

# CASE NO. 032-V-21

PRELIMINARY MEMORANDUM

January 4, 2022

Petitioners: **Jon & Cathy Rector**

Request: **Authorize a variance for an existing detached garage with a front yard of 22 feet and a setback of 52 feet from the street centerline of Summer Field Road in lieu of the minimum required front yard of 25 feet and setback of 55 feet in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Subject Property: **Lot 3 of Summer Field Place Subdivision in the Southwest Quarter of Section 32, Township 19 North, Range 8 East of the Third Principal Meridian in Champaign Township, commonly known as the residence with an address of 4302 Summer Field Rd, Champaign.**

Site Area: **1.37 acres**

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

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

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## BACKGROUND

The petitioner requests a variance for an existing detached garage that does not meet the minimum front yard and setback requirements. The need for the variance was found when P&Z Staff completed a Zoning Compliance Certificate inspection on November 4, 2021. The approved site plan showed measurements that conformed to the Zoning Ordinance, but the garage was constructed by the petitioner's contractor, Coach House Garages, 3 feet closer than indicated on the site plan by the petitioner's contractor.

No comments have been received from relevant jurisdictions or the public.

## EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Residential	AG-1 Agriculture
North	Residential	AG-1 Agriculture
South	Residential	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Residential	AG-1 Agriculture

## EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Champaign, 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 in Champaign Township, which does not have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

