

CASE NO. 060-V-22

PRELIMINARY MEMORANDUM

July 19, 2022

Petitioners: **Jack & Camille James**

Request: **Authorize a variance for an existing residence with a front yard along Buckthorn Lane of 18 feet in lieu of the minimum required 25 feet in the R-1 Single Family Residence Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Subject Property: **Lot 2 of Woodfield West Subdivision in Section 22, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, commonly known as the residence with an address of 1607 Buckthorn Lane, Mahomet.**

Site Area: **0.49 acre**

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

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

BACKGROUND

The petitioner requests a variance for a residence constructed in 2016-2017 that does not meet the minimum front yard requirement along Buckthorn Lane.

During zoning compliance certification, P&Z Staff measured the front yard using a 2020 aerial photo and measured a front yard of 18 feet in lieu of the minimum required 25 feet. The setback to street centerline was as indicated on the approved site plan from ZUPA #210-16-01, 56.5 feet.

Buckthorn Lane is not centered within the 50-foot right-of way. It is a narrow road that is entirely in the east 20 feet of the right of way, leaving 30 feet in the west part of right of way. The site plan as approved had a correct measurement of 56.5 feet to the street centerline of Buckthorn Lane, but an incorrect front yard measurement of 25 feet to the road's western right-of-way line.

There are no current plans to widen Buckthorn Lane. No other comments have been received from relevant jurisdictions or the public.

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.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Residential	R-1 Single Family Residence
North	Residential	R-1 Single Family Residence
South	Residential	AG-1 Agriculture
East	Residential	R-1 Single Family Residence
West	Residential	R-1 Single Family Residence

ATTACHMENTS

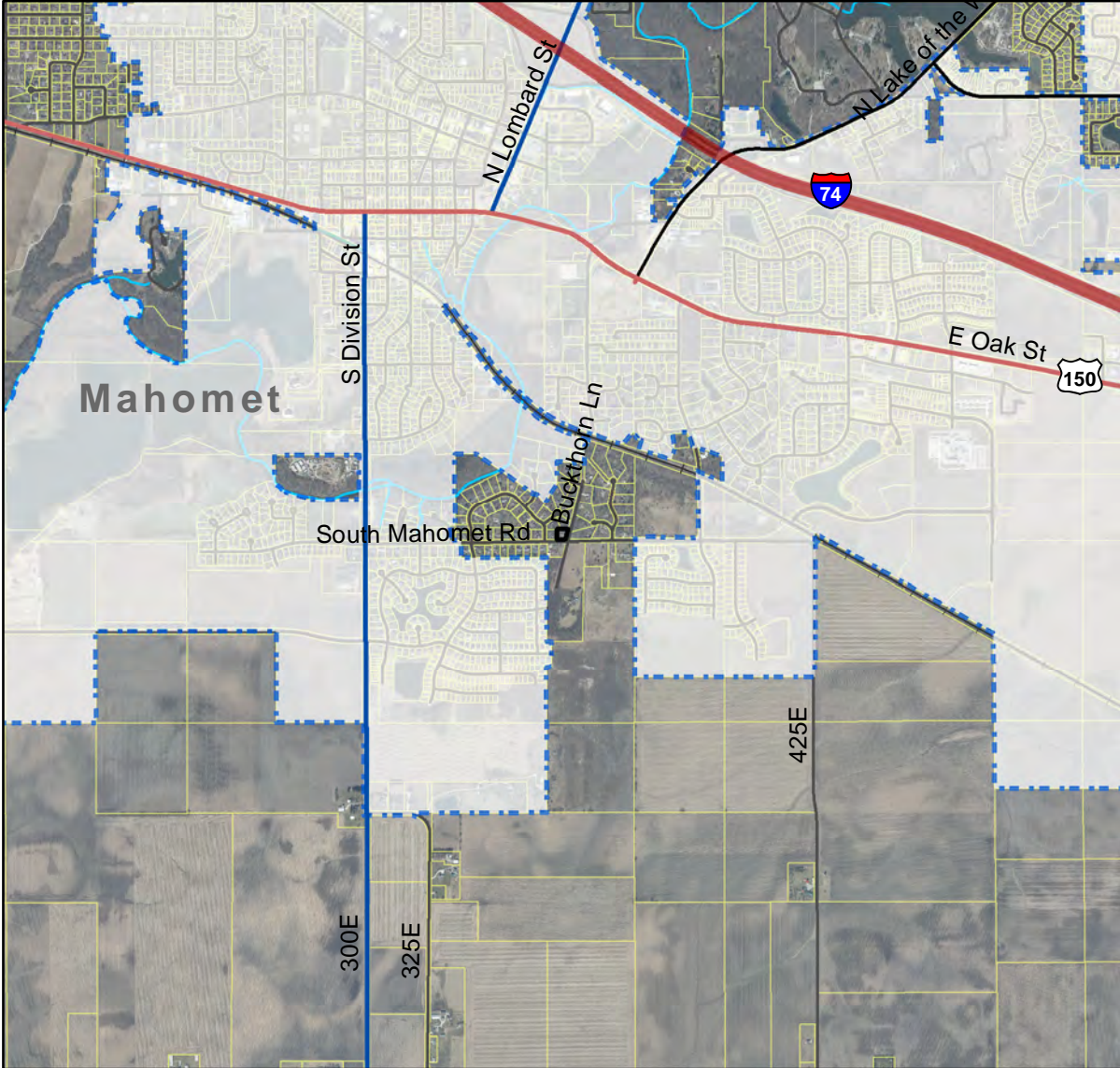
- A Case Maps (Location, Land Use, Zoning)
- B Approved Site Plan from ZUPA #210-16-01
- C Annotated 2020 aerial by P&Z Staff dated June 30, 2022
- D Images of Subject Property taken July 5, 2022
- E Summary of Evidence, Summary Draft Finding of Fact, and Final Determination dated July 28, 2022

