

## **CASE 965-V-19**

*PRELIMINARY MEMORANDUM*  
DECEMBER 5, 2019

Petitioners: **Manuel Enriquez**

Request: **Authorize a variance for a lot area of 6,600 square feet (0.15 acre) and an average lot width of 50 feet in lieu of the minimum required 10,000 square feet (0.23 acre) in area and 100 feet average lot width in the I-1 Light Industry Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Subject Property: **Lots 203 and 204 of the Wilber Heights Subdivision in the Southeast Quarter of the Southwest Quarter of Section 31, Township 20N Range 9E in Somer Township and commonly known as the residence with an address of 205 Paul Avenue, Champaign**

Site Area: **6,600 square feet (0.15 acre)**

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

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

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### **BACKGROUND**

The Petitioner owns Lot 203 and 204 in Wilber Heights Subdivision. He would like to demolish an existing manufactured home and build a 1,500 square feet shed for his auto repair business. The combined lots are 132 feet by 50 feet, (6,600 square feet) with an average lot width of 50 feet. In the I-1 Light Industry Zoning District, the minimum lot area is 10,000 square feet and the minimum average lot width is 100 feet.

Lots 203 and 204 were in common ownership with Lots 205 and 206 from 2003 until 2018. Per Section 8.1.2, non-conforming lots of record in common ownership “shall not be used separately or conveyed to another owner which does not meet all of the dimensional, geometric, LOT ACCESS and other standards established by this ordinance unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.” The petitioner was not aware of the common ownership regulation when he bought the property in 2018.

The P&Z Department has not received any comments regarding the proposed variance. P&Z Staff propose one special condition of approval.

### **EXTRATERRITORIAL JURISDICTION**

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

The subject property is located within Somer Township, which does not have a Plan Commission. Townships without Plan Commissions do not have protest rights on a variance.

## EXISTING LAND USE AND ZONING

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

Direction	Land Use	Zoning
Onsite	Currently residential, proposed auto repair business	I-1 Light Industry
North	Auto repair business	I-1 Light Industry
East	Residential	I-1 Light Industry
West	Residential	I-1 Light Industry
South	Trucking company	City of Champaign zoning

## LOT SIZE CONSTRAINTS IN WILBER HEIGHTS SUBDIVISION

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/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 CONDITION

**A. The Petitioner will not allow parking in the Paul Avenue right-of-way.**

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

**To maximize safety for residents and business clients.**

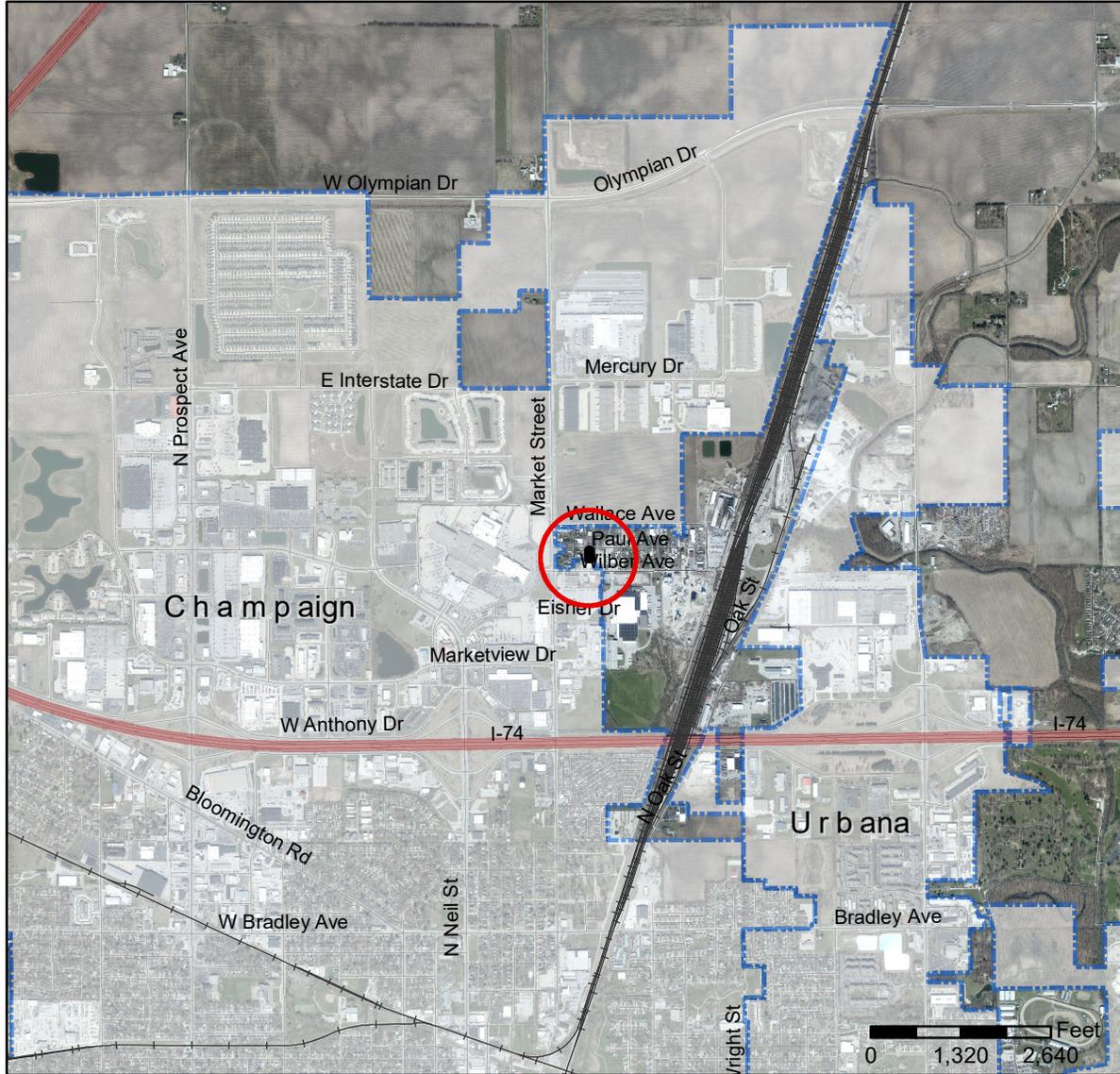
## ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received October 22, 2019
- C Annotated 2017 aerial created by P&Z Staff on November 26, 2019
- D Quitclaim Deed for Lots 203 and 204, from Grantor Jeannette Stone to Grantee Jonathan Stone, recorded as Document 2018R14827 on August 23, 2018
- E Quitclaim Deed for Lots 203 and 204 from Grantor Jonathan Stone to Grantee Manuel Enriquez, recorded as Document 2018R14829 on August 23, 2018
- F Letter to Janette Stone from Susan Burgstrom dated October 28, 2019
- G Plat of Wilber Heights Subdivision recorded on October 8, 1924
- H Images of Subject Property taken November 8, 2019
- I Case 965-V-19 Draft Summary of Evidence, Finding of Fact, and Final Determination dated December 12, 2019

