

# CASE NO. 057-V-22

PRELIMINARY MEMORANDUM

July 5, 2022

Petitioners: **Angel Corado**

Request: **Authorize a variance for the construction and use of an accessory structure with an average height of 17 feet 9 inches in lieu of the maximum allowed average height of 15 feet in the R-3 Two-Family Residence Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Subject Property: **A 0.46 acre lot that is the South Half of Lot 38 in Fred C. Carroll's Subdivision of the East Half of the Northwest Quarter of the East Half of Section 9, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township, commonly known as the residence with an address of 1206 Carroll Avenue, Urbana.**

Site Area: **0.46 acres**

Time Schedule for Development: **As soon as possible**

Prepared by: **Susan Burgstrom, Senior Planner**  
**John Hall, Zoning Administrator**

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## BACKGROUND

The petitioner learned of the height limit for detached structures when he applied for a Zoning Use Permit to construct a 54 feet by 72 feet (3,888 square feet) detached garage on May 13, 2022. He indicated that he had already purchased the building when he decided to proceed with a variance application for height.

The Zoning Ordinance has two different maximum average heights for detached accessory buildings in the R-3 zoning district. Lots with an area of less than one acre can have detached accessory buildings up to 15 feet tall. Those on lots of one acre or more in area can be up to 24 feet tall. The subject property has a lot area of 0.46 acres.

P&Z Staff proposes one special condition of approval to prohibit any business from establishing in the proposed garage.

## EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Residential	R-3 Two Family Residence
North	Residential	R-3 Two Family Residence
East	Residential	R-3 Two Family Residence
West	Residential	R-3 Two Family Residence
South	Residential	City of Urbana zoning

## EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Urbana, 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 Urbana Township, which does not have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

## PROPOSED SPECIAL CONDITION

A special condition for the detached storage shed states the following:

- A. **No business activities including storage of materials or parking of vehicles related to a business either inside or outside of the building shall take place without the proper approvals from the Champaign County Department of Planning & Zoning.**

The above special condition is required to ensure the following:

**No unauthorized business use can establish on the subject property.**

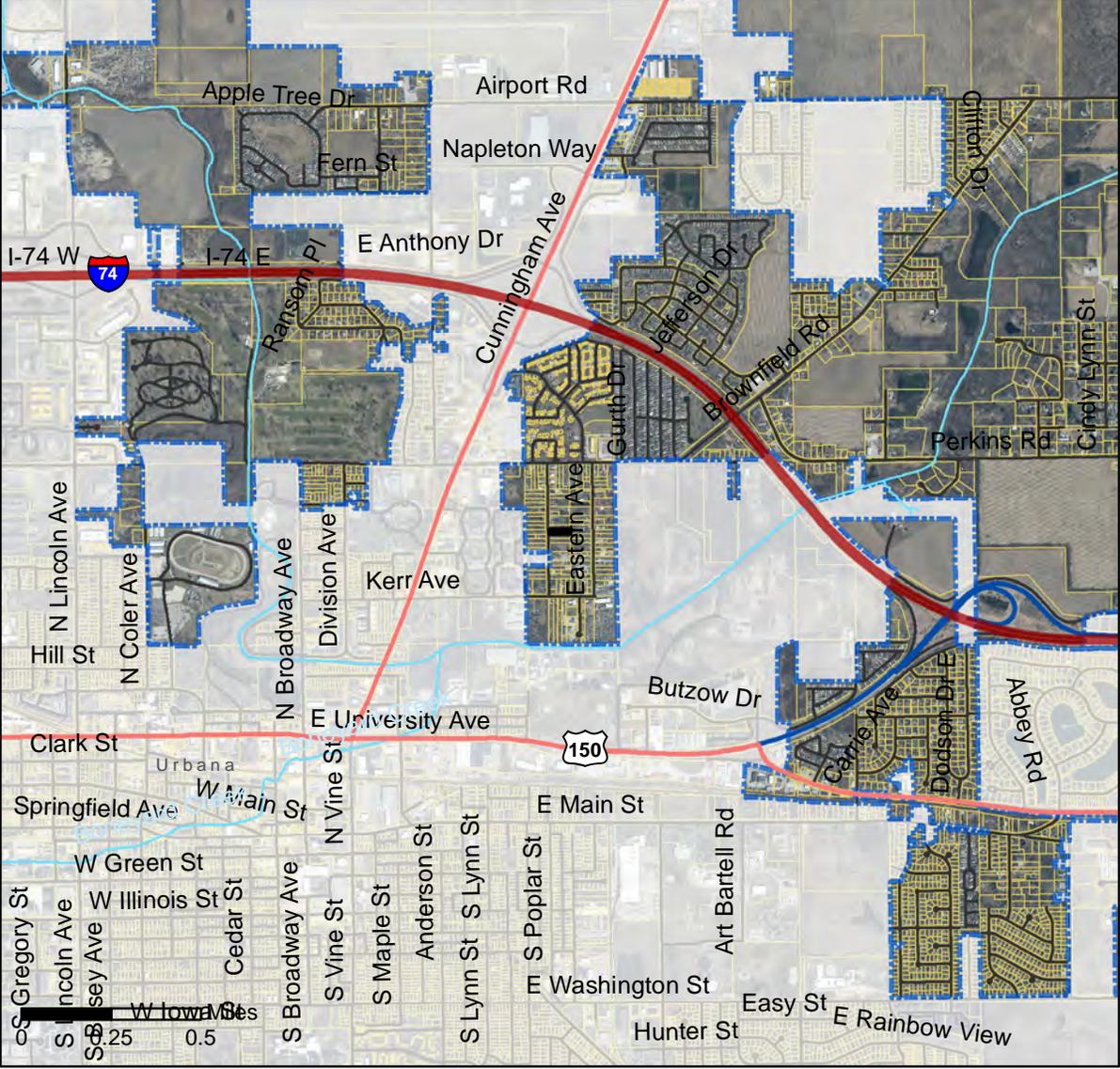
## ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan created by P&Z Staff on June 27, 2022
- C Sketch of proposed garage received May 26, 2022
- D Images of Subject Property taken June 10, 2022
- E Draft Summary of Evidence, Finding of Fact, and Final Determination dated July 14, 2022

