

CASE NO. 033-V-21

PRELIMINARY MEMORANDUM

January 18, 2022

Petitioners: **Jim Lewis**

Request: **Authorize the following variance in the R-1 Single Family Residence Zoning District:**

Part A: Authorize a variance for an existing non-conforming dwelling with a front yard of 14 feet in lieu of the minimum required 25 feet, per section 4.3.2 of the Zoning Ordinance.

Part B: Authorize a variance for proposed detached garage with a front yard of 21 feet in lieu of the minimum required 25 feet, per section 4.3.2 of the Zoning Ordinance.

Subject Property: **The subject property is Lot 16 of Park Hills Subdivision in the Northeast Quarter of Section 11, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, commonly known as the residence with an address of 1905 Forest View Dr, Mahomet.**

Site Area: **0.81 acre**

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

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

BACKGROUND

The petitioner requests a variance for an existing residence and a proposed detached garage that do not meet the minimum front yard requirement along Lake of the Woods Road.

The residence was under construction without a permit as of August 1975, but was later approved under ZUPA #230-75-02 on August 26, 1975. The approved site plan from the permit showed the house would have a 50 foot front yard on Lake of the Woods Road, but it was constructed with a 14 foot front yard. There is no explanation for the discrepancy from that time period, nor was there a variance case to rectify the discrepancy.

The petitioner applied for a permit for the proposed 416 square feet detached garage on December 15, 2021, and approval of that is contingent upon approval of this variance case. The Homeowner's Association has limited the possible location of the garage, according to the petitioner.

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

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction 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 in Mahomet Township, which has a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Residential	R-1 Single Family Residence
North	Residential	R-1 Single Family Residence
South	Residential	R-1 Single Family Residence
East	Lake of the Woods Park and Golf Course	CR Conservation Recreation
West	Residential	R-1 Single Family Residence

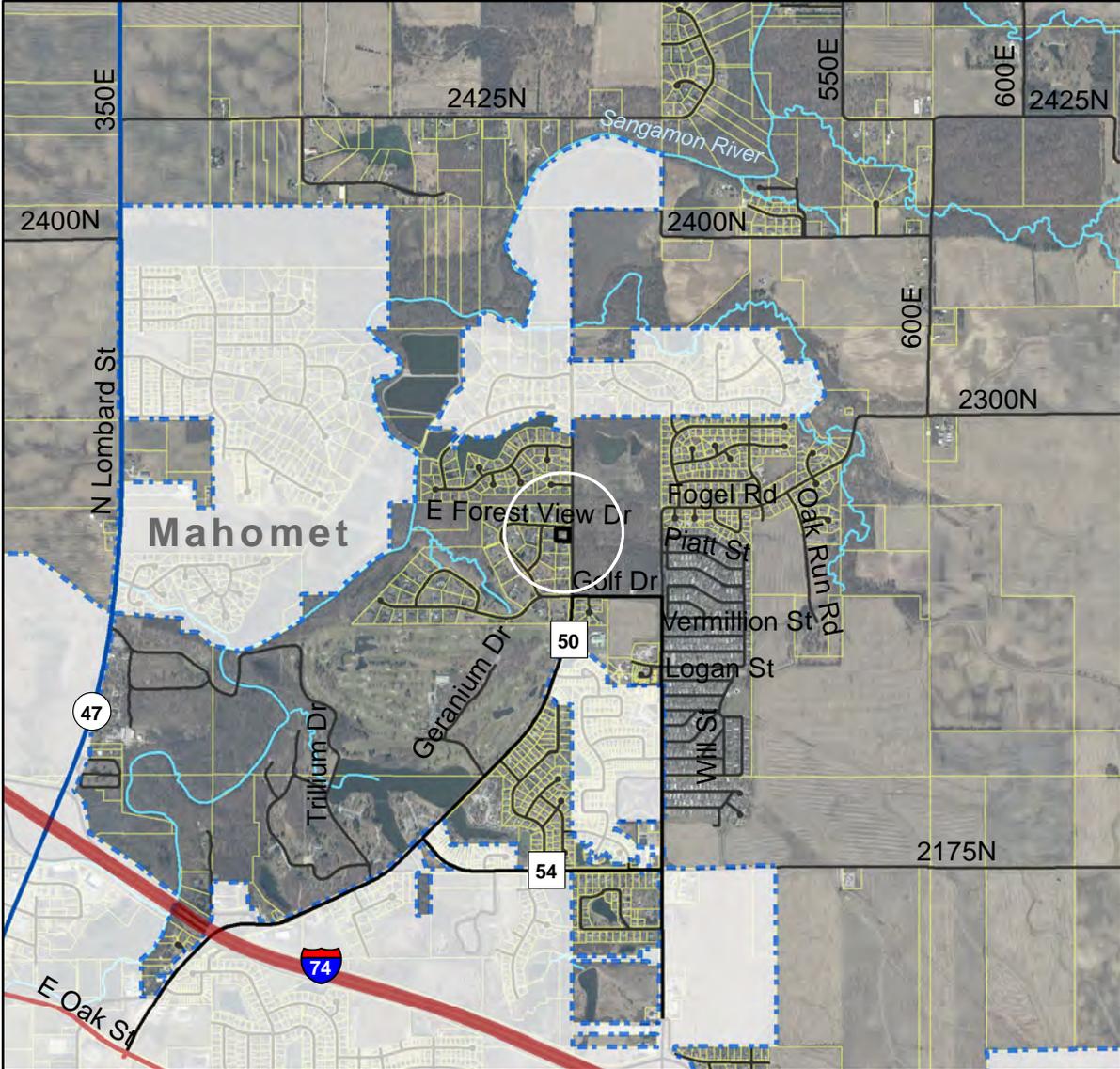
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received December 17, 2021
- C Annotated 2020 aerial by P&Z Staff dated December 28, 2021
- D Images of Subject Property taken January 12, 2022
- E Summary of Evidence, Summary Draft Finding of Fact, and Final Determination dated January 27, 2022

