

CASE NO. 054-V-22

PRELIMINARY MEMORANDUM

June 7, 2022

Petitioner: **John Melton**

Request: **Authorize a variance in the AG-2 Agriculture Zoning District for an existing detached shed with a rear yard of 2 feet and a side yard of 5 feet, in lieu of the minimum required 10 feet, per Section 7.2.1 of the Champaign County Zoning Ordinance.**

Subject Property: **Lot 11 of Trailside First Subdivision in Section 13, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, with an address of 902 Surrey Ct, Mahomet.**

Site Area: **21,957 square feet (.5 acre)**

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

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

BACKGROUND

While processing a permit for a proposed addition to the house, P&Z Staff noted that a detached shed was constructed too close to the rear and side property lines. The shed was constructed without a permit sometime between 2011 and 2014, and apparently the petitioner was not aware of the side and rear yard requirements. A smaller shed had been in the same location since prior to the petitioner's purchase of the property in 2006.

As can be seen in the site plan, the farmland to the east has a 20 foot jog adjacent to the rear yard of the subject property. The farmer does not have this 20 foot area in production, and it has grown as grass that gives the appearance it is part of the subject property's lawn.

No other comments have been received from relevant jurisdictions or the public.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Residential	AG-2 Agriculture
North	Residential	AG-2 Agriculture
South	Residential	AG-2 Agriculture
East	Agriculture	AG-2 Agriculture
West	Residential	AG-2 Agriculture

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Mahomet, 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 in Mahomet Township, which has a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

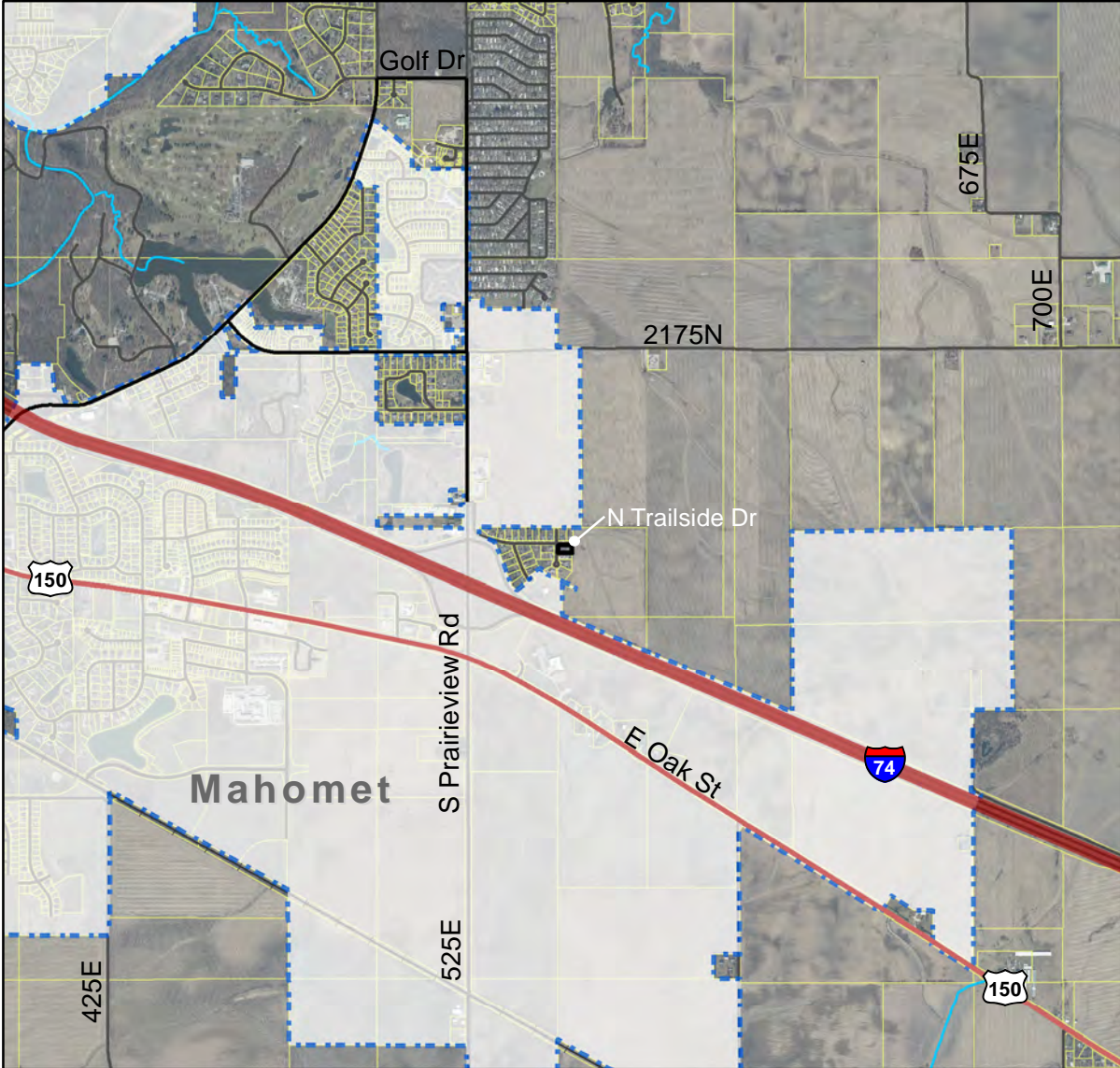
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan prepared by P&Z Staff on April 28, 2022
- C Images of subject property taken May 9, 2022
- D Draft Summary of Evidence, Finding of Fact, and Final Determination dated June 16, 2022