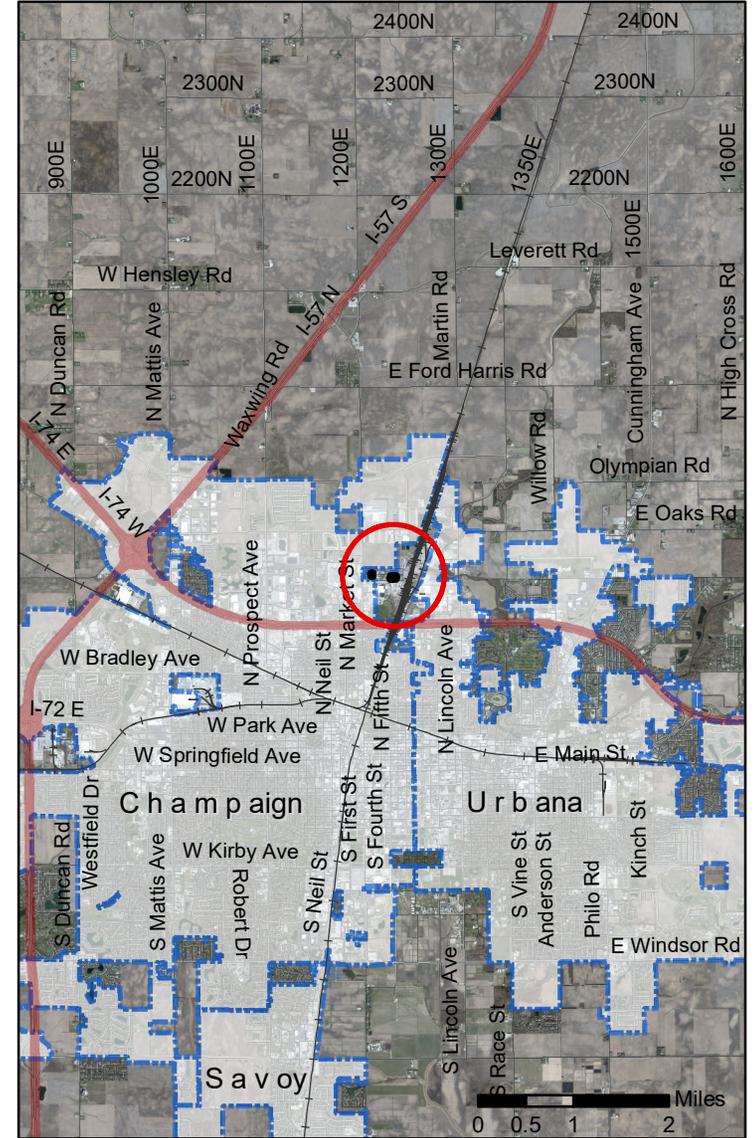
# Location Map

Case 965-V-19  
December 12, 2019

### Subject Property



### Property location in Champaign County



## Legend

-  Subject Property
-  Interstate
-  Municipal Boundary
-  Streets



Champaign County  
Department of  
**PLANNING &  
ZONING**

# Land Use Map

Case 965-V-19  
December 12, 2019



## Legend

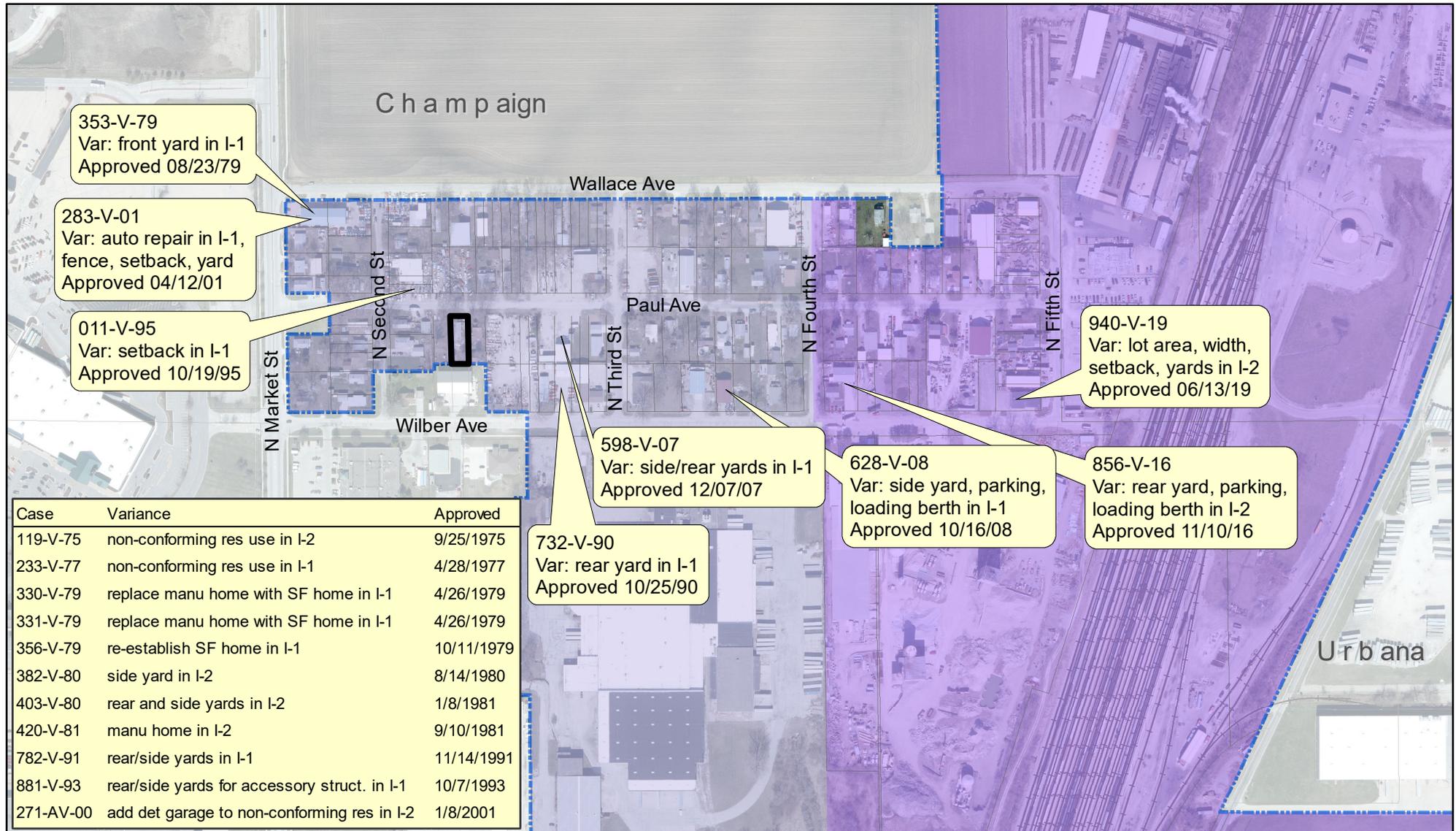
- |   |  |   |  |
|---|--|---|--|
|  Subject Property   |  Industrial |  Residential |  vacant |
|  Municipal Boundary |  Commercial |  Tax Exempt  |  |



# Zoning Map

Case 965-V-19  
December 12, 2019

Zoning cases shown on map only include non-residential variances in Wilber Heights; see table inset for residential variances.



