).
- An email received May 18, 2016, from Bill Gray, Public Works Director for the City of Urbana, indicated that the City desires to maintain a 60 feet total right of way on this part of Olympian Road.

The proposed variance for a front yard of 13 feet in lieu of 30 feet and setback of 43 feet in lieu of 55 feet from street centerline takes into account that the City might need another 9 feet of right-of-way from the subject property in addition to the existing 21 feet half right-of-way.

COMMENTS FROM NEIGHBORS

On June 6, 2016, one neighbor stated that they object to the proposed variance because if they allow the less restrictive measurements for this case, the same could happen anywhere in the County. They also believe that property values in the neighborhood have been negatively impacted by owners not following the Zoning Ordinance.

On June 8, 2016, staff received an email (see attachment) from Marian Stone, 803 East Olympian Road, Urbana which indicates strong support for the variance request.

PROPOSED SPECIAL CONDITIONS

- A. Within 30 days of Final Action of Case 832-V-16, the petitioners shall file a miscellaneous document with the Champaign County Recorder of Deeds that documents the following:**
- (1) A Variance was granted in Zoning Case 832-V-16 to authorize the use of an existing lot that is the west 80 feet of "Lot B" of the Paul Lytle Survey recorded in Book 678 at Page 553 in the Northwest Quarter of the Northwest Quarter of Section 33 in Somer Township, commonly known as the residence at 707 E Olympian Road, Urbana, PIN #25-15-33-100-015.**
 - (2) Because of the size of the existing lot, there are concerns whether a replacement wastewater (septic) system can be installed on the lot in the future.**
 - (3) Any new wastewater (septic) system will need to be authorized by the Champaign County Health Department.**
 - (4) For further information interested parties should contact the Champaign County Department of Planning and Zoning.**

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

That potential buyers of the property are aware of how the lot was created and the possible limitations regarding the replacement of wastewater systems on the property.

B. No parking will be allowed in front of the garage when there is less than 20 feet of separation between the garage and the Olympian Road right-of-way.

The special condition stated above is required to ensure the following:
That public safety is prioritized in zoning case decisions.

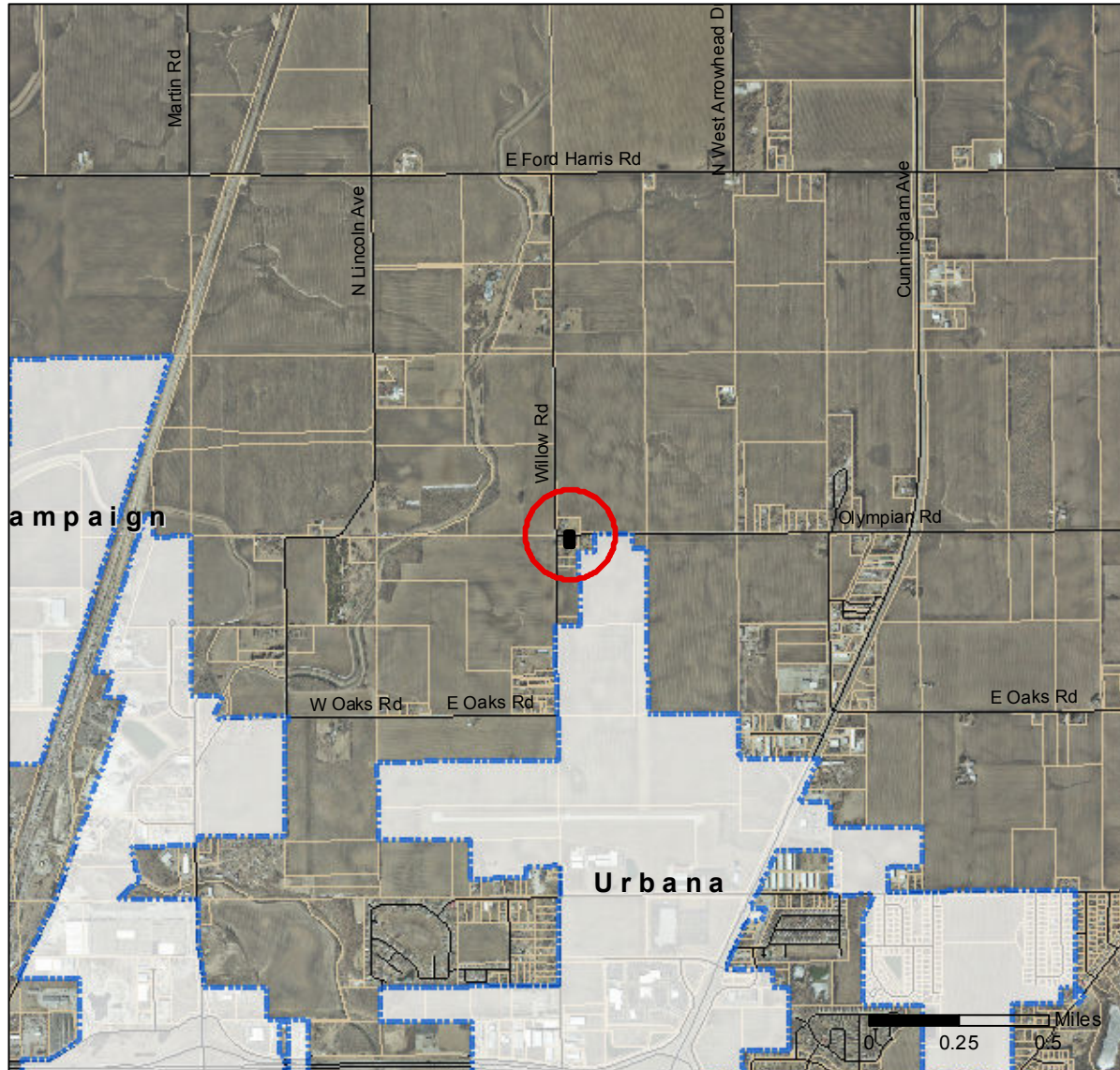
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received March 7, 2016
- C 2014 Aerial Photo
- D Paul Lytle Survey recorded August 15, 1961
- E Fitsimmons Subdivision Final Plat recorded March 8, 2005
- F Mortgage Release from Champion Federal Savings and Loan recorded August 13, 1990
- G Warranty Deed for Robert and Nancy Good recorded March 23, 1977
- H Case 207-V-99 (Robert and Nancy Good) Summary of Evidence, Finding of Fact, and Final Determination, approved November 4, 1999
- I Excerpt from City of Urbana Functional Classification Map 2016
- J Site Plan from Champaign County Public Health Department Septic System Application received by CUPHD on April 30, 2013
- K Images of Subject Property taken May 12, 2016
- L Email from Jeff Blue, Champaign County Highway Engineer, received May 16, 2016
- M Email from Bill Gray, Public Works Director, City of Urbana, received May 18, 2016
- N Email from Marian Stone, 803 East Olympian Road, Urbana, received June 8, 2016
- O Draft Summary of Evidence, Finding of Fact, and Final Determination

