

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **April 30, 2009**
Time: **7:00 P.M.**
Place: **Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802**

**Note: NO ENTRANCE TO BUILDING
FROM WASHINGTON STREET PARKING
LOT AFTER 4:30 PM.
Use Northeast parking lot via Lierman Ave.,
and enter building through Northeast
door.**

*If you require special accommodations please notify the Department of Planning & Zoning at
(217) 384-3708*

EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes
5. Continued Public Hearings
6. New Public Hearings

***Case 637-V-08** Petitioner: **Mick and Leah Harshbarger**

Request: **Authorize the following in the CR District:**

- A. The construction and use of a detached accessory structure with a side yard of four feet and a rear yard of four feet, two inches in lieu of the required side yard of 10 feet and the required rear yard of 10 feet;**
- B. The construction and use of a detached accessory structure with a side yard of three feet, six inches in lieu of the required side yard of 10 feet;**
- C. The establishment of a Neighborhood Home Occupation with three commercial vehicles in lieu of one commercial vehicle and outdoor storage of two vehicles in lieu of no outdoor storage.**

Location: **Lot 27 of Deer Ridge Ingram's Third Subdivision in Section 30 of Ogden Township and commonly known as the house at 2545 CR 1375N, Ogden.**

***Case 644-V-09** Petitioner: **Michael Wood**

Request: **Authorize the creation and use of a lot that is 5.5 acres in area on best prime farmland in lieu of the maximum allowed three acres on best prime farmland.**

Location: **A 5.5 acre tract in the West half of the West half of the Southwest quarter of the Southwest quarter of Section 19 of Pesotum Township and commonly known as the house at 202 CR 600E, Pesotum.**

7. Staff Report
8. Other Business
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

*** Administrative Hearing. Cross Examination allowed.**

CASE NO. 643-V-08

PRELIMINARY MEMORANDUM

April 24, 2009

Champaign
County
Department of

Petitioners: **Mick & Leah Harshbarger**

Request: **Authorize the following in the CR District:**

**PLANNING &
ZONING**

Site Area: **approx. 1.0 acre**

Time Schedule for Development: **N/A**

Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

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

(217) 384-3708
FAX (217) 328-2426

A. The construction and use of a detached accessory structure with a side yard of four feet and a rear yard of four feet, two inches in lieu of the required side yard of 10 feet and the required rear yard of 10 feet;

B. The construction and use of a detached accessory structure with a side yard of three feet, six inches in lieu of the required side yard of 10 feet.

C. Deleted – see below

Location: **Lot 27 of Deer Ridge/Ingram's Third Subdivision in Section 30 of Ogden Township and commonly known as the house at 2545 CR 1375N, Ogden.**

BACKGROUND

On May 2, 2008, staff received a complaint regarding the subject property. The complainant stated that a construction business was being run out of a garage on the subject property and that equipment and materials were being stored outside, and employees were reporting for work and parking their vehicles along the subdivision streets. Staff investigated and based on aerial photography it became apparent the petitioner had constructed several structures without obtaining permits. Staff then notified the petitioner and sent materials for appropriate permit applications.

In the process of reviewing the permit applications for the unpermitted structures and the construction business, staff discovered that two small accessory buildings on the subject property were too close to the side and rear property lines. The petitioner applied for a variance on September 24, 2008.

REMOVAL OF PART C

While preparing this memo, staff realized that the regulations for Neighborhood Home Occupations only restricted the number of vehicles in residential zoning districts, not in the CR district. Those regulations also only limit outdoor storage, which specifically excludes the parking of operable vehicles.

According to the petitioner's testimony in Supplemental materials that were provided on February 3, 2009, the only equipment that is kept outside on the subject property is the petitioner's work truck and occasionally a trailer that is hitched to the truck. Since both the truck and the trailer are operable vehicles they do not constitute outdoor storage and Part C of the proposed variance is not necessary.

EXISTING LAND USE AND ZONING

Table 1 summarizes the land use and zoning on the subject property and adjacent to it.

Table 1. Land Use and Zoning In The Vicinity Of The Subject Property

Direction	Land Use	Zoning
Onsite	Single Family Dwelling	CR Conservation-Recreation
North	Single Family Dwelling	AG-1 Agriculture
East	Single Family Dwelling	CR Conservation-Recreation
West	Single Family Dwelling	CR Conservation-Recreation
South	Single Family Dwelling	CR Conservation-Recreation

MUNICIPAL EXTRATERRITORIAL JURISDICTION

The subject property is not located within the mile and a half ETJ of a municipality with zoning.

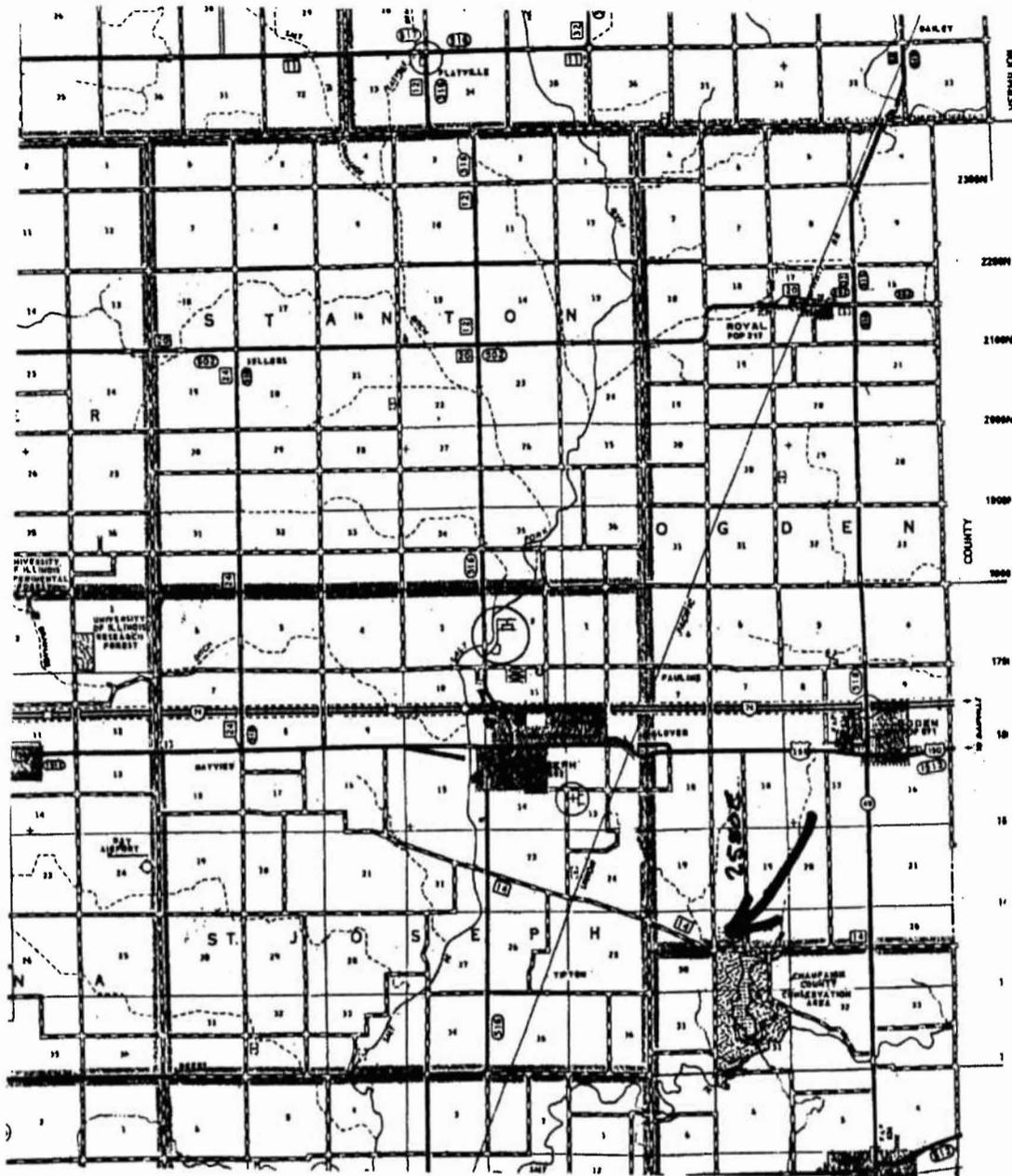
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site plan received on February 3, 2009
- C Floor plan of pool pump house received on February 3, 2009
- D Diagram of pool received on February 3, 2009
- E Elevation drawing of storage garage received on February 3, 2009
- F Floor plan of storage garage received on February 3, 2009
- G Floor plan of play house received on February 3, 2009
- H Written statement regarding NHO operations received on February 3, 2009
- I Neighborhood Home Occupation Permit Application for Pickle Construction
- J GIS 2008 aerial photograph of subject property
- K Subsection 7.1.1 of *Zoning Ordinance*
- L Letters from neighbors Pamela & Doug Wendt, John & Michelle Johlas, Duane & Nicole Setterdahl, Jim & Terri Rein, and James & Nada Cagle (attached separately)
- M Draft Summary of Evidence for Case 637-V-08

ATTACHMENT A. LOCATION MAP

Case 637-V-08

APRIL 24, 2009

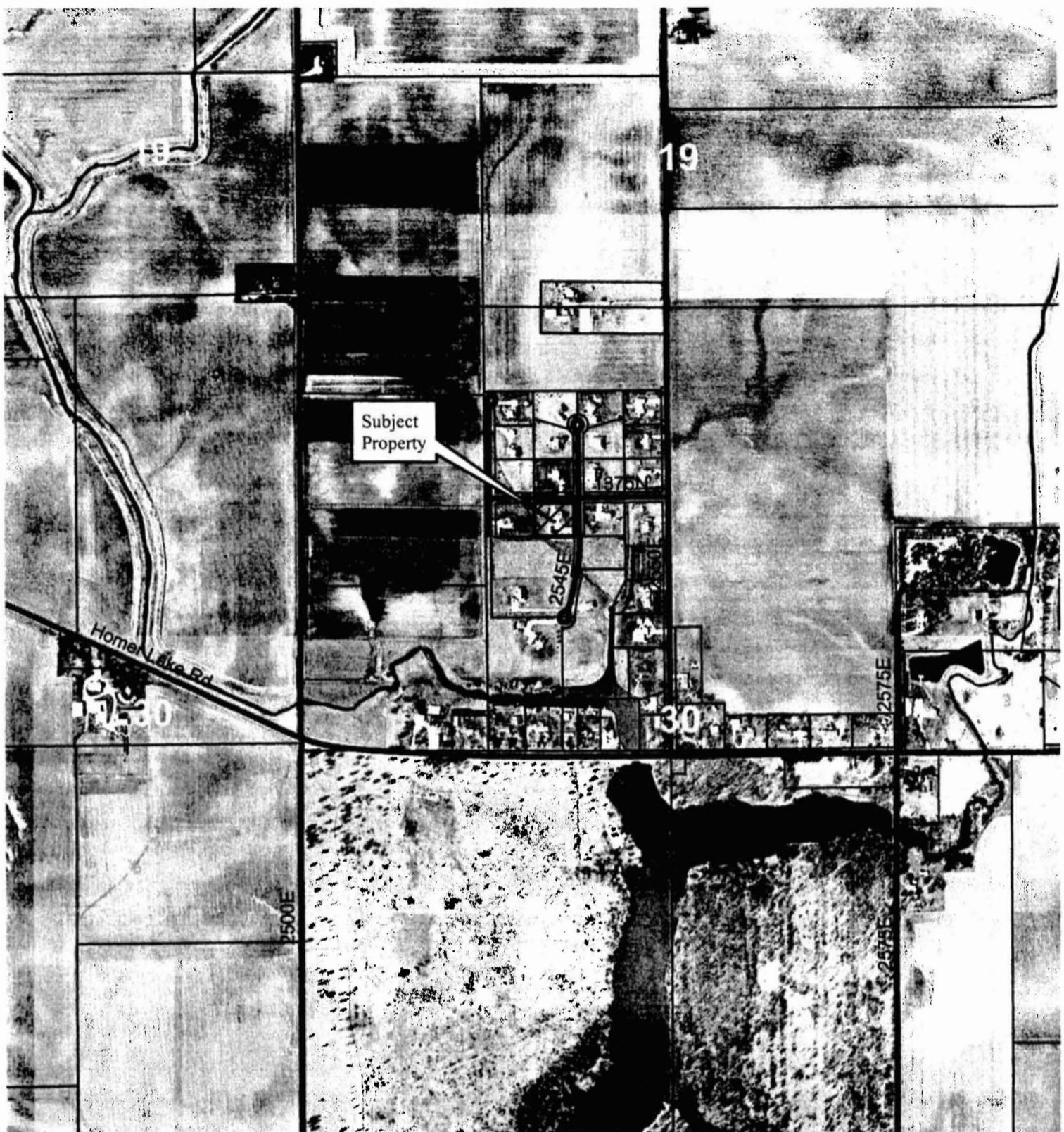


Champaign
County
Department of
**PLANNING &
ZONING**

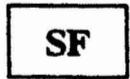
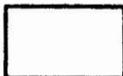
ATTACHMENT A. LAND USE MAP

