

CASE NO. 921-V-18

PRELIMINARY MEMORANDUM

January 10, 2019

Petitioners: **Stephen and Jennifer Roland**

Request: **Authorize a variance from the Zoning Ordinance on a property in the AG-1 Agriculture Zoning District:**

Part A: Authorize a variance for the separate use of an existing non-conforming lot that was in common ownership with adjacent property that has an average lot width of 161 feet in lieu of the required minimum 200 feet, and a lot area of 12,558 square feet (0.288 acre) in lieu of the minimum required 1 acre, per Section 5.3 of the Zoning Ordinance.

Part B: A variance for an existing non-conforming dwelling with a setback of 44 feet from the street centerline of East South Street in lieu of 55 feet, and a front yard of 16 feet in lieu of 25 feet, per Section 5.3 of the Zoning Ordinance; and

Part C: A variance for a garage addition to an existing non-conforming dwelling with a setback of 52 feet from the street centerline of East South Street in lieu of 55 feet, and a front yard of 24 feet in lieu of 25 feet, per Section 5.3 of the Zoning Ordinance; and

Part D: A variance for an existing non-conforming detached garage with a setback of 18 feet from the street centerline of East South Street in lieu of 55 feet, a front yard of 0 feet in lieu of 25 feet, and a side yard of 5 feet in lieu of 10 feet, per Section 7.2.1 of the Zoning Ordinance.

Subject Property: **A 12,558 square feet tract in the Northwest corner of the Southwest Quarter of Section 16, Township 19 North, Range 7 East of the Third Principal Meridian in Scott Township, and commonly known as the residence at 202 South Main Street, Seymour.**

Site Area: **0.29 acres**

Time Schedule for Development: **Already in use**

Prepared by: **Susan Burgstrom**
Senior Planner

John Hall
Zoning Administrator

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

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

BACKGROUND

The petitioners applied for Zoning Use Permit #289-15-02 to construct an attached garage addition to an existing single family home; the application was approved on October 28, 2015. Site review by P&Z Staff found that the finished construction did not have sufficient setback from the street centerline on South Street or sufficient front yard per the Zoning Ordinance minimum requirements. In a letter dated June 11, 2018, Zoning Officer Jamie Hitt explained that the garage addition would require a variance in order to receive a Zoning Compliance Certificate. In addition, she explained that the existing single family home with covered porch is even closer to the front property line than the garage addition; the house is legally non-conforming and can remain as is, since it existed prior to the adoption of the Zoning Ordinance on October 10, 1973. If the non-conforming residence is destroyed, however, it cannot be replaced without a variance for the front yard and setback.

Upon further review, P&Z Staff found that a detached garage needs a variance for the side yard, and the non-conforming lot of record needs a variance for average lot width and minimum lot area. While not required, the petitioners could include the other variances needed for the subject property and its structures with the variance for the garage addition so that everything could be brought into compliance at one time.

EXTRATERRITORIAL JURISDICTION

The subject property is not located within the one and one-half mile extraterritorial jurisdiction (ETJ) of 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 Scott Township, which does not have a Plan Commission. Township Plan Commissions have protest rights on a variance and are notified of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

| Direction | Land Use | Zoning |
|-----------|-------------|----------------------|
| Onsite | Residential | AG-1 Agriculture |
| North | Residential | R-2 Residential |
| East | Residential | R-1 Residential |
| West | Residential | B-4 General Business |
| South | Residential | R-1 Residential |

COMPLAINT RECEIVED REGARDING THE DETACHED GARAGE

A complaint has been received regarding the detached garage because it is within the road right of way and it impedes vision for the driveway to the east.

SPECIAL CONDITIONS

No special conditions are proposed at this time.

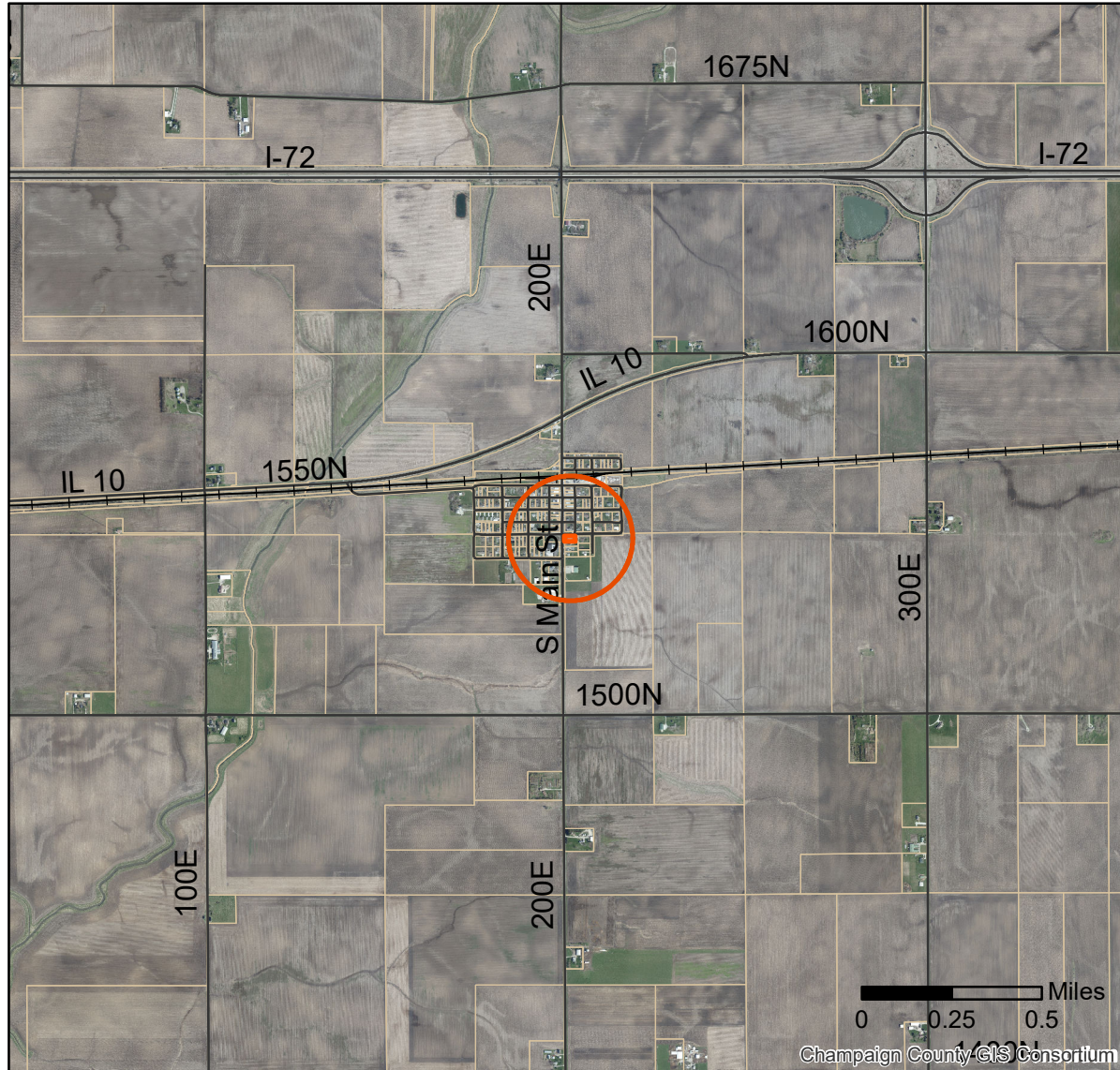
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received July 30, 2018
- C Photos submitted by petitioner with application on July 30, 2018 and others taken by P&Z Staff on July 19, 2017
- D Annotated aerial created by P&Z Staff dated January 8, 2019
- E Draft Summary of Evidence, Finding of Fact, and Final Determination dated January 17, 2019