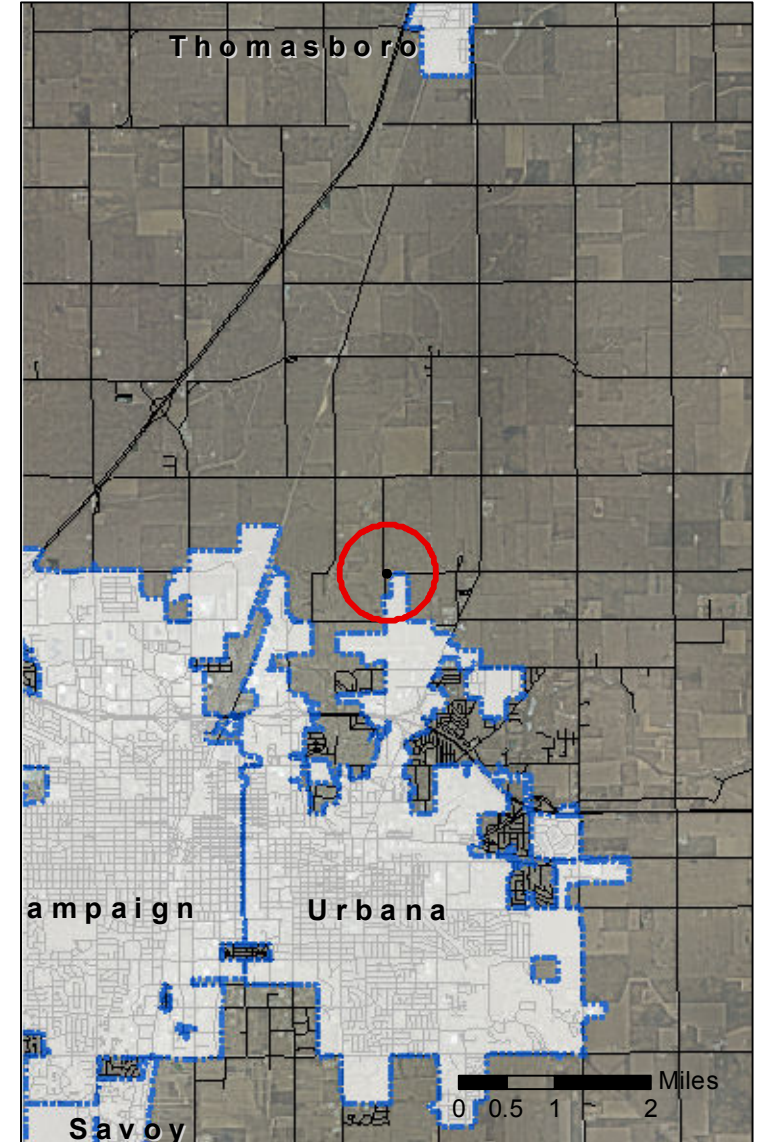
Location Map

Case 832-V-16
June 16, 2016





Subject Property



Property location in Champaign County



Legend

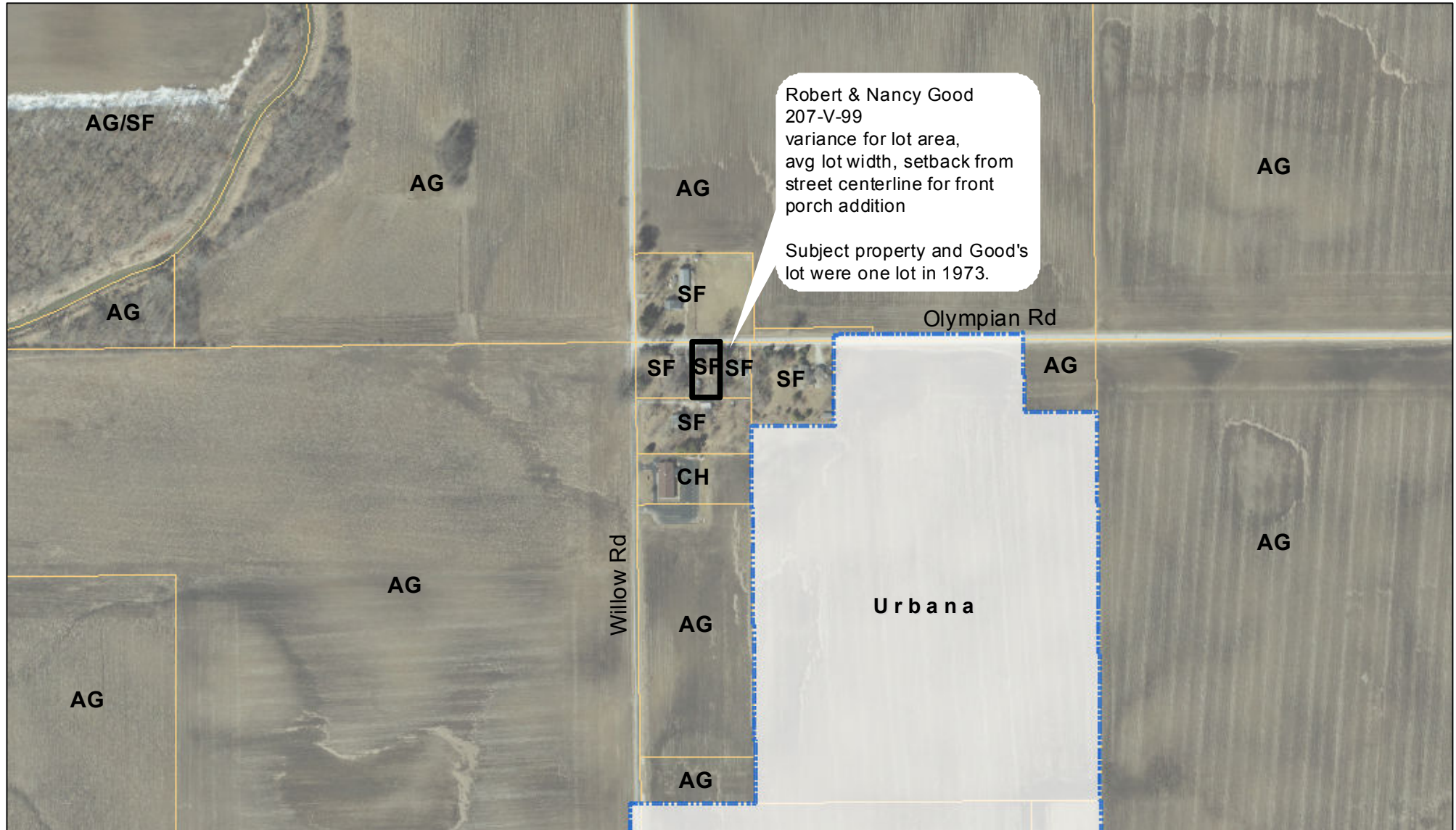
-  Subject Property
-  Parcels
-  Municipal Boundary
-  Streets



Champaign County
Department of
PLANNING &
ZONING

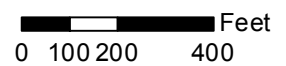
Land Use Map

Case 832-V-16
June 16, 2016



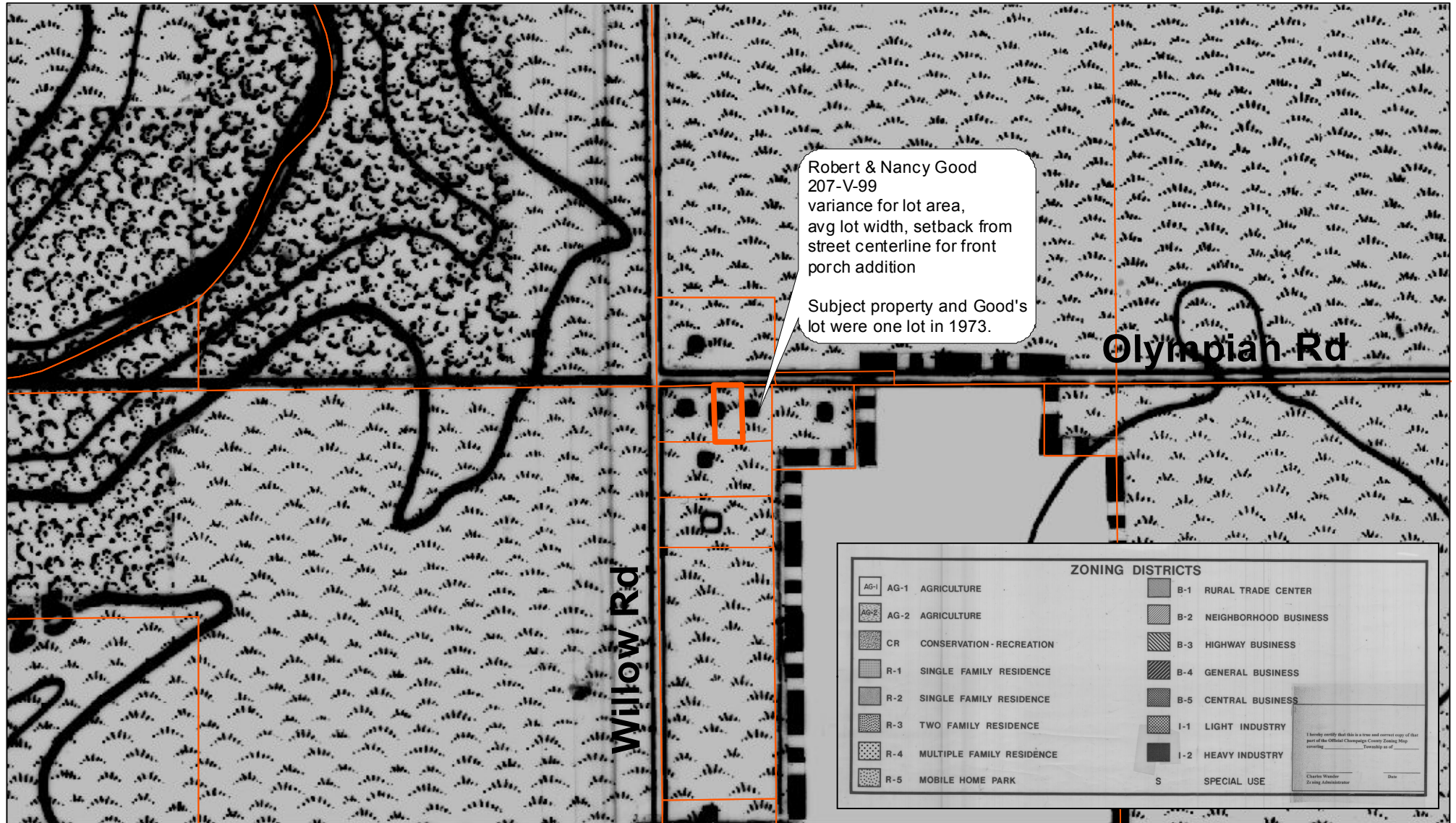
Legend

-  Subject Property
-  Parcels
- SF Single Family Residential
- AG Agriculture
- CH Church





