

CASE NO. 148-V-24

PRELIMINARY MEMORANDUM

September 18, 2024

Petitioner: **Damon & Abby Skube**

Request: **Authorize a variance for an existing yard shed with a side yard of 1 foot in lieu of the minimum required 5 feet in the R-1 Single Family Residence Zoning District, per Section 7.2.2 of the Champaign County Zoning Ordinance.**

Subject Property: **Lot 89 of Windsor Park Third Subdivision, in Section 25 of Champaign Township and commonly known as the property with an address of 4 Bloomfield Court, Champaign.**

Site Area: **.28 acres**

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

Prepared by: **Charlie Campo, Senior Planner
John Hall, Zoning Administrator**

BACKGROUND

The Petitioner requests a variance for an existing yard shed that has a side yard of 1 foot in lieu of the 5 feet minimum required for accessory structures in the R-1 Zoning District. The shed is less than 150 sq. ft. in area and therefore does not require a Zoning Use Permit but is required to comply with setback requirements. The shed is not located within any easement. A shed has been in this location since approximately 2004.

The petitioner submitted a Zoning Use Application in July of 2024 to construct an in-ground swimming pool on the property. During the permit review process, it was discovered that the existing yard shed was located less than the required 5 feet from the side property line. The petitioner was required to apply for a variance to the 5-foot side yard regulation prior to approval of the Zoning Use Permit. The petitioner submitted an Application for Variance on August 8, 2024. The Zoning Use Permit was approved on August 28, 2024, with the condition that the petitioner abide by any reasonable requirement of the Zoning Board of Appeals regarding the side yard variance for the shed.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Residential	R-1 Single Family Res.
North	Residential	R-1 Single Family Res.
East	Residential	R-1 Single Family Res.
West	Residential	R-1 Single Family Res.
South	Residential	R-1 Single Family Res.

continued

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

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

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign and the Village of Savoy but is on the Savoy side of a boundary agreement line with Champaign. Municipalities do not have protest rights on a variance and are not notified of such cases.

The subject property is located within Champaign Township, which does not have a Plan Commission.

SPECIAL CONDITIONS

No special conditions are proposed.

