

**CASE NO. 835-V-16**

*PRELIMINARY MEMORANDUM*

July 7, 2016

**Petitioners: Nathan Killion and Brandi Katrein**

**Request: Authorize the following Variance in the AG-2 Agriculture Zoning District: a detached garage with a side yard of 5 feet in lieu of the minimum required 10 feet for detached accessory structures.**

**Subject Property: Lot 4 of the Rivera Subdivision in the Northwest Quarter of the Southwest Quarter of Section 2 in Urbana Township and commonly known as the residence at 3302 Nordland Drive, Urbana.**

**Site Area: 21,291 square feet lot (0.49 acre)**

**Time Schedule for Development: As Soon as Possible**

**Prepared by: Susan Chavarria  
Senior Planner**

**John Hall  
Zoning Administrator**

**Brookens Administrative  
Center**  
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Urbana, Illinois 61802

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## **BACKGROUND**

The petitioner requests a variance to replace a 624 square feet detached garage with a 1,865 square feet garage that would partially sit within the required side yard setback. The Petitioner stated that the garage's proposed location (where the existing detached garage sits) is limited by easements, setback, and placement of the residence.

The original Rivera Subdivision Plat of Survey was approved on July 23, 1966. The property has a 5 feet wide utility easement on the north property line. There is no sewer service or public water lines in the subdivision, but there are above-ground utility lines.

The lot was created prior to the adoption of the Zoning Ordinance on October 10, 1973. The existing residence was constructed under Zoning Use Permit 55-87-01 that was approved on February 24, 1987. The existing garage was constructed under Zoning Use Permit 200-88-01 that was approved on July 18, 1988.

## **EXTRATERRITORIAL JURISDICTION**

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning.

The subject property is located within Urbana Township, which does not have a Plan Commission.

**EXISTING LAND USE AND ZONING**

**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Single Family Residence	AG-2 Agriculture
North	Agricultural land in production	AG-2 Agriculture
East	Single Family Residence	AG-2 Agriculture
West	Apple Dumplin' Restaurant (SUP Case 405-S-03)	B-2 Neighborhood Commercial (Rezoned AG-2 to B-2 in Case 404-AM-03)
South	Single Family Residence	AG-2 Agriculture

**LEACH FIELD PROVIDES OPEN SPACE ADJACENT TO PROPOSED GARAGE**

The subject property is located east of the Apple Dumplin' restaurant. The Petitioner stated on their application that the lot directly west of the proposed structure contains the leach field for Apple Dumplin' Restaurant and cannot be purchased.

**PROPOSED SPECIAL CONDITIONS**

No special conditions are currently proposed.

