

**CASE 843-V-16**  
*PRELIMINARY MEMORANDUM*  
AUGUST 18, 2016

Petitioner: **Chris Popovich**

Request: **Authorize the following Variances for an existing dwelling and existing garage in the R-1 Single Family Residence Zoning District:**

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

(217) 384-3708  
zoningdept@co.champaign.il.us  
www.co.champaign.il.us/zoning

**Part A: An existing dwelling with a setback of 47 feet in lieu of 55 feet from the street centerline of Robin Road and a front yard of 19 feet in lieu of the minimum required 25 feet, as per Section 5.3 of the Zoning Ordinance; and**

**Part B: Lot coverage of 34.2% in lieu of the maximum allowed 30%, as per Section 5.3 of the Zoning Ordinance; and**

**Part C: Large landscaping (bunker) blocks and earth fill that occupy 3 feet 4 inches of a 10 feet wide utility and drainage easement in lieu of the requirement that no construction shall take place in a recorded utility and drainage easement.**

Subject Property: **Lot 68 in Rolling Hills Estates IV Subdivision that is in the Northeast Quarter of the Northwest Quarter of Section 12, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township and commonly known as the residence at 2302 Robin Road, Mahomet.**

Site Area: **11,000 square feet (0.25 acre)**

Time Schedule for Development: **Existing and in use**

Prepared by: **Susan Chavarria**  
Senior Planner

**John Hall**  
Zoning Administrator

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## **BACKGROUND**

After acquiring the property in 2007, the petitioner added a rear room addition by spring of 2008 and a front porch addition by spring of 2014, and thereafter added a large (32 feet by 30 feet) addition to the garage, all without Zoning Use Permits. Front yard, setback from street centerline, and lot coverage requirements are all non-compliant with the Zoning Ordinance because of these unauthorized additions.

The petitioner also constructed a fill area for a garage roof drainage system behind the detached garage using 2,000 pound bunker blocks that extend into a utility and drainage easement. The Zoning Administrator has determined that the bunker blocks, which require special machinery to move, are considered significant construction and thus require a variance for being located within the easement.

The petitioner has now filled out the necessary permit application to include all additions and has paid the corresponding fees. Permit approvals are contingent upon approval of the three requested variances in this case.

**EXTRATERRITORIAL JURISDICTION**

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

The subject property is located within 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	Single family residence	AG-1 Agriculture
North	Multi-family residential under construction	Village of Mahomet Zoning
East	Single family residence	R-1 Single Family Residence
West	Single family residence	R-1 Single Family Residence
South	Single family residence	R-1 Single Family Residence

**SUPPORT FROM NEIGHBORS**

The petitioner spoke with adjacent neighbors and asked for their signatures if they had no objection to the additions done at 2302 Robin Road. Neighbors from the 2 homes to the west, 2 homes to the south, and one home to the east all signed that they had no objections.

**PROPOSED SPECIAL CONDITION**

- A. Regarding the bunker blocks and fill that are the subjects of Part C of the variance: **Upon written request of any utility with an interest in using the utility and drainage easement, the owner shall be responsible for the full cost of removing the bunker block and fill, and refusing to remove the bunker block and fill shall be considered a violation of the Zoning Ordinance.**