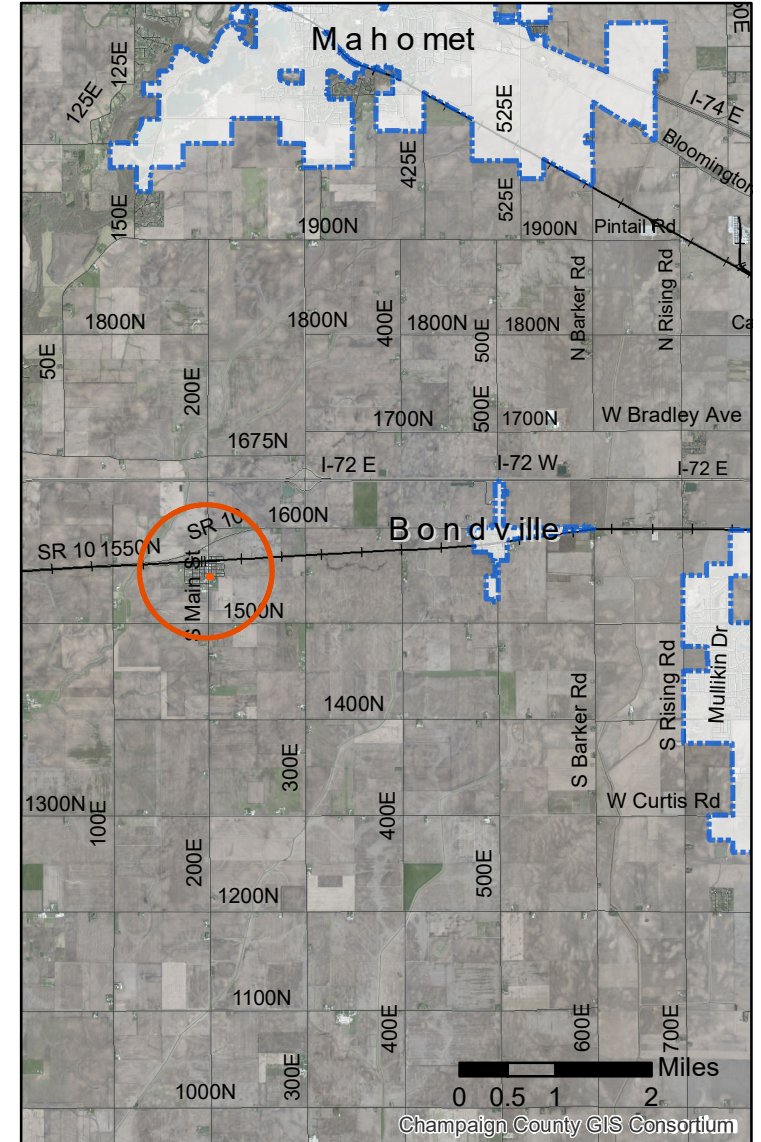
Location Map

Case 921-V-18
January 17, 2019



Subject Property



Property location in Champaign County



Legend

-  Subject Property
-  Parcels











Champaign County
Department of
**PLANNING &
ZONING**

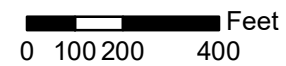
Land Use Map

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Legend

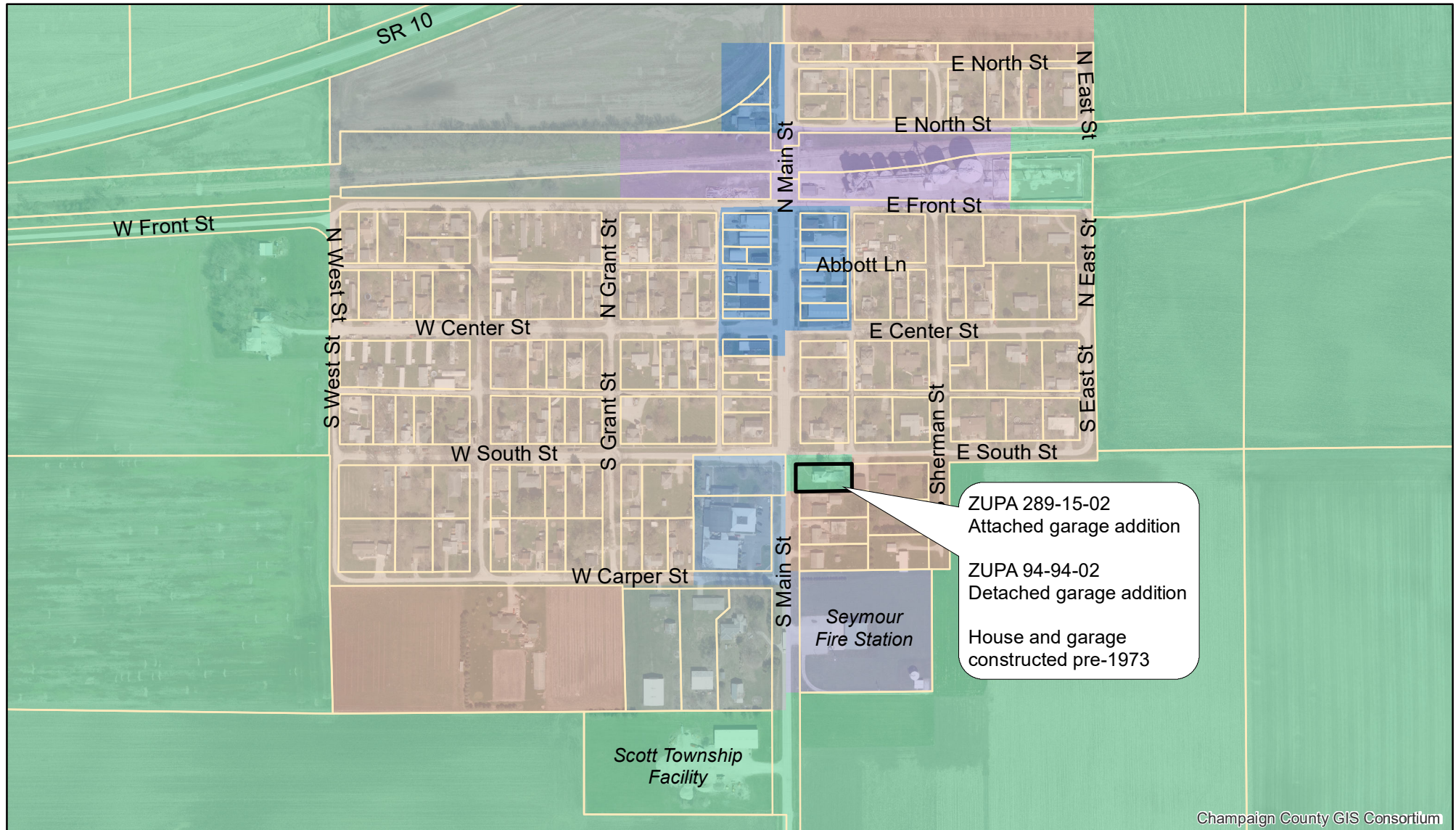
- | | | |
|---|--|---|
|  Subject Property |  Agriculture |  Commercial |
|  Parcels |  Ag/Residential |  Public Agency |
| |  Residential |  Utility |



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Zoning Map

