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Urbana, Illinois 61802

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CASE NO. 114-V-23

PRELIMINARY MEMORANDUM

October 18, 2023

Petitioner: Tahir Malik, lessee, and Terry and Mary Eaglen, owners

Request: Authorize the following variance in the I-1 Light Industry Zoning District:

Part A: An existing building with a side yard of 0 feet in lieu of the minimum required 10 feet, per Section 5.3 of the Zoning Ordinance.

Part B: An existing building with a rear yard of 12 feet in lieu of the minimum required 20 feet, per Section 5.3 of the Zoning Ordinance.

Part C: An existing building with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively, per Section 4.3.2 of the Zoning Ordinance.

Part D: A proposed addition with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively, per Section 4.3.2 of the Zoning Ordinance.

Part E: Allow parking on a lot within 0 feet of the front lot line in lieu of the minimum 10 feet from the front lot line along both Wallace Street and Second Street, per Section 7.4.1 of the Zoning Ordinance.

Part F: Allow 9 parking spaces in lieu of the minimum required 18 spaces, per Section 7.4.1 C.3.e of the Zoning Ordinance.

Subject Property: Lots 278, 279 and 280 of Wilber Heights Subdivision in the Southwest Quarter of Section 31, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township, with an address of 201 Wallace Avenue, Champaign.

Site Area: 9,297 square foot (0.21 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 northwest corner of an existing commercial building. The subject property requires a set of variances in order to construct the addition:

- Variance Parts A, B and C are included to bring unauthorized construction into compliance with the Zoning Ordinance. It appears that these additions were completed prior to 2002.
- Variance Part D is included for the proposed addition, which the petitioner wants to align with the existing north and west building footprint.
- Variance Parts E and F are necessary to bring available parking area into compliance.

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	Commercial	I-1 Light Industry
North	Agriculture	City of Champaign
South	Residential	I-1 Light Industry
East	Residential	I-1 Light Industry
West	Commercial	I-1 Light Industry

EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign, a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of variance cases.

The subject property is located within Somer Township, which does not have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

WILBER HEIGHTS LIMITING FACTORS

The Wilber Heights Subdivision was created in 1924 as a residential subdivision to house employees of Clifford Jacobs Forging Company. The subject property was zoned I-1 Heavy Industry with the adoption of the Zoning Ordinance on October 10, 1973, consistent with the regulation of land use that the City of Champaign had implemented prior. As the Wilber Heights Subdivision transition continues toward Commercial and Industrial uses, owners are finding that the small lots created for residential purposes approximately 100 years ago are difficult to design for current non-residential needs and/or requirements. Streets in the Wilber Heights subdivision have wide rights-of-way, which create an additional limitation on how lots can be built upon and used.

PROPOSED SPECIAL CONDITIONS

- A. **Within 30 days of approval of Case 114-V-23, the petitioner shall pay the Zoning Use Permit fee for all unauthorized construction to date.**

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.

- B. **Other than authorized parking for up to 9 vehicles, there will be no outdoor storage and operations on the subject property or in the adjacent road right-of-way.**

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

To help ensure compliance with Champaign County ordinances.