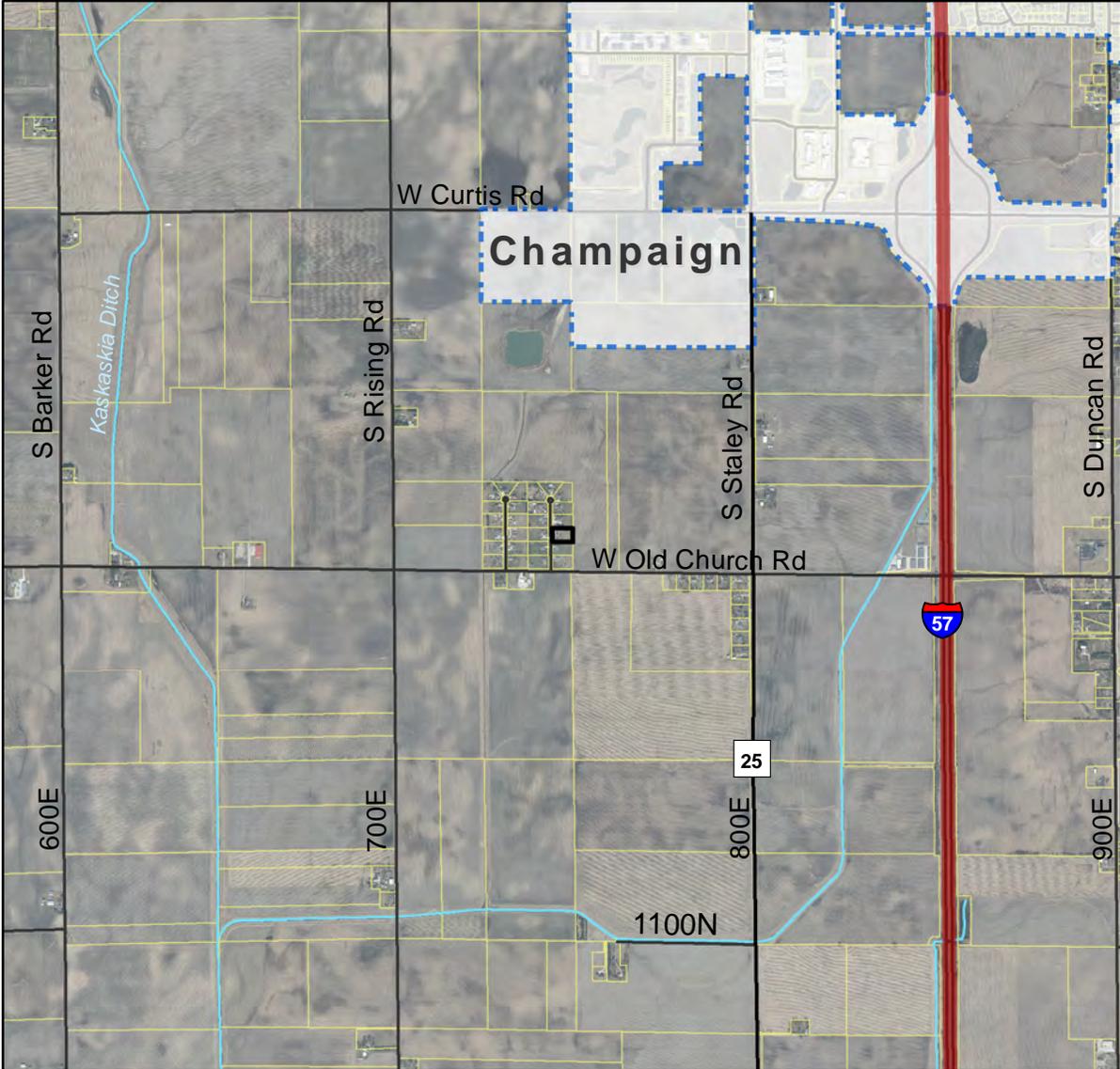
#### **ATTACHMENTS**

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received December 6, 2021
- C Annotated 2020 aerial by P&Z Staff dated December 15, 2021
- D Images of Subject Property taken November 30, 2021
- E Summary of Evidence, Summary Draft Finding of Fact, and Final Determination dated January 13, 2022