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

**To ensure that utility companies have appropriate access to their easements.**

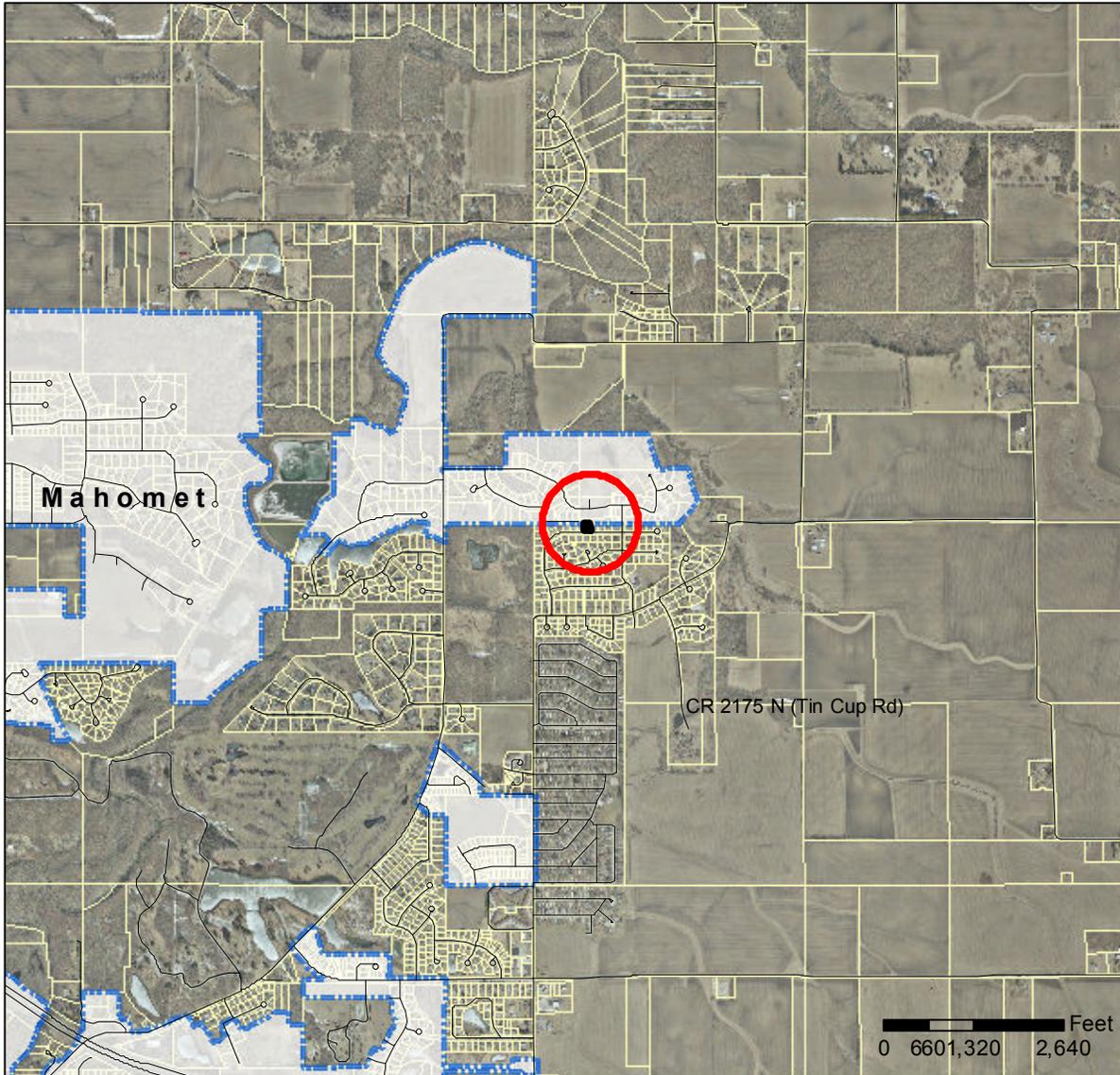
**ATTACHMENTS**

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received May 16, 2016
- C Site Plan from ZUPA #188-92-01 received July 6, 1992
- D Plat of Survey for Rolling Hills Estates IV recorded June 6, 1979
- E Neighbor support signature page received May 31, 2016
- F Images of Subject Property taken June 20 and July 29, 2016
- G Draft Summary of Evidence, Finding of Fact, and Final Determination dated August 18, 2016

