

# CASE NO. 140-V-24

## PRELIMINARY MEMORANDUM

June 19, 2024

Petitioner: **Robert & Sheryl Walker**

Request: **Authorize a variance for two existing yard sheds with a side yard of 6 feet in lieu of the minimum required 10 feet in the AG-2 Agriculture Zoning District, per Section 7.2.1 of the Champaign County Zoning Ordinance.**

Subject Property: **Lot 11 of Country Acres Estates Subdivision, Section 8, Township 19 North, Range 8 East of the Third Principal Meridian in Champaign Township, and commonly known as the property with an address of 5107 Dudley Road, Champaign.**

Site Area: **.91 acres**

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

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

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## BACKGROUND

The Petitioner requests a variance for two existing detached yard sheds that have a side yard of 6 feet in lieu of the 10 feet minimum required for accessory structures. The sheds are not located within any easement. The sheds were moved to their current locations after the petitioner purchased the property in 2017.

The petitioner submitted a Zoning Use Application in April of 2024 to add a sunroom addition to the rear of the existing home on the property. During the permit review process, it was discovered that the two existing yard sheds were located less than the required 10 feet from the side property line. The petitioner was required to apply for a variance to the 10 foot side yard regulation prior to approval of the Zoning Use Permit. The petitioner submitted an Application for Variance on May 3, 2024. The Zoning Use Permit was approved on May 6, 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 sheds.

## EXISTING LAND USE AND ZONING

**Table 1. Land Use and Zoning in the Vicinity**

<b>Direction</b>	<b>Land Use</b>	<b>Zoning</b>
Onsite	Residential	AG-2 Agriculture
North	Residential	AG-2 Agriculture
East	Residential	AG-2 Agriculture
West	Residential	AG-2 Agriculture
South	Agriculture	AG-2 Agriculture

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 within the one and one-half mile extraterritorial jurisdiction of the City of Champaign, a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of such cases.

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

## **SPECIAL CONDITIONS**

No special conditions are proposed.

## **ATTACHMENTS**

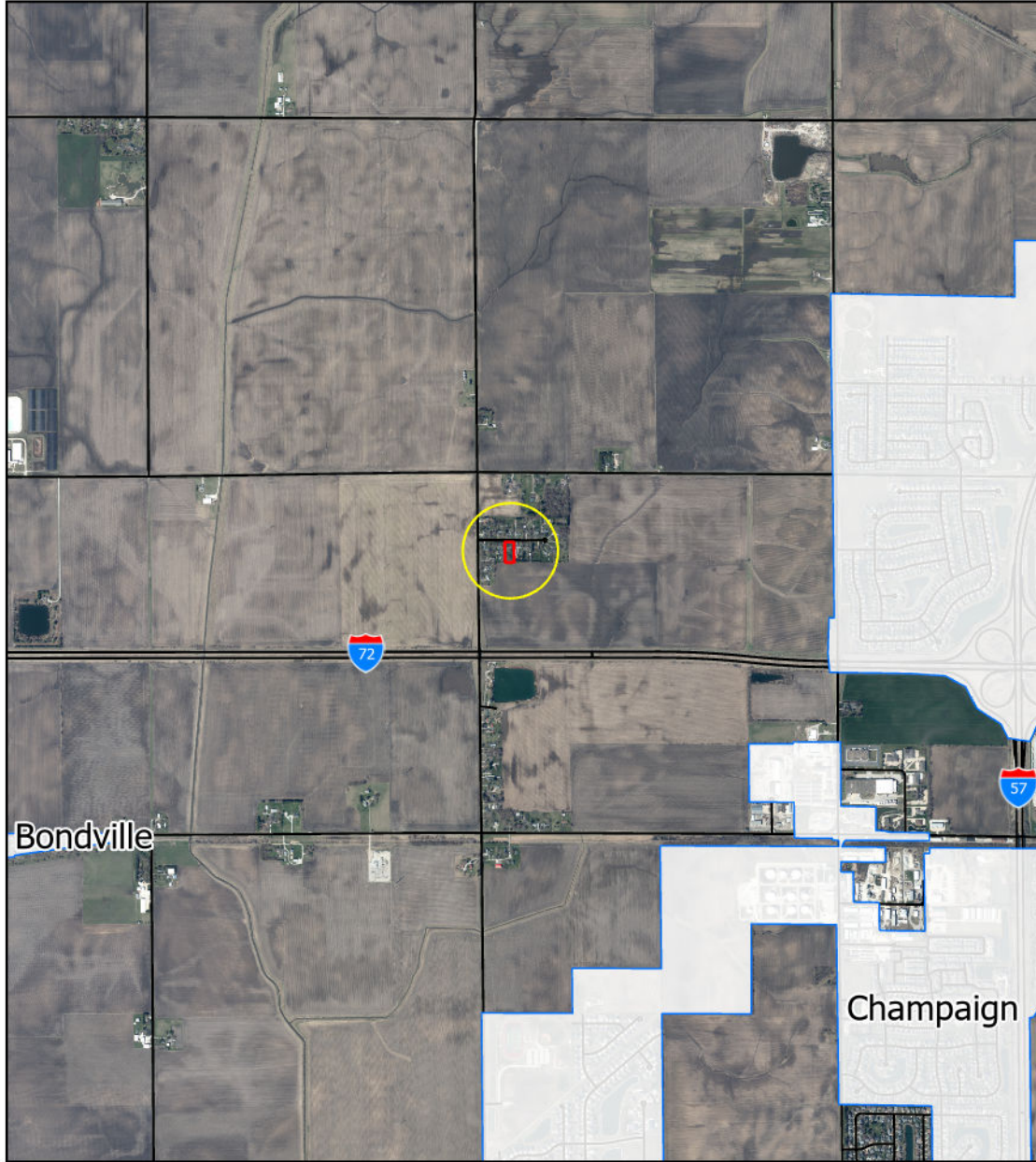
- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received April 29, 2024
- C 2023 Annotated Aerial Photo/Site Plan
- D 2017 Aerial Photo with Elevation Contours
- E 2023 Aerial Photo with Elevation Contours
- F Site Images taken June 17, 2024
- G Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 140-V-24 dated June 27, 2024

