

Brookens Administrative
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CASE NO. 006-V-21

PRELIMINARY MEMORANDUM

May 4, 2021

Petitioner: **Stephen Mechling**

Request: **PART A**

Authorize the construction and use of a proposed detached accessory building on a lot in the R-2 Single Family Zoning District with the following Variance from Section 5.3 of the Zoning Ordinance:

Subpart 1: A setback of 64 feet and a front yard of 23 feet from the centerline of Main Street (CH 6) in lieu of the minimum required setback of 75 feet and front yard of 30 feet.

Subpart 2: A setback of 34 feet and a front yard of 5 feet from the centerline of Center Street in lieu of the minimum required setback of 55 feet and front yard of 25 feet.

Subpart 3: A corner visibility triangle of 28 feet on South Main Street in lieu of the minimum required visibility triangle of 50 feet.

Subpart 4: A side yard for a detached building of 2 feet in lieu of the minimum required side yard of 5 feet.

Subpart 5: A lot coverage of 62% in lieu of the maximum allowed lot coverage of 30%.

Subpart 6: An average height of 19 feet in lieu of the maximum allowed average height of 15 feet.

PART B

Authorize the reconstruction of an existing dwelling, as required, on a lot in the R-2 Single Family Zoning District with the following Variance from Section 5.3 of the Zoning Ordinance:

Subpart 1: A setback of 30 feet and a front yard of 0 feet from the centerline of Center Street in lieu of the minimum required setback of 55 feet and front yard of 25 feet.

Subpart 2: A separation of one foot from an alley way in lieu of the minimum required rear yard of 20 feet.

Subject Property: **The 6,534 square feet Lot 5 of Block 12 of the Original Town of Seymour, commonly known as the residence at 105 East Center Street, Seymour**

Site Area: **0.15 acres**

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

Prepared by: **Susan Burgstrom, Senior Planner
John Hall, Zoning Administrator**

BACKGROUND

The petitioner would like to construct a 2,800 square feet detached garage for personal storage. He said that the proposed size and height are necessary due to the vehicles he wants to store there.

Site review by P&Z Staff found that the proposed construction would need numerous variances to comply with the Zoning Ordinance. Variance Part A includes 6 subparts to comply with those requirements.

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 facing Center Street. Variance Part B includes 2 subparts to comply with those requirements.

Attachment C is an annotated aerial illustrating the proposed garage and the variance requirements.

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	R-2 Residential
North	Commercial	B-5 Central Business
East	Residential	R-2 Residential
West	Residential	B-5 Central Business
South	Residential	R-2 Residential

SPECIAL CONDITIONS

There is one proposed special condition:

- A. **The Zoning Administrator shall not authorize a Zoning Use Permit without documentation from the County Health Department that there is sufficient area on the subject property for a replacement leach field based on the following:**
 - (1) **The petitioner shall apply to the Health Department for a replacement septic system, including soil investigation results prepared by a soil scientist, and the petitioner shall pay the fee for a Health Department septic system permit.**

- (2) **The petitioner shall not be required by this special condition to install a replacement septic system but shall maintain the area approved by the Health Department for a replacement septic system free of any new construction that requires a variance. If the petitioner or a future owner does install a replacement septic system at a future date, a new Health Department application and new fees for that future replacement septic system may be required.**
- (3) **If no replacement septic system can be approved by the Health Department, then no additional construction is authorized by this variance.**

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

That the septic system conforms to State requirements for private sewage systems.

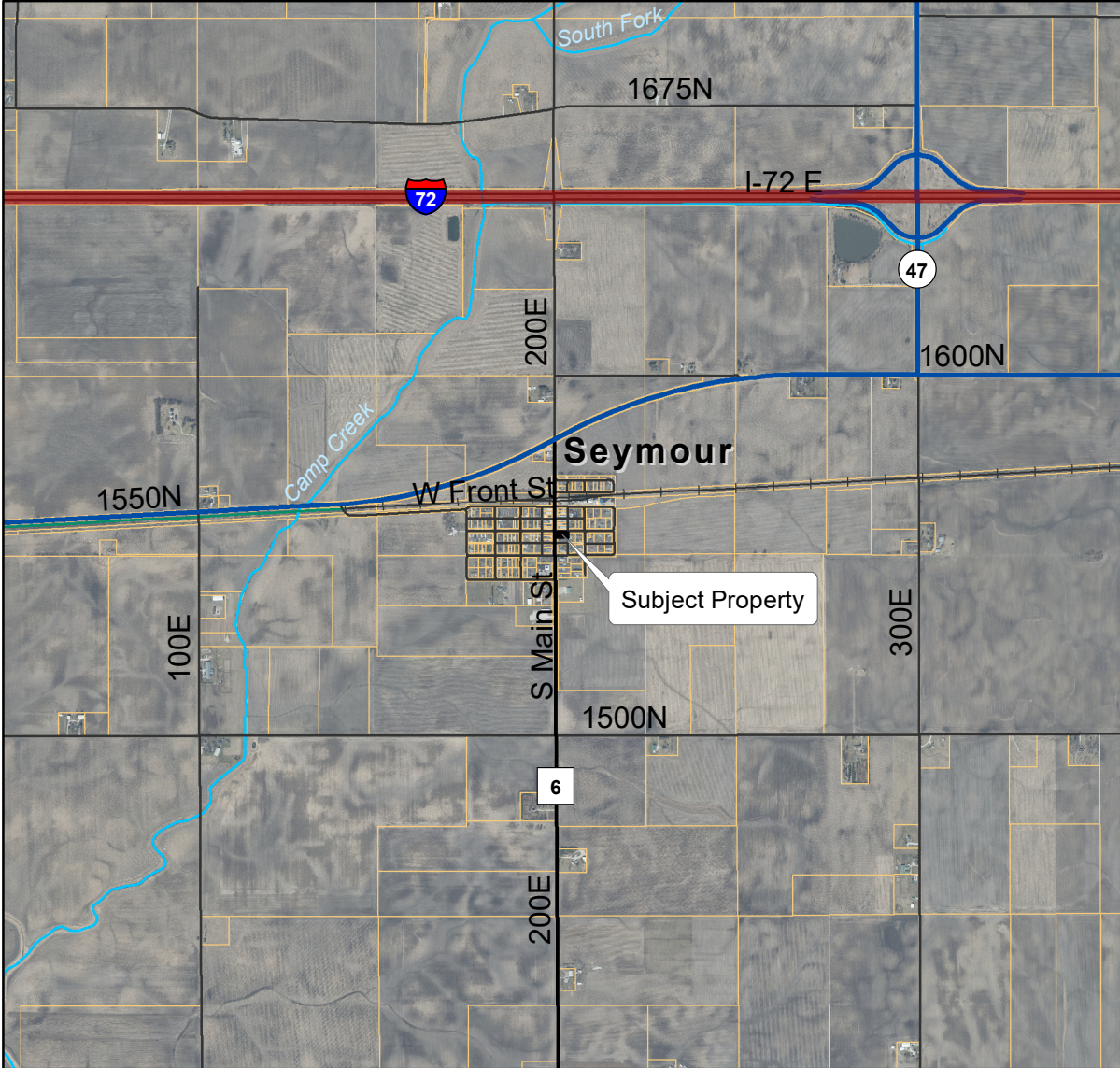
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received March 25, 2021
- C Annotated aerial created by P&Z Staff dated April 9, 2021
- D Site Photos taken April 27, 2021
- E Draft Summary of Evidence, Finding of Fact, and Final Determination dated May 13, 2021