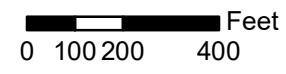
Case 921-V-18
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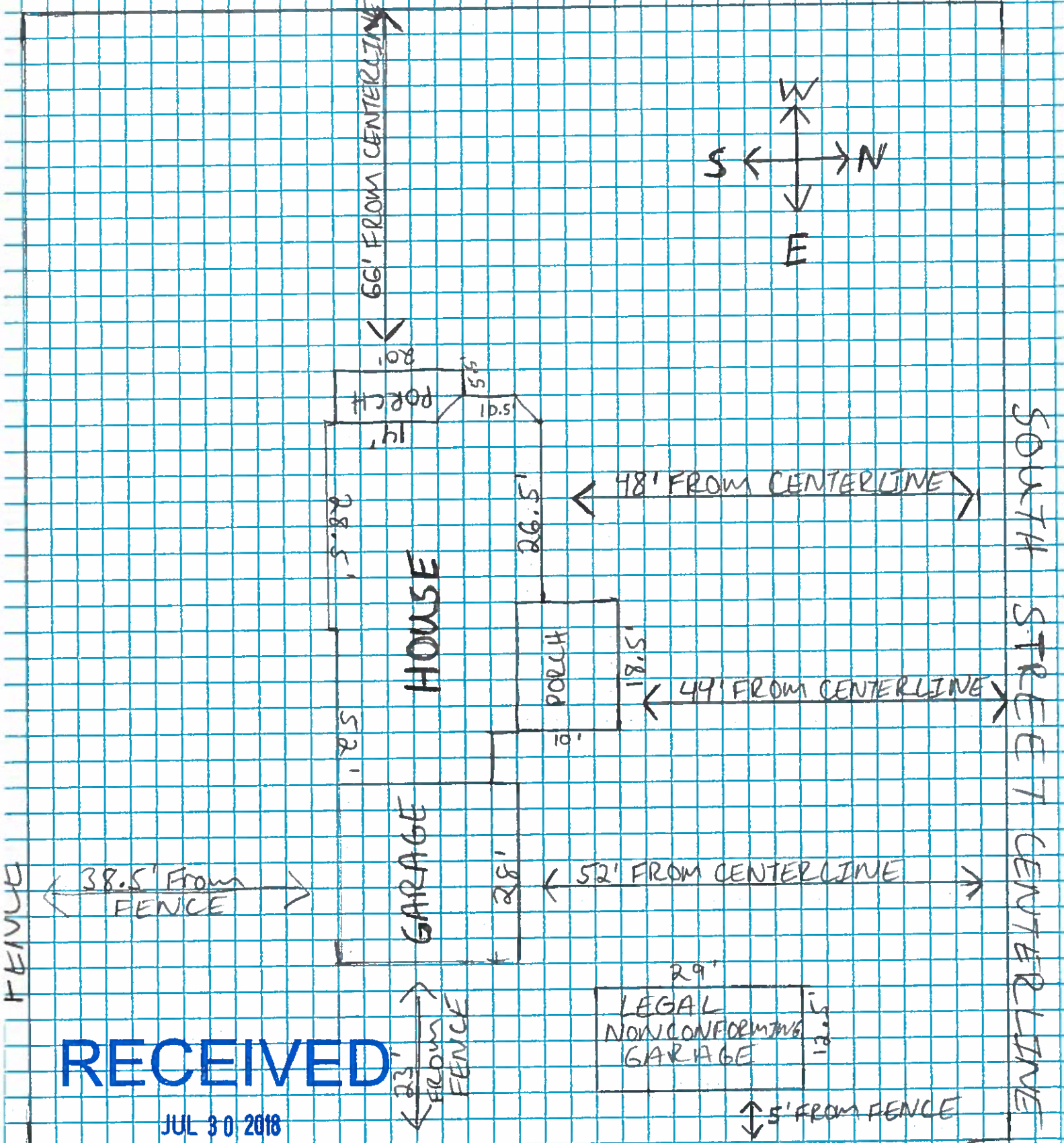
Champaign County GIS Consortium

Legend

- Subject Property
- AG-1
- B-2
- B-5
- R-1
- Parcels
- AG-2
- B-4
- I-1
- R-2



COUNTY ROAD 6 / 200 EAST / MAIN ST. CENTERLINE



RECEIVED

JUL 30 2018

CHAMPAIGN CO. P & Z DEPARTMENT

Question 10. Additional Exhibits:



View of the front of house on 202 South Main Street Seymour, Illinois 61875 from west side of the property along Main Street. House was built in 1887 sits 66 feet off County Road 6 also known as 200 East or Main Street.

