# Champaign County

Department of PLANNING & ZONING

# CASE NO. 891-V-17

PRELIMINARY MEMORANDUM February 7, 2018

Petitioner: Jesse Rednour

Request: Authorize the following variance from the Champaign County Zoning Ordinance in the AG-1 Agriculture Zoning District:

Part A: Authorize the construction and use of an <u>existing detached</u> <u>garage</u> with a side yard of 8 feet in lieu of the minimum required 10 feet, per Section 7.2.1 B. of the Zoning Ordinance.

Part B: Authorize the construction and use of <u>an addition to an</u> <u>existing detached garage</u> with a side yard of 8 feet in lieu of the minimum required 10 feet, per Section 7.2.1 B. of the Zoning Ordinance.

Subject Property: A 1.77 acre lot that is part of Lots 2 and 3 of a subdivision of part of the east half of Section 36, more specifically in the Northeast Quarter of the Northeast Quarter of Section 36, Township 18 North, Range 7 East of the Third Principal Meridian, in Colfax Township and commonly known as the residence at 589 CR 700N, Sadorus.

Site Area: 77,101 square feet (1.77 acres)

Time Schedule for Development: As soon as possible

Prepared by: Susan Burgstrom Senior Planner

> John Hall Zoning Administrator

# BACKGROUND

The Petitioner requests a variance to add on to an existing detached garage that has a smaller side yard than the minimum required by ordinance. The garage was constructed by a previous owner, evidently without a permit, sometime between 2003 and 2005.

# EXTRATERRITORIAL JURISDICTION

The subject property is not within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

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

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

(217) 384-3708 zoningdept@co.champaign.il.us www.co.champaign.il.us/zoning

Table 1. Land Use and Zoning in the Vicinity		
Direction	Land Use	Zoning
Onsite	Single Family Residence	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Single Family Residence	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
South	Single Family Residence	AG-1 Agriculture

#### **EXISTING LAND USE AND ZONING**

#### **PROPOSED SPECIAL CONDITION**

A. The petitioner shall include the unauthorized existing detached garage in the Zoning Use Permit Application for the addition and pay associated permit fees for both the existing garage and the addition.

The special condition stated above is to ensure the following: That all structures on the subject property have the required Zoning Use Permits.

#### ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site plan drawn on aerial photo received November 14, 2017
- C Depictions of proposed addition received November 14, 2017
- D Boundary Survey by BCA dated November 15, 2002, and recorded November 21, 2002
- E Images of Subject Property taken January 9, 2018
- F Summary of Evidence, Finding of Fact, and Final Determination dated February 15, 2018

# **Location Map**

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#### **Property location in Champaign County**