Location Map

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January 27, 2022

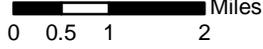
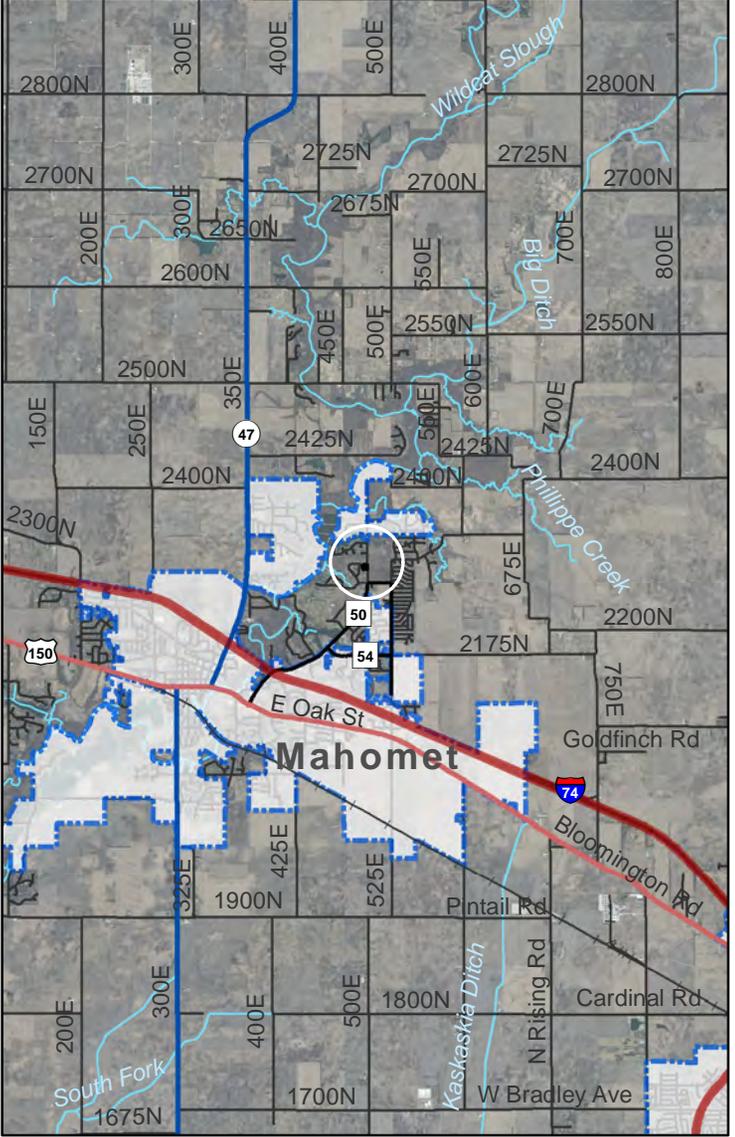
Subject Property