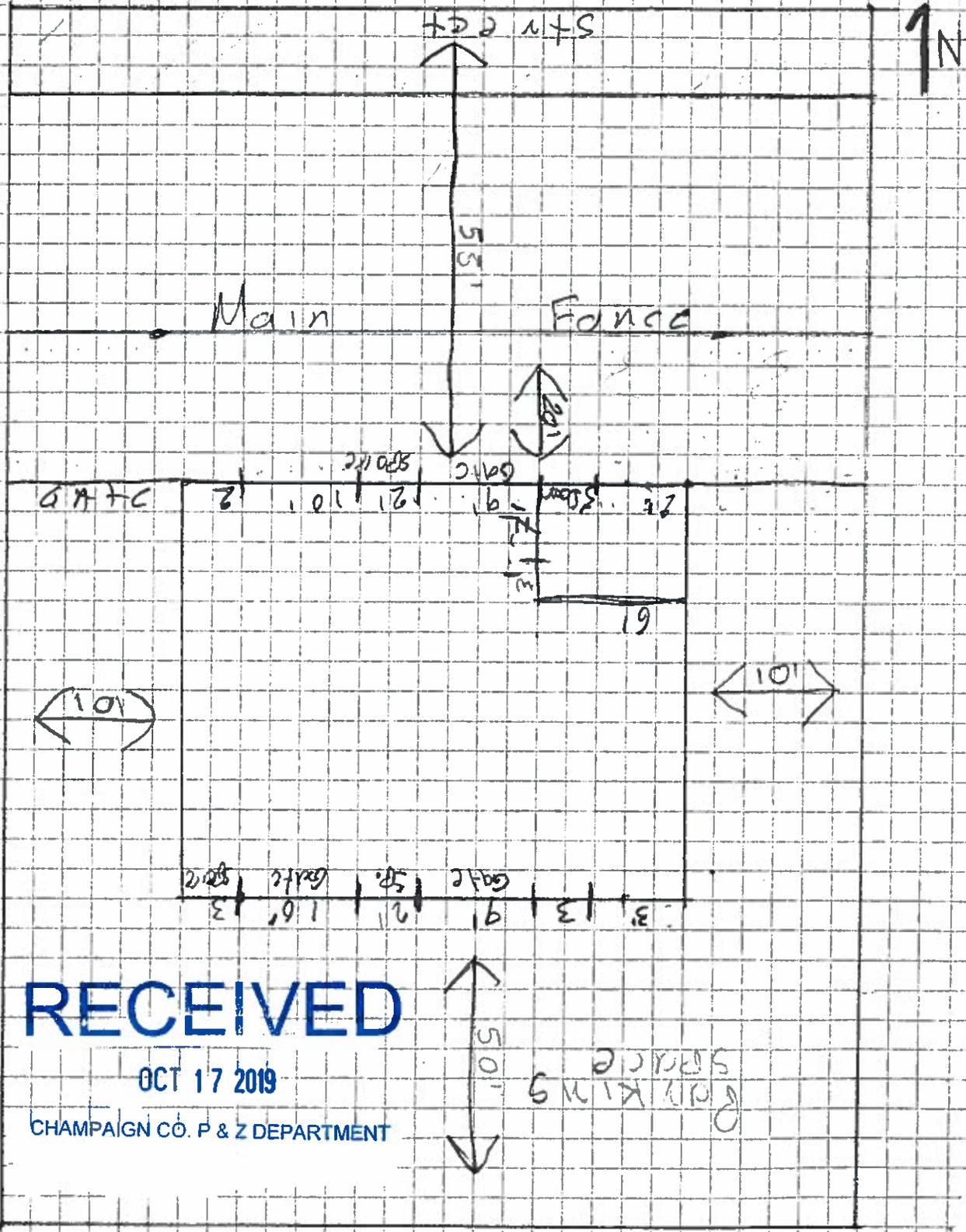
## Legend

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

0 100 200 400 Feet



Champaign County  
Department of  
PLANNING &  
ZONING



RECEIVED

OCT 17 2019

CHAMPAIGN CO. P & Z DEPARTMENT

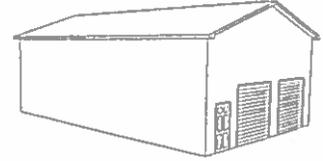
### Items Selected:

Gable roof w/ 4/12 pitch, Standard Trusses 2' O.C.  
Truss Design Location Zip Code: 61820  
Residential Post Frame Construction  
with Concrete Floor (not included)  
30' Wide X 50' Deep X 16' - 6" High  
Vinyl Double 4" Lap Siding  
- White  
1/2" OSB Wall Sheathing  
Tyvar Housewrap  
12" gable/12" eave overhangs  
1/2" OSB Roof Sheathing  
Castlebrook, Antique Black Shingles  
Slant Back Vent(Metal), Black  
White Vinyl Soffit & Fascia  
White Premium Roof Edge  
4 - Garage Door Opener

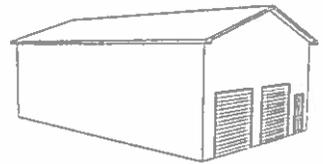
### Options Selected:

The options you have selected are:  
30 LB Roof Felt  
2 Rows Granular Ice & Water Barrier  
1 - 36x80 Service Door - CM1 6-Panel Steel LS  
4 - 9x9 Overhead Door - Insulated Ribbed  
1 - 36x80 Service Door - CM1 6-Panel Steel RS

Front View



Back View



**Estimated price: \$17,353.51\***

\*Today's estimated price, future pricing may go up or down.

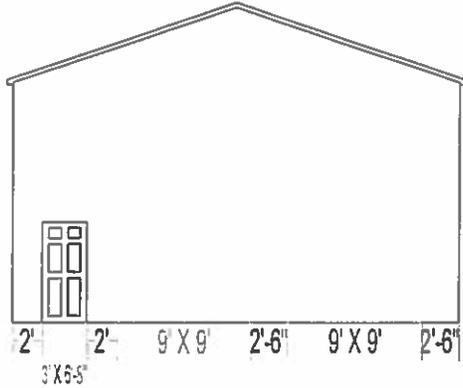
\*Tax, labor, and delivery not included.

\*\*\* Take this sheet to the Building Materials counter to purchase your materials. \*\*\*

Floor type (concrete, dirt, gravel) is NOT included in estimated price. The floor type is used in the calculation of materials needed. Labor, foundation, steel beams, paint, electrical, heating, plumbing, and delivery are also NOT included in estimated price. This is an estimate. It is only for general price information. This is not an offer and there can be no legally binding contract between the parties based on this estimate. The prices stated herein are subject to change depending upon the market conditions. The prices stated on this estimate are not firm for any time period unless specifically written otherwise on this form. The availability of materials is subject to inventory conditions. MENARDS IS NOT RESPONSIBLE FOR ANY LOSS INCURRED BY THE GUEST WHO RELIES ON PRICES SET FORTH HEREIN OR ON THE AVAILABILITY OF ANY MATERIALS STATED HEREIN. All information on this form, other than price, has been provided by the guest and Menards is not responsible for any errors in the information on this estimate, including but not limited to quantity, dimension and quality. Please examine this estimate carefully. MENARDS MAKES NO REPRESENTATIONS, ORAL, WRITTEN OR OTHERWISE THAT THE MATERIALS LISTED ARE SUITABLE FOR ANY PURPOSE BEING CONSIDERED BY THE GUEST. BECAUSE OF THE WIDE VARIATIONS IN CODES, THERE ARE NO REPRESENTATIONS THAT THE MATERIALS LISTED HEREIN MEET YOUR CODE REQUIREMENTS. THE PLANS AND/OR DESIGNS PROVIDED ARE NOT ENGINEERED. LOCAL CODE OR ZONING REGULATIONS MAY REQUIRE SUCH STRUCTURES TO BE PROFESSIONALLY ENGINEERED AND CERTIFIED PRIOR TO CONSTRUCTION.