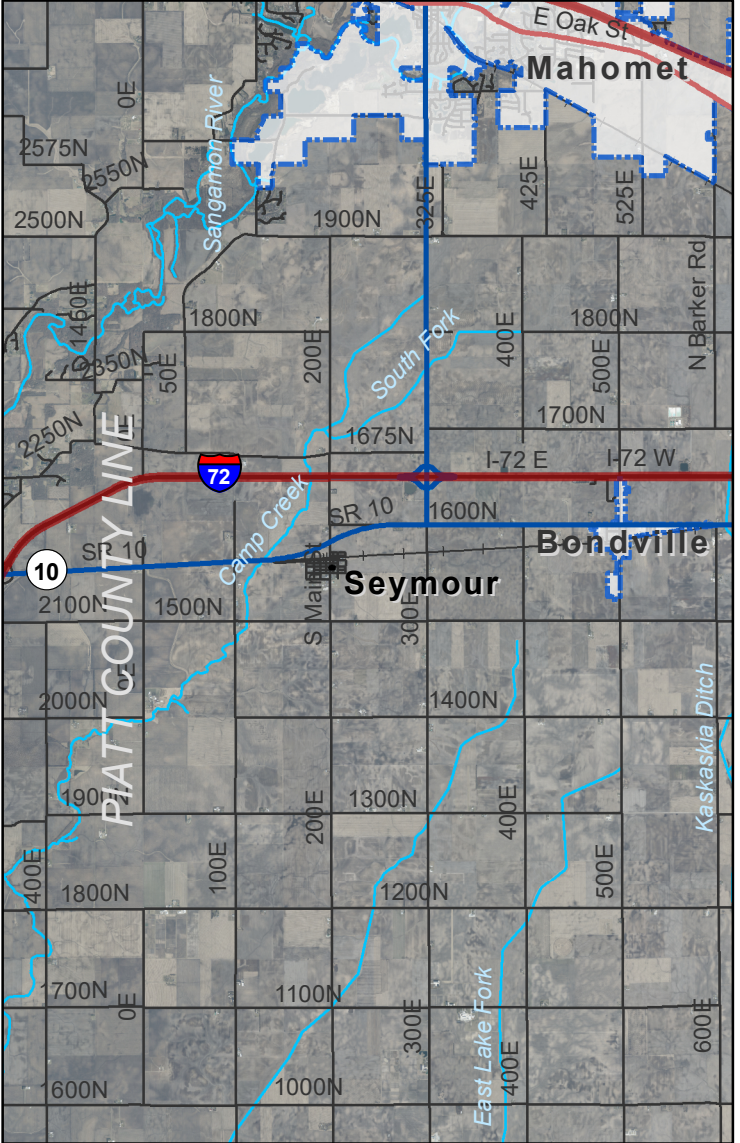
Location Map


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May 13, 2021

Subject Property



Property location in Champaign County



- Legend**
-  Subject Property
 -  Parcels
 -  Municipal Boundary

0 0.1250.25 0.5 Miles

0 0.5 1 2 Miles











Champaign County
Department of
PLANNING &
ZONING

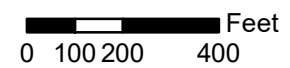
Land Use Map

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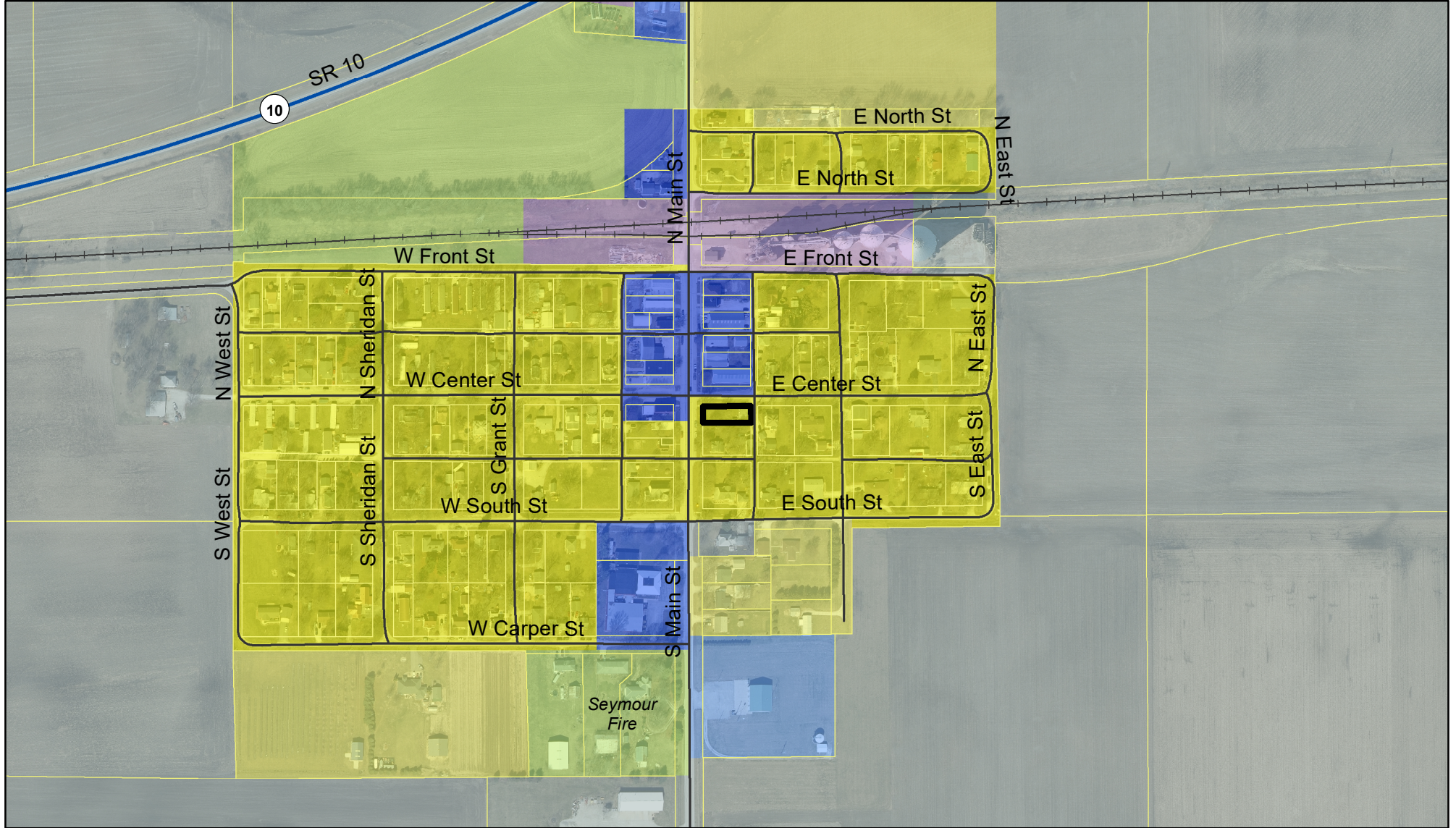
Legend

- | | | | | | |
|--|------------------|---|----------------|---|------------|
|  | Subject Property |  | Ag/Residential |  | Utilities |
|  | Parcels |  | Residential |  | Tax Exempt |
|  | Agriculture |  | Commercial | | |



Zoning Map

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Legend

- | | | | |
|------------------|---------------------------|----------------------|-------------------|
| Subject Property | AG-1 Agriculture | B-4 General Business | R-1 Single Family |
| Parcels | AG-2 Agriculture | B-5 Central Business | R-2 Single Family |
| | B-2 Neighborhood Business | I-1 Light Industry | |