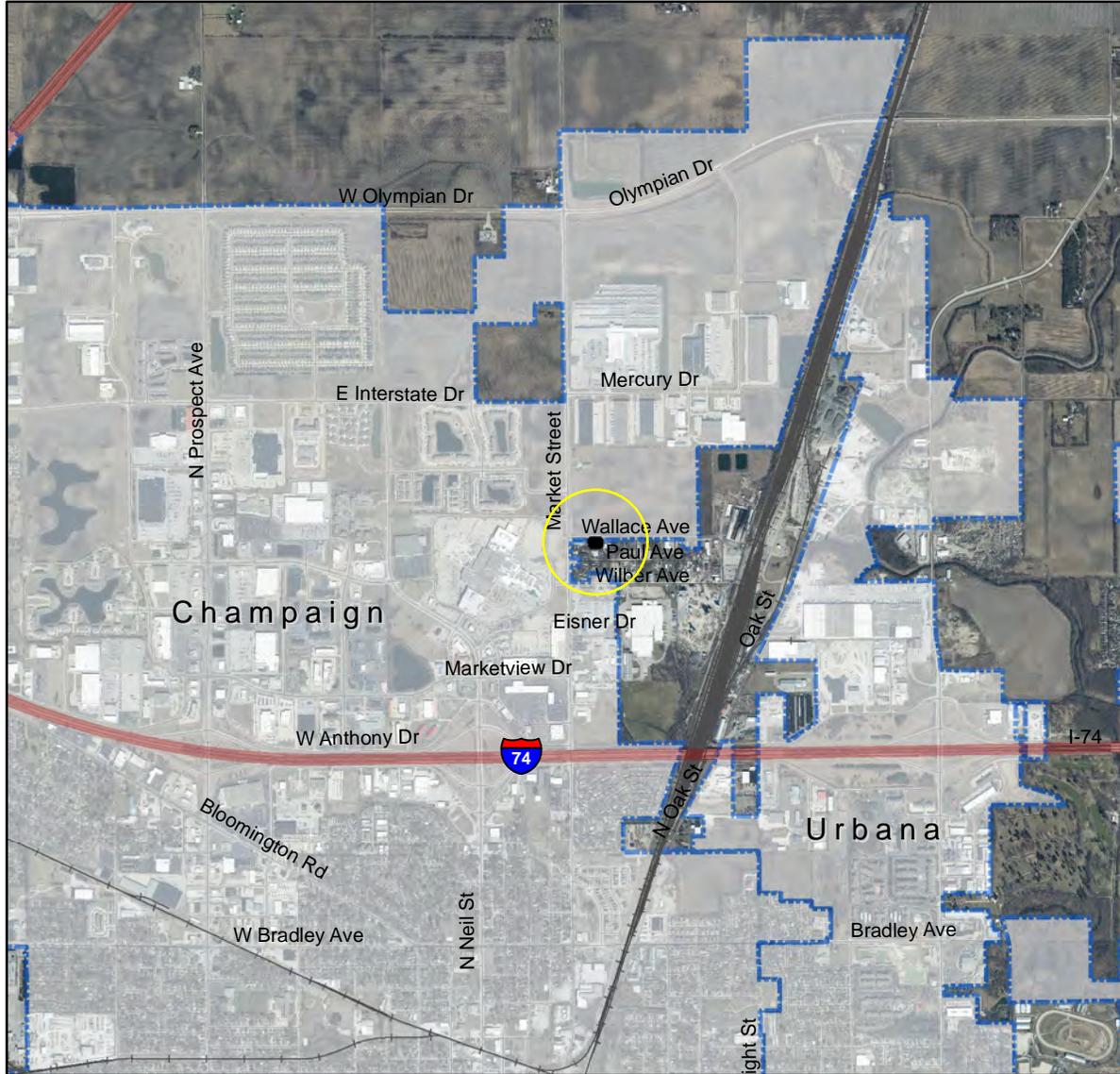
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received August 15, 2023
- C Annotated 2020 aerial photo by P&Z Staff
- D Email from Cindy Eaglen received September 21, 2023
- E Images of subject property taken September 26, 2023
- F Draft Summary of Evidence, Finding of Fact, and Final Determination dated October 26, 2023