Zoning Map

Case 832-V-16
June 16, 2016



Legend

-  Subject Property
-  Parcels

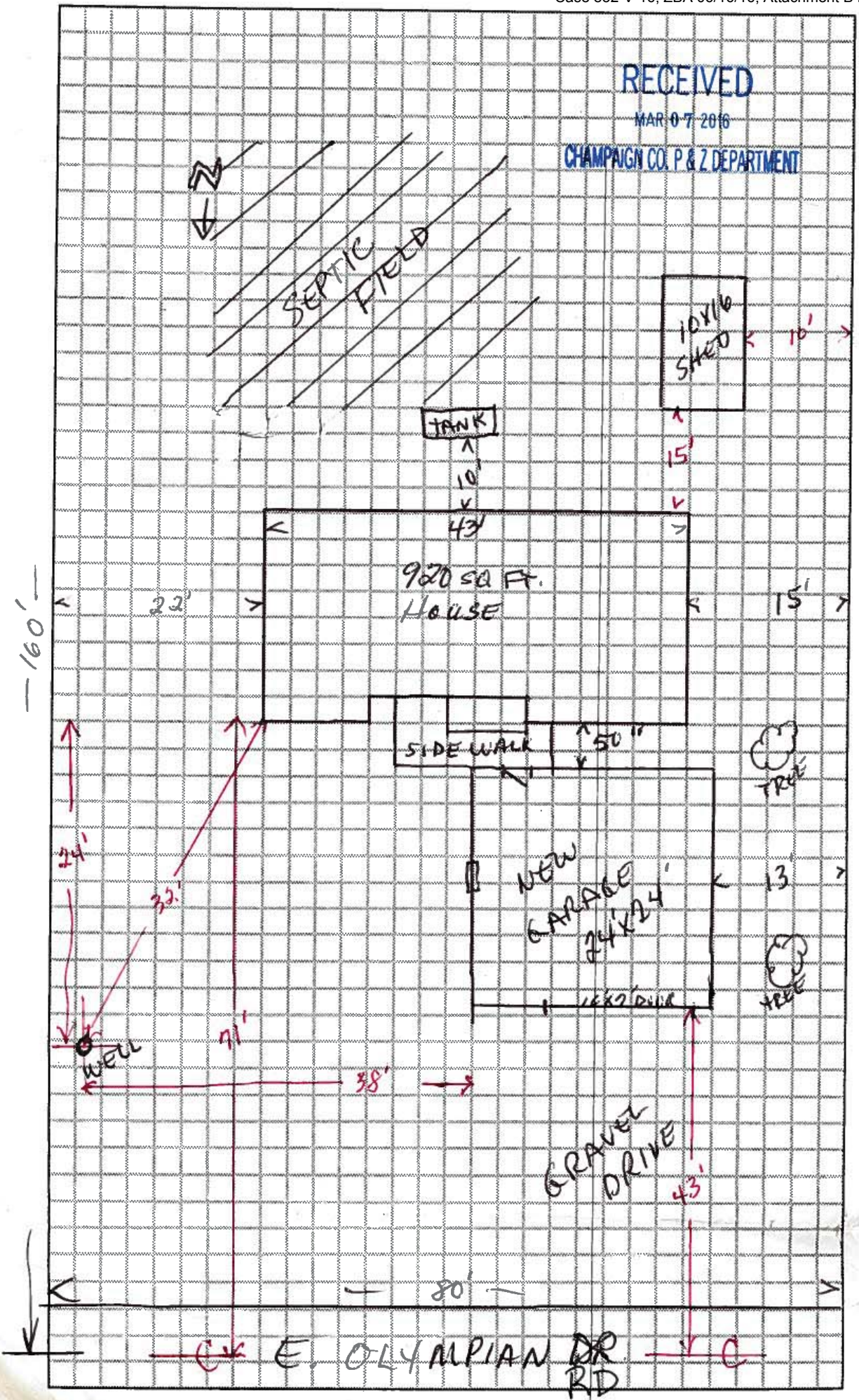
0 100 200 400 Feet



RECEIVED

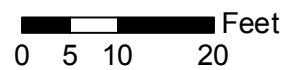
MAR 07 2016

CHAMPAIGN CO. P & Z DEPARTMENT



2014 Aerial Photo

Case 832-V-16
June 16, 2016



038 223

NW NW 33-20-9

PLAT OF SURVEY

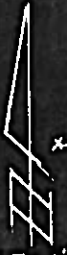
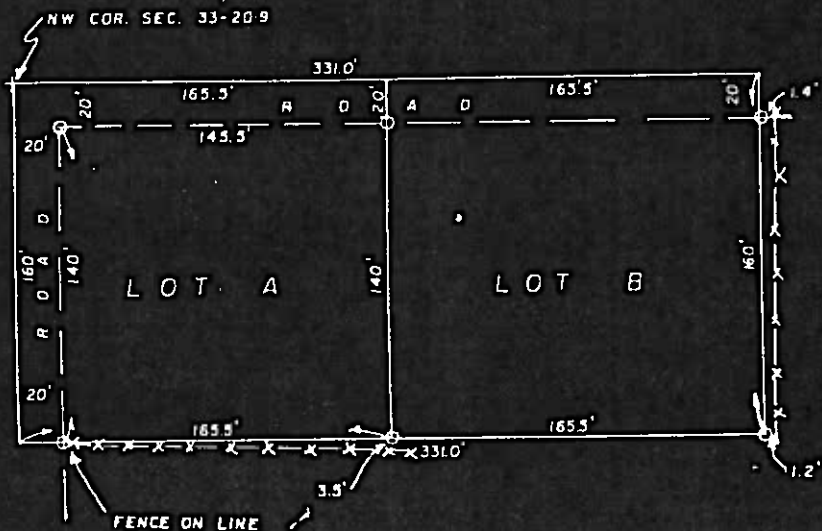
NO. 55-61

THE NORTH 180 FEET OF THE WEST 10 ACRES OF THE NW 1/4 SECTION 33, TOWNSHIP 20 NORTH, RANGE 9 EAST OF THE 3RD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS SAID TRACT IS DIVIDED INTO TWO LOTS, LOT A BEING THE WEST HALF AND LOT B THE EAST HALF

SURVEY

MAILED 10-10-61
879
622

SURVEY FOR PAUL LYTLE



SCALE: 1" = 60'

STATE OF ILLINOIS
COUNTY OF CHAMPAIGN 55

I, M.H. KINCH, STATE REGISTERED LAND SURVEYOR NO. 358, DO HEREBY CERTIFY THAT I MADE THE ABOVE SURVEY, THAT I SET AND FOUND THE IRON PIPE MONUMENTS AS SHOWN AND THAT I FOUND NO ENCROACHMENTS.

JULY 28, 1961

M.H. Kinch

667602

THE EAST HALF SAID TRACT IS DIVIDED INTO TWO LOTS, LOT A BEING THE WEST HALF AND LOT B THE EAST HALF OF THE NORTH 180 FEET OF THE WEST 10 ACRES OF THE NW 1/4 SECTION 33, TOWNSHIP 20 NORTH, RANGE 9 EAST OF THE 3RD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS

MAILED 5 1961 10 15 AM
678
622

FINAL PLAT
FITSIMMONS SUBDIVISION
OF PART OF SW1/4 SEC. 28 T20N R9E 3RD P.M.
IN SOMER TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS

0 100 200 300 FEET

Presented for recording by the City of Urbana

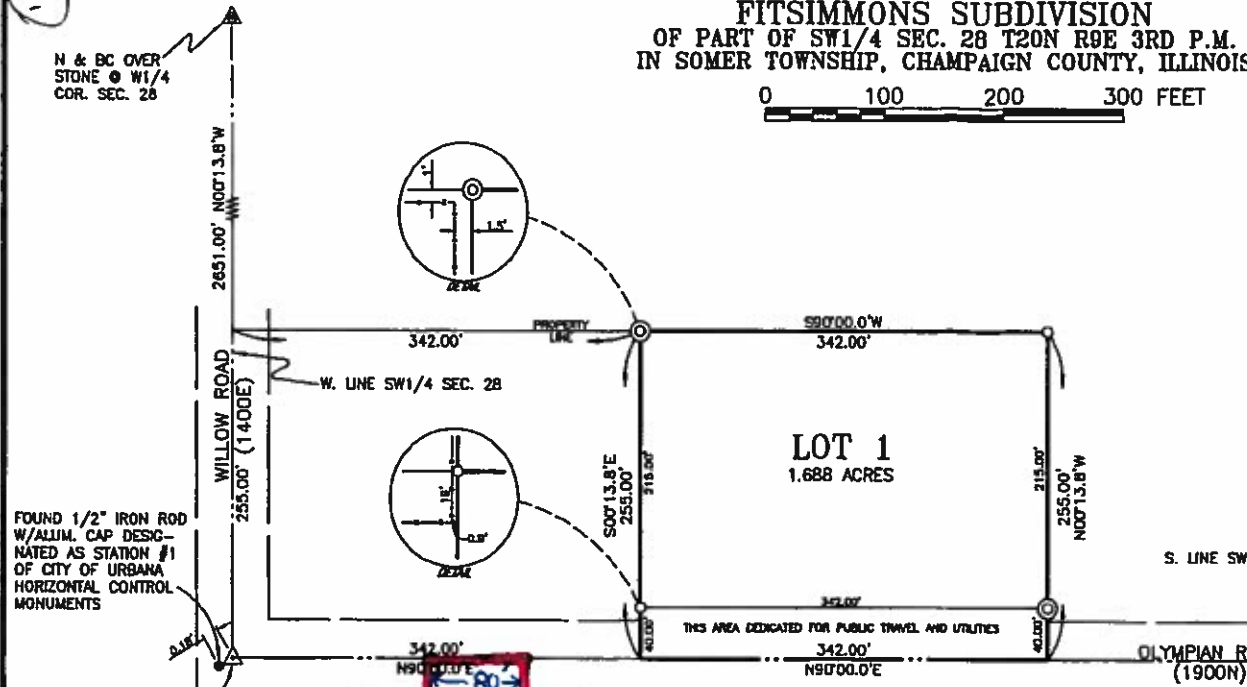


RECORDED ON

03/08/2005 01:09:45PM
CHAMPAIGN COUNTY
RECORDER
BARBARA A. FRASCA
REC FEE: 65.00
REV FEE: 4
PAGES: 4
PLAT ACT: 1
PLAT PAGE: 1

1/2" IRON ROD SET W/ORANGE
PLASTIC CAP STAMPED "LS 2616"
IN CONCRETE
1/2" IRON ROD SET W/ORANGE
PLASTIC CAP STAMPED "LS 2616"
FORESHORTENED LINE
FENCE

NOTE:
In the event sidewalks are built, the developer or subsequent owner(s) of the property will construct the sidewalk at the owner's expense within six (6) months of passage of an Urbana City Council resolution to do so, or the City will construct and invoice the then owners and/or developer as applicable.



FOUND 1/2" IRON ROD W/ALUM. CAP DESIGNATED AS STATION #1 OF CITY OF URBANA HORIZONTAL CONTROL MONUMENTS

SET NAIL OVER STONE PER MONUMENT REC. TIES @ SW COR. SEC. 28 T20N R9E 3RD P.M.