# Location Map

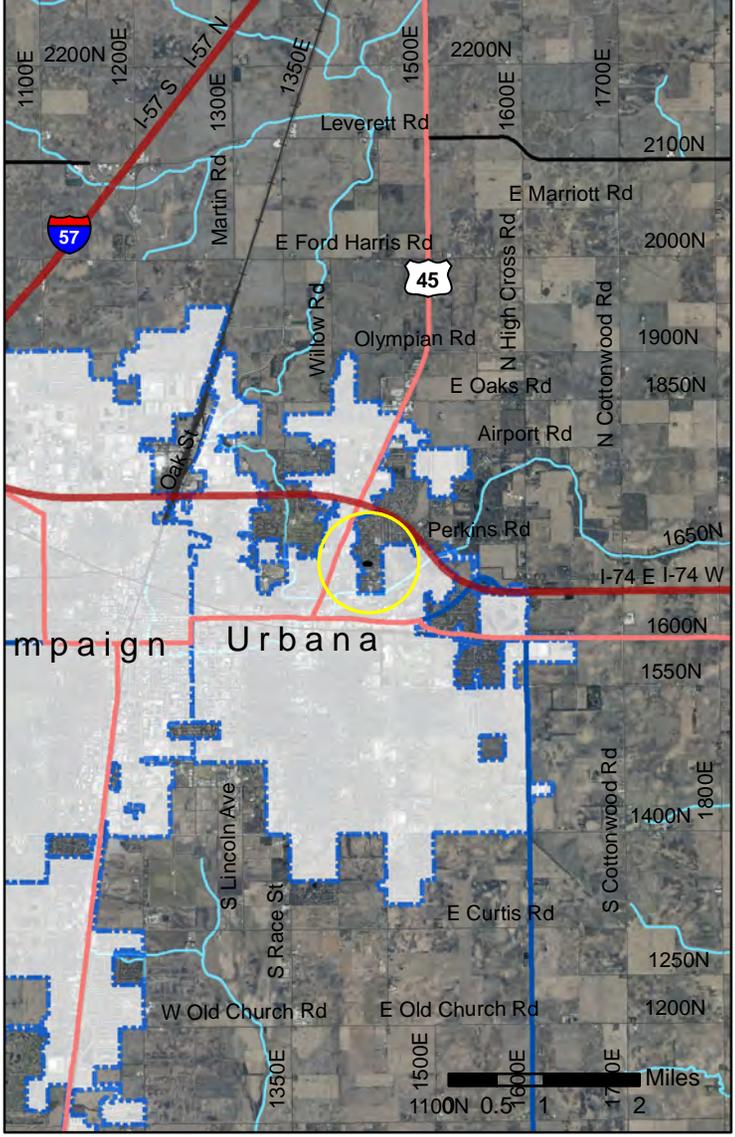
Case 057-V-22  
July 14, 2022

Subject Property



-  Subject Property
-  Municipal Boundary
-  Parcels