Location Map

Case 114-V-23
October 26, 2023

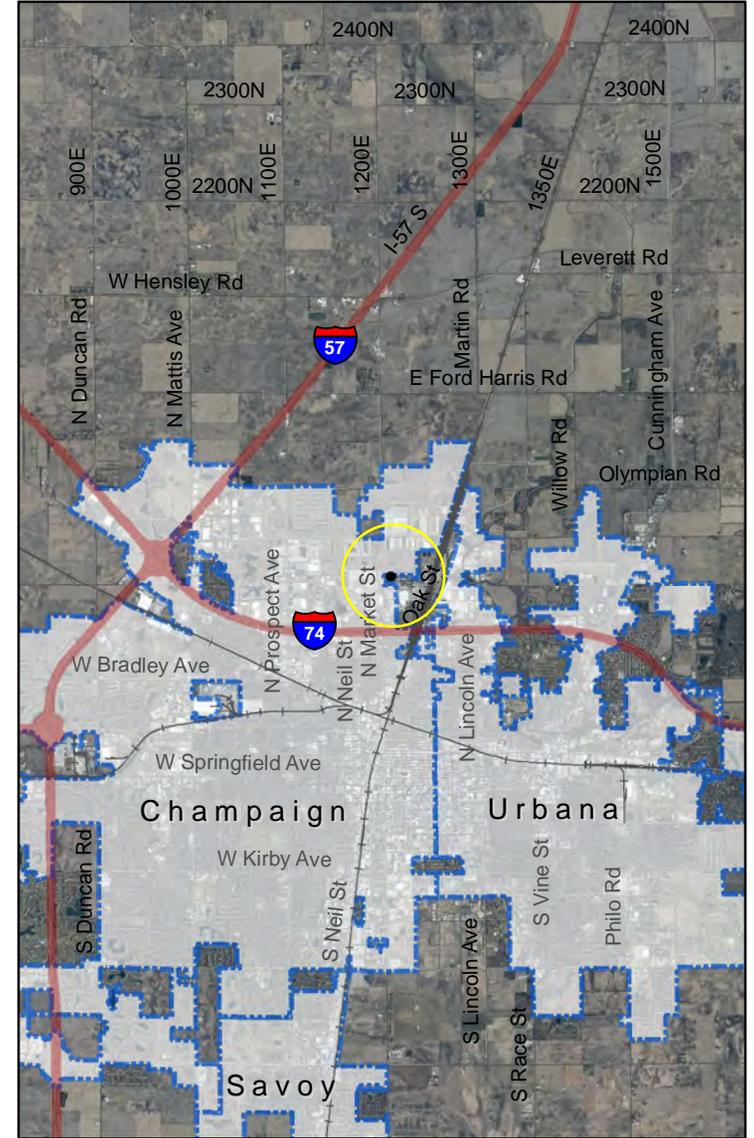
Subject Property



-  Subject Property
-  Municipal Boundary
-  Streets



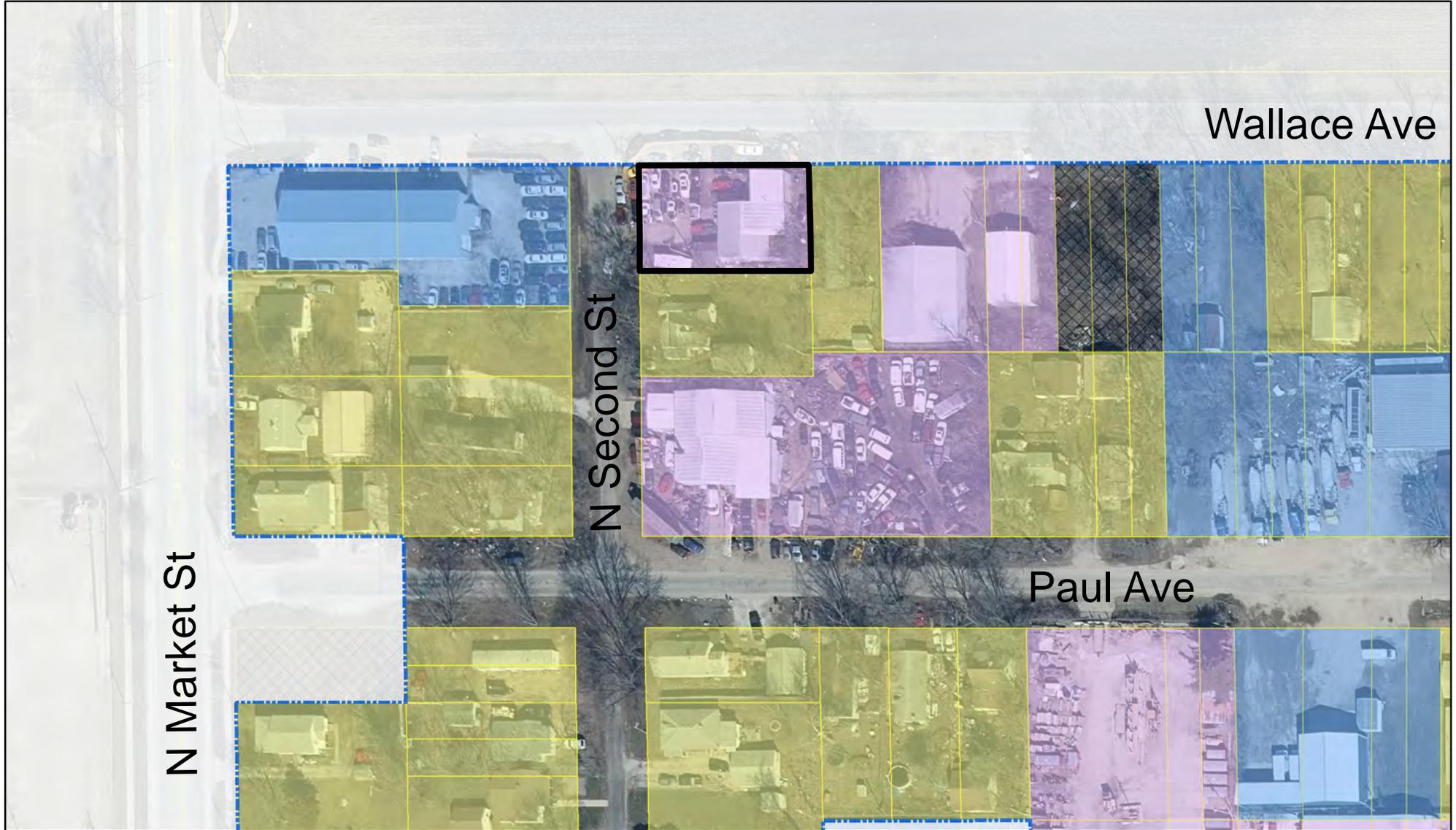
Property location in Champaign County



Champaign County
Department of
**PLANNING &
ZONING**

Land Use Map

Case 114-V-23
October 26, 2023