## \*\*\* Here are the wall configurations for your design.

Illustration May Not Depict All Options Selected



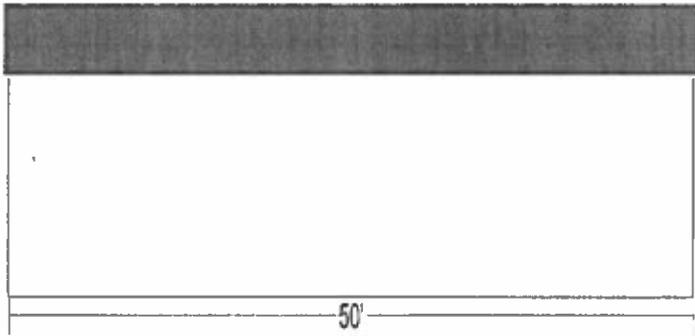
Gable Front View

- (1) - PREHUNGSTE PH36LHSTEE CM-1 6-PANEL STEEL DOOR
- (2) - GARAGEDOOR STEELRIB 9X9 WHT INSL RIBBED TORSN

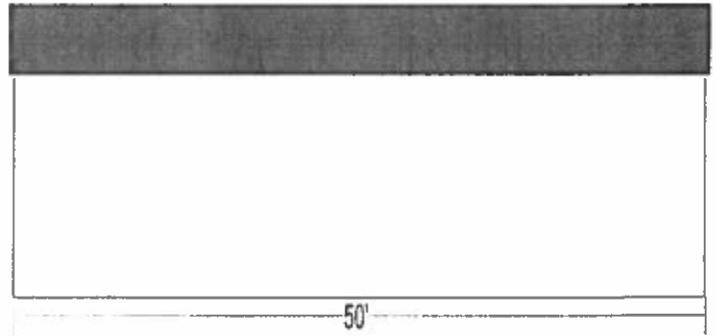


Gable Back View

- (2) - GARAGEDOOR STEELRIB 9X9 WHT INSL RIBBED TORSN
- (1) - PREHUNGSTE PH36RHSTEE CM-1 6-PANEL STEEL DOOR



Eave Front View



Eave Back View

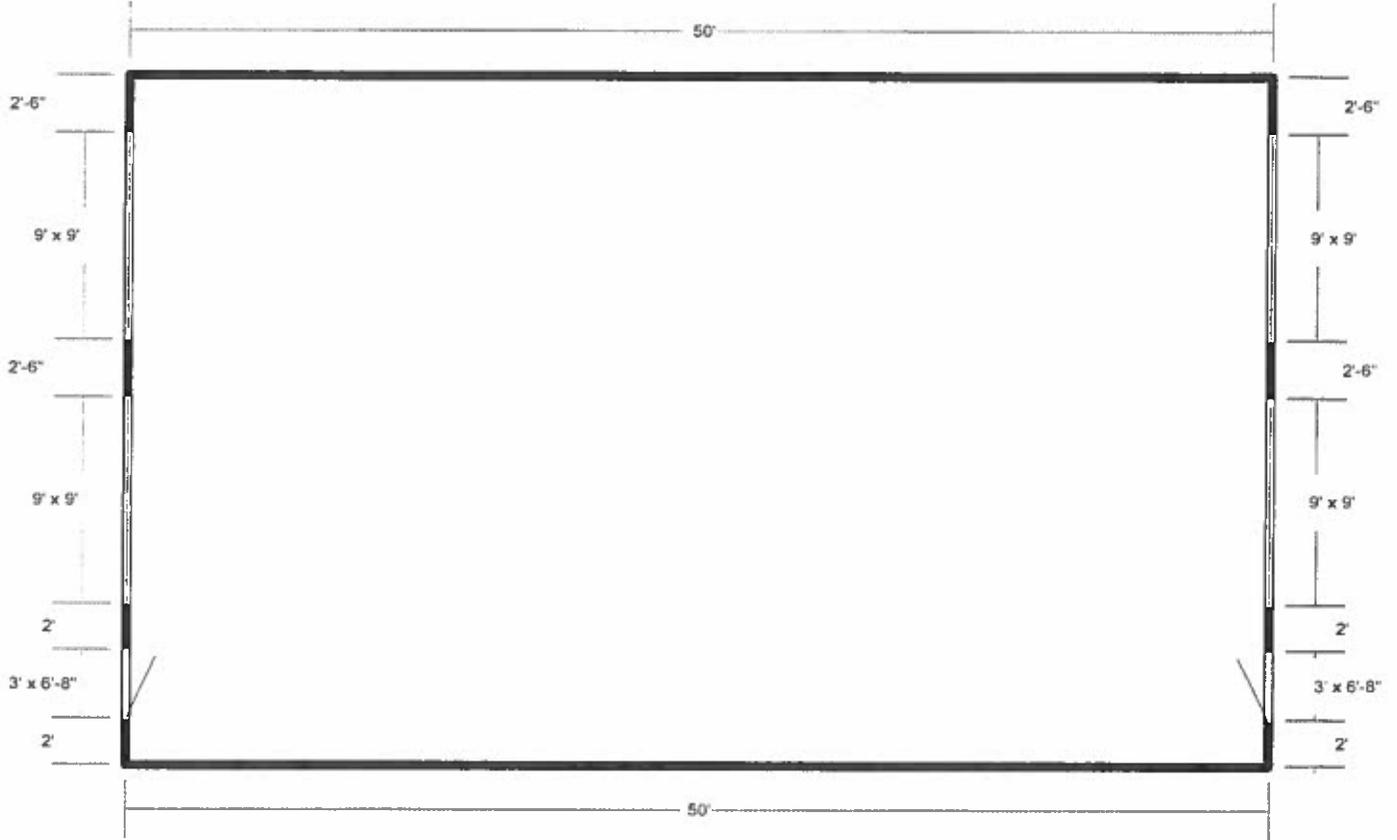
Building Size: 30 feet wide X 50 feet long X 16 feet high  
Approximate Peak Height: 21 feet 4 inches (256 inches)

NOTE: Overhead doors may need to be "Wind Code Rated" depending on your building location.  
Confirm the door requirements with your local zoning official before construction.

Menards-provided material estimates are intended as a general construction aid and have been calculated using typical construction methods. Because of the wide variability in codes and site restrictions, all final plans and material lists must be verified with your local zoning office. Menards is a supplier of construction materials and does not assume liability for design, engineering or the completeness of any material lists provided. Underground electrical, phone and gas lines should be located and marked before your building plans are finalized. Remember to use safety equipment including dust masks and sight and hearing protection during construction to ensure a positive building experience.

\*\*\* Floor Plan.

Illustration May Not Depict All Options Selected



Building Size: 30 feet wide X 50 feet long X 16 feet high

# Annotated 2017 aerial

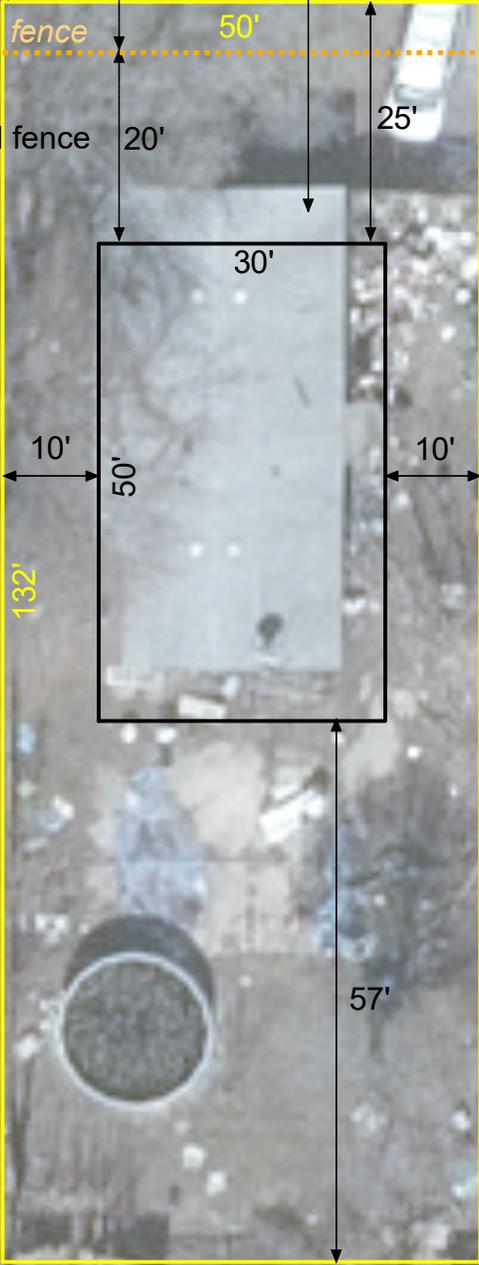
Paul Ave

Paul Avenue half right-of-way is 33'

38' between fence and street CL

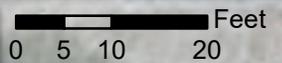
Building must be set back 55' from street CL, or 25' from front property line, whichever is greater. In this case, Building must be set back 25' from front lot line, which is 58' from street centerline, or a variance will be necessary.