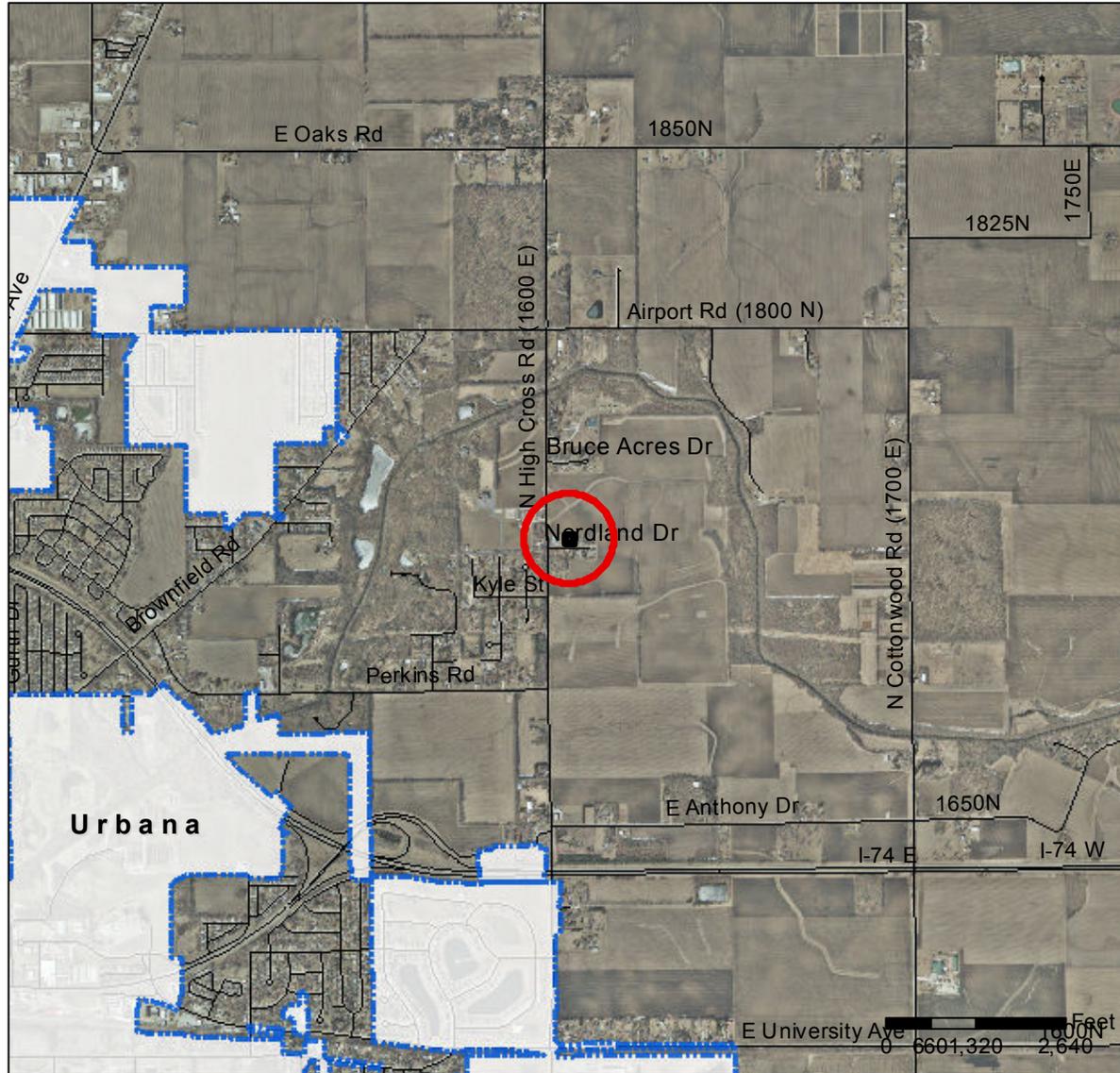
**ATTACHMENTS**

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received April 18, 2016
- C Plan and elevations for proposed detached garage received April 18, 2016
- D Images of Subject Property taken June 15, 2016
- E Draft Summary of Evidence, Finding of Fact, and Final Determination

