

CASE NO. 101-V-23

PRELIMINARY MEMORANDUM

July 19, 2023

Petitioner: Randy Graham

Request: Authorize a variance for a proposed garage addition with a setback from the street centerline of Duncan Road of 46 feet in lieu of the minimum required 75 feet and a front yard of 26 feet in lieu of the minimum required 30 feet in the AG-2 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

Subject Property: A 1.1-acre parcel in the Northwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 34, Township 19 North, Range 8 East of the Third Principal Meridian in Champaign Township, with an address of 3812 S Duncan Rd, Champaign.

Site Area: 1.1 acres

Time Schedule for Development: As soon as possible

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

BACKGROUND

The petitioner requests a variance to construct an attached garage addition to the west side of his residence.

Attachment B is a Site Plan prepared by P&Z Staff.

The proposed garage addition would not meet the minimum setback from the street centerline of South Duncan Road. The road is under Champaign Township jurisdiction, but because the corporate limit of Champaign is approximately 800 feet north of the subject property, P&Z Staff reached out to the City of Champaign to see if they have any plans to widen South Duncan Road. In an email received April 18, 2023, Jeff Marino, Planner with the City of Champaign, said, "the city has no plans to make any improvements to Duncan, south of Curtis in the near future." Champaign Township was also notified of this case, and no comments have been received.

DUNCAN ROAD CLASSIFICATION AFFECTS VARIANCE DESCRIPTION

This variance case was originally described as being on a local township road requiring a 55-foot setback from street centerline. The Zoning Administrator has determined that South Duncan Road at this location should be classified as a minor urban arterial based on input from the City of Champaign, which would change the variance to require a 75-foot setback from street centerline and a front yard of 30 feet. The Summary of Evidence and Findings of Fact have been revised to reflect the 75-foot setback and front yard of 30 feet.

EXTRATERRITORIAL JURISDICTION

The subject property is located 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 generally not notified of such cases. In this case the City was notified due to the possibility of future road improvements on South Duncan Road.

The subject property is located in 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.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

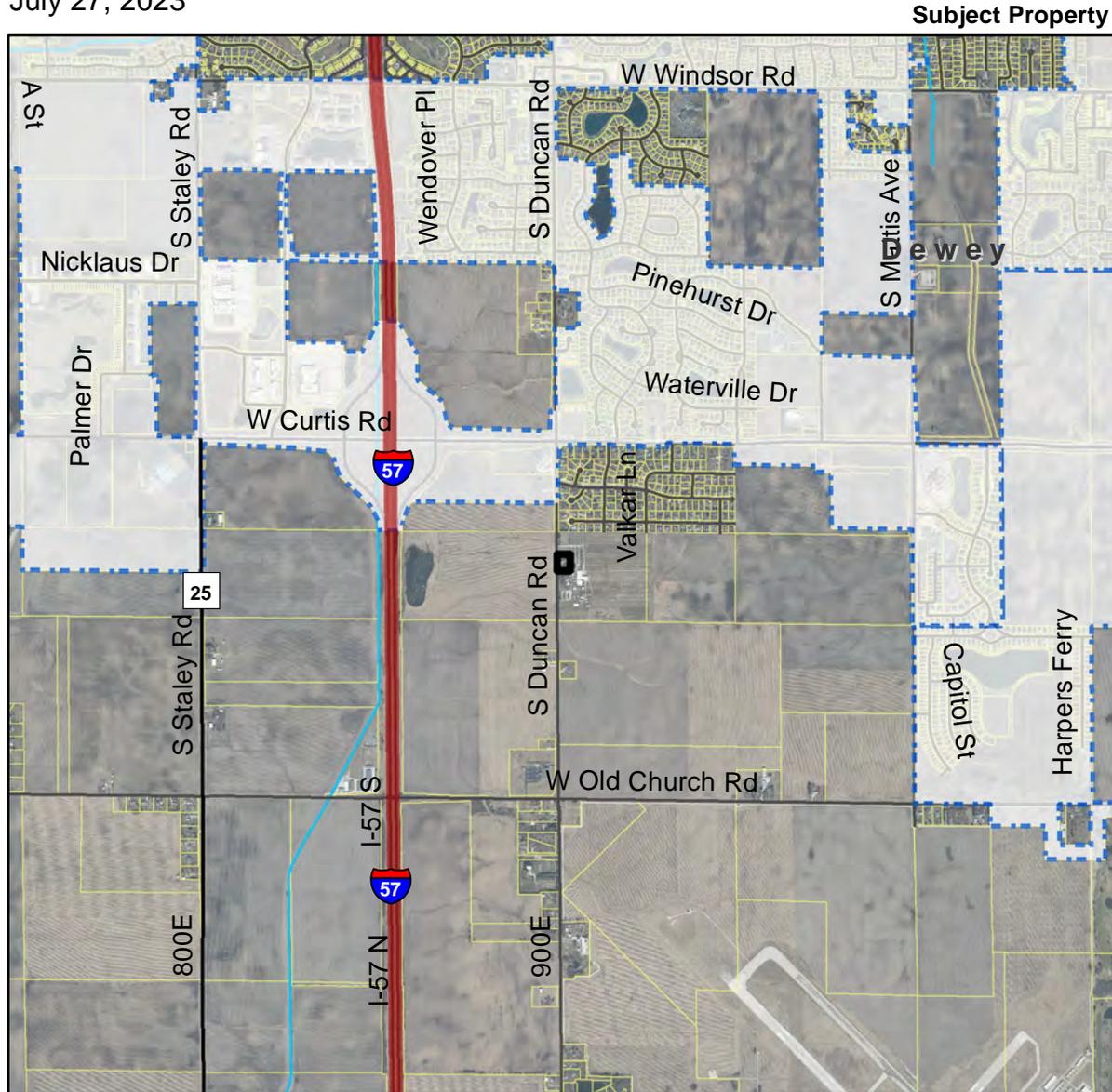
Direction	Land Use	Zoning
Onsite	Residential	AG-2 Agriculture
North	Curtis Orchard	AG-2 Agriculture
South	Curtis Orchard	AG-2 Agriculture
East	Curtis Orchard	AG-2 Agriculture
West	Agriculture	AG-2 Agriculture

ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan created by P&Z Staff
- C Floor Plan received April 17, 2023
- D Email from Jeff Marino, City of Champaign Planner, received April 18, 2023
- E Images of subject property taken April 28, 2023
- F Draft Summary of Evidence, Finding of Fact, and Final Determination dated July 27, 2023

Location Map

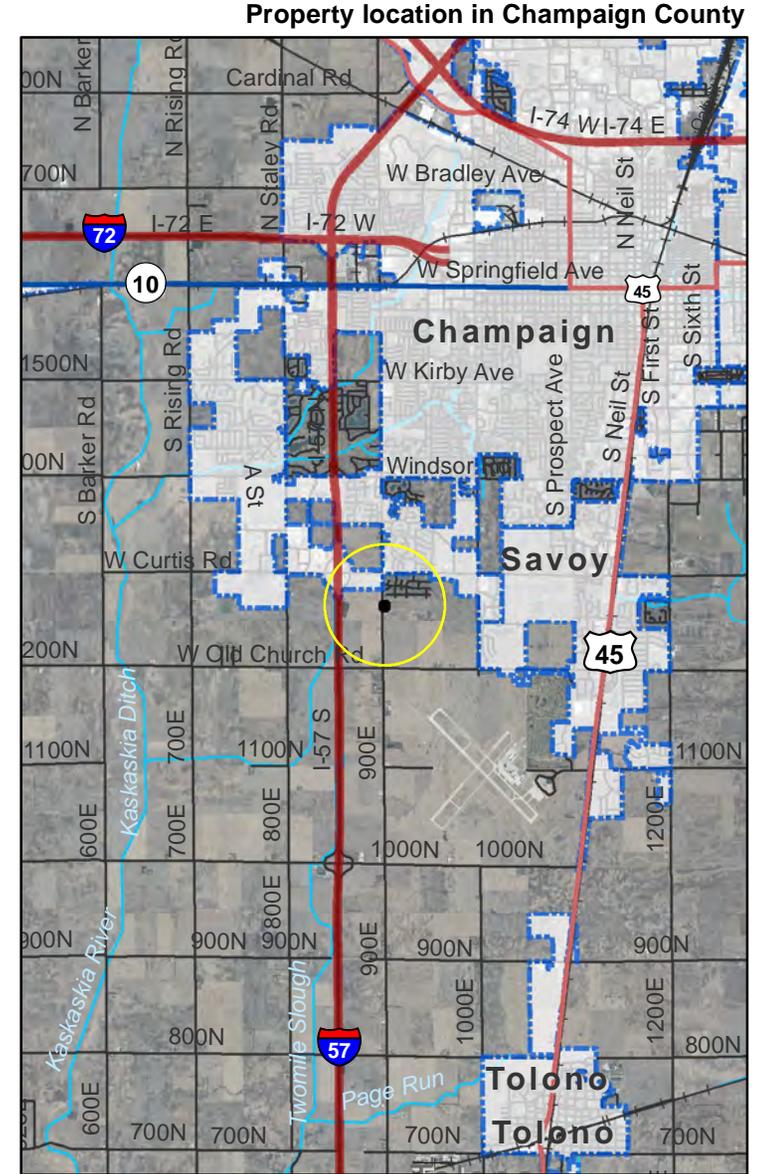
Case 101-V-23
July 27, 2023



-  Subject Property
-  Parcels
-  Municipal Boundary

0 0.1250.25 0.5 Miles

Subject Property



0 0.5 1 2 Miles