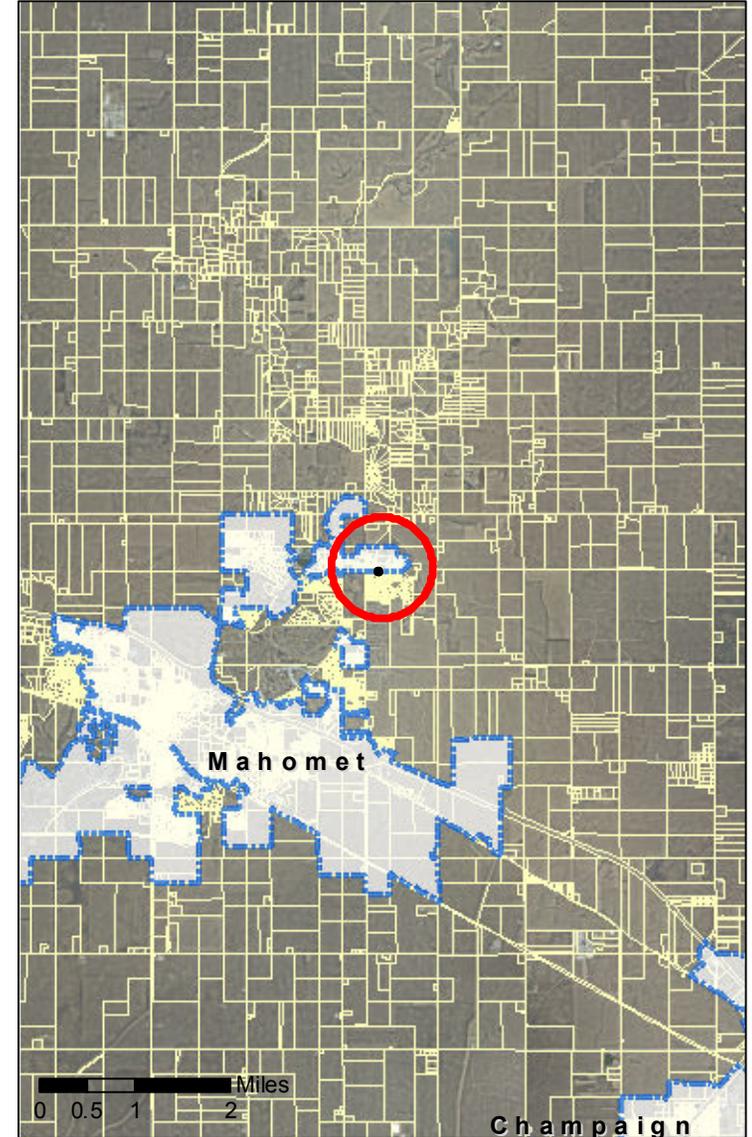
# Location Map

Case 843-V-16  
August 25, 2016

Subject Property



Property location in Champaign County



## Legend

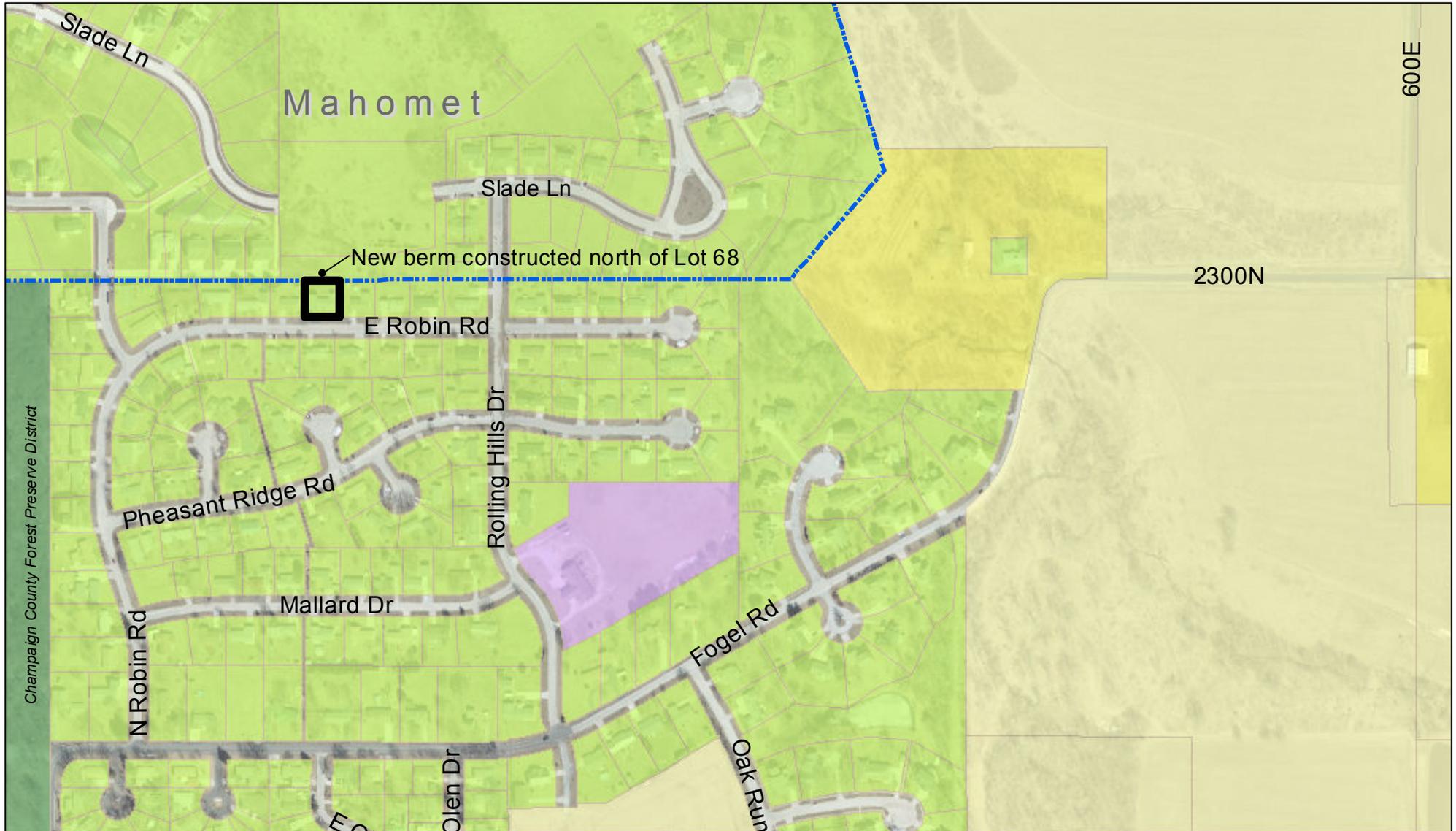
-  Subject Property
-  Municipal Boundary
-  Parcels



