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CASE NO. 022-V-21

PRELIMINARY MEMORANDUM

October 19, 2021

Petitioners: **Thomas & Deborah Chalk**

Request: **Authorize the following variance in the R-1 Single Family Residence Zoning District, on the subject property described below:**

Part A: Authorize a variance for an existing detached garage with a side yard of 0 feet in lieu of the minimum required 10 feet side yard, per Section 7.2.1 of the Champaign County Zoning Ordinance.

Part B: Authorize a variance for an existing detached shed with a side yard of 1 foot in lieu of the minimum required 10 feet side yard, per Section 7.2.1 of the Champaign County Zoning Ordinance.

Part C: Authorize a variance for an existing single-family residence with a side yard of 7.5 feet in lieu of the minimum required 10 feet side yard, per Section 5.3 of the Champaign County Zoning Ordinance.

Subject Property: **Lot 28 of Rolling Hills Estate IV Subdivision in Section 12, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, with an address of 2201 Pheasant Ridge Rd, Mahomet.**

Site Area: **17,446 square feet (0.4 acre)**

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

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

BACKGROUND

The Petitioners applied for a Zoning Use Permit on August 21, 2021 to construct a new detached shed. Review by P&Z Staff found the side yards for an existing detached garage, existing detached garden shed, and the existing residence do not meet the minimum requirements. ZUPA #243-21-01 was approved on September 14, 2021, with the special condition that the petitioners apply for the required variances.

The Rolling Hills Estates IV Subdivision recorded in 1979 included a 10 feet wide “public walkway” easement on the west side of the subject property. A sidewalk was never built in this easement.

The petitioners hired Bullock Garages to construct the smaller detached garage, but Bullock did not get a permit for construction and placed the northwest corner of the garage on the west property line. The minimum required side yard for a detached structure in the R-1 District is 5 feet. This garage is the subject of Variance Part A.

The 144 square feet garden shed did not require a permit when constructed because it did not meet the 150 square feet threshold for requiring a permit. The petitioners recently moved that shed from behind the main garage to one foot from the west property line, unaware of the side yard regulation. This garden shed is the subject of Variance Part B.

The residence was constructed under ZUPA ##230-87-03, approved on August 18, 1987. The P&Z Department issued a Zoning Compliance Certificate for the house on August 29, 1987, which means that the Zoning Administrator at the time felt the house location and lot features were compliant with the Zoning Ordinance. As part of the review for ZUPA #243-21-01, P&Z Staff determined that the east side yard appeared to be less than the 10 feet required. Using aerial photography, the side yard appears to be approximately 7.5 feet. There are insufficient corner pins in the ground for determining accurate property lines unless the petitioner invests in a boundary survey. The house's east side yard is the subject of Variance Part C.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single Family Residence	R-1 Single Family Residential
North	Single Family Residence	R-1 Single Family Residential
East	Single Family Residence	R-1 Single Family Residential
West	Single Family Residence	R-1 Single Family Residential
Southwest	Single Family Residence	R-1 Single Family Residential
Southeast	Single Family Residence	R-1 Single Family Residential

EXTRATERRITORIAL JURISDICTION

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

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

PROPOSED SPECIAL CONDITIONS

The following condition is proposed for Variance Part B:

- A. The existing shed can remain in its current location, but replacement of the shed or repair of more than 50% replacement value in any 365-day period means the shed must be made to conform to the yard requirements in the Zoning Ordinance.**

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

That replacement of the existing shed conforms to the Zoning Ordinance.