FOUND 1/2" IRON ROD W/ALUM. CAP STAMPED "LS 1470" @ S1/4 COR. SEC. 28

FOUND BRASS DISC; HORIZ. CONTROL STATION #2

SURVEYOR'S CERTIFICATION

I hereby certify that, at the request of the owners, I have surveyed and subdivided the tract of land shown platted hereon, set monuments as shown, and measured all distance in feet and decimals thereof. The tract, to be known as FITSIMMONS SUBDIVISION, is described as:

Beginning on the South Line of the Southwest Quarter of Section 28, Township 20 North of the Base Line, Range 9 East of the Third Principal Meridian a distance of 342.00 feet east of the Southwest Corner of said Section; thence North 90 degrees 00.0 minutes East (N00°00.0'E) 342.00 feet on said South Line; thence N00°13.8'W 255.00 feet parallel with the West Line of said Southwest Quarter; thence S90°00.0'W 342.00 feet parallel with said South Line; and thence S00°13.8'E 255.00 feet parallel with said West line to the point of beginning; encompassing 2.902 acres, situated in Champaign County, Illinois

This tract is within one and one-half miles of the Corporate Limits of the City of Urbana. It is more than 500 feet from any drainage way or water course that drains more than 640 acres. No special Flood Hazard Area has been identified by the Federal Emergency Management Agency for this site.

Given under my hand and seal this 2nd day of March, 2005, A.D.

Robert A. Moore
Illinois Land Surveyor No. 2010
License expires 11/30/2008

DRAINAGE CERTIFICATION

To the best of our knowledge and belief adequate provision has been made for the collection and diversion of surface waters into public areas and drains which the subdivider has the right to use, and such surface waters will not be deposited on the property of adjoining land owners in such concentration as may cause damage to the property because of the creation of this subdivision.

Vall H. Moore, Registered Professional Engineer #2567
Eugene L. Ziegler, Owner
Billy J. Ziegler, Owner

APPROVED BY:

William R. May, City Engineer
Cedrick N. Zier, Director, Community Development Service
Teresa A. Kowalski, Secretary, Urbana Plan Commission

ATTEST: [Signature]

Date: [Signature]



MOORE SURVEY AND MAPPING
PAXTON, ILLINOIS
EUGENE L. ZIEGLER
SCALE: 1"=100'
REV. MARCH 1, 2005

1300
300
1500

RELEASE

KNOW ALL MEN BY THESE PRESENTS, That CHAMPION FEDERAL SAVINGS AND LOAN ASSOCIATION, a corporation organized and doing business under and by virtue of the laws of the UNITED STATES OF AMERICA, does hereby certify that a certain mortgage bearing date the 28th day of December, A.D. 19 73, made and executed by ROBERT G. GOOD AND NANCY ANN GOOD, each in his or her own right as husband and wife to the said Champion Federal Savings and Loan Association, and recorded in the recorder's office of Champaign County, in the State of Illinois, in Book 1021 of Mortgages, on Page 539, as Doc. No. 73R18755, on the 28th day of December, A.D. 19 73, is with the obligation accompanying it, fully paid, satisfied, released and discharged.

Lot B of the Survey of the North 160 Feet of the West Ten Acres of the Northwest Quarter of the Northwest Quarter of Section 33, Township 20 North, Range 9 East of the Third Principal Meridian as per plat of record in Book 678 at page 553 of the records of the Office of the Recorder of Champaign County, Illinois.

RECORDER

Ralph Sackett

'90 AUG 24 PM 3 27

DOC # CHAMPAIGN COUNTY, ILL

1708 0838
90R16798

IN WITNESS WHEREOF, the said Champion Federal Savings and Loan Association has caused this instrument to be signed in its corporate name, by its Vice President, and its corporate seal to be attached hereto and attested by its Assistant Secretary, this 13th day of August, A.D. 19 90, pursuant to authority granted by the Board of Directors of said corporation.

CHAMPION FEDERAL SAVINGS AND LOAN ASSOCIATIONSM

By *Ralph Sackett* Vice President

Janet D. Heath Assistant Secretary

STATE OF ILLINOIS } ss.
COUNTY OF CHAMPAIGN

I, Janet D. Heath, the undersigned, a notary public in and for said county in the state aforesaid, do hereby certify that Ralph Sackett, Vice President of the Champion Federal Savings and Loan Association, and Janet D. Heath, Assistant Secretary of said Association, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, and are personally known to me to be the same Vice President and Assistant Secretary respectively, of said Association, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, and as Vice President and Assistant Secretary of said Association, and as the free and voluntary act of said Association, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 13th day of August, A.D. 19 90.

This Instrument was prepared by: Champion Federal Savings and Loan Association, 115 E. Washington St., Bloomington, Illinois



Nancy L. Kasper
Notary Public

*The statement on the reverse hereof, covering the release of the said Association, is, by reference, made part of this release.

FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL BE FILED WITH THE RECORDER OF DEEDS IN WHOSE OFFICE THE MORTGAGE OR DEED OF TRUST WAS FILED.

WARRANTY DEED

BOOK 1109 PAGE 823

DOCUMENT NO.

77885523

Case 832-V-16, ZBA 06/16/16, Attachment G Page 1 of 1
For Recorder's Certificate Only

THE GRANTORS, Robert G. Good and
Nancy Ann Good

STATE OF ILLINOIS } SS
CHAMPAIGN COUNTY }
Filed for record in the Recorder's Office
of said county.

MAR 23 1977 -4 10 PM

Recorded in book 1109
of Records on Page 823

Robert C. Martin
Recorder of Deeds

of the City of Urbana, in the County
of Champaign, and State of Illinois,
for and in consideration of Ten Dollars (\$10.00) and other good and
valuable consideration in hand paid, CONVEY AND WARRANT to
the GRANTEE, Henry W. Sapoznik

of the City of Urbana, County of Champaign, and State
of Illinois, the following described real estate:

Lob B of a Subdivision of the North 160 feet
of the west 10 acres of the northwest 1/4 of
the northwest 1/4 of Section 33, township 20
north, range 9 east of the third principle
meridian, Champaign County, Illinois, except
the east 85.50 feet thereof, as per Plat of
record in Book 678, page 553 of the records
of the Office of the Recorder of Champaign
County, Illinois.

- Subject to: (1) Real estate taxes for the year 1974 and subsequent years;
(2) Covenants, conditions, restrictions and easement apparent and of record;
(3) All applicable zoning laws and ordinances;

hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

Dated this 30th day of July, A.D. 1974.

(SEAL) Robert G. Good (SEAL)

(SEAL) Nancy Ann Good (SEAL)

STATE OF ILLINOIS }
CHAMPAIGN COUNTY } SS



I, the undersigned, a Notary Public in and for said County and State
aforesaid, DO HEREBY CERTIFY, that Robert G. Good and
Nancy Ann Good
personally known to me to be the same person_s whose name_s are
subscribed to the foregoing instrument, appeared before me this day in
person and acknowledged that they signed, sealed and delivered the said
instrument as their free and voluntary act, for the uses and purposes
therein set forth, including the waiver of the right of homestead.

Given under my hand and Notarial Seal, this 30th
day of July, A.D. 1974.

Craig Baer Notary Public

Deed Prepared By: <u>LAW OFFICES OF BAER & MANN</u> <u>404 West Church Street</u> <u>Champaign, Illinois 61820</u> <u>Telephone: (217) 352-6338</u>	Send Tax Bill To: <u>Mr. Henry Sapoznik</u> <u>222 West Main</u> <u>Urbana, Illinois 61801</u>
Exempt under provisions of Paragraph _____, Section 4, Real Estate Transfer Tax Act.	
Date _____	Signature _____ Buyer, Seller or Representative

207-V-99

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

Final Determination: **Granted**

Date: November 4, 1999

Petitioner: Robert and Nancy Good

Request: To permit the construction and use of a porch addition on an illegal lot having a lot size of 13,680 square feet in lieu of the minimum required lot size of 30,000 square feet; and having a lot width of 85.5 feet in lieu of the minimum required lot width of 150 feet; and permit the construction and use of a porch addition with a front yard setback of 54-1/2 feet from the centerline of Olympian Road in lieu of the minimum required 75 feet on a legal, non-conforming lot in the AG-2, Agriculture Zoning District

Summary of Evidence:

1. Robert and Nancy Good are the owners of the subject property.
2. The subject property is +13,680 square feet in area (.31 acre) and is located in Section 33 of Somer Township. The subject property is commonly known as 711 East Olympian Road, Urbana, Illinois.
3. The subject property is zoned AG-2, Agriculture, and is occupied by the petitioners' single family residence.
4. The land surrounding the subject property in all directions is zoned AG-2, Agriculture.
5. The subject lot is bordered by single family residences to the west and east. To the north of the residential lot is Olympian Road, a collector street under the terms of the *Zoning Ordinance*. A single family residential lot containing open space is located north of the subject lot across Olympian Road. Land adjacent to the south is farmland.
6. The subject property is located within the volunteer Carroll Fire Protection District, approximately 1 road mile from the station. The Fire District Chief has been notified of this case, and no comments have been received to date.