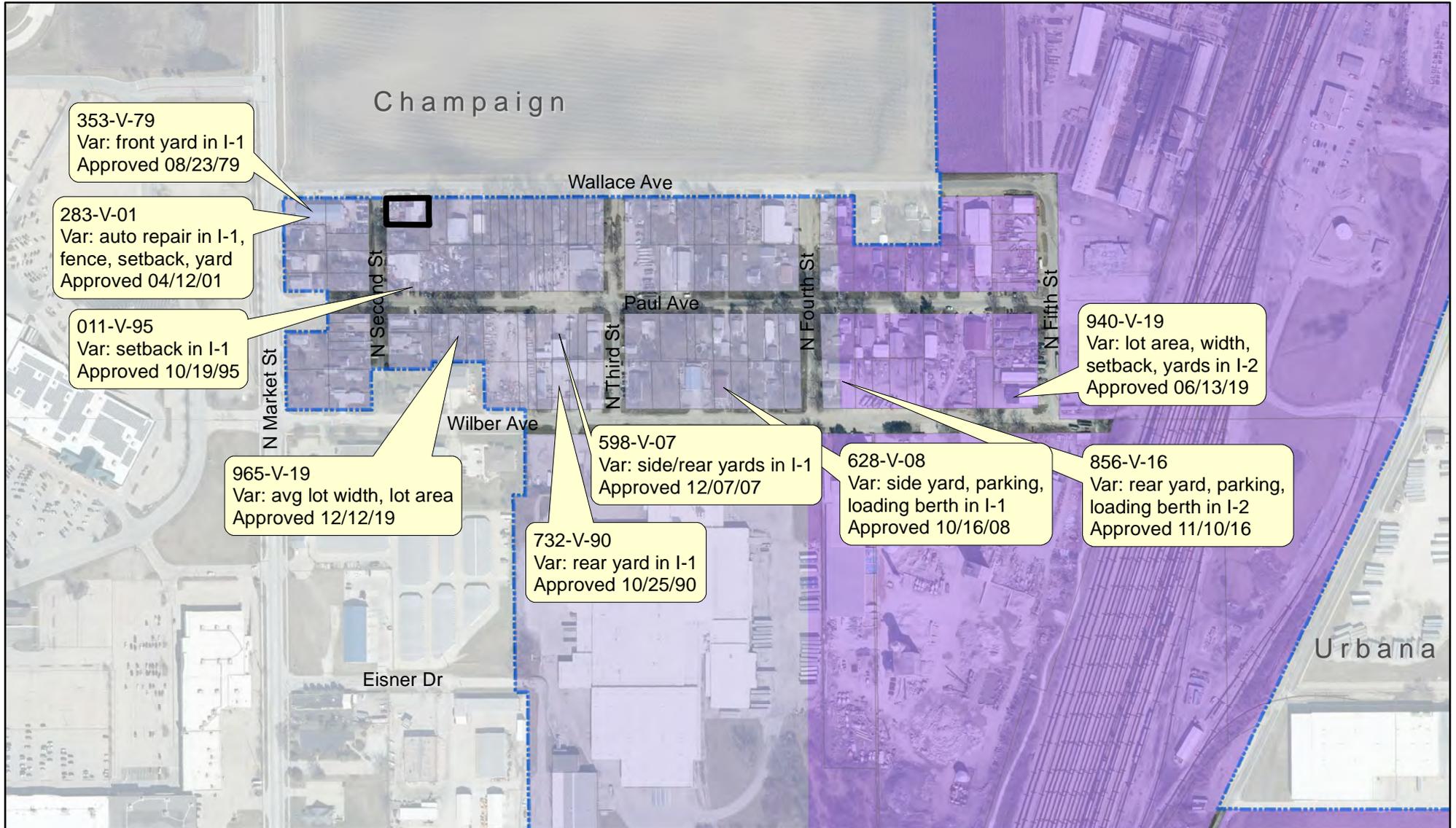
- Subject Property
- Parcels
- Municipal Boundary
- Industrial
- Commercial
- vacant
- Residential



Zoning Map

Case 114-V-23
October 26, 2023

Zoning cases shown on map only include
non-residential variances in Wilber Heights



Legend

-  Subject Property
-  Municipal Boundary
-  I-1 Light Industry
-  I-2 Heavy Industry