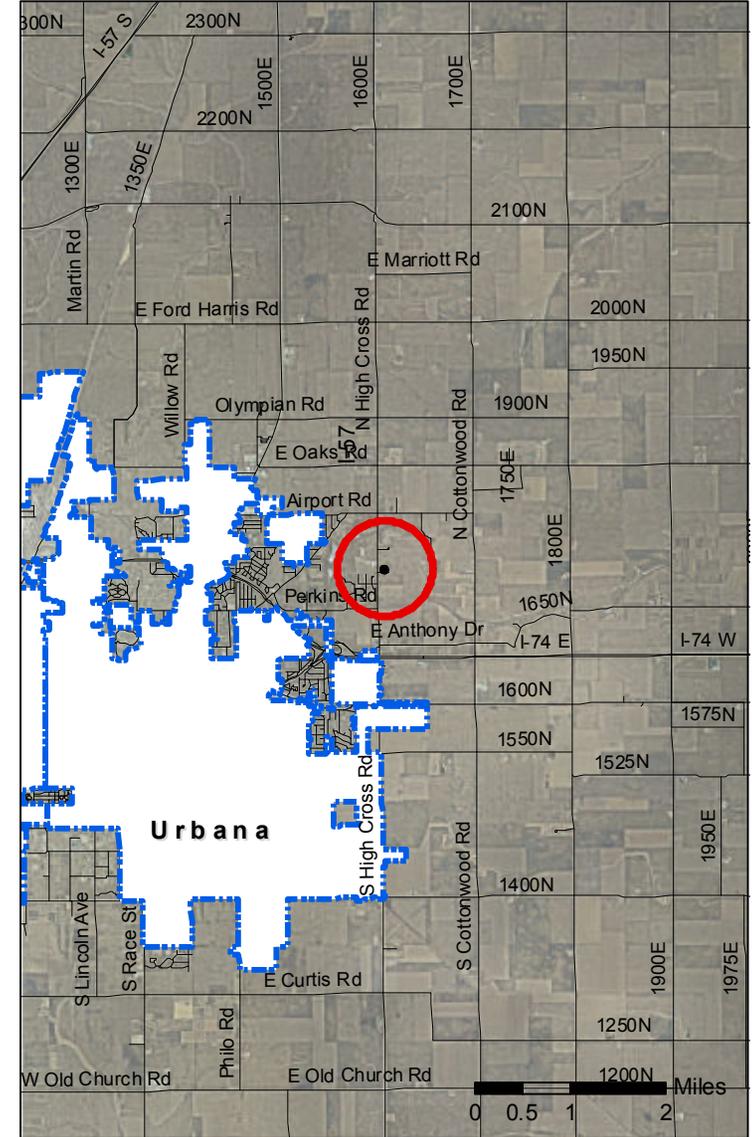
# Location Map

Case 835-V-16  
July 14, 2016

Subject Property



Property location in Champaign County



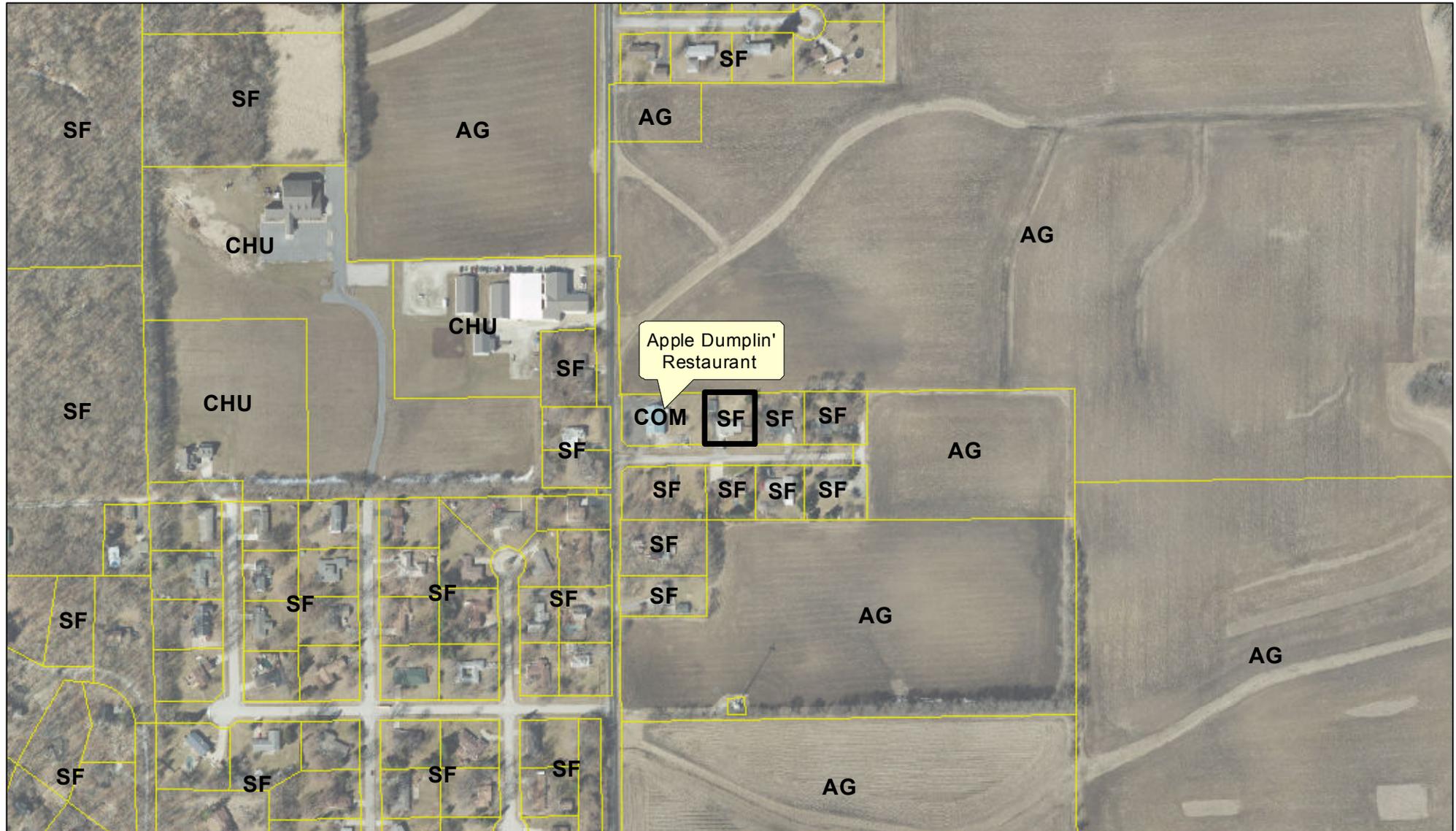
- Legend**
- Subject Property
  - Municipal Boundary
  - Streets