- Subject Property
- Parcels
- Municipal Boundary

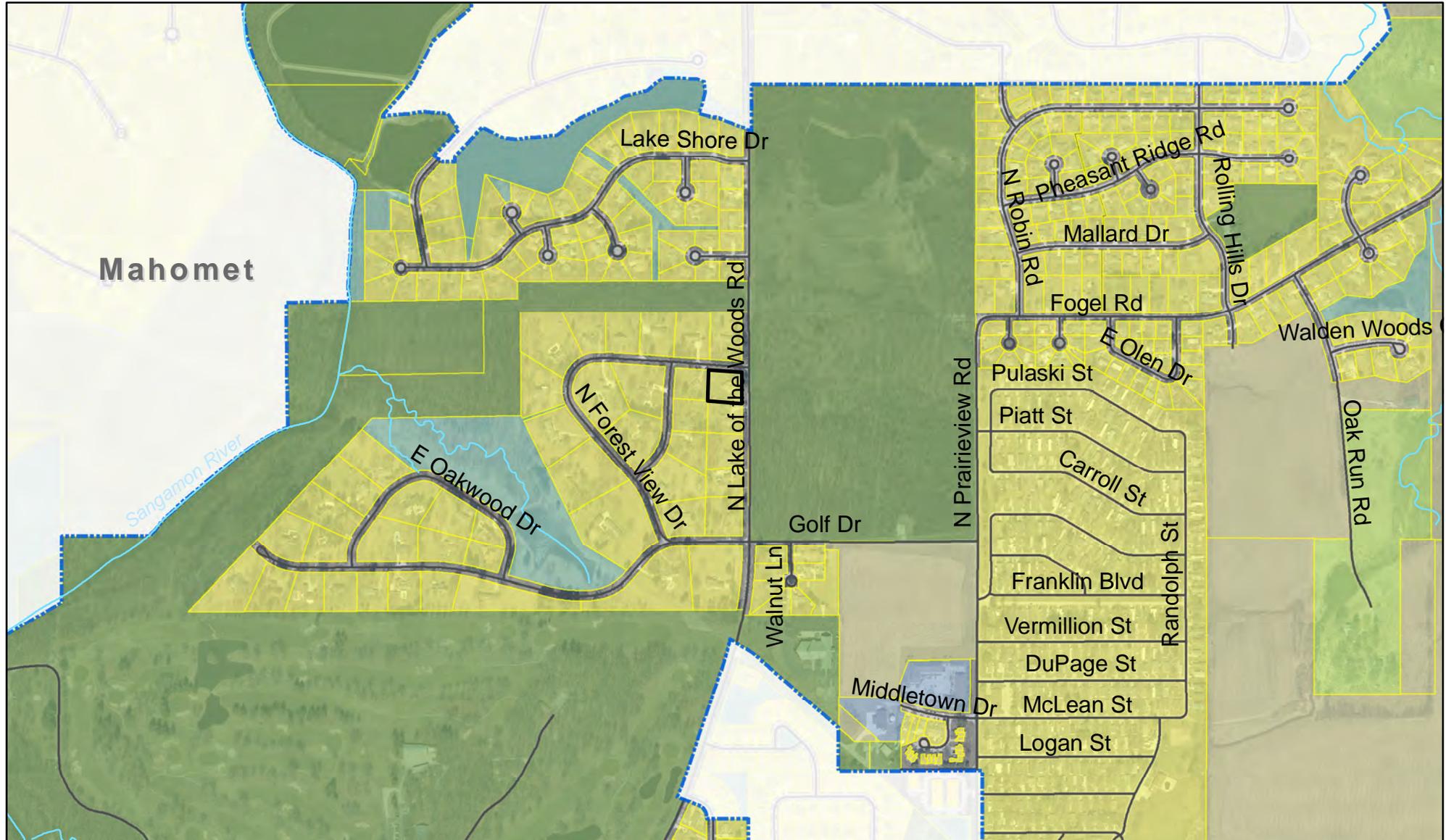


Property location in Champaign County