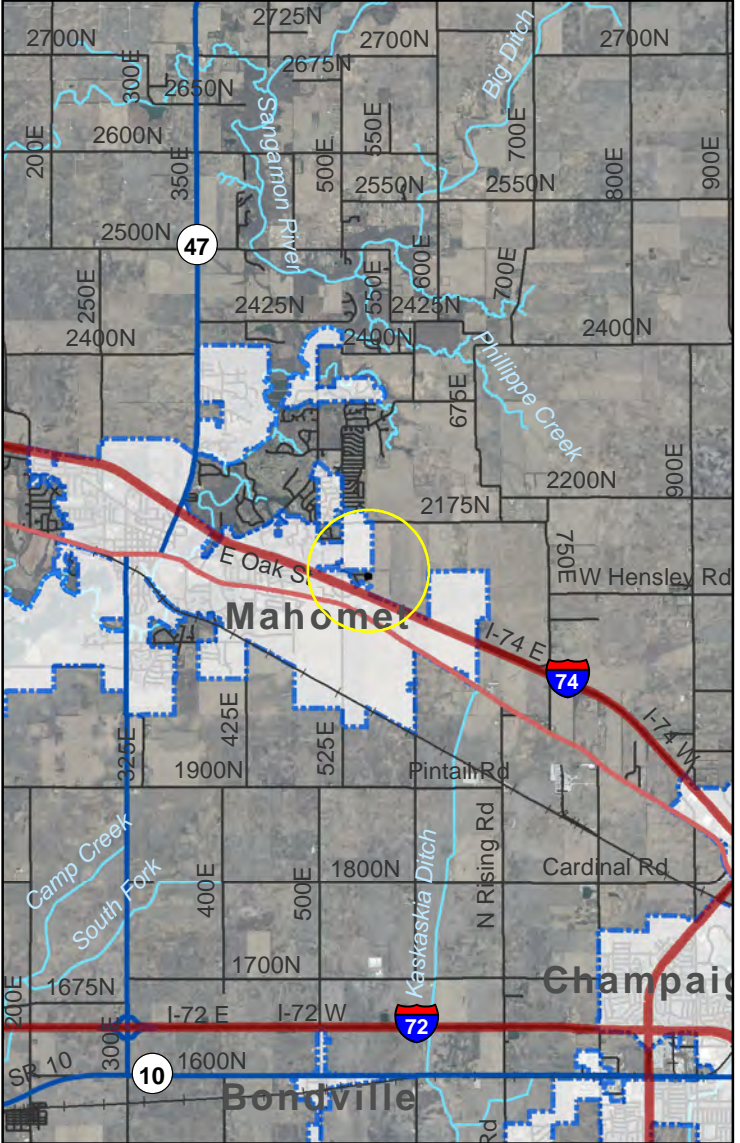
Location Map

Case 054-V-22
June 16, 2022

Subject Property



Property location in Champaign County



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

0 0.1250.25 0.5 Miles

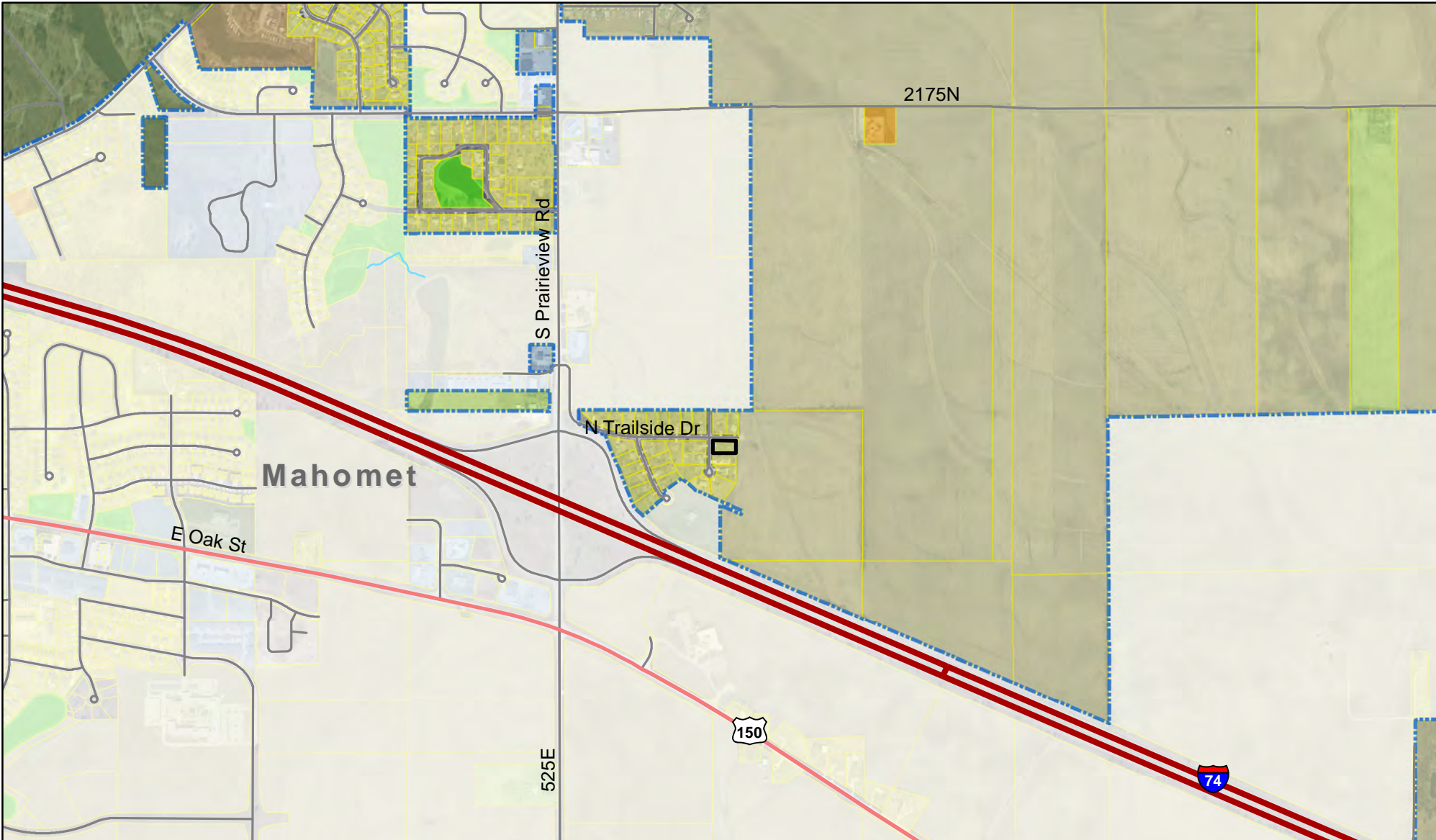
0 0.5 1 2 Miles



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Land Use Map

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June 16, 2022