# Location Map

Case 032-V-21  
January 13, 2022

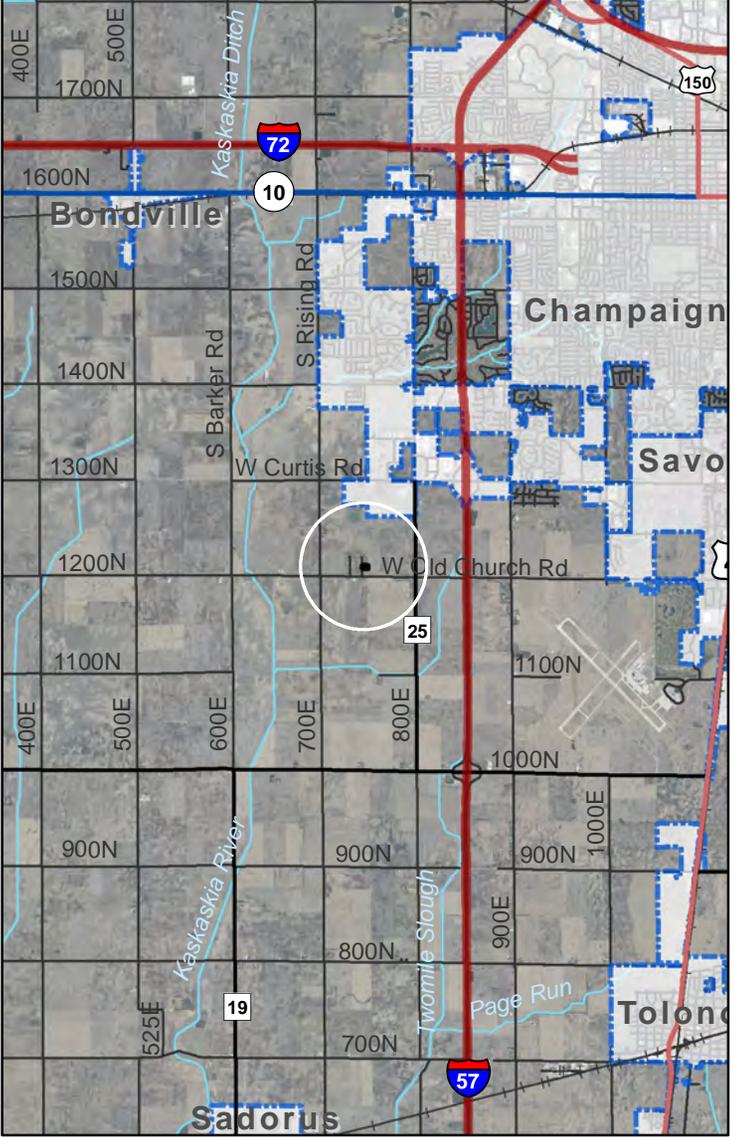
Subject Property



-  Subject Property
-  Parcels
-  Municipal Boundary

0 0.1250.25 0.5 Miles

Property location in Champaign County



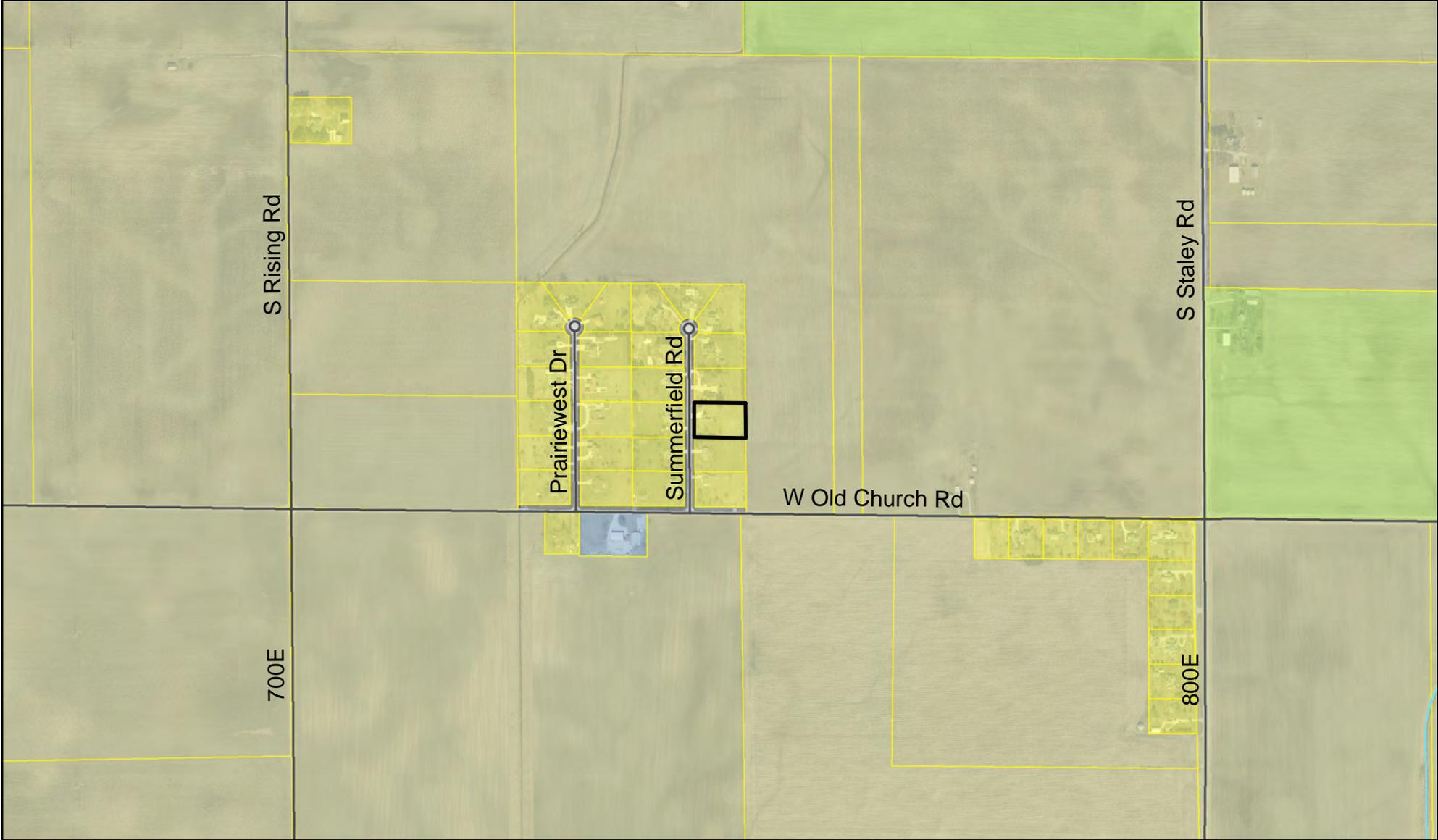
0 0.5 1 2 Miles



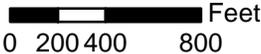
Champaign County  
Department of  
**PLANNING &  
ZONING**