Champaign County  
Department of  
PLANNING &  
ZONING

# Land Use Map

Case 843-V-16  
August 25, 2016



## Legend

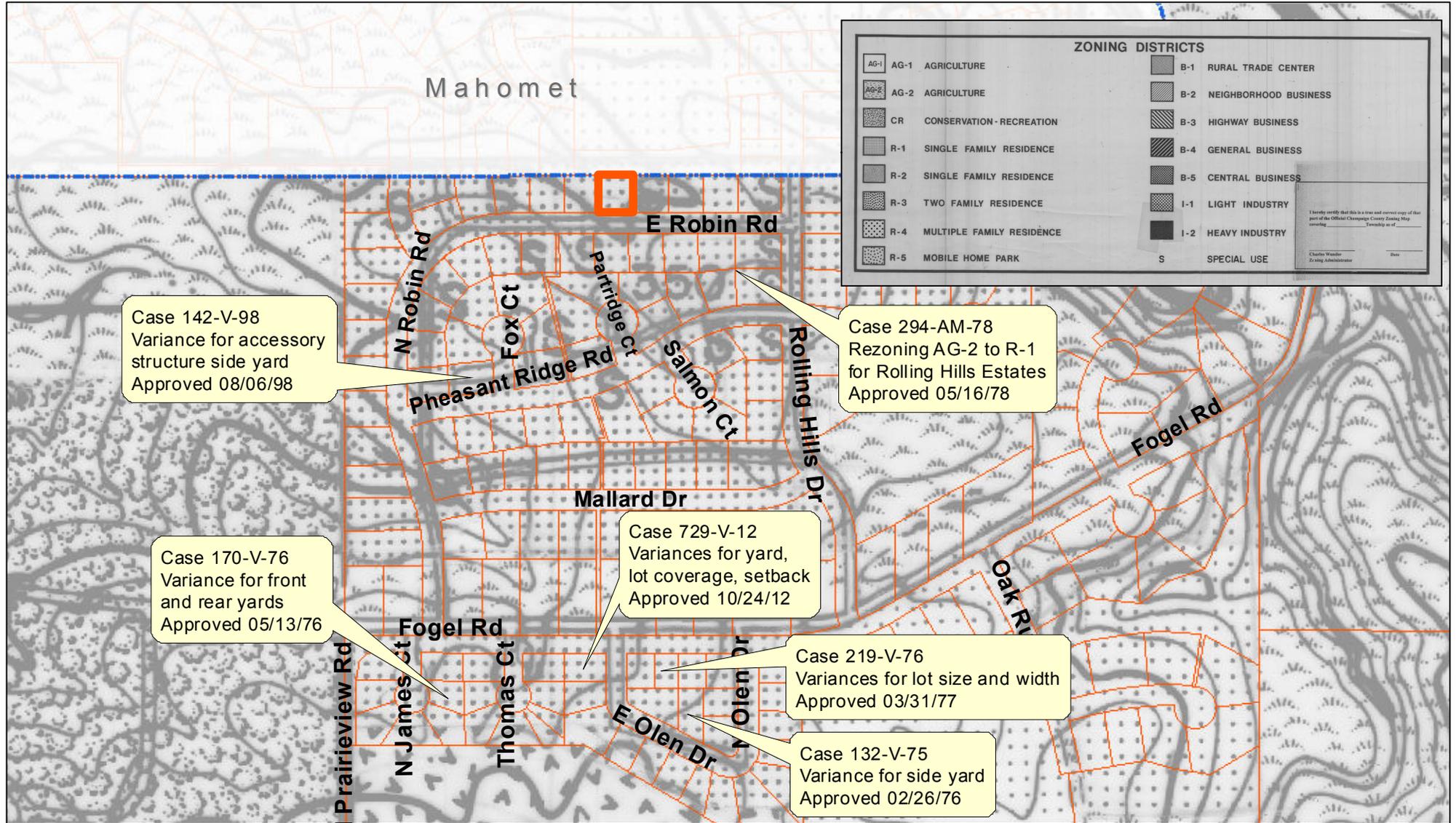
- Subject Property
- Municipal Boundary
- Parcels
- Residential
- Ag/Single Family
- Agriculture
- Forest Preserve
- Church