Land Use Map

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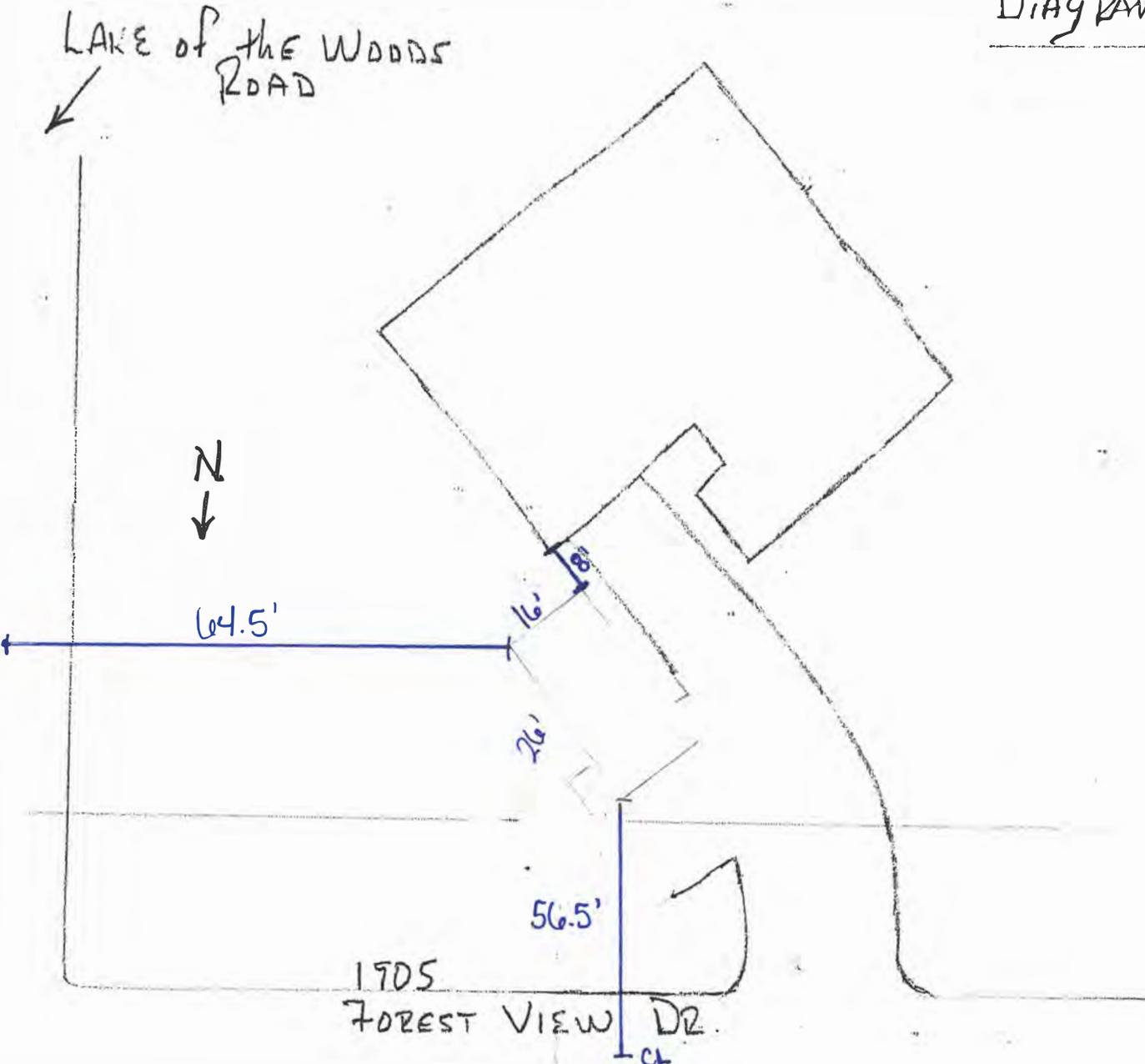