Case 637-V-08

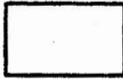
APRIL 24, 2009



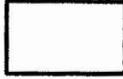
Area of Concern



Single Family



Farmstead



NORTH

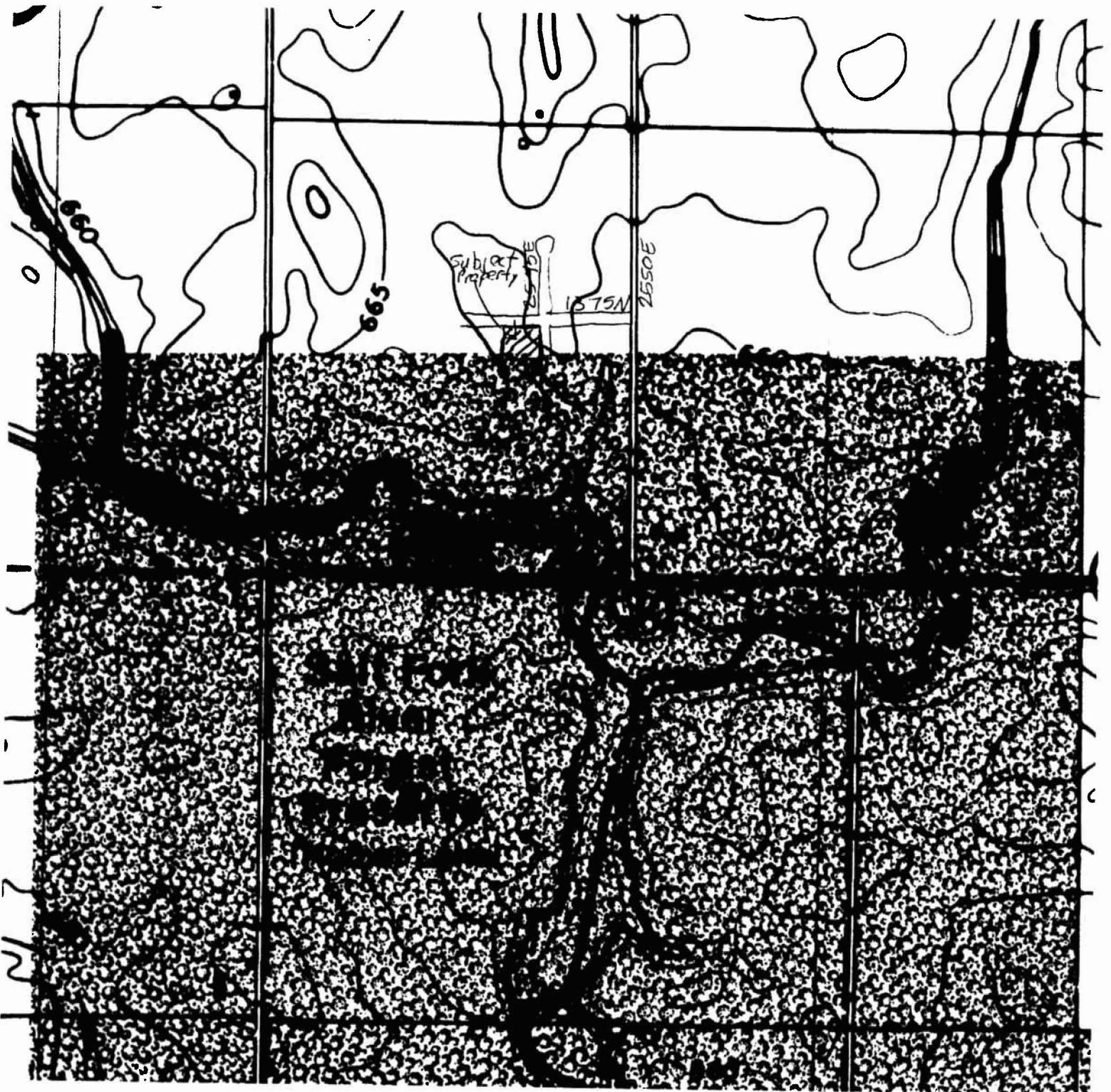
1 inch = 800 feet

Champaign
County
Department of
**PLANNING &
ZONING**

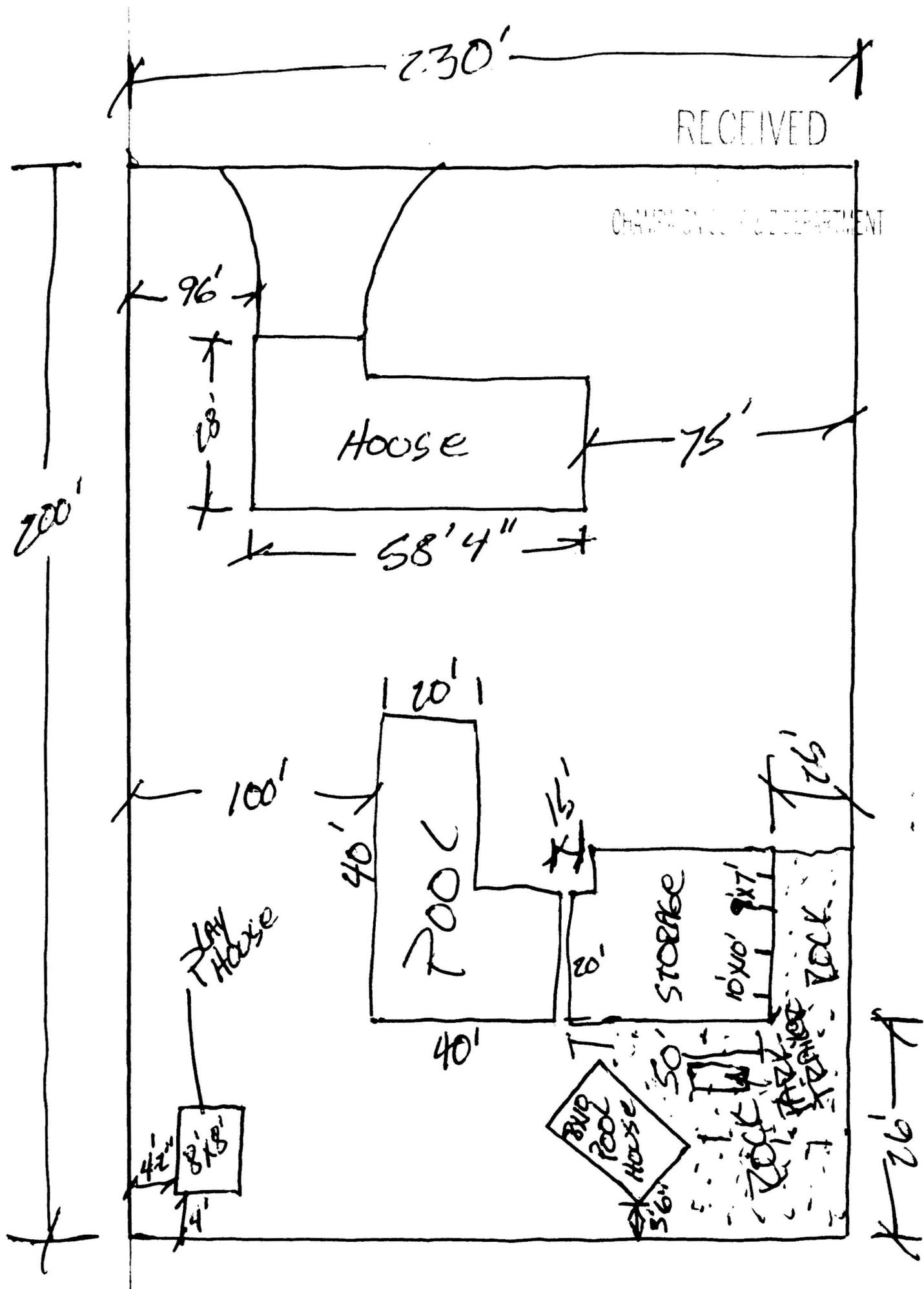
ATTACHMENT A. ZONING MAP

Case 637-V-08

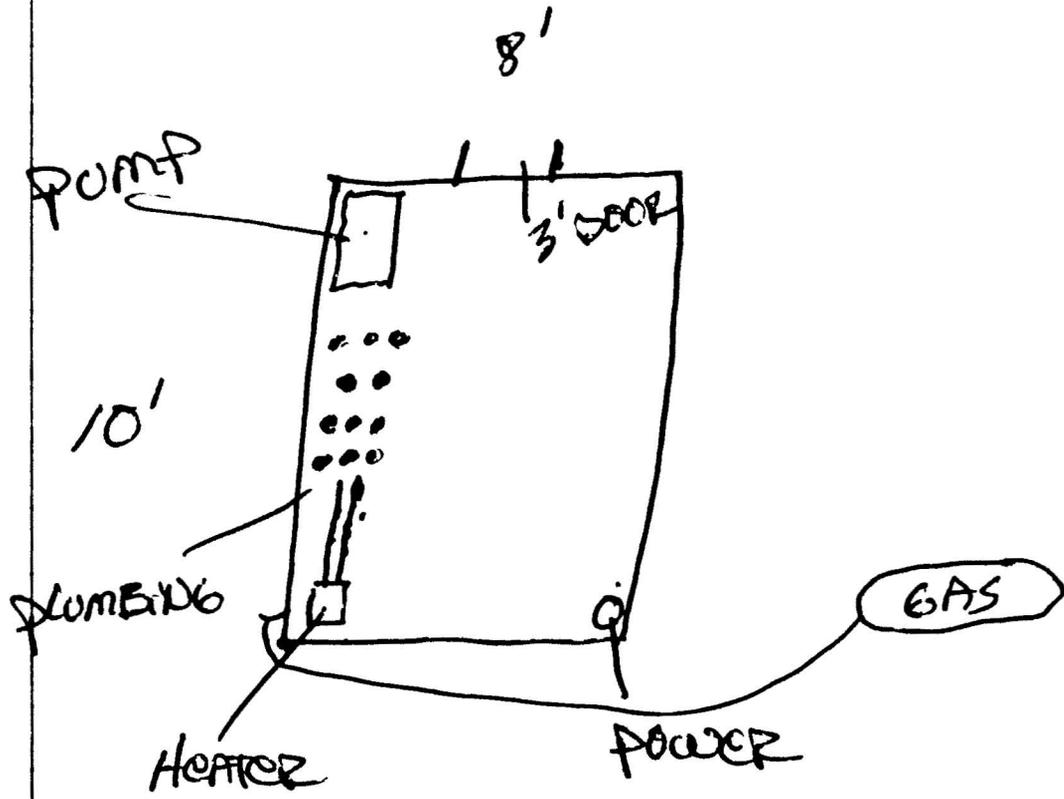
APRIL 24, 2009



AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	 NORTH Champaign County Department of Planning and Zoning
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation- Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry	



