

CASE NO. 113-V-23

PRELIMINARY MEMORANDUM

October 18, 2023

Petitioner: **Michael San Miguel**

Request: **Authorize a variance for the following in the R-2 Single Family Residence Zoning District:**

Part A: Authorize an existing non-conforming dwelling with a setback from the street centerline of South West Street (County Highway 22) of 51 feet in lieu of the minimum required 75 feet and a front yard of 18 feet in lieu of the minimum required 30 feet, per Section 4.3.2 of the Champaign County Zoning Ordinance and located within the corner visibility triangle, per Section 4.3.3 F.1. of the Champaign County Zoning Ordinance.

Part B: Authorize a proposed addition to a dwelling with a setback from the street centerline of South West Street (County Highway 22) of 58 feet in lieu of the minimum required 75 feet and a front yard of 25 feet in lieu of the minimum required 30 feet, per Section 4.3.2 of the Champaign County Zoning Ordinance.

Part C: Authorize an existing detached shed with a setback from the street centerline of Busey Street of 40 feet in lieu of 65 feet and a front yard of 0 feet in lieu of the minimum required 25 feet, per Section 4.3.2 of the Champaign County Zoning Ordinance.

Subject Property: **Lots 2 and 3 of S.H. Busey's First Addition to Penfield in the Northwest Quarter of the Southwest Quarter of Section 4, Township 21 North, Range 14 West of the Second Principal Meridian in Compromise Township, with an address of 201 South West Street, Penfield.**

Site Area: **17,433 square foot (0.4 acre)**

Time Schedule for Development: **As soon as possible**

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

BACKGROUND

The petitioner requests a variance to construct an addition to the south side of his residence, which was constructed prior to the adoption of the Zoning Ordinance on October 10, 1973. The subject property requires a set of variances in order to construct the addition:

- Variance Part A was included so that the legally non-conforming residence can be reconstructed in its current location should it be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction. Per Section 8.3.2, the Board may authorize such a variance prior to such structure incurring any damage or destruction.
- Variance Part B is necessary because the proposed addition sits too close to South West Street.

- Variance Part C is necessary because P&Z Staff found that an existing detached shed sits too close to Busey Street to the north.

Attachment C is an annotated 2020 aerial photo showing the requested variance parts.

No 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	R-2 Single Family Residence
North	Residential	R-2 Single Family Residence
South	Residential	R-2 Single Family Residence
East	Residential	R-2 Single Family Residence
West	Agriculture	AG-1 Agriculture

EXTRATERRITORIAL JURISDICTION

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

The subject property is located within Compromise Township, which does have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

PROPOSED SPECIAL CONDITIONS

- A. **The existing shed adjacent to Busey Street 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.

- B. **Within 30 days of approval of Case 113-V-23, the petitioner shall pay the Zoning Use Permit fee for construction of the two sheds that were constructed without authorization.**

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

That all structures on the subject property are authorized in compliance with the Champaign County Zoning Ordinance.

ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received August 15, 2023
- C Annotated 2020 aerial photo by P&Z Staff
- D Images of subject property taken September 19, 2023
- E Draft Summary of Evidence, Finding of Fact, and Final Determination dated October 26, 2023

Land Use Map

Case 113-V-23
October 26, 2023



- | | | |
|---|--|--|
|  Subject Property |  Agriculture |  Utility |
|  Parcels |  Ag/Residential |  Government |
| |  Residential |  Vet or Fraternal Org |
| |  Commercial |  Tax Exempt |