## Legend

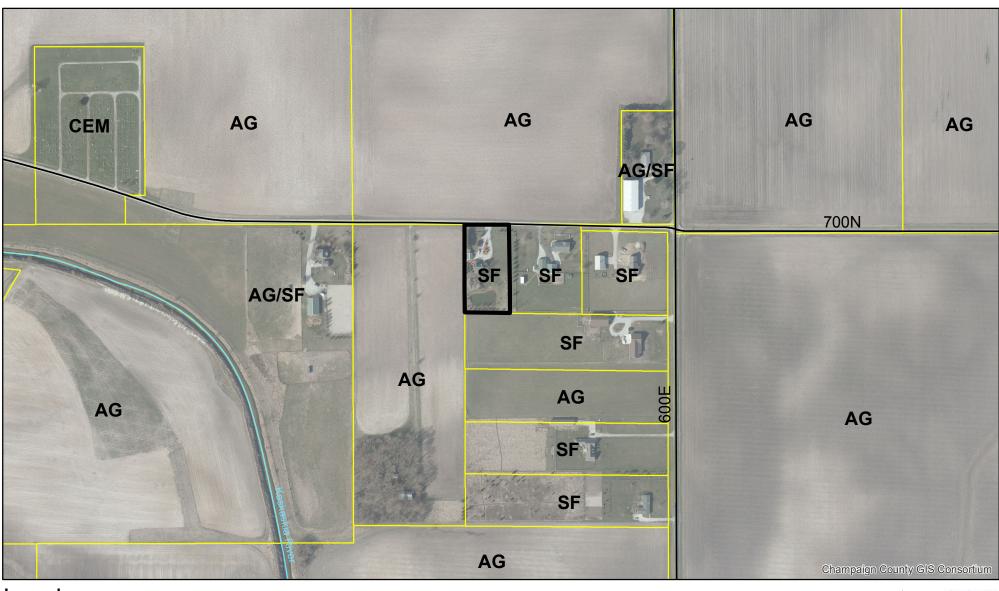
Subject Property Streams Parcels

Municipal Boundary

Railroads

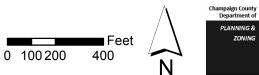
# Land Use Map

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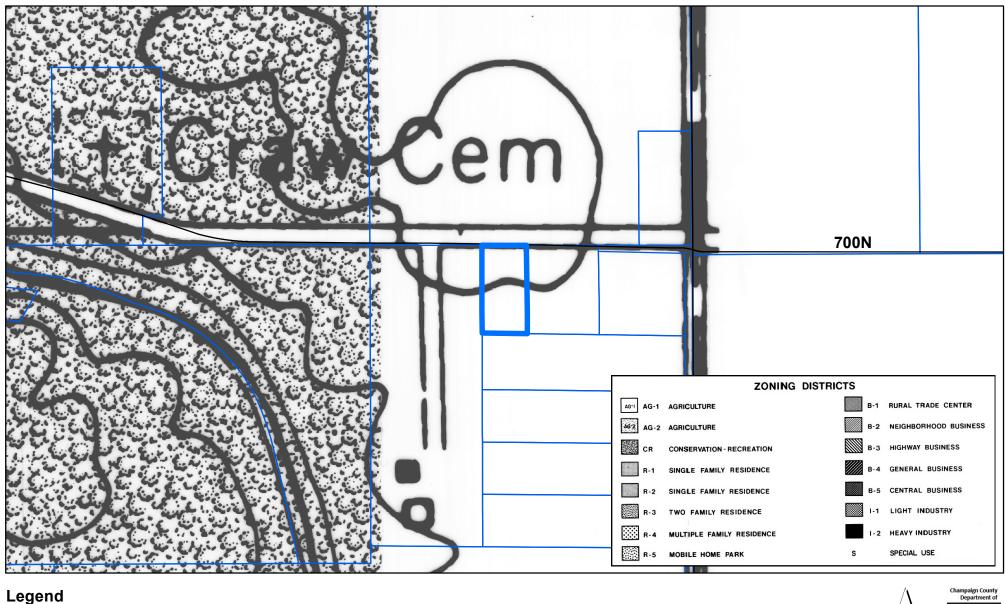