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7. The subject property is located within the One and One-Half Mile Extraterritorial Jurisdiction of the City of Urbana. Municipalities are not customarily notified of variances cases within their ETJ areas, nor do they typically comment on such variance requests.
8. The petitioners wish to construct a covered porch on the front of their home.
9. The subject lot is a legal, non-conforming lot of record with respect to the Plat Act and City of Urbana Subdivision Ordinance.
10. The lot was a part of a larger tract of land until February, 1976, at which time a portion was conveyed to others. The subject lot was established prior to the City of Urbana effective subdivision jurisdiction date of December 17, 1979.
11. When the larger tract of land was split in two, each lot did not have the proper lot area, lot width, or front yard setback to meet the County minimum standards for a lot in the AG-2, Agriculture Zoning District. The County, therefore, considers the subject lot an illegal lot and the structure and use nonconforming.
12. A variance for the proposed addition is required pursuant to Section 8.3.1 of the *Zoning Ordinance*. Additions or expansions of non-conforming structures are not permitted except by way of a Variance.
13. The subject lot was created in 1976 after the County *Zoning Ordinance* regulations were in effect. As noted, the County considers the lot an illegal lot due to its deficient size and width.
14. The subject property is \pm 13,680 square feet in area (\pm .31 acre) and is zoned AG-2, Agriculture. The minimum lot size for a lot in the AG-2 Zoning District is 20,000 square feet (.45 acre) provided the lot is served by public water and sewer systems. The subject lot is not served by public water and sewer; therefore, the required minimum lot area is 30,000 square feet (.68 acre).
15. As a note, the required minimum lot size in the AG-2 Zoning District for a lot not served by public water and sewer was 20,000 square feet prior to a text amendment to the relevant section of the *Zoning Ordinance* (Section 4.3.4.B) in October, 1997.
16. The subject lot width is 85.5 feet. The minimum lot width for a lot in the AG-2 Zoning District is 150 feet for a lot such as the subject lot that is not served by public water and sewer.
17. Prior to the October 1997 text amendment to Section 4.3.4.B of the *Zoning Ordinance*, the required minimum lot width in the AG-2 Zoning District for a lot not served by public water and sewer was 100 feet.
18. Olympian Road is designated as a "collector" street.

19. Section 5.3 of the *Zoning Ordinance* requires a front yard setback of 75 feet from the street centerline and a front yard setback of 30 feet from the front property line, whichever is the greater distance.
20. The proposed covered porch addition would have a front yard setback of 35 feet from the front property line, thus exceeding the front yard setback distance requirement of 30 feet from the front property line. However, the proposed covered porch addition does not meet the front yard setback requirement of 75 feet from the street centerline. The distance between the street centerline and the proposed covered porch addition is 54-1/2 feet.
21. The distance of 54-1/2 feet from the proposed covered porch addition to the centerline represents a 27% variance from Zoning Ordinance requirement of 75 feet.
22. The covered porch addition is proposed to be constructed over an existing concrete pad. The existing concrete pad is located 54-1/2 feet from the centerline of the street.
23. The approval of the requested variance does not eliminate the nonconforming status of the existing residence. The variance would authorize the substandard setback only to the extent of 54-1/2 feet from the front property line along Olympian Road. The residence, therefore, remains subject to Section 8 of the *Zoning Ordinance* with respect to nonconformities. If the house, therefore, is destroyed to an extent of greater than 50%, it would not be permitted to be reconstructed with nonconforming setbacks, lot area and lot width.
24. Based on an inspection of aerial photos, the house was constructed prior to the adoption of County Zoning in 1973. The existing 54-1/2 foot front yard setback along Olympian Road is therefore deemed legally nonconforming. Additions or expansions of non-conforming structures are not permitted except by way of a Variance.
25. Footnote 3 of *Zoning Ordinance* Section 5.3 contains a provision that allows for a front yard setback in lieu of the minimum required 75 feet from the centerline of a collector street, if the 30 foot distance from the front property line distance is met. That provision states: "*Where 25% or more of the lots within a block abutting streets other than federal or state highways, where occupied by main or principal structures prior to the effective date of this ordinance, the average of the setback lines of such structures shall be the minimum setback line of the remaining vacant lots within such block except where the public health, safety, comfort, morals, or welfare are endangered.*" Three homes, including the subject property, were constructed prior to the establishment of County zoning. This provision, while not directly applicable to the current variance request, would allow for a front yard setback of \pm 55 feet from the centerline for development on a vacant lot on the block containing the subject lot.
26. The proposed covered porch addition will not significantly alter the general appearance of the height and bulk of the total of four homes located on this block. The existing home located on the west corner of the same block is located approximately 40 feet from the centerline of Olympian Road.

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27. It appears that any injurious impacts to the neighborhood appear negligible, and no threats to the public health, safety, or welfare are apparent.
28. The Olympian Drive Location Study indicates a recommended alignment for Olympian Drive that is to the north of Willow Road by more than a quarter of a mile.

Documents of Record

1. Case Maps: Location; Land Use; Zoning
2. Application for Variance dated September 9, 1999
3. Photos submitted by staff on November 4, 1999

Findings of Fact:

From the documents of record and the testimony and exhibits received at the public hearing conducted on November 4, 1999, the Zoning Board of Appeals of Champaign County finds that:

1. **Special conditions and circumstances DO exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land and structures elsewhere in the same district because it is a nonconforming, illegal lot of insufficient size, insufficient lot width, and setbacks. Setback requirements changed due to a change in designation of Olympian Drive.**
2. **Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because (1) there is an existing concrete pad in the same area where they are going to build the porch; (2) before Urbana changed Olympian Drive to a collector street, they were within one-half of a foot of being within the variance.**
3. **The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the house appears to be constructed prior to 1973.**
4. **The requested variance IS NOT harmony with the general purpose and intent of the Ordinance because of the illegal lot size and lot width.**
5. **The requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because the setback is within one-half of a foot prior to the change in the designation of the street. Other houses are actually closer to the street in that area than the subject property. The improvement will enhance the property values in the subdivision.**
6. **The requested variance IS the minimum variation that will make possible the reasonable use of the land/structure because: (1) they are using an existing concrete pad to build the structure on.**

Determination

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.9C HAVE been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, determines that:

The Variance requested in Case 207-V-99 is hereby GRANTED to the petitioners, Robert and Nancy Good, to allow the construction and use of a porch addition with a front yard setback of 54-1/2 feet in lieu of the minimum required 75 feet on an illegal, non-conforming lot in the AG-2, Agriculture Zoning District, on the lot described in the petition in the manner described herein.


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

SIGNED:



Debra Griest, Chairperson
Champaign County Zoning Board of Appeals

ATTEST:



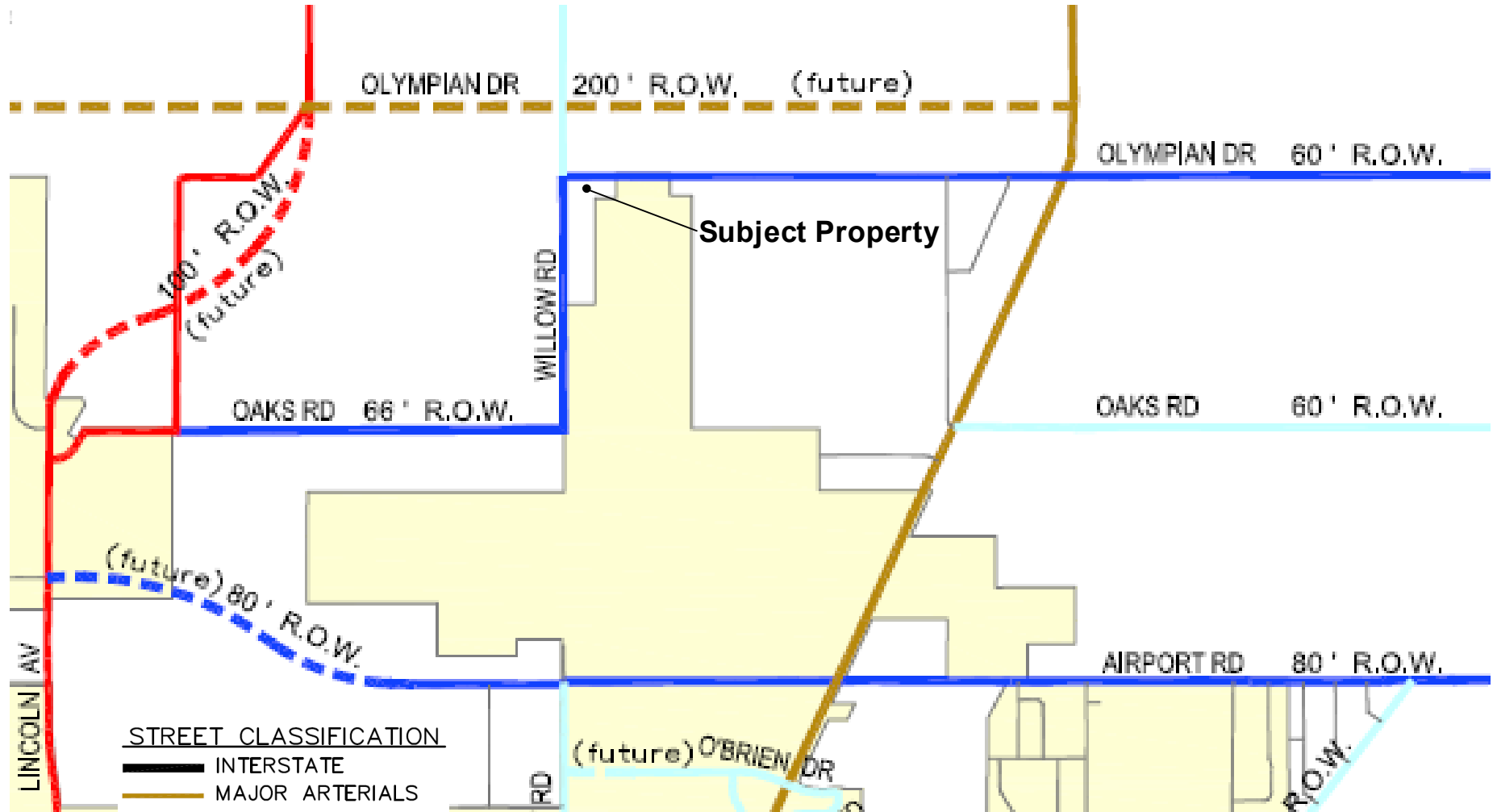
Secretary to the Zoning Board of Appeals