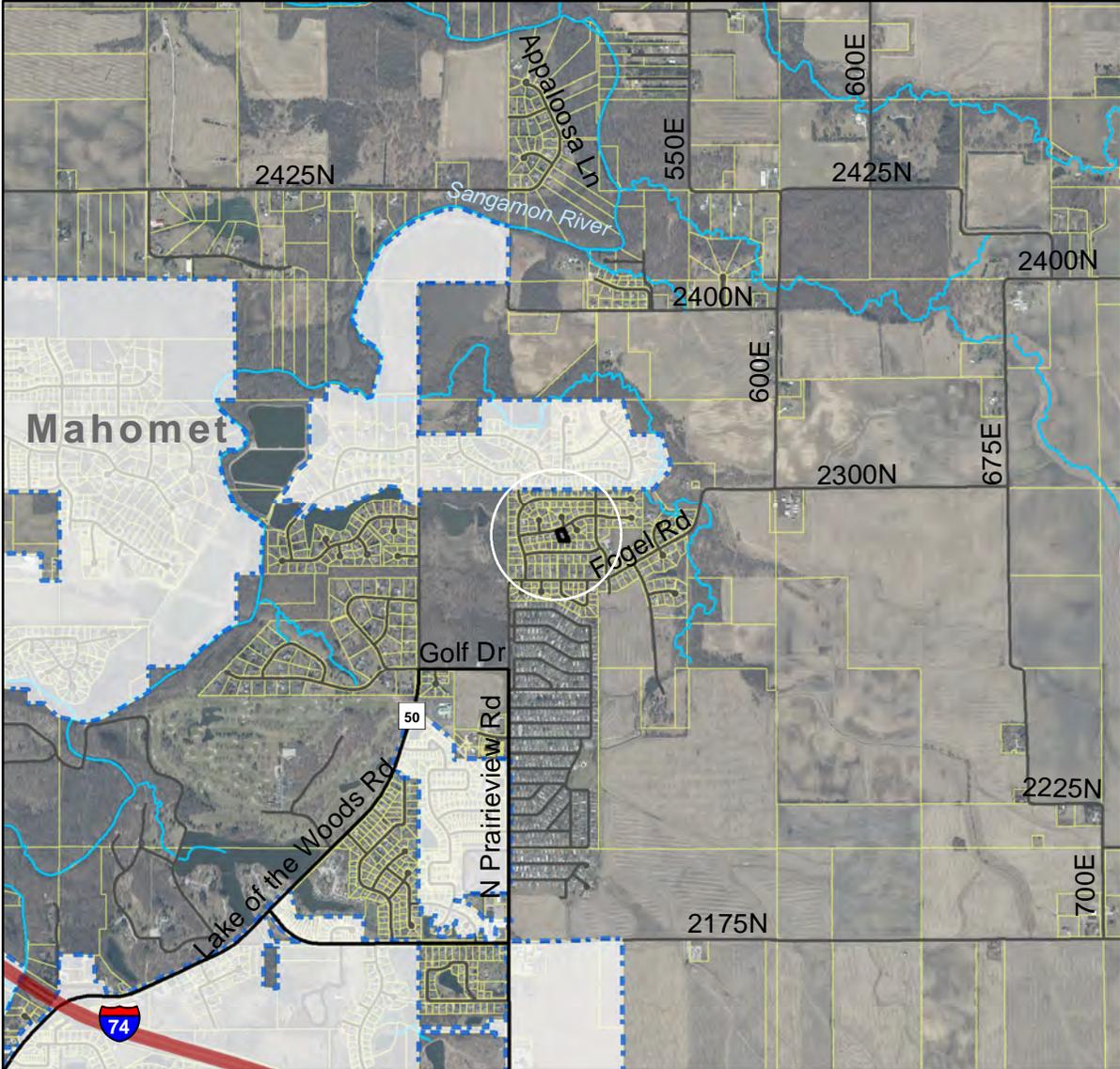
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received September 8, 2021
- C Plat of Survey for Rolling Hills Estate IV Subdivision dated May 3, 1979
- D Map of Required Variances created by P&Z Staff of October 19, 2021
- E Images of Subject Property taken September 27, 2021
- F Draft Summary of Evidence, Finding of Fact, and Final Determination dated October 28, 2021