RECEIVED

JUL 30 2018

CHAMPAIGN CO. P & Z DEPARTMENT



View from Northwest corner of property along County Road 6/200 East/Main Street. Can see legal nonconforming garage with olive green siding on Northeast corner of lot.

RECEIVED

JUL 30 2018

CHAMPAIGN CO. P & Z DEPARTMENT



View alongside of the house on front property line. House sits 48 feet from the centerline of South Street. Existing side porch sits 44 feet from the centerline of South Street.

RECEIVED

JUL 30 2018

CHAMPAIGN CO. P & Z DEPARTMENT



View from Northwest property line. View of other properties in area that are legal nonconforming and closer to minor road centerline.

RECEIVED

JUL 30 2018

CHAMPAIGN CO. P & Z DEPARTMENT

Attachment A



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JUL 30 2018

CHAMPAIGN CO. P & Z DEPARTMENT

View of the back southwest corner of the garage requesting variance to lessen setback from a minor road from 55 to 52 feet. View of area of the original cistern. Unable to move foundation of garage back 3 feet to meet setback ordinance due to potential structural issues with foundation due to cistern location. Unable to excavate cistern due to hardship to our family and existing land.



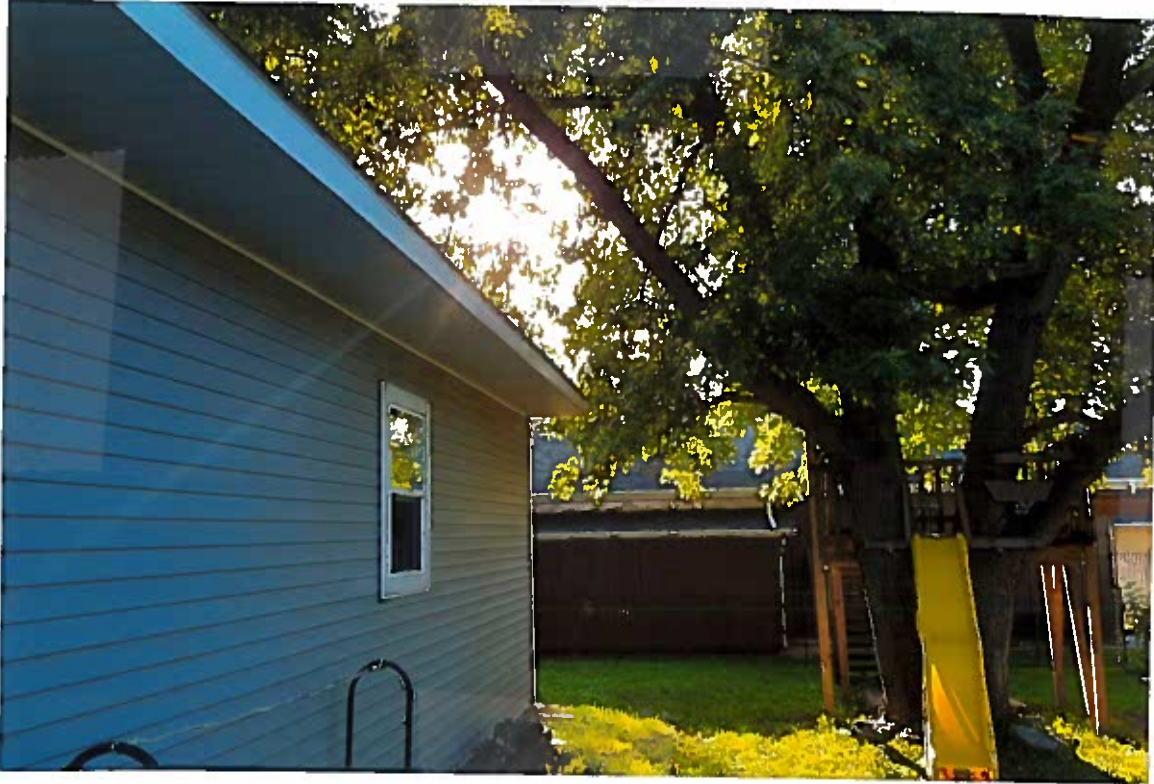
RECEIVED

JUL 30 2018

CHAMPAIGN CO. P & Z DEPARTMENT

View of Cistern along back of Southwest corner of garage requesting variance of setback ordinance.

Attachment B



View of existing tree located at the back southeast corner of garage. Moving foundation back 3 feet to meet the strict letter of regulation for the Zoning Ordinance, Section 5.3 Schedule of Area, Height and Placement Regulations by District, Front setback from street centerline of a Minor street would cause damage to the tree root ball.

RECEIVED

JUL 30 2018

CHAMPAIGN CO. P & Z DEPARTMENT

Attachment C



View along garage requesting variance request for setback distance from minor street. Clear view of triangle visibility of the corner of County Road 6/200 East/ Main and South Street. View of legal nonconforming house and porch.