- | | | |
|------------------|----------------|------------|
| Subject Property | Agriculture | Commons |
| Parcels | Ag/Residential | Tax Exempt |
| | Residential | Commons |

0 200 400 800 Feet



DIAGRAM NOT TO SCALE



RECEIVED

DEC 17 2021

CHAMPAIGN CO. P & Z DEPARTMENT

June Lewis

Annotated 2020 Aerial

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033-V-21 Site Images



From Forest View Drive facing SE to subject property



From Forest View Drive facing south to subject property – proposed garage would be located in leaf-covered area 8 feet from corner of house

033-V-21 Site Images



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01/12/22

From Forest View Drive facing south to subject property, aligned with stop sign



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01/12/22

From Lake of the Woods Road facing west to subject property

033-V-21 Site Images



From adjacent driveway to the south, facing north to subject property



From Lake of the Woods Road facing NW to subject property

PRELIMINARY DRAFT

033-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: *{January 27, 2022}*

Petitioner: **Jim Lewis**

Request: **Authorize the following variance in the R-1 Single Family Residence Zoning District:**

Part A: Authorize a variance for an existing non-conforming dwelling with a front yard of 14 feet in lieu of the minimum required 25 feet, per section 4.3.2 of the Zoning Ordinance.

Part B: Authorize a variance for proposed detached garage with a front yard of 21 feet in lieu of the minimum required 25 feet, per section 4.3.2 of the 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 **January 27, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Jim Lewis owns the subject property.
2. The subject property is Lot 16 of Park Hills Subdivision in the Northeast Quarter of Section 11, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, commonly known as the residence with an address of 1905 Forest View Dr, Mahomet.
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 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 in Mahomet Township, which has 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 0.81-acre subject property is zoned R-1 Single Family Residence and is residential in use.
 - B. Land to the north, west and south of the subject property is zoned R-1 Single Family Residence and is residential in use.
 - C. Land to the east of the subject property is zoned CR Conservation Recreation and is part of Lake of the Woods Park and Golf Course.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Site Plan received December 17, 2021 indicates the following:
 - (1) Existing structures include:
 - a. One 2,378 square feet residence constructed without a permit after the adoption of the Zoning Ordinance on October 10, 1973, but was later approved under ZUPA #230-75-02 on August 26, 1975.
 - (2) Proposed structures include:
 - b. One 416 square feet detached garage applied for under ZUPA #349-21-02, of which approval is pending subject to this variance case.
 - B. The following are previous Zoning Use Permits for the subject property:
 - (1) ZUPA #349-21-02 was approved on August 26, 1975 to construct a previously constructed single-family residence.

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- C. There are no prior zoning cases for the subject property.
- D. The required variance is as follows:
- (1) Part A: Authorize a variance for an existing non-conforming dwelling with a front yard of 14 feet in lieu of the minimum required 25 feet in the R-1 Single Family Residence Zoning District, per section 4.3.2 of the Zoning Ordinance.
 - (2) Part B: Authorize a variance for proposed detached garage with a front yard of 21 feet in lieu of the minimum required 25 feet in the R-1 Single Family Residence Zoning District, per section 4.3.2 of the Zoning Ordinance.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variance:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (capitalized words are defined in the Ordinance):
- (1) “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) “BUILDING, MAIN or PRINCIPAL” is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
 - (4) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (5) “LOT LINE, FRONT” is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
 - (6) “LOT LINES” are the lines bounding a LOT.
 - (7) “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.
 - (8) “RIGHT-OF-WAY” is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.

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- (9) “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.
- (10) “STREET” is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
- (a) MAJOR STREET: Federal or State highways.
 - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
 - (c) MINOR STREET: Township roads and other local roads.
- (11) “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.
- (12) “YARD” is an OPEN SPACE, other than a COURT, of uniform width or depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
- (13) “YARD, 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 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.