ATTACHMENTS

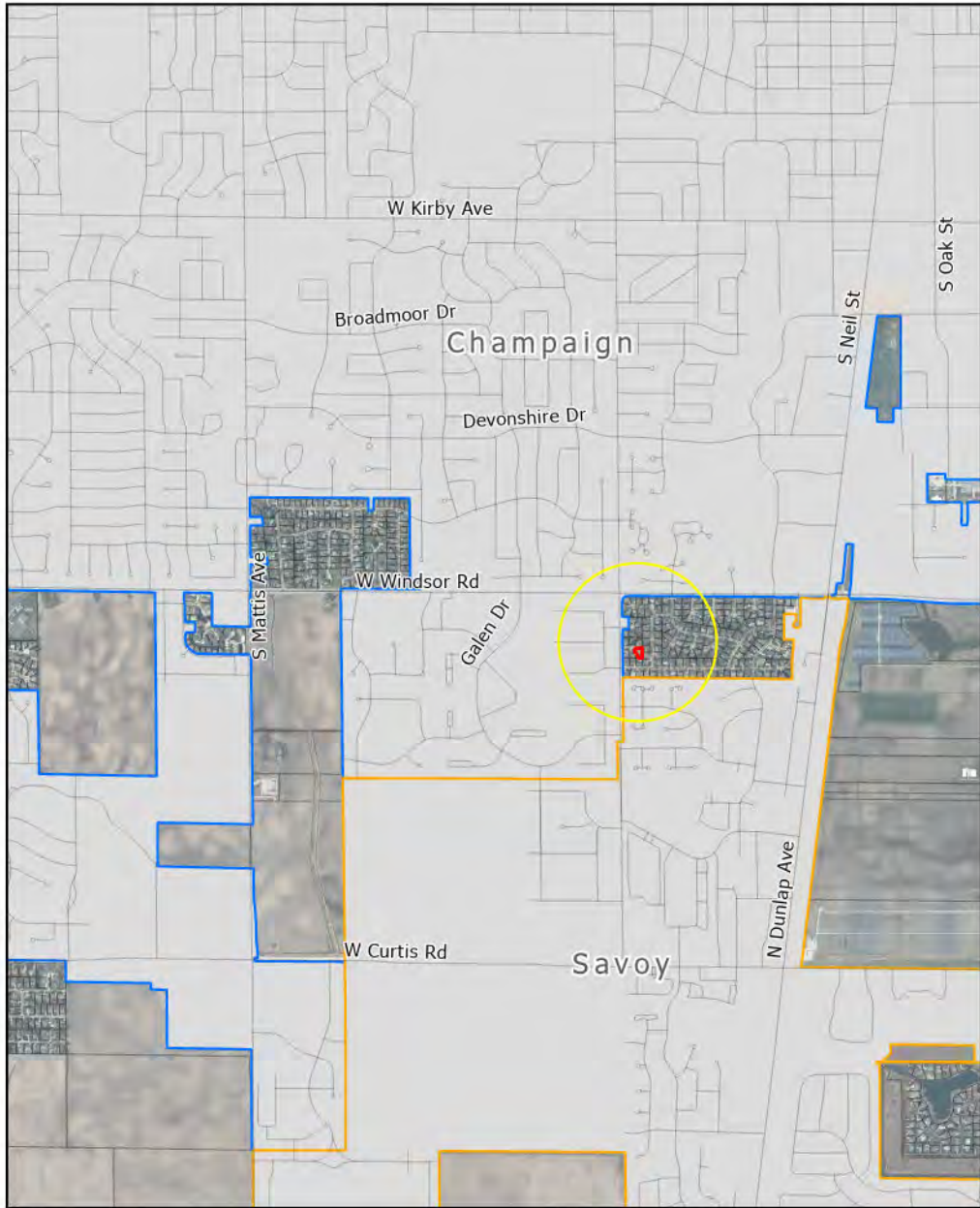
- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received with ZUPA 200-24-01
- C Photos Submitted by Owner received August 8, 2024
- D 2023 Annotated Aerial Photo
- E 2002 and 2005 Aerial Photo
- F Email from owner of 3 Bloomfield Ct. dated July 29, 2024
- G Site images taken September 18, 2024
- H Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 148-V-24 dated September 26, 2024