20' between building and fence



No parking of vehicles waiting repair in street right of way, or within 10' of front property line, or within 5' of side and rear property lines.

Automobile repair is authorized by-right in the I-1 Light Industry Zoning District. All automobile repair must be done indoors.



4



8 2 5 9 2 6 3  
Tx:4102963

**2018R14827**  
REC ON: 08/23/2018 12:53:26 PM  
CHAMPAIGN COUNTY  
**MARK SHELDEN**  
REC FEE: 52.00  
RHSPS Fee: 9.00  
STATE TAX:  
COUNTY TAX:  
PLAT ACT: 0  
PAGES 4

# Quitclaim Deed

(6)

RECORDING REQUESTED BY Janette Stone  
AND WHEN RECORDED MAIL TO: Tax Bill to:  
207 PAUL Ave, Champaign IL 61822, Grantee(s)  
Jonathan Stone

Consideration: \$ 0.00

Property Transfer Tax: \$ 0.00

Assessor's Parcel No.: \_\_\_\_\_

PREPARED BY: Jonathan Stone certifies herein that he or she has prepared this Deed.

Jonathan Stone  
Signature of Preparer

8/23/2018  
Date of Preparation

Jonathan Stone  
Printed Name of Preparer

**THIS QUITCLAIM DEED**, executed on August 23, 2018 in the County of Champaign, State of Illinois

by Grantor(s), Janette Stone Janette Stone,

whose post office address is 207 PAUL AVE,

to Grantee(s), Jonathan Stone Jonathan Stone,

whose post office address is 207 PAUL AVE,

**WITNESSETH**, that the said Grantor(s), Janette Stone,

for good consideration and for the sum of zero dollars

(\$0.00) paid by the said Grantee(s), the receipt whereof is hereby acknowledged,

does hereby remise, release and quitclaim unto the said Grantee(s) forever, all the right, title

interest and claim which the said Grantor(s) have in and to the following described parcel of land, and improvements and appurtenances thereto in the County of Champaign, State of Illinois and more specifically described as set forth in EXHIBIT "A" to this Quitclaim Deed, which is attached hereto and incorporated herein by reference.

**IN WITNESS WHEREOF**, the said Grantor(s) has signed and sealed these presents the day and year first above written. Signed, sealed and delivered in presence of:

**GRANTOR(S):**

Janette Stone  
Signature of Grantor

\_\_\_\_\_  
Signature of Second Grantor (if applicable)

Janette Stone  
Print Name of Grantor

\_\_\_\_\_  
Print Name of Second Grantor (if applicable)

Manuel Enriquez C.  
Signature of First Witness to Grantor(s)

\_\_\_\_\_  
Signature of Second Witness to Grantor(s)

Manuel Enriquez C.  
Print Name of First Witness to Grantor(s)

\_\_\_\_\_  
Print Name of Second Witness to Grantor(s)

**GRANTEE(S):**

Jonathan Stone  
Signature of Grantee

\_\_\_\_\_  
Signature of Second Grantee (if applicable)

Jonathan Stone  
Print Name of Grantee

\_\_\_\_\_  
Print Name of Second Grantee (if applicable)

Manuel Enriquez C.  
Signature of First Witness to Grantee(s)

\_\_\_\_\_  
Signature of Second Witness to Grantee(s)

Manuel Enriquez C.  
Print Name of First Witness to Grantee(s)

\_\_\_\_\_  
Print Name of Second Witness to Grantee(s)

\_\_\_\_\_  
Signature of Par. E  
\_\_\_\_\_  
by Tax Code.  
dated 8/23 by Jonathan Stone  
\_\_\_\_\_  
(Printer or Register)

**NOTARY ACKNOWLEDGMENT**

State of Illinois

County of Champaign

On August 23, 2018, before me, John Farney, a notary public in and for said state, personally appeared, Janelle Stone, Jonathan Stone, Manuel Enriquez

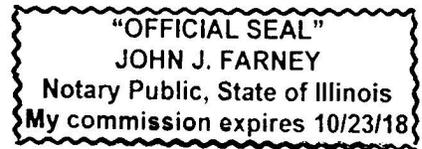
who are known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

**WITNESS** my hand and official seal.

*John Farney*  
Signature of Notary

Affiant Known \_\_\_\_\_ Produced ID

Type of ID IL Drivers License



(Seal)

Exhibit "A"

lots 203 and 204 in Wilber Heights a Subdivision  
in Champaign County, State of Illinois.

Property Index Number (PIN) 25-15-31-356-005  
Address(es) of Real State 205 Paul ave.  
Champaign IL 61822



2018R14829

REC ON: 08/23/2018 01:41:38 PM

CHAMPAIGN COUNTY

MARK SHELDEN

REC FEE: 52.00

RHSPS Fee: 9.00

STATE TAX: 8.00

COUNTY TAX: 4.00

PLAT ACT: 0

PAGES 4

# Quitclaim Deed

(G) RECORDING REQUESTED BY Jonathan Stone  
AND WHEN RECORDED MAIL TO: § Tax Bill to:

Man 1307 Garden LN, Grantee(s)

Champaign IL 61820

Manuel Enriquez C.

Consideration: \$ \_\_\_\_\_

Property Transfer Tax: \$ \_\_\_\_\_

Assessor's Parcel No.: \_\_\_\_\_

PREPARED BY: Manuel Enriquez C certifies herein that he or she has prepared this Deed.

[Signature]  
Signature of Preparer

8-23-18  
Date of Preparation

Manuel Enriquez C.  
Printed Name of Preparer

THIS QUITCLAIM DEED, executed on 08-23-18 in the County of

Champaign, State of IL

by Grantor(s), Jonathan Stone,

whose post office address is 207 Paul Ave,

to Grantee(s), Manuel Enriquez C.,

whose post office address is 1307 Garden LN,

WITNESSETH, that the said Grantor(s), Jonathan Stone,

for good consideration and for the sum of Eight thousand

(\$ 8,000) paid by the said Grantee(s), the receipt whereof is hereby acknowledged,

does hereby remise, release and quitclaim unto the said Grantee(s) forever, all the right, title

interest and claim which the said Grantor(s) have in and to the following described parcel of land, and improvements and appurtenances thereto in the County of Champaign, State of ILLINOIS and more specifically described as set forth in EXHIBIT "A" to this Quitclaim Deed, which is attached hereto and incorporated herein by reference.