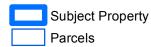




# **Zoning Map**

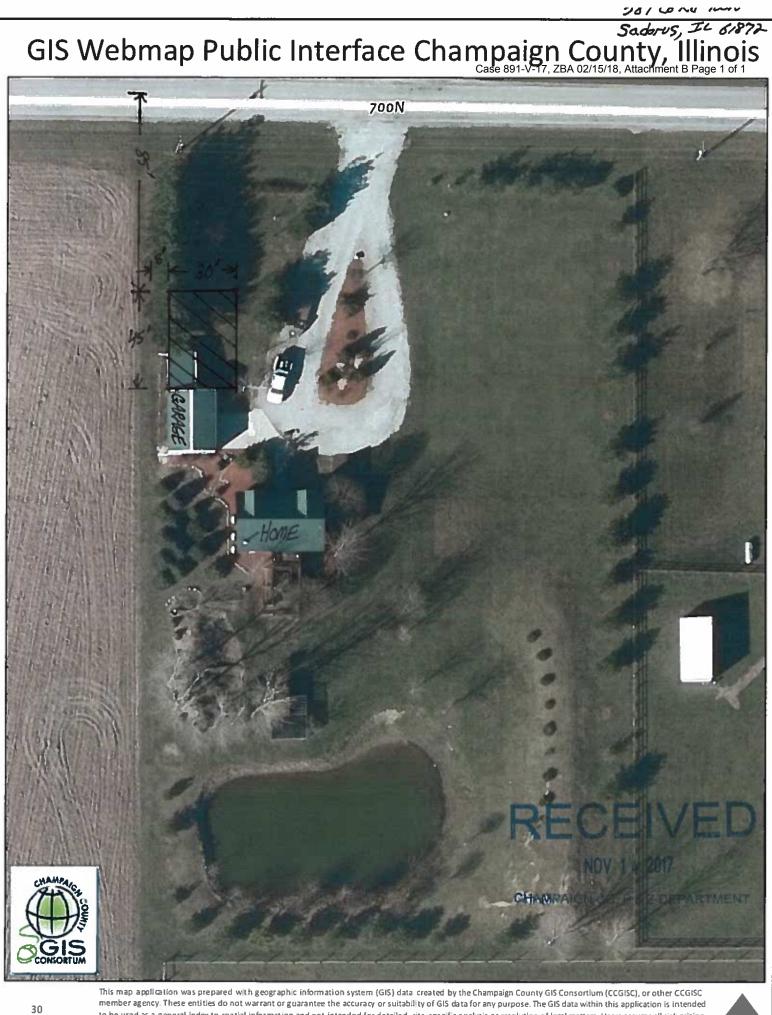
Case 891-V-17 February 15, 2018





