

**CASE 852-V-16**  
*PRELIMINARY MEMORANDUM*  
NOVEMBER 3, 2016

Petitioner: **Gary and Katherine Pierson**

Request: **Authorize the following variance from the Champaign County Zoning Ordinance in the AG-1 Agriculture Zoning District:**

**A proposed residential accessory building with a height of 20.25 feet in lieu of the maximum required height of 15 feet as per Section 5.3 of the Zoning Ordinance.**

Subject Property: **A tract of land located in the Northwest Quarter of the Northwest Quarter of Section 1, Township 20 North, Range 8 East of the Third Principal Meridian in Hensley Township, and commonly known as the residence at 1105 CR 2400N, Champaign.**

Site Area: **0.48 acres**

Time Schedule for Development: **Construction underway**

Prepared by: **Susan Chavarria**  
Senior Planner

**John Hall**  
Zoning Administrator

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## **BACKGROUND**

Petitioners Gary and Katherine Pierson started constructing a treehouse for their children without a Zoning Use Permit. Staff sent them a Zoning Use Permit application, which was returned the same day with a site plan and fees paid. The petitioners stated on their application that they were not aware of the height limitations for their lot size.

As per Section 3.0 of the Zoning Ordinance, height for a building is calculated as the vertical measurement from grade to a point midway between the highest and lowest points of the roof.

The maximum height for a residential ACCESSORY BUILDING in the AG-1 Agriculture District is established in Section 5.3, Footnote 4 of the Zoning Ordinance as 15 feet on lots less than one acre in area, and 24 feet on lots one acre or more in area.

The 0.48 acre subject property is a non-conforming lot; the parcel was created on September 12, 1973, prior to the adoption of the Zoning Ordinance on October 10, 1973.

Two neighbors have submitted letters that state they have no objections to the treehouse. No other comments have been received.

**Case 852-V-16**

Gary and Katherine Pierson

November 3, 2016

**EXTRATERRITORIAL JURISDICTION**

The subject property is not within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning.

The subject property is located within Hensley Township, which does have 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	Agricultural production	AG-1 Agriculture
East	Single family residence	AG-1 Agriculture
West	Single family residence	AG-1 Agriculture
South	Single family residence	AG-1 Agriculture

**PROPOSED SPECIAL CONDITIONS**

There are no proposed special conditions.

**ATTACHMENTS**

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received July 5, 2016
- C Letter from neighbor Nancy Griffet received August 29, 2016
- D Letter from Steve and Sharon Shepherd received August 29, 2016
- E Images of Subject Property taken September 26, 2016
- F Draft Summary of Evidence, Finding of Fact, and Final Determination dated November 10, 2016