RECEIVED

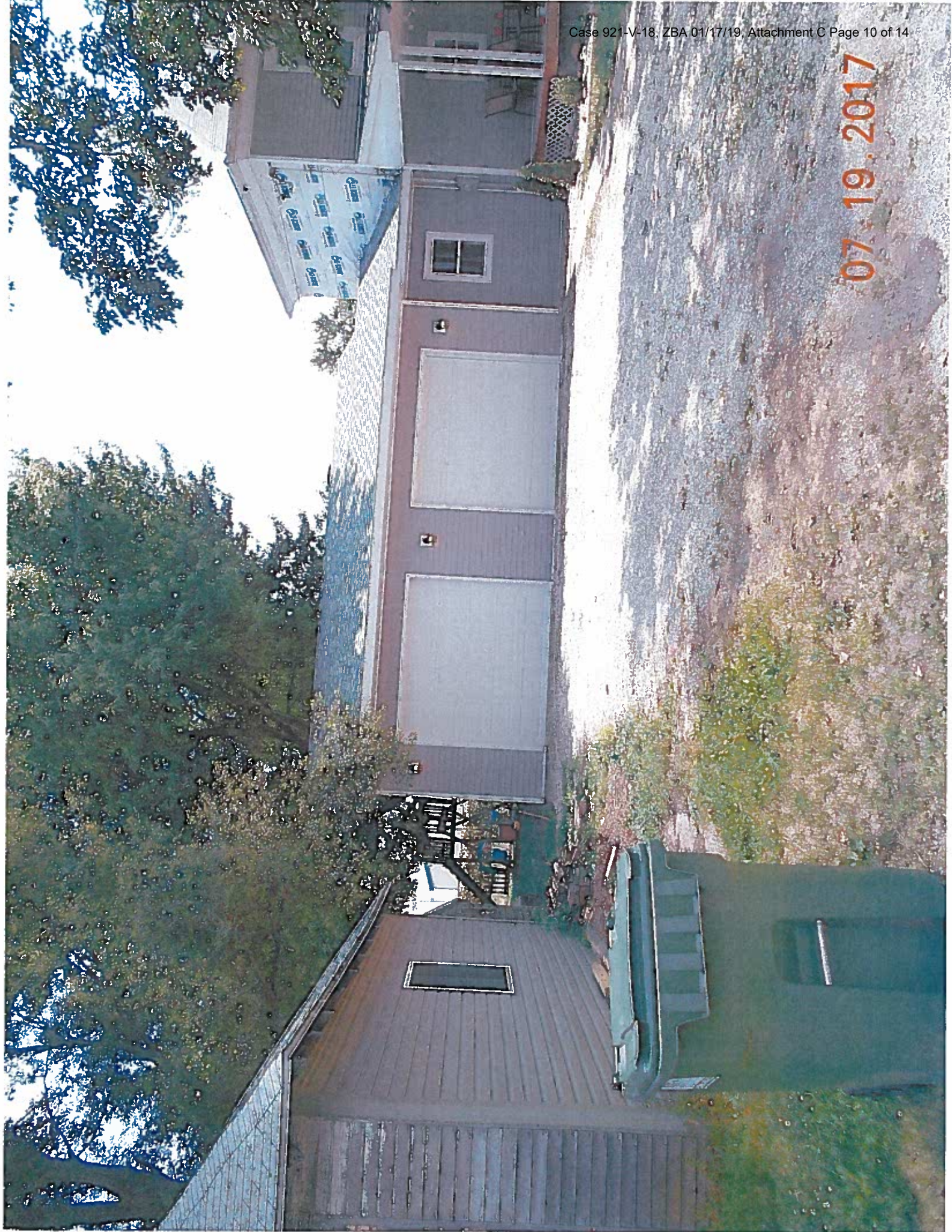
JUL 30 2018

CHAMPAIGN CO. P & Z DEPARTMENT

07.19.2017



07.19.2017



07-19-2017



07.19.2017





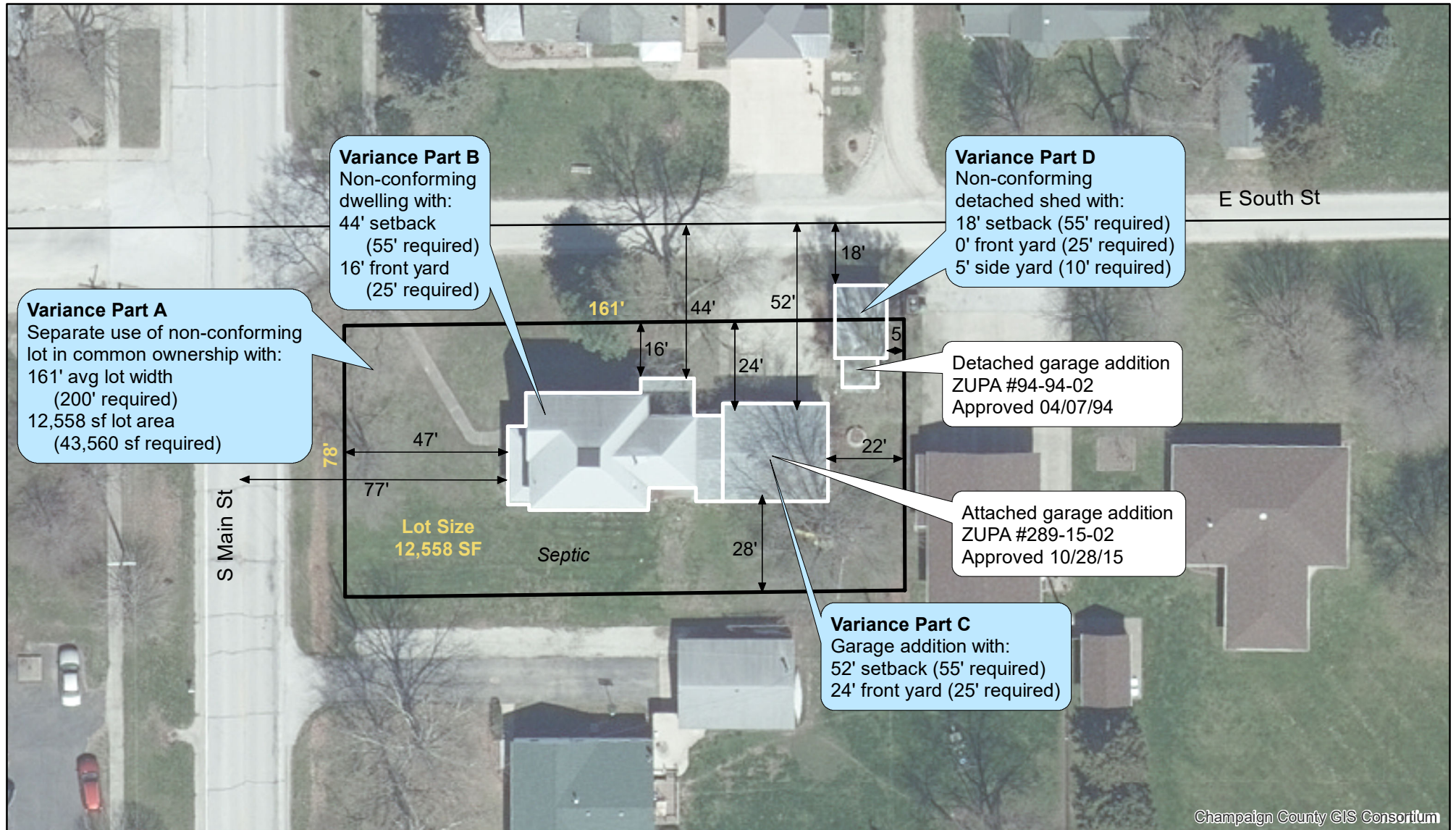
07.19.2017

07.19.2017



Annotated Aerial

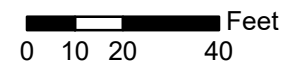
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Legend

 Subject Property

Note: Aerial photos do not exactly align with GIS property lines. Measurements shown are for illustrative purposes only and are the best approximation given available information from on-site measuring, surveys, and property legal descriptions.