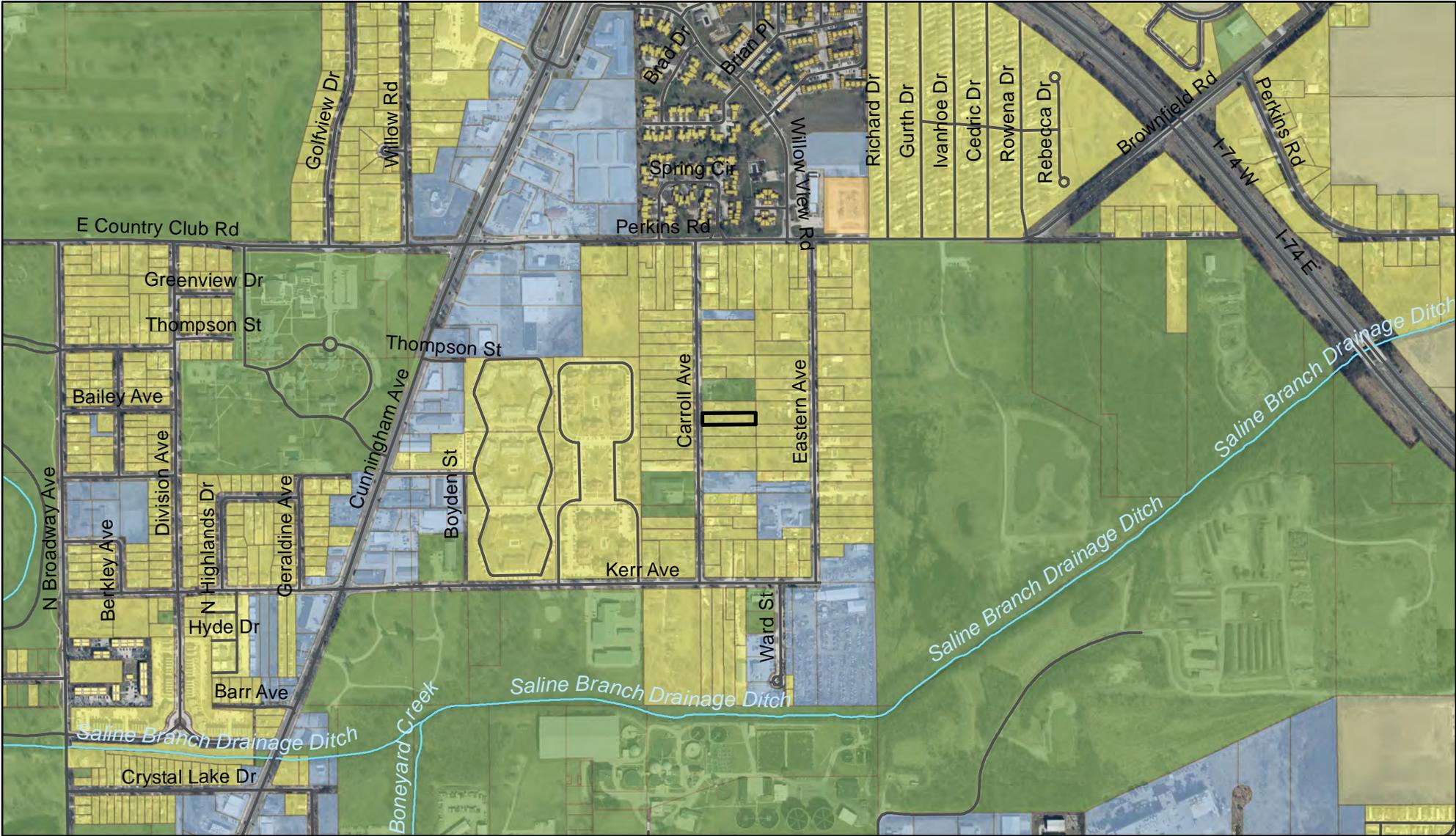
Property location in Champaign County



Champaign County  
Department of  
**PLANNING &  
ZONING**

# Land Use Map

Case 057-V-22  