Champaign County  
Department of  
**PLANNING &  
ZONING**

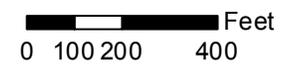
# Land Use Map

Case 835-V-16  
July 14, 2016



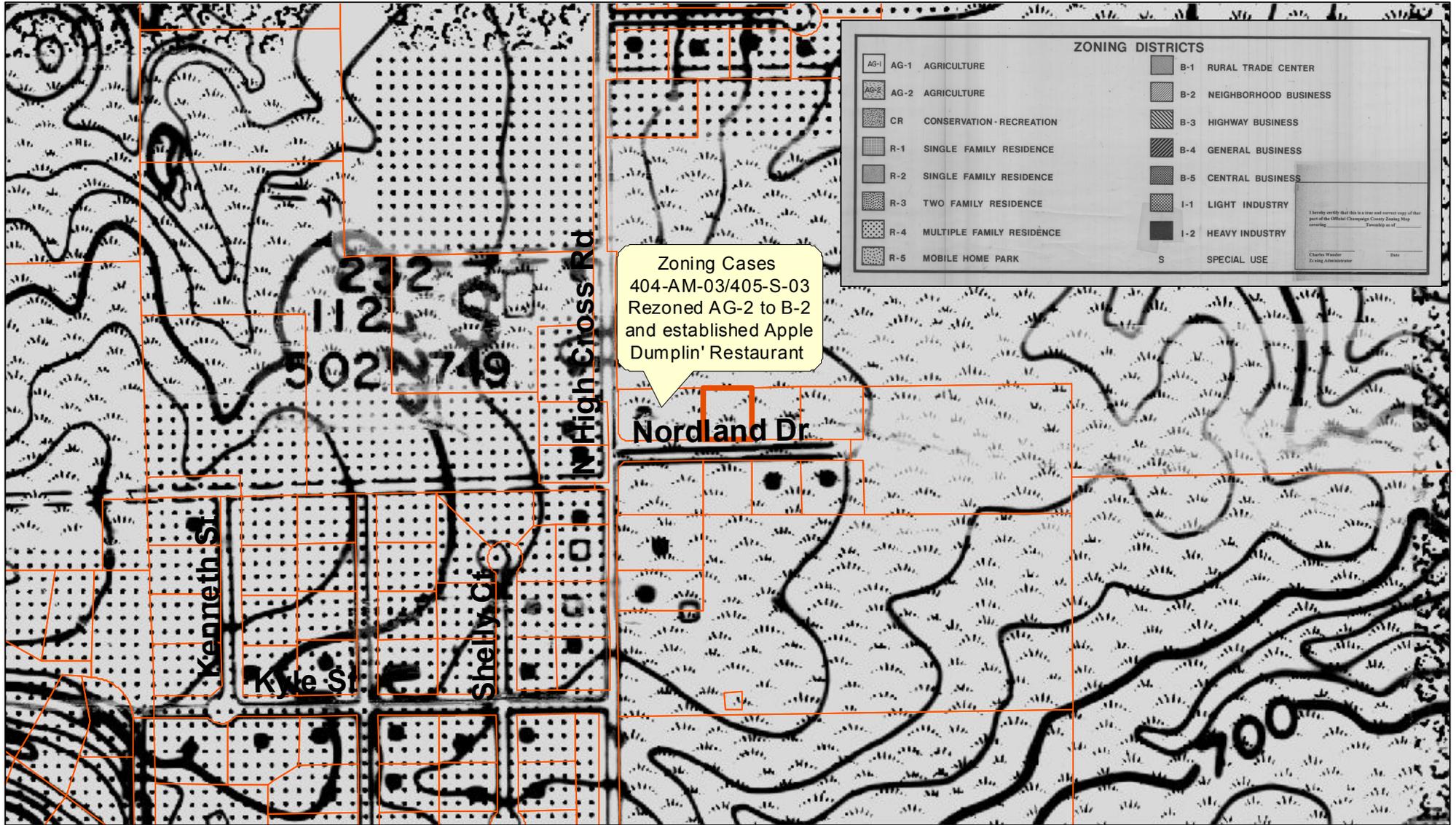
## Legend

-  Subject Property
-  Parcels
- SF Single Family Residential
- AG Agriculture
- COMM Commercial
- CHU Church



# Zoning Map

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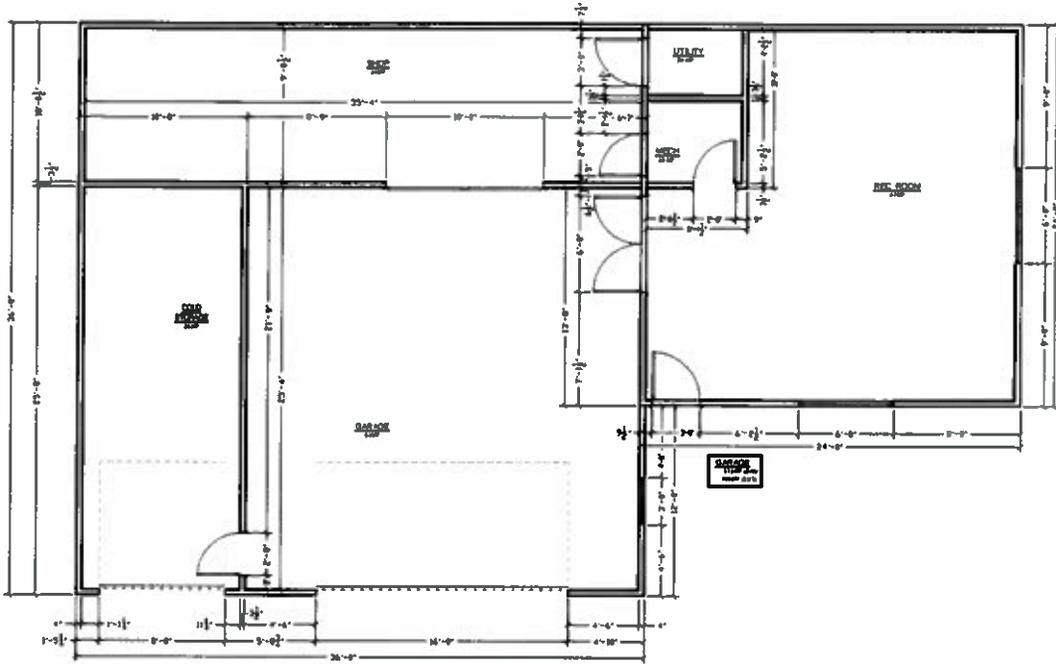
**Legend**

- Subject Property
- Parcels



Champaign County  
Department of  
**PLANNING &  
ZONING**