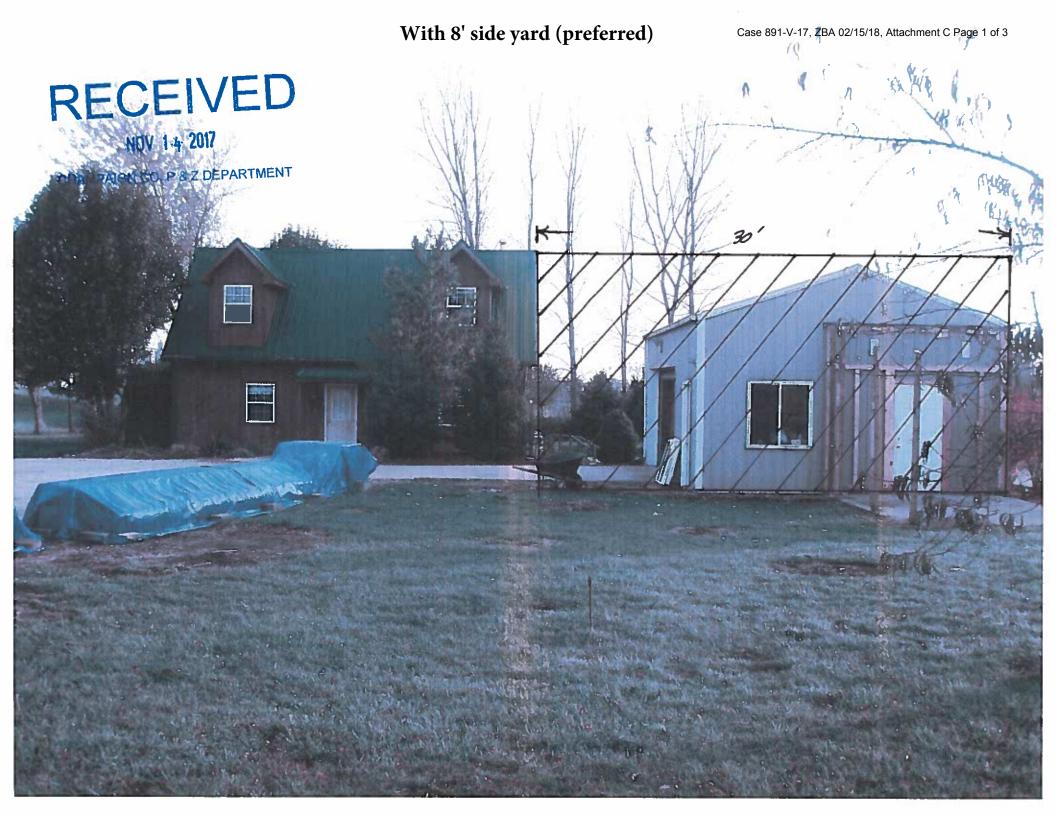
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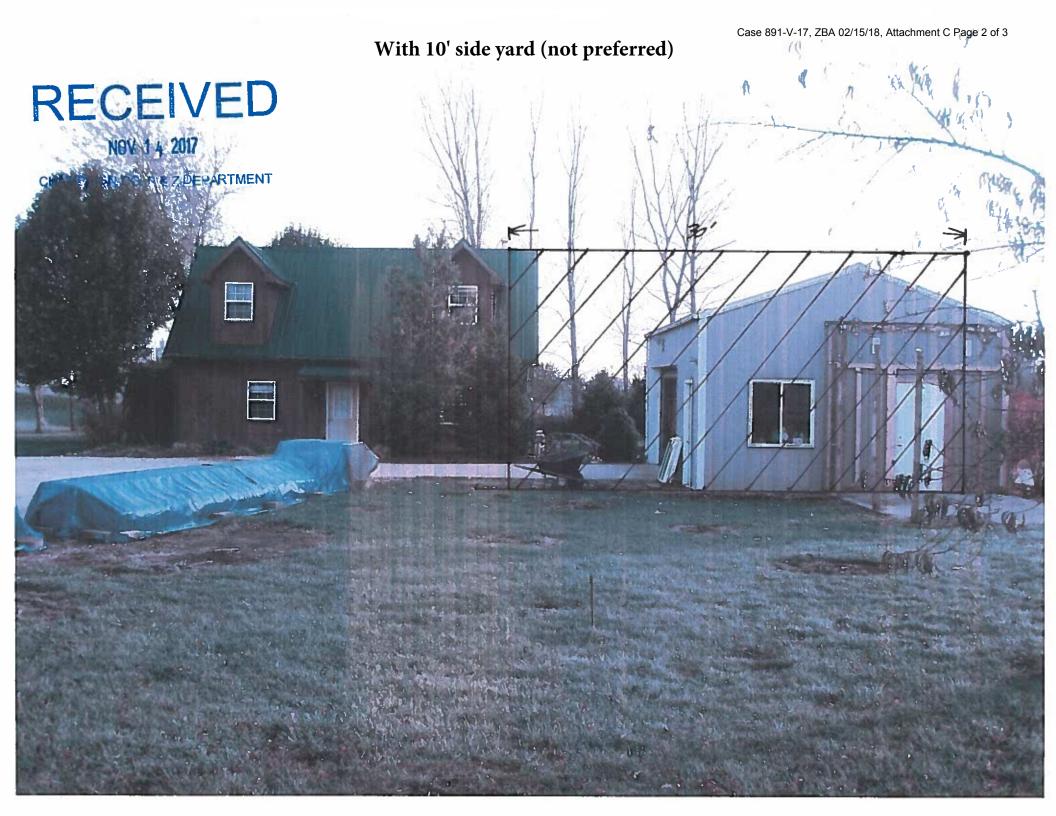