**IN WITNESS WHEREOF**, the said Grantor(s) has signed and sealed these presents the day and year first above written. Signed, sealed and delivered in presence of:

**GRANTOR(S):**

Jonathan Stone  
Signature of Grantor

\_\_\_\_\_  
Signature of Second Grantor (if applicable)

Jonathan Stone  
Print Name of Grantor

\_\_\_\_\_  
Print Name of Second Grantor (if applicable)

\_\_\_\_\_  
Signature of First Witness to Grantor(s)

\_\_\_\_\_  
Signature of Second Witness to Grantor(s)

\_\_\_\_\_  
Print Name of First Witness to Grantor(s)

\_\_\_\_\_  
Print Name of Second Witness to Grantor(s)

**GRANTEE(S):**

Manuel Enriquez C  
Signature of Grantee

\_\_\_\_\_  
Signature of Second Grantee (if applicable)

Manuel Enriquez P.  
Print Name of Grantee

\_\_\_\_\_  
Print Name of Second Grantee (if applicable)

\_\_\_\_\_  
Signature of First Witness to Grantee(s)

\_\_\_\_\_  
Signature of Second Witness to Grantee(s)

\_\_\_\_\_  
Print Name of First Witness to Grantee(s)

\_\_\_\_\_  
Print Name of Second Witness to Grantee(s)

**NOTARY ACKNOWLEDGMENT**

State of Illinois

County of Champaign

On 08-23-2018, before me, Sarah L. Raymond, a notary public in and for said state, personally appeared, Jonathan Stone and Manuel Enriquez

who are known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

**WITNESS** my hand and official seal.

Sarah L. Raymond  
Signature of Notary

Affiant Known \_\_\_\_\_ Produced ID

Type of ID Driver's License / ID Card



Exhibit "A"

lots 203 and 204 in Wilber Heights a  
Subdivision in Champaign County, State of  
Illinois.

Property Index number (PIN) 25-15-31-356-005  
Address(es) of Real state 205 Paul Ave.  
Champaign IL 61822

October 28, 2019

Champaign  
County  
Department of

**PLANNING &  
ZONING**

**Janette Stone**  
207 Paul Avenue  
Champaign, IL 61822

**RE: Illegal zoning lot at 207 Paul Avenue, Parcel Number 25-15-31-356-006**

Brookens  
Administrative Center  
1776 E. Washington Street  
Urbana, Illinois 61802

(217) 384-3708

Dear Ms. Stone,

The Champaign County Department of Planning & Zoning recently became aware of the sale of 205 Paul Avenue (Lots 203 and 204 of Wilber Heights Subdivision) that you previously owned. Our records indicate that you owned both 205 Paul and 207 Paul (Lots 205 and 206) at the same time from 2003 until 2018. Both of these properties are smaller in lot area and narrower in lot width than the Champaign County Zoning Ordinance allows. This is a very common occurrence in the Wilber Heights Subdivision, which was created well before the adoption of the Champaign County Zoning Ordinance on October 10, 1973.

In the I-1 Light Industry Zoning District where these properties are located, the minimum lot area is 10,000 square feet, and the minimum average lot width is 100 feet. 205 and 207 Paul each have a lot area of 6,600 square feet and an average lot width of 50 feet. Combined, they have a lot area of 13,200 square feet and an average lot width of 100 feet.

Section 8.1.2 of the Zoning Ordinance states the following:

“Once two or more contiguous lots or combination of lots and portions of lots which individually do not meet any dimensional, geometric, lot access or other standards are brought into common ownership the lots involved shall be considered to be a single lot for the purpose of this ordinance. No portion of said lot shall be used separately or conveyed to another owner which does not meet all of the dimensional, geometric, lot access and other standards established by this ordinance unless a variance is granted by the Board...”

If 205 and 207 Paul Avenue were still owned by the same person, like they were until 2018, there would be no issue with lot size or lot width because the combined properties would comprise one zoning lot meeting the minimum lot area and lot width requirements. When 205 Paul was sold, however, it created two separate, illegal properties according to the regulation above. Neither of these two separate properties can be improved upon in terms of additions, new buildings, or rebuilding if a building were to be destroyed by fire or other cause, without a Variance from the Zoning Ordinance.

A Variance is a public hearing process before the Champaign County Zoning Board of Appeals (ZBA). We encourage you to apply for the variance so that if it is approved, the lot will become conforming to the Zoning Ordinance and you and/or future owners can seek building permits without having to go through this variance process before construction is desired. The variance process from time of application until the public hearing can take anywhere from one month to several months, depending on how many other cases are on the ZBA docket.

I also want to be clear that other options are available. You are free to do nothing at this time and seek a variance at such time a building permit is desired. You could also discuss the possibility of selling the 207 Paul property to the owner of 205 Paul, or buying 205 Paul back from that owner so that the lots will be grouped again and thus conforming to the Zoning Ordinance. No variance would be required if the four lots were all owned by the same party.

I have attached a Champaign County Variance Application in case you would like to complete and return it to the Planning and Zoning Department with the required fee of \$200. I know this is a lot of information, and the language in the ordinance can be confusing. Please contact our office with any questions or concerns at (217) 384-3708.

Sincerely,

A handwritten signature in blue ink that reads "Susan Burgstrom". The signature is written in a cursive, flowing style.