Location Map

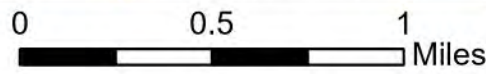
Case 148-V-24

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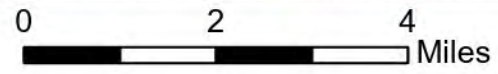
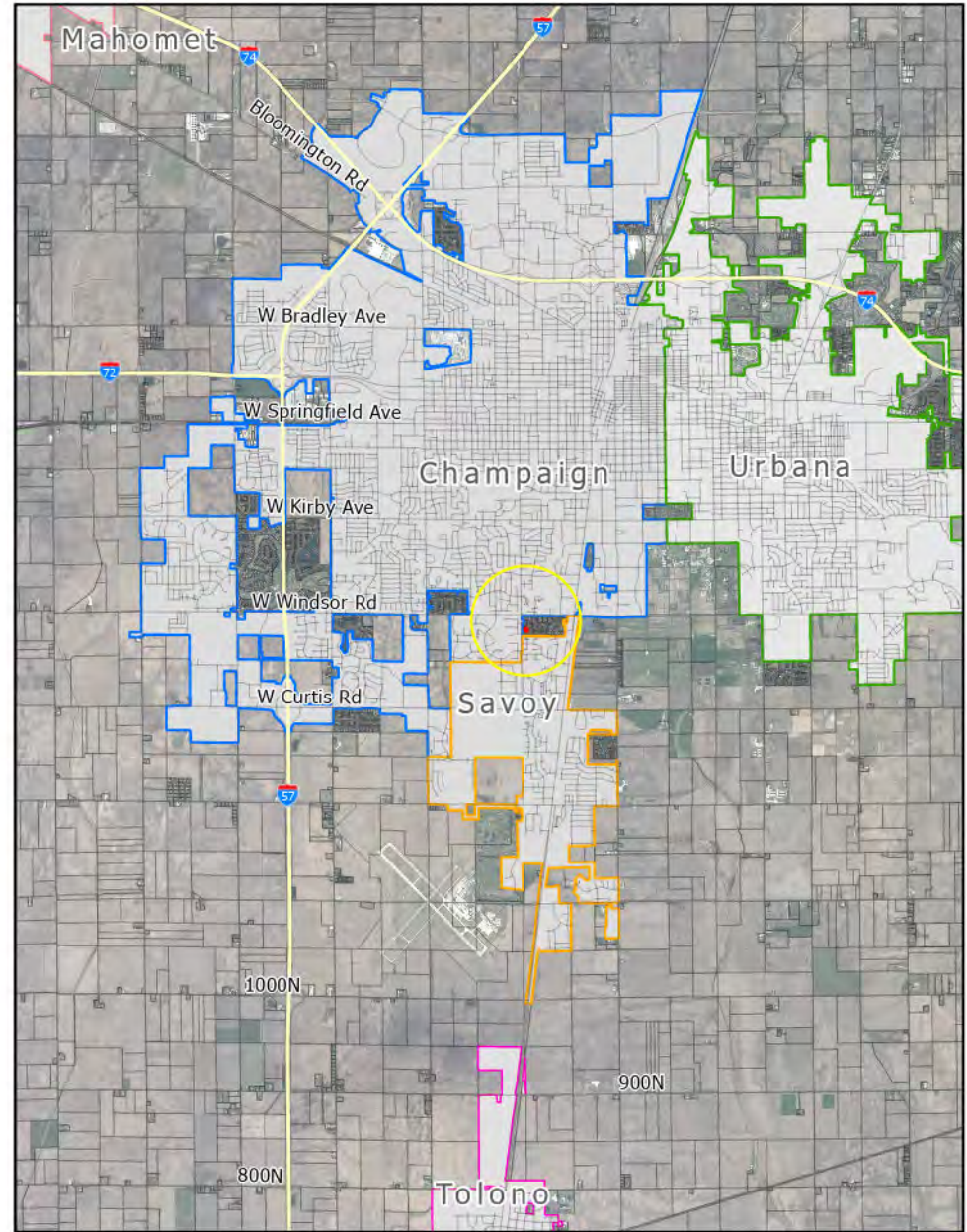
Subject Property