PRELIMINARY DRAFT

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

Final Determination: ***{RECOMMEND APPROVAL / RECOMMEND DENIAL}***

Date: **January 17, 2018**

Petitioners: **Stephen and Jennifer Roland**

Request: **Authorize the following Variance in the AG-1 Agriculture Zoning District:**

Part A: Authorize a variance for the separate use of an existing non-conforming lot that was in common ownership with adjacent property that has an average lot width of 161 feet in lieu of the required minimum 200 feet, and a lot area of 12,558 square feet (0.288 acre) in lieu of the minimum required 1 acre, per Section 5.3 of the Zoning Ordinance.

Part B: A variance for an existing non-conforming dwelling with a setback of 44 feet from the street centerline of East South Street in lieu of 55 feet, and a front yard of 16 feet in lieu of 25 feet, per Section 5.3 of the Zoning Ordinance; and

Part C: A variance for a garage addition to an existing non-conforming dwelling with a setback of 52 feet from the street centerline of East South Street in lieu of 55 feet, and a front yard of 24 feet in lieu of 25 feet, per Section 5.3 of the Zoning Ordinance; and

Part D: A variance for an existing non-conforming detached garage with a setback of 18 feet from the street centerline of East South Street in lieu of 55 feet, a front yard of 0 feet in lieu of 25 feet, and a side yard of 5 feet in lieu of 10 feet, per Section 7.2.1 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 **January 17, 2019**, the Zoning Board of Appeals of Champaign County finds that:

1. Stephen and Jennifer Roland, 202 South Main Street, Seymour, own the subject property.
2. The subject property is a 12,558 square foot tract in the Northwest corner of the Southwest Quarter of Section 16, Township 19 North, Range 7 East of the Third Principal Meridian in Scott Township, and commonly known as the residence at 202 South Main Street, Seymour.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is not located within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning.
 - B. The subject property is located within Scott Township, which does not have a Plan Commission. Township 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 12,558 acre non-conforming lot of record and is currently zoned AG-1 Agriculture. Land use is a single family residence.
 - (1) The subject property was in common ownership with the lot to the south from 1978 through 2011.
 - B. Land to the north of the subject property is zoned R-2 Residential and is residential in use.
 - C. Land to the east and south of the subject property is zoned R-1 Residential and is residential in use.
 - D. Land to the west is zoned B-4 Business and is residential in use.
 - E. The property to the northwest is zoned R-2 Residential and is in use as a church.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Petitioner's Site Plan indicates the following existing and proposed features:
 - (1) Existing structures include:
 - a. One 2,352 square feet non-conforming residence with an attached garage; and
 - (a) An addition was constructed to the garage in under ZUPA #289-15-02 that resulted in the addition having a setback of 52 feet and a front yard of 22 feet in lieu of the minimum required 55 feet and 25 feet, respectively.
 - b. One detached non-conforming garage.
 - (a) An addition to the detached garage was constructed under ZUPA #94-94-02 approved October 28, 2015.

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- (2) No construction is proposed.
- B. The approved Site Plan from ZUPA #289-15-02 indicates the following:
- (1) The garage addition as proposed was to have a setback of 55 feet from the South Street centerline and a front yard of 26 feet.
- C. The following are Previous Zoning Use Permits for the subject property, which are also shown on the Annotated Site Map created by staff on January 8, 2019:
- (1) ZUPA #289-15-02 was approved on October 28, 2015, for the petitioner to construct a 24 feet by 28 feet garage addition to the existing non-conforming residence.
- (2) ZUPA #94-94-02 was approved on April 7, 1994, for a previous owner to construct an 8 feet by 10 feet addition to the existing non-conforming detached garage. A Zoning Compliance Certificate was issued on April 7, 1994.
- (3) The house and detached garage were constructed prior to the adoption of the Zoning Ordinance on October 10, 1973.
- D. There are no prior zoning cases for the subject property.
- E. The required variance is as follows:
- (1) Part A: A variance for the separate use of an existing non-conforming lot that was in common ownership with adjacent property that has an average lot width of 161 feet in lieu of the required minimum 200 feet, and a lot area of 12,558 square feet (0.288 acre) in lieu of the minimum required 1 acre, per Section 5.3 of the Zoning Ordinance.
- (2) Part B: A variance for an existing non-conforming dwelling with a setback of 44 feet from the street centerline of East South Street in lieu of 55 feet, and a front yard of 16 feet in lieu of 25 feet, per Section 5.3 of the Zoning Ordinance; and
- (3) Part C: A variance for a garage addition to an existing non-conforming dwelling with a setback of 52 feet from the street centerline of East South Street in lieu of 55 feet, and a front yard of 24 feet in lieu of 25 feet, per Section 5.3 of the Zoning Ordinance; and
- (4) Part D: A variance for an existing non-conforming detached garage with a setback of 18 feet from the street centerline of East South Street in lieu of 55 feet, a front yard of 0 feet in lieu of 25 feet, and a side yard of 5 feet in lieu of 10 feet, per Section 7.2.1 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 STRUCTURE" is a STRUCTURE on the same LOT within the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either

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detached from or attached to the MAIN or PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.

- (2) “BUILDING” is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animals, and chattels.
- (3) “DWELLING” is a BUILDING or MANUFACTURED HOME designated for non-transient residential living purposes and containing one or more DWELLING UNITS and/or LODGING UNITS.
- (4) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (5) “LOT, CORNER” is a LOT located:
 - (a) at the junction of and abutting two or more intersecting STREETS; or
 - (b) at the junction of and abutting a STREET and the nearest shoreline or high water line of a storm of floodwater runoff channel or basin; or
 - (c) at and abutting the point of abrupt change of a single STREET where the interior angle is less than 135 degrees and the radius of the STREET is less than 100 feet.
- (6) “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.
- (7) “LOT LINES” are the lines bounding a LOT.
- (8) “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.
- (9) “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.
- (10) “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.
- (11) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (12) “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

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parkway, a place, a road, a thoroughfare, or by other appropriate names. **STREETS** are identified on the Official Zoning Map according to type of USE, and generally as follows:

- (a) **MAJOR STREET**: Federal or State highways.
- (b) **COLLECTOR STREET**: COUNTY highways and urban arterial **STREETS**.
- (c) **MINOR STREET**: Township roads and other local roads.