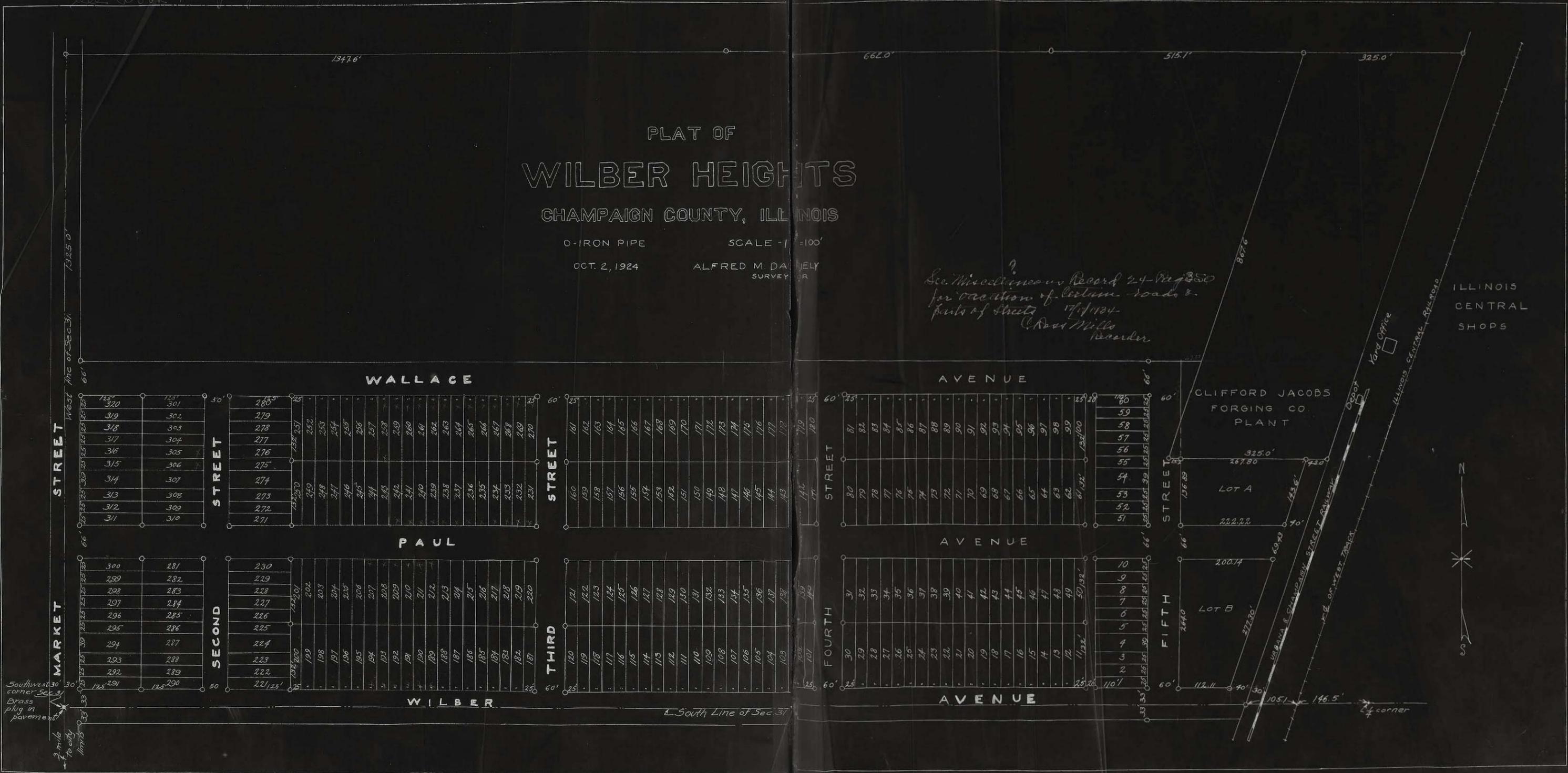
Susan Burgstrom  
Senior Planner

See Book 951 page 399 for vacation of Road + Paul Avenue

# PLAT OF WILBER HEIGHTS CHAMPAIGN COUNTY, ILLINOIS

O-IRON PIPE SCALE - 1" = 100'  
OCT. 2, 1924 ALFRED M. DAVIDSON SURVEYOR

See Miscellaneous Record 24-Page 350  
for vacation of certain roads &  
parts of lots  
of  
Ray Mills  
Boarder



Southwest corner Sec. 9  
Drains plug in pavement  
1/2 mile  
to city  
limits

L. South Line of Sec. 31

See page 325 for Description.

### 965-V-19 Site Images



**Subject property existing residence**



**Subject property existing residence**

### 965-V-19 Site Images



**203 Paul Avenue, west of subject property**



**207 Paul Avenue (left) and subject property**

**PRELIMINARY DRAFT**

**965-V-19**

**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: ***{December 12, 2019}***

Petitioners: **Manuel Enriquez**

Request: **Authorize a variance for a lot area of 6,600 square feet (0.15 acre) and an average lot width of 50 feet in lieu of the minimum required 10,000 square feet (0.23 acre) in area and 100 feet average lot width in the I-1 Light Industry Zoning District, per Section 5.3 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 **December 12, 2019**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Manuel Enriquez owns the subject property.
2. The subject property is Lots 203 and 204 of the Wilber Heights Subdivision in the Southeast Quarter of the Southwest Quarter of Section 31, Township 20N Range 9E in Somer Township and commonly known as the residence with an address of 205 Paul Avenue, Champaign.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
  - A. The subject property is located within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign, a municipality with zoning. Municipalities with zoning do not have protest rights on a variance case, and are typically not notified of such cases.
  - B. The subject property is located within Somer Township, which does not have a Plan Commission. Townships without Plan Commissions do not have protest rights on a variance.

***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 132 feet by 50 feet (6,600 square feet) lot and is currently zoned I-1 Light Industry. Land use is a single family residence that the petitioner proposes to demolish in order to construct a garage for his auto repair business, which is a by-right use in the I-1 district.
  - B. Land to the north is zoned I-1 Light Industry, and is in use as an auto repair business.
  - C. Land to the east and west is zoned I-1 Light Industry and is residential in use.
  - D. Land to the south is within the City of Champaign and is in use by a trucking company.

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

5. Regarding the site plan for the subject property:
  - A. The Petitioner's Site Plan, received October 17, 2019, indicates the following proposed features:
    - (1) One 30 feet by 50 feet garage;
    - (2) A fence along the front property line; and
    - (3) A parking area behind the garage.
    - (4) No septic system or restrooms are proposed.
  - B. There is one previous Zoning Use Permit for the subject property:
    - (1) ZUPA #093-79-01 was approved on April 30, 1979 to replace a single family dwelling with a modular home.

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- C. There is one previous zoning case for the subject property:
- (1) Case 331-V-79 was approved on April 26, 1979, to replace a single family dwelling with a modular home.
- D. The required variance is as follows:
- (1) Authorize a variance for a lot area of 6,600 square feet (0.15 acre) and an average lot width of 50 feet in lieu of the minimum required 10,000 square feet (0.23 acre) in area and 100 feet average lot width in the I-1 Light Industry Zoning District.

**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) “AREA, LOT” is the total area within the LOT LINES.
  - (2) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
  - (3) “LOT LINES” are the lines bounding a LOT.
  - (4) “LOT WIDTH, AVERAGE” is the LOT AREA divided by the LOT DEPTH or, alternatively, the diameter of the largest circle that will fit entirely within the LOT LINES.
  - (5) “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.
  - (6) “PARCEL” is a designated tract of land entered as a separate item on the real estate tax assessment rolls for the purpose of taxation.
  - (7) “PLAT” is a map, plan or layout showing the SUBDIVISION of land and indicating the location and boundaries of individual LOTS.
  - (8) “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.
- B. Section 4.3.3 H. establishes screen standards as follows:
1. SCREEN Standards and Types of SCREENS
    - a. Type A: Decorative opaque fence, shrubs or other vegetative material or a landscaped berm planted and maintained with a minimum HEIGHT of four feet as measured from the highest adjacent grade.
    - b. Type B: An opaque fence or wall with a minimum HEIGHT of four feet as measured from the highest adjacent grade.

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- c. Type C: A landscape berm or an opaque fence or wall, or SCREEN PLANTING with a minimum HEIGHT of six feet as measured from the highest adjacent grade.
  - d. Type D: A landscaped berm, or an opaque fence or wall, or SCREEN PLANTING with a minimum HEIGHT of eight feet as measured from the highest adjacent grade.
2. Existing structures, vegetation, and/or topographic features that provide equivalent screening may be used in lieu of the screen type required elsewhere in this ordinance provided, however, that if they are ever removed or become ineffective for any reason they shall be replaced with the required type of screen.
- C. The I-1 Light Industry DISTRICT is established in Section 5.1.14 to provide for storage and manufacturing USES not normally creating a nuisance discernible beyond its PROPERTY lines.
- D. Section 7.4 establishes requirements for off-street PARKING SPACES and LOADING BERTHS:
- (1) Section 7.4.1 A. states:
    - a. All off-street PARKING SPACES shall be located on the same LOT or tract of land as the USE served.
    - b. All spaces for the accommodation of an AUTOMOBILE shall total at least 300 square feet including both parking and maneuvering area.
    - c. Location
      - (a) No such space shall be located less than 10 feet from any FRONT LOT LINE.
      - (b) No such space shall be located less than five feet from any side or REAR LOT LINE.
  - (2) Section 7.4.1 B. states that the minimum size of off-street PARKING SPACES shall be at least 9 feet wide by 20 feet long.
  - (3) Section 7.4.1 C. states that off-street PARKING SPACES for commercial ESTABLISHMENTS shall be provided as follows:
    - a. One space shall be provided for every 200 square feet of floor area or portion thereof.
    - b. Required parking SCREENS for commercial ESTABLISHMENTS shall be provided as follows:
      - (a) Parking areas for more than four vehicles of no more than 8,000 pounds gross vehicle weight each, excluding any vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials, located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type A

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SCREEN except that a TYPE B SCREEN may be erected along the rear LOT LINE of the business PROPERTY.