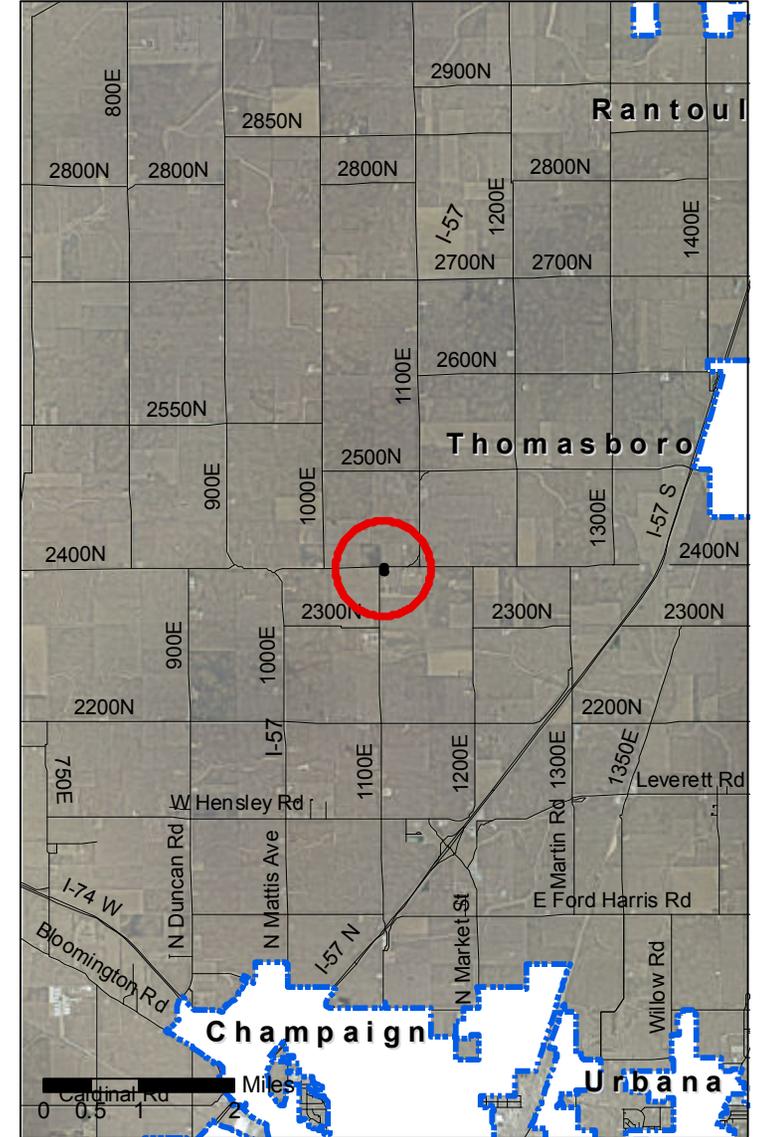
# Location Map

Case 852-V-16  
November 10, 2016

Subject Property



Property location in Champaign County



## Legend

-  Subject Property
-  Streets
-  Municipal Boundary
-  Parcels



Champaign County  
Department of  
PLANNING &  
ZONING

# Land Use Map

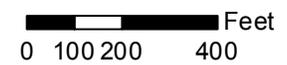
Case 852-V-16  
November 10, 2016



## Legend

-  Subject Property
-  Parcels

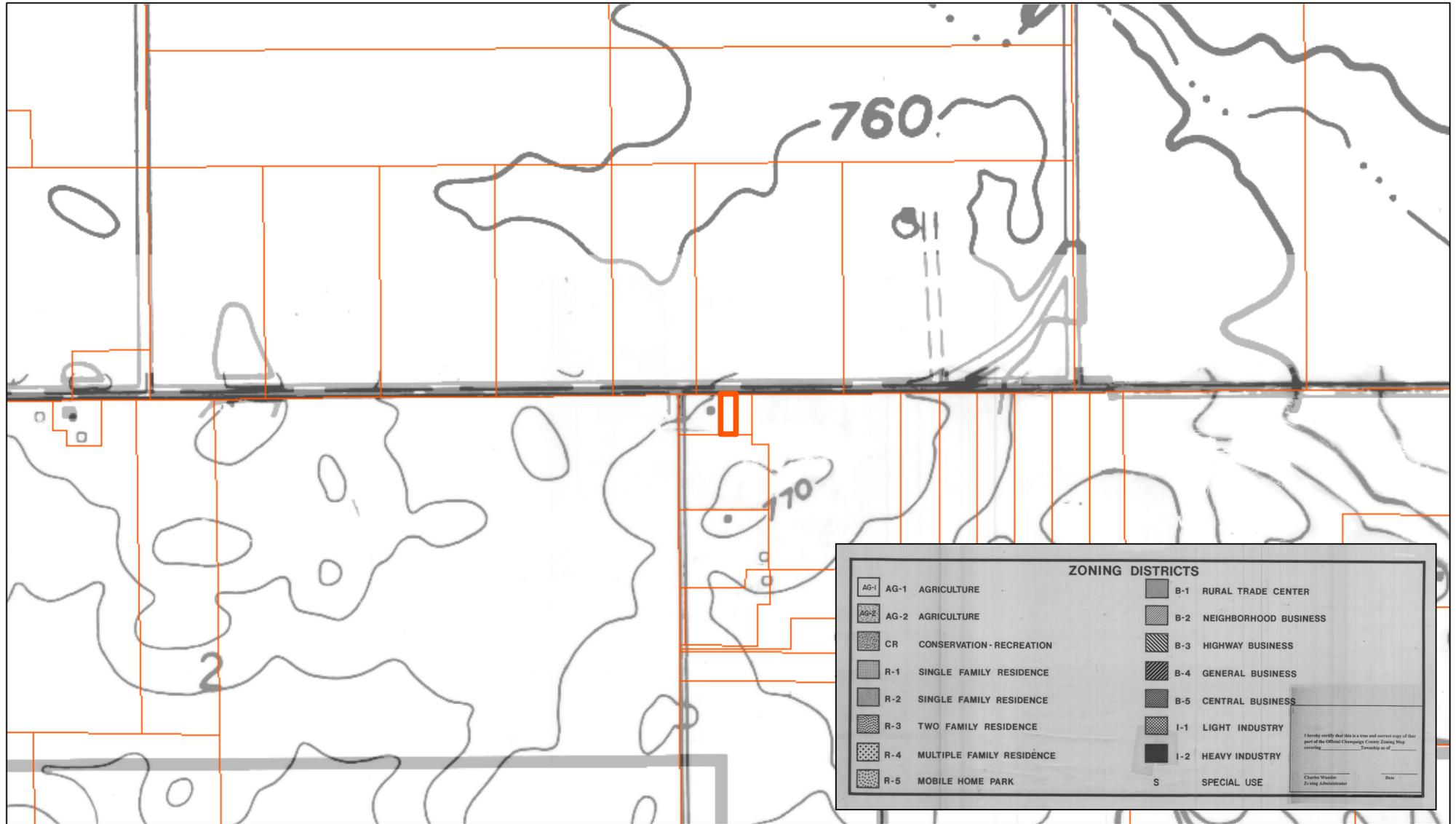
- SF Single Family Residential
- AG Agriculture