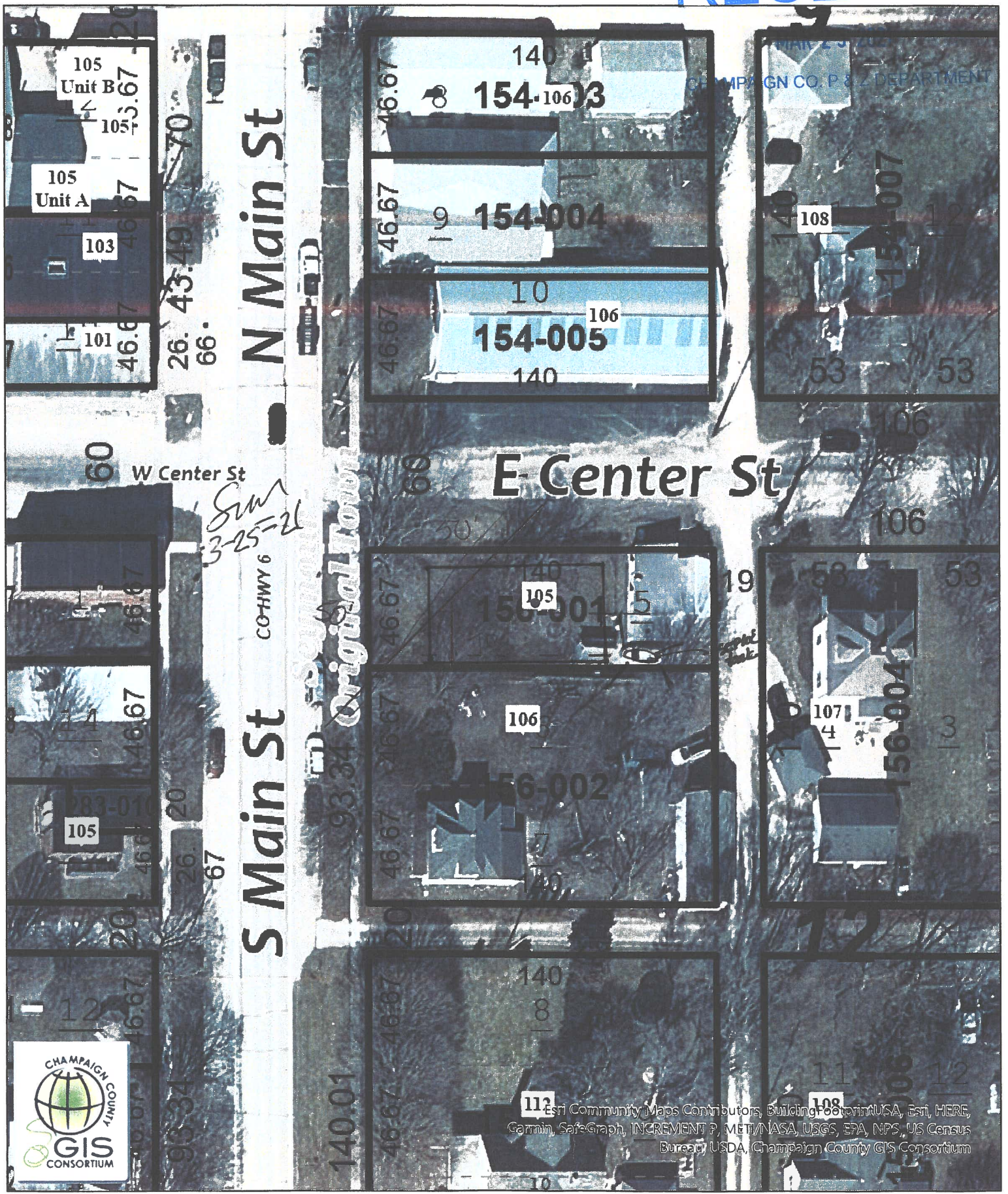
0 100 200 400 Feet



scribble
+ line

231916156001; 2020; 1:50; R-2

RECEIVED



SW
3-25-21

Original Floor Plan

N Main St

S Main St

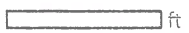
E Center St

W Center St

CO HWY 6

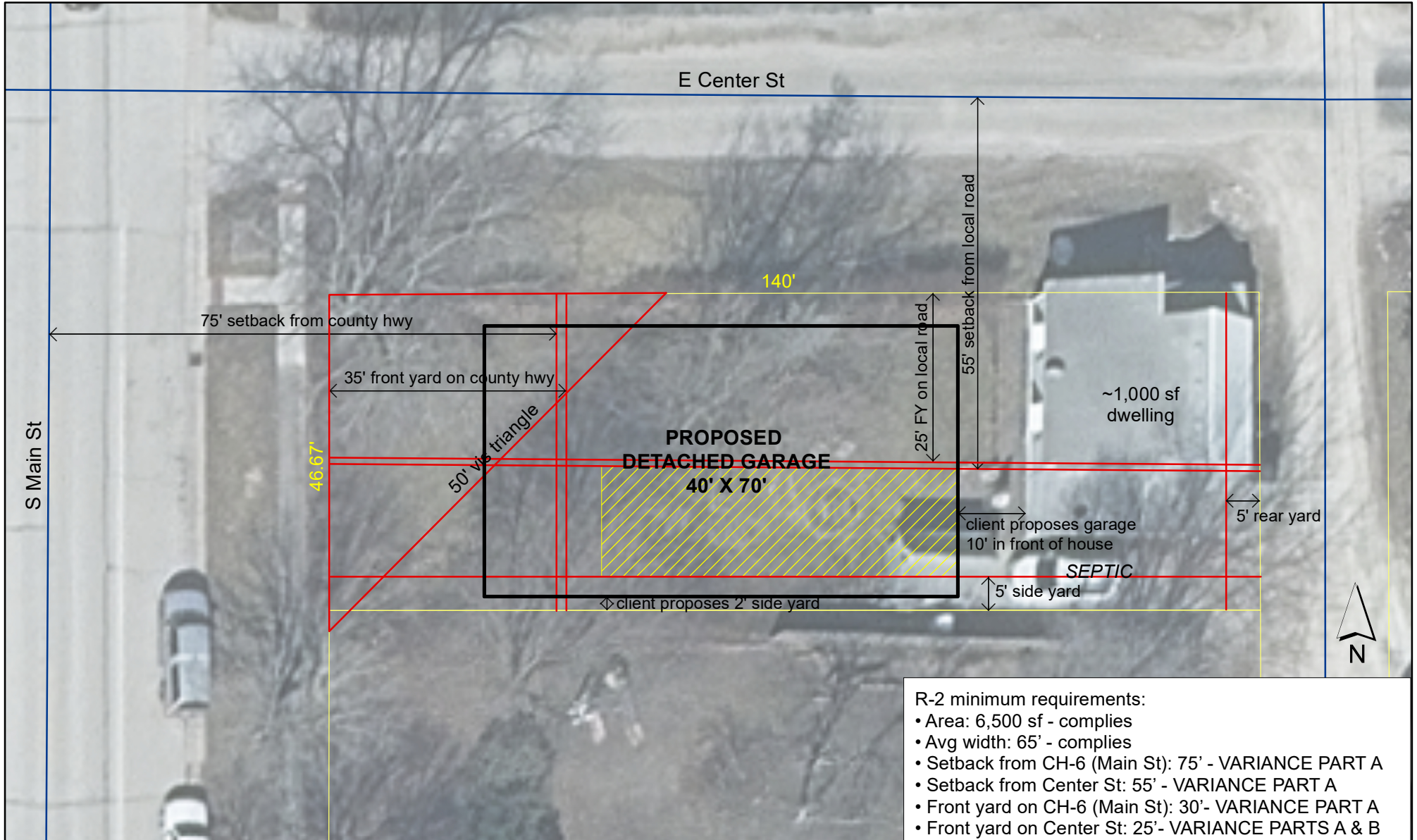


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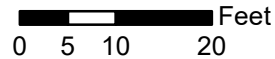


Annotated 2020 Aerial

006-V-21 Mechling
 May 13, 2021



Yellow hashed area shows maximum detached building size without needing a variance: 52.5' x 16'



R-2 minimum requirements:

- Area: 6,500 sf - complies
- Avg width: 65' - complies
- Setback from CH-6 (Main St): 75' - VARIANCE PART A
- Setback from Center St: 55' - VARIANCE PART A
- Front yard on CH-6 (Main St): 30'- VARIANCE PART A
- Front yard on Center St: 25'- VARIANCE PARTS A & B
- Maximum lot coverage: 30% □ - VARIANCE PART A
- 50' corner visibility triangle - VARIANCE PART A
- Side yard for detached structure: 5' - VARIANCE PART A
- Rear yard for principal structure: 20'- VARIANCE PART B

006-V-21 Site Images



From Main Street north of subject property facing SE



From Main Street north of subject property facing south

006-V-21 Site Images



From Main Street north of subject property facing east down Center Street



From Main Street on NW corner of subject property

006-V-21 Site Images



From Main Street on corner of subject property facing east



**From Main Street on corner of subject property facing north
(the warehouse building to the north is in B-5 Zoning District)**

006-V-21 Site Images



From Main Street on SW corner of subject property facing NE



From west side of Main Street facing east (subject property at right)

006-V-21 Site Images



From west side of Main Street facing SE to subject property



From Center Street stop sign facing south (subject property at left)

006-V-21 Site Images



From Center Street facing SW to subject property house



From Center Street facing south down alley east of house

006-V-21 Site Images



From alley east of house facing NW to house



**From alley east of house facing west to detached shed located south of house
(septic system is located in gravel area per petitioner)**

PRELIMINARY DRAFT

006-V-21

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

of

Champaign County Zoning Board of Appeals

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

Date: **May 13, 2021**

Petitioners: **Stephen Mechling**

Request: **PART A**

Authorize the construction and use of a proposed detached accessory building on a lot in the R-2 Single Family Zoning District with the following Variance from Section 5.3 of the Zoning Ordinance:

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PRELIMINARY DRAFT**Case 006-V-21**
Page 3 of 18**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **May 13, 2021**, the Zoning Board of Appeals of Champaign County finds that:

1. Stephen Mechling, 1409 W Old Church Rd, Champaign, owns the subject property.