Location Map

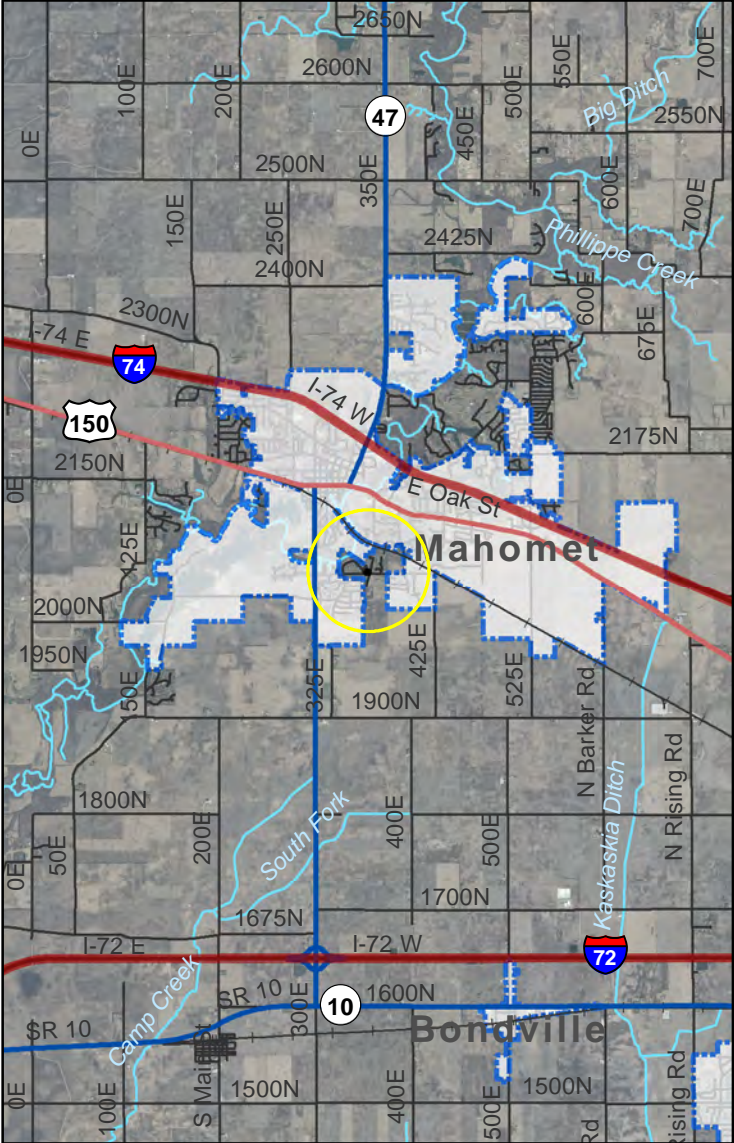
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Subject Property