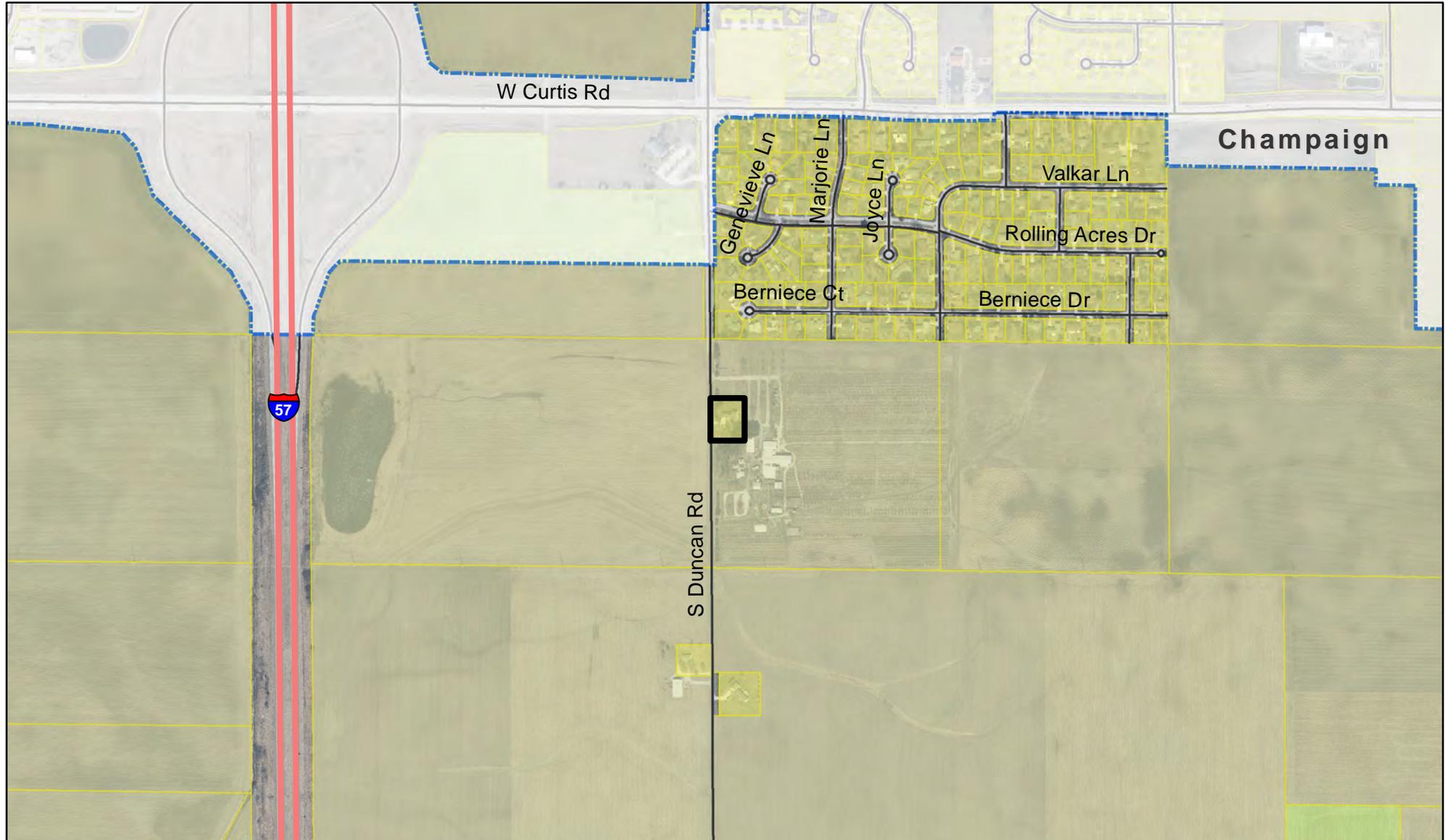
Property location in Champaign County



Champaign County
Department of
PLANNING &
ZONING

Land Use Map

Case 101-V-23
July 27, 2023



-  Subject Property
-  Parcels
-  Agriculture
-  Ag/Residential
-  Residential

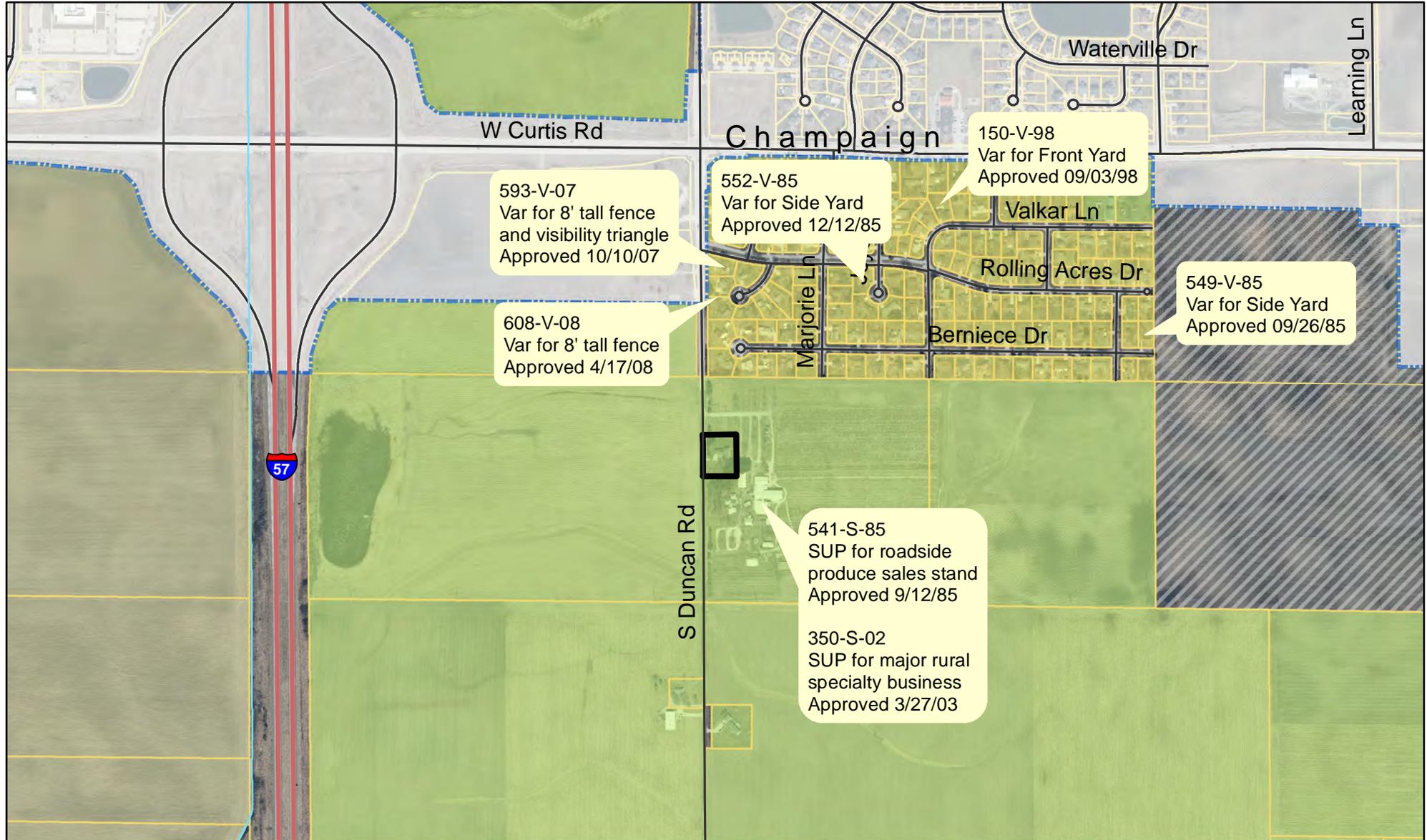