# Location Map

Case 140-V-24

June 27, 2024

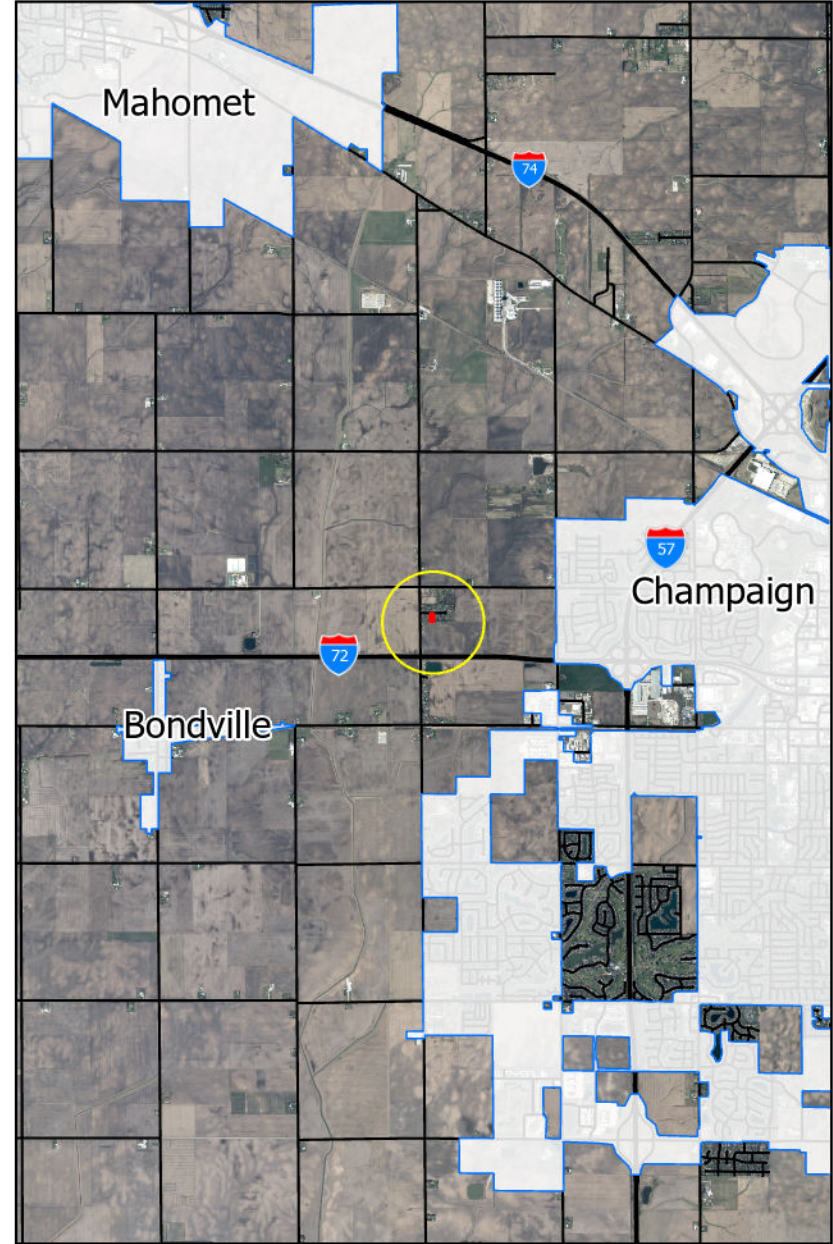
### Subject Property



 Subject Property

0 0.25 0.5  
Miles

### Property Location in Champaign County



0 1 2  
Miles



# Land Use Map

Case 140-V-24

June 27, 2024



 Subject Property

 Agriculture

 Residential

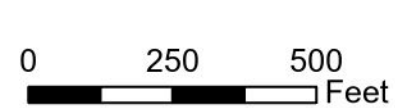
 School/Place of Worship

0 300 600 Feet



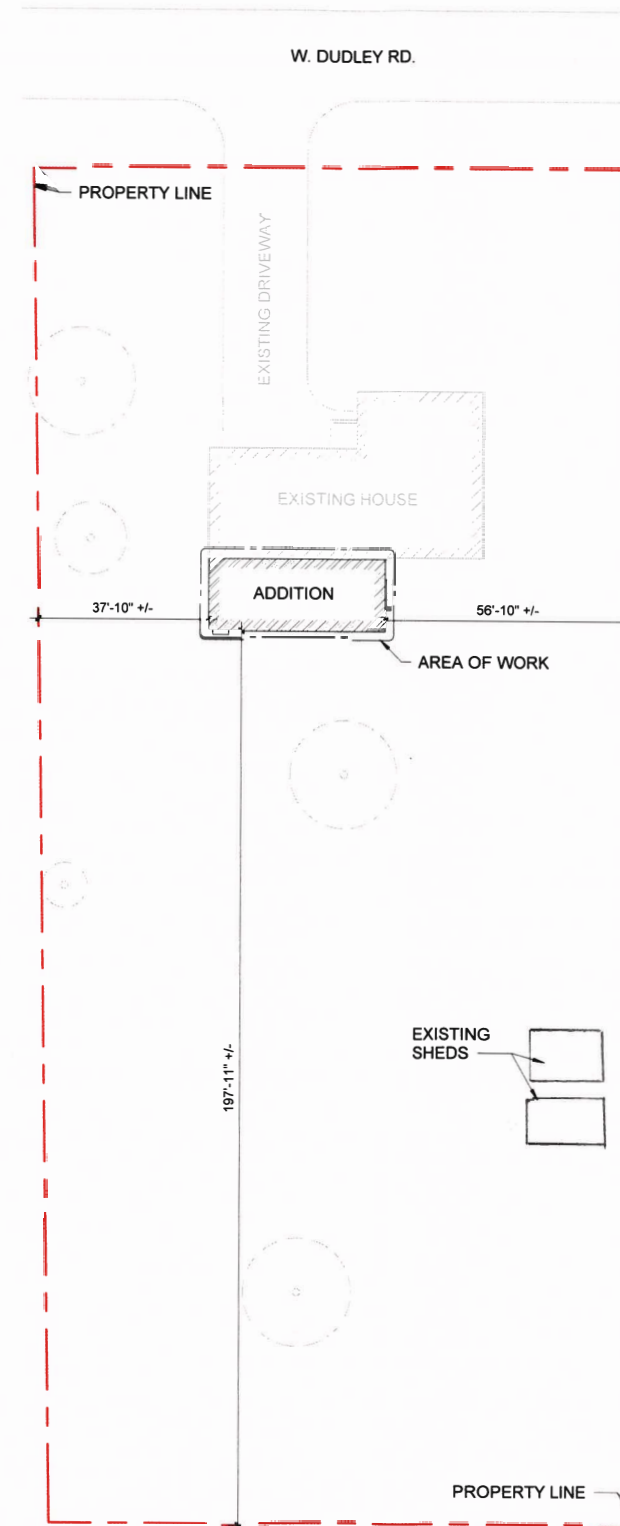


 Subject Property       AG-2 Agriculture  
 AG-1 Agriculture



GENERAL SITE NOTES

- A SLOPE GRADE IMMEDIATELY ADJACENT TO FOUNDATION AWAY FROM HOUSE
- B GRADE SITE TO SLOPE AWAY FROM HOUSE. DO NOT DISTURB CONTOURS BEYOND PROPERTY LINES OR CREATE AN ADVERSE DRAINAGE CONDITION FOR NEIGHBORING LOTS.
- C IT IS RECOMMENDED THAT A CHEMICAL SOILS TREATMENT FOR TERMITES BE PERFORMED BY A COMPANY LICENSED IN THE STATE OF ILLINOIS.
- D CONTRACTOR RESPONSIBLE FOR UTILITY LOCATION AND ADJUSTMENTS AS NEEDED.



1 SITE PLAN  
3/64" = 1'-0"

RECEIVED

APR 29 2024

CHAMPAIGN CO. P & Z DEPARTMENT



ARCHITECTURAL EXPRESSIONS, LLP  
100 CHESTNUT, SUITE 300,  
CHAMPAIGN, IL 61820  
PHONE: 217-378-5300 FAX: 217-378-8512  
www.aexllp.com  
IL DESIGN FIRM No. 184-001487