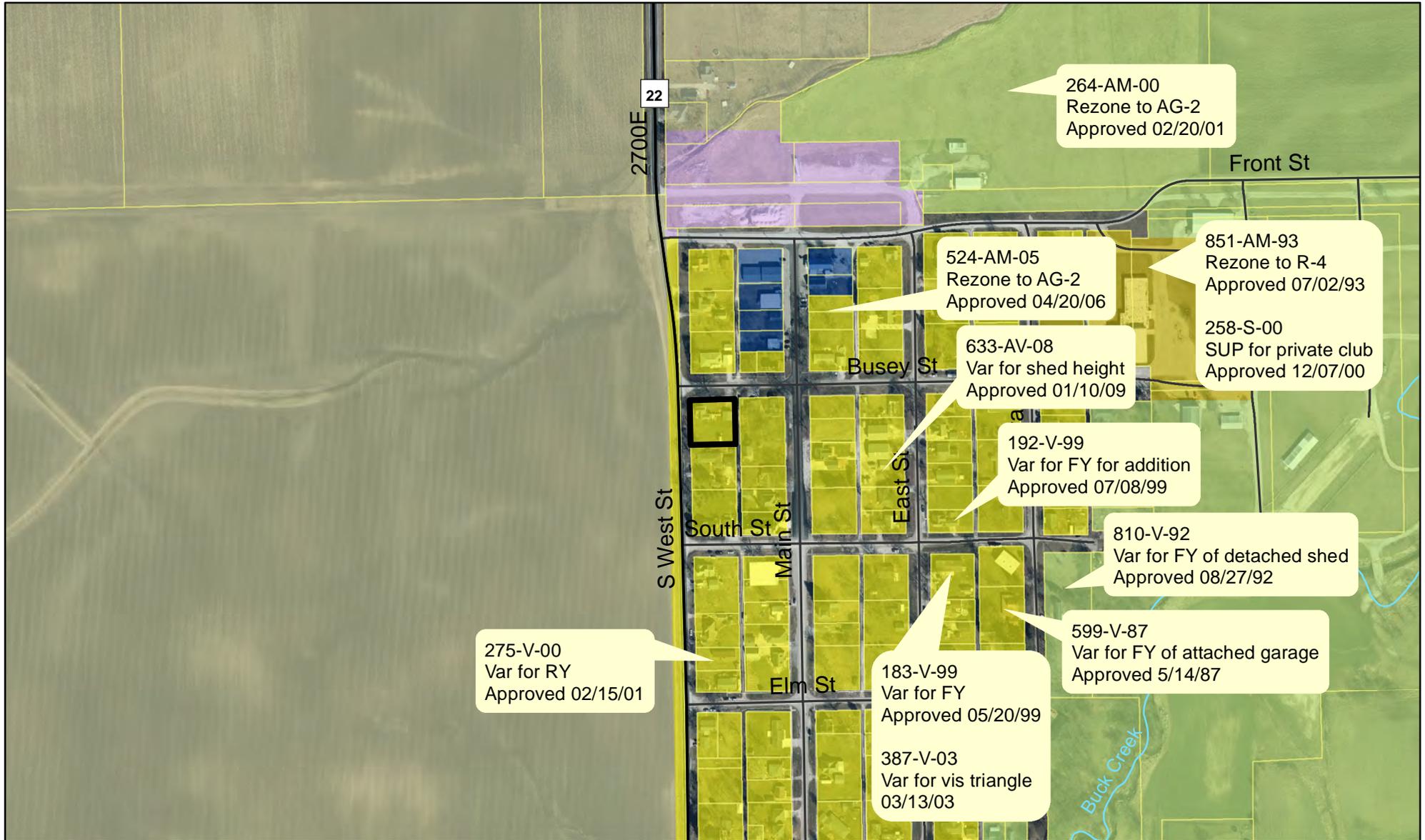
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Champaign County
Department of
PLANNING &
ZONING