July 14, 2022



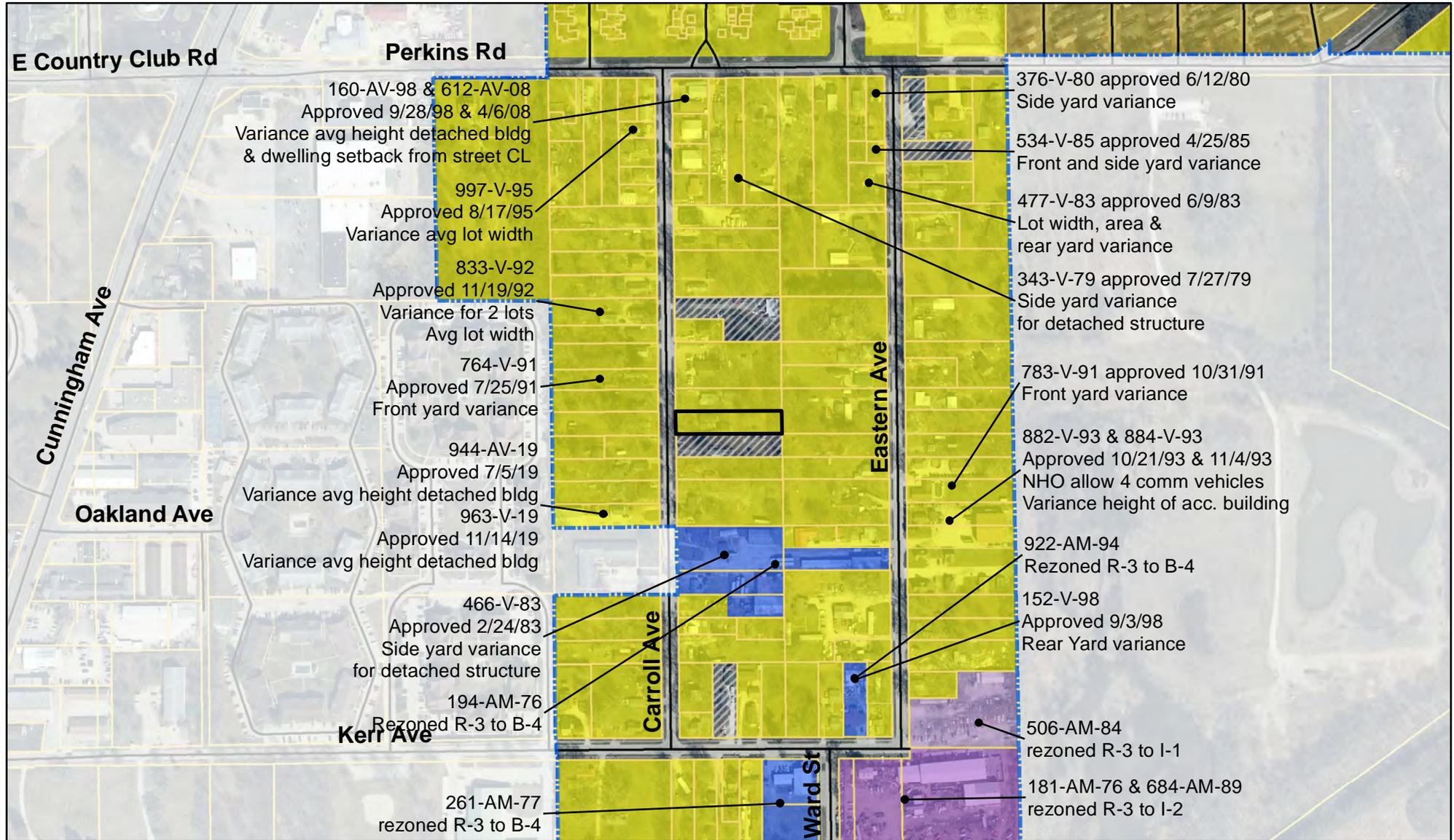
- Subject Property
- Residential
- Agriculture
- Commercial
- Ag/Residential
- Industrial
- Tax Exempt
- Utilities