# Zoning Map

Case 852-V-16

November 10, 2016



## Legend

-  Subject Property
-  Parcels

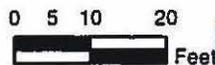
0 200 400 800 Feet





**DISCLAIMER**  
 This map was prepared by the Champaign County GIS Consortium (CCGIS) using the best available data. This map and its underlying data is intended to be used as a general index to land related information and is not intended for detailed, site-specific analysis. CCGISC does not warrant or guarantee the accuracy of this information for any purpose.

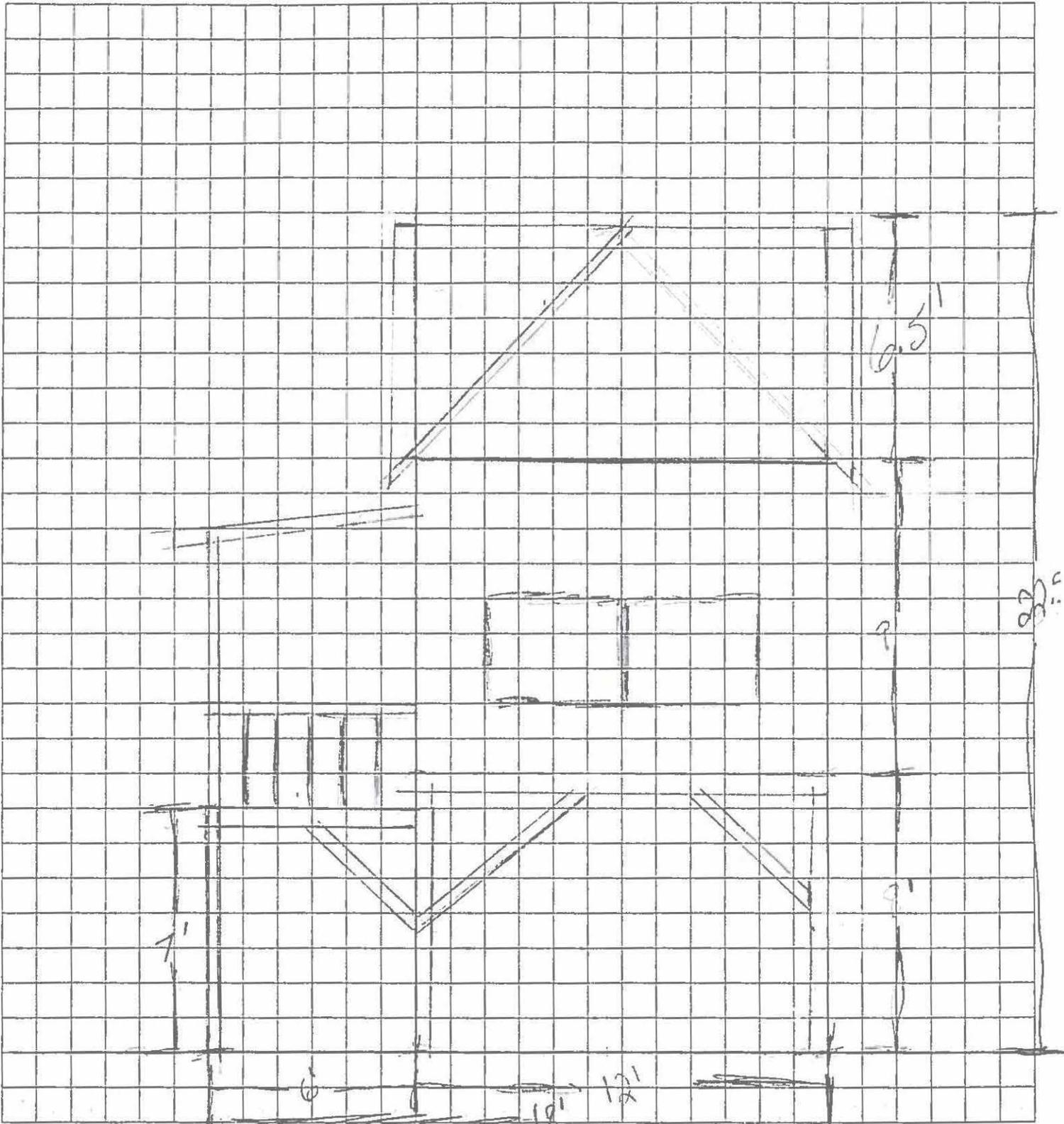
For questions regarding availability of geo-data or the CCGISC, -----