DATE: \_\_\_\_\_  
LIC. EXP.: \_\_\_\_\_

SITE PLAN

SUNROOM ADDITION  
NEXT LEVEL ROOFING AND CONSTRUCTION  
5107 W DUDLEY RD CHAMPAIGN, IL

No.	Description	Date

CONSTRUCTION SET

Project Number	6952
Date	04/15/2024
Drawn By	YRJ
Checked By	BAK

SP101



# Annotated Aerial and Site Plan

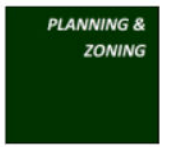
Case 140-V-24

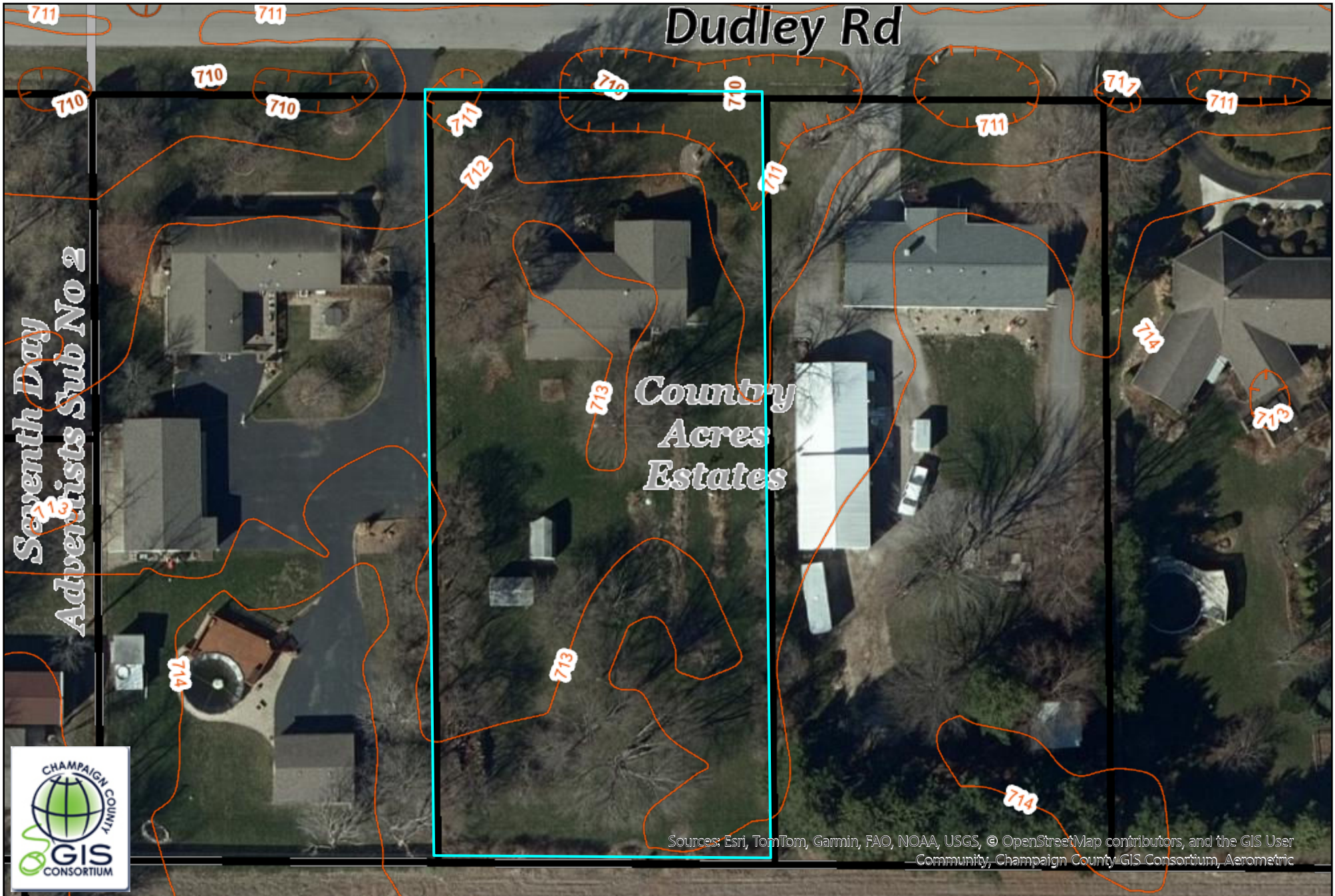
June 27, 2024

140-V-24, ZBA 6/27/24, Attachment C



-  Subject Property
-  Proposed Addition





Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, Champaign County GIS Consortium, Aerometric



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# Annotated Aerial and Site Plan with Contours

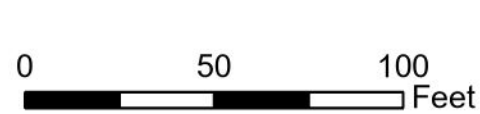
Case 140-V-24

June 27, 2024

140-V-24, ZBA 6/27/24, Attachment E



-  Subject Property
-  Proposed Addition



### 140-V-24 Site Images



**From Dudley Rd facing S along E property line**



**From Subject Property facing N along E property line.**

### 140-V-24 Site Images



**From Subject Property facing S along E property line**



**From Dudley Rd. facing S along property line.**

**PRELIMINARY DRAFT**

**140-V-24**

**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: ***{June 27, 2024}***

Petitioners: **Robert & Sheryl Walker**

Request: **Authorize a variance for two existing yard sheds with a side yard of 6 feet in lieu of the minimum required 10 feet in the AG-2 Agriculture Zoning District, per Section 7.2.1 of the Champaign County Zoning Ordinance.**

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***PRELIMINARY DRAFT***

**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 27, 2024**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioners Robert and Sheryl Walker own the subject property.
2. The subject property is a .91-acre tract that is Lot 11 of Country Acres Estates Subdivision, Section 8, Township 19 North, Range 8 East of the Third Principal Meridian in Champaign Township, and commonly known as the property with an address of 5107 Dudley Road, 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, a municipality with zoning.
  - B. 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 AG-2 Agriculture and is in use as a single-family residence.
  - B. Land surrounding the subject property is also in the AG-2 Agriculture Zoning District, and is in use as single-family residential on the north, east and west sides and in agricultural production to the south.