Legend

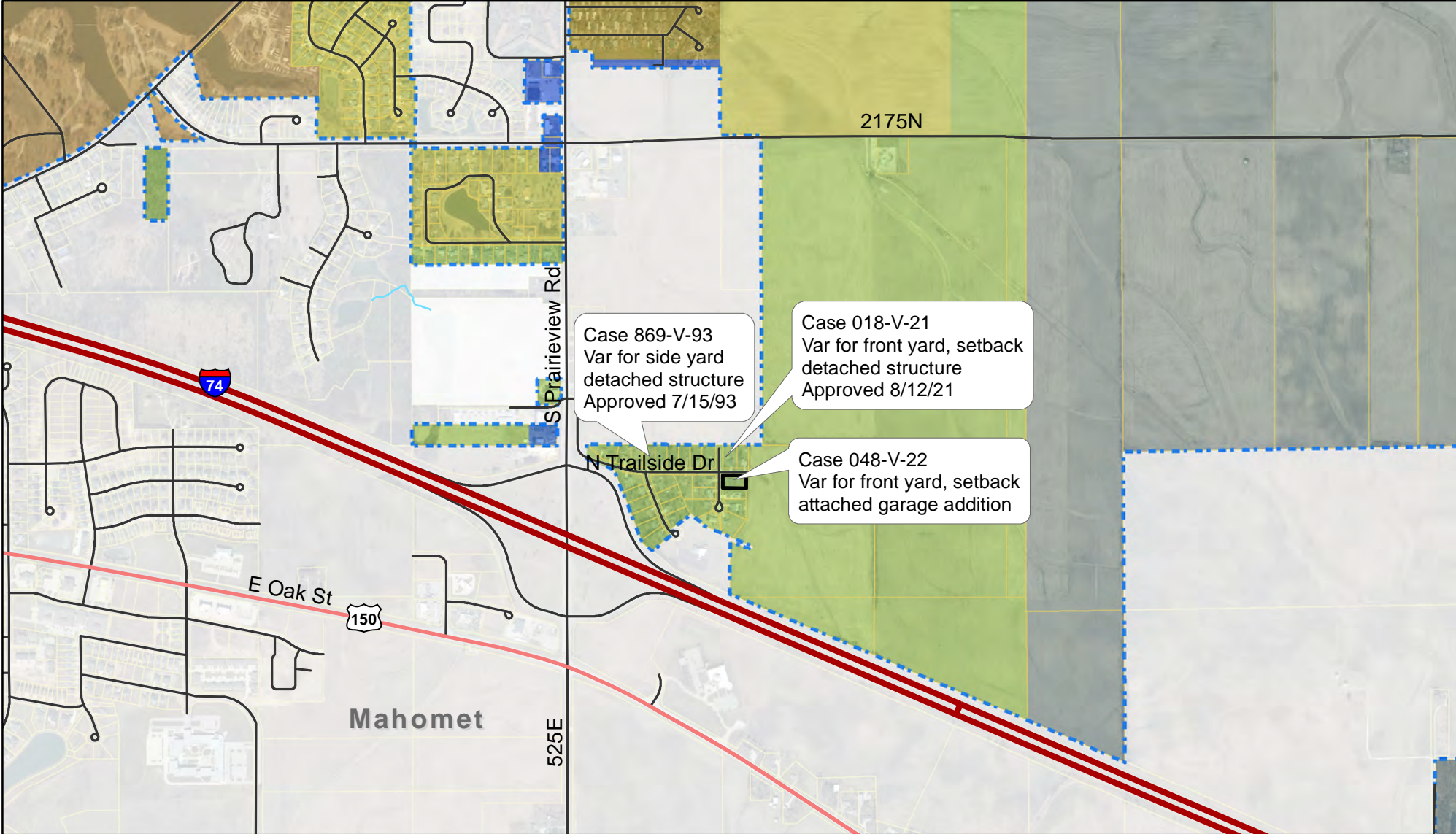
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|--------------------|----------------|--------------|--------------------------|
| Subject Property | Tax Exempt | Commons Area | Utility |
| Municipal Boundary | Agriculture | Residential | Veteran or Fraternal Org |
| Parcels | Ag/Residential | Commercial | Industrial |

0 300 600 1,200 Feet

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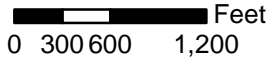
Zoning Map

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June 16, 2022



Legend

Subject Property	CR Conservation Recreation	R-3 Two-Family Residence
Municipal Boundary	AG-1 Agriculture	R-5 Manufactured Home Park
Parcels	AG-2 Agriculture	B-3 Highway Business
	R-1 Single-Family Residence	B-4 General Business