0 100 200 400 Feet

Champaign County  
Department of  
PLANNING &  
ZONING

# Zoning Map

Case 843-V-16  
August 25, 2016



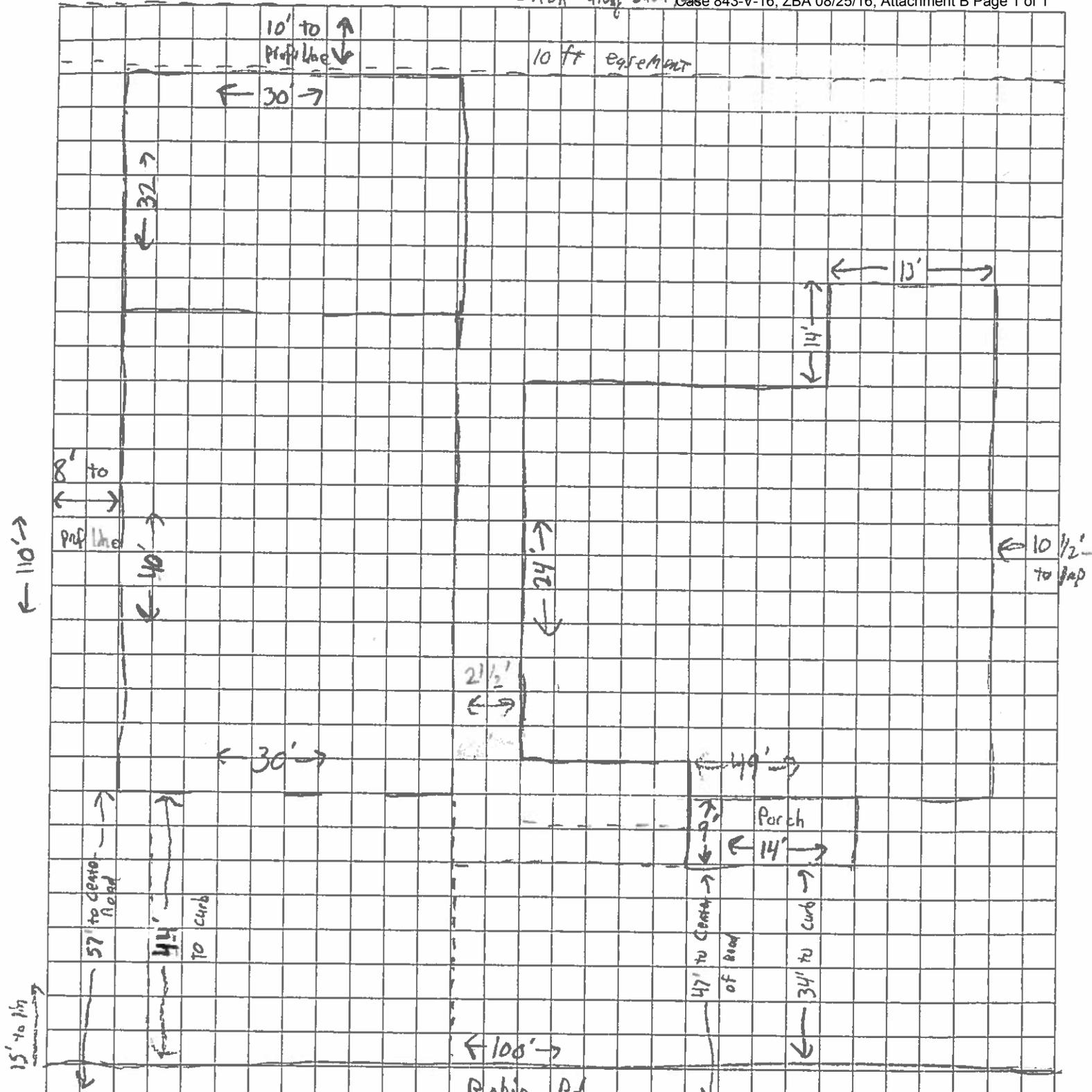
**Legend**

- Subject Property
- Parcels



Champaign County  
Department of  
**PLANNING &  
ZONING**

← "Ditch" along Back road →



Check which applies:

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

Date Received:

North Arrow:

Approval (Office Use Only):

Permit Application No. \_\_\_\_\_

Applicant Name: \_\_\_\_\_

RECEIVED

MAY 16 2016

CHAMPAIGN CO. P & Z DEPARTMENT

**PROPOSED USE:**  
**RESIDENTIAL**

- One family
- Two or more family -  
enter number of units \_\_\_\_\_
- Transient hotel, Motel, or  
dormitory -  
enter number of units \_\_\_\_\_
- Garage - attached
- Garage - detached
- Carport
- Other - specify \_\_\_\_\_
- BASEMENT: \_\_\_\_\_

**NONRESIDENTIAL**

- Amusement, recreational
- Church, other religious
- Parking garage
- Service station, repair garage
- Hospital, institutional
- Office, bank, professional
- Public utility
- School, library, other educational
- Stores, Mercantile
- Towers, tanks
- Other - specify \_\_\_\_\_

**6. SPECIFICATIONS AND PLANS: READ CAREFULLY BEFORE FILLING IN**

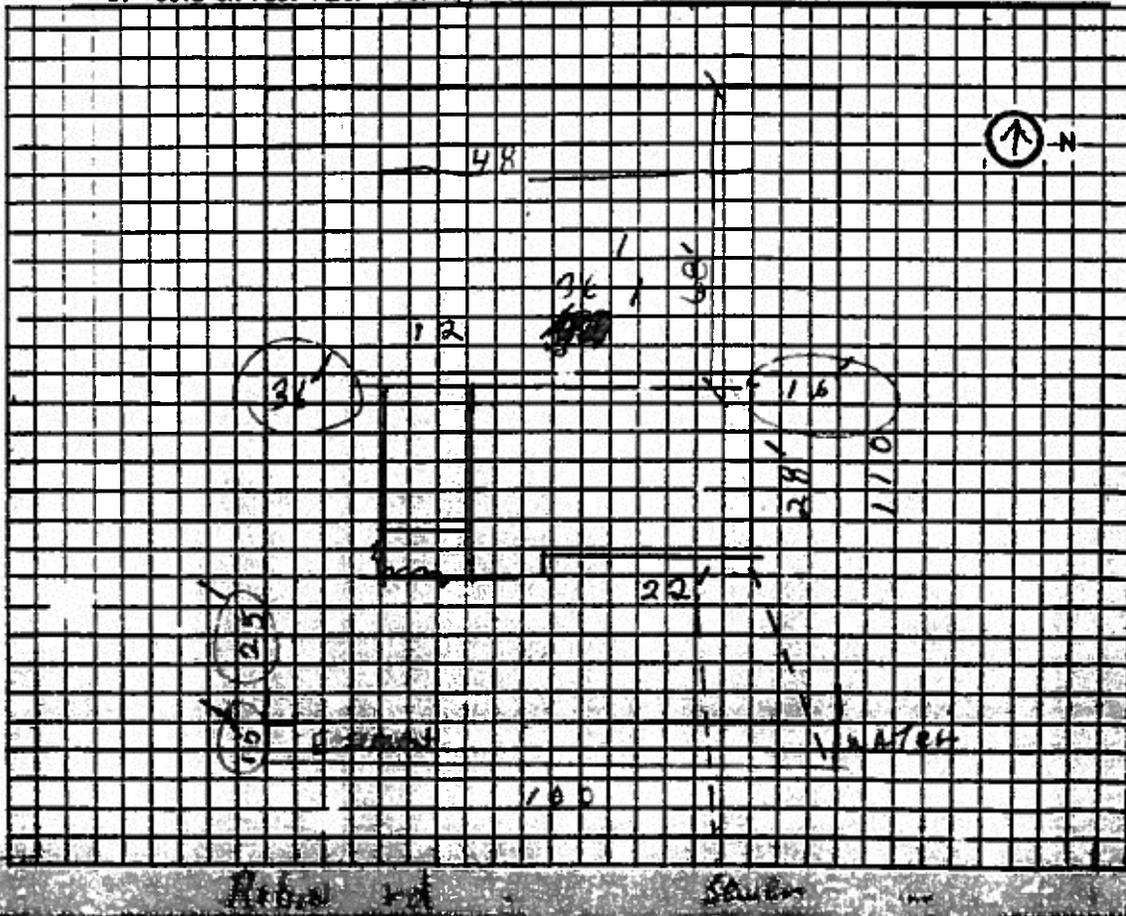
**A. SPECIFICATIONS:** For each building, structure, or use (existing and proposed) identified on the plat (See below) give the following information, if applicable:

Structure	Height in feet	No. of stories	No. of Dwelling Units	Area in Square Feet	No. of Parking Spaces	Source of Water Supply	Means of Disposal
Existing							
2.5 Acre Lot							
Proposed House	13'	1		1008	TWO	CITY	CITY

**\*\*\*\*THE FOLLOWING INFORMATION MUST BE PROVIDED\*\*\*\***

- B. PLANS:** (A plat drawn to scale is attached and shows the following):
- (1) Actual shape and size of lot or property,
  - (2) Location, ground area, dimensions, and identification of use of all (existing and proposed) buildings, structure, driveways, parking areas,
  - (3) Dimensions of front, side and rear yards.
  - (4) Location of well (if any).
  - (5) Scale drawing of septic or private sewage disposal system.
- \*\* Include a copy of any permits from other agencies. (e.g. Environmental Protection Agency) which may be required to approve these facilities.