Property location in Champaign County



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

0 0.1250.25 0.5 Miles

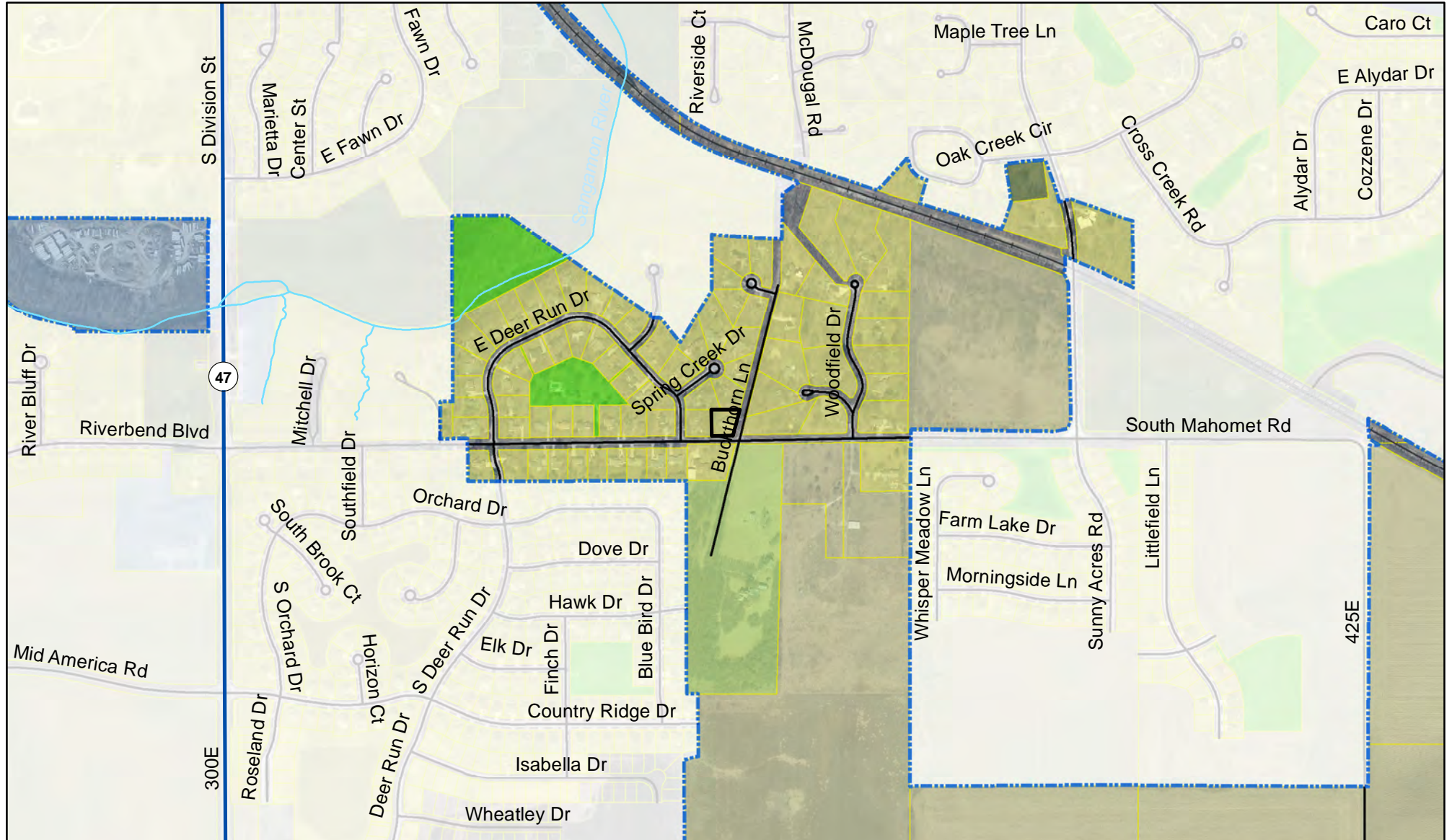
0 0.5 1 2 Miles



Champaign County
Department of
**PLANNING &
ZONING**

Land Use Map

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- | | | |
|--------------------|----------------|--------------|
| Subject Property | Tax Exempt | Commons Area |