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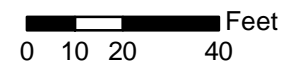
Site Plan

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Legend

-  Subject Property
-  Parcels



054-V-22 Site Images



From N Trailside Drive facing south to shed



From east dead-end of N Trailside Drive facing SW to shed

054-V-22 Site Images



From Surrey Ct facing East to shed

PRELIMINARY DRAFT

054-V-22

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

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

Date: ***{June 16, 2022}***

Petitioner: **John Melton**

Request: **Authorize a variance in the AG-2 Agriculture Zoning District for an existing detached shed with a rear yard of 2 feet and a side yard of 5 feet, in lieu of the minimum required 10 feet, per Section 7.2.1 of the Champaign County 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 **June 16, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner John Melton, 902 Surrey Ct, Mahomet, owns the subject property.
2. The subject property is the .5 acre (21,957 square feet) Lot 11 of Trailside First Subdivision in Section 13, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, with an address of 902 Surrey Ct, Mahomet.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of such cases.
 - B. The subject property is located within Mahomet Township, which does have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is a 21,957 square foot (0.5 acre) lot and is zoned AG-2 Agriculture. Land use is a single-family residence.
 - B. Land to the north, south, and west is zoned AG-2 Agriculture and is residential in use.
 - C. Land to the east is zoned AG-2 Agriculture and is land in agricultural production.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Petitioner's Site Plan was prepared by P&Z Staff and indicates the following:
 - (1) The following are existing structures on the subject property:
 - a. One 1947 square feet residence, constructed under ZUPA #338-84-03 approved on December 3, 1984;
 - b. One addition to the south side of the residence, constructed under ZUPA #65-87-01 approved on March 6, 1987;
 - c. One 10 feet by 18 feet (180 square feet) detached shed in the southeast corner of the subject property; and
 - d. One above ground swimming pool.
 - e. No septic system information was provided with the application.

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- (2) Proposed construction in recently approved variance case 049-V-22 includes:
 - a. One 14 feet by 32 feet (448 square feet) garage addition to the existing residence.

- B. The following are previous Zoning Use Permits for the subject property:
 - (1) ZUPA #338-84-03 was approved on December 3, 1984 to construct a single family residence.
 - (2) ZUPA #65-87-01 was approved on March 6, 1987 to construct an addition to the residence.
 - (3) No permits are on file for a second addition, the above-ground swimming pool, or the detached shed, but these will be added to the permit for the proposed garage addition from case 049-V-22.

- C. There is one prior Zoning Case for the subject property, and two previous variances in the vicinity:
 - (1) Case 049-V-22 was a variance for front yard and setback from street centerline for a proposed garage addition on the subject property approved on April 14, 2022.
 - (2) Case 869-V-93 was a variance for side yard of a detached structure approved on July 15, 1993 for 2202 North Trailside Dr, Mahomet.
 - (3) Case 018-V-21 was a variance for front yard and setback of a detached structure approved on August 12, 2021 for 2302 North Trailside Dr, Mahomet.

- D. The required variance is as follows:
 - (1) Authorize a variance in the AG-2 Agriculture Zoning District for an existing detached shed with a rear yard of 2 feet and a side yard of 5 feet, in lieu of the minimum required 10 feet, per Section 7.2.1 of the Champaign County 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 with the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE.
 - (2) “BUILDING, DETACHED” is a BUILDING having no walls in common with other BUILDINGS.

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- (3) “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.
 - (4) “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.
 - (5) “LOT LINES” are the lines bounding a LOT.
 - (6) “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.
 - (7) “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.
 - (8) “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.
 - (9) “YARD, SIDE” is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. The AG-2 Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - 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.

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- b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Regarding the proposed variance:
- (1) Minimum rear yard for a detached structure in the AG-2 Agriculture Zoning District is established in Section 7.2.1 of the Zoning Ordinance as 10 feet.
 - (2) Minimum side yard for a detached structure in the AG-2 Agriculture Zoning 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, **“Back in the corner of the lot, field behind me.”**
 - B. North Trailside Drive ends adjacent to the subject property.
 - C. The farmland to the east has a 20 foot jog adjacent to the rear yard of the subject property. The farmer does not have this 20 foot area in production, and it has grown as grass that gives the appearance it is part of the subject property’s lawn.