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- b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Minimum FRONT YARD for a principal structure adjacent to a local road in the R-1 District is established in Section 4.3.2 of the Zoning Ordinance as 25 feet.
- E. Minimum FRONT YARD for an accessory structure adjacent to a local road in the R-1 District is established in Section 4.3.2 of the Zoning Ordinance as 25 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, **“The house is a legally nonconforming structure. It was constructed on the most elevated part of the lot. The steep rear portion of the lot makes other developments most difficult.”**
 - B. The house was constructed without a permit after the adoption of the Zoning Ordinance on October 10, 1973, but was later approved under ZUPA #230-75-02 on August 26, 1975. There is no explanation on file as to why the house was constructed closer to the road than indicated on the approved site plan.
 - C. Lake of the Woods Road, which is adjacent to the east property line, has a 60 foot right-of-way, which is wider than some rural township roads that have a 40-foot right-of-way.
 - D. The proposed garage location is adjacent to the existing driveway and attached garage.

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, **“The Park Hills Homeowners Association restricts the other location of the garage.”**

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- B. Regarding the proposed Variance:
- (1) Without proposed variance Part A for the existing principal structure, the petitioner could not rebuild the house in the same location should it be destroyed.
 - (2) Without proposed variance Part B for the proposed detached garage, the petitioner would be unable to build the garage on the subject property.

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, **“I was not aware of the district’s zoning regulations. The house was constructed in 1976.”**
 - B. The petitioner purchased the subject property in 2021.

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, **“I believe the requested variance will be consistent with the spirit, purpose, and intent of the ordinance, such as public safety is secured.”**
 - B. Regarding the proposed variance for a principal structure with a front yard of 14 feet in lieu of the minimum required 25 feet: the requested variance for front yard is 56% of the minimum required, for a variance of 44%.
 - C. Regarding the proposed variance for an accessory structure with a front yard of 21 feet in lieu of the minimum required 25 feet: the requested variance for front yard is 84% of the minimum required, for a variance of 16%.
 - D. Regarding the proposed variance, the Zoning Ordinance does not clearly state the considerations that underlie the front yard requirement. Presumably the 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 Lake of the Woods Road at this location.
 - (3) Parking, where applicable.

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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: **“It will be constructed far enough away from the corner to ensure complete visibility of traffic.”**
 - B. The Mahomet Township Road Commissioner has been notified of this variance, and no comments have been received.
 - C. The Cornbelt 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: **“The Park Hills Architectural Committee approved the request to construct the garage at that particular site.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. No special conditions are proposed at this time.

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DOCUMENTS OF RECORD

1. Variance Application received December 17, 2021, with attachment:
 - A Site Plan

2. Preliminary Memorandum dated January 18, 2022, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received December 17, 2021
 - C Annotated 2020 aerial by P&Z Staff dated December 28, 2021
 - D Images of Subject Property taken January 12, 2022
 - E Summary of Evidence, Summary Draft Finding of Fact, and Final Determination dated January 27, 2022

PRELIMINARY DRAFT**Case 033-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 **033-V-21** held on **January 27, 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. *The house was constructed without a permit after the adoption of the Zoning Ordinance on October 10, 1973, but was later approved under ZUPA #230-75-02 on August 26, 1975. There is no explanation on file as to why the house was constructed closer to the road than indicated on the approved site plan.*
 - b. *Lake of the Woods Road has a 60 foot right-of-way, which is wider than some rural township roads that have a 40-foot right-of-way.*
 - c. *The proposed garage location is adjacent to the existing driveway and attached garage.*

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 proposed variance Part A for the existing principal structure, the petitioner could not rebuild the house in the same location should it be destroyed.*
 - b. *Without proposed variance Part B for the proposed detached garage, the petitioner would be unable to build the garage on the subject property.*

3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. *The house was constructed prior to the petitioner purchasing the property in 2021.*

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 Part A is 56% of the minimum required, for a variance of 44%.*
 - b. *The requested variance Part B is 84% of the minimum required, for a variance of 16%.*
 - c. *There are no known plans to expand Lake of the Woods 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:
 - a. *The house cannot be moved.*
 - b. *There is no other acceptable location for the garage according to the Homeowner's Association.*

7. **{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}**

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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 **033-V-21** is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner, **Jim Lewis**, to authorize the following variance in the R-1 Single Family Residence Zoning District:

Part A: Authorize a variance for an existing non-conforming dwelling with a front yard of 14 feet in lieu of the minimum required 25 feet, per section 4.3.2 of the Zoning Ordinance.

Part B: Authorize a variance for proposed detached garage with a front yard of 21 feet in lieu of the minimum required 25 feet, per section 4.3.2 of the 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