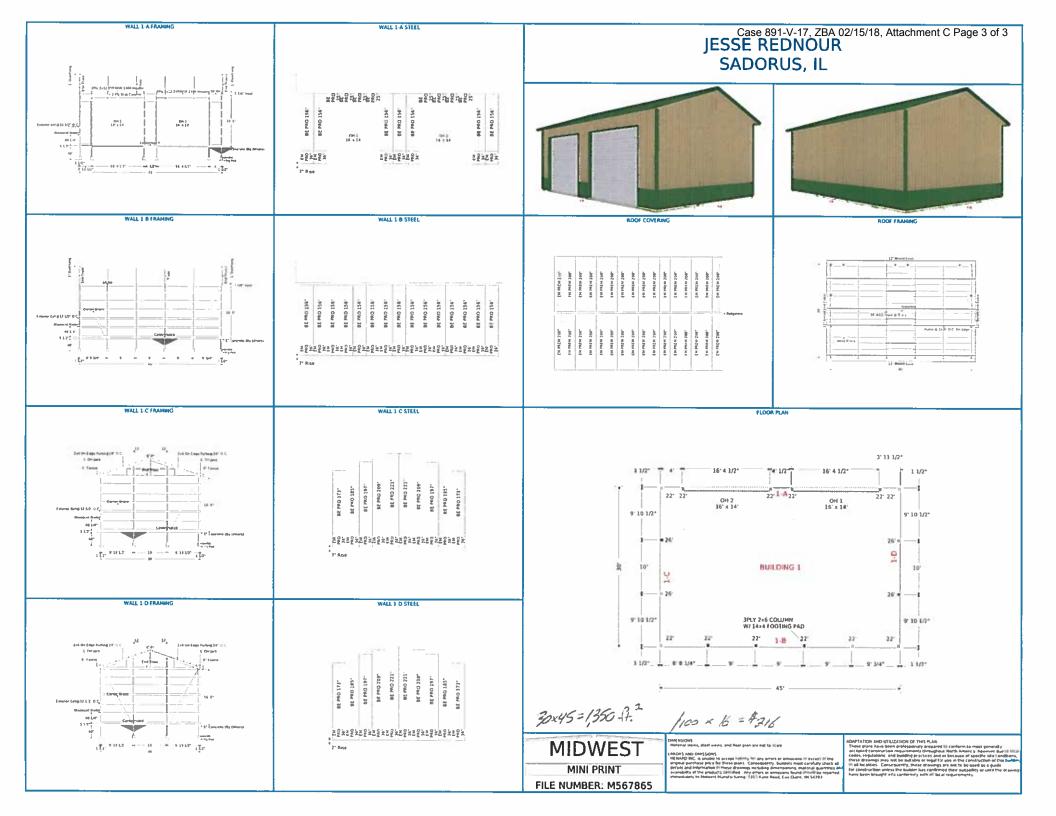


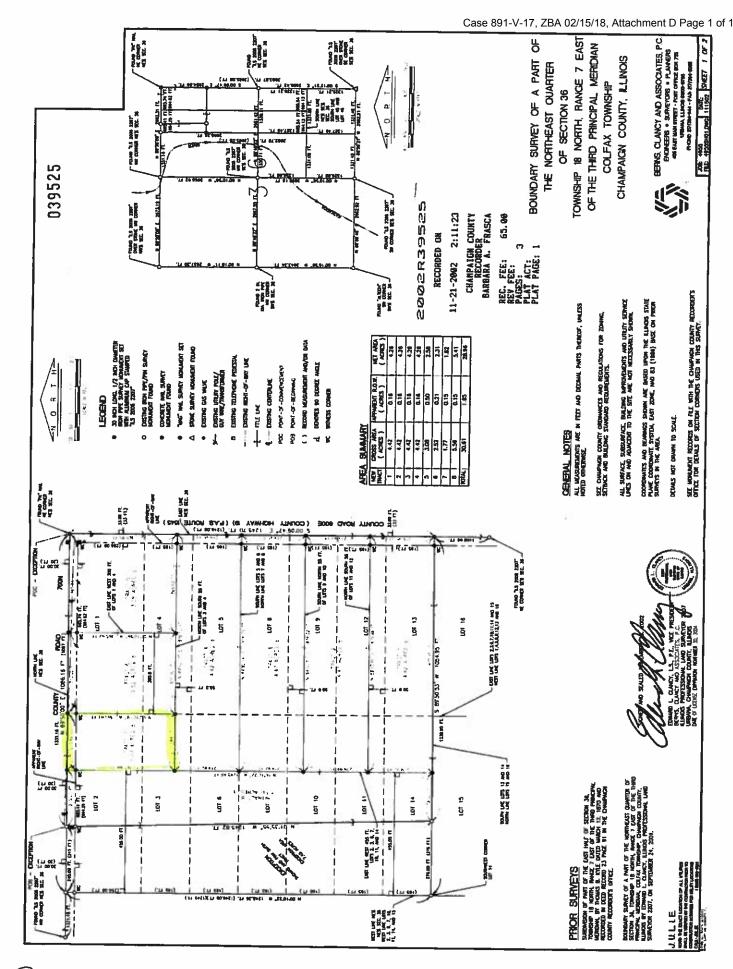
member agency. These entities do not warrant or guarantee the accuracy or suitability of GIS data for any purpose. The GIS data within this application is intended to be used as a general index to spatial information and not intended for detailed, site-specific analysis or resolution of legal matters. Users assume all risk arising Feet from the use or misuse of this application and information contained herein. The use of this application constitutes acknowledgement of this disclaimer.