0 200 400 800 Feet



Champaign County
Department of
PLANNING &
ZONING

Zoning Map

Case 101-V-23
July 27, 2023



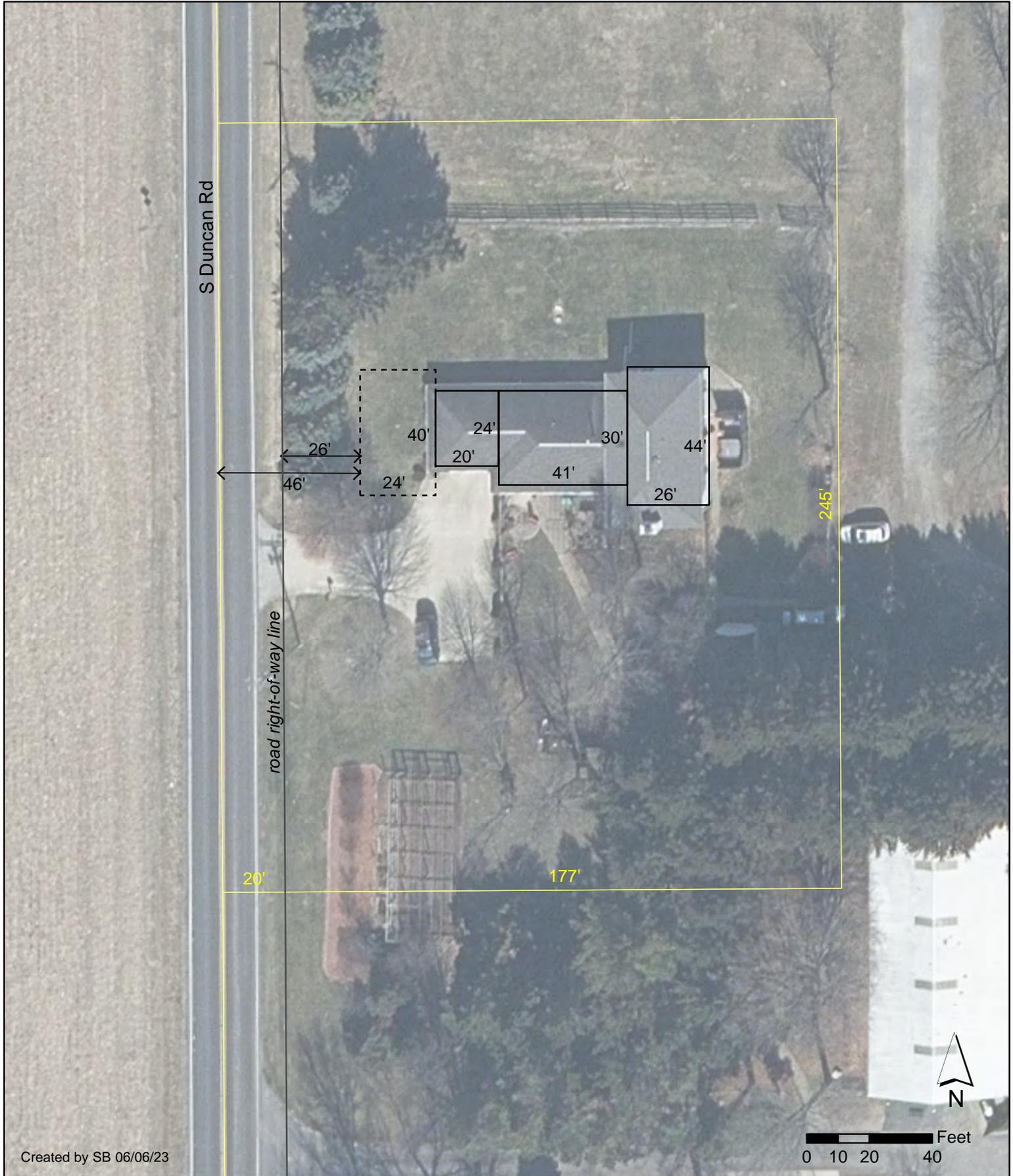
- Subject Property
- AG-2 Agriculture
- Parcels
- R-1 Single Family Residence
- AG-1 Agriculture
- Annexation Agreement