2. The subject property is the 6,534 square feet Lot 5 of Block 12 of the Original Town of Seymour, commonly known as the residence at 105 East Center 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.

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 6,534 square feet lot zoned R-2 Single Family Residence and the land use is residential.
 - B. Land to the north of the subject property is zoned B-5 Central Business and is commercial in use.
 - C. Land to the east and south of the subject property is zoned R-2 Single-Family Residential and is residential in use.
 - D. Land to the west is zoned B-5 Central Business and is residential in use.

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 non-conforming residence that is approximately 1,000 square feet;
 - b. One 8 feet by 15 feet detached shed.
 - c. Per the petitioner, septic is located south of the house, and water is public.
 - (2) Proposed construction is for one 40 feet by 70 feet (2,800 square feet) detached garage.
 - B. P&Z Staff created an Annotated Aerial dated April 9, 2021 to clarify the existing and proposed structures and required variances.
 - C. There are no prior Zoning Use Permits on file, although the petitioner improved a carport structure to the south side of the house.

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- D. There are no prior zoning cases for the subject property.
- E. The required variance is as follows:
- (1) Part A: Authorize the construction and use of a proposed detached accessory building on a lot in the R-2 Single Family Zoning District with the following Variance from Section 5.3 of the Zoning Ordinance:
 - a. Subpart 1: A setback of 64 feet and a front yard of 23 feet from the centerline of Main Street (CH 6) in lieu of the minimum required setback of 75 feet and front yard of 30 feet.
 - b. Subpart 2: A setback of 34 feet and a front yard of 5 feet from the centerline of Center Street in lieu of the minimum required setback of 55 feet and front yard of 25 feet.
 - c. Subpart 3: A corner visibility triangle of 28 feet on South Main Street in lieu of the minimum required visibility triangle of 50 feet.
 - d. Subpart 4: A side yard for a detached building of 2 feet in lieu of the minimum required side yard of 5 feet.
 - e. Subpart 5: A lot coverage of 62% in lieu of the maximum allowed lot coverage of 30%.
 - f. Subpart 6: An average height of 19 feet in lieu of the maximum allowed average height of 15 feet.
 - (2) Part B: Authorize the reconstruction of an existing dwelling, as required, on a lot in the R-2 Single Family Zoning District with the following Variance from Section 5.3 of the Zoning Ordinance:
 - a. Subpart 1: A setback of 30 feet and a front yard of 0 feet from the centerline of Center Street in lieu of the minimum required setback of 55 feet and front yard of 25 feet.
 - b. Subpart 2: A separation of one foot from an alley way in lieu of the minimum required rear yard of 20 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 STRUCTURE" is a STRUCTURE on the same LOT within the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.