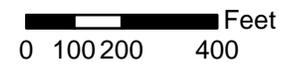
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# Zoning Map

Case 057-V-22  
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- Subject Property
- Municipal Boundary
- Parcels
- R-3 Two Family Residence
- R-5 Manufactured Home Park
- B-4 General Business
- I-1 Light Industry
- I-2 Heavy Industry
- Annexation Agreement



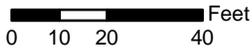
# Site Plan

Case 057-V-22  
July 14, 2022

Created by P&Z Staff



 Subject Property  
 Parcels

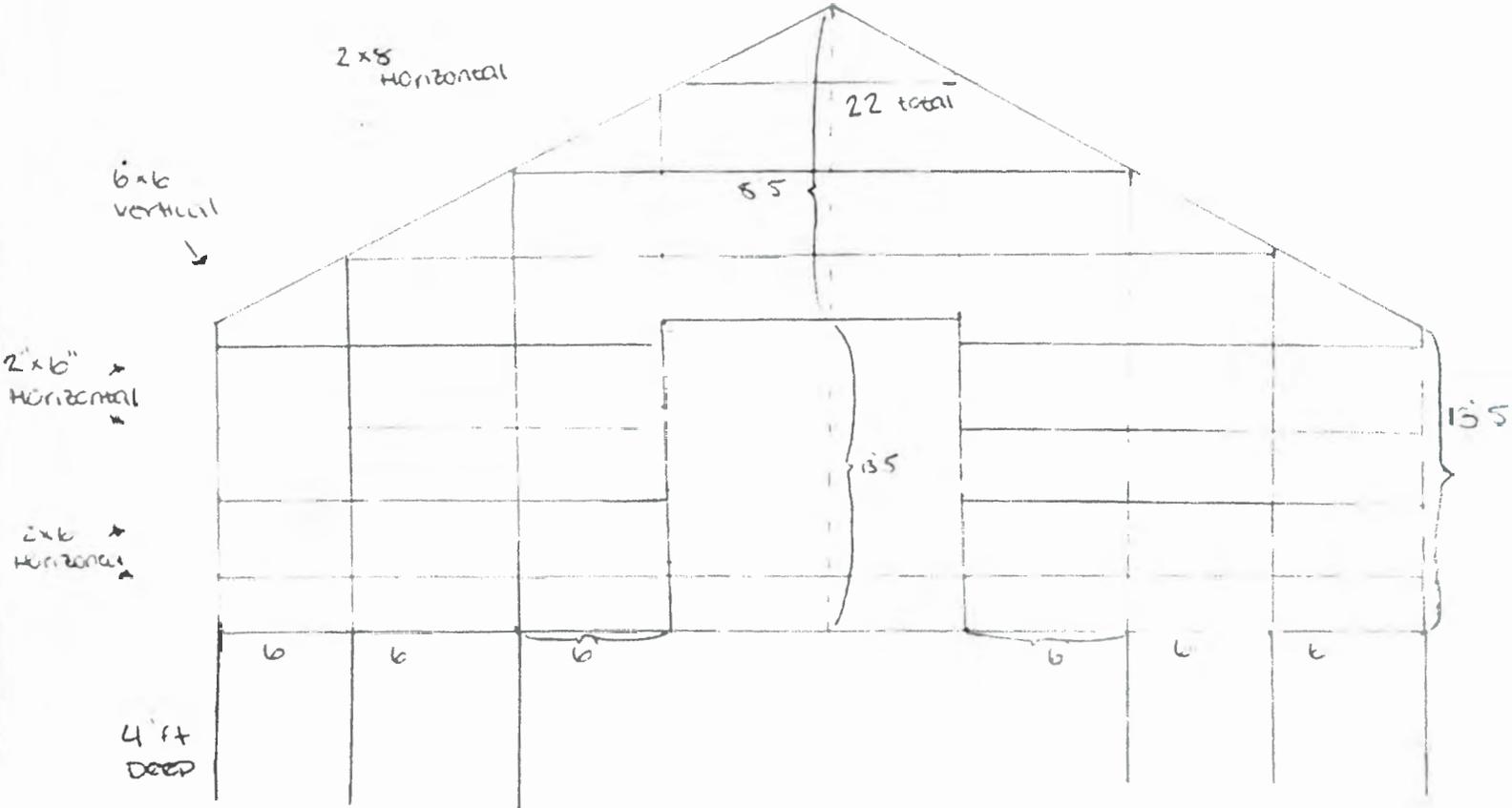


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 ZONING**

# RECEIVED

MAY 26 2022

CHAMPAIGN CO. P & Z DEPARTMENT



## 057-V-22 Site Images



**From Carroll Avenue facing east to subject property**



**From south side of house facing east to existing garage and deck**

### 057-V-22 Site Images



**From north side of detached garage facing east toward proposed shed area**



**From east end of yard (proposed shed location) facing west toward Carroll Ave**

### 057-V-22 Site Images



**From north side yard facing east toward proposed shed area**



**From proposed shed area along south property line facing west toward Carroll Ave**

**PRELIMINARY DRAFT**

**057-V-22**

**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: ***{July 14, 2022}***

Petitioner: **Angel Corado**

Request: **Authorize a variance for the construction and use of an accessory structure with an average height of 17 feet 9 inches in lieu of the maximum allowed average height of 15 feet in the R-3 Two Family Residence Zoning District, per Section 5.3 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 **July 14, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Angel Corado, 1401 E Perkins Rd, Urbana, owns the subject property.
2. The subject property is a 0.46 acre lot that is the South Half of Lot 38 in Fred C. Carroll's Subdivision of the East Half of the Northwest Quarter of the East Half of Section 9, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township, commonly known as the residence with an address of 1206 Carroll Avenue, Urbana..
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 City of Urbana, 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 Urbana 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 a 0.46-acre lot that is currently zoned R-3 Two Family Residence and is residential in use.
  - B. Land to the north, west and east is zoned R-3 Two Family Residence and is residential in use.