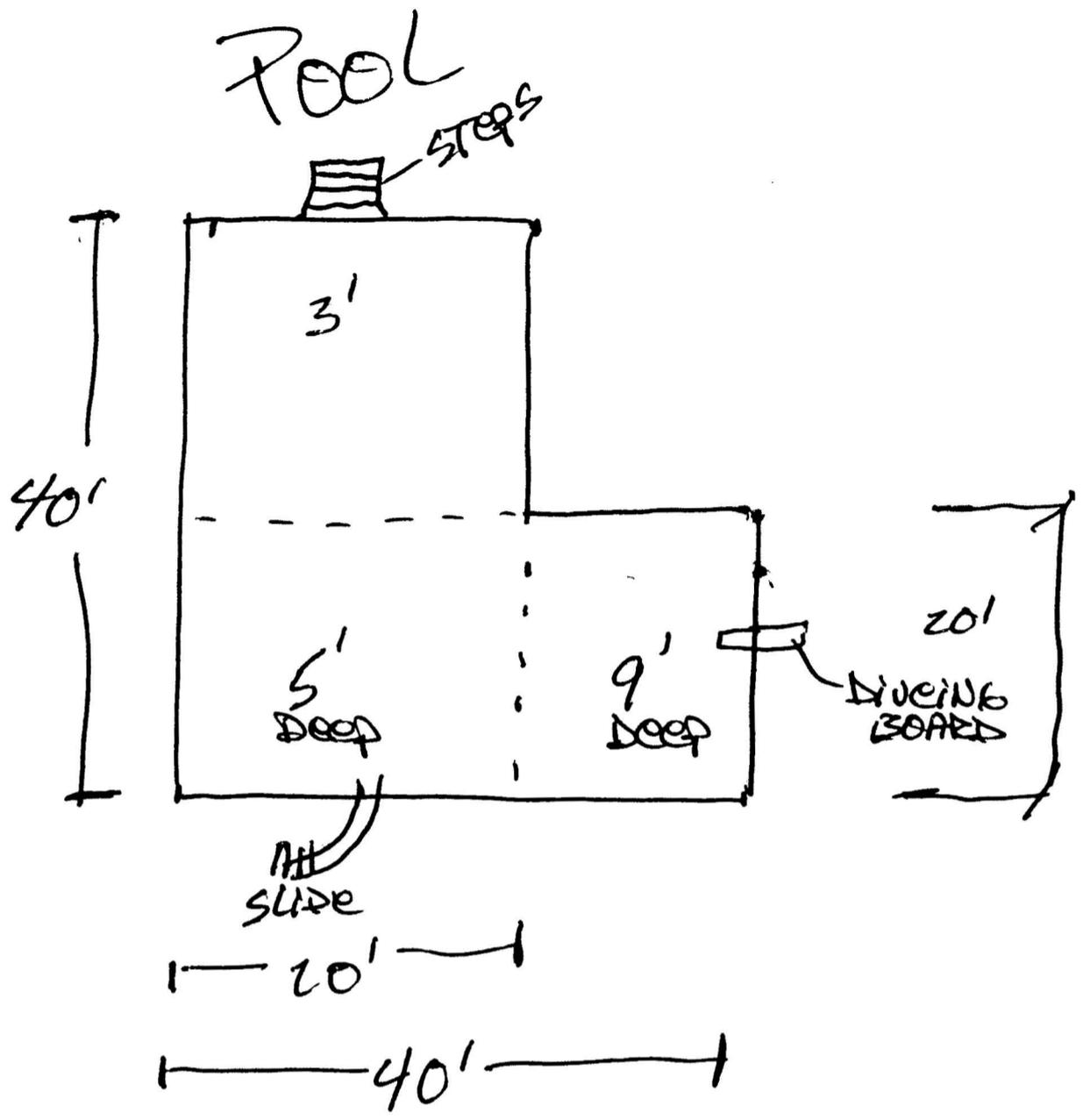
POOL HOUSE



RECEIVED

FEB 03 2009

CHAMPAIGN CO. P & Z DEPARTMENT

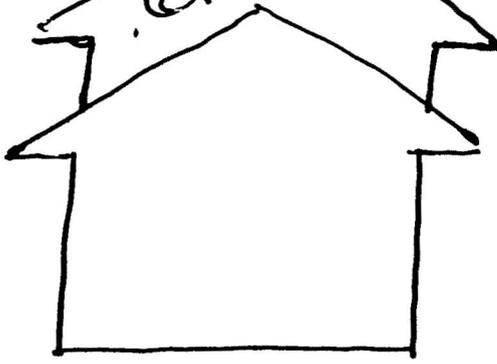


RECEIVED

FEB 03 2009

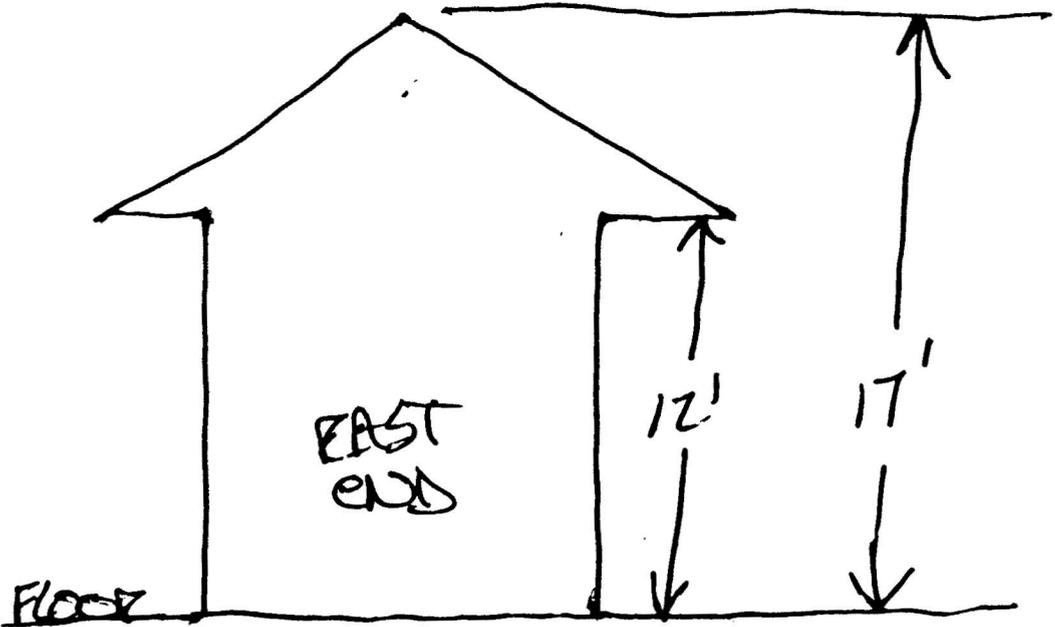
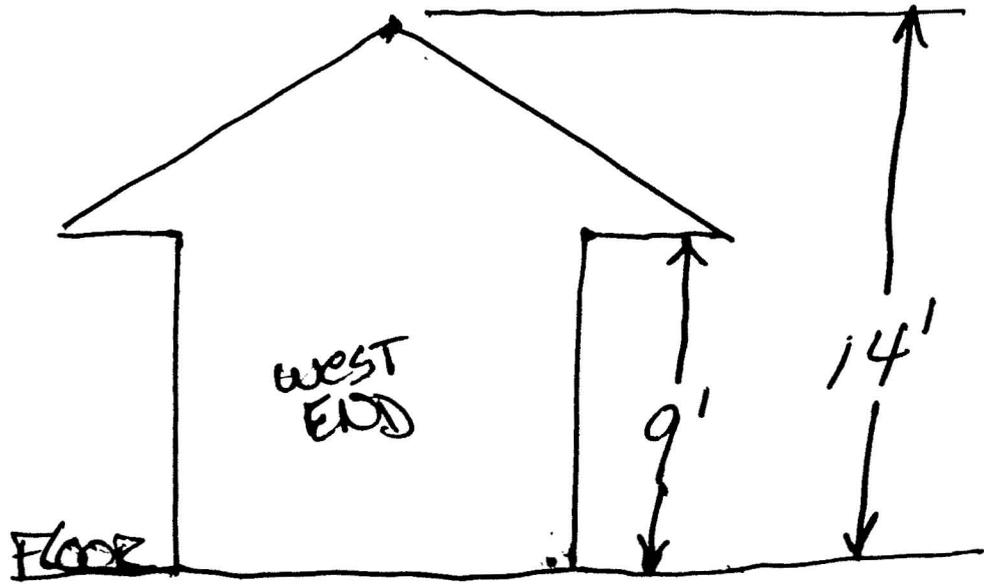
CHAMPAIGN CO. P & E DEPARTMENT

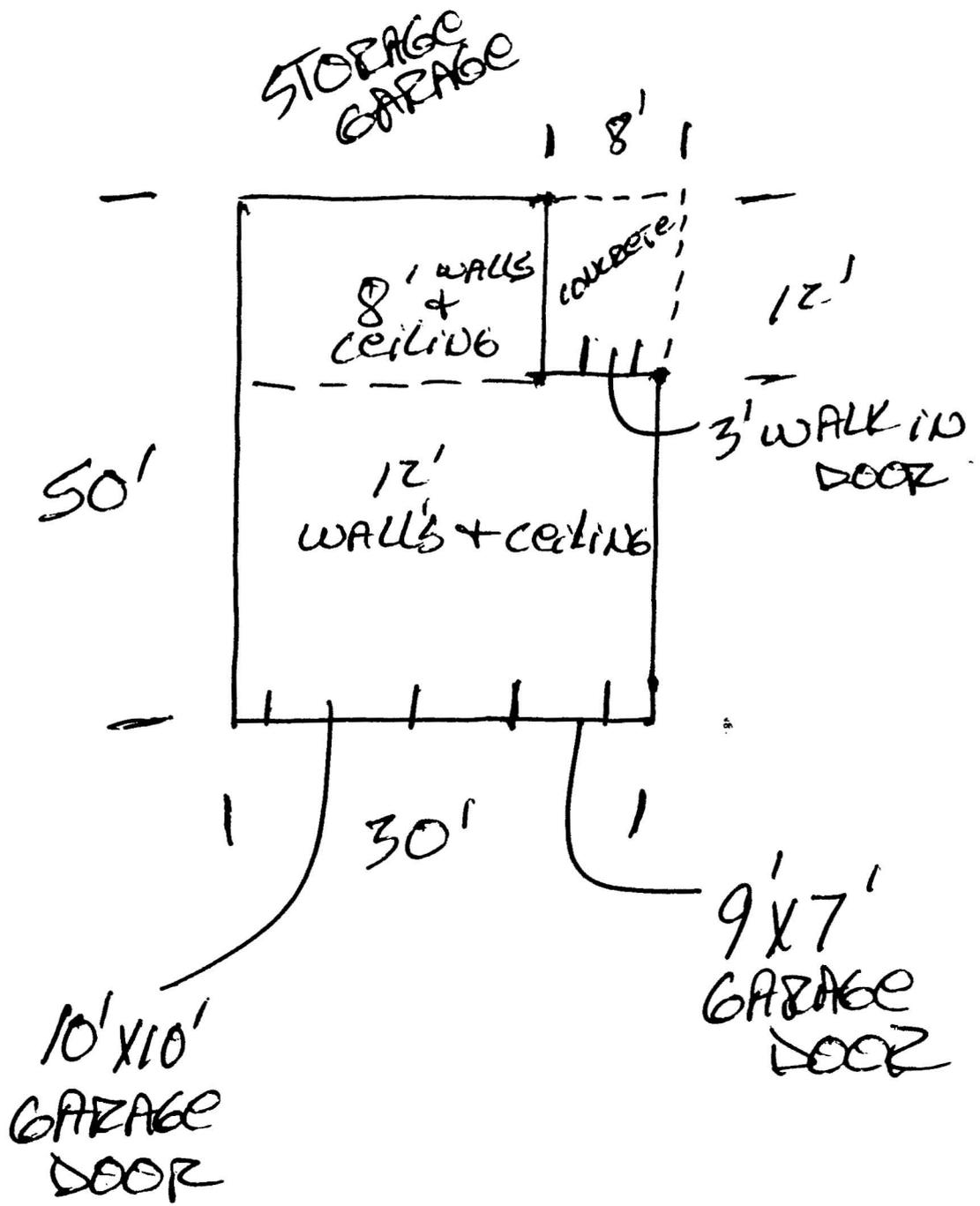
STORAGE
GARAGE



RECEIVED

DATE: 11/11/2011





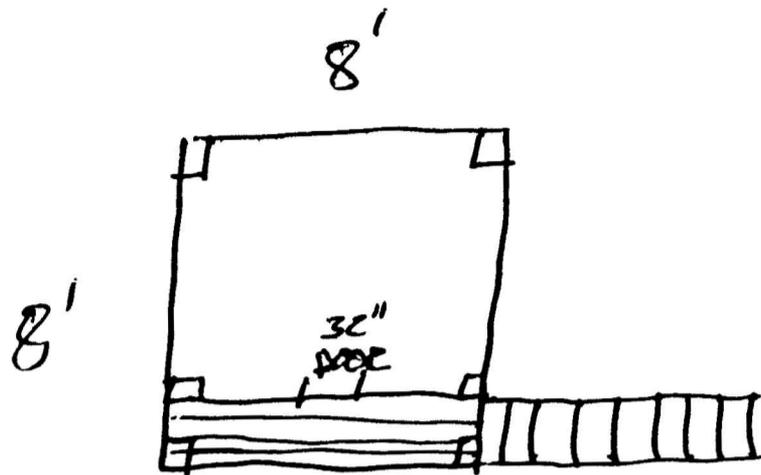
THE GARAGE IS ALL CONCRETE FLOOR
 W/HEAT & AIR IT IS ALL OPEN W/
 12' WALLS

RECEIVED

FEB 03 2014

CHAMPAIGN CO. P & Z DEPARTMENT

Play House



The play house is off the ground 4'-6" on 6x6 treated post.

RECEIVED

FEB 02 2009

CHAMPAIGN COUNTY DEPARTMENT

I have one truck that I use for the business and one truck that I use to do snow removal. I have 2 trailers but they are stored in Champaign at my other storage. I may bring a trailer home at the end of the day if I'm going out of town the next day. The trailer I bring home is hooked to my truck. None of the trailers are stored on the property. I keep my plow truck and I have a new 2006 Ford truck with 3000 miles that I keep in the storage garage along with my wife's car. The only truck that is kept outside is my work truck... *NO ONE MEETS AT MY HOUSE!*

Champaign County
Department of
PLANNING & ZONING
1776 E. Washington Street
Urbana, Illinois 61802
Telephone: (217)384-3708
FAX: (217) 819-4021
Hours: 8:00 a.m. - 4:30 p.m.

FOR OFFICE USE ONLY
Township Opden
Section 30 T 19NR 14E
Tax Parcel No. 17-24-30-176-005
Permit Application No. 266-88-02RHO
Receipt No. 3620 Date 9/22/08
Permit No. _____ Zoning District CR
Lot Area 1.05 ac

RECEIVED

SEP 22 2008

NHO

~~RURAL HOME OCCUPATION PERMIT APPLICATION~~

CHAMPAIGN CO. P & Z DEPARTMENT

All information requested **must** be completed on this application. Attach additional pages, if necessary. Applicants are encouraged to visit this office and assistance will be given in filling out this form. If possible, please call (217)384-3708 for an appointment to avoid delays.

Application is hereby made for a Zoning Use Permit for a RURAL HOME OCCUPATION as required under the Zoning Ordinance of Champaign County, Illinois. In making this application the applicant represents all the following statements and any attachments as a true description of the proposed rural home occupation to be carried on in the house and/or accessory buildings on the property described herein. The permit fee for a rural home occupation is \$ 33.00

Owner and/or Lessee of Property: MICK HARRIS Telephone: 702-5550

Property Owner or Agent, if other than Applicant: _____

Address: 2546 CO RD 1375N Telephone: 702-5550

Address of Proposed Rural Home Occupation: 2546 CO RD 1375N

OPDEN IL 61859
Legal Description of Property: 27 DEER RIDGE TRNGRMS 3A

Tax Parcel Number: 172430176005 Zoning District: AG-CR

Size of Parcel 1.05 acre(s).

SPECIFICS OF RURAL HOME OCCUPATION

1. Name of Rural Home Occupation Business (Assumed Name, if any): _____

PICKLE CONSTRUCTION INC.

2. Name of Proprietor(s) of Rural Home Occupation Business (if different than owner): _____

3. Name and address of any other person having an ownership interest in the business:

4. Brief description of the nature of the business: CONSTRUCTION

(CARPENTER)

5. Number of Employees other than resident family members: Full Time: 1 Part Time: _____

6. If you will have a sign advertising your home occupation, describe the size, height, type - freestanding or wall mounted, and location (show on site plan). _____

7. Explain which portions of the house and/or any accessory building to be used in the operation of your home occupation.