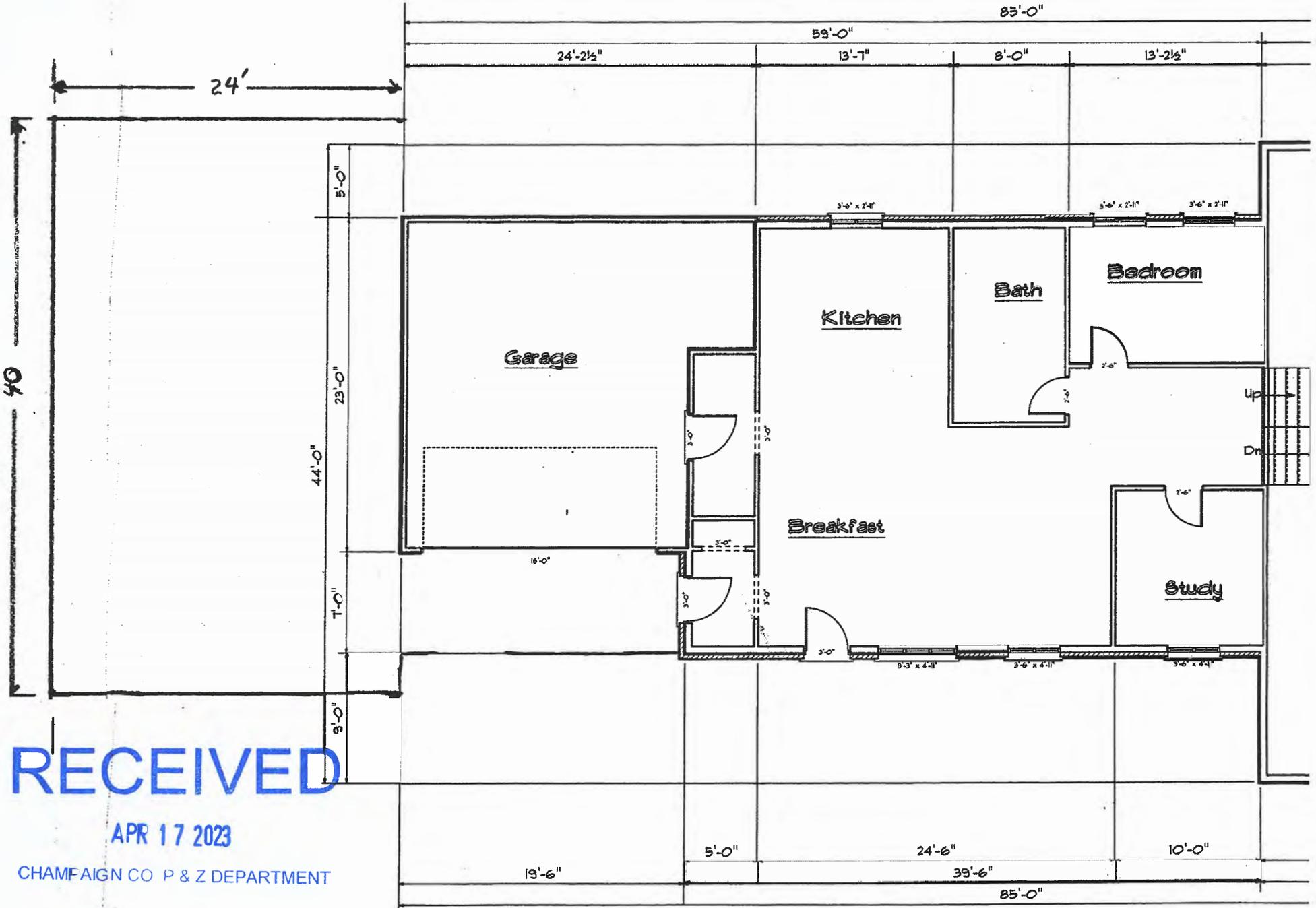
0 200 400 800 Feet



Site Plan

Case 101-V-23
July 27, 2023





RECEIVED

APR 17 2023

CHAMFAIGN CO P & Z DEPARTMENT

Susan Burgstrom

From: Jeff Marino <Jeff.Marino@champaignil.gov>
Sent: Tuesday, April 18, 2023 2:02 PM