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, **“Don’t have equipment to move. Might fall apart. Has been there long before I bought the house.”**
 - B. Regarding the proposed variance for a rear yard of 2 feet and a side yard of 5 feet in lieu of the minimum required 10 feet: without the proposed variance, the petitioner would have attempt to move the structure, which might destroy it.

PRELIMINARY DRAFT**GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT**

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The Petitioner has testified on the application, **“No.”**
 - B. A shed existed on the property in the same location prior to the petitioner’s purchase of the property in 2006. Based on aerial photos, it appears that the petitioner placed a larger shed in the same place between 2011 and 2014, but was apparently unaware of the side and rear yard requirements.

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, **“Looks like all the sheds in the neighborhood are probably not legal.”**
 - B. Regarding the proposed variance for a rear yard of 2 feet in lieu of 10 feet: the requested variance is 20% of the minimum required, for a variance of 80%.
 - C. Regarding the proposed variance for a side yard of 5 feet in lieu of the minimum required 10 feet: the requested variance is 50% of the minimum required, for a variance of 50%.
 - D. The Zoning Ordinance does not clearly state the considerations that underlie the side yard 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 in residential use. The surrounding properties are in residential use or in agricultural production.
 - (2) Separation of structures to prevent conflagration: The subject property is within the Cornbelt Fire Protection District and the station is approximately 3.1 road miles from the subject property. The nearest structure on adjacent property is a shed to the south that is approximately 75 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: **“My neighbor is fine with where it’s at.”**

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- B. The Mahomet Township Road Commissioner has been notified of this variance, and no comments have been received.
- C. The Cornbelt Fire Protection District has been notified of this variance, and no comments have been received.
- D. The nearest structure on adjacent property to the shed is a shed located to the south that is about 75 feet away.

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 on the application.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 13. Regarding proposed special conditions of approval:
 - A. **The existing shed can remain in its current location, but replacement of the shed or repair of more than 50% replacement value in any 365-day period means the shed must be made to conform to the yard requirements in the Zoning Ordinance.**

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

That replacement of the existing shed conforms to the Zoning Ordinance.

DOCUMENTS OF RECORD

1. Variance Application received on April 25, 2022
2. Site Plan prepared by P&Z Staff on April 28, 2022
3. Preliminary Memorandum dated June 7, 2022, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan prepared by P&Z Staff on April 28, 2022
 - C Images of subject property taken May 9, 2022
 - D Draft Summary of Evidence, Finding of Fact, and Final Determination dated June 16, 2022

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **054-V-22** held on **June 16, 2022**, 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 farmland to the east has a 20 foot jog adjacent to the rear yard of the subject property. The farmer does not have this 20 foot area in production, and it has grown as grass that gives the appearance it is part of the subject property's lawn.***
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, the petitioner would have to move the shed, which requires special equipment and might destroy it.***
3. The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant because:
 - a. ***A shed existed on the property in the same location prior to the petitioner's purchase of the property in 2006. Based on aerial photos, it appears that the petitioner placed a larger shed in the same place between 2011 and 2014, but was apparently unaware of the side and rear yard requirements.***
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. ***There is adequate light and air around the shed and sufficient distance from other structures to prevent conflagration.***
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. ***Relevant jurisdictions were notified of this variance, and no comments have been received.***
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:
 - a. ***The requested variance is the minimum variation without attempting to move the structure, which could destroy it.***
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***
 - A. **The existing shed can remain in its current location, but replacement of the shed or repair of more than 50% replacement value in any 365-day period means the shed must be made to conform to the yard requirements in the Zoning Ordinance.**

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

That replacement of the existing shed conforms to the Zoning Ordinance.

PRELIMINARY DRAFT

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 **054-V-22** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner, **John Melton**, to authorize the following variance:

Authorize a variance in the AG-2 Agriculture Zoning District for an existing detached shed with a rear yard of 2 feet and a side yard of 5 feet, in lieu of the minimum required 10 feet, per Section 7.2.1 of the Champaign County Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A. **The existing shed can remain in its current location, but replacement of the shed or repair of more than 50% replacement value in any 365-day period means the shed must be made to conform to the yard requirements in 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:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals
Date