HOME OFFICE / 30x50 GARAGE

8. Describe any commercial vehicle(s) to be kept on site (make, model, and license #):

2 - 2000 FORD
1 - 2006 FORD

9. List all types and quantities of solvents, acids, paints, organic chemicals, heavy metals, flammable liquids, compressed gases, or other hazardous or potentially hazardous materials used in the home occupation business.

NONE

10. Identify any products offered for retail sale.

NONE

11. Other Comments:

12. Attach Site Plan Showing:

- a. Property Boundaries
- b. Street Access
- c. Location of all Buildings (Identify Building or Buildings Used in Home Occupation)
- d. Parking Areas (Minimum 9'x 20' - 1 per Non-Resident Employee, 1 Guest Space and Two for Dwelling)
- e. Outdoor Sales Display Area
- f. Outdoor Storage Area
- g. Parking Area for Vehicles Used in the Business
- h. Location of Any Business Sign

I/we am/are the proprietor(s) and owners or lessees of the above described property and Rural Home Occupation business and have received a copy of and read Section 7.1.2 of the Champaign County Zoning Ordinance, relating to RURAL HOME OCCUPATION regulations, and fully understand them.

SIGNED: [Signature] DATED: 9-22-08
SIGNED: _____ DATED: _____

DO NOT WRITE BELOW THIS LINE

Permit issued () Permit Number _____ Date _____
Permit denied () Cause: _____

Signature of Enforcing Officer

ADDITIONAL COMMENTS:

GIS 2008 Aerial Photograph



30

1 inch = 30 feet

SECTION 7 ACCESSORY STRUCTURES AND USES

ACCESSORY STRUCTURES and USES customarily incidental to the MAIN or PRINCIPAL STRUCTURES are permitted in all DISTRICTS. In addition, the following standards for ACCESSORY STRUCTURES and USES shall apply:

7.1 NEIGHBORHOOD HOME OCCUPATIONS and RURAL HOME OCCUPATIONS

7.1.1 NEIGHBORHOOD HOME OCCUPATIONS as defined in Section 3, are permitted as an ACCESSORY USE subject to the following standards:

- A.** No more than one employee, in addition to family members, shall be present on the premises at any one time. No employees shall be present on the premises earlier than 8:00 a.m. or later than 6:00 p.m.
- B.** All business activities shall be conducted entirely indoors, and limited to the DWELLING and no more than one ACCESSORY BUILDING located on the LOT. The DWELLING or ACCESSORY BUILDING shall not be modified and no DISPLAY or activity shall be conducted that would indicate from the exterior that it is being used for any purpose other than that of a residential DWELLING or residential ACCESSORY BUILDING.
- C.** No SIGN other than a name plate not more than two square feet in area shall be permitted.
- D.** No storage of volatile liquids, flammable gases, hazardous materials, or explosives shall be permitted except as might be kept for normal household use in typical household quantities.
- E.** No more than three patrons, clients, congregants, or similar persons may be present on the premises at one time except:
 - i.** up to 12 children may be present in day care homes;
 - ii.** up to 12 clients, patients or other congregants may be present for religious services, group counselling, or similar purposes not more than three times in any seven day period nor more than twice in one day; and
 - iii.** up to 12 patrons may be present at sales parties, open houses or similar events not more than once in any 30 day period;
 - iv.** up to eight guests in no more than four guest rooms may be present at one time in a bed and breakfast establishment.

SECTION 7.1.1 NEIGHBORHOOD HOME OCCUPATIONS - CONTINUED

- F. No patrons, clients, or other congregants shall be present on the premises earlier than 9:00 a.m. nor later than 10:00 p.m. except that day care recipients may be present as early as 6:30 a.m.
- G. Processes employed shall not create odor, dust, noise, gas, smoke, or vibration discernable at the property line other than of such a nature, quantity, intensity, duration, or time of occurrence customarily associated with the exclusive residential use of a similar DWELLING.
- H. Deliveries by truck shall be limited to no more than an average of one per week and a maximum of two in any given week for trucks no larger than a standard commercial delivery truck. Deliveries by semi-trailer trucks are prohibited.
- I. Prohibited NEIGHBORHOOD HOME OCCUPATION Activities shall include:
 - i. automobile and truck repair;
 - ii. salvage, recycling and solid waste hauling;
 - iii. sale of articles not produced on the premises except as provided in Section 7.1.1Eiii or as such sales are incidental to the provision of a service.
 - iv. sales of guns and ammunition provided that a Gun Dealers License is obtained from the Federal Bureau of Alcohol, Tobacco and Firearms and sales are made by appointment only subject to the limitations of Section 7.1.1E.
- J. Outdoor STORAGE or DISPLAY is prohibited.
- K. No more than one commercial vehicle less than or equal to 36,000 pounds gross vehicle weight and no more than 25 feet in length shall be permitted on LOTS located in a residential zoning district as part of the NEIGHBORHOOD HOME OCCUPATION.
- L. All NEIGHBORHOOD HOME OCCUPATIONS shall be registered with the Department of Planning and Zoning on forms prepared by the Zoning Administrator.

7.1.2 RURAL HOME OCCUPATIONS as defined in Section 3, are permitted as an **ACCESSORY USE** in any dwelling in the AG-1, Agriculture; AG-2, Agriculture; and CR, Conservation-Recreation Districts subject to the following standards:

PRELIMINARY DRAFT

637-V-08

**FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

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

Date: April 24, 2009

Petitioner: Mick and Leah Harshbarger

Request: Authorize the following in the CR District:

- A. The construction and use of a detached accessory structure with a side yard of four feet and a rear yard of four feet, two inches in lieu of the required side yard of 10 feet and the required rear yard of 10 feet;
- B. The construction and use of a detached accessory structure with a side yard of three feet, six inches in lieu of the required side yard of 10 feet.

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 30, 2009**, the Zoning Board of Appeals of Champaign County finds that:

- 1. The petitioners, Mick and Leah Harshbarger, own the subject property.
- 2. The subject property is Lot 27 of Deer Ridge/Ingram's Third Subdivision in Section 30 of Ogden Township and commonly known as the house at 2545 CR 1375N, Ogden.
- 3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

- 4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned CR Conservation-Recreation and is in use as a single family dwelling. A Neighborhood Home Occupation is an accessory use on the subject property, and the petitioner has applied for a permit for the business.
 - B. Land south, east, and west of the subject property is zoned CR Conservation-Recreation and is in use as single family dwellings.
-

- C. Land to the north of the subject property is zoned AG-1 Agriculture and is in use as single family dwellings.

GENERALLY REGARDING THE PROPOSED SITE PLAN

- 5. Generally regarding the proposed site plan, there are several existing buildings and structures on the subject property, some of which were constructed without permits; however, the petitioner has submitted a Zoning Use Permit Application (ZUPA) for the unpermitted structures. Some of the buildings on the subject property require variances, as follows:
 - A. The original house was constructed in 1997 under ZUPA 164-97-05. The house was permitted correctly and does not require a variance. The petitioner operates an office for his Neighborhood Home Occupation (NHO) out of his home.
 - B. A large storage garage that was built without a permit, but does not appear to require any variances. The petitioner operates a NHO out of this garage.
 - C. A swimming pool was constructed south of the house, but does not require any variances. The pool pump house is the detached accessory building in Part B of this case and is only three feet, six inches from the south lot line instead of the required 10 feet. The pool house is eight feet by 10 feet and is located between the pool and the storage garage.
 - D. The detached accessory structure in Part A of this case is a play house that was constructed in the southwest corner of the subject property only four feet, two inches from the west lot line and only four feet from the south lot line instead of the required 10 feet in both instances. It is eight feet by eight feet and is four feet, six inches off the ground on treated posts.
 - E. The petitioner's NHO is described on the application for a permit and in a written statement submitted with the site plan, as follows:
 - (1) The business is named Pickle Construction. It is a construction business, apparently focusing on carpentry. As part of the NHO, the petitioner also does snow removal.
 - (2) The business is operated from an office in the single family dwelling and the large storage garage.
 - (3) The petitioner keeps one truck for use in the construction business and one truck for snow removal. An extra truck appears to be stored in the large storage garage, but is not used regularly. A trailer may be parked with the work truck outside the garage on the south side.
 - (4) The petitioner does not indicate any activities other than storage that take place on the subject property and indicates that no employees meet at the subject property for work.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

- 6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
-

- 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 with 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) “ACCESSORY STRUCTURE” is a STRUCTURE on the same LOT with the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either DETACHED from or ATTACHED to the MAIN or PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.
 - (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) “BUILDING RESTRICTION LINE” is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
 - (5) “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.
 - (6) “LOT, CORNER” is a LOT located:
 - (a) At the junction of and abutting two or more intersecting STREETS; or
 - (b) At the junction of and abutting a STREET and the nearest shoreline or high water line of a storm or floodwater runoff channel or basin; or
 - (c) At and abutting the point of abrupt change of a single STREET where the interior angle is less than 135 degrees and the radius of the STREET is less than 100 feet.
 - (7) “LOT LINES” are the lines bounding a LOT.
 - (8) “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.
 - (9) “LOT LINE, REAR” is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE or to a tangent to the midpoint of the FRONT LOT LINE. In the case of a triangular or gore shaped LOT or where the LOT comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at the maximum distance from the FRONT LOT LINE or said tangent.
-

PRELIMINARY DRAFT

- (10) "STORAGE" is the presence of equipment, or raw materials or finished goods (packaged or bulk) including goods to be salvaged and items awaiting maintenance or repair and excluding the parking of operable vehicles.
 - (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 depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
 - (13) "YARD, REAR" is a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.
 - (14) "YARD, SIDE" is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. Section 7.2.1. paragraphs B and C specify the required minimum side and rear yards for detached accessory buildings or structures in the AG-1, AG-2, and CR Districts as follows:
- (1) SIDE YARD

No DETACHED ACCESSORY BUILDING or STRUCTURE shall be located less than 10 feet from any side LOT LINE.
 - (2) REAR YARD

No DETACHED ACCESSORY BUILDING or STRUCTURE shall be located less than 10 feet from any REAR LOT LINE.
- C. The Department of Planning and Zoning measures yards and setbacks to the nearest wall line of a building or structure and the nearest wall line is interpreted to include overhanging balconies, projecting window and fireplace bulkheads, and similar irregularities in the building footprint. A roof overhang is only considered if it overhangs a property line.
- D. 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 9.1.9C. 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 9.1.9D.2.
- G. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

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 that, “**Pool Pump House.**”
 - B. Regarding the play house in Part A, it is located well away from any other structures on the subject property or neighboring lots. It is 64 square feet in area and is located across a drainage way from the rest of the subject property.
 - C. Regarding the pool pump house in Part B, it is located between the pool and the storage garage on the subject property, but there are no structures on the lot to the south within 350 feet of the pool pump house.
 - D. Both structures are less than 150 square feet in area and would not require a permit on their own.

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:
-

PRELIMINARY DRAFT

- A. The Petitioner has testified on the application that, **“Power, plumbing, heater, gas line.”**
- B. Regarding Part A, the drainage way that cuts across the south west corner of the subject property restricts the placement of the play house in that area.
- C. Regarding Part B, the pool pump house is located adjacent to the deepest part of the pool.

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 that, **“I built pool pump house and did not know there was a 10 foot setback.”**
 - B. The location of the drainage way on the subject property was determined when the subject property was platted as part of Ingram’s Third Subdivision.

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 that, **“Looks great with house and garage and pool.”**
 - B. The Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. In general, the side yard is presumably intended to ensure the following:
 - (1) Adequate light and air: The structures in question are accessory structures which do not noticeably affect the amount of light and air available on the large lots in this neighborhood.
 - (2) Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time. The subject property is within the Ogden/Royal Fire Protection District and the station is approximately four road miles from the subject property.
 - (3) Aesthetics may also play a part in minimum yard requirements.
 - C. The subject property conforms to all other *Zoning Ordinance* requirements. The case was advertised with a variance from the Neighborhood Home Occupation regulations for number of vehicles and outdoor storage, but those variances no longer appear to be necessary, as follows:
 - (1) While preparing the Preliminary Memorandum, staff reviewed the requirements for NHO’s and realized that their limit on the number of commercial vehicles only applies in a residential zoning district (see Subsection 7.1.1, attached to the Preliminary
-

Memorandum), and the subject property is zoned Conservation-Recreation which is not a residential district.

- (2) Staff also realized that the definition of STORAGE specifically excludes parking of operable vehicles, and it is the petitioner's testimony that he only parks his work vehicle and a trailer outdoors (see Item 5.E. above)
- D. The proposed site plan indicates the following required amounts of variance:
- (1) In Part A of the proposed variance, the proposed side yard of four feet is 40% of the required 10 feet for a variance of 60%, and the proposed rear yard of four feet, two inches is 41.7% of the required 10 feet for a variance of 58.3%.
 - (2) In Part B of the proposed variance, the proposed side yard of three feet, six inches is 35% of the required 10 feet for a variance of 65%.
- F. The requested variance is not prohibited by the *Zoning Ordinance*.