Zoning Map

Case 113-V-23
October 26, 2023



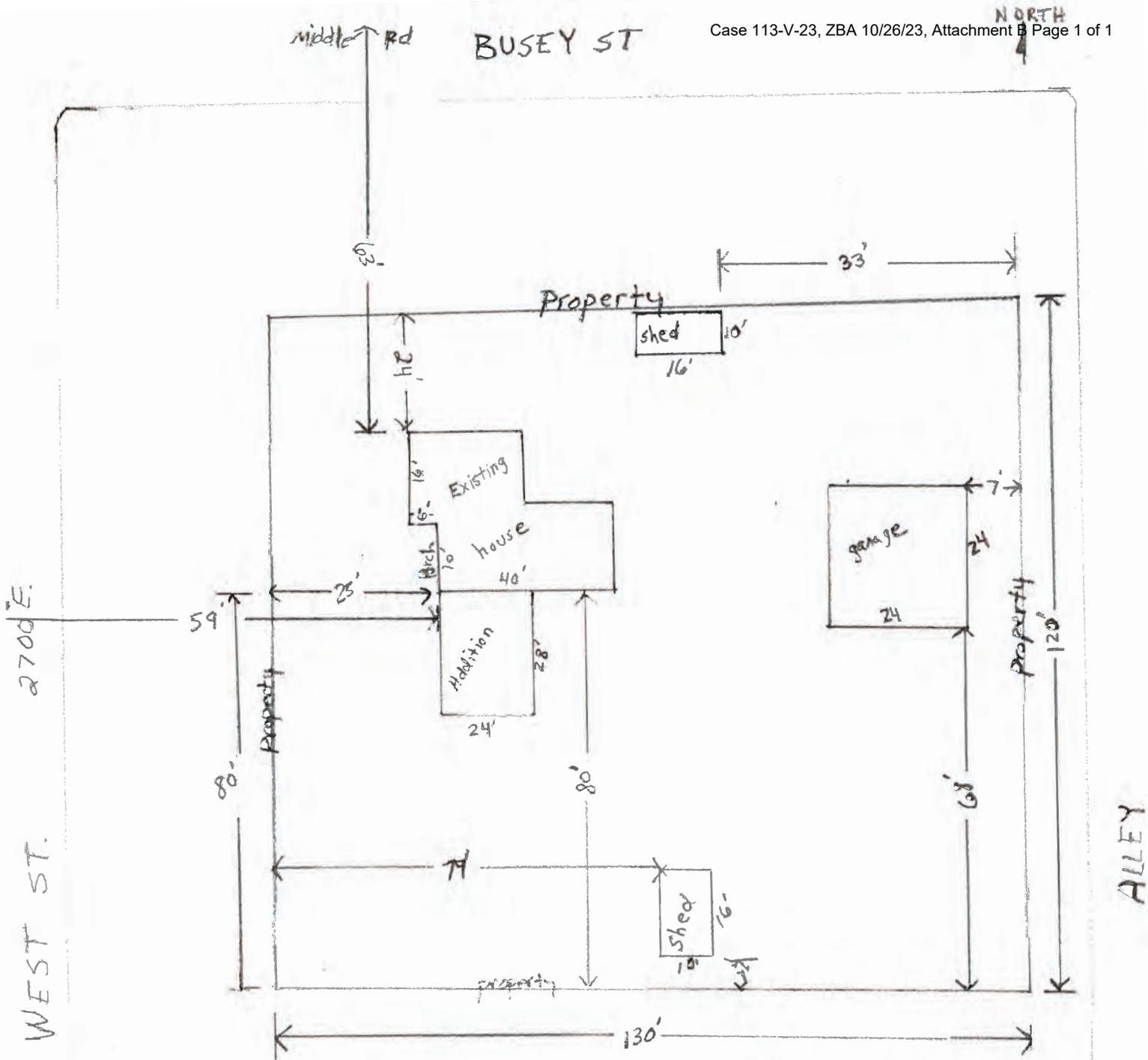
- Subject Property
- AG-2 Agriculture
- B-5 Central Business
- Parcels
- R-2 Single Family Residence
- I-1 Light Industry
- AG-1 Agriculture
- R-4 Multi-Family Residence

0 100 200 400 Feet

N

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NORTH



RECEIVED

AUG 15 2023

CHAMPAIGN CO. P & Z DEPARTMENT

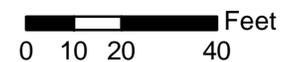
Addition 24'x28'
 House 17' high
 Addition approx 16' high
 Sheds 11'
 garage 13'

Annotated 2020 Aerial

Case 113-V-23
October 26, 2023



Subject Property
 Parcels



Champaign County
Department of
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113-V-23 Site Images



From South West Street facing SE to subject property



From South West Street facing east to subject property

113-V-23 Site Images



From Busey Street facing SW to subject property



From Busey Street facing south to subject property

PRELIMINARY DRAFT

113-V-23

**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: ***{October 26, 2023}***

Petitioner: **Michael San Miguel**

Request: **Authorize a variance for the following in the R-2 Single Family Residence Zoning District:**

Part A: Authorize an existing non-conforming dwelling with a setback from the street centerline of South West Street (County Highway 22) of 51 feet in lieu of the minimum required 75 feet and a front yard of 18 feet in lieu of the minimum required 30 feet, per Section 4.3.2 of the Champaign County Zoning Ordinance and located within the corner visibility triangle, per Section 4.3.3 F.1. of the Champaign County Zoning Ordinance.

Part B: Authorize a proposed addition to a dwelling with a setback from the street centerline of South West Street (County Highway 22) of 58 feet in lieu of the minimum required 75 feet and a front yard of 25 feet in lieu of the minimum required 30 feet, per Section 4.3.2 of the Champaign County Zoning Ordinance.