| Municipal Boundary | Agriculture | Residential |
| Parcels | Ag/Residential | Commercial |

0 200 400 800 Feet

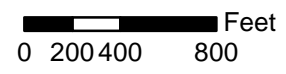
Champaign County
Department of
**PLANNING &
ZONING**

Zoning Map

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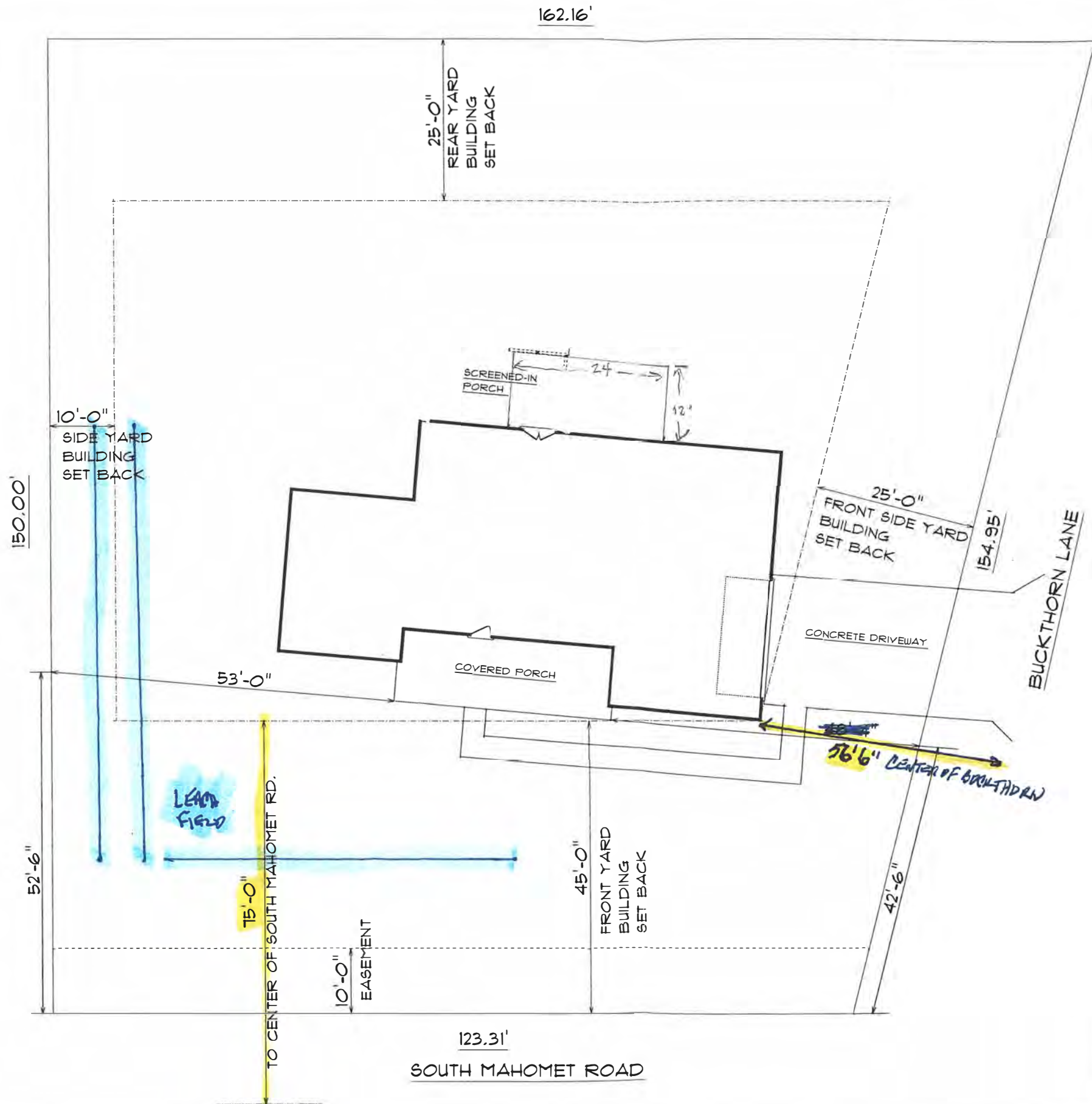
- Subject Property
- Municipal Boundary
- Parcels
- CR Conservation Recreation
- AG-1 Agriculture
- AG-2 Agriculture
- R-1 Single-Family Residence