- (13) “**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**.
 - (14) “**STRUCTURE, DETACHED**” is a **STRUCTURE** not connected to another **STRUCTURE**.
 - (15) “**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.
 - (16) “**YARD**” is an **OPEN SPACE**, other than a **COURT**, of uniform depth on the same **LOT** with a **STRUCTURE**, lying between the **STRUCTURE** and the nearest **LOT LINE** and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
 - (17) “**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 but a **STREET RIGHT-OF-WAY** both such **YARDS** shall be classified as front **YARDS**.
 - (18) “**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**.
 - (19) “**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

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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. Requirements for non-conforming lots are established in Section 8.1.1 of the Zoning Ordinance:

- (1) In any zoning DISTRICT where SINGLE FAMILY DWELLINGS are permitted as a principal USE, a SINGLE FAMILY DWELLING and customary ACCESSORY BUILDINGS may be erected on any single LOT of record which was platted and recorded prior to October 10, 1973, provided that:
 - a. such LOT must have been in separate OWNERSHIP and not in continuous FRONTAGE with other LOTS in the same OWNERSHIP as of October 10, 1973, and;
 - b. such LOT must contain sufficient AREA and width to provide a lawful water supply and means of wastewater disposal;
 - c. YARD dimensions and other requirements not involving AREA or WIDTH, or both of such LOTS shall conform to the requirements for the DISTRICT in which said LOT is located; and
 - d. for purposes of LOT AREA calculations, any LOT AREA devoted to permanent ponds and/or lakes shall be excluded from calculations of total LOT AREA.
- (2) These provisions shall apply even though such NONCONFORMING LOTS fail to meet the current dimensional, geometric, LOT ACCESS or other requirements in their respective DISTRICTS.

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- E. Requirements for non-conforming lots in common ownership are established in Section 8.1.2 of the Zoning Ordinance: “Once two or more contiguous LOTS or combination of LOTS and portions of LOTS which individually do not meet any dimensional, geometric, LOT ACCESS or other standards are brought into common ownership the LOTS involved shall be considered to be a single LOT for the purpose of this ordinance. No portion of said LOT shall be used separately or conveyed to another owner which does not meet all of the dimensional, geometric, LOT ACCESS and other standards established by this ordinance unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.”
- F. Minimum average lot width in the AG-1 Agriculture District is established in Section 5.3 of the *Zoning Ordinance* as 200 feet.
- G. Minimum lot area in the AG-1 Agriculture District is established in Section 5.3 of the *Zoning Ordinance* as 1 acre.
- H. Minimum SETBACK from a MINOR STREET in the AG-1 Agriculture District is established in Section 4.3.2 of the *Zoning Ordinance* as 55 feet.
- I. Minimum FRONT YARD in the AG-1 Agriculture District is established in Section 4.3.2 of the *Zoning Ordinance* as 25 feet.
- J. Minimum SIDE YARD for an accessory structure in the AG-1 Agriculture District is established in Section 7.2.1 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, **“Requesting variance for garage that is connected to current house which is a legal nonconforming structure. The special circumstance that exists with our land that affected the building of the garage is the location of the original cistern. It is located at the back southwest corner of the garage causing hardship to follow the zoning ordinance requirements on setback from a minor road. Cistern could cause structural problems if foundation of garage had been setback the additional 3 feet to follow ordinance requirements. See pictures in Attachment A.”**
 - B. Requiring a variance for correcting the location of the garage addition (variance Part C) as required in the letter from Jamie Hitt dated June 11, 2018, provides an opportunity to include other dimensional variances so that the property can be brought into complete conformance at one time and non-conforming structures could thus be rebuilt if destroyed (variance Parts A, B, and D).
 - C. The house and detached garage were constructed prior to the adoption of the Zoning Ordinance on October 10, 1973. Prior to the adoption of zoning there was no guidance on minimum lot size or any other minimum lot dimensions.

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- D. The subject property is the only residential lot in Seymour with AG-1 Agriculture zoning district. The majority of other residential properties are in residential zoning districts.
- (1) When the Zoning Ordinance was adopted on October 10, 1973, the town of Seymour only extended as far south as South Street, but did not include the subject property. The subject property was classified as AG-1 Agriculture like other tracts south and east of Seymour.
 - (2) Zoning case 9-A-73 approved on January 8, 1974, was to change the zoning from AG-1 Agriculture to R-1 residential to correct for the 1972 preliminary plat approval of the G&H Rentals Subdivision that abuts the subject property to the east and south.
 - (3) Despite being surrounded by residential zoning, the subject property was never rezoned.
- (1) If the subject property were zoned R-1 or R-2 like the neighboring properties, there would be no need for the variance for average lot width or minimum lot area.
- E. The subject property was not in common ownership with an adjacent property when the Zoning Ordinance was adopted on October 10, 1973.
- (1) The subject property was in common ownership with the lot to the south from 1978 through 2011.
 - (2) When the lots in common ownership were sold separately in 2011, a variance was required per Section 8.1.2 of the Zoning Ordinance: “Once two or more contiguous LOTS or combination of LOTS and portions of LOTS which individually do not meet any dimensional, geometric, LOT ACCESS or other standards are brought into common ownership the LOTS involved shall be considered to be a single LOT for the purpose of this ordinance. No portion of said LOT shall be used separately or conveyed to another owner which does not meet all of the dimensional, geometric, LOT ACCESS and other standards established by this ordinance unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.”
- F. The subject property meets the requirements of a non-conforming lot of record per section 8.1.1.

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: **“To carry out the strict letter of the regulation a setback of 55 feet from the centerline on a minor roadway would cause hardship to existing land and homeowner. The original cistern to the house is located at the back of the garage which could cause structural issues to the foundation if set back further. There is no other location for the garage on the property. See pictures in Attachment A.”**

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- B. There is no other area on the subject property to construct a garage addition due to the location of the septic system, cistern, and detached garage.
- C. The existing non-conforming residence that is the subject of variance Part B, and the detached non-conforming garage that is the subject of variance Part D cannot be reconstructed in the location should they become damaged or destroyed, without first obtaining a variance from the Champaign County Zoning Board of Appeals.