Part C: Authorize an existing detached shed with a setback from the street centerline of Busey Street of 40 feet in lieu of 65 feet and a front yard of 0 feet in lieu of the minimum required 25 feet, per Section 4.3.2 of the Champaign County Zoning Ordinance.

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PRELIMINARY DRAFT

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 26, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Michael San Miguel, 201 South West Street, Penfield, owns the subject property.
2. The subject property is Lots 2 and 3 of S.H. Busey's First Addition to Penfield in the Northwest Quarter of the Southwest Quarter of Section 4, Township 21 North, Range 14 West of the Second Principal Meridian in Compromise Township, with an address of 201 South West Street, Penfield.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is not within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning.
 - B. The subject property is located within Compromise 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 17,433 square foot (0.4 acre) lot and is zoned R-2 Single Family Residence. Land use is a single-family residence.
 - B. Land to the north, south, and east is also zoned R-2 Single Family Residence and is residential in use.
 - C. Land to the west is zoned AG-1 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 received August 15, 2023, indicates the following:
 - (1) The following are existing structures on the subject property:
 - a. One 984 square feet residence constructed prior to adoption of the Zoning Ordinance on October 10, 1973.
 - b. One 24 feet by 24 feet (576 square feet) detached garage constructed under ZUPA # 079-09-02 approved March 25, 2009.
 - c. One 10 feet by 16 feet detached shed constructed without a permit along the north property line.
 - d. One 10 feet by 16 feet detached shed constructed without a permit near the south property line.
 - (2) Proposed construction includes:
 - a. One 24 feet by 28 feet (672 square feet) addition to the existing residence.

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- B. There is one previous Zoning Use Permit for the subject property:
- (1) ZUPA # 079-09-02 was approved on March 25, 2009 for construction of a detached garage.
 - (2) The house was constructed prior to adoption of the Zoning Ordinance on October 10, 1973.
 - (3) No permits are on file for the two detached sheds.
- C. There are no prior Zoning Cases for the subject property.
- D. The required variance is as follows:
- (1) Part A: Authorize an existing non-conforming dwelling with a setback from the street centerline of South West Street (County Highway 22) of 51 feet in lieu of the minimum required 75 feet and a front yard of 18 feet in lieu of the minimum required 30 feet, per Section 4.3.2 of the Champaign County Zoning Ordinance and located within the corner visibility triangle, per Section 4.3.3 F.1. of the Champaign County Zoning Ordinance.
 - (2) Part B: Authorize a proposed addition to a dwelling with a setback from the street centerline of South West Street (County Highway 22) of 58 feet in lieu of the minimum required 75 feet and a front yard of 25 feet in lieu of the minimum required 30 feet, per Section 4.3.2 of the Champaign County Zoning Ordinance.
 - (3) Part C: Authorize an existing detached shed with a setback from the street centerline of Busey Street of 40 feet in lieu of 65 feet and a front yard of 0 feet in lieu of the minimum required 25 feet, per Section 4.3.2 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) “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.
 - (3) “FRONTAGE” is that portion of a LOT abutting a STREET or ALLEY.
 - (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.

PRELIMINARY DRAFT

- (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 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.
- (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) “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.
- (8) “RIGHT-OF-WAY” is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
- (9) “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.
- (10) “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.
- (11) “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.
- (12) “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.
- (13) “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-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. Section 8.3.2 for non-conforming structures states, "Should such STRUCTURE be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9. The BOARD may authorize such a VARIANCE prior to such STRUCTURE incurring any damage or destruction."
- D. 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.
- E. Regarding the proposed variance:
- (1) Minimum setback from the centerline of a MINOR STREET for a STRUCTURE in the R-2 Single Family Residence Zoning DISTRICT is established in Section 5.3 of the *Zoning Ordinance* as 55 feet.

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- (2) Minimum setback from the centerline of a COLLECTOR STREET for a structure in the R-2 Single Family Residence Zoning DISTRICT is established in Section 5.3 of the Zoning Ordinance as 75 feet.
- (3) Minimum FRONT YARD from the street right of way of a MINOR STREET to a STRUCTURE in the R-2 Single Family Residence Zoning DISTRICT is established in Section 5.3 of the Zoning Ordinance as 25 feet.
- (4) Minimum FRONT YARD from the street right of way of a COLLECTOR STREET to a STRUCTURE in the R-2 Single Family Residence Zoning DISTRICT is established in Section 5.3 of the Zoning Ordinance as 30 feet.
- (5) The 50-foot visibility triangle is established in Section 4.3.3 F.1. of the Zoning Ordinance.