RECEIVED

NOV 16 2016

CHAMPAIGN CO P & Z DEPARTMENT



Champaign County
 Planning & Zoning Department
 Approved Site Plan
 Permit # 21016-01
 Date: 11/28/16 JET



LOT 2
 WOODFIELD WEST
 SUBDIVISION
 VILLAGE OF MAHOMET, ILL

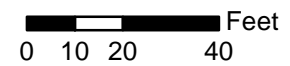
	Bentbrook Properties LLC		
	SCALE: 1/8"=1'-0"	APPROVED	DRAWN BY: JET
	DATE: 10/6/16		REVISED:
SITE PLAN			
LOT 2 WOODFIELD WEST SUBDIVISION MAHOMET, ILL		DRAWING NUMBER	
		1 OF 6	

Annotated Aerial

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-  Subject Property
-  Parcels



060-V-22 Site Images



From South Mahomet Road facing north to subject property



From Buckthorn Lane facing west to subject property

060-V-22 Site Images



From Buckthorn Lane facing west to subject property



**From Buckthorn Lane facing south to South Mahomet Road
(subject property is ahead at right)**

PRELIMINARY DRAFT

060-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: *{July 28, 2022}*

Petitioner: **Jack and Camille James**

Request: **Authorize a variance for an existing residence with a front yard along Buckthorn Lane of 18 feet in lieu of the minimum required 25 feet in the R-1 Single Family Residence Zoning District, per Section 5.3 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 **July 28, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioners Jack and Camille James own the subject property.
2. The subject property is Lot 2 of Woodfield West Subdivision in Section 22, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, commonly known as the residence with an address of 1607 Buckthorn Lane, Mahomet.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. 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.
 - B. 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.

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 0.49-acre subject property is zoned R-1 Single Family Residence and is residential in use.
 - B. Land to the north, west and east of the subject property is zoned R-1 Single Family Residence and is residential in use.
 - C. Land to the south of the subject property is zoned AG-1 Agriculture and is residential in use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The approved Site Plan from Zoning Use Permit #210-16-01 indicates the following:
 - (1) One 5,125 square feet residence with a setback of 56.5 feet to the street centerline of Buckthorn Lane and a front yard of 25 feet along Buckthorn Lane.
 - a. During zoning compliance certification, P&Z Staff measured the front yard using a 2020 aerial photo and measured a front yard of 18 feet instead of the minimum required 25 feet. The setback to street centerline was as indicated, 56.5 feet.
 - B. There are no previous Zoning Use Permits for the subject property.
 - C. There are no prior zoning cases for the subject property.

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D. The required variance is as follows:

- (1) Authorize a variance for an existing residence with a front yard along Buckthorn Lane of 18 feet in lieu of the minimum required 25 feet in the R-1 Single Family Residence Zoning District, per Section 5.3 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) “BUILDING, MAIN or PRINCIPAL” is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
- (2) “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.
- (3) “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.
- (4) “LOT LINES” are the lines bounding a LOT.
- (5) “RIGHT-OF-WAY” is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
- (6) “STREET” is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS 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.
- (7) “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.
- (8) “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.