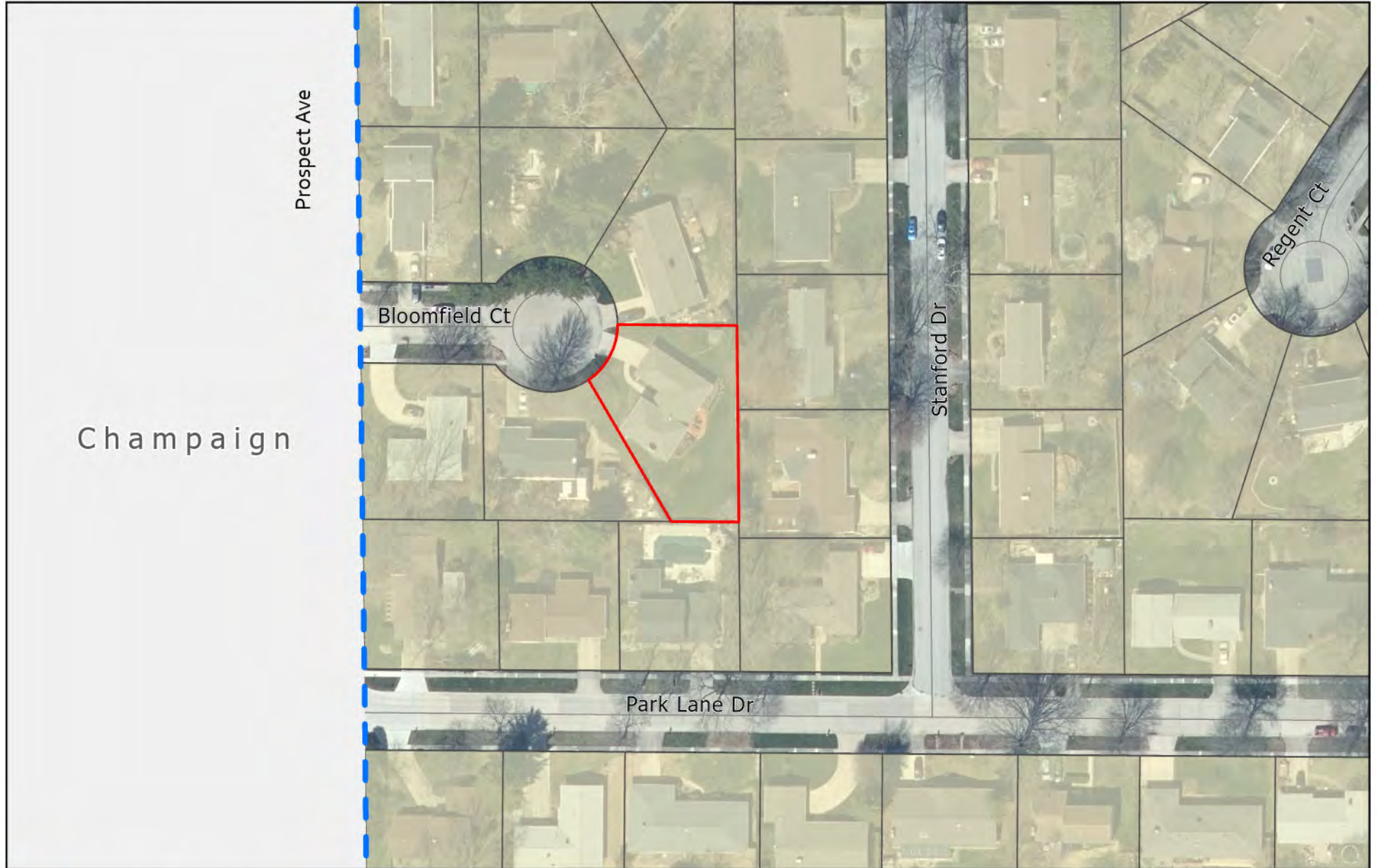
 Subject Property





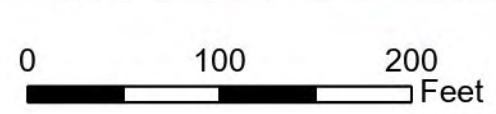
Property Location in Champaign County

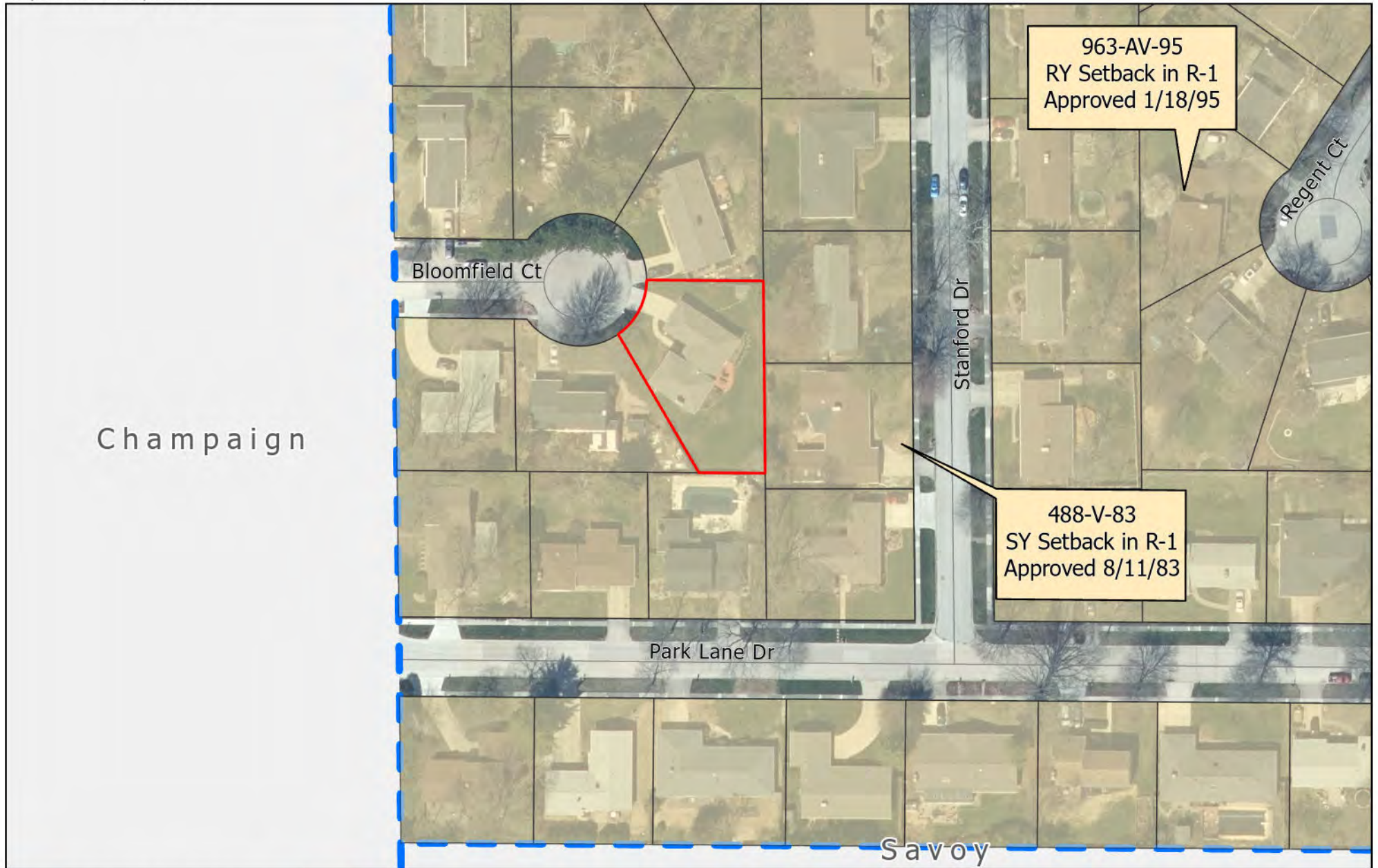