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 predates County Zoning. The house that is being added on to is close to County Road 22 and violates current zoning regulations.”**
 - B. Variance Part A was included so that the legally non-conforming residence can be reconstructed in its current location should it be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction. Per Section 8.3.2, the BOARD may authorize such a VARIANCE prior to such STRUCTURE incurring any damage or destruction.
 - C. Regarding variance Part B, the proposed addition to the house is farther away from West Street/County Highway 22 than the original house.
 - D. Regarding variance Part C, Busey Street has a relatively large 75-foot RIGHT-OF-WAY for a MINOR STREET that increases the minimum required setback from 55 feet to 65 feet.

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, **“There is no other placement of addition to the house that would conform to Zoning Regulations. It would create practical difficulties for completion of addition. Reduction in size of the proposed addition would make the addition unusable.”**

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- B. Regarding variance Part A for an existing non-conforming residence with a setback of 51 feet and a front yard of 18 feet in lieu of 75 feet and 30 feet, respectively: the residence has existed since before adoption of the Zoning Ordinance on October 10, 1973. Without the variance, the house could not be reconstructed in the same location.
- C. Regarding variance Part B for a proposed addition with a setback of 58 feet and a front yard of 25 feet in lieu of 75 feet and 30 feet, respectively: there is no other location where the addition could be constructed.
- D. Regarding variance Part C for an existing shed with a setback of 40 feet and a front yard of 0 feet in lieu of 65 feet and 25 feet, respectively, without the variance, the shed would have to be moved, which could be financially or logistically difficult.

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 practical difficulties cited above are from any action of ours. When property was purchased, applicant was not aware of the applicable zoning regulations and physical limitations on the property. Structure predates County Zoning. There was no prior construction. The application has not altered the physical character of the lot or structure.”**
 - B. The existing house, detached garage and two detached sheds were constructed prior to the petitioner’s acquisition of the property in 2021.

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, **“Proposed addition does not interfere with light or air of structure or other properties. There are no traffic and congestion of public streets affected by this addition. There are no environmental or natural features impeded. Hazards to persons and damage to property due to fire, storm water runoff or other dangers are minimized. The zoning district is residential.”**
 - B. Regarding variance Part A for an existing non-conforming residence with a setback from the centerline of a COLLECTOR STREET of 51 feet in lieu of 75 feet: the requested variance is 68% of the minimum required, for a variance of 32%.
 - C. Regarding variance Part A for an existing non-conforming residence with a front yard of 18 feet in lieu of 30 feet: the requested variance is 60% of the minimum required, for a variance of 40%.
 - D. Regarding variance Part A for an existing non-conforming residence located in the visibility triangle: the requested variance is 100%.

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- E. Regarding variance Part B of a proposed addition with a setback from the centerline of a COLLECTOR STREET of 58 feet in lieu of 75 feet: the requested variance is 77% of the minimum required, for a variance of 23%.
- F. Regarding variance Part B of a proposed addition with a front yard of 25 feet in lieu of 30 feet: the requested variance is 83% of the minimum required, for a variance of 17%.
- G. Regarding variance part C for a detached shed with a setback from the centerline of a MINOR STREET of 40 feet in lieu of 65 feet: the requested variance is 61.5% of the minimum required, for a variance of 38.5%.
- H. Regarding variance part C for a detached shed with a front yard of 0 feet in lieu of 25 feet: the requested variance is 100%.
- I. Regarding the proposed variance, the Zoning Ordinance does not clearly state the considerations that underlie the minimum setback requirements and front yard requirements. Presumably the setback from street centerline and 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 expand West Street or Busey Street.
 - (3) Parking, where applicable.
- J. Regarding the proposed variance for not locating in the visibility triangle, the Zoning Ordinance seeks to not impede vision for adjacent road traffic.

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: **“Granting this variance will not impede firefighting concerns. The structure is three miles from the fire station and the fire district has expressed no concerns about this structure. No driveway will be needed for proposed structure. Proposed structure will not impair surface drainage, increase runoff, or impact direct runoff to a different location. Variance will not impede the flow of traffic, or increase congestion and traffic hazards or visibility of traffic.”**
 - B. The Compromise Township Road Commissioner and the County Highway Department have been notified of this variance, and no comments have been received.
 - C. The Gifford Fire Protection District has been notified of this variance, and no comments have been received.