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- (2) “ALLEY” is a permanent service RIGHT-OF-WAY which affords only a secondary means of ACCESS to PROPERTY abutting such RIGHT-OF-WAY and is not intended for general traffic circulation.
- (3) “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.
- (4) “AREA, LOT” is the total area within the LOT LINES.
- (5) “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.
- (6) “COVERAGE” is the percentage of the LOT AREA covered by the BUILDING AREA.
- (7) “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.
- (8) “FRONTAGE” is that portion of a LOT abutting a STREET or ALLEY.
- (9) “HEIGHT” as applied to a story is the vertical measurement between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the vertical measurement between the surface of the floor and the ceiling next above it.

As applied to a BUILDING is the vertical measurement from GRADE to a point midway between the highest and lowest points of the roof.

As Applied to an Enclosed or Unenclosed STRUCTURE:

STRUCTURE, DETACHED: The vertical measurement from the average level of the surface of the ground immediately surrounding such STRUCTURE to the uppermost portion of such STRUCTURE.

STRUCTURE, ATTACHED: Where such STRUCTURE is attached to another STRUCTURE and is in direct contact with the surface of the ground, the vertical measurement from the average level of the surface of the ground immediately adjoining such STRUCTURE to the uppermost portion of such STRUCTURE shall be the HEIGHT. Where such STRUCTURE is attached to another STRUCTURE and is not in direct contact with the surface of the ground, the vertical measurement from the lowest portion of such STRUCTURE to the uppermost portion shall be the HEIGHT.

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- (10) “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.
- (11) “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 or 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.
- (12) “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.
- (13) “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.
- (14) “LOT LINES” are the lines bounding a LOT.
- (15) “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.
- (16) “NONCONFORMING PREMISES” is a NONCONFORMING LOT with a NONCONFORMING STRUCTURE located on it.
- (17) “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.
- (18) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (19) “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.

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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.

- (20) “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.
- (21) “STRUCTURE, DETACHED” is a STRUCTURE not connected to another STRUCTURE.
- (22) “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.
- (23) “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.
- (24) “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.
- (25) “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.
- (26) “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 R-2 Single Family Residence DISTRICT is intended to provide areas for SINGLE FAMILY detached DWELLINGS, set on medium sized building LOTS and is intended for application within or adjoining developed areas where community facilities exist.

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

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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 SETBACK from a MINOR STREET in the R-2 Single Family Residential District is established in Section 4.3.2 of the *Zoning Ordinance* as 55 feet.
 - E. Minimum SETBACK from a county highway in the R-2 Single Family Residential District is established in Section 4.3.2 of the *Zoning Ordinance* as 75 feet.
 - F. Minimum visibility triangle is established in Section 4.3.3 F. of the *Zoning Ordinance* as a straight line joining points along said STREET RIGHT-OF-WAY lines 50 feet from the nearest point of intersection.
 - G. Minimum FRONT YARD along a MINOR STREET in the R-2 Single Family Residential District is established in Section 4.3.2 of the *Zoning Ordinance* as 25 feet.
 - H. Minimum FRONT YARD along a county highway in the R-2 Single Family Residential District is established in Section 4.3.2 of the *Zoning Ordinance* as 30 feet.
 - I. Minimum SIDE YARD for an accessory structure in the R-2 Single Family Residential District is established in Section 7.2.1 of the *Zoning Ordinance* as 5 feet.
 - J. Maximum lot coverage in the R-2 Single Family Residential District is established in Section 5.3 as 30%.
 - K. Maximum HEIGHT of an accessory structure on a lot less than one acre in area is established in Section 5.3, Footnote 4 as 15 feet.

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- L. Minimum rear yard for a principal structure in the R-2 Single Family Residential District is established in Section 5.3 as 20 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, **“Lot has two street frontages that have setbacks. Existing structure predates zoning, new structure is set back further than existing structure.”**
- B. Requiring a variance for the proposed detached garage provides an opportunity to include other dimensional variances so that the property can be brought into complete conformance at one time and the non-conforming house could thus be rebuilt if destroyed.
- C. The house was 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.

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: **“Proposed structure would not be feasible if reduction in size and height. Adjacent land is not available. No other location on this lot.”**
- B. Without the proposed variance, there is no room on the subject property to construct the detached garage.
- C. The existing non-conforming residence that is the subject of variance Part B cannot be reconstructed in the location should it 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: **“When property was purchased, not aware of setback zoning regulations due to existing structure. Lot predates non-conforming zoning. The lot and structure have not been physically altered.”**
- B. The petitioner purchased the property in 1997, after Lot 5 had been divided from Lots 6 and 7 in 1995.