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

5. Regarding the site plan for the subject property:
  - A. The Site Plan, received April 29, 2024, as part of Zoning Use Permit 120-24-02 indicates the following:
    - (1) Existing structures consist of the following:
      - a. Single-family residence.
      - b. Two detached storage sheds near the east property line
    - (2) The petitioner proposes to construct a sunroom addition to the south side of the single-family residence.
  - B. The existing home on the property was constructed prior to the adoption of the Champaign County Zoning Ordinance on October 10, 1973.
  - C. There are no previous zoning cases for the subject property.
  - D. The requested variance includes the following:

- (1) Authorize a variance for two existing yard sheds, with a side yard of 6 feet in lieu of the minimum required 10 feet in the AG-2 Agriculture Zoning District, per Section 7.2.1 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 AG-2 Agriculture Zoning DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.

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.

**PRELIMINARY DRAFT**

- 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 AG-2 Agriculture DISTRICT is established in Section 7.2.1.B. of the Zoning Ordinance as 10 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 low water table.”**
  - B. The petitioner moved the sheds from a previous location on the property after purchasing the property in 2017. The home is served by city water and a private septic system.

**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, **“Due to the low water table the practical difficulty is risk of water damage.”**
  - B. Without the approval of the proposed variance, the petitioner would have to relocate the existing sheds to a less desirable location on the property with a higher risk of water damage to the sheds.

**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, **“No.”**
  - B. The petitioner moved the sheds to their current location after purchasing the property. The current location is the most desirable location on the property to avoid water damage 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, **“There is ample access on both sides of the lot line.”**
  - B. Regarding the request for a 6-foot side yard for the detached storage sheds: the requested variance is 60% of the minimum required, for a variance of 40%.
  - C. There is a 5-foot utility easement along the east property line. The two sheds are located outside of the easement.
  - 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 a detached storage building in the same general area that is approximately 18 feet away.
    - (2) Separation of structures to prevent conflagration: The subject property is within the Scott Fire Protection District and is served by the Bondville Fire Department. The station is approximately 2.8 road miles from the subject property and is approximately 3.8 miles from the nearest Champaign fire station. The nearest structure on adjacent property is approximately 18 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: **“No factors affected.”**
  - 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 Scott Fire Protection District has been notified of this variance, and no comments have been received.
  - E. 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: **“We want to avoid the expense of moving two small storage sheds.”**

***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 May 3, 2024, with attachment:
  - A Site Plan from Zoning Use Permit 120-24-02
  
2. Preliminary Memorandum dated June 19, 2024, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan received April 29, 2024
  - C 2023 Annotated Aerial Photo/Site Plan
  - D 2017 Aerial Photo with Elevation Contours
  - E 2023 Aerial Photo with Elevation Contours
  - F Site images taken June 17, 2024
  - G Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 140-V-24 dated June 27, 2024

**PRELIMINARY DRAFT**

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **140-V-24** held on **June 27, 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 petitioner moved the sheds to their current location because it is the most suitable location on the property due to the high water table on the property.***
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 relocate the existing sheds to a less desirable location on the property with a higher risk of water damage to the sheds.***
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
  - a. ***The petitioner moved the sheds to their current location after purchasing the property. The current location is the most desirable location on the property to avoid water damage due to the high water table according to the petitioner.***
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 60% of the minimum required, for a variance of 40%.***
  - b. ***There is adequate light and air surrounding the detached storage sheds.***
  - c. ***There is separation to adjacent properties and structures to prevent conflagration and the Scott 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 structures on adjacent properties are 18 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 **140-V-24** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners, **Robert & Sheryl Walker**, to authorize the following:

**Authorize a variance for two existing yard sheds with a side yard of 6 feet in lieu of the minimum required 10 feet in the AG-2 Agriculture Zoning District, per Section 7.2.1 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