**B. SITE OR PLOT PLAN - For Applicant Use**





I HAVE NO OBJECTIONS WITH THE ADDITIONS THE  
POPOVICH'S HAVE DONE TO THEIR PROPERTY AT 2302  
ROBIN ROAD MAHOMET, IL.

CARLA KILIAN 2304 ROBIN RD, 5-19-16

Jennifer Farn 2205 Robin Rd 5-19-16,

Corey Burton 2116 Robin Rd 05/19/16

Rebecca S Rank 2203 E Robin Rd 5-23-16

Robert S. Rank 2114 Robin Rd 5-26-16

RECEIVED

MAY 31 2016

CHAMPAIGN CO. P & Z DEPARTMENT



**Subject property including front porch addition, from Robin Road facing north**



**Detached garage from Robin Road facing north**



**Detached garage addition on north side of house, from east facing west**



**Rear yard, including back room addition (on left), from NE facing SW**



**Bunker blocks and fill on north side of detached garage addition, from west facing east**



**Bunker blocks and fill on north side of detached garage addition, from east facing west**

**PRELIMINARY DRAFT**

**843-V-16**

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

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

Date: *{August 25, 2016}*

Petitioner: Chris Popovich

Request: Authorize the following Variances for an existing dwelling and existing garage in the R-1 Single Family Residence Zoning District:

Part A: An existing dwelling with a setback of 47 feet in lieu of 55 feet from the street centerline of Robin Road and a front yard of 19 feet in lieu of the minimum required 25 feet, as per Section 5.3 of the Zoning Ordinance; and

Part B: Lot coverage of 34.2% in lieu of the maximum allowed 30%, as per Section 5.3 of the Zoning Ordinance.

Part C: Large landscaping (bunker) blocks and earth fill that occupy 3 feet 4 inches of a 10 feet wide utility and drainage easement in lieu of the requirement that no construction shall take place in a recorded utility and drainage easement.

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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 **August 25, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Chris Popovich owns the subject property.
2. The subject property is the 11,000 square feet Lot 68 in Rolling Hills Estates IV Subdivision that is in the Northeast Quarter of the Northwest Quarter of Section 12, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township and commonly known as the residence at 2302 Robin Road, Mahomet.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
  - A. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights on a variance and generally are not notified of such cases.
  - B. The subject property is located within 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 subject property is a 11,000 square feet (0.25 acre) lot and is currently zoned R-1 Single Family Residence. Land use is a single family residence.
  - B. Properties to the south, east and west are zoned R-1 Single Family Residence and are residential in use.
  - C. Properties to the north are within the Village of Mahomet and are multi-family residences under construction.

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

5. Regarding the site plan for the subject property:
  - A. The Petitioner's Site Plan, received May 16, 2016, indicates the following:
    - (1) Existing features on the subject property consist of the following:
      - a. One 1,604 square feet residence;
      - b. One 72 feet by 30 feet detached garage;
      - c. A 10 feet wide easement on the north property line.
    - (2) There are no proposed improvement plans.
  - B. The petitioner has applied for ZUPA# 104-16-01 for post-construction approval of an addition to the 30 feet by 40 feet detached garage constructed under ZUPA# 63-00-01. The

**PRELIMINARY DRAFT**

permit also seeks to include post-construction approval for two additions to the residence constructed under ZUPA# 188-92-01. The petitioner has paid all fees for the application, which can be approved if and when the current variance case is approved.

- C. The following are previous Zoning Use Permits for the subject property:
- (1) ZUPA# 216-97-02 was approved on August 5, 1997, for construction of a 16 feet by 16 feet detached shed located where the new addition to the detached garage was built.
  - (2) ZUPA# 63-00-01 was approved on March 14, 2000, for construction of a 30 feet by 40 feet detached garage that is the front portion of the current detached garage.
  - (3) ZUPA# 188-92-01 was approved on July 6, 1992, for construction of what was described as a 1,008 square feet single family residence but what was actually 1,296 square feet in retrospect.
- D. There are no prior Zoning Cases for the subject property.
- E. The required variance is as follows:
- (1) Part A: An existing dwelling with a setback of 47 feet in lieu of 55 feet from the street centerline of Robin Road and a front yard of 19 feet in lieu of the minimum required 25 feet, as per Section 5.3 of the Zoning Ordinance; and
  - (2) Part B: Lot coverage of 34.2% in lieu of the maximum allowed 30%, as per Section 5.3 of the Zoning Ordinance; and
  - (3) Part C: Large landscaping (bunker) blocks and earth fill that occupy 3 feet 4 inches of a 10 feet wide utility and drainage easement in lieu of the requirement that no construction shall take place in a recorded utility and drainage easement.