1 inch = 25 feet  
 1 inch = 0.5 miles

CHAMPAIGN CO. P & Z DEPARTMENT 2014

Map Data Provided By



Check which applies:

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

Date Received: 18

North Arrow:

Approval (Office Use Only):

RECEIVED

JUL 05 2016

Permit Application No.

Applicant Name:

Gary & Katherine Pierson

CHAMPAIGN CO. P & Z DEPARTMENT



A personal note concern.  
 To whom it may concern.  
 I live 2 doors down from  
 the Pearson's and I cannot see  
 the tree house from my house.  
 Its no problem for me that  
 they have one

Sincerely  
 Nancy Guffet  
 1109 CR 24th St  
 Champaign IL 61822

RECEIVED

AUG 29 2016

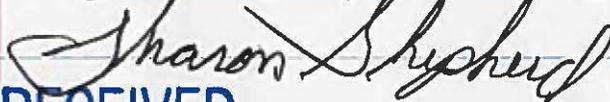
CHAMPAIGN CO. P & Z DEPARTMENT



As neighbors to the Piersons, we,  
Steve Shepherd and Sharon Shepherd,  
do not object to the new  
structure in the Piersons back  
yard.

We are the neighbors to the  
west of Gary and Katie Pierson.

2398 cr 1100 East  
Champaign, IL 61822

 (217) 722-7097  
 (217) 352-8711

RECEIVED

AUG 29 2016

CHAMPAIGN CO. P & Z DEPARTMENT

### 852-V-16 Site Images



**From east side of house facing southwest (front of treehouse)**



**From CR 1100E facing northeast (back of tree house)**

## 852-V-16 Site Images



**Photo provided by Petitioner –  
north side of structure**



**Photo provided by Petitioner –  
west side of structure**

**PRELIMINARY DRAFT**

**852-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: *{November 10, 2016}*

Petitioner: **Gary and Katherine Pierson**

Request: **Authorize the following variance from the Champaign County Zoning Ordinance in the AG-1 Agriculture Zoning District:**

**A proposed residential accessory building with a height of 20.25 feet in lieu of the maximum required height of 15 feet as per Section 5.3 of the Zoning Ordinance.**

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**Table of Contents**

**General Application Information..... 2**  
**Required Variance..... 3**  
**Specific Ordinance Requirements..... 3 - 5**  
**Variance Evidence ..... 5 - 7**  
**Documents of Record..... 8**  
**Case 852-V-16 Findings of Fact..... 9**  
**Case 852-V-16 Final Determination..... 10**