PRELIMINARY DRAFT

- (9) “YARD, FRONT” is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
- B. The R-1 Single Family Residence DISTRICT is intended to provide areas for single FAMILY detached DWELLINGS, set on LOTS and is intended for application in mainly non-urban and developing areas where community facilities can be made readily available.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Minimum FRONT YARD for a principal structure adjacent to a local road in the R-1 District is established in Section 4.3.2 of the *Zoning Ordinance* as 25 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, **“House was built in 2016-2017 and to our knowledge (based on expertise of builder and excavation company) was compliant.”**
 - B. Buckthorn Lane is not centered within the 50-foot right-of way. It is a narrow road that is entirely in the east 20 feet of the right of way, leaving 30 feet in the west part of right of way. The site plan as approved had a correct measurement of 56.5 feet to the street

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centerline of Buckthorn Lane, but an incorrect front yard measurement of 25 feet to the road's western right-of-way line.

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, **“House was built in 2016-2017.”**
 - B. Regarding the proposed Variance:
 - (1) Without the proposed variance for front yard, should the house be partially damaged or destroyed, it could not be rebuilt in the same location.

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, as owners we relied on expertise of builder and excavation company.”**

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 did not provide a response on the application.
 - B. Regarding the proposed variance for a principal structure with a front yard of 18 feet in lieu of the minimum required 25 feet: the requested variance for front yard is 72% of the minimum required, for a variance of 28%.
 - C. Regarding the proposed variance, the Zoning Ordinance does not clearly state the considerations that underlie the front yard requirement. Presumably the front yard minimum is intended to ensure the following:
 - (1) Adequate separation from roads.
 - (2) Allow adequate area for road expansion and right-of-way acquisition.
 - a. There are no known plans to widen Buckthorn Lane.
 - (3) Parking, where applicable.

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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: **“House is already built and not obstructing or infringing on any other property or safety of traffic.”**
 - 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. No complaints have been received regarding the house location since its construction in 2016-2017.

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. No special conditions are proposed at this time.

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DOCUMENTS OF RECORD

1. Variance Application received June 21, 2022
2. Approved Site Plan from ZUPA# 210-16-01
3. Preliminary Memorandum dated July 19, 2022, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Approved Site Plan from ZUPA# 210-16-01
 - C Annotated 2020 aerial by P&Z Staff dated June 30, 2022
 - D Images of Subject Property taken July 5, 2022
 - E Summary of Evidence, Summary Draft Finding of Fact, and Final Determination dated July 28, 2022

SUMMARY DRAFT FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **060-V-22** held on **July 28, 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. ***Buckthorn Lane is not centered within the 50-foot right-of way. It is a narrow road that is entirely in the east 20 feet of the right of way, leaving 30 feet in the west part of right of way. The site plan as approved had a correct measurement of 56.5 feet to the street centerline of Buckthorn Lane, but an incorrect front yard measurement of 25 feet to the road's western right-of-way line.***
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 proposed variance, the petitioner could not rebuild the house in the same location should it be damaged or destroyed.***
3. The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant because:
 - a. ***The petitioners relied on the expertise of their contractors to build the house.***
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. ***The requested variance is 72% of the minimum required, for a variance of 28%.***
 - c. ***There are no known plans to widen Buckthorn Lane.***
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 have been notified of this variance, and no comments have been received.***
 - b. ***No complaints have been received about the location of the house since its construction in 2016-2017.***
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 house cannot be moved.***
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 **060-V-22** is hereby **{GRANTED / GRANTED WITH CONDITIONS/ DENIED}** to the petitioners, **Jack and Camille James**, to authorize the following variance in the R-1 Single Family Residence Zoning District:

Authorize a variance for an existing residence with a front yard along Buckthorn Lane of 18 feet in lieu of the minimum required 25 feet in the R-1 Single Family Residence Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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