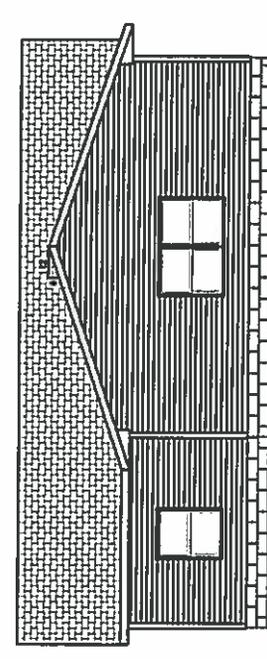




PROPOSED PLAN



ELEVATION - LOOKING NORTH



ELEVATION - LOOKING WEST

RECEIVED

APR 18 2016

CHAMPAIGN CO. P & Z DEPARTMENT



SCALE: 1/4" = 1'-0"

REV.	DESCRIPTION	DATE
0	ISSUED FOR PERMIT	04/16/16

**DETACHED GARAGE -  
PROPOSED PLAN & ELEVATIONS**

3302 NOROLAND DR; URBANA, IL  
SINGLE-FAMILY RESIDENCE

Designed by	DATE
A. HARRIS	04/20/16
Drawn by	DATE
A. HARRIS	04/20/16
Checked by	DATE
-	-
Approved by	DATE
-	-

File Name:  
3302 Noroland Dr\_Supp Sheet1

Drawing No.