**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) "ALTERATION" is any change in the bearing walls, columns, beams, girders, or supporting members of a STRUCTURE, any change or rearrangement in the floor area of a BUILDING, any enlargement of a STRUCTURE whether by extending horizontally or by increasing in HEIGHT, and/or any movement of a STRUCTURE from one location or position to another.

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- (3) “AREA, BUILDING” is the total area taken on a horizontal plane at the largest floor level of the MAIN or PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and nonpermanent CANOPIES and planters.
- (4) “AREA, LOT” is the total area within the LOT LINES.
- (5) “BUILDING, DETACHED” is a BUILDING having no walls in common with other BUILDINGS.
- (6) “COVERAGE” is the percentage of the LOT AREA covered by the BUILDING AREA.
- (7) “DWELLING” is a BUILDING or MANUFACTURED HOME designated for non-transient residential living purposes and containing one or more DWELLING UNITS and/or LODGING UNITS.
- (8) “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.
- (9) “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.
- (10) “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.
- (11) “RIGHT-OF-WAY” is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
- (12) “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.
- (13) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (14) “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

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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.
- (15) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
- (16) “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.
- (17) “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.
- (18) “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.
- (19) “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.
- (20) “YARD, SIDE” is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. The R-1, Single Family Residence DISTRICT is intended to provide areas for single FAMILY detached DWELLINGS, set on LOTS and is intended for application in mainly non-urban and developing areas where community facilities can be made readily available.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:

**PRELIMINARY DRAFT**

- a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
  - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
  - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
  - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
  - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Regarding Part A of the proposed variance:
- (1) Minimum setback from the centerline of a local street to the proposed structure in the R-1 District is established in Section 4.3.2. of the Zoning Ordinance as 55 feet.
  - (2) Minimum front yard from the street right of way to the proposed structure in the R-1 District is established in Section 4.3.2. of the Zoning Ordinance as 25 feet.
- E. Regarding Part B of the proposed variance, maximum lot coverage in the R-1 District is 30%.
- F. Regarding Part C of the proposed variance, Section 4.2.2.D states that no USE shall be established, CONSTRUCTION undertaken, nor fill placed in any recorded drainage or utility easement that would interfere with the function of the easement.

**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, **“Due to the house being constructed before I bought it at the minimum yard requirement prevents me from constructing a porch to keep visitors dry and out of the weather.”**
  - B. The Plat of Survey for Rolling Hills Estates IV, recorded June 6, 1979, shows a 10 feet wide utility and drainage easement along the north lot line of Lot 68.
  - C. The unauthorized garage addition was constructed to the edge of the utility and drainage easement.

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- D. A berm has recently been constructed north of Lot 68 and changed the drainage, which has resulted in an even greater need to minimize encroachment into the existing drainage and utility easement.

**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, **“Because we don’t have a basement and our home being only 1500 square feet, we needed more room for storage and for kids to play on rainy and wintery days.”**
- B. Regarding Part A of the proposed variance, for an existing dwelling with a setback of 47 feet in lieu of 55 feet from the street centerline of Robin Road and a front yard of 19 feet in lieu of the minimum required 25 feet: without the proposed variance, the front porch would have to be removed.
- C. Regarding Part B of the proposed variance for lot coverage of 34.2% in lieu of the maximum allowed 30%: without the proposed variance, at least 462 square feet would need to be removed from the existing buildings.
- D. Regarding Part C of the proposed variance, for large landscaping (bunker) blocks and earth fill that occupy 3 feet 4 inches of a 10 feet wide utility and drainage easement in lieu of the requirement that no construction shall take place in a recorded utility and drainage easement:
- (1) Without the proposed variance, the Petitioner would need to remove the bunker blocks and fill, which would make the slope behind the garage too steep to mow, according to a verbal statement by the Petitioner to the Zoning Administrator.
  - (2) The height of the soil at the garage foundation is approximately 21 inches above the grade at the base of the bunker block. If there were no bunker block retaining wall and the soil were graded with a slope of 3 horizontal units to one vertical unit (the steepest slope recommended for safe mowing), the slope would extend at least five-and-one-half feet from the garage foundation which would be a greater encroachment into the drainage and utility easement.
  - (3) Depending on the depth of the garage footing and the type of footing, the garage foundation wall could simply be left exposed, which would not require any encroachment into the drainage and utility easement, but no information has been provided regarding the depth of the garage footing or the type of foundation.

**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:

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- A. The Petitioner has testified on the application, **“I had two different contractors tell me that I did not need to obtain a building permit.”**

**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, **“Granting the variance would bring the lot into conformance.”**
- B. Regarding Part A of the proposed variance, for an existing dwelling with a setback of 47 feet in lieu of 55 feet from the street centerline of Robin Road and a front yard of 19 feet in lieu of the minimum required 25 feet: the requested variance for the setback is 85% of the minimum required, for a variance of 15%; the requested variance for the front yard is 76% of the minimum required, for a variance of 24%.
- C. Regarding Part B of the proposed variance for lot coverage of 34.2% in lieu of the maximum allowed 30%: the requested variance is 14% greater than the maximum allowed, for a variance of 14%.
- D. Regarding Part C of the proposed variance, for large landscaping (bunker) blocks and earth fill that occupy 3 feet 4 inches of a 10 feet wide utility and drainage easement in lieu of the requirement that no construction shall take place in a recorded utility and drainage easement: the requested variance is 100%.
- E. Regarding Part A of the proposed variance for front yard and setback: the Zoning Ordinance does not clearly state the considerations that underlie the minimum setback requirements and front yard requirements. Presumably the setback from street centerline and front yard minimum is intended to ensure the following:
- (1) Adequate separation from roads.
  - (2) Allow adequate area for road expansion and right-of-way acquisition.
  - (3) Parking, where applicable.
  - (4) There are no known developments or road improvements that would trigger road expansion or additional right-of-way needs.
- F. Regarding Part B of the proposed variance for lot coverage, presumably the maximum lot coverage requirements are intended to allow for considerations such as adequate light, recreational areas, and areas for septic systems.
- (1) The subject property is connected to both public water and public sewer.
- G. Regarding Part C of the proposed variance, for construction in a recorded utility and drainage easement:
- (1) The prohibition on construction in drainage easements and utility easements in paragraph 4.2.2 D. were added to the Zoning Ordinance in Ordinance No. 544