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 that, **"The closest house is 2.5 acres away."**
 - B. The Fire Protection District has received notice of this variance, but no comments have been received.
 - C. The Township Highway Commissioner has also received notice of this variance, but no comments have been received.
 - 12. Elsewhere on the application the Petitioner has stated, **"It is on concrete and the plumbing and power is coming up in the center of pump house."**
-

DOCUMENTS OF RECORD

1. Variance application from Mick and Leah Harshbarger, received on September 23, 2008, with attachments:
 2. Supplemental information from Mick Harshbarger received on February 3, 2009:
 - A Site plan
 - B Floor plan of pool pump house
 - C Diagram of pool
 - D Elevation drawing of storage garage
 - E Floor plan of storage garage
 - F Floor plan of play house
 - G Written statement regarding NHO operations
 3. Letter from neighbors Pamela and Doug Wendt, received on April 23, 2009, with attachments:
 - A Photographs of subject property
 - B Excerpt of the Covenants of Deer Ridge Subdivision
 4. Letter from neighbors John and Michelle Johlas, received on April 23, 2009
 5. Letter from neighbors Duane and Nicole Setterdahl, received on April 23, 2009
 6. Letter from neighbors Jim and Terri Rein, received on April 23, 2009
 7. Letter from neighbors James and Nada Cagle, received on April 23, 2009
 8. Preliminary Memorandum for Case 598-V-07, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site plan received on February 3, 2009
 - C Floor plan of pool pump house received on February 3, 2009
 - D Diagram of pool received on February 3, 2009
 - E Elevation drawing of storage garage received on February 3, 2009
 - F Floor plan of storage garage received on February 3, 2009
 - G Floor plan of play house received on February 3, 2009
 - H Written statement regarding NHO operations received on February 3, 2009
 - I Neighborhood Home Occupation Permit Application for Pickle Construction
 - J GIS 2008 aerial photograph of subject property
 - K Subsection 7.1.1 of *Zoning Ordinance*
 - L Letters from neighbors Pamela & Doug Wendt, John & Michelle Johlas, Duane & Nicole Setterdahl, Jim & Terri Rein, and James & Nada Cagle (attached separately)
-

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 637-V-08 held on April 30, 2009, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: _____

2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: _____

3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: _____

4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* in harmony with the general purpose and intent of the *Ordinance* because: _____

5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____

6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: _____

7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***



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 of 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 637-V-08 is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioners, **Mick and Leah Harshbarger**, to authorize **the following in the CR Conservation-Recreation District:**

- A. The construction and use of a detached accessory structure with a side yard of four feet and a rear yard of four feet, two inches in lieu of the required side yard of 10 feet and the required rear yard of 10 feet; and**
- B. The construction and use of a detached accessory structure with a side yard of three feet, six inches in lieu of the required side yard of 10 feet.**

{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:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

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APR 23 2009

CHAMPAIGN CO. P & Z DEPARTMENT

**Pamela and Doug Wendt
1365 CR 2545 E.
Ogden, IL 61859**

April 21, 2009

Mr. John Hall, Director
Champaign County Planning and Zoning
Brookens Administrative Center
1776 East Washington
Urbana, IL 61802

RE: CASE NO. 637-V-08

We reside at 1365 CR 2545 E, Ogden, IL and our lot is adjacent to and immediately south of the Harshbarger property referred to in this case.

We are writing this letter in opposition to the variance requests by Mick Harshbarger CASE NO. 637-V-08 for:

- Building setback variances to bring into compliance two structures which have already been built.
 - These structures were built without first obtaining the required building permits, and
 - The structures are within 4 feet or less of the property line separating the two properties, rather than the 10 foot setback required by the Champaign County Zoning Ordinance; and for:
- Allowing a Neighborhood Home Occupation construction business to be operated in a residential neighborhood.
 - This is not in keeping with the home owners' covenants set forth in the Deer Creek subdivision (Copy of subdivision covenants attached as Exhibit 1), and
 - It is also a serious safety issue for the many children who reside in this residential subdivision.

My husband and I purchased our 5+ acres of land and built our home in a quiet subdivision with a few family homes. When we were looking for property to buy, we chose to live at 1365 CR 2545 E. because there was only one other house fronting on that road and we knew the traffic would largely consist of the neighbors and ourselves. At no time did we believe there would be construction

equipment being moved in and out and being parked on our dead end road. In fact, the covenants prohibit these activities in our neighborhood.

Over the years, additional lots were purchased and additional homes were built. Eleven of the twelve families that live in the subdivision have children living in them. Ten of the twelve families have children of grade school age or younger.

The children in our neighborhood enjoy riding their bikes and walking on CR 2545 East—which is a dead end road leading to two houses. This includes our two children and the two children in the house on that road. All four of these children are in grade school.

There are very specific covenants that protect the neighborhood. For example, there are to be no businesses run out of the neighborhood. All vehicles, trailers, campers, and boats are to be in a garage. When we bought a small tractor and implements, we:

- Applied for a building permit,
- Paid the application fee, and
- Built a detached garage to house our equipment.

We complied with the County Zoning regulations and the Deer Creek Subdivision covenants and the neighborhood consisted of residents that were abiding by the County Zoning regulations and Subdivision covenants until the Harshbarger's moved into the neighborhood. They began adding structures including the playhouse (which is not in compliance) and a large garage.

Shortly thereafter, Pickles Construction was "up and running." This included five trucks, two trailers, a bobcat, and other various construction equipment which used CR 2545 East to access the large garage and periodically park along the roadway. On several occasions I have been awakened around 5 a.m. because of the noise and beeping of equipment being prepared to go to a job site. The employees, approximately 4-5 parked their personal vehicles along the side of CR 2545 East for the duration of the work day. They did not park in front of Mr. Harshbarger's house or in his driveway. They parked along the road leading to our house and in our grass causing ruts. There were multiple days where vehicles or equipment would be parked on both sides of the road creating a single lane for the school bus to pass. On two occasions, a Deputy Sheriff drove in front of the bus to see how much clearance it had to drive down CR 2545 East.

Mr. Harshbarger owns a construction company. In his occupation he should know and comply with rules and covenants set forth by Champaign County and the neighborhood where he resides.

Two years ago, the Harshbarger's built an in-ground pool without a permit and then proceeded to construct a pool house (which is also out of compliance)

without regard to lot line setback (second structure for which a variance is being sought after the fact). In addition to being built too close to the lot line, rock landscaping was added which extended beyond the property line and was on our property (photos attached as Exhibit 2).

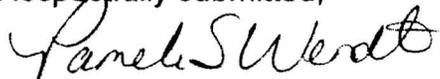
I went to discuss my concerns with Mr. Harshbarger. In a discussion with Mr. Harshbarger regarding the encroachment onto our property (which included the landscaping encroachment and driving heavy equipment across our property during the pool construction which destroyed the grass and left ruts to be fixed), Mr. Harshbarger stated we (the Wendt's) "were not using that piece of our property, so what was the matter" When I asked him why he would construct outbuildings so close to our property, Mr. Harshbarger replied he could because they were not on our (the Wendt's) property. Mr. Harshbarger went on to say that he does not have to follow the rules, it is his property and even denied that he was aware that his structures needed to be 10 feet from the property line. Mr. Harshbarger moved the landscaping back to the property line and the ruts were repaired. During this discussion Mr. Harshbarger used profane language and called me (Pamela Wendt) several "choice names". These words are not repeatable in a public forum.

Removal of landscaping encroachment was only done after there was a complaint filed with the Champaign County Zoning office.

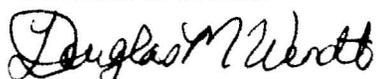
Our main concern is the serious safety issue associated with a business which has heavy construction equipment coming and going in a residential neighborhood. The children in the neighborhood should be able to walk, learn to ride their bikes, and ride their bikes safely in this residential neighborhood without worrying about getting run over by construction trucks pulling trailers loaded with heavy construction equipment.

We strongly urge the Champaign County Zoning and Appeals Board to deny this request for a Neighborhood Home Occupation variance and the variances for the detached accessory structures which were built and continue to be out of compliance.

Respectfully submitted,



Pamela S. Wendt

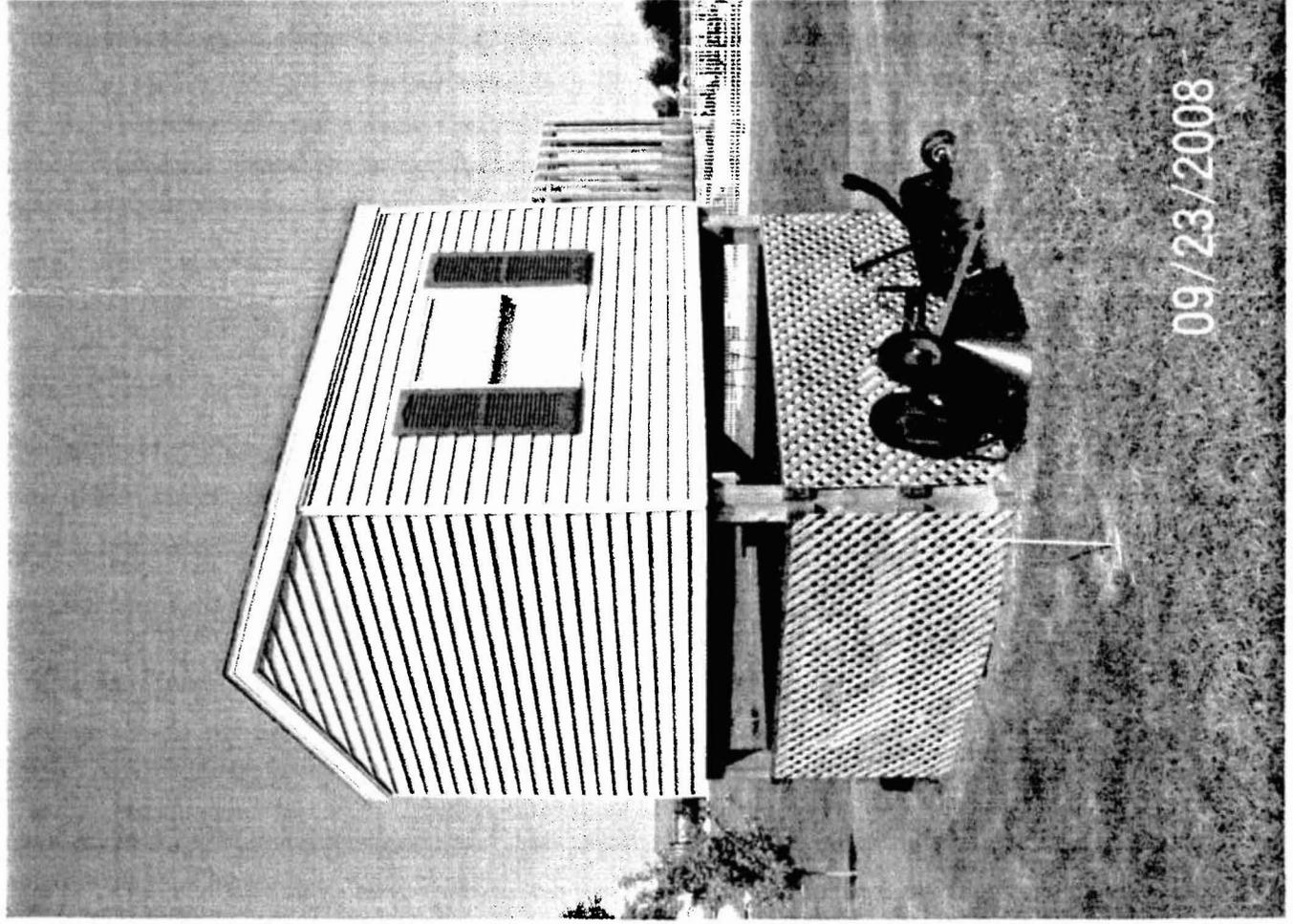


Douglas M. Wendt

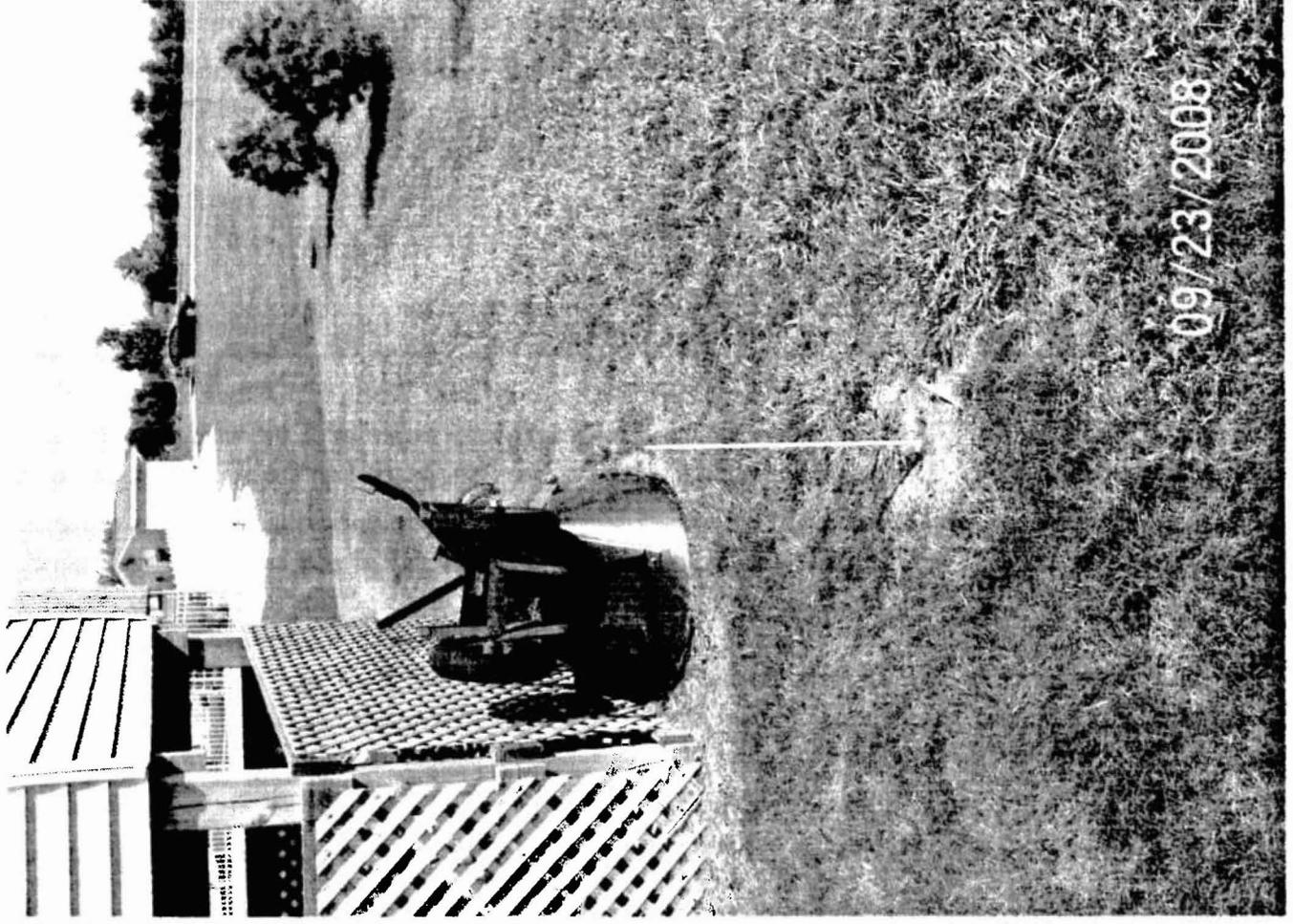
Attachments:

Exhibit 1—Copy of Deer Creek Subdivision Covenants

Exhibit 2—Photographs of lot line infringement and construction equipment

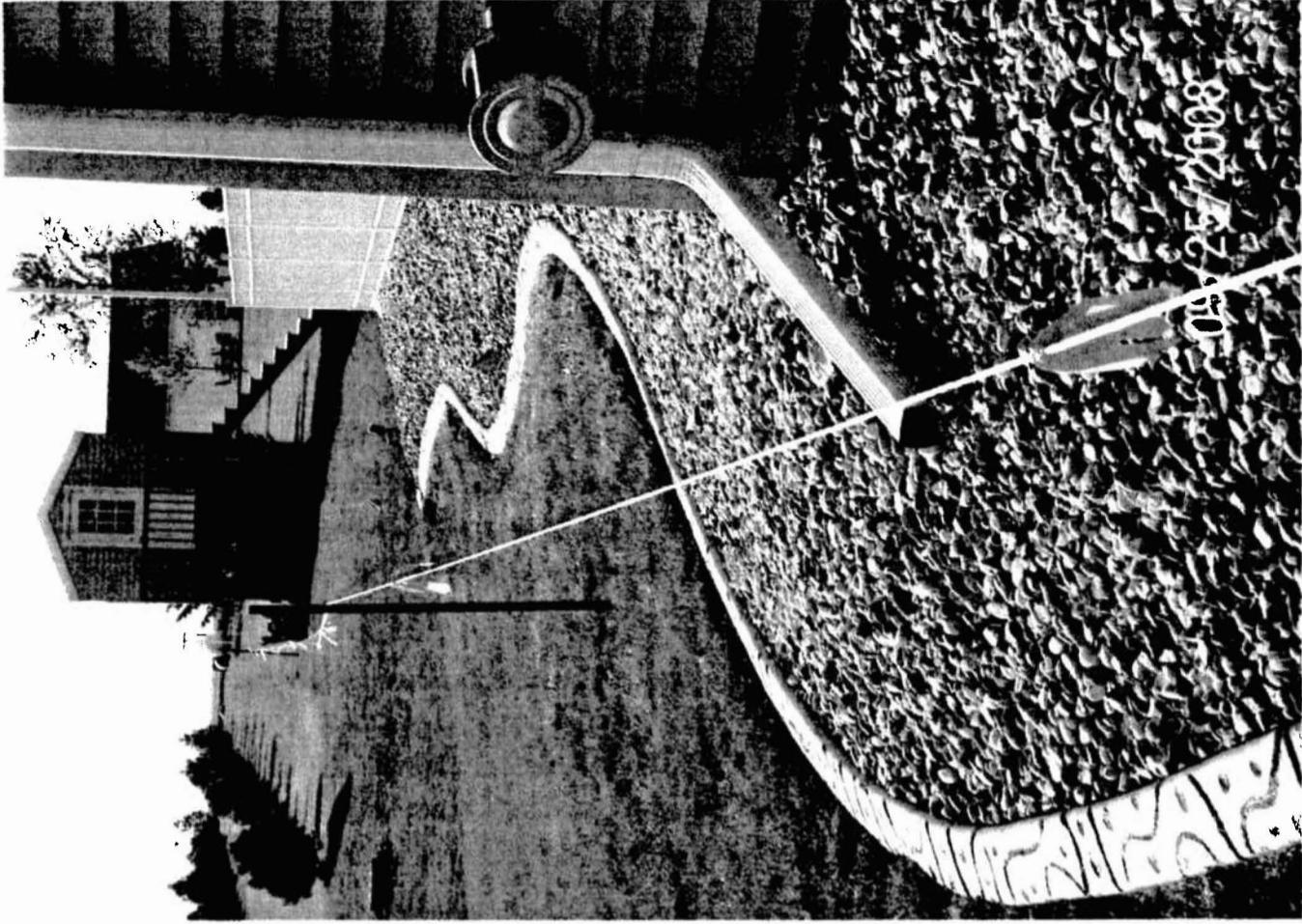


accessory structure A



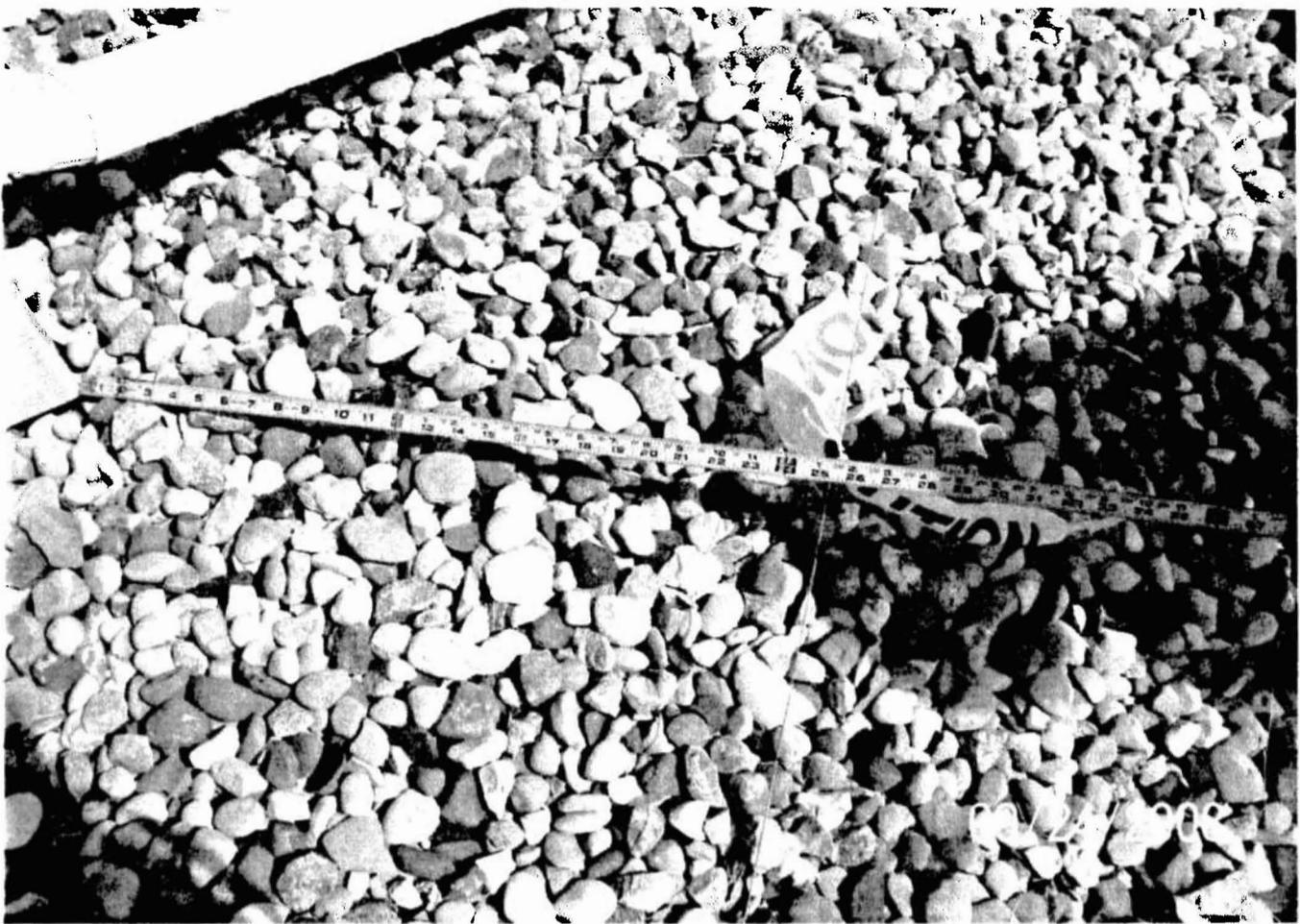


property line



Wendt

Harsbarger



Distance of accessory structure B to property line
(lead arrow)



construction equipment on site

Copy of Deer Ridge Subdivision Covenants.

The covenants highlighted are those the Harshbarger
have violated.

which is included in the annexed plat, have caused the same to be surveyed by Edward L. Clancy, Illinois Professional Land Surveyor No. 2207, and have subdivided said real estate into lots as indicated on the annexed plat bearing the certificate of said Edward L. Clancy under the date of the 29th day of August, 1995, said subdivision to be known as Ingram's Third Subdivision, Ogden Township, Champaign County, Illinois.

The undersigned hereby dedicate, donate, grant and relinquish to the public for public use the streets shown on said plat. The lots in said Subdivision are subject to permanent easements as shown on said plat, identified thereon as "Proposed Utility Easement Lines." Said easements shall be for the installation and maintenance of telephone, electric power, gas, and sewer lines, storm sewers, field tiles, surface drains, and other utilities and services which may be needed for the benefit of the lots in said Subdivision. Certain lots in said subdivision are also subject to permanent drainage easements as shown on the face of the Plat.

It is hereby provided, agreed and covenanted that all conveyances of property hereafter made by the present or future owners of any of the Lots in said Subdivision shall be taken and understood as incorporating in all such conveyances, without repeating the same, that said lots shall be subject to all easements as shown on the plat and

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CHAMPAIGN CO. P & Z DEPARTMENT

above mentioned, and that all of said lots shall be subject to the following covenants and restrictions, to wit:

1. No store or other business building shall be erected on any lot, and the use of each lot shall be confined exclusively to a single family dwelling for use exclusively as a residence by one family, with no more than one dwelling structure erected on any one lot. No apartment building or other multiple dwelling designed to accommodate more than one family shall be erected on any of the aforesaid lots.

2. No horses, cattle, swine, poultry, rabbits, goats or other animals except domesticated pets shall be kept on any lot. No boarding or commercial kennels of domesticated animals shall be permitted.

3. Sanitary disposal systems shall comply with the Private Sewage Disposal Licensing Act and Code and shall be approved by the Illinois Department of Public Health or whatever regulations and agency may supersede them. Water wells shall comply with the Illinois Water Well Construction Code and shall be approved by the Champaign-Urbana Public Health District, or whatever regulations and agency may supersede them.

4. Sanitary drainage outlets shall not be connected with the storm drainage system; and storm or surface drainage outlets shall not be connected with any sanitary drainage system. When practicable, downspouts shall be connected to the storm drainage system. Any

existing field tile or under drains encountered during the construction of any home or building shall be rerouted and maintained in service.

5. No building or permanent structure of any kind shall be erected or placed on any lot within any of the easement areas as shown on said plat, or between the Lot line and the building setback lines as shown on said plat. The ordinary projections of sills, cornices, soffits, fascia, mouldings, planciers, chimneys, flues, ornamental features, roofs, gutters and downspouts, open porches or other extensions shall be considered a part of the building in complying with the above restrictions.

6. All utility lines shall be installed underground.

7. No camper coach or other living quarters mounted on a motor vehicle, boat, trailer, utility trailer, camper trailer, mobile home or other towed vehicle, basement, tent, shack, garage, barn, structure of temporary character or other outbuilding erected or situated on any lot included in said Subdivision shall at any time be used as a residence or dwelling either temporarily or permanently.

8. No camper coach or other living quarters mounted on a motor vehicle, boat, trailer, mobile home or other towed vehicle shall be parked anywhere on any lot, unless it is completely stored in an accessory roofed structure thereon which has full length exterior walls and door for any opening.

9. All buildings erected on any lot in said Subdivision shall be constructed of good quality materials suitably adapted for use in the construction of residences, and any dwelling erected on any lot in said Subdivision shall have either a gable roof, hip roof, gambrel roof or mansard roof and shall have not less than fifteen hundred (1500) square feet of heated floor area on the ground or first floor for living space, exclusive of open porches, garages, and outbuildings; provided, however, that if a dwelling contains a heated living area on a second floor level above the ground or first floor area, then the first floor area need contain only not less than 1000 square feet of living area.

10. No prefabricated or modular home shall be moved upon or constructed upon any lot in said subdivision.

11. No old building shall be moved upon any lot. For the purpose hereof an "old building" is defined as a building that has been occupied or used at another location.

12. No earthwork or grading shall occur in the primary drainage swale easements except as required to construct or maintain (clean out) the primary drainage swales. The owner of each lot on which the drainage easement occurs shall ensure that any accumulated sediment is removed from the drainage swales so as to maintain the original design cross section and flow capacity.