- (b) Parking areas for any number of vehicles exceeding 8,000 pounds in gross vehicle weight each or any number of vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type D SCREEN.
- E. Subsection 7.6 establishes the following conditions for Outdoor Storage and/or Outdoor Operations:
- (1) Paragraph 7.6.1 states: “Outdoor STORAGE and/or OPERATIONS shall be allowed in all DISTRICTS only as ACCESSORY USES unless permitted as a principal USE in Section 5.2 and shall be allowed in any YARD in all DISTRICTS subject to the provisions of Section 7.2 without a permit provided that outdoor STORAGE and/or outdoor OPERATIONS shall not be located in any required off-street PARKING SPACES or LOADING BERTHS.”
  - (2) Paragraph 7.6.2 states: “A Type D SCREEN shall be located so as to obscure or conceal any part of any YARD used for outdoor STORAGE and/or outdoor OPERATIONS which is visible within 1,000 feet from any of the following circumstances:
    - a. Any point within the BUILDING RESTRICTION LINE of any LOT located in any R DISTRICT or any LOT occupied by a DWELLING conforming as to USE or occupied by a SCHOOL; church or temple; public park or recreational facility; public library, museum, or gallery; public fairgrounds; nursing home or HOSPITAL; recreational business USE with outdoor facilities; or
    - b. Any designated urban arterial street or MAJOR STREET.”
- F. Requirements for non-conforming lots in common ownership are established in Section 8.1.2 of the Zoning Ordinance: “Once two or more contiguous LOTS or combination of LOTS and portions of LOTS which individually do not meet any dimensional, geometric, LOT ACCESS or other standards are brought into common ownership the LOTS involved shall be considered to be a single LOT for the purpose of this ordinance. No portion of said LOT shall be used separately or conveyed to another owner which does not meet all of the dimensional, geometric, LOT ACCESS and other standards established by this ordinance unless a VARIANCE is granted by the BOARD in accordance with Section 9.1.9.”
- G. 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:

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- 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.
- H. Minimum lot area in the I-1 Light Industry District is established in Section 5.3 of the Zoning Ordinance as 10,000 square feet.
- I. Minimum average lot width in the I-1 Light Industry District is established in Section 5.3 of the Zoning Ordinance as 100 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, **“Small lot sizes in Wilber Heights were created before zoning.”**
  - B. Regarding the history of common ownership for subject property Lots 203 and 204:
    - (1) Janette Stone has owned Lots 205 and 206 east of the subject property since October 1990.
    - (2) Janette Stone owned the subject property Lots 203 and 204 from September 2003 until August 2018, when she conveyed the lots to her son Jonathan Stone in recorded document 2018R14827. This is the sale that separated the petitioner’s lots from common ownership, which cannot be done without a variance.
    - (3) Jonathan Stone sold the subject property lots to the petitioner in August 2018, as shown in recorded document 2018R14829.
    - (4) The proposed variances for minimum lot size and average lot width will make the subject property conform to the Zoning Ordinance provisions.

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- (5) P&Z Staff sent a letter to Janette Stone on October 28, 2019, making her aware that her lots also need a variance for lot area and average lot width, and that one option to correct this issue would be to sell the property to the petitioner, which would bring all four Lots back into common ownership. No variances would be needed for the lots should that come to fruition.
- a. As of November 27, 2019, P&Z Staff have not heard from Ms. Stone, so Mr. Enriquez still requires the variance.
- C. 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.

***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, **“Small lots make construction of most buildings need a variance.”**
- B. Regarding the proposed Variance: without the proposed variance, the Petitioner would not be able to receive a building permit for his proposed garage.

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

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The Petitioner has testified on the application, **“No.”**
- B. The Petitioner was not aware that he purchased a lot with the variance requirement due to common ownership.

***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, **“The variance will allow construction of a building similar to character of Wilber Heights and industrial zoning.”**
- B. Regarding the proposed variance for a minimum lot area of 6,600 square feet in lieu of the minimum required 10,000 square feet, and an average lot width of 50 feet in lieu of the

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minimum required 100 feet; the required variance for lot area is 66% of the minimum requirement, for a variance of 34%, and the required variance for average lot width is 50% of the minimum requirement, for a variance of 50%.

- C. Regarding the proposed Variances, besides the importance of accommodating onsite wastewater treatment and disposal as part of the basis for the minimum lot area and average lot width requirement, other considerations are as follows:
- (1) Adequate light and air: The subject property, contingent upon approval of the variance, will be an indoor auto repair business. The surrounding properties are in residential, commercial, or industrial use, including another auto repair business.
  - (2) Separation of structures to prevent conflagration: The subject property is within the Eastern Prairie Fire Protection District and the station is approximately 0.4 road miles from the subject property. The nearest structure on adjacent property to the proposed garage is a residence that would be approximately 20 feet to the east of the new garage.
  - (3) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.
- D. Regarding off-street parking requirements for commercial establishments:
- (1) One parking space must be provided for every 200 square feet of floor area. The proposed auto repair shop is 1,500 square feet, so eight parking spaces will 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.
- E. Regarding outdoor storage and operations:
- (1) No screening is required because any outdoor storage of vehicles would not be visible within 1,000 feet of any R DISTRICT or any LOT occupied by a DWELLING conforming as to USE or occupied by a SCHOOL; church or temple; public park or recreational facility; public library, museum, or gallery; public fairgrounds; nursing home or HOSPITAL; recreational business USE with outdoor facilities; or any designated urban arterial street or MAJOR STREET.

**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: **“Will not change character of the neighborhood.”**
  - B. The Township Road Commissioner has been notified of this variance but no comments have been received.

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- C. The nearest structure on adjacent property to the proposed garage is a residence that would be approximately 20 feet to the east of the new garage.

**GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE**

- 12. Generally regarding and other circumstances which justify the Variance: 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 Petitioner will not allow parking in the Paul Avenue right-of-way.**

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

**To maximize safety for residents and business clients.**

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**DOCUMENTS OF RECORD**

1. Variance Application received October 22, 2019, with attachment:
  - A Site Plan
2. Plat of Wilber Heights Subdivision recorded on October 8, 1924
3. Quitclaim Deed for Lots 203 and 204, from Grantor Jeannette Stone to Grantee Jonathan Stone, recorded as Document 2018R14827 on August 23, 2018
4. Quitclaim Deed for Lots 203 and 204 from Grantor Jonathan Stone to Grantee Manuel Enriquez, recorded as Document 2018R14829 on August 23, 2018
5. Preliminary Memorandum dated December 5, 2019, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan received October 22, 2019
  - C Annotated 2017 aerial created by P&Z Staff on November 26, 2019
  - D Quitclaim Deed for Lots 203 and 204, from Grantor Jeannette Stone to Grantee Jonathan Stone, recorded as Document 2018R14827 on August 23, 2018
  - E Quitclaim Deed for Lots 203 and 204 from Grantor Jonathan Stone to Grantee Manuel Enriquez, recorded as Document 2018R14829 on August 23, 2018
  - F Letter to Janette Stone from Susan Burgstrom dated October 28, 2019
  - G Plat of Wilber Heights Subdivision recorded on October 8, 1924
  - H Images of Subject Property taken November 8, 2019
  - I Case 965-V-19 Draft Summary of Evidence, Finding of Fact, and Final Determination dated December 12, 2019

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **965-V-19** held on **December 12, 2019**, 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 CONDITIONS}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
5. The requested variance *{SUBJECT TO THE PROPOSED CONDITIONS}* *{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 CONDITIONS}* *{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:}***

- A. **The Petitioner will not allow parking in the Paul Avenue right-of-way.**

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

**To maximize safety for residents and business clients.**

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**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C *{HAVE / HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case **965-V-19** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner, **Manuel Enriquez**, to authorize the following variance in the I-1 Light Industry Zoning District:

**Authorize a variance for a lot area of 6,600 square feet (0.15 acre) and an average lot width of 50 feet in lieu of the minimum required 10,000 square feet (0.23 acre) in area and 100 feet average lot width in the I-1 Light Industry Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

*{SUBJECT TO THE FOLLOWING CONDITION(S):}*

- A. **The Petitioner will not allow parking in the Paul Avenue 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:

Ryan Elwell, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date