12-17-99

Date

Excerpt from City of Urbana Functional Classification Map 2016

Case 832-V-16
June 16, 2016

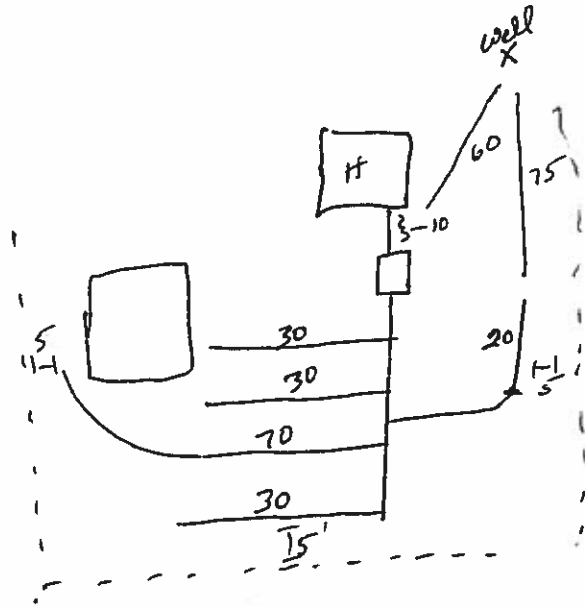


- STREET CLASSIFICATION**
- INTERSTATE
 - MAJOR ARTERIALS
 - MINOR ARTERIALS
 - MAJOR COLLECTORS
 - MINOR COLLECTORS
 - LOCAL STREET
 - U of I STREET
 - CORPORATE LIMITS
 - ETJ BOUNDARY
- Dashed line indicates future roadway*

Urban "Major Collector" is a "Minor Street" for Champaign County Zoning Ordinance classification purposes



Site Plan from Septic System Application dated April 30, 2013
Champaign Urbana Public Health District



RECEIVED

JUN 09 2016

CHAMPAIGN CO. P & Z DEPARTMENT



From Olympian Road, facing south



From Olympian Road, facing southwest



From front fence line, facing east



Facing west; property is fenced one on the left

Susan Chavarria

From: Jeff Blue
Sent: Monday, May 16, 2016 11:11 AM
To: Susan Chavarria
Subject: RE: zoning case on Olympian east of Willow Road

Susan,

The straight line diagram for that section shows 42 feet of ROW (21' from centerline). Future Olympian (from Lincoln Avenue east) does not follow this roadway. It would be north of the current Olympian Drive in this area.

Jeff

From: Susan Chavarria
Sent: Thursday, May 12, 2016 12:59 PM
To: Jeff Blue
Subject: zoning case on Olympian east of Willow Road

Hi Jeff,

We have a variance request for constructing a detached garage in front of a house at 707 E Olympian, Urbana. We want to make sure that we keep the required amount of ROW for any future road plans, since he is proposing that the front of the garage would sit 43' off street centerline. Could you please let me know what the actual ROW is for this road (I see in GIS it shows 20' on each side of street centerline) and your thoughts on this?

Thanks,
Susan

Susan Chavarria, AICP, PCED
Senior Planner
Champaign County Planning and Zoning
1776 East Washington Street
Urbana, IL 61802
217-819-4086
www.co.champaign.il.us

RECEIVED
MAY 16 2016
CHAMPAIGN CO. P & Z DEPARTMENT

Susan Chavarria

From: Gray, William <wrgray@urbanaininois.us>
Sent: Wednesday, May 18, 2016 9:05 AM
To: Susan Chavarria
Cc: Tyler, Elizabeth
Subject: Proposed variance on Olympian Road
Attachments: Functional Classification Map May 2016.pdf

Hi Susan,

Yes we do, this information is incorporated on the city's functional classification map. For Olympian Drive between Willow Road and Cunningham Avenue the desired right-of-way is 60'.

Thank you for asking us.
Bill

From: Susan Chavarria [<mailto:schavarr@co.champaign.il.us>]
Sent: Wednesday, May 18, 2016 8:43 AM
To: Gray, William
Subject: proposed variance on Olympian Road

Hi Bill,

We have a variance request for constructing a detached garage in front of a house at 707 E Olympian, Urbana. I wanted to check with the City to try to keep the required amount of ROW for any future road plans, since he is proposing that the front of the garage would sit 43' off street centerline. I've talked with Jeff Blue and he confirmed that the Olympian Road extension will be north of the current alignment. Does the City have a desired ROW for roads that might at some point come into the City or specifically for this part of Olympian Road?

Thanks,
Susan

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RECEIVED
MAY 18 2016
CHAMPAIGN CO. P & Z DEPARTMENT

Susan Chavarria

From: Marian Stone <marian_stone@yahoo.com>
Sent: Wednesday, June 08, 2016 11:21 AM
To: Susan Chavarria
Subject: Fw: Case 832-V-16

On Wednesday, June 8, 2016 11:14 AM, Marian Stone <marian_stone@yahoo.com> wrote:

We are writing about the application for a Variance for a house near our home because we will be out of town the day this case is heard. The case is 832-V-16.

We strongly support the request for the variance.

In our "neighborhood" there are six houses and one church and multiple violations of the current setback and lot size requirements.

Based on looking at Plat maps on the web, the church and two of the houses did not meet the referenced minimum required 150' lot width, and two of the lots do not meet the required minimum of 30,000 square feet. Based on taking a walk in the neighborhood three of the six houses do not meet the minimum 75' setback from the center of the road.

We do not know when the setback and minimum lot size requirements were established but clearly, unless previous variances were granted, these structures predate the current requirements. Preventing homeowners from improving their property because requirements for lot size and setbacks have changed since the original structures were built will lead to homes that are not maintained and become a blight for everyone living in the area.

It is to the benefit of the neighborhood and to the tax base that Mr. Schultz wishes to add a garage to his house. Since the houses on either side of him do not meet the current setback requirements we cannot see that allowing his house to also not meet the minimum setback will have a detrimental impact on any of us. He has been a good neighbor and has maintained and improved his property. We wholeheartedly support his request.

Marian and David Stone
803 E. Olympian Rd., Urbana, IL 61802

RECEIVED

JUN 08 2016

CHAMPAIGN CO. P & Z DEPARTMENT

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PRELIMINARY DRAFT

832-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: *{June 16, 2016}*

Petitioner: Christopher Schultz

Request: Authorize the following Variance in the AG-2 Agriculture Zoning District:
Part A: Authorize the use of an existing lot that is 12,800 square feet in area in lieu of the minimum required lot size of 30,000 square feet; and

Part B: Authorize the use of an existing lot that has an average lot width of 80 feet in lieu of the minimum required lot width of 150 feet; and

Part C: Authorize the construction and use of a proposed detached garage with a setback of 43 feet from the centerline of Olympian Road in lieu of the minimum required setback of 55 feet and a front yard of 13 feet in lieu of the minimum required 30 feet.

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PRELIMINARY DRAFT

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 16, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Christopher Schultz owns the subject property.
2. The subject property is a 0.3 acre tract in the Northwest Quarter of the Northwest Quarter of Section 33, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township, and commonly known as the residence at 707 East Olympian Road, Urbana.
 - A. The property is one of two lots created from "Lot B" of the Paul Lytle survey recorded August 15, 1961.
 - (1) Lot B was still undivided as of December 28, 1973, as per a mortgage release from Champion Federal Savings and Loan recorded August 13, 1990. The subject property was thus created after the adoption of the Zoning Ordinance on October 10, 1973.
 - (2) A Warranty Deed signed July 30, 1974 and recorded March 23, 1977, includes a legal description for the subject property that describes it as Lot B of the 1961 Paul Lytle survey except the east 85.5 feet thereof; no other recorded document was found regarding the creation of the subject property lot.
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 City of Urbana, 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 Somer Township, which does not have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are 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 12,800 square feet (0.3 acre) lot and is currently zoned AG-2 Agriculture. Land use is a single family residence.
 - B. Surrounding properties are zoned AG-2 Agriculture and are residential in use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Petitioner's Site Plan, received March 7, 2016, indicates the following:
 - (1) Existing features on the subject property consist of the following:
 - a. One residence, approximately 920 square feet;
 - b. One 10 feet by 16 feet detached shed;

PRELIMINARY DRAFT**Case 832-V-16**

Page 3 of 18

- c. A well located approximately 32 feet northeast of the house; and
 - d. A septic tank and field located approximately 10 feet south of the house.
 - (a) A new septic system was installed in May/June 2013.
- (2) Proposed construction consists of one 24 feet by 24 feet detached garage.
- B. There are no previous Zoning Use Permits for the subject property. The residence was built prior to the adoption of the Zoning Ordinance on October 10, 1973.
- C. There are no prior Zoning Cases for the subject property.
- D. The required variance is as follows:
- (1) Part A: Authorize the use of an existing lot that is 12,800 square feet in area in lieu of the minimum required lot size of 30,000 square feet.
 - (2) Part B: Authorize the use of an existing lot that has an average lot width of 80 feet in lieu of the minimum required lot width of 150 feet.
 - (3) Part C: Authorize the construction and use of a proposed detached garage with a setback of 43 feet from the centerline of Olympian Road in lieu of the minimum required setback of 55 feet and a front yard of 13 feet in lieu of the minimum required 30 feet.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variance:
- A. 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) “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.
 - (3) “AREA, LOT” is the total area within the LOT LINES.
 - (4) “BUILDING, DETACHED” is a BUILDING having no walls in common with other BUILDINGS.
 - (5) “COVERAGE” is the percentage of the LOT AREA covered by the BUILDING AREA.