  - C. Land to the south has an annexation agreement with the City of Urbana and is residential in use.

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. Regarding the site plan for the 0.46-acre subject property:
  - A. The Site Plan created by P&Z Staff on June 27, 2022, includes the following existing and proposed features:
    - (1) Existing features include:
      - a. A single-family residence constructed prior to adoption of the Zoning Ordinance on October 10, 1973; and
      - b. A 24 feet by 32 feet (768 square feet) detached garage constructed prior to adoption of the Zoning Ordinance on October 10, 1973, to be demolished; and
      - c. A garden shed, to be demolished.

**PRELIMINARY DRAFT****Case 057-V-22**

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- (2) Proposed features include:
  - a. One 54 feet by 72 feet (3,888 square feet) garage for personal use only.
- B. A sketch of the garage was received on May 26, 2022 and showed a wall height of 13.5 feet and an overall height of 22 feet, which averages to approximately 17 feet 9 inches.
- C. There are no previous Zoning Use Permits for the subject property, but there is one that is pending approval of this variance case:
  - (1) ZUPA #133-22-01 is pending approval for construction of the garage.
- D. There are no previous zoning cases for the subject property, but there are numerous approved variances in the Carroll Subdivision. These are detailed on the Zoning Map in Attachment A of the Preliminary Memorandum.
- E. The required variance is to allow an accessory structure with an average height of 17 feet 9 inches in lieu of the maximum allowed average height of 15 feet in the R-3 Two Family Residence Zoning District.

**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) “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

**PRELIMINARY DRAFT**

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.

- (5) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
  - (6) “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.
- B. Paragraph 5.1.6 states: The R-3, Two Family Residence DISTRICT is intended to provide areas for SINGLE and TWO FAMILY DWELLINGS, set on medium sized building LOTS and is intended for application within or adjoining developed areas where community facilities exist.
- 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 average HEIGHT for a residential ACCESSORY BUILDING in the R-3 Two Family 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.