# Land Use Map

Case 032-V-21  
January 13, 2022



- Subject Property
- Parcels
- Agriculture
- Ag/Residential
- Residential
- Commercial



# Zoning Map

Case 032-V-21  
January 13, 2022



-  Subject Property
-  Parcels
-  AG-1 Agriculture

0 200 400 800 Feet

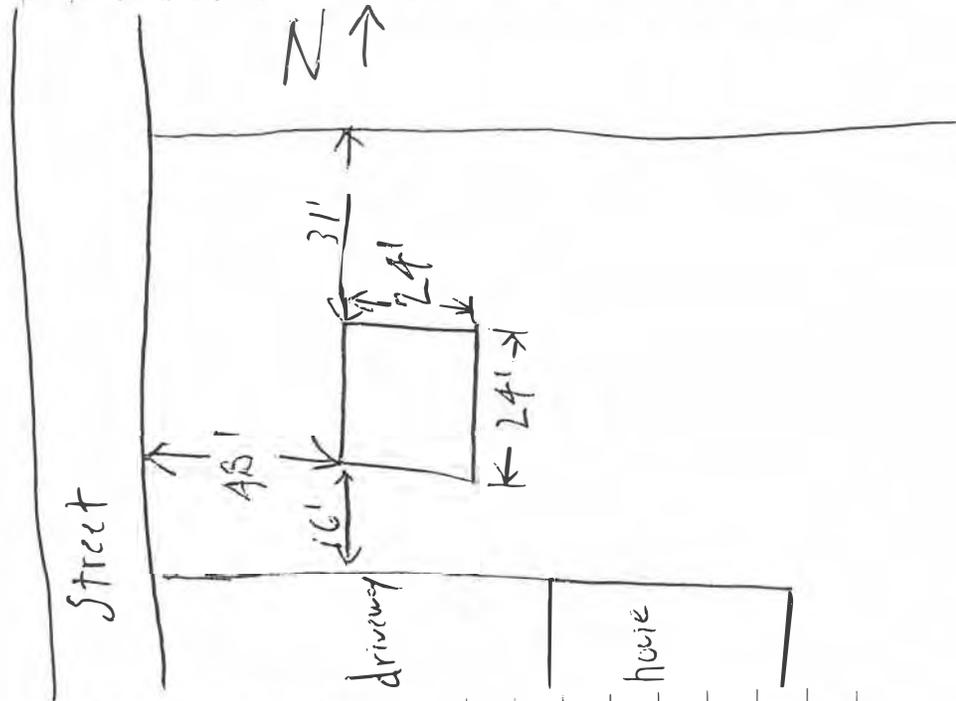


Champaign County  
Department of  
**PLANNING &  
ZONING**

RECEIVED

DEC 06 2021

CHAMPAIGN CO. P & Z DEPARTMENT



Check which applies:

Date Received:

North Arrow:

Approval (Office Use Only):

- Site Plan
- Erosion & Sediment. Control Plan
- Other: \_\_\_\_\_

Permit Application No.

1604-19-02

Applicant Name:

Jan Rector

RECEIVED

JUN 13 2019

CHAMPAIGN CO. P & Z DEPARTMENT

# Annotated 2020 Aerial

Case 032-V-21  
January 13, 2022



### 032-V-21 Site Images



**From Summer Field Rd facing NE toward subject garage**



**From Summer Field Rd facing east**

**PRELIMINARY DRAFT**

**032-V-21**

**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: ***{January 13, 2022}***

Petitioner: **Jon and Cathy Rector**

Request: **Authorize a variance for an existing detached garage with a front yard of 22 feet and a setback of 52 feet from the street centerline of Summer Field Rd in lieu of the minimum required front yard of 25 feet and setback of 55 feet in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