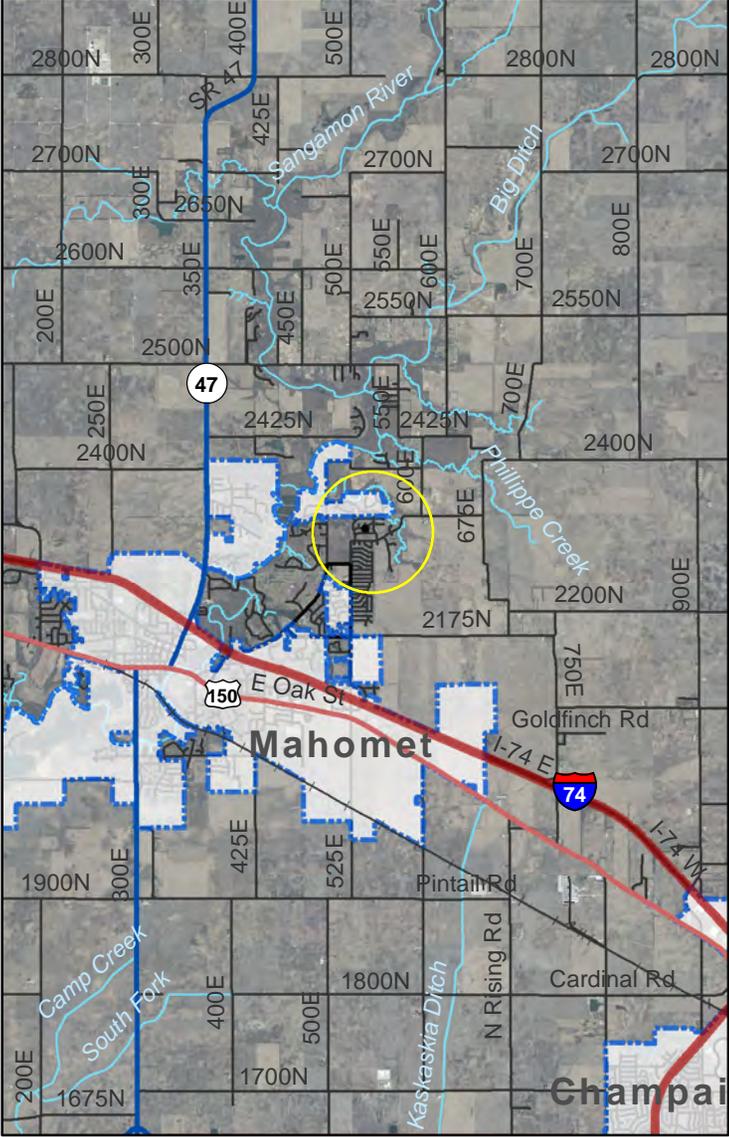
Location Map

Case 022-V-21
October 28, 2021

Subject Property



Property location in Champaign County



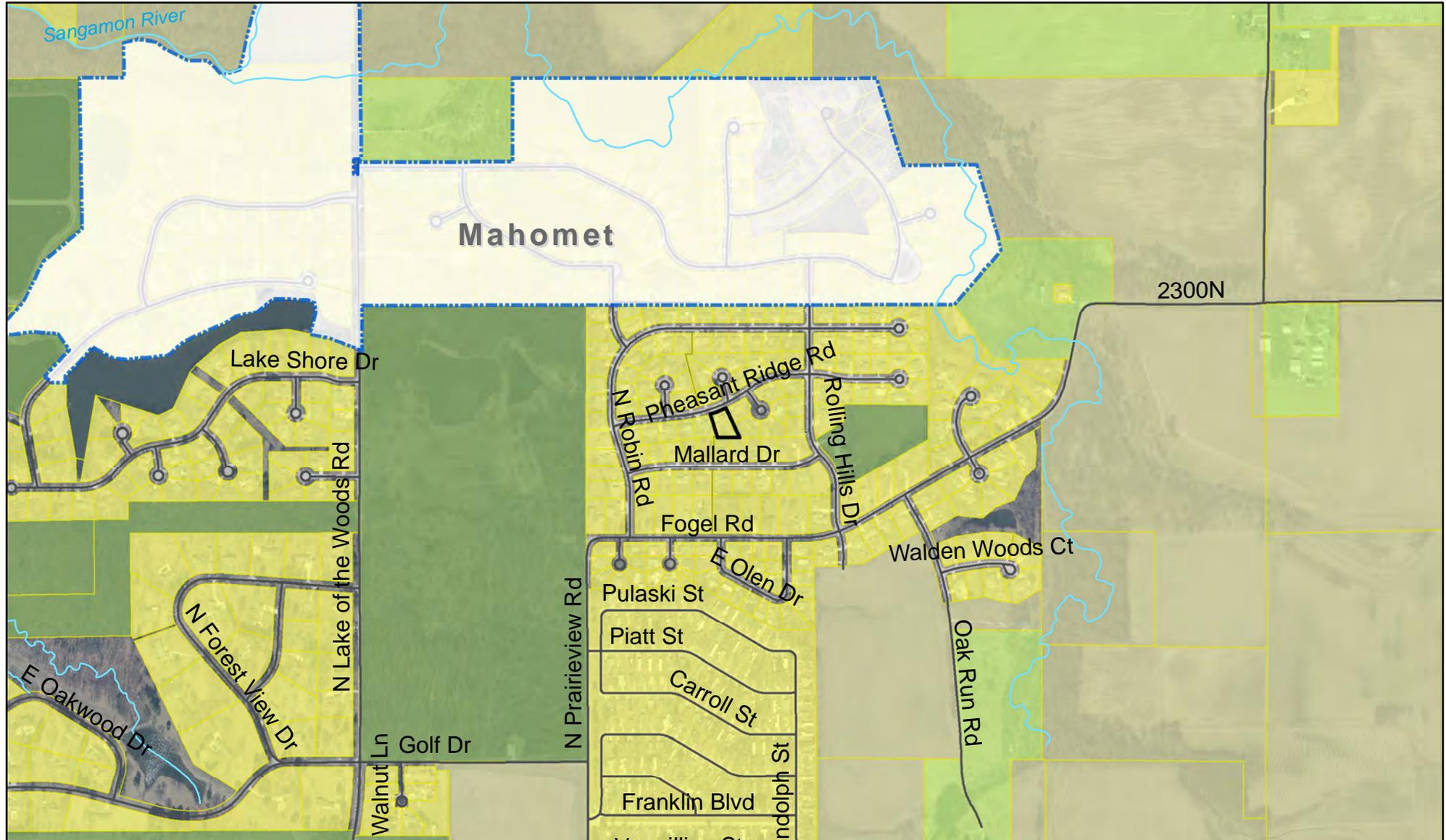
- Legend**
-  Subject Property
 -  Parcels
 -  Municipal Boundary