**PRELIMINARY DRAFT**

- (1) Average 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, 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, **“If the lot was over one acre in the R-3 district, a 24-foot tall building would be allowed. This lot is .46 acre, so it only allows a 15-foot tall building.”**
  - B. Regarding the proposed Variance for an average HEIGHT of 17 feet 9 inches in lieu of the maximum allowed 15 feet for an accessory structure:
    - (1) A lot of 1 or more acres in area can have a detached building with an average height of up to 24 feet in the R-3 district.

**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 building has already been purchased.”**
  - B. Regarding the proposed Variance for exceeding the maximum allowed average height of a residential accessory structure: without the proposed variance, the petitioner cannot construct the already purchased building on the subject property.

**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. The height of the garage door establishes the overall height of the building.”**
  - B. The petitioner became aware of the height restriction when he applied for the Zoning Use Permit to construct the garage.

**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 garage meets all other ordinance requirements. There is adequate light and air on the property.”**

**PRELIMINARY DRAFT**

- B. Regarding the proposed variance for exceeding the maximum allowed average height of 15 feet: the requested variance is 118.3% of the maximum average height allowed, for a variance of 18.3%.
- (1) Presumably, the height requirements are to ensure that there are no shadow or visual impediments for adjacent neighbors. The nearest neighboring residential structure is 75 feet to the southwest.

**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 garage is similar to other garages in the neighborhood, and will not create safety issues.”**
- B. The Urbana Township Road Commissioner has been notified of this variance and no comments have been received.
- C. The Carroll Fire Protection District has 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 did not provide a response on the application.

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

13. Regarding proposed special conditions of approval:
- A. **No business activities including storage of materials or parking of vehicles related to a business either inside or outside of the building shall take place without the proper approvals from the Champaign County Department of Planning & Zoning.**

The above special condition is required to ensure the following:

**No unauthorized business use can establish on the subject property.**

**PRELIMINARY DRAFT**

**DOCUMENTS OF RECORD**

1. Variance Application received June 3, 2022
2. Site Plan received with Zoning Use Permit Application #133-22-01 on May 26, 2022
3. Sketch of proposed garage received with Zoning Use Permit Application #133-22-01 on May 26, 2022
4. Preliminary Memorandum dated July 5, 2022, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan created by P&Z Staff on June 27, 2022
  - C Sketch of proposed garage received May 26, 2022
  - D Images of Subject Property taken June 10, 2022
  - E Draft Summary of Evidence, Finding of Fact, and Final Determination dated July 14, 2022

**DRAFT SUMMARY FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **057-V-22** held on **July 14, 2022**, 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. ***A lot of 1 or more acres in area can have a detached building with an average height of up to 24 feet in the R-3 district.***
  
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 proposed variance, the petitioner cannot construct the already purchased building on the subject property.***
  
3. The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant because:
  - a. ***The petitioner became aware of the height restriction when he applied for the Zoning Use Permit to construct the garage.***
  
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 nearest neighboring residential structure is 75 feet to the southwest, and there is adequate light and air on the subject property.***
  
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 have been notified of the proposed variance, and no comments have been received.***
  
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:
  - a. ***The building has already been purchased, so it cannot be reduced in height.***
  
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***
  - A. **No business activities including storage of materials or parking of vehicles related to a business either inside or outside of the building shall take place without the proper approvals from the Champaign County Department of Planning & Zoning.**

The above special condition is required to ensure the following:

**No unauthorized business use can establish on the subject property.**

**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 **057-V-22** is hereby **{GRANTED / GRANTED WITH CONDITIONS / DENIED}** to the petitioner, **Angel Corado**, to authorize the following variance in the R-3 Single Family Residence Zoning District:

**Authorize a variance for the construction and use of an accessory structure with an average height of 17 feet 9 inches in lieu of the maximum allowed average height of 15 feet in the R-3 Two Family Residence Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

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

- A. No business activities including storage of materials or parking of vehicles related to a business either inside or outside of the building shall take place without the proper approvals from the Champaign County Department of Planning & Zoning.**

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