**PRELIMINARY DRAFT**

(Case 105-AT-97 Part D) that was adopted on November 18, 1997. The evidence, testimony, and Finding of Fact for Case 105-AT-97 Part D merely discussed that the amendment gave the Zoning Administrator the authority to prevent construction in these areas where construction is not supposed to occur.

- H. Regarding the relative size of the detached accessory building (the garage) as compared to the size of the principal building (the dwelling):
- (1) The Zoning Ordinance definition of “accessory building” states that an accessory building shall be “...subordinate to and used for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.”
  - (2) The Zoning Ordinance does not require an accessory building to have a smaller area than the dwelling. The subject garage is 2,160 square feet in area compared to the dwelling that is 1,604 square feet in area.
  - (3) No information has been provided regarding the interior of the subject garage except that the 32 feet by 30 feet addition is separate from the rest of the garage interior.

***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: **“No neighbors have expressed any concerns about the additions to our property. They have actually complimented us on all of the updates and additions to the house.”**
  - B. The Mahomet Township Plan Commission has been notified of this variance, but no comments have been received.
  - C. The Township Road Commissioner has been notified of this variance, but no comments have been received.
  - D. The Cornbelt Fire Protection District has been notified of this variance, but no comments have been received.
  - E. The nearest structure on adjacent property to the subject property is a residence about 18 feet away from the petitioner’s garage.
  - F. The petitioner spoke with adjacent neighbors and asked for their signatures if they had no objection to the additions done on the subject property. Neighbors from the 2 homes to the west, 2 homes to the south, and one home to the east all signed that they had no objections.

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

12. Generally regarding and other circumstances which justify the Variance:
- A. The Petitioner did not provide a response to this question on the variance application.

**PRELIMINARY DRAFT**

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

13. Regarding proposed special conditions of approval:

- A. Regarding the bunker blocks and fill that are the subjects of Part C of the variance:  
**Upon written request of any utility with an interest in using the utility and drainage easement, the owner shall be responsible for the full cost of removing the bunker block and fill and refusing to remove the bunker block and fill shall be considered a violation of the Zoning Ordinance.**

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

**To ensure that utility companies have appropriate access to their easements.**

**PRELIMINARY DRAFT****DOCUMENTS OF RECORD**

1. Variance Application received on May 16, 2016, with attachment:
  - A Site Plan received May 16, 2016
2. Case File for Zoning Use Permit Application #188-92-01
3. Case File for Zoning Use Permit Application #216-97-02
4. Case File for Zoning Use Permit Application # 63-00-01
5. Neighbor support signature page received May 31, 2016
6. Preliminary Memorandum dated August 18, 2016 with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan received May 16, 2016
  - C Site Plan from ZUPA #188-92-01 received July 6, 1992
  - D Plat of Survey for Rolling Hills Estates IV recorded June 6, 1979
  - E Neighbor support signature page received May 31, 2016
  - F Images of Subject Property taken June 20 and July 29, 2016
  - G Draft Summary of Evidence, Finding of Fact, and Final Determination dated August 18, 2016

**PRELIMINARY DRAFT**

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **843-V-16** held on **August 25, 2016**, 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 FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***
  - A. Regarding the bunker blocks and fill that are the subjects of Part C of the variance:  
**Upon written request of any utility with an interest in using the utility and drainage easement, the owner shall be responsible for the full cost of removing the bunker block and fill and refusing to remove the bunker block and fill shall be considered a violation of the Zoning Ordinance.**

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

**To ensure that utility companies have appropriate access to their easements.**

**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 Variances requested in Case **843-V-16** are hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner **Chris Popovich** to authorize the following variances for an existing dwelling and existing garage in the R-1 Single Family Residence Zoning District:

Part A: An existing dwelling with a setback of 47 feet in lieu of 55 feet from the street centerline of Robin Road and a front yard of 19 feet in lieu of the minimum required 25 feet, as per Section 5.3 of the Zoning Ordinance; and

Part B: Lot coverage of 34.2% in lieu of the maximum allowed 30%, as per Section 5.3 of the Zoning Ordinance; and

Part C: Large landscaping (bunker) blocks and earth fill that occupy 3 feet 4 inches of a 10 feet wide utility and drainage easement in lieu of the requirement that no construction shall take place in a recorded utility and drainage easement.

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

- A. Regarding the bunker blocks and fill that are the subjects of Part C of the variance: **Upon written request of any utility with an interest in using the utility and drainage easement, the owner shall be responsible for the full cost of removing the bunker block and fill and refusing to remove the bunker block and fill shall be considered a violation of the Zoning Ordinance.**

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

**To ensure that utility companies have appropriate access to their easements.**

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date