0 100 200 400 Feet



Champaign County
Department of
PLANNING &
ZONING

RECEIVED

AUG 15 2023

CHAMPAIGN CO. P & Z DEPARTMENT

Wallace Ave



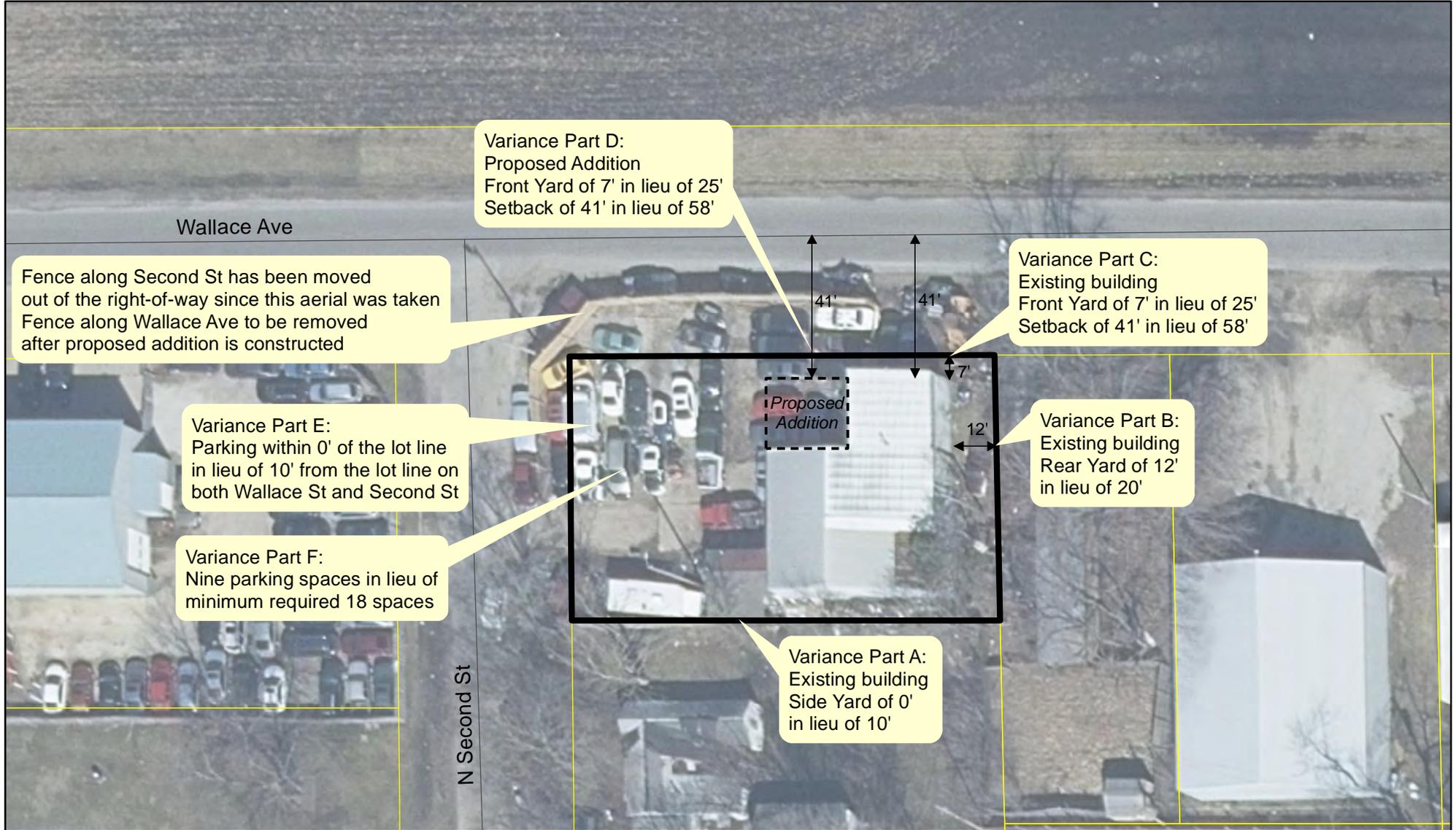
10
 Feet

This map was prepared with geographic information system (GIS) data created by the Champaign County GIS Consortium (CCGIS), or other CCGIS member agency. These entities do not warrant or guarantee the accuracy or suitability of GIS data for any purpose. The GIS data within this map is intended to be used as a general index to spatial information and not intended for detailed, site-specific analysis or resolution of legal matters. Users assume all risk arising from the use or misuse of this map and information contained herein. The use of this map constitutes acknowledgement of this disclaimer.

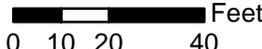


Annotated 2020 Aerial

Case 114-V-23
October 26, 2023



 Subject Property
 Parcels

 Feet
0 10 20 40



Champaign County
Department of
PLANNING &
ZONING

Susan Burgstrom

From: Cindy Eaglen <cindy.eaglen@yahoo.com>
Sent: Thursday, September 21, 2023 4:31 PM
To: Susan Burgstrom
Subject: Re: variance request for 201 Wallace Ave, Champaign

CAUTION: External email, be careful when opening.

Susan

Yes, Terry and I as owners of said property at 201 Wallace Ave, Champaign, IL have no problem with with Mr Maliks request for a variance on the said property!
Hope this covers everything you need! If not ..let us know.

Terry & Cindy Eaglen
217 202-0365
[Sent from Yahoo Mail on Android](#)

RECEIVED
SEP 21 2023
CHAMPAIGN CO. P & Z DEPARTMENT

On Thu, Sep 21, 2023 at 1:40 PM, Susan Burgstrom <sburgstrom@co.champaign.il.us> wrote:

Hi Cindy,

As I mentioned on the phone, Mr. Malik has requested a variance for the existing building and a proposed addition on your property at 201 Wallace Avenue. I just need to get confirmation from you for my case file that you and Terry, as owners of 201 Wallace Ave, agree that it is okay for Mr. Malik to request the variance. Could you please respond to this email letting me know if you agree and be sure to include "Terry and Cindy Eaglen" at the end of your email?

The variance required for the property is as follows:

Part A: An existing building with a side yard of 0 feet in lieu of the minimum required 10 feet, per Section 5.3 of the Zoning Ordinance.

Part B: An existing building with a rear yard of 12 feet in lieu of the minimum required 20 feet, per Section 5.3 of the Zoning Ordinance.

Part C: An existing building with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively, per Section 4.3.2 of the Zoning Ordinance.

Part D: A proposed addition with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively, per Section 4.3.2 of the Zoning Ordinance.

Part E: Allow parking on a lot within 0 feet of the front lot line in lieu of the minimum 10 feet from the front lot line along both Wallace Street and Second Street, per Section 7.4.1 of the Zoning Ordinance.