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

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioner has testified on the application, **“There is no traffic or congestion of these public streets. No hazards to persons or property due to fire, storm, or water runoff.”**
 - B. Regarding Part A, Subpart 1 of the proposed Variance, for a proposed detached accessory building with a setback of 64 feet and a front yard of 23 feet from the centerline of Main Street (CH 6) in lieu of the minimum required setback of 75 feet and front yard of 30 feet: the setback is 85.3% of the minimum required, for a variance of 16.7%, and the front yard is 76.7% of the minimum required, for a variance of 23.3%.
 - C. Regarding Part A, Subpart 2 of the proposed Variance, for a proposed detached accessory building with a setback of 34 feet and a front yard of 5 feet from the centerline of Center Street in lieu of the minimum required setback of 55 feet and front yard of 25 feet: the setback is 61.8% of the minimum required, for a variance of 38.2%, and the front yard is 20% of the minimum required, for a variance of 80%.
 - D. Regarding Part A, Subpart 3 of the proposed Variance, for a proposed detached accessory building with a corner visibility triangle of 28 feet on South Main Street in lieu of the minimum required visibility triangle of 50 feet: the visibility triangle is 56% of the minimum required, for a variance of 44%.
 - E. Regarding Part A, Subpart 4 of the proposed Variance, for a proposed detached accessory building with a side yard of 2 feet on the south property line in lieu of the minimum required 5 feet: the side yard is 40% of the minimum required, for a variance of 60%.
 - F. Regarding Part A, Subpart 5 of the proposed Variance, for a lot coverage of 62% in lieu of the maximum allowed 30%: the lot coverage is 207% more than the maximum allowed, for a variance of 207%.
 - G. Regarding Part A, Subpart 6 of the proposed Variance, for an average height of 19% in lieu of the maximum allowed 15% for an accessory structure on a lot less than one acre in area: the height is 26.7% more than the maximum allowed, for a variance of 26.7%.
 - H. Regarding Part B, Subpart 1 of the proposed variance, for the reconstruction of an existing dwelling with a setback of 30 feet and a front yard of 0 feet from the centerline of Center Street in lieu of the minimum required setback of 55 feet and front yard of 25 feet: the setback is 54.5% of the minimum required, for a variance of 45.5%, and the front yard is 0% of the minimum required, for a variance of 100%.
 - I. Regarding Part B, Subpart 2 of the proposed variance, for the reconstruction of an existing dwelling with a separation of one foot from an alley way in lieu of the minimum required rear yard of 20 feet: the rear yard is 5% of the minimum required, for a variance of 95%.

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- J. Regarding the proposed variance subparts for setback from street centerline: 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.
 - a. South Main Street (CH-6) is a County Highway with 80 feet of right-of-way. The 48 feet of pavement width that includes one marked travel lane in each direction and extra-wide parking on both sides of the street, leaving 16 feet of grass parkway adjacent to the subject property.
 - b. Center Street is a local road with 60 feet of right-of-way. The 18 feet of pavement leaves 21 feet of parkway adjacent to the subject property.
 - c. The proposed garage would have approximately the same setback as the house to the south and the warehouse to the north.
 - (2) Allow adequate area for road expansion and right-of-way acquisition.
 - a. There are no known plans for widening CH-6 or Center Street.
 - (3) Parking, where applicable.
 - a. There is sufficient area for parking even if the County would widen CH-6, which is not anticipated.
 - b. There is sufficient area for parking along Center Street.
- K. Regarding the proposed Variance subparts for side and rear yards, the Zoning Ordinance does not clearly state the considerations that underlie the side and rear yard requirements. In general, the side and rear yards are presumably intended to ensure the following:
- (1) Adequate light and air: The subject property is residential in use. The surrounding properties are also residential and commercial.
 - a. The proposed detached building would significantly reduce open space on the subject property.
 - (2) Separation of structures to prevent conflagration: The subject property is within the Scott Fire Protection District and the Seymour fire station is approximately 625 feet from the subject property.
 - a. The nearest structure to the proposed garage on an adjacent lot is a residence located approximately 55 feet to the south.
 - b. The nearest structure to the existing house on an adjacent lot is a residence located approximately 40 feet to the east.
 - (3) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.
- L. Regarding the proposed Variance subpart for visibility triangle:

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- (1) Presumably the visibility triangle requirements are to ensure that there is a sufficient site line for roadway users to safely travel the intersection.
 - (2) P&Z Staff visited the subject property on April 27, 2021, and noted that the proposed building would not impact visibility for a driver at the intersection of Center Street and Main Street (CH-6).
- M. Regarding the proposed Variance subpart for maximum lot coverage:
- (1) Presumably the maximum lot coverage requirements are intended to allow for considerations such as adequate light, air, and adequate area for septic systems.
 - (2) The proposed building would not affect the existing septic system for the house. Should a replacement system be necessary, the proposed building would greatly reduce the available area for a leach field.
 - a. No information has been received from the petitioner regarding whether the Champaign County Health Department would find it feasible to have space for a replacement septic system.
 - b. A special condition has been added to ensure there is sufficient space on the property for a replacement system.
- N. Regarding the proposed Variance subpart for height:
- (1) Presumably the height requirements are to ensure that there are no shade or visual impediments for adjacent neighbors.
 - (2) The adjacent building to the north, also owned by the petitioner, is approximately 16.5 feet tall, provided as perspective for the proposed 19 feet tall detached garage.
- O. The requested variance is not prohibited by the *Zoning Ordinance*.

GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The Petitioner has testified on the application, **“There will be adequate room for firefighting equipment. Fire station is 2 blocks away. This would not obstruct visibility at corner. Property fronts secondary road. Low traffic. Construction would not impair drainage or generate noise, odor, or visibility.”**
 - B. The Scott Township Road Commissioner has been notified of this variance, and no comments have been received.
 - C. The County Highway Engineer has been notified of this variance, and no comments have been received.