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: **“Hardships listed above are part of the original land and house which predate County Zoning. These are out of our control and location of cistern was unknown when purchasing the house and applying for building permit.”**
 - B. The petitioner purchased the property in July 2015.
 - C. The approved site plan for ZUPA #289-15-02 shows the petitioner’s measurement of a 55 feet setback and a 26 feet front yard for the garage addition.

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, **“The requested variance is in harmony with the purpose of the Zoning Ordinance by conserving the land and existing structures. The garage is the furthest structure set back from the centerline of South Street on property. The existing house is 48 feet and the existing porch is 44 feet from the centerline of South Street. By granting the variance to lessen the setback requirement from 55 feet to 52 feet for the garage structure this protects the root ball of an existing tree off the southwest corner of the garage. See pictures in Attachment B.”**
 - B. Regarding Part A of the proposed Variance, for the separate use of an existing non-conforming lot that was in common ownership with adjacent property that has an average lot width of 161 feet in lieu of the required minimum 200 feet, and a lot area of 12,558 square feet (0.288 acre) in lieu of the minimum required 1 acre: the average lot width is 80.5% of the minimum required, for a variance of 19.5%, and the lot area is 28.8% of the minimum required, for a variance of 71.2%.
 - C. Regarding Part B of the proposed Variance, for an existing non-conforming dwelling with a setback of 44 feet from the street centerline of East South Street in lieu of 55 feet, and a front yard of 16 feet in lieu of 25 feet: the setback is 80% of the minimum required, for a variance of 20%, and the front yard is 64% of the minimum required, for a variance of 36%.

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- D. Regarding Part C of the proposed Variance, for a garage addition to an existing non-conforming dwelling with a setback of 52 feet from the street centerline of East South Street in lieu of 55 feet, and a front yard of 24 feet in lieu of 25 feet: the setback is 94.5% of the minimum required, for a variance of 5.5%, and the front yard is 96% of the minimum required, for a variance of 4%.
- E. Regarding Part D of the proposed Variance, for an existing non-conforming detached garage with a setback of 18 feet from the street centerline of East South Street in lieu of 55 feet, a front yard of 0 feet in lieu of 25 feet, and a side yard of 5 feet in lieu of 10 feet: the setback is 32.7% of the minimum required, for a variance of 67.3%, the front yard is 0% of the minimum required, for a variance of 100%, and the side yard is 50% of the minimum required, for a variance of 50%.
- F. Regarding Part A of the proposed variance for average lot width and minimum lot area:
- (1) Since the adoption of the Zoning Ordinance on October 10, 1973, the AG-1 Agriculture District has always required a minimum lot area of one acre and a minimum average lot width of 200 feet.
 - (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 in the AG-1 District 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 garage. There are residential uses on all sides of the subject property.
 - (b) Separation of structures to prevent conflagration: The subject property is within the Scott Fire Protection District and the Seymour station is less than 500 feet from the subject property.
 - (c) Aesthetics may also play a part in the minimum lot area requirement.
- G. Regarding Parts B, C, and D of the proposed variance for setback and front yard: the Zoning Ordinance does not clearly state the considerations that underlie the minimum setback requirements. Presumably, the setback from street centerline is intended to ensure the following:
- (1) Adequate separation from roads.
 - (2) Allow adequate area for road expansion and right-of-way acquisition.

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- (3) Parking, where applicable.
- H. Regarding Part D of the proposed Variance, the Zoning Ordinance does not clearly state the considerations that underlie the side yard requirement. In general, the side yard is presumably intended to ensure the following:
- (1) Adequate light and air: The subject property is residential in use. The surrounding properties are also residential.
 - (2) Separation of structures to prevent conflagration: The subject property is within the Scott Fire Protection District and the Seymour station is less than 500 feet from the subject property.
 - a. The nearest structure on an adjacent lot is a detached garage 20 feet to the east.
 - (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, **“The requested variance will not be injurious to the neighborhood and the corner lot visibility triangle is not impeded by the garage structure. There is adequate room for firefighter purposes the house is four lots away from the Seymour Fire Station. See pictures in Attachment C.”**
 - B. A complaint has been received regarding the detached garage because it is within the road right of way and it impedes vision for the driveway to the east.
 - C. The Scott Township Road Commissioner has been notified of this variance but no comments have been received.
 - D. The Scott 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, the Petitioner did not provide a response to this question.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. No special conditions are proposed.

DOCUMENTS OF RECORD

1. Variance Application received July 30, 2018, with attachment:
 - A Site Plan
 - B Question 10 additional exhibits: photos
 - C Attachment A: photos
 - D Attachment B: photos

2. Site Plan from ZUPA #289-15-02, approved October 28, 2015

3. Letter from Zoning Officer Jamie Hitt to petitioners dated June 11, 2018

4. Preliminary Memorandum dated January 10, 2019, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received July 30, 2018
 - C Photos submitted by petitioner with application on July 30, 2018 and others taken by P&Z Staff on July 19, 2017
 - D Annotated aerial created by P&Z Staff dated January 8, 2019
 - E Draft Summary of Evidence, Finding of Fact, and Final Determination dated January 17, 2019

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **921-V-18** held on **January 17, 2019**, 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:}**

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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 **921-V-18** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners, **Stephen and Jennifer Roland**, to authorize the following variance in the AG-1 Agriculture Zoning District:

Part A: Authorize a variance for the separate use of an existing non-conforming lot that was in common ownership with adjacent property that has an average lot width of 161 feet in lieu of the required minimum 200 feet, and a lot area of 12,558 square feet (0.288 acre) in lieu of the minimum required 1 acre, per Section 5.3 of the Zoning Ordinance.

Part B: A variance for an existing non-conforming dwelling with a setback of 44 feet from the street centerline of East South Street in lieu of 55 feet, and a front yard of 16 feet in lieu of 25 feet, per Section 5.3 of the Zoning Ordinance; and

Part C: A variance for a garage addition to an existing non-conforming dwelling with a setback of 52 feet from the street centerline of East South Street in lieu of 55 feet, and a front yard of 24 feet in lieu of 25 feet, per Section 5.3 of the Zoning Ordinance; and

Part D: A variance for an existing non-conforming detached garage with a setback of 18 feet from the street centerline of East South Street in lieu of 55 feet, a front yard of 0 feet in lieu of 25 feet, and a side yard of 5 feet in lieu of 10 feet, per Section 7.2.1 of the Zoning Ordinance.

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

SIGNED:

_____, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date