Part F: Allow nine parking spaces in lieu of the minimum required 18 spaces, per Section 7.4.1 C.3.e. of the Zoning Ordinance.

114-V-23 Site Images



From North Second Street facing east to subject property



From Wallace Avenue facing SW to subject property

PRELIMINARY DRAFT

114-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}***

Petitioners: **Tahir Malik, lessee, and Terry and Mary Eaglen, owners**

Request: **Authorize the following variance in the I-1 Light Industry Zoning District:**

Part A: An existing building with a side yard of 0 feet in lieu of the minimum required 10 feet, per Section 5.3 of the Zoning Ordinance.

Part B: An existing building with a rear yard of 12 feet in lieu of the minimum required 20 feet, per Section 5.3 of the Zoning Ordinance.

Part C: An existing building with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively, per Section 4.3.2 of the Zoning Ordinance.

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Part E: Allow parking on a lot within 0 feet of the front lot line in lieu of the minimum 10 feet from the front lot line along both Wallace Street and Second Street, per Section 7.4.1 of the Zoning Ordinance.

Part F: Allow 9 parking spaces in lieu of the minimum required 18 spaces, per Section 7.4.1 C.3.e of the Zoning Ordinance.

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SUMMARY OF EVIDENCE

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

1. Co-petitioners Terry and Mary Eaglen, 24050 Old Seaton Hill Road, Danville, IL own the subject property.
 - A. Co-petitioner Tahir Malik, 1408 Hedge Rd, Champaign, leases the subject property.
2. The subject property is Lots 278, 279 and 280 of Wilber Heights Subdivision in the Southwest Quarter of Section 31, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township, with an address of 201 Wallace Avenue, Champaign.
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 City of Champaign, a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of variance cases.
 - B. The subject property is located within Somer Township, which does not 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 9,297 square foot (0.21 acre) lot and is zoned I-1 Light Industry and is commercial in use.
 - B. Land to the north, is in the City of Champaign and is agricultural in use.
 - C. Land to the south and east is zoned I-1 Light Industry and is residential in use.
 - D. Land to the west is zoned I-1 Light Industry and is commercial in use.

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 1,440 square foot building constructed under ZUPA #180-79-01.
 - b. Two unauthorized additions made between 1988 and 2002;
 - (2) Proposed construction includes:
 - a. One approximately 27 feet by 27 feet (729 square feet) addition to the existing building.
 - B. There is one previous Zoning Use Permit for the subject property:

PRELIMINARY DRAFT

- (1) ZUPA # 180-79-01 was approved on July 11, 1979, for construction of a commercial building.
 - (2) No permits are on file for any additions.
- C. There are no prior Zoning Cases for the subject property.
- D. The required variance is as follows:
- (1) Part A: An existing building with a side yard of 0 feet in lieu of the minimum required 10 feet, per Section 5.3 of the Zoning Ordinance.
 - (2) Part B: An existing building with a rear yard of 12 feet in lieu of the minimum required 20 feet, per Section 5.3 of the Zoning Ordinance.
 - (3) Part C: An existing building with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively, per Section 4.3.2 of the Zoning Ordinance.
 - (4) Part D: A proposed addition with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively, per Section 4.3.2 of the Zoning Ordinance.
 - (5) Part E: Allow parking on a lot within 0 feet of the front lot line in lieu of the minimum 10 feet from the front lot line along both Wallace Street and Second Street, per Section 7.4.1 of the Zoning Ordinance.
 - (6) Part F: Allow nine parking spaces in lieu of the minimum required 18 spaces, per Section 7.4.1 C.3.e. of the Zoning Ordinance.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variance:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (capitalized words are defined in the Ordinance):
- (1) “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, animal, and chattels.
 - (2) “FRONTAGE” is that portion of a LOT abutting a STREET or ALLEY.
 - (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, 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

PRELIMINARY DRAFT

- (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.
- (5) “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.
- (6) “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.
- (7) “LOT LINES” are the lines bounding a LOT.
- (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) “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.
- (10) “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.
- (11) “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.
- (12) “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.

PRELIMINARY DRAFT

- (13) “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.
- (14) “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 I-1 Light Industry Zoning DISTRICT is established to provide for storage and manufacturing USES not normally creating a nuisance discernible beyond its PROPERTY lines.
- C. Subparagraph 7.4.1 A.3 requires that no parking space will be located less than 10 feet from any FRONT LOT LINE.
- D. Subparagraph 7.4.1 C.3.e. requires ESTABLISHMENTS not otherwise specified to have one PARKING SPACE for every 200 square feet of floor area or portion thereof.
- E. 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.
- F. Regarding the proposed variance:

PRELIMINARY DRAFT**Case 114-V-23**

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- (1) Minimum setback from the centerline of a MINOR STREET for a STRUCTURE in the I-1 Light Industry Zoning DISTRICT is established in Section 5.3 of the Zoning Ordinance as 55 feet.
- (2) Minimum FRONT YARD from the street right of way of a MINOR STREET to a STRUCTURE in the R I-1 Light Industry Zoning DISTRICT is established in Section 5.3 of the Zoning Ordinance as 25 feet.
- (3) Distance of parking areas from front lot lines is established in Section 7.4.1 A.3. of the Zoning Ordinance as 10 feet.
- (4) Number of required parking spaces is established in Section 7.4.1 C.3.e. as one space per 200 square feet of building.