Land Use Map
Case 148-V-24
September 26, 2024

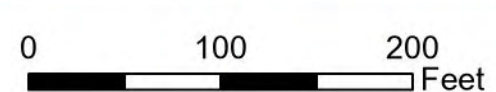


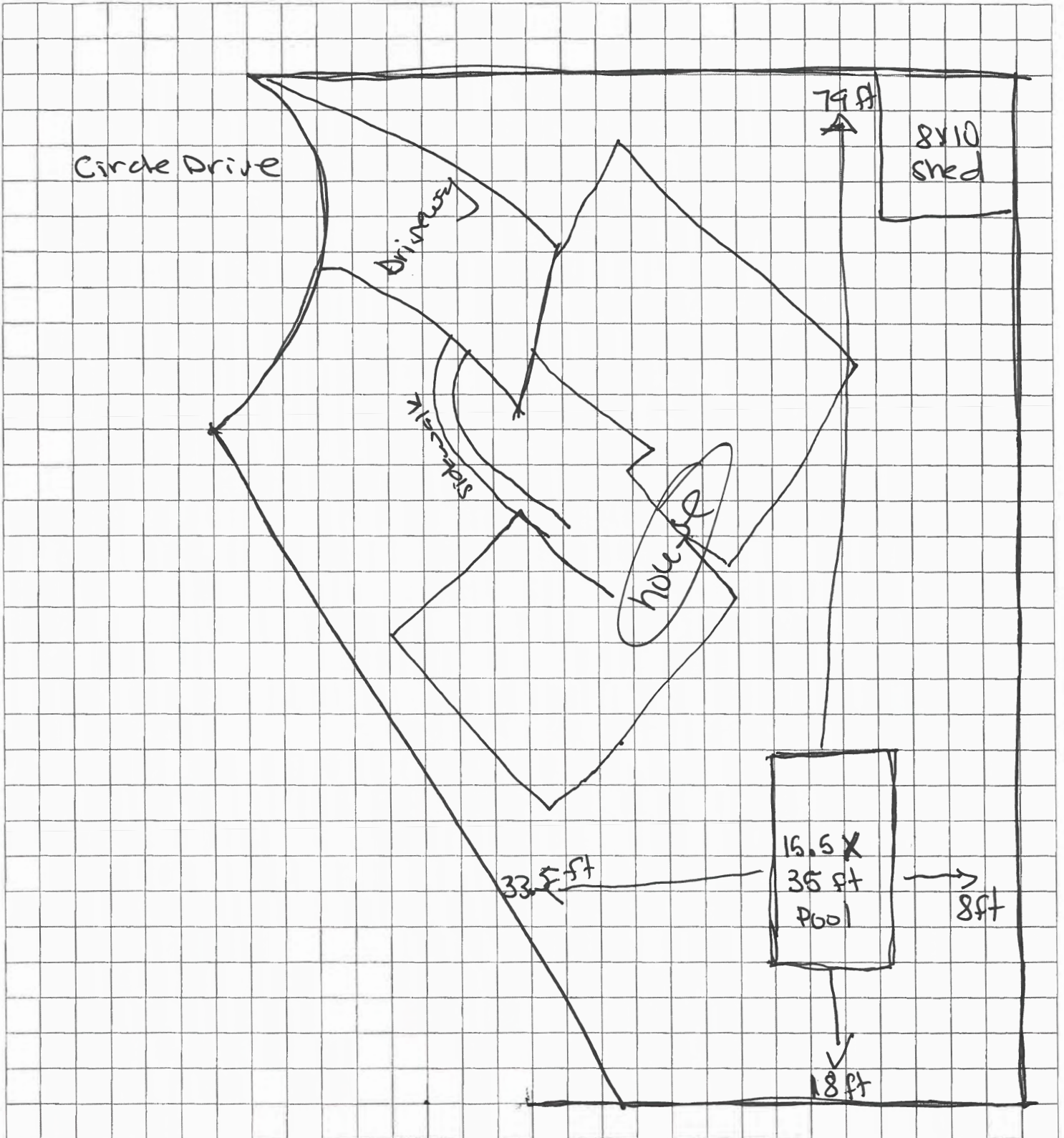
-  Municipal Boundary
-  Subject Property
-  Residential