PRELIMINARY DRAFT

- (6) “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.
- (7) “FRONTAGE” is that portion of a LOT abutting a STREET or ALLEY.
- (8) “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.
- (9) “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.
- (10) “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.
- (11) “LOT WIDTH, AVERAGE” is the LOT AREA divided by the LOT DEPTH or, alternatively, the diameter of the largest circle that will fit entirely within the LOT LINES.
- (12) “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.
- (13) “NONCONFORMING PREMISES” is a NONCONFORMING LOT with a NONCONFORMING STRUCTURE located on it.
- (14) “RIGHT-OF-WAY” is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
- (15) “SETBACK LINE” is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY line.
- (16) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (17) “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

PRELIMINARY DRAFT**Case 832-V-16**

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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.
- (18) “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.
- (19) “VARIANCE” is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning BOARD of Appeals are permitted to grant.
- (20) “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.
- (21) “YARD, FRONT” is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
- (22) “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.
- (23) “YARD, SIDE” is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. 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. 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:

PRELIMINARY DRAFT

- 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.
- D. Regarding Part A of the proposed variance, minimum lot size for lots with no connected sanitary sewer or public water created after September 21, 1993 in the AG-2 Agriculture District is established in Section 4.3.4 as 30,000 square feet.
- (1) As per a Warranty Deed recorded March 23, 1977 and a Mortgage Release from Champion Federal Savings and Loan recorded August 24, 1990, the subject property was created on a date unknown between December 28, 1973 and July 30, 1974. The Zoning Ordinance adopted on October 10, 1973 was thus in effect when the subject property was created.
- a. Section 4.3.4 of the Zoning Ordinance dated October 10, 1973 states that a lot without public water supply system and without a public sanitary sewer shall not be less than 20,000 square feet in area.
 - b. The subject property lot was created without seeking a variance for lot width and lot area. Since the property has not had a variance for these minimum requirements, it is still a lot that has not been lawfully created. Therefore, the relevant minimum requirements are found in Section 4.3.4 under lots that were created after September 21, 1993: lots without a public water supply or connection to public sanitary sewer must be at least 30,000 square feet in area.
- E. Regarding Part B of the proposed variance, minimum lot width for lots with no connected sanitary sewer or public water created after September 21, 1993 in the AG-2 Agriculture District is established in Section 4.3.4 as 150 feet.
- F. Regarding Part C of the proposed variance:
- (1) Minimum setback from the centerline of a minor street for an accessory structure in the AG-2 Agriculture District is established in Section 7.2.1.B. of the Zoning Ordinance as 55 feet.

PRELIMINARY DRAFT

- (2) Minimum front yard from the street right of way to the proposed structure in the AG-2 Agriculture District is established in Section 7.2.1.B. of the Zoning Ordinance as 30 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, **“My home is currently out of compliance and needs to be allowed. A garage will be constructed to protect my vehicles from weather and other outside objects that could damage vehicles.”**
 - B. Regarding Parts A and B of the proposed variance for limited lot size, average lot width, and setback, the following evidence was provided in the Summary of Evidence for Case 207-V-99, which was for the eastern part of Lot B of the 1961 Paul Lytle survey (711 East Olympian Rd):
 - (1) The existing home on the property was built prior to the adoption of the *Zoning Ordinance* on October 10, 1973.
 - (2) The subject lot is a legal, non-conforming lot of record with respect to the Plat Act and City of Urbana Subdivision Ordinance.
 - (3) The lot was a part of a larger tract of land until February 1976, at which time a portion was conveyed to others. The subject lot was established prior to the City of Urbana effective subdivision jurisdiction date of December 17, 1979.
 - (4) When the larger tract of land was split in two, each lot did not have the proper lot area, lot width, or front yard setback to meet the County minimum standards for a lot in the AG-2, Agriculture Zoning District. The County, therefore, considers the subject lot an illegal lot and the structure and use nonconforming.
 - (5) The approval of the requested variance does not eliminate the nonconforming status of the existing residence. The variance would authorize the substandard setback only to the extent of 54-1/2 feet from the front property line along Olympian Road. The residence, therefore, remains subject to Section 8 of the Zoning Ordinance with respect to nonconformities. If the house, therefore, is destroyed to an extent of greater than 50%, it would not be permitted to be reconstructed with nonconforming setbacks, lot area and lot width.
 - C. Regarding Part C of the proposed variance for a proposed detached garage with a reduced setback from the centerline of Olympian Road and a reduced front yard:
 - (1) The proposed detached garage would be built about 43 feet from the centerline of Olympian Road.
 - (2) The proposed extension and expansion of Olympian Road is planned to be constructed approximately 0.5 mile north of the existing alignment of Olympian Road east of Willow Road.

PRELIMINARY DRAFT

- (3) The 1961 Paul Lytle survey shows a 20 feet half right-of-way within the subject property front property line, which extends to the centerline of Olympian Road.
- (4) The 2005 Fitsimmons Subdivision Final Plat indicates 20 feet of Olympian Road right of way within the subject property.
- (5) An email received May 16, 2016, from Jeff Blue, Champaign County Highway Engineer, indicates that the current right of way for this part of Olympian Road is 42 feet (21 feet from street centerline).
- (6) An email received May 18, 2016, from Bill Gray, Public Works Director for the City of Urbana, indicated that the City desires to maintain a 60 feet total right of way on this part of Olympian Road.
 - a. The proposed variance for a front yard of 13 feet in lieu of 30 feet and setback of 43 feet in lieu of 55 feet from street centerline takes into account that the City might need another 9 feet of right-of-way from the subject property in addition to the existing 21 feet half right-of-way.
 - b. If and when the City of Urbana decides to improve Olympian Road adjacent to the subject property, it is not clear if the City would secure any part of the desired 60 feet of right-of-way from the subject property, or if it would secure more from the north side of the road.
 - c. Until the City of Urbana secures the desired 60 feet of right of way at this part of Olympian Road, there will be 22 feet between the front of the proposed garage and the existing 21 feet half right-of-way.

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, **“I have had some damage to both vehicles currently owned. I have had to make insurance claims due to damage from limbs and from bird droppings regarding the paint. Due to the location of the well and septic there is no other location.”**
 - B. Regarding Part A of the proposed variance, for a minimum lot size of 12,800 square feet in lieu of 30,000 square feet: without the proposed variance, the lot would continue to be an illegal lot, which would not allow the proposed garage to be constructed, nor would it allow the existing dwelling to be reconstructed if necessary.
 - C. Regarding Part B of the proposed variance for a minimum lot width of 80 feet in lieu of 150 feet: without the proposed variance, the lot would continue to be an illegal lot, which would not allow the proposed garage to be constructed, nor would it allow the existing dwelling to be reconstructed if necessary.

PRELIMINARY DRAFT

- D. Regarding Part C of the proposed variance, for a minimum setback from the centerline of a minor street for an accessory structure of 43 feet in lieu of 55 feet: without the proposed variance, the Petitioner would not be able to build the garage due to limitations with the septic field and other structures.

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, **“No.”**
- B. The Petitioner purchased the subject property in October 2001.
- (1) The property is a portion of “Lot B”, one of the two lots shown in the Paul Lytle survey recorded August 15, 1961.
 - (2) The residence was built prior to 1973.
 - (3) A Warranty Deed signed July 30, 1974 and recorded March 23, 1977, includes a legal description for the subject property that describes it as Lot B of the 1961 Paul Lytle survey except the east 85.5 feet thereof; no other recorded document was found regarding the creation of the subject property lot.
 - (4) The Petitioner installed a new septic system that was approved by the Illinois Department of Public Health on June 12, 2013. The permit application was received by the Champaign County Public Health Department on April 30, 2013.

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, **“It will add to the overall aesthetic of the current neighborhood as well as work to raise the overall value. Detached garages are allowed in my zone.”**
- B. Regarding Part A of the proposed variance, for a minimum lot size of 12,800 square feet in lieu of 30,000 square feet: the requested variance is 43% of the minimum required, for a variance of 57%.
- (1) As per a Warranty Deed recorded March 23, 1977 and a Mortgage Release from Champion Federal Savings and Loan recorded August 24, 1990, the subject property was created on a date unknown between December 28, 1973 and July 30, 1974. The Zoning Ordinance adopted on October 10, 1973 was thus in effect when the subject property was created.
 - a. Section 4.3.4 of the Zoning Ordinance dated October 10, 1973 states that a lot without public water supply system and without a public sanitary sewer shall not be less than 20,000 square feet in area.

PRELIMINARY DRAFT

- b. The subject property lot was created without seeking a variance for lot area. Since the property has not had a variance for this minimum requirement, it is still a lot that has not been lawfully created. Therefore, the relevant minimum requirements for lot area are found in Section 4.3.4 under lots that were created after September 21, 1993: lots without a public water supply or public sanitary sewer must be at least 30,000 square feet in area.
- C. Regarding Part B of the proposed variance for a minimum lot width of 80 feet in lieu of 150 feet: the requested variance is 53% of the minimum required, for a variance of 47%.
- (1) Section 5.3 of the Zoning Ordinance dated October 10, 1973 states the minimum lot width in the AG-2 Agriculture Zoning District as 100 feet.
 - (2) The subject property lot was created without seeking a variance for lot width. Since the property has not had a variance for this minimum requirement, it is still a lot that has not been lawfully created. Therefore, the relevant minimum requirements for lot width are found in Section 4.3.4 under lots that were created after September 21, 1993: lots without a public water supply or public sanitary sewer must have a lot width of at least 150 feet.
- D. Regarding Part C of the proposed variance, for a minimum setback from the centerline of a minor street for an accessory structure of 43 feet in lieu of 55 feet: the requested variance is 78% of the minimum required, for a variance of 22%.
- E. Regarding Parts A and B of the proposed variance for the minimum required lot area and minimum required average lot width:
- (1) Section 4.3.4 of the Zoning Ordinance dated October 10, 1973 states that a lot without public water supply system and without a public sanitary sewer shall not be less than 20,000 square feet in area and shall have an average lot width of 100 feet or more.
 - (2) The County reviewed the minimum lot area and minimum average lot width requirements in Case 847-AT-93. That case established the importance of accommodating onsite wastewater treatment on lots without connection to a sanitary sewer system. As amended, following Case 847-AT-93, the Ordinance requires a minimum lot area of 30,000 square feet minimum lot area and a minimum average width of 150 feet for lots created after 9/1/93 if there is no sanitary sewer and no public water supply. Further, if a connected public water supply system is available, Paragraph 4.3.4.B. only requires a minimum lot area of 20,000 square feet and a minimum average lot width of 100 feet.
 - (3) Besides the importance of accommodating onsite wastewater treatment and disposal as part of the basis for the minimum lot area and average lot width requirement, other considerations are as follows:
 - (a) Adequate light and air: The subject property has an existing single family home and a detached shed. There are single family residences surrounding the property on all sides.