# 891-V-17 Site Images



Existing garage with framing from former shed



# Existing garage along west property line

#### 891-V-17

#### 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:	{February 15, 2018}	
Petitioner:	Jesse Rednour	
Request:	Authorize the following variance from the Champaign County Zoning Ordinance in the AG-1 Agriculture Zoning District:	
	Part A: Authorize the construction and use of an <u>existing detached</u> <u>garage</u> with a side yard of 8 feet in lieu of the minimum required 10 feet, per Section 7.2.1 B. of the Zoning Ordinance.	
	Part B: Authorize the construction and use of <u>an addition to an</u> <u>existing detached garage</u> with a side yard of 8 feet in lieu of the minimum required 10 feet, per Section 7.2.1 B. 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 **February 15, 2018,** the Zoning Board of Appeals of Champaign County finds that:

- 1. Petitioner Jesse Rednour owns the subject property.
- 2. The subject property is a 1.77 acre lot that is part of Lots 2 and 3 of a subdivision of the Northeast Quarter of the Northeast Quarter of Section 36, Township 18 North, Range 7 East of the Third Principal Meridian, in Colfax Township and commonly known as the residence at 589 CR 700N, Sadorus.
- 3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
  - A. The subject property is not within the one and one-half mile extraterritorial jurisdiction of 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 in Colfax 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 are as follows:
  - A. The subject property is a currently zoned AG-1 Agriculture and is in use as a single family residence.
  - B. Land to the north and west is zoned AG-1 Agriculture and is in agricultural production.
  - C. Land to the east and south is zoned AG-1 Agriculture and is in use as single family residential.

#### GENERALLY REGARDING THE PROPOSED SITE PLAN

- 5. Regarding the site plan for the subject property:
  - A. The Petitioner's Site Plan received November 14, 2017, indicates the following:
    - (1) Existing buildings include:
      - a. One 24 feet by 36 feet (864 square feet) residence; and
      - b. One 20 feet by 24 feet (480 square feet) detached garage.
        - (a) No permit was found for the detached garage, which was constructed sometime between 2003 and 2005.
    - (2) The petitioner proposes a 30 feet by 45 feet (1,350 square feet) addition to the north side of the garage.
  - B. The following are previous Zoning Use Permits for the subject property:
    - ZUPA #45-03-01 was approved on February 14, 2003, to construct a single family home with attached garage. A Zoning Compliance Certificate was signed on September 19, 2003.
  - C. There are no prior zoning cases for the subject property.

- D. The required variance is as follows:
  - (1) Part A: Authorize the construction and use of an existing detached garage with a side yard of 8 feet in lieu of the minimum required 10 feet, per Section 7.2.1 B. of the Zoning Ordinance.
  - (2) Part B: Authorize the construction and use of an addition to an existing detached garage with a side yard of 8 feet in lieu of the minimum required 10 feet, per Section 7.2.1 B. of the Zoning Ordinance.

#### 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) "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.
    - "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 LINES" are the lines bounding a LOT.
    - (6) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
    - (7) "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.
    - (8) "STRUCTURE, DETACHED" is a STRUCTURE not connected to another STRUCTURE.
    - (9) "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.

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- (10) "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.
- (11) "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.
- (12) "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-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURE pursuits.
- 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:
    - 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. Minimum SIDE YARD for an accessory structure in the AG-1 Agriculture District is established in Section 7.2.1.B. 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, "I would like to attach addition to existing structure, keeping the back all flush with existing structure."
  - B. The detached garage the petitioner would like to add on to was constructed by a previous owner, evidently without a permit, approximately 8 feet from the west property line.
  - C. Staff visited the site on January 9, 2018, and measured the side yard of the existing garage to be 8 feet, which is the same measurement the petitioner found.
  - D. The petitioner purchased the lot in May 2010.
  - E. The detached garage was constructed at some point between 2003 and 2005.