-  Municipal Boundary
-  Subject Property
-  R-1 Single-Family Residence





Check which applies:

- Site Plan
- Erosion & Sediment Control Plan
- Other: _____

Date Received:

North Arrow:

Approval (Office Use Only):

Permit Application No.

200-24-01

Applicant Name:

Damon & Abby Skube

RECEIVED

JUL 18 2024

CHAMPAIGN CO. P & Z DEPARTMENT



RECEIVED

AUG 08 2024

CHAMPAIGN CO. P & Z DEPARTMENT



RECEIVED

AUG 08 2024

CHAMPAIGN CO. P & Z DEPARTMENT



8 feet from fence

RECEIVED

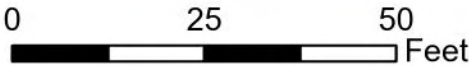
AUG 08 2024

CHAMPAIGN CO. P & Z DEPARTMENT

Annotated Aerial

Case 148-V-24

September 26, 2024



Annotated 2002 Aerial

Case 148-V-24

September 26, 2024



0 25 50 Feet



Annotated 2005 Aerial

Case 148-V-24

September 26, 2024



0 25 50 Feet



4 Bloomfield Ct variance

From: Kathy Fogerson (kfogerson@msn.com)

To: damon.skube@gmail.com; skubex5@sbcglobal.net

Date: Monday, July 29, 2024 at 04:23 PM CDT

To whom it may concern:

We live at the property located at 3 Bloomfield Ct Champaign, IL 61820. It has come to our attention that the shed located at 4 Bloomfield Ct. apparently is located outside of the allowed variance for the County. Please be advised that as owners of the adjacent property, the location of the shed at 4 Bloomfield Ct. causes no concern. There was a shed in place in that location when we moved in to the property and it was perfectly acceptable. We continue to have no concerns about the location of the shed.

Thank you,
Kathy Fogerson & Chris Hodge
3 Bloomfield Ct
Champaign, IL 61820
217/714-2447

148-V-24 Site Images



Looking along N property line from Bloomfield Ct.



Looking along N property line from Bloomfield Ct.