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- D. The Scott Fire Protection District, including the Seymour Fire Station, has been notified of this variance, and 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 has testified on the application, **“This entire block is non-conforming. I own the property across the street to the north, and applied for the same variance. It was granted and the village is very happy with the structure.”**
- (1) Unlike the subject property, which is in the R-2 Single Family Residence Zoning District, the property to the north is in the B-5 Central Business Zoning District, which has no setback yard or yard minimum requirements, and the lot coverage can be 100%.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:
- A. **The Zoning Administrator shall not authorize a Zoning Use Permit without documentation from the County Health Department that there is sufficient area on the subject property for a replacement leach field based on the following:**
- (1) **The petitioner shall apply to the Health Department for a replacement septic system, including soil investigation results prepared by a soil scientist, and the petitioner shall pay the fee for a Health Department septic system permit.**
- (2) **The petitioner shall not be required by this special condition to install a replacement septic system but shall maintain the area approved by the Health Department for a replacement septic system free of any new construction that requires a variance. If the petitioner or a future owner does install a replacement septic system at a future date, a new Health Department application and new fees for that future replacement septic system may be required.**
- (3) **If no replacement septic system can be approved by the Health Department, then no additional construction is authorized by this variance.**

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

That the septic system conforms to State requirements for private sewage systems.

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DOCUMENTS OF RECORD

1. Variance Application received March 25, 2021, with attachment:
 - A Site Plan

2. Preliminary Memorandum dated May 4, 2021, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received March 25, 2021
 - C Annotated aerial created by P&Z Staff dated April 9, 2021
 - D Site Photos taken April 27, 2021
 - E Draft Summary of Evidence, Finding of Fact, and Final Determination dated May 13, 2021

PRELIMINARY DRAFT**Case 006-V-21**
Page 15 of 18**SUMMARY DRAFT FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **007-V-21** held on **May 13, 2021**, 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:
 - a. ***The subject property is a corner lot and therefore has two street frontages.***
 - b. ***The existing house was built prior to adoption of the Zoning Ordinance on October 10, 1973.***

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:
 - a. ***Without the proposed variance, there is no room on the subject property to construct the detached garage.***
 - b. ***The existing non-conforming residence that is the subject of variance Part B cannot be reconstructed in the location should it become damaged or destroyed without first obtaining a variance from the Champaign County Zoning Board of Appeals.***

3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. ***The petitioner was not aware of the property limitations when he purchased the property in 1997.***

4. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because:
 - a. ***Non-conforming structures are allowed to continue, and can be replaced with an approved variance.***

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:
 - a. ***The Township Road Commissioner, County Highway Engineer, and Seymour Fire Station Chief were all notified of the proposed variance, and no comments have been received.***
 - b. ***The subject property is two blocks from the fire station. The nearest structure to the proposed garage on an adjacent lot is a residence located approximately 55 feet to the south. The nearest structure to the existing house on an adjacent lot is a residence located approximately 40 feet to the east.***

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:

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7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

- A. **The Zoning Administrator shall not authorize a Zoning Use Permit without documentation from the County Health Department that there is sufficient area on the subject property for a replacement leach field based on the following:**
- (1) The petitioner shall apply to the Health Department for a replacement septic system, including soil investigation results prepared by a soil scientist, and the petitioner shall pay the fee for a Health Department septic system permit.**
 - (2) The petitioner shall not be required by this special condition to install a replacement septic system but shall maintain the area approved by the Health Department for a replacement septic system free of any new construction that requires a variance. If the petitioner or a future owner does install a replacement septic system at a future date, a new Health Department application and new fees for that future replacement septic system may be required.**
 - (3) If no replacement septic system can be approved by the Health Department, then no additional construction is authorized by this variance.**

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

That the septic system conforms to State requirements for private sewage systems.

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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 **007-V-21** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner, **Stephen Mechling**, to authorize the following variance in the R-2 Single Family Residence Zoning District:

PART A

Authorize the construction and use of a proposed detached accessory building on a lot in the R-2 Single Family Zoning District with the following Variance from Section 5.3 of the Zoning Ordinance:

Subpart 1: A setback of 64 feet and a front yard of 23 feet from the centerline of Main Street (CH 6) in lieu of the minimum required setback of 75 feet and front yard of 30 feet.

Subpart 2: A setback of 34 feet and a front yard of 5 feet from the centerline of Center Street in lieu of the minimum required setback of 55 feet and front yard of 25 feet.

Subpart 3: A corner visibility triangle of 28 feet on South Main Street in lieu of the minimum required visibility triangle of 50 feet.

Subpart 4: A side yard for a detached building of 2 feet in lieu of the minimum required side yard of 5 feet.

Subpart 5: A lot coverage of 62% in lieu of the maximum allowed lot coverage of 30%.

Subpart 6: An average height of 19 feet in lieu of the maximum allowed average height of 15 feet.

PART B

Authorize the reconstruction of an existing dwelling, as required, on a lot in the R-2 Single Family Zoning District with the following Variance from Section 5.3 of the Zoning Ordinance:

Subpart 1: A setback of 30 feet and a front yard of 0 feet from the centerline of Center Street in lieu of the minimum required setback of 55 feet and front yard of 25 feet.

Subpart 2: A separation of one foot from an alley way in lieu of the minimum required rear yard of 20 feet.

{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

- A. The Zoning Administrator shall not authorize a Zoning Use Permit without documentation from the County Health Department that there is sufficient area on the subject property for a replacement leach field based on the following:**

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- (1) The petitioner shall apply to the Health Department for a replacement septic system, including soil investigation results prepared by a soil scientist, and the petitioner shall pay the fee for a Health Department septic system permit.**
- (2) The petitioner shall not be required by this special condition to install a replacement septic system but shall maintain the area approved by the Health Department for a replacement septic system free of any new construction that requires a variance. If the petitioner or a future owner does install a replacement septic system at a future date, a new Health Department application and new fees for that future replacement septic system may be required.**
- (3) If no replacement septic system can be approved by the Health Department, then no additional construction is authorized by this variance.**

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

SIGNED:

ATTEST:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date