**A-1**



**From Nordland Drive facing NE**



**From Nordland Drive facing north**



835-V-16  
06-15-16

**From NW pin facing south (older garage is on left)**



835-V-16  
06-15-16

**From Apple Dumplin' rear yard facing east**



**From Apple Dumplin' rear yard facing SE**



**From Nordland Drive facing north**

**PRELIMINARY DRAFT**

**835-V-16**

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

**of  
Champaign County Zoning Board of Appeals**

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

Date: ***{July 14, 2016}***

Petitioners: **Nathan Killion and Brandi Katrein**

Request: **Authorize the following Variance in the AG-2 Agriculture Zoning District:  
a detached garage with a side yard of 5 feet in lieu of the minimum  
required 10 feet for detached accessory structures.**

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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 **July 14, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners, Nathan Killion and Brandi Katrein, own the subject property.
2. The subject property is a 21,291 square feet lot (0.49 acre) that is on Lot 4 of the Rivera Subdivision in the Northwest Quarter of the Southwest Quarter of Section 2 in Urbana Township and commonly known as the residence at 3302 Nordland Drive, Urbana.
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 Urbana, a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of such cases.
  - B. The subject property is located within Urbana Township, which does not have a Plan Commission.

***GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY***

4. Land use and zoning on the subject property and in the vicinity are as follows:
  - A. The subject property is a 21,291 square feet lot currently zoned AG-2 Agriculture and is in use as a single family residence.
  - B. Land to the north is zoned AG-2 Agriculture and is in agricultural production.
  - C. Land to the west is zoned B-2 Neighborhood Commercial and is in use as the Apple Dumplin' restaurant (Zoning Cases 404-AM-03/405-S-03 rezoned AG-2 to B-2 and established the Apple Dumplin' Restaurant).
  - D. Land to the east and south is zoned AG-2 Agriculture and is in use as single family residences.
  - E. There is a 5 feet wide easement on the north property line as per the Plat of Survey for Rivera Subdivision approved July 23, 1966.

***GENERALLY REGARDING THE PROPOSED SITE PLAN***

5. Regarding the site plan for the subject property:
  - A. The Petitioner's Site Plan, received April 18, 2016, indicates the following:
    - (1) Existing buildings consist of the following:
      - a. One 2,115 square feet residence;
      - b. One 624 square feet detached garage;
      - c. One septic tank north of the residence;
      - d. Several large trees and bushes throughout the property.

**PRELIMINARY DRAFT**

- (2) The proposed building consists of the following:
  - a. One 1,865 square feet garage that will replace the detached garage in the same location.
- B. The following are previous Zoning Use Permits for the subject property:
  - (1) ZUP 55-87-01 was approved on February 24, 1987 to construct the residence with attached garage.
  - (2) ZUP 200-88-01 was approved on July 18, 1988 to construct the detached garage.
- C. The required variance is as follows: A detached garage with a side yard of 5 feet in lieu of the minimum required 10 feet.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES**

6. Regarding authorization for the proposed variance:
  - A. Section 4.2.2 D. states, “no USE shall be established, CONSTRUCTION undertaken, nor fill placed in any recorded drainage or utility easement that would interfere with the function of the easement.”
  - B. 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 within the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.
    - (2) “BUILDING, DETACHED” is a BUILDING having no walls in common with other BUILDINGS.
    - (3) “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.
    - (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.
    - (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.

**PRELIMINARY DRAFT**

- (7) “LOT LINES” are the lines bounding a LOT.
  - (8) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
  - (9) “STRUCTURE” is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
  - (10) “STRUCTURE, DETACHED” is a STRUCTURE not connected to another STRUCTURE.
  - (11) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
  - (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, 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 AG-2, Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
    - a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.

**PRELIMINARY DRAFT****Case 826-V-16**

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- b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
  - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
  - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
  - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Minimum SIDE YARD for an accessory structure in the AG-2 Agriculture District is established in Section 7.2.1.B. of the Zoning Ordinance as 10 feet.

**GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT**

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application, **“Location of existing utilities and septic system prohibits placing structure further east than proposed without relocation. Alternate locations are not feasible due to other easements, setbacks, and placement of primary structure.”**
  - B. The lot was created prior to Zoning Ordinance adoption on October 10, 1973.
  - C. There is a 5 feet wide easement on the north property line as per the Plat of Survey for Rivera Subdivision approved July 23, 1966.

**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, **“Relocation of existing utilities & septic system is not practical & cost prohibitive to project. Proposed structure has been reduced in size to maintain the proposed 5’-0” setback, further reduction in size would render structure unusable for intended purposes. Lot directly west of structure contains leech field for Apple Dumpling Restaurant & cannot be purchased.”**
  - B. Regarding the proposed Variance: without the proposed variance, the Petitioner would not be able to construct the proposed detached garage.

**PRELIMINARY DRAFT**

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

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The Petitioner has testified on the application, **“None, all utilities and structures predate purchase.”**
  - B. According to the Assessor’s property records, the Petitioner has owned the property since 2008.

**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, **“Ordinance is intended “to prevent scattered indiscriminate urban development & to preserve agricultural nature.” Rivera has already been subdivided into smaller residential lots, therefore agricultural nature has already been disturbed. Requested setback variance is compliant with R-1 Zoning, which matches the current development.”**
  - B. Regarding the proposed Variance for an accessory building with a side yard of 5 feet in lieu of the minimum required 10 feet in the AG-2 Agriculture District: the requested variance is 50% of the minimum required, for a variance of 50%.
  - C. Regarding the proposed Variance, the Zoning Ordinance does not clearly state the considerations that underlie the rear yard requirements. In general, the rear yard is presumably intended to ensure the following:
    - (1) Adequate light and air: The subject property is in residential use. The surrounding properties are in residential use or agricultural production.
    - (2) Separation of structures to prevent conflagration: The subject property is within the Carroll Fire Protection District and the station is approximately 1.7 road miles from the subject property. The nearest structure to the proposed garage on adjacent property is a detached shed behind the Apple Dumplin’ restaurant that is approximately 60 feet away.
    - (3) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.
  - D. No variance was required for average lot width or lot area because the property was platted prior to adoption of the Zoning Ordinance on October 10, 1973 and conformed to the Zoning Ordinance requirements on October 10, 1973.

**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: **“Adjacent lot to structure contains an existing leech field and is unavailable for development, therefore adequate clearances around structures will remain. Lot is a central lot, with proposed structure to the rear, visibility is not impeded. Runoff is currently to West and North of proposed structure, and is not affected by requested variance.”**
  - B. The Township Road Commissioner has been notified of this variance but no comments have been received.
  - C. The Carroll Fire Protection District has been notified of this variance but no comments have been received.
  - D. No comments have been received to date regarding the proposed variance.
  - E. The nearest building on neighboring property is a detached shed on the Apple Dumplin’ property that is approximately 60 feet from the shared property line.

**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: **“Existing neighborhood is primarily residential, requested variance and remainder of proposed structure is compliant with R-1 zoning which is in harmony with the area.”**

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

13. Regarding proposed special conditions of approval:
- No special conditions are proposed at this time.**

**DOCUMENTS OF RECORD**

1. Variance Application received April 18, 2016, with attachments:
  - A Site Plan received April 18, 2016
  - B Plan and elevations for proposed detached garage received April 18, 2016
  
2. Preliminary Memorandum dated July 7, 2016 with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan received April 18, 2016
  - C Plan and elevations for proposed detached garage received April 18, 2016
  - D Images of Subject Property taken June 15, 2016
  - E Draft Summary of Evidence, Finding of Fact, and Final Determination

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **835-V-16** held on **July 14, 2016**, 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: \_\_\_\_\_
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: \_\_\_\_\_
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because: \_\_\_\_\_
4. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because:  
\_\_\_\_\_
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: \_\_\_\_\_
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: \_\_\_\_\_
7. **{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}**

**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 **835-V-16** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners **Nathan Killion and Brandi Katrein** to authorize the following variance in the AG-2 Agriculture Zoning District:

**A detached garage with a side yard of 5 feet in lieu of the minimum required 10 feet for detached accessory structures.**

*{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:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date