PRELIMINARY DRAFT

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

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

Date: ***{September 26, 2024}***

Petitioners: **Damon & Abby Skube**

Request: **Authorize a variance for an existing yard shed with a side yard of 1 foot in lieu of the minimum required 5 feet in the R-1 Single Family Residence Zoning District, per Section 7.2.2 of the Champaign County Zoning Ordinance.**

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 26, 2024**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioners Damon and Abby Skube own the subject property.
2. The subject property is a .28-acre tract that is Lot 89 of Windsor Park Third Subdivision, in Section 25 of Champaign Township and commonly known as the property with an address of 4 Bloomfield Court, Champaign.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is located within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign and the Village of Savoy but is on the Savoy side of a boundary agreement line with Champaign.
 - B. The Village of Savoy is a municipality with zoning but municipalities do not have protest rights on a variance and are not notified of such cases.
 - C. The subject property is located within Champaign Township, which does not have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is currently zoned R-1 Single Family Residence and is in use as a single-family residence.
 - B. Land surrounding the subject property is also in the R-1 Single Family Residence Zoning District and is in use as single-family residential on all sides.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Site Plan, received July 18, 2024, as part of Zoning Use Permit 200-24-01 indicates the following:
 - (1) Existing structures consist of the following:
 - a. Single-family residence.
 - b. 8x10ft. storage shed.
 - (2) The petitioner proposes to construct a 15.5 x 30 ft. in ground swimming pool.
 - B. The existing home on the property was constructed prior to the adoption of the Champaign County Zoning Ordinance on October 10, 1973.
 - C. The existing shed is less than 150 square feet in area and therefore does not require a Zoning Use Permit, but it is required to meet the required setback and yard regulations.
 - D. There are no previous zoning cases for the subject property.

- E. The requested variance includes the following:
- (1) Authorize a variance for an existing yard shed with a side yard of 1 foot in lieu of the minimum required 5 feet in the R-1 Single Family Residence Zoning District, per Section 7.2.2 of the Champaign County Zoning Ordinance.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variance:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (capitalized words are defined in the Ordinance):
 - (1) “ACCESSORY STRUCTURE” is a STRUCTURE 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, subordinate to and USED for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.
 - (2) “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.
 - (3) “LOT LINES” are the lines bounding a LOT.
 - (4) “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.
 - (5) “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 Zoning DISTRICT is intended to provide areas for single FAMILY detached DWELLINGS, set on LOTS and is intended for application in mainly non-urban and developing areas where community facilities can be made readily available.
 - C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
 - (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.

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- b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Minimum SIDE YARD for an accessory structure in the R-1 Single Family Residence DISTRICT is established in Section 7.2.2.B. of the Zoning Ordinance as 5 feet.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application, **“The subject property is on a circular cul-de-sac and narrows as it extends further from the street. The shed is located to not interfere with the use of the yard. There is a shed on 3 Bloomfield Court immediately north of the shed for which the variance is sought. There are existing fences owned by neighbors on both the north and east sides of the applicants’ shed.”**
 - B. The petitioner constructed a shed in this location 20 years ago and replaced it with a new shed in the same location 5 years ago. The current location of the shed is the most reasonable location to make use of an irregular shaped lot and avoid being damaged by the natural drainage of the lot, according to the petitioner.

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, **“If the shed is required to be moved south to the setback line, it would need to be elevated further than it currently is to avoid having rainwater drain into the shed. There is a significant slope of the land itself immediately south of the door. The slope goes down into the entrance to the shed. The current shed is bolted to a concrete slab. If the shed is to be moves, this slab would have to be removed and a new one laid. The shed and slab area is at the very back of the lot and would require the concrete to be hauled from the street all the way there. Moving the shed will cause a very narrow and unusable space between the shed and the neighbor’s fence. It would not be practical to remodel the shed to make**

it shorter or to buy a shorter one in that it would not house the lawn equipment currently stored in it.

- B. Without the approval of the proposed variance, the petitioner would have to remove the shed or relocate it to a less desirable location on the property with a higher risk of water damage. Moving the shed would come with the considerable expense of demolishing the foundation slab, pouring a new slab, and adding fill to the yard around the slab.

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 applicants built the original shed some 20 years ago and when it became dilapidated 5 years ago, replaced it with the current shed with the same footprint.”**
- B. The petitioner constructed a shed in this location 20 years ago and replaced it with a new shed in the same location 5 years ago. The current location of the shed is the most reasonable location to make use of an irregular shaped lot and avoid being damaged by the natural drainage of the lot, according to the petitioner.