13. No part of any driveway shall be constructed or permitted within the area of the drainage easement as shown on Lots 27, 28, 29, and 30 on said plat.

14. Areas within the primary drainage swale easements shall be limited in use as follows: Turf grass shall be the only item allowed to occupy space in the swale. The owner of each lot on which the drainage easement occurs shall ensure that a solid turf grass cover is maintained within the drainage easement so as to help prevent erosion of the swale.

15. When the surface of any lot is disturbed during construction, the owner of said lot shall cause straw bale dikes and/or silt fences to be placed around the perimeter of the lot until disturbed areas achieve a good vegetative cover.

16. The restrictions herein are, and shall be construed as covenants running with the land, and shall be binding on all parties hereto, all persons claiming under them, and all successive owners of each and every lot in said Subdivision. Any of the foregoing restrictions except Nos. 12, 13, 14, and 15 may be altered at any time by a stipulation to that effect, signed by the owners of two-thirds (2/3rds) of the lots in said Subdivision and shall be effective when the same is filed for record with the Recorder of Deeds, in Champaign County, Illinois.

17. Invalidation of any one or part of these covenants by judgment or Court order shall in no way affect any of the other provisions or parts which shall remain in full force and effect.

IN WITNESS WHEREOF, said Maude Ingram, Timothy Ingram, and Sara J. Ingram, have hereunto affixed their signatures this ____ day of _____, 1995.

Maude Ingram

Timothy Ingram

Sara J. Ingram

STATE OF ILLINOIS)
COUNTY OF CHAMPAIGN) SS

I, the undersigned, a Notary Public in and for said County and State aforesaid, do hereby certify that Maude Ingram, Timothy Ingram, and Sara J. Ingram, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the same instrument as her free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this ____ day of _____, 1995.

Notary Public

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CHAMPAIGN COUNTY PLANNING & ZONING DEPARTMENT

April 22, 2009

Zoning Board of Appeals
Champaign County Dept. of Planning and Zoning
Brookens Administrative Center
1776 E. Washington St.
Urbana, IL 61802

RE: Case 637-V-08

To Members of the Zoning Board of Appeals:

We are writing to record our objections to the petition for variance for the property commonly known as 2545 CR 1375N, Ogden.

Our primary objection is to Part C of the variance petition. When the family purchased this property, Deer Ridge was clearly designated as a residential-only subdivision, and had clear covenants regarding what could and could not be done on and with the property. We do not want any change to that residential-only rule, or to the covenant that restricts the number of commercial vehicles allowed and that prohibits the outside storage of commercial or recreational vehicles.

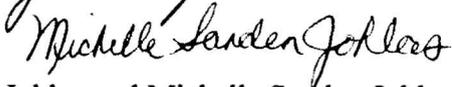
This house sits at the first crossroads in our subdivision—anyone who enters the subdivision must pass by this corner. If this variance is passed, the Board will have:

- Compromised the safety of children and adults who walk and ride bikes and scooters in the neighborhood, because parked commercial vehicles will obstruct the field of vision for drivers and make it difficult for the walkers and bike riders to see as well.
- Increased traffic in the subdivision, since the company's workers would then drive and park their personal vehicles in the neighborhood during the day while they are using those commercial vehicles.
- Increased wear-and-tear on the subdivision's roads, which are maintained not by Champaign County but by Ogden Township, effectively making another taxing authority pay in part for the Board's decision.
- Made it more difficult for the school district's bus to safely navigate its route—commercial vehicles have been illegally parked along the property in the past, and the bus could barely safely pass by them (and that was in good weather).
- Increased the noise level in the neighborhood, causing disruption of sleep to some families nearby who have younger children.
- Reduced the property values of all the other homeowners at the expense of supporting the commercial endeavor of one other private homeowner.

MSJ

As for Parts A and B of the petition: We object to these variances being granted as well. The owners of the property apparently built the 2 detached accessory structures without even filing for a construction permit, as is required. (Otherwise, the setback allowances presumably would have been handled at that time.) When we built our detached garage, we were required to file for and display a construction permit and to follow the setbacks. We see no reason that anyone else--especially someone who by professional training should have known and followed the requirements—should be exempted. It is our belief that if these two variances are approved, it will encourage other homeowners to build first, then worry about the consequences later. The setback requirements were established for a reason—including for safety—and they should not be ignored.

Thank you for your consideration of this matter. Although we are unable to attend the April 30 meeting because of a scheduling conflict, we would be happy to clarify any matters in this letter by telephone.

Sincerely, 


John W. Johlas and Michelle Sarden Johlas
1378 CR 2545E

(labeled as 1378 Brian Street in the original subdivision plan and on our property deed)
Ogden, IL 61859
217-582-2231

April 23, 2009

To The Members of the Champaign County Zoning Board of Appeals,

We are property owners in the Deer Ridge Subdivision, and we are strongly against the petition for a variance in Case 637-V-08. We purchased our property and built our home seven years ago in this quiet, rural neighborhood that was zoned for residential use only and with reasonable covenants in place that limited any sort of commercial or business operations. Basing a construction business in the middle of this residential area that utilizes some heavy equipment and machinery is unacceptable to us for 2 primary reasons: 1) it creates a potentially unsafe environment for children and pedestrians, and 2) it has a high likelihood of negatively impacting the home values in the entire neighborhood of approximately 20 homes.

We have three young children and feel that the increased traffic flow from a construction business in a small subdivision with only cul-de-sacs and no traffic control would be dangerous. Our subdivision has no stop, yield, or right of way signs and adding large construction and employee vehicles to the now minimal traffic flow could pose safety issues as there are no sidewalks and very little shoulder on these black top roads. We also think that vehicles parked along the street could pose other safety hazards for walkers, bikers, other passing vehicles, or even emergency vehicles that need to pass.

Having a construction business operating out of our residential neighborhood could also negatively impact resale values of all homes in the neighborhood. The amount of noise from the vehicles coming and going at early hours is significant. The petitioner's home is located at a central point in the neighborhood that requires everyone entering and leaving the neighborhood to pass directly by the property. The eyesore of parked vehicles, construction vehicles, construction materials, port-a-potties, etc., is clearly prohibited in our covenants and creates an undesirable setting for prospective homebuyers.

We feel it is also necessary to comment that the petitioner has apparently already constructed the proposed detached accessory structure, and has been using it for some time now to operate his business. This post facto request for a variance is apparently an attempt to prevent further action from being taken against the petitioner who may already be in violation of zoning restrictions and neighborhood covenants.

In summary, this rural subdivision is a quiet neighborhood where families with children feel safe to be outside. It is comprised of well-kept homes on 1-acre lots with lots of green grass, just a short walk away from Homer Lake. It is hard to even imagine basing and operating a commercial construction business smack dab in the middle of this neighborhood, but that is just what the petitioner is proposing to do. We strongly object to this variance from the current zoning ordinance.

Thank You for Your Consideration,



Duane and Nicole Setterdahl
1376 CR 2545 E
Ogden, IL 61859
217-582-2128

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APR 23 2009

CHAMPAIGN CO. P & Z DEPARTMENT

April 20, 2009

To Whom It May Concern:

I am writing in reference to Case # 637-V-08 (Harshbarger/Pickle Construction). I strongly urge you not to grant this request for multiple reasons. We specifically bought land and built our house in this subdivision so our kids could have the freedom to ride their bikes, etc. to a neighbor's house without concerns of traffic. If they are allowed to run their company out of their home- it will (and has been) a huge concern. They have very large equipment that often blocks the road. Several times the school bus has not been able to pass to pick up our kids. The equipment and trucks are large that kids riding bikes, etc. could easily not be seen. There have been issues in the past where multiple vehicles are parked alongside the road which created ruts in other people's yards. Yet another concern is the simple aesthetics. No one wants to look out their front window and see construction equipment and trucks. The requesting property sits on the corner in the subdivision that would affect everyone. They are basically in the middle of the subdivision- not on the edge where equipment could be hid. Their hours are typically quite long- starting early in the morning and running into the late evening so the traffic flow would be quite bothersome. They currently do not have enough shed space to hold all of the equipment so one of two things will happen- they will build an even bigger industrial looking shed and/or park equipment on the road which is dangerous and unsightly.

I am requesting that for safety and obvious personal reasons that this request be denied. I invite you out to our subdivision to take a firsthand look how a business run out of our subdivision would impact everyone in the subdivision.

Thank you for your time.

Sincerely,



Jim and Terri Rein
1361 CR 2545E
Ogden, IL 61859

RECEIVED

APR 23 2009

CHAMPAIGN POLICE DEPARTMENT

Date: 4/22/09

Re: Case No. 637-V-08

From: Jim and Nada Cagle
2547 CR 1375 N
Ogden, IL 61859

RECEIVED

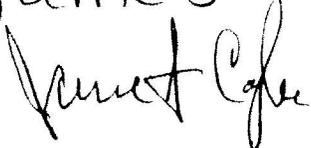
APR 23 2009

CHAMPAIGN CO. P & Z DEPARTMENT

We have concerns that allowing additional vehicles and equipment to be housed in a small residential neighborhood is a potential safety issue for the children, especially our twin boys who are eight years old.

Our property is just east of the residence in question and the large equipment and trucks already there have left many deep ruts in our yard/ditches, however, this is mild in comparison to our primary concern for safety of the children.

Thank you for your consideration when making your decision.

James Cagle and Nada Cagle
 

CASE NO. 644-V-09

PRELIMINARY MEMORANDUM

April 24, 2009

Petitioners: **Michael Wood**

Champaign
County
Department of



Site Area: **5.5 acres**

Time Schedule for Development:
N/A

Request: **Authorize the creation and use of a lot that is 5.5 acres in area on best prime farmland in lieu of the maximum allowed three acres on best prime farmland.**

Location: **A 5.5 acre tract in the West half of the West half of the Southwest quarter of the Southwest quarter of Section 19 of Pesotum Township and commonly known as the house at 202 CR 600E, Pesotum.**

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

Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

TEL: (217) 244-3708
FAX: (217) 248-2426

BACKGROUND

The petitioner wishes to acquire an additional 4.3 acres from his mother's farmland to encompass improvements that have been made around his house and to allow for future improvements. The petitioner constructed a pond and surrounding landscaping around his house before the maximum lot size requirement was added to the *Zoning Ordinance* on July 22, 2004. Land to the north of this landscaped area is currently in use as farmland, but is located in a wet area and is undesirable for farming. The petitioner proposes to include this land in the proposed lot for future construction of a storage shed as well as more landscaping.

EXTRATERRITORIAL JURISDICTION

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

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single Family Dwelling	AG-1 Agriculture
North	Single Family Dwelling	AG-1 Agriculture
East	Farmland	AG-1 Agriculture
West	Farmland	AG-1 Agriculture
South	Farmstead	AG-1 Agriculture

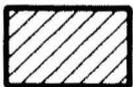
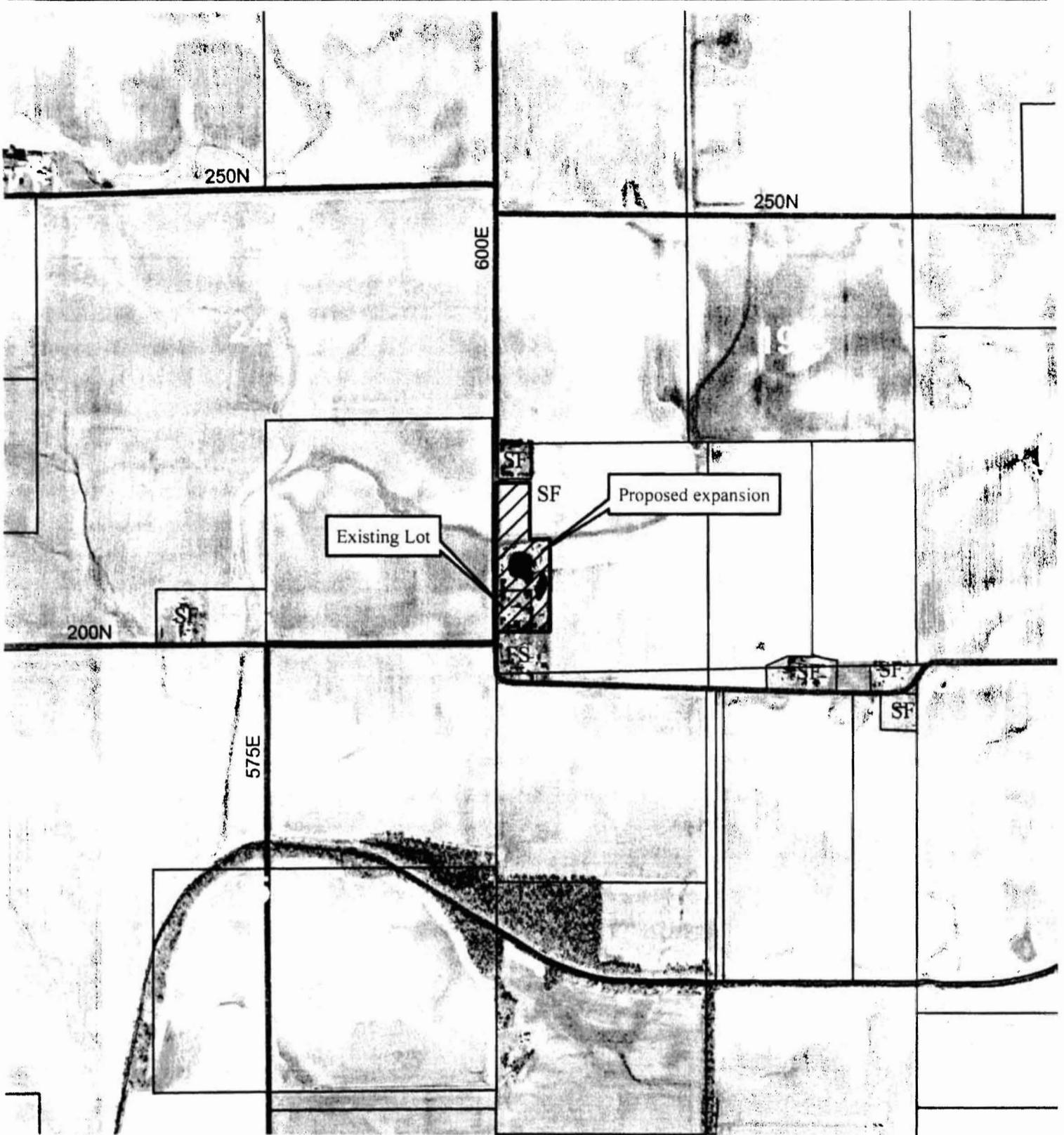
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B HDC Engineering Exhibit – Wood Property received on March 12, 2009
- C Excerpt of Champaign County Soil Survey
- D Draft Summary of Evidence for Case 644-V-09