- (b) Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time. The subject property is within the Carroll Fire Protection District and the station is approximately 4 road miles from the subject property.
 - (c) Aesthetics may also play a part in the minimum lot area requirement.
- F. Regarding Part C of the proposed Variance, the Zoning Ordinance does not clearly state the considerations that underlie the minimum setback requirements and front yard requirements. Presumably the setback from street centerline and front yard minimum is intended to ensure the following:
- (1) Adequate separation from roads.
 - (2) Allow adequate area for road expansion and right-of-way acquisition.
 - (3) Parking, where applicable.
 - (4) It is unlikely that Olympian Road adjacent to the subject property will be widened, because plans for extending Olympian Road between Lincoln Avenue and US Route 45 North call for a new alignment approximately 0.5 mile north of the current Olympian Road. Nonetheless, there are some instances when Olympian Road adjacent to the subject property may be widened and a special condition has been proposed to prohibit parking in front of the garage if there is less than 20 feet to the right of way.

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: **“There are no factors. It will not obstruct the view from any traffic and there are trees and shrubbery closer to the property line than the garage would be.”**
 - B. The following comments were received from 2 neighbors regarding the proposed variance:
 - (1) On June 6, 2016, one neighbor stated that they object to the proposed variance because if they allow the less restrictive measurements for this case, the same could happen anywhere in the County. They stated that the rules are made for a reason. They also believe that property values in the neighborhood have been negatively impacted by owners not following the Zoning Ordinance.
 - (2) On June 8, 2016, staff received an email from Marian Stone, 803 East Olympian Road, Urbana, which indicates strong support for the variance request.

PRELIMINARY DRAFT

- C. An email received May 16, 2016, from Jeff Blue, Champaign County Highway Engineer, indicates that the current right of way for this part of Olympian Road is 42 feet (21 feet from street centerline).
- D. An email received May 18, 2016, from Bill Gray, Public Works Director for the City of Urbana, indicated that the City desires to maintain a 60 feet right of way on this part of Olympian Road.
 - (1) The proposed variance for a front yard of 13 feet in lieu of 30 feet and setback of 43 feet in lieu of 55 feet from street centerline takes into account that the City might need another 9 feet of right-of-way from the subject property in addition to the existing 21 feet half right-of-way.
 - (2) If and when the City of Urbana decides to improve Olympian Road adjacent to the subject property, it is not clear if the City would secure any part of the desired 60 feet of right-of-way from the subject property, or if it would secure more from the north side of the road.
 - (3) Until the City of Urbana secures the desired 60 feet of right of way at this part of Olympian Road, there will be 22 feet between the front of the proposed garage and the existing 21 feet half right-of-way.
- E. The Township Road Commissioner has been notified of this variance but no comments have been received.
- F. The Carroll Fire Protection District has been notified of this variance but no comments have been received.
- G. The nearest structure on adjacent property to the proposed garage is a garage about 35 feet away on the property to the west.

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: **“My home is not in the variance. It would line up with the detached garage on the adjacent property. The road receives no more traffic than other roads of similar type.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 13. Regarding proposed special conditions of approval:
 - A. **Within 30 days of Final Action of Case 832-V-16, the petitioners shall file a miscellaneous document with the Champaign County Recorder of Deeds that documents the following:**
 - (1) **A Variance was granted in Zoning Case 832-V-16 to authorize the use of an existing lot that is the west 80 feet of “Lot B” of the Paul Lytle Survey recorded in Book 678 at Page 553 in the Northwest Quarter of the Northwest Quarter of Section 33 in Somer Township, commonly known as the residence at 707 E Olympian Road, Urbana, PIN #25-15-33-100-015.**

- (2) **Because of the size of the existing lot, there are concerns whether a replacement wastewater (septic) system can be installed on the lot in the future.**
- (3) **Any new wastewater (septic) system will need to be authorized by the Champaign County Health Department.**
- (4) **For further information interested parties should contact the Champaign County Department of Planning and Zoning.**

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

That potential buyers of the property are aware of how the lot was created and the possible limitations regarding the replacement of wastewater systems on the property.

- B. No parking will be allowed in front of the garage when there is less than 20 feet of separation between the garage and the Olympian Road right-of-way.**

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

That public safety is prioritized in zoning case decisions.

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DOCUMENTS OF RECORD

1. Variance Application received on March 7, 2016, with attachment:
 - A Site Plan received March 7, 2016
2. Paul Lytle Survey recorded August 15, 1961
3. Fitsimmons Subdivision Final Plat recorded March 8, 2005
4. Mortgage Release from Champion Federal Savings and Loan recorded August 13, 1990
5. Warranty Deed for Robert and Nancy Good recorded March 23, 1977
6. Case 207-V-99 Summary of Evidence, Finding of Fact, and Final Determination, approved November 4, 1999
7. Site Plan from Champaign County Public Health Department Septic System Application received by CUPHD on April 30, 2013
8. Email from Jeff Blue, Champaign County Highway Engineer, received May 16, 2016
9. Email from Bill Gray, Public Works Director, City of Urbana, received May 18, 2016
10. Email from Marian Stone, 803 East Olympian Road, Urbana, received June 8, 2016
11. Preliminary Memorandum dated June 9, 2016 with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received March 7, 2016
 - C 2014 Aerial Photo
 - D Paul Lytle Survey recorded August 15, 1961
 - E Fitsimmons Subdivision Final Plat recorded March 8, 2005
 - F Mortgage Release from Champion Federal Savings and Loan recorded August 13, 1990
 - G Warranty Deed for Robert and Nancy Good recorded March 23, 1977
 - H Case 207-V-99 (Robert and Nancy Good) Summary of Evidence, Finding of Fact, and Final Determination, approved November 4, 1999
 - I Excerpt from City of Urbana Functional Classification Map 2016
 - J Site Plan from Champaign County Public Health Department Septic System Application received by CUPHD on April 30, 2013
 - K Images of Subject Property taken May 12, 2016
 - L Email from Jeff Blue, Champaign County Highway Engineer, received May 16, 2016
 - M Email from Bill Gray, Public Works Director, City of Urbana, received May 18, 2016
 - N Email from Marian Stone, 803 East Olympian Road, Urbana, received June 8, 2016
 - O 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 **832-V-16** held on **June 16, 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:}***

A. Within 30 days of Final Action of Case 832-V-16, the petitioner shall file a miscellaneous document with the Champaign County Recorder of Deeds that documents the following:

- (1) **A Variance was granted in Zoning Case 832-V-16 to authorize the use of an existing lot that is the west 80 feet of “Lot B” of the Paul Lytle Survey recorded in Book 678 at Page 553 in the Northwest Quarter of the Northwest Quarter of Section 33 in Somer Township, commonly known as the residence at 707 E Olympian Road, Urbana, PIN #25-15-33-100-015.**
- (2) **Because of the size of the existing lot, there are concerns whether a replacement wastewater (septic) system can be installed on the lot in the future.**
- (3) **Any new wastewater (septic) system will need to be authorized by the Champaign County Health Department.**
- (4) **For further information interested parties should contact the Champaign County Department of Planning and Zoning.**

PRELIMINARY DRAFT

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

That potential buyers of the property are aware of how the lot was created and the possible limitations regarding the replacement of wastewater systems on the property.

- B. No parking will be allowed in front of the garage when there is less than 20 feet of separation between the garage and the Olympic Road right-of-way.**

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

That public safety is prioritized in zoning case decisions.

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 **832-V-16** are hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner **Christopher Schultz** to authorize the following variance in the AG-2 Agriculture Zoning District:

Part A: A detached garage with a setback of 43 feet in lieu of the minimum required 55 feet from the centerline of a minor road.

Part B: A minimum lot size of 12,800 square feet in lieu of the minimum required lot size of 30,000 square feet.

Part C: A minimum lot width of 80 feet in lieu of the minimum required lot width of 150 feet.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A. Within 30 days of Final Action of Case 832-V-16, the petitioners shall file a miscellaneous document with the Champaign County Recorder of Deeds that documents the following:**
- (1) A Variance was granted in Zoning Case 832-V-16 to authorize the use of an existing lot that is the west 80 feet of “Lot B” of the Paul Lytle Survey recorded in Book 678 at Page 553 in the Northwest Quarter of the Northwest Quarter of Section 33 in Somer Township, commonly known as the residence at 707 E Olympian Road, Urbana, PIN #25-15-33-100-015.**
 - (2) Because of the size of the existing lot, there are concerns whether a replacement wastewater (septic) system can be installed on the lot in the future.**
 - (3) Any new wastewater (septic) system will need to be authorized by the Champaign County Health Department.**
 - (4) For further information interested parties should contact the Champaign County Department of Planning and Zoning.**

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

That potential buyers of the property are aware of how the lot was created and the possible limitations regarding the replacement of wastewater systems on the property.

- B. No parking will be allowed in front of the garage when there is less than 20 feet of separation between the garage and the Olympian Road right-of-way.**

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

That public safety is prioritized in zoning case decisions.

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