Champaign County
Department of
**PLANNING &
ZONING**



Land Use Map

Case 022-V-21
October 28, 2021



Legend

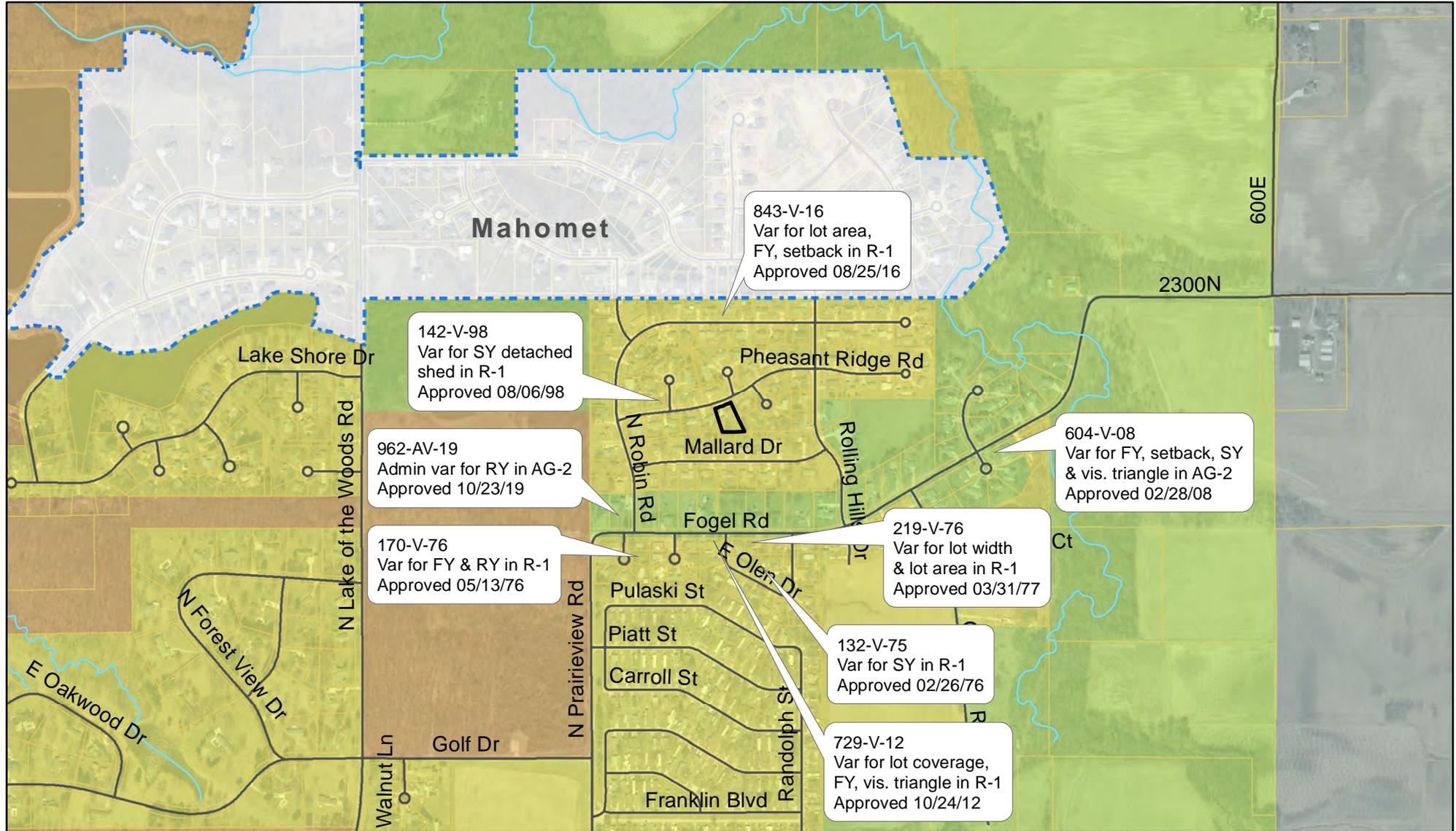
Subject Property	Ag/Residential	Commercial
Parcels	Residential	Tax Exempt
Agriculture		

0 200 400 800 Feet

Champaign County
Department of
**PLANNING &
ZONING**

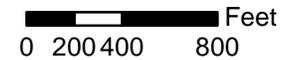
Zoning Map

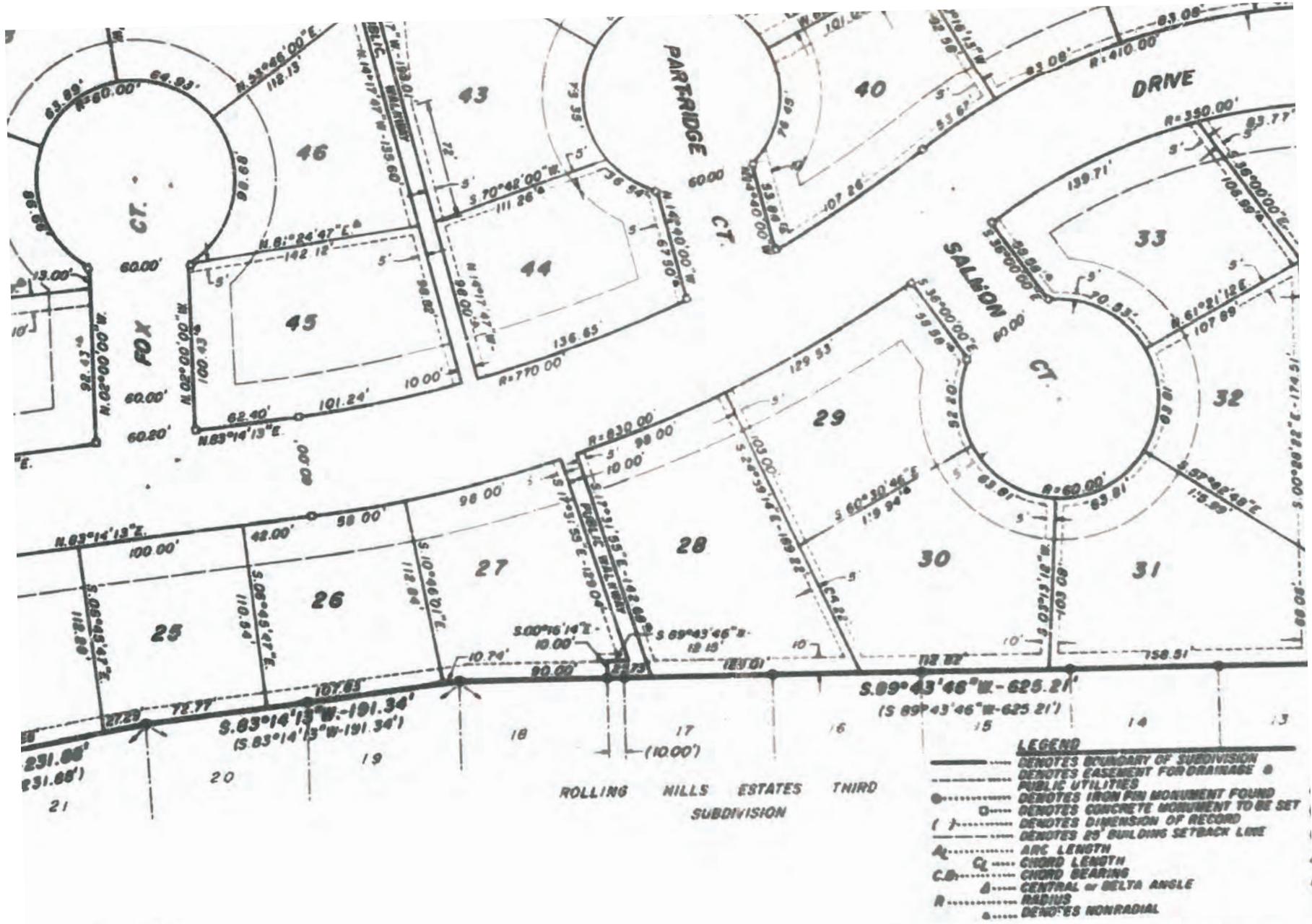
Case 022-V-21
October 28, 2021



Legend

-  Subject Property
-  Municipal Boundary
-  Parcels
-  CR Conservation Recreation
-  AG-1 Agriculture
-  AG-2 Agriculture
-  Residential





LEGEND

- DENOTES BOUNDARY OF SUBDIVISION
- DENOTES EASEMENT FOR DRAINAGE & PUBLIC UTILITIES
- DENOTES IRON PIN MONUMENT FOUND
- DENOTES CONCRETE MONUMENT TO BE SET
- () DENOTES DIMENSION OF RECORD
- DENOTES 25' BUILDING SETBACK LINE
- A..... ARC LENGTH
- C..... CHORD LENGTH
- C.B..... CHORD BEARING
- Δ..... CENTRAL or DELTA ANGLE
- R..... RADIUS
- DENOTES NONRADIAL

CURVE DATA

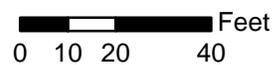
CHORD BEARING	LOT	CHORD	RADIUS	Δ ANGLE	CHORD BEARING	LOT	CHORD	RADIUS	Δ ANGLE	CHORD BEARING
N82°40'14"E	46	87.93'	60.00'	94°14'00"	N10°53'00"E	72	96.67'	360.00'	15°25'00"	N74°12'30"E
N85°14'16"E	47	61.81'	60.00'	62°00'24"	N67°14'12"W	73	124.68'	350.00'	39°55'39"	N57°31'41"E
N77°08'38"E	48	60.91'	60.00'	61°00'36"	S51°15'18"W	73	108.30'	220.00'	26°53'22"	N26°35'41"W

COUNTY ENVIRONMENT AND LAND USE COMMITTEE

Approved this 3rd day of May A.D. 1979

Required Variances

Case 022-V-21
October 28, 2021



022-V-21 Site Images



Subject property



**3rd garage, subject of variance Part A –
front corner of this garage is reported to be on the west property line**

022-V-21 Site Images



Shed at left is subject of variance Part B, reported to be 1 foot from property line



**Farther south in easement facing north –
garage and shed at right are subjects of the variance**

PRELIMINARY DRAFT

022-V-21

**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 28, 2021}*

Petitioners: **Thomas & Deborah Chalk**

Request: **Authorize the following variance in the R-1 Single Family Residence Zoning District, on the subject property described below:**

Part A: Authorize a variance for an existing detached garage with a side yard of 0 feet in lieu of the minimum required 10 feet side yard, per Section 7.2.1 of the Champaign County Zoning Ordinance.

Part B: Authorize a variance for an existing detached shed with a side yard of 1 foot in lieu of the minimum required 10 feet side yard, per Section 7.2.1 of the Champaign County Zoning Ordinance.

Part C: Authorize a variance for an existing single-family residence with a side yard of 7.5 feet in lieu of the minimum required 10 feet side yard, 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 **October 28, 2021**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioners Thomas and Deborah Chalk own the subject property.
2. The subject property is the 0.4 acre Lot 28 of Rolling Hills Estate IV Subdivision in Section 12, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, with an address of 2201 Pheasant Ridge Rd, Mahomet.
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 Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of such cases.
 - B. The subject property is located within Mahomet Township, which has a Plan Commission. Township 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 currently zoned R-1 Single Family Residence. Land use is a single family residence.
 - B. Land surrounding the subject property is also in the R-1 Zoning District, with single family residences.
 - C. Along the west property line, there is a 10 feet wide “public walkway” easement per the Plat of Survey for Rolling Hills Estate IV Subdivision recorded June 6, 1979. A sidewalk was never built in this easement.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Petitioner’s Site Plan, received September 8, 2021, indicates the following:
 - (1) Existing buildings consist of the following:
 - a. One 1,352 square feet residence;
 - b. One 24 feet by 30 feet (720 square feet) detached garage located southwest of the house;
 - c. One 12 feet by 30 feet (360 square feet) detached garage located west of the main detached garage; and
 - d. One 12 feet by 12 feet (144 square feet) garden shed that was recently moved to the southwest corner of the subject property.
 - (2) The petitioner proposes to construct a new 18 feet by 18 feet garage behind the main garage. ZUPA #243-21-01 was approved on September 14, 2021, with the

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special condition that the petitioners abide by any reasonable conditions of this variance case.

B. Previous Zoning Use Permits for the subject property are:

- (1) ZUPA #230-87-03 was approved on August 18, 1987, to construct a single family home.
- (2) ZUPA #160-89-01 was approved on June 9, 1989, to construct the main detached garage.
- (3) The smaller garage located on the west property was constructed without a permit.
- (4) The 144 square feet garden shed did not require a permit because it is under the 150 square feet threshold for requiring a permit.

C. There are no previous zoning cases for the subject property, but there are zoning cases in the vicinity:

- (1) Case 962-AV-19 was approved on October 23, 2019, for an addition to an existing residence at 2104 Fogel Rd with a rear yard of 18 feet in lieu of 20 feet in the AG-2 Zoning District.
- (2) Case 843-V-16 was approved on August 25, 2016, for a single family home located at 2302 Robin Road with a setback of 47 feet in lieu of 55 feet and a front yard of 19 feet in lieu of the minimum required 25 feet; lot coverage of 34.2% in lieu of the maximum allowed 30%; and landscaping (bunker) blocks and earth fill that occupy 3 feet 4 inches of a 10 feet wide utility and drainage easement in lieu of the requirement that no construction shall take place in a recorded utility and drainage easement in the R-1 Zoning District, one block north of the subject property.
- (3) Case 729-V-12 was approved on October 24, 2012 for an existing residence on a corner lot at 1105 Olen Dr with a front yard of 19 feet in lieu of 30 feet and setback of 49 feet in lieu of 75 feet; a second front yard of 22 feet in lieu of 25 feet and setback of 52 feet in lieu of 55 feet; a side yard of 3.4 feet in lieu of 10 feet; an existing accessory structure with a front yard of 27 feet in lieu of 30 feet and a setback of 57 feet in lieu of 75 feet; construction within the corner visibility triangle; lot coverage of 35% in lieu of 30% in the R-1 Zoning District; and construction within a utility easement.
- (4) Case 604-V-08 was approved on February 28, 2008 for an existing residence at 1104 Charter Oaks Circle with a front yard of 25 feet in lieu of 30 feet and setback of 55 feet in lieu of 75 feet; existing shed with a front yard of 8.5 feet and a setback of 33.5 feet in lieu of 30 feet front yard and 75 feet setback, a side yard of 8 feet in lieu of 10 feet for accessory structures, and a zero foot driveway visibility triangle in lieu of 15 feet driveway visibility triangle; a side yard for an arbor of 4 feet in lieu of 10 feet; an existing porch with a front yard of 17 feet in lieu of 30 feet and setback of 47 feet in lieu of 75 feet; and construction of a fence within the corner visibility triangle in the AG-2 Zoning District.

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- (5) Case 142-V-98 was approved on August 6, 1998, for a detached shed located at 2110 Pheasant Ridge Road with a 0 feet side yard in lieu of 10 feet in the R-1 Zoning District, down the street from the subject property.
- (6) Case 170-V-76 was approved on May 13, 1976 for an existing residence at 1104 N James Ct with a front yard of 12 in lieu of 25 feet and a rear yard of 19 feet in lieu of 20 feet in the R-1 Zoning District.
- (7) Case 219-V-76 was approved on March 31, 1977 for an existing residence at 2203 Fogel Rd with lot width of 70 feet in lieu of 80 feet and a lot area of 7,038 square feet in lieu of 9,000 square feet in the R-1 Zoning District.
- (8) Case 132-V-75 was approved on February 26, 1976, for an existing residence at 2206 Olen Dr with a side yard of 3 feet in lieu of 10 feet in the R-1 Zoning District.

D. The required variance includes the following:

- (1) Part A: Authorize a variance for an existing detached garage with a side yard of 0 feet in lieu of the minimum required 10 feet side yard, per Section 7.2.1 of the Champaign County Zoning Ordinance.
- (2) Part B: Authorize a variance for an existing detached shed with a side yard of 1 foot in lieu of the minimum required 10 feet side yard, per Section 7.2.1 of the Champaign County Zoning Ordinance.
- (3) Part C: Authorize a variance for an existing single-family residence with a side yard of 7.5 feet in lieu of the minimum required 10 feet side yard, per Section 5.3 of the Champaign County Zoning Ordinance.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variance:

A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (capitalized words are defined in the Ordinance):

- (1) "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.

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- (5) "LOT LINES" are the lines bounding a LOT.
 - (6) "PLAT" is a map, plan or layout showing the SUBDIVISION of land and indicating the location and boundaries of individual LOTS.
 - (7) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning BOARD of Appeals are permitted to grant.
 - (8) "YARD, 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 R-1 Single Family Residence DISTRICT is intended to provide areas for single FAMILY detached DWELLINGS, set on LOTS and is intended for application in mainly non-urban and developing areas where community facilities can be made readily available.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Minimum SIDE YARD for a principal structure in the R-1 Single Family Residence District is established in Section 5.3 of the Zoning Ordinance as 10 feet.
- E. Minimum SIDE YARD for an accessory structure in the R-1 Single Family Residence District is established in Section 7.2.1.B. of the Zoning Ordinance as 5 feet.

PRELIMINARY DRAFT**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, **“We realize that we got took by the company but we hope you will see that we did not mean to not be in compliance when our garage was built. We believe in the integrity of Bullock garages and we got kicked in the butt!”**
 - B. There is a 10 feet wide “public walkway” easement per the Plat of Survey for Rolling Hills Estate IV Subdivision recorded June 6, 1979. A sidewalk was never built in this easement.
 - (1) The detached garage is located on the shared property line with the easement. With no pedestrian use, it is effectively a 10 feet buffer from the property on the other side of the easement.
 - C. Regarding variance Part C, for the side yard of the residence: the P&Z Department issued a Zoning Compliance Certificate for the house on August 29, 1987, which would mean the house location and lot features were compliant with the Zoning Ordinance at that time.
 - (1) P&Z Staff have attempted to provide the most accurate measurement of the side yard using aerial photography. There are insufficient pins in the ground for the subject property to be completely accurate unless the petitioner invests in a boundary survey.

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, **“We understand by default we are responsible but moving a garage is a major deal plus extremely expensive. We just wanted a new shed for extra storage and getting that permit is what started this avalanche. We really have regrets about even thinking of the shed! What disappoints us so much is the fact that we see a lot of non-compliance on setbacks with other sheds and buildings in the subdivision. Lesson learned for us. Our house was about the 7th house on Pheasant Ridge when we moved in.”**
 - B. Regarding Variance Part A, for a 0 foot side yard for the detached garage: without the proposed variance, the petitioner would have to move the garage or reduce its 12 foot width by 5 feet.
 - C. Regarding Variance Part B for a 1 foot side yard for the detached garden shed: without the proposed variance, the petitioner would have to move the shed. They recently moved the shed to make room for the detached garage approved under ZUPA 243-21-01 and were not aware of the side yard requirement. No permit is required for a detached structure under 150 square feet.

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- D. Regarding Variance Part C for a 7.5 feet side yard of the residence: without the proposed variance, no permits could be issued for construction in the future.

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, **“Yes; we trusted Bullock but had they actually applied for the permit, we would have known we did not have room to build that garage where it is. We had put our trust in the builder – the garage is fine; it is the location which is not.”**
 - B. The Petitioners purchased the vacant lot in September 1987.
 - C. The detached garage was constructed sometime between 2005 and 2008 without a permit from the Department of Planning & Zoning.
 - D. Structures 150 square feet or more have required permits from the Department of Planning & Zoning since its adoption on October 10, 1973.

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, **“We have lived at this location for 34 years come October 3, 2021, we know that there was a slim possibility that a sidewalk could be put in, but one of the persons who sold us the lot said it was not going to happen and if we maintain that space, we could claim squatter’s rights. We are trying to meet with one of the landowners of the subdivision to see if we could purchase part of the sidewalk allowance – a 10 feet sidewalk seems a bit large and after all, we were told at the time of closing the sidewalk coming to fruition was highly unlikely.”**
 - B. Regarding proposed Variance Part A, for a detached garage with a side yard of 0 in lieu of the minimum required 10 feet in the R-1 District: the requested variance is 0% of the minimum required, for a variance of 100%.
 - C. Regarding proposed Variance Part B, for a detached garden shed with a side yard of 1 in lieu of the minimum required 5 feet in the R-1 District: the requested variance is 20% of the minimum required, for a variance of 80%.
 - D. Regarding proposed Variance Part C, for an existing residence with a side yard of 7.5 feet in lieu of the minimum required 10 feet in the R-1 District: the requested variance is 75% of the minimum required, for a variance of 25%.
 - E. The Zoning Ordinance does not clearly state the considerations that underlay the side yard requirements. In general, the side yard is presumably intended to ensure the following:

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- (1) Adequate light and air: The subject property is in residential use. The surrounding properties are in residential use.
- (2) Separation of structures to prevent conflagration: The subject property is within the Cornbelt Fire Protection District and the station is approximately 3.6 road miles from the subject property. The nearest structure on adjacent property is the house to the west that is approximately 22 feet away.
- (3) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.

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: **“We have taken good care of our property and we are friends with many of our neighbors and we do not believe a variance would harm anyone. After we found out about the 5 foot setback on sheds, we checked around the neighborhood and many are not in compliance.”**
 - B. The Mahomet Township Road Commissioner has been notified of this variance, and no comments have been received.
 - C. The Mahomet Fire Protection District has been notified of this variance, and no comments have been received.
 - D. The nearest structure on adjacent property is the house to the west that is approximately 22 feet away.

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: **“I cannot justify where our garage sits. We are retired and elderly; my husband is a vet and we would appreciate any and all of your consideration and help with a variance for both the garage and the shed. We hauled and spread rock for one whole day to have the shed moved.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:
 - A. **The existing shed can remain in its current location, but replacement of the shed or repair of more than 50% replacement value in any 365-day period means the shed must be made to conform to the yard requirements in the Zoning Ordinance.**

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

That replacement of the existing shed conforms to the Zoning Ordinance.

DOCUMENTS OF RECORD

1. Variance Application received September 8, 2021, with attachment:
 - A Site Plan

2. Plat of Survey for Rolling Hills Estate IV Subdivision dated May 3, 1979

3. Preliminary Memorandum dated October 19, 2021, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received September 8, 2021
 - C Plat of Survey for Rolling Hills Estate IV Subdivision dated May 3, 1979
 - D Map of Required Variances created by P&Z Staff of October 19, 2021
 - E Images of Subject Property taken September 27, 2021
 - F Draft Summary of Evidence, Finding of Fact, and Final Determination dated October 28, 2021

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FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **022-V-21** held on **October 28, 2021**, 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. *Regarding Variance Parts B and C, there is a 10 feet wide “public walkway” easement per the Plat of Survey for Rolling Hills Estate IV Subdivision recorded June 6, 1979. A sidewalk was never built in this easement.*
 - b. *Regarding Variance Part C, for the side yard of the residence: the P&Z Department issued a Zoning Compliance Certificate for the house on August 29, 1987, which would mean the house location and lot features were thought to be compliant with the Zoning Ordinance at that time.*

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. *It would be expensive to move the detached garage, and there is no other place to put it on the property.*
 - b. *The petitioners recently moved the shed to make room for the new detached garage, and it would be financially and physically burdensome for them to move it again.*

3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. *The petitioners depended on Bullock Garages to obtain the construction permit for the detached garage that sits on the property line.*
 - b. *The petitioners were not aware of the side yard requirement for the detached garden shed; a permit is not required for structures under 150 square feet, and the shed is 144 square feet.*

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 is about 20 feet between structures on adjacent properties and the detached structures on the subject property; without the public walkway shown on the subdivision plat, this separation would meet the side yard requirements for accessory structures.*

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 township and fire jurisdictions were notified of this case, and no comments have been received.*

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:}**

- A. **The existing shed can remain in its current location, but replacement of the shed or repair of more than 50% replacement value in any 365-day period means the shed must be made to conform to the yard requirements in the Zoning Ordinance.**

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

That replacement of the existing shed conforms to the Zoning Ordinance.

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 **022-V-21** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners, **Thomas and Deborah Chalk**, to authorize the following variance in the R-1 Single Family Residence Zoning District:

Part A: Authorize a variance for an existing detached garage with a side yard of 0 feet in lieu of the minimum required 10 feet side yard, per Section 7.2.1 of the Champaign County Zoning Ordinance.

Part B: Authorize a variance for an existing detached shed with a side yard of 1 foot in lieu of the minimum required 10 feet side yard, per Section 7.2.1 of the Champaign County Zoning Ordinance.

Part C: Authorize a variance for an existing single-family residence with a side yard of 7.5 feet in lieu of the minimum required 10 feet side yard, per Section 5.3 of the Champaign County Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A. The existing shed can remain in its current location, but replacement of the shed or repair of more than 50% replacement value in any 365-day period means the shed must be made to conform to the yard requirements in the Zoning Ordinance.**

The 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