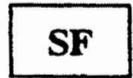
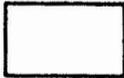
ATTACHMENT A. LAND USE MAP

Case 644-V-09

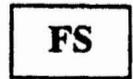
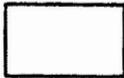
APRIL 24, 2009



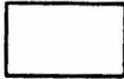
Area of Concern



Single Family



Farmstead



NORTH

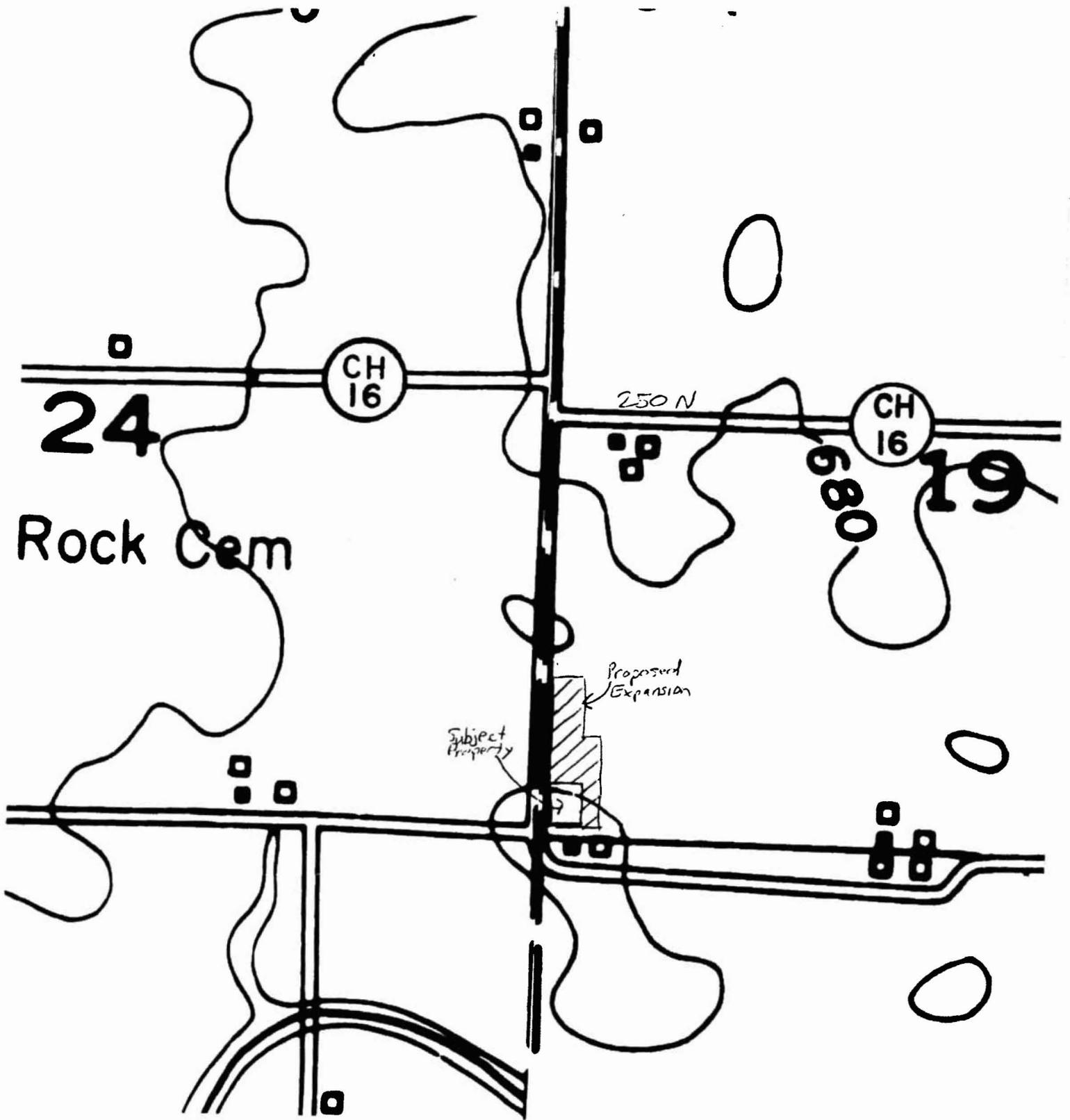
1 inch = 800 feet

Champaign
County
Department of
**PLANNING &
ZONING**

ATTACHMENT A. ZONING MAP

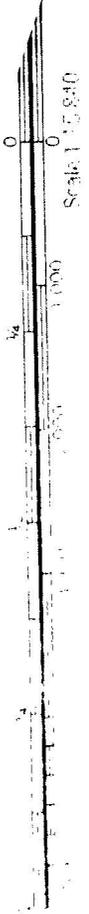
Case 644-V-08

APRIL 24, 2009



AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	NORTH
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation- Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry	

R T E I R S E



PRELIMINARY DRAFT

644-V-09

**FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

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

Date: April 24, 2009

Petitioners: Michael Wood

Request: Authorize the creation and use of a lot that is 5.5 acres in area on best prime farmland in lieu of the maximum allowed three acres on best prime farmland.

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 30, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Michael Wood, owns the existing 1.168 acres lot, and the petitioner's mother owns the farmland that will be used to expand the subject property.
2. The subject property is a 5.5 acre tract in the West half of the West half of the Southwest quarter of the Southwest quarter of Section 19 of Pesotum Township and commonly known as the house at 202 CR 600E, Pesotum.
3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning. Municipalities do not have protest rights in variance cases and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned AG-1 Agriculture, and is in use as a single family dwelling.
 - B. Land to the east and west is zoned AG-1 Agriculture and is in use as farmland.
 - C. Land to the north is zoned AG-1 Agriculture and is in use as a single family dwelling.
 - D. Land to the south is zoned AG-1 Agriculture and is in use as a farmstead.
-

PRELIMINARY DRAFT

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the proposed site plan, the existing lot is 1.168 acres in area and is proposed to be increased to 5.5 acres in area, as follows:
 - A. A pond and surrounding landscaped area that is approximately 2.7 acres in area is adjacent to the existing lot on the north and east sides. This area also includes a 33 feet wide strip on the south side of the property.
 - B. An approximately 1.7 acre area of land that is currently in use as farmland that is located north of the pond and landscaped area.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
 - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
 - (1) "AGRICULTURE" is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry and the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment form the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.
 - (2) "AREA, LOT" is the total area within the LOT LINES.
 - (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 DEPTH" is the distance between the midpoint of the FRONT LOT LINE and the midpoint of the REAR LOT LINE or LINES.
 - (5) "LOT LINES" are the lines bounding a LOT.
-

ITEM 6.A. CONTINUED.

- (6) "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.
- (7) "NONCONFORMING LOT, STRUCTURE, or USE" is a LOT, SIGN, STRUCTURE, or USE which does not conform to the regulations and standards of the DISTRICT in which it is located.
- (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.
- (9) "YARD" is an OPEN SPACE, other than a COURT, of uniform 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.

B. In the *Zoning Ordinance*, maximum lot size is restricted by Footnote 13 to Section 5.3 Schedule of Area, Height, & Placement Regulations by District, as follows:

The following maximum LOT AREA requirements apply in the CR, AG-1 and AG-2 DISTRICTS:

- (1) LOTS that meet all of the following criteria may not exceed a maximum LOT AREA of three acres:
 - (a) The LOT is RRO-exempt;
 - (b) The LOT has a Land Evaluation score greater than or equal to 85 on the County's *Land Evaluation and Site Assessment System*; and
 - (c) The LOT is created from a tract that had a LOT AREA greater than or equal to 12 acres as of January 1, 1998.
 - (2) LOTS that meet both of the following criteria may not exceed an average maximum LOT AREA of two acres:
 - (a) The LOT is located within a Rural Residential Overlay DISTRICT; and
 - (b) The LOT has a Land Evaluation score greater than or equal to 85 on the County's *Land Evaluation and Site Assessment System*.
 - (3) The following LOTS are exempt from the three-acre maximum LOT AREA requirement indicated in Paragraph A:
 - (a) A 'Remainder Area Lot'. A 'Remainder Area Lot' is that portion of a tract which existed as of January 1, 1998 and that is located outside the boundaries of a RRO-exempt LOT less than 35 acres in LOT AREA. No CONSTRUCTION or USE that requires a Zoning Use Permit shall be permitted on a 'Remainder Area Lot'.
-

ITEM 6.B.(3) CONTINUED.

- (b) Any LOT greater than 35 acres in LOT AREA.
- 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 9.1.9C. 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 9.1.9D.2.
- D. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

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 that, **“Most of the requested land is not being used for agriculture; it is landscaped with trees, pond, and grass. Some land floods in rainy season making it less productive for agriculture.”**
 - B. The existing pond and landscaped area is approximately 2.7 acres in area, and was created prior to Ordinance No. 726 (Zoning Case 444-AT-04), which was adopted on July 22, 2004, and added the maximum lot size requirement to the *Zoning Ordinance*.
-

ITEM 7. CONTINUED.

- C. The subject property is best prime farmland overall as it consists entirely of the following best prime farmland soils: Flanagan silt loam and Drummer silty clay loam both of which have a Relative Value of 85 or higher.
- D. The northern approximately 1.7 acres of land which is currently in use as farmland is problematic for modern farm equipment and is adjacent to a drainage way which makes it too wet for farming, and too wet to be used as a separate lot.

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 that, **“If restricted to no more than 3 acres, owner would not be able to incorporate all improvements completed around farmstead from 1984 to 2004.”**
 - B. A three acre tract is impractical because it would not contain all the improvements which were constructed before the maximum lot size requirement was in place.
 - C. The north part of the proposed lot which is currently in use as farmland is a difficult area to farm due to size and wetness. It also would not make a good separate lot due to the wetness of the soils.

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 that, **“Expanded landscaping on existing farmstead and created small pond.”**
 - B. The pond and landscaped area surrounding the existing lot were constructed prior to the maximum lot size requirements being adopted on July 22, 2004.
 - C. A drainage way runs along the south side of the north 1.7 acres of the proposed lot, which makes that area too wet for farming.

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:
-

ITEM 10. CONTINUED.

- A. The Petitioner has testified on the application that, **“1. Part of the land floods in the natural drainage way in the wet season and cannot be used for land structures. 2. Approximately 3.872 acres of land requested is not presently in agricultural use; it is a developed farmstead. Improvements were completed before July 22, 2004. 3. Actual land in agricultural use is about 1.513 acres out of the 5.72 acres.”**
- B. The subject property conforms to all other Zoning Requirements.
- C. The maximum lot size on best prime farmland requirement was first established by Ordinance No. 726 (Case 444-AT-04) on July 22, 2004. It was made permanent with Ordinance No. 773.
- D. The proposed lot area of approximately 5.5 acres is 183% of the required three acre maximum for a variance of 83%.
- E. The requested variances are not prohibited by the *Zoning Ordinance*.

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 that, **“All surrounding land is owned by mother; there is no protest from adjacent land owner. Drainage way is to be protected and improved with grass cover. Residential home use is not being considered for extra land. Want to use extra land for tree plantings, landscaping, and storage shed.”**
 - B. The Township Road Commissioner has received notice of this variance but no comments have been received.
 - C. The Drainage District has been notified of this variance but no comments have been received.
 - D. The Fire Protection District has been notified of this variance but no comments have been received.
 - 12. On the application the Petitioner has also testified that, **“One-acre tract North of property is not in conformance; will allow enough land South of one-acre tract (approximately 35.1 feet) to be conveyed and become within conformance of the ordinance if given the variance for the remainder.”**
-

DOCUMENTS OF RECORD

1. Application from Merle Ingersoll, received on January 26, 2009, with attachments:
 2. Preliminary Memorandum for Case 644-V-09, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B HDC Engineering Exhibit – Wood Property received on March 12, 2009
 - C Excerpt of Champaign County Soil Survey
 - D Draft Summary of Evidence for Case 644-V-09
-

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **644-V-09** held on **April 30, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: _____

 2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because: _____

 3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because: _____

 4. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}** in harmony with the general purpose and intent of the *Ordinance* because: _____

 5. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {WILL / WILL NOT}** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____

 6. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}** the minimum variation that will make possible the reasonable use of the land/structure because: _____

 7. **{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW;}**
-

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 of 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 **644-V-09** is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioner, **Michael Wood**, to authorize **the creation and use of a lot that is 5.5 acres in area on best prime farmland in lieu of the maximum allowed three acres on best prime farmland.**

{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:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals
Date