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- D. The nearest structure on adjacent property to the proposed addition is the residence located to the south, which is about 70 feet away.
- E. The proposed addition does not encroach on the visibility triangle.

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 adjacent to Busey Street 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.

- B. **Within 30 days of approval of Case 113-V-23, the petitioner shall pay the Zoning Use Permit fee for construction of the two sheds that were constructed without authorization.**

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

That all structures on the subject property are authorized in compliance with the Champaign County Zoning Ordinance.

DOCUMENTS OF RECORD

1. Variance Application received on August 15, 2023, with attachments:
 - A Site Plan

2. Preliminary Memorandum dated October 18, 2023, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received August 15, 2023
 - C Annotated 2020 aerial photo by P&Z Staff
 - D Images of subject property taken September 19, 2023
 - E Draft Summary of Evidence, Finding of Fact, and Final Determination dated October 26, 2023

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **113-V-23** held on **October 26, 2023**, 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. ***Variance Part A was included so that the legally non-conforming residence can be reconstructed in its current location should it be destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction. Per Section 8.3.2, the BOARD may authorize such a VARIANCE prior to such STRUCTURE incurring any damage or destruction.***
 - b. ***Regarding variance Part B, the proposed addition to the house is farther away from West Street/County Highway 22 than the original house.***
 - c. ***Regarding variance Part C, Busey Street has a relatively large 75-foot RIGHT-OF-WAY for a MINOR STREET that increases the minimum required setback from 55 feet to 65 feet.***

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. ***Regarding variance Part A for an existing non-conforming residence with a setback of 51 feet and a front yard of 18 feet in lieu of 75 feet and 30 feet, respectively: the residence has existed since before adoption of the Zoning Ordinance on October 10, 1973. Without the variance, the house could not be reconstructed in the same location.***
 - b. ***Regarding variance Part B for a proposed addition with a setback of 58 feet and a front yard of 25 feet in lieu of 75 feet and 30 feet, respectively: there is no other location where the addition could be constructed.***
 - c. ***Regarding variance Part C for an existing shed with a setback of 40 feet and a front yard of 0 feet in lieu of 65 feet and 25 feet, respectively, without the variance, the shed would have to be moved, which could be financially or logistically difficult.***

3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. ***The existing house, detached garage and two detached sheds were constructed prior to the petitioner's acquisition of the property in 2021.***

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 are no known plans to expand South West Street/County Highway 22 or Busey Street.***

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.***

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b. The closest structure on adjacent property is approximately 70 feet from the proposed addition.

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. Regarding variance Part A, the variance is the minimum variation to be able to rebuild in the same location should the residence be destroyed.

b. Regarding variance Part B, the variance is the minimum variation as it is the only location where a proposed addition could be located.

c. Regarding variance Part C, the variance is the minimum variation without moving the existing shed.

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

A. The existing shed adjacent to Busey Street 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.

B. Within 30 days of approval of Case 113-V-23, the petitioner shall pay the Zoning Use Permit fee for construction of the two sheds that were constructed without authorization.

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

That all structures on the subject property are authorized in compliance with the Champaign County Zoning Ordinance.

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 **113-V-23** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners, **Michael San Miguel**, to authorize the following variance:

Part A: Authorize an existing non-conforming dwelling with a setback from the street centerline of South West Street (County Highway 22) of 51 feet in lieu of the minimum required 75 feet and a front yard of 18 feet in lieu of the minimum required 30 feet, per Section 4.3.2 of the Champaign County Zoning Ordinance and located within the corner visibility triangle, per Section 4.3.3 F.1. of the Champaign County Zoning Ordinance.

Part B: Authorize a proposed addition to a dwelling with a setback from the street centerline of South West Street (County Highway 22) of 58 feet in lieu of the minimum required 75 feet and a front yard of 25 feet in lieu of the minimum required 30 feet, per Section 4.3.2 of the Champaign County Zoning Ordinance.

Part C: Authorize an existing detached shed with a setback from the street centerline of Busey Street of 40 feet in lieu of 65 feet and a front yard of 0 feet in lieu of the minimum required 25 feet, per Section 4.3.2 of the Champaign County Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A. The existing shed adjacent to Busey Street 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.**
- B. Within 30 days of approval of Case 113-V-23, the petitioner shall pay the Zoning Use Permit fee for construction of the two sheds that were constructed without authorization.**

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