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**Table of Contents**

**General Application Information.....2 - 3**

**Required Variance.....3**

**Specific Ordinance Requirements.....3 - 5**

**Variance Evidence .....5 - 7**

**Documents of Record.....8**

**Case 032-V-21 Findings of Fact.....9**

**Case 032-V-21 Final Determination ..... 10**

***PRELIMINARY DRAFT***

**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 13, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioners Jon and Cathy Rector own the subject property.
2. The subject property is Lot 3 of Summer Field Place Subdivision in the Southwest Quarter of Section 32, Township 19 North, Range 8 East of the Third Principal Meridian in Champaign Township, commonly known as the residence with an address of 4302 Summer Field Rd, 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 of the City of Champaign, 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 in Champaign Township, which does not have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

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

4. Land use and zoning on the subject property and in the vicinity are as follows:
  - A. The 1.37-acre subject property is zoned AG-1 Agriculture and is residential in use.
  - B. Land to the north, west and south of the subject property is zoned AG-1 Agriculture and is residential in use.
  - C. Land to the east of the subject property is zoned AG-1 Agriculture and is in agricultural production.

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

5. Regarding the site plan for the subject property:
  - A. The Site Plan received December 6, 2021 indicates the following:
    - (1) Existing structures include:
      - a. One 2,300 square feet residence approved under ZUPA #125-94-04; and
      - b. One 576 square feet detached garage constructed by Coach House Garages, approved under ZUPA #164-19-02 that is the subject of this variance.
    - (2) No construction is proposed.
  - B. The following are previous Zoning Use Permits for the subject property:
    - (1) ZUPA #164-19-02 was approved on June 25, 2019 to construct a detached garage and authorize a covered porch previously constructed without a permit.
    - (2) ZUPA #125-94-04 was approved on May 6, 1994 to construct a single family home with attached garage.

**PRELIMINARY DRAFT****Case 032-V-21**  
**Page 3 of 10**

- C. There are no prior zoning cases for the subject property.
- D. The required variance is as follows:
  - (1) Authorize a variance for an existing detached garage with a front yard of 22 feet and a setback of 52 feet from the street centerline of Summer Field Rd in lieu of the minimum required front yard of 25 feet and setback of 55 feet in the AG-1 Agriculture Zoning District, 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) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
    - (4) “LOT 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.
    - (5) “LOT LINES” are the lines bounding a LOT.
    - (6) “RIGHT-OF-WAY” is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
    - (7) “SETBACK LINE” is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY line.
    - (8) “STREET” is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS

**PRELIMINARY DRAFT**

are identified on the Official Zoning Map according to type of USE, and generally as follows:

- (a) MAJOR STREET: Federal or State highways.
  - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
  - (c) MINOR STREET: Township roads and other local roads.
- (9) “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.
- (10) “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.
- (11) “YARD, FRONT” is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
- B. The AG-1 Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURE pursuits.
- 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.

**PRELIMINARY DRAFT**

**Case 032-V-21**  
**Page 5 of 10**

- (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 FRONT YARD for an accessory structure adjacent to a local road in the AG-1 Agriculture District is established in Section 4.3.2 of the Zoning Ordinance as 25 feet.
- E. Minimum SETBACK for an accessory structure adjacent to a local road in the AG-1 Agriculture District is established in Section 4.3.2 of the Zoning Ordinance as 55 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, **“We did not do anything knowingly. We thought everything had been measured correctly by the builder, as they staked it out and we even asked to make certain everything was where it needed to be and complied with all zoning requirements. We really thought we followed everything to the ‘t’. We have spent a great deal of money on this structure, and the surrounding improvements.”**
  - B. Summer Field Road is a dead-end residential street that has a 60 foot right-of-way, which is wider than some rural township roads that have a 40-foot right-of-way.

**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, **“Financial hardship due to having to relocate the entire structure, redo the concrete driveway and having to redo the professional landscaping. This would be a tremendous hardship if we were forced to move the garage, as it is on a concrete slab, and we also added a new concrete driveway that this would affect, as well as a sidewalk to the side of the garage, and the professional landscaping around the garage. We really went to great lengths to beautify our lot and increase the value of the property.”**
  - B. Regarding the proposed Variance:
    - (1) Without the proposed variance, the petitioner would have to move or demolish the building.