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, **“The lot size is under 10,000 and not conforming.”**
 - B. The Wilber Heights Subdivision was created in 1924 as a residential subdivision to house employees of Clifford Jacobs Forging Company. The subject property was zoned I-1 Heavy Industry with the adoption of the Zoning Ordinance on October 10, 1973, consistent with the regulation of land use that the City of Champaign had implemented prior. As the Wilber Heights Subdivision transition continues toward Commercial and Industrial uses, owners are finding that the small lots created for residential purposes approximately 100 years ago are difficult to design for current non-residential needs and/or requirements. Streets in the Wilber Heights subdivision have wide rights-of-way, which create an additional limitation on how lots can be built upon and used.
 - C. The petitioner seeks to build the addition that is the subject of Variance Part D so that he can clean up the exterior of the subject property. Approving Variance Part D would help resolve an ongoing zoning enforcement case.

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, **“Operate business would be an issue.”**
 - B. Regarding variance Part A for an existing building with a side yard of 0 feet in lieu of the minimum required 10 feet: without the variance, the southwest area of the building would have to be moved ten feet north or removed, and could not be rebuilt in that location if destroyed.

PRELIMINARY DRAFT

- C. Regarding variance Part B for an existing building with a rear yard of 12 feet in lieu of the minimum required 20 feet: the east side of the building would have to be reduced by 8 feet and could not be rebuilt in that location if destroyed.
- D. Regarding variance Part C for an existing building with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively: without the variance, much of the building would have to be removed and could not be rebuilt in that location if destroyed.
- E. Regarding variance Part D for a proposed addition with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively: the petitioner could not build the addition that is proposed to declutter the area outside the building.
- F. Regarding variance Part E to allow parking on a lot within 0 feet of the front lot line in lieu of the minimum 10 feet from the front lot line along both Wallace Street and Second Street: without the variance, even less parking would be available onsite, which would impact variance Part F.
- G. Regarding variance Part F to allow nine parking spaces in lieu of the minimum required 18 spaces, without the variance, the building footprint would have to be reduced in order to reduce the required number of parking spaces.

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, **“Not aware of zoning and yard requirements prior to receiving notices.”**
 - B. The Eaglens have owned the subject property since 2001. All unauthorized additions to the original building permitted under ZUPA # 180-79-01 appear to have been constructed prior to their ownership of the subject property.
 - C. Regarding variance Part D, the proposed addition would be no closer to Wallace Avenue than the existing building.

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, **“Granting will clean up the area.”**
 - B. Regarding variance Part A for an existing building with a side yard of 0 feet in lieu of the minimum required 10 feet: the requested variance is 0% of the minimum required, for a variance of 100%.

PRELIMINARY DRAFT

- C. Regarding variance Part B for an existing building with a rear yard of 12 feet in lieu of the minimum required 20 feet: the requested variance is 60% of the minimum required, for a variance of 40%.
- D. Regarding variance Part C for an existing building with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively: the requested front yard variance is 28% of the minimum required, for a variance of 72% and the requested setback variance is 70.7% of the minimum required, for a variance of 29.3%.
- E. Regarding variance Part D for a proposed addition with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively: the requested front yard variance is 28% of the minimum required, for a variance of 72% and the requested setback variance is 70.7% of the minimum required, for a variance of 29.3%.
- F. Regarding variance Part E to allow parking on a lot within 0 feet of the front lot line in lieu of the minimum 10 feet from the front lot line along both Wallace Street and Second Street: the requested variance is 0% of the minimum required, for a variance of 100%.
- G. Regarding variance part F to allow nine parking spaces in lieu of the minimum required 18 spaces: the requested variance is 50% of the minimum required, for a variance of 50%.
- H. 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 Wallace Street or North Second Street.
 - (3) Parking, where applicable.
- I. Regarding off-street parking requirements for commercial establishments:
- (1) One parking space must be provided for every 200 square feet of floor area. The total existing and proposed building is 3,500 square feet, so 18 parking spaces would be required.
 - (2) The subject property is not visible from within 100 feet of a lot containing a dwelling conforming as to use, and therefore no screening is required.

PRELIMINARY DRAFT

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 will clean up the area and more presentable and professional.”**
 - B. The Somer Township Road Commissioner and Champaign Public Works have been notified of this variance, and no comments have been received.
 - C. The Eastern Prairie Fire Protection District has been notified of this variance, and no comments have been received.
 - D. The nearest structure on adjacent property to the proposed addition is the residence located to the south, which is about 20 feet away.
 - E. The proposed addition does not encroach on the visibility triangle and is no closer to the road or adjacent residences than the existing building.