## **SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **November 10, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners, Gary and Katherine Pierson, own the subject property.
2. The subject property is a 0.48 acre tract in the Northwest Quarter of the Northwest Quarter of Section 1, Township 20 North, Range 8 East of the Third Principal Meridian in Hensley Township, and commonly known as the residence at 1105 CR 2400N, Champaign.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
  - A. The subject property is not within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of such cases.
  - B. The subject property is located within Hensley Township, which does have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

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

4. Land use and zoning on the subject property and in the vicinity are as follows:
  - A. The subject property is a 0.48 acre lot, currently zoned AG-1 Agriculture and is in use as a single family residence.
  - B. The subject property is a non-conforming lot; the parcel was created on September 12, 1973, prior to the adoption of the Zoning Ordinance on October 10, 1973.
  - C. Land to the north is zoned AG-1 Agriculture and is in agricultural production.
  - D. Land to the east, south and west is zoned AG-1 Agriculture and is in use as single family residences.

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

5. Regarding the site plan for the subject property:
  - A. The Petitioner's Site Plan, received July 5, 2016, indicates the following:
    - (1) Existing buildings consist of the following:
      - a. One residence, approximately 1400 square feet;
      - b. One chicken coop, approximately 144 square feet;
    - (2) The proposed accessory structure is an 18 feet by 18 feet treehouse with a peak height of 23.5 feet.
  - B. There are two previous Zoning Use Permits for the subject property:
    - (1) ZUPA #187-16-01 was submitted on July 5, 2016, to construct the treehouse. When staff determined that the height would exceed the maximum requirements of the

Zoning Ordinance, permit approval was placed on hold contingent upon approval of the variance.

- (2) ZUPA #265-75-01 was approved on September 23, 1975 for the construction of a single family residence with attached garage.
- C. There are no previous zoning cases for the subject property.
- D. The required variance is as follows:
  - (1) A proposed residential accessory building with a height of 20.25 feet in lieu of the maximum required height of 15 feet as per Section 5.3 of the Zoning Ordinance.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES**

- 6. Regarding authorization for the proposed variance:
  - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (capitalized words are defined in the Ordinance):
    - (1) “ACCESSORY BUILDING” is a BUILDING on the same LOT within the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.
    - (2) “BUILDING” is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
    - (3) “BUILDING, DETACHED” is a BUILDING having no walls in common with other BUILDINGS.
    - (4) “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.
    - (5) “HEIGHT” as applied to a story is the vertical measurement between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the vertical measurement between the surface of the floor and the ceiling next above it.

As applied to a BUILDING is the vertical measurement from GRADE to a point midway between the highest and lowest points of the roof.

As Applied to an Enclosed or Unenclosed STRUCTURE:

STRUCTURE, DETACHED: The vertical measurement from the average level of the surface of the ground immediately surrounding such STRUCTURE to the uppermost portion of such STRUCTURE.

STRUCTURE, ATTACHED: Where such STRUCTURE is attached to another STRUCTURE and is in direct contact with the surface of the ground, the vertical measurement from the average level of the surface of the ground immediately adjoining such STRUCTURE to the uppermost portion of such STRUCTURE shall be the HEIGHT. Where such STRUCTURE is attached to another STRUCTURE and is not in direct contact with the surface of the ground, the vertical measurement from the lowest portion of such STRUCTURE to the uppermost portion shall be the HEIGHT.

- (6) "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.
  - (7) "LOT LINES" are the lines bounding a LOT.
  - (8) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
  - (9) "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.
  - (10) "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.
  - (11) "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.
  - (12) "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.
  - (13) "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. Paragraph 5.1.1 states: The AG-I, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURE pursuits.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from

the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:

- a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
  - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
  - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
  - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
  - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (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. Maximum HEIGHT for a residential ACCESSORY BUILDING in the AG-1 Agriculture District is established in Section 5.3, Footnote 4 of the Zoning Ordinance as 15 feet on lots less than one acre in area and 24 feet on lots one acre or more in area.
- (1) Height for a building is calculated as the vertical measurement from grade to a point midway between the highest and lowest points of the roof as per Section 3.0 of the Zoning Ordinance, under definition of HEIGHT.

***GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT***

- 7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
  - A. The Petitioner has testified on the application, **“The treehouse is located in a rural area where the height impact is minimal.”**
  - B. Regarding the proposed Variance for a height of 20.25 feet in lieu of the maximum allowed 15 feet:
    - (1) The Petitioner started constructing the treehouse prior to seeking a Zoning Use Permit.

***GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE***

- 8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:

- A. The Petitioner has testified on the application, **“The intent was to build our children a treehouse in a tree. Our trees aren’t strong enough to support one and one tree has the ash borer beetle disease. That is the reason for the support.”**
- B. Regarding the proposed Variance for exceeding the maximum allowed height: without the proposed variance, the treehouse would have to be reduced in height or removed.

***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, **“The playhouse was built between two trees and is well past the required setbacks, and doesn’t impede anyone’s view.”**
  - B. The Petitioner started constructing the treehouse prior to seeking a Zoning Use 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, **“The playhouse was started without being aware of the height limitations for our lot size. At this point, it will be extremely difficult and expensive if we have to lower it.”**
  - B. Regarding the proposed Variance for exceeding the maximum allowed height: the requested variance is 135% of the maximum height allowed, for a variance of 35%.
  - C. Regarding the proposed variance:
    - (1) Presumably the height requirements are to ensure that there are no shadow or visual impediments for adjacent neighbors.
    - (2) The Petitioner received two letters from neighbors who have no objection to the treehouse.
      - a. Nancy Griffet, 1109 CR 2400N, stated that she lives 2 doors down from the petitioners and she cannot see the tree house from her house. She said she has no problem with them having one.
      - b. Steve and Sharon Shepherd, 2398 CR 100E, are neighbors directly west of the petitioners. They stated that they do not object to the new structure in the Pierson’s backyard.

***GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE***

- 11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:

- A. The Petitioner has testified on the application: **“It is a sound, safe structure that has been built with the safety of our children in mind. It has been designed beautifully and adds to our neighborhood, out in the country.”**
- B. The Hensley Township Plan Commission has been notified of this variance but no comments have been received.
- C. The Hensley Township Road Commissioner has been notified of this variance but no comments have been received.
- D. The Thomasboro Fire Protection District has been notified of this variance but no comments have been received.
- E. The Petitioner received two letters from neighbors who have no objection to the treehouse.
  - (1) Nancy Griffet, 1109 CR 2400N, stated that she lives 2 doors down from the petitioners and she cannot see the tree house from her house. She said she has no problem with them having one.
  - (2) Steve and Sharon Shepherd, 2398 CR 100E, are neighbors directly west of the petitioners. They stated that they do not object to the new structure in the Pierson’s backyard.
- F. The nearest structure to the treehouse on adjacent property is a detached shed that is approximately 5 feet from the shared property line.

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

- 12. Generally regarding and other circumstances which justify the Variance:
  - A. The Petitioner has testified on the application: **“It was only built with the intent to inspire our kids, to give them a place that’s special to draw, or read, to enjoy nature.”**

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

- 13. Regarding proposed special conditions of approval:  
**No special conditions are proposed at this time.**

## **DOCUMENTS OF RECORD**

1. Variance Application received August 29, 2016, with attachments:
  - A Letter from neighbor Nancy Griffet received August 29, 2016
  - B Letter from Steve and Sharon Shepherd received August 29, 2016
  
2. Case File for ZUPA #187-16-01, with attachment:
  - A Site Plan received July 5, 2016
  
3. Preliminary Memorandum dated November 3, 2016 with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan received July 5, 2016
  - C Letter from neighbor Nancy Griffet received August 29, 2016
  - D Letter from Steve and Sharon Shepherd received August 29, 2016
  - E Images of Subject Property taken September 26, 2016
  - F Draft Summary of Evidence, Finding of Fact, and Final Determination dated November 10, 2016

## **FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **852-V-16** held on **November 10, 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:}***

**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case **852-V-16** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners **Gary and Katherine Pierson** to authorize the following variance in the AG-1 Agriculture Zoning District:

**A proposed residential accessory building with a height of 20.25 feet in lieu of the maximum required height of 15 feet as per Section 5.3 of the Zoning Ordinance.**

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

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

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date