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, **“Allowing the variance will not impair the sight lines of the neighbors in that they both have 8-foot opaque wood fences blocking most of their views of the shed and land beyond. The proximity of the shed to their land does [not] adversely impact their respective properties.”**
- B. Regarding the request for a 1-foot side yard for the detached storage shed: the requested variance is 20% of the minimum required, for a variance of 80%.
- C. The neighbor that shares the property line in question has submitted an email stating that they have no objection to the variance request. The shed in question is approximately 6 feet from the shed on the neighbor’s property and 20 feet from their house.
- D. The Zoning Ordinance does not clearly state the considerations that underlay the side yard requirements. In general, the side yard is presumably intended to ensure the following:
- (1) Adequate light and air: the adjacent property has wood fence along the property line and small storage shed that is approximately 6 feet away.
 - (2) Separation of structures to prevent conflagration: The subject property is within the Windsor Park Fire Protection District Fire Protection District and is served by the Savoy Fire Department. The station is approximately 1.8 road miles from the subject property and is approximately .8 miles from the nearest Champaign fire

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station. The nearest structure on adjacent property is another yard shed approximately 6 feet away, and the nearest home is approximately 20 feet away.

- (3) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.

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: **“The neighbors views from and use of their respective properties will not be adversely impacted by the variance being allowed. Please see the attached letter from Kathy Fogerson and Chris Hodge, the owners of 3 Bloomfield Court, (the lot which abuts the setback line for which a variance is sought).”**
 - B. The Champaign Township Supervisor has been notified of this variance, and no comments have been received.
 - C. The Champaign Township Road Commissioner has been notified of this variance, and no comments have been received.
 - D. The Windsor Park Fire Protection District has been notified of this variance, and no comments have been received.
 - E. The neighbor who shares the property line in question has submitted an email stating that they have no objection to the proposed variance.
 - F. Surrounding landowners within 250 feet have been notified of this variance and no comments have been received.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

12. Generally regarding and other circumstances which justify the Variance:
- A. The Petitioner has testified on the application: **“Not receiving the variance would require that the shed be moved closer to the house, thus reducing useable yard.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:
- A. No special conditions are currently proposed.

DOCUMENTS OF RECORD

1. Application for Variance received August 8, 2024, with attachments:
 - A Aerial photo of property showing the existing shed
 - B Three photos showing the separation from surrounding fences to the shed and ground contours near the shed.
 - C Email from the owners of 3 Bloomfield Ct.

2. Preliminary Memorandum dated September 18, 2024, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received with ZUPA 200-24-01
 - C 2023 Annotated Aerial Photo
 - D 2002 and 2005 Aerial Photo
 - E Email from owner of 3 Bloomfield Ct. dated July 29, 2024
 - F Site images taken September 13, 2024
 - G Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 148-V-24 dated September 26, 2024

PRELIMINARY DRAFT**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 148-V-24 held on **September 26, 2024**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because:
 - a. ***The current location of the shed is the most reasonable location to make use of an irregular shaped lot and avoid being damaged by the natural drainage of the lot, according to the petitioner.***
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because:
 - a. ***Without the approval of the proposed variance, the petitioner would have to remove the shed or relocate it at considerable expense, to a less desirable location on the property with a higher risk of water damage.***
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. ***The current location of the shed is the most reasonable location to make use of an irregular shaped lot and avoid being damaged by the natural drainage of the lot.***
4. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because:
 - a. ***The requested variance is 20% of the minimum required, for a variance of 80%.***
 - b. ***There is adequate separation to the nearest home.***
 - c. ***There is separation to adjacent properties and structures to prevent conflagration and the Windsor Park Fire Protection District has been notified of the requested variance and no comments have been received.***
5. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {WILL / WILL NOT}** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because:
 - a. ***Relevant jurisdictions were notified of this case, and no comments have been received.***
 - b. ***The nearest building on adjacent properties are 6 feet away and the nearest dwelling is 20 feet away.***
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/structures because:
 - a. ***The requested variance is the minimum variance required to allow the sheds to remain in their current locations.***
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 **148-V-24** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners, **Damon and Abby Skube**, to authorize the following:

Authorize a variance for an existing yard shed with a side yard of 1 foot in lieu of the minimum required 5 feet in the R-1 Single Family Residence Zoning District, per Section 7.2.2 of the Champaign County Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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

SIGNED:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date