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: **“With lot size and being a corner lot it helps with the addition.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:
- A. **Within 30 days of approval of Case 114-V-23, the petitioner shall pay the Zoning Use Permit fee for all unauthorized construction to date.**

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.

- B. **Other than authorized parking for up to 9 vehicles, there will be no outdoor storage and operations on the subject property or in the adjacent road right-of-way.**

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

To help ensure compliance with Champaign County ordinances.

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 Email from Cindy Eaglen received September 21, 2023
 - E Images of subject property taken September 26, 2023
 - F Draft Summary of Evidence, Finding of Fact, and Final Determination dated October 26, 2023

PRELIMINARY DRAFT**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **114-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. *The Wilber Heights Subdivision was created in 1924 as a residential subdivision to house employees of Clifford Jacobs Forging Company. The subject property was zoned I-1 Heavy Industry with the adoption of the Zoning Ordinance on October 10, 1973, consistent with the regulation of land use that the City of Champaign had implemented prior. As the Wilber Heights Subdivision transition continues toward Commercial and Industrial uses, owners are finding that the small lots created for residential purposes approximately 100 years ago are difficult to design for current non-residential needs and/or requirements. Streets in the Wilber Heights subdivision have wide rights-of-way, which create an additional limitation on how lots can be built upon and used.*
 - b. *The petitioner seeks to build the addition that is the subject of Variance Part D so that he can clean up the exterior of the subject property. Approving Variance Part D would help resolve an ongoing zoning enforcement case.*

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 building with a side yard of 0 feet in lieu of the minimum required 10 feet: without the variance, the southwest area of the building would have to be moved ten feet north or removed, and could not be rebuilt in that location if destroyed.*
 - b. *Regarding variance Part B for an existing building with a rear yard of 12 feet in lieu of the minimum required 20 feet: the east side of the building would have to be reduced by 8 feet and could not be rebuilt in that location if destroyed.*
 - c. *Regarding variance Part C for an existing building with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively: without the variance, much of the building would have to be removed and could not be rebuilt in that location if destroyed.*
 - d. *Regarding variance Part D for a proposed addition with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively: the petitioner could not build the addition that is proposed to declutter the area outside the building.*
 - e. *Regarding variance Part E to allow parking on a lot within 0 feet of the front lot line in lieu of the minimum 10 feet from the front lot line along both Wallace Street and Second Street: without the variance, even less parking would be available onsite, which would impact variance Part F.*
 - f. *Regarding variance Part F to allow nine parking spaces in lieu of the minimum required 18 spaces, without the variance, the building footprint would have to be reduced in order to reduce the required number of parking spaces.*

PRELIMINARY DRAFT

3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because:
- a. *The Eaglens have owned the subject property since 2001. All unauthorized additions to the original building permitted under ZUPA # 180-79-01 appear to have been constructed prior to their ownership of the subject property.*
 - b. *Regarding variance Part D, the proposed addition would be no closer to Wallace Avenue than the existing building.*
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 Wallace Avenue or North Second 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.*
 - b. *The closest structure on adjacent property is approximately 20 feet south of the building.*
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 Parts A, B, and C, the variance is the minimum variation to be able to rebuild in the same location should the building be destroyed.*
 - b. *Regarding variance Part D, the variance is the minimum variation as it is the only location where a proposed addition of usable size could be located.*
 - c. *Regarding variance Parts E and F, the variance is the minimum variation that balances the number of parking spaces requirement with the area allowed for parking onsite.*
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***
- A. **Within 30 days of approval of Case 114-V-23, the petitioner shall pay the Zoning Use Permit fee for all unauthorized construction to date.**

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.

- B. **Other than authorized parking for up to 9 vehicles, there will be no outdoor storage and operations on the subject property or in the adjacent road right-of-way.**

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

To help ensure compliance with Champaign County ordinances.

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 **114-V-23** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners, **Tahir Malik**, to authorize the following variance in the I-1 Light Industry Zoning District:

Part A: An existing building with a side yard of 0 feet in lieu of the minimum required 10 feet, per Section 5.3 of the Zoning Ordinance.

Part B: An existing building with a rear yard of 12 feet in lieu of the minimum required 20 feet, per Section 5.3 of the Zoning Ordinance.

Part C: An existing building with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively, per Section 4.3.2 of the Zoning Ordinance.

Part D: A proposed addition with a front yard of 7 feet and a setback from the street centerline of Wallace Avenue of 41 feet in lieu of the minimum required 25 feet and 58 feet, respectively, per Section 4.3.2 of the Zoning Ordinance.

Part E: Allow parking on a lot within 0 feet of the front lot line in lieu of the minimum 10 feet from the front lot line along both Wallace Street and Second Street, per Section 7.4.1 of the Zoning Ordinance.

Part F: Allow 9 parking spaces in lieu of the minimum required 18 spaces, per Section 7.4.1 C.3.e of the Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A. Within 30 days of approval of Case 114-V-23, the petitioner shall pay the Zoning Use Permit fee for all unauthorized construction to date.**
- B. Other than authorized parking for up to 9 vehicles, there will be no outdoor storage and operations on the subject property or in the adjacent road right-of-way.**

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