#### 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 would like to add on to existing structure to maintain a common structure. A decrease in size would make it unusable for working on my personal truck."
  - B. Regarding the proposed Variance: without the proposed variance, the existing detached garage would have to be moved at least 2 feet east, and the proposed structure would have to be constructed at least 2 feet east.

#### 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, "All existing structures were present when I purchased the property."
  - B. A Boundary Survey was created by Berns, Clancy and Associates on November 15, 2002, and recorded November 21, 2002. There are iron pipe survey monuments at each corner of the subject property.

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

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:

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- A. The Petitioner has testified on the application, "There are no adjacent houses or buildings to conflict with. Adding on to existing structure is the best use of the space."
- B. Regarding the proposed Variance for an accessory building with a side yard of 8 feet in lieu of the minimum required 10 feet in the AG-1 Agriculture District: the requested variance is 80% of the minimum required, for a variance of 20%.
- C. Regarding the proposed Variance, the Zoning Ordinance does not clearly state the considerations that underlie the side yard requirements. In general, the side 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 Sadorus Fire Protection District and the station is approximately 1 road mile from the subject property. The nearest structure to the detached garage on adjacent property is the residence to the east of the subject property that is approximately 260 feet away.
  - (3) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.

# 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: "Addition does not affect traffic flow. There is no adjacent neighbor structures. Addition does not affect drive view."
  - B. The Township Road Commissioner has been notified of this variance but no comments have been received.
  - C. The Sadorus Fire Protection District has been notified of this variance but no comments have been received.

#### GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

12. Generally regarding and other circumstances which justify the Variance:A. The Petitioner did not provide a response to this question on the application.

#### GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:

A. The petitioner shall include the unauthorized existing detached garage in the Zoning Use Permit Application for the addition and pay associated permit fees for both the existing garage and the addition.

The special condition stated above is to ensure the following:

That all structures on the subject property have the required Zoning Use Permits.

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#### **DOCUMENTS OF RECORD**

- 1. Variance Application received November 14, 2017, with attachments:
  - A Site plan drawn on aerial photo
  - B Depiction of the proposed addition with an 8 feet side yard
  - C Depiction of the proposed addition with a 10 feet side yard
  - D Floor plan
- 2. Preliminary Memorandum dated February 7, 2018, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site plan drawn on aerial photo received November 14, 2017
  - C Depictions of proposed addition received November 14, 2017
  - D Boundary Survey by BCA dated November 15, 2002, and recorded November 21, 2002
  - E Images of Subject Property taken January 9, 2018
  - F Summary of Evidence, Finding of Fact, and Final Determination dated February 15, 2018

#### FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **891-V-17** held on **February 15, 2018**, 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. The petitioner shall include the unauthorized existing detached garage in the Zoning Use Permit Application for the addition and pay associated permit fees for both the existing garage and the addition.

The special condition stated above is to ensure the following:

That all structures on the subject property have the required Zoning Use Permits.

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#### FINAL DETERMINATION

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

The Variance requested in Case **891-V-17** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner, **Jesse Rednour**, to authorize the following variance in the AG-1 Agriculture Zoning District:

Part A: Authorize the construction and use of an <u>existing detached garage</u> with a side yard of 8 feet in lieu of the minimum required 10 feet, per Section 7.2.1 B. of the Zoning Ordinance.

Part B: Authorize the construction and use of <u>an addition to an existing detached garage</u> with a side yard of 8 feet in lieu of the minimum required 10 feet, per Section 7.2.1 B. of the Zoning Ordinance.

#### *{SUBJECT TO THE FOLLOWING CONDITION(S):}*

A. The petitioner shall include the unauthorized existing detached garage in the Zoning Use Permit Application for the addition and pay associated permit fees for both the existing garage and the addition.

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

SIGNED:

Catherine Capel, Chair Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date