**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:

**PRELIMINARY DRAFT**

- A. The Petitioner has testified on the application, **“No. We measured and got the permit. The contractor used the approved building permit and built the structure accordingly.”**
- B. The approved site plan from ZUPA #164-19-02 indicates 43 feet between the garage and the edge of Summer Field Road, which would calculate to exactly 55 feet setback to street centerline and 25 feet front yard, meeting the minimum requirements of the Zoning Ordinance.
- C. The garage was constructed by their contractor, Coach House garages, closer to the road than the site plan indicated.

**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, **“Because it is only three feet off and we thought, when the permit was approved that we were in accordance with the zoning, when presented to the contractor.”**
  - B. Regarding the proposed variance for a front yard of 22 feet and a setback of 52 feet in lieu of the minimum required 25 feet and 55 feet, respectively: the requested variance for front yard is 88% of the minimum required, for a variance of 12%, and the requested variance for setback is 95% of the minimum required, for a variance of 5%.
  - C. Regarding the proposed variance, the Zoning Ordinance does not clearly state the considerations that underlie the minimum setback requirements and front yard requirements. Presumably the setback from street centerline and front yard minimum is intended to ensure the following:
    - (1) Adequate separation from roads.
    - (2) Allow adequate area for road expansion and right-of-way acquisition.
      - a. There are no known plans to expand Summer Field Road at this location.
    - (3) Parking, where applicable.

**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: **“Ensuring the variance would not be injurious to the neighborhood, public health, safety or welfare, as it does not hinder the view of anyone coming or going. Our street is a dead-end street and basically services only the residents of our subdivision. We have wide streets and large lots of approximately 1.3 acres, so there is plenty of room between the houses and**

***PRELIMINARY DRAFT***

**Case 032-V-21**  
**Page 7 of 10**

**structures. This also does not impede any emergency vehicles from visibility or access.”**

- B. The Champaign Township Road Commissioner has been notified of this variance, and no comments have been received.
- C. The Bondville Fire Protection District has been notified of this variance, and no comments have been received.

***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: **“Since this is only 3 feet off of the measurements in the building permit, we would request the variance be granted.”**

***GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL***

- 13. No special conditions are proposed at this time.

**Case 032-V-21**

***PRELIMINARY DRAFT***

Page 8 of 10

**DOCUMENTS OF RECORD**

1. Variance Application received December 6, 2021, with attachment:
  - A Site Plan
  
2. Preliminary Memorandum dated January 4, 2022, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan received December 6, 2021
  - C Annotated 2020 aerial by P&Z Staff dated December 15, 2021
  - D Images of Subject Property taken November 30, 2021
  - E Summary of Evidence, Summary Draft Finding of Fact, and Final Determination dated January 13, 2022

**PRELIMINARY DRAFT****Case 032-V-21**  
**Page 9 of 10****SUMMARY DRAFT FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **032-V-21** held on **January 13, 2022**, 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. ***Summer Field Road is a dead-end residential street that has a 60 foot right-of-way, which is wider than some rural township roads that have a 40-foot right-of-way.***
  
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. ***Without the proposed variance, the petitioner would have to move or demolish the garage.***
  
3. The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant because:
  - a. ***The approved site plan from ZUPA #164-19-02 indicates 43 feet between the garage and the edge of Summer Field Road, which would calculate to exactly 55 feet setback to street centerline and 25 feet front yard, meeting the minimum requirements of the Zoning Ordinance.***
  - b. ***The garage was constructed by their contractor, Coach House garages, closer to the road than the site plan indicated.***
  
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. ***The requested variance for front yard is 88% of the minimum required, for a variance of 12%, and the requested variance for setback is 95% of the minimum required, for a variance of 5%.***
  - b. ***There are no known plans to expand Summer Field Road.***
  
5. The requested variance ***{~~SUBJECT TO THE PROPOSED CONDITION~~ / WILL / WILL NOT}*** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because:
  - a. ***Relevant jurisdictions have been notified of this variance, 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:}***

**Case 032-V-21**  
Page 10 of 10

**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 **032-V-21** is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioners, **Jon and Cathy Rector**, to authorize the following variance:

**Authorize a variance for an existing detached garage with a front yard of 22 feet and a setback of 52 feet from the street centerline of Summer Field Road in lieu of the minimum required front yard of 25 feet and setback of 55 feet in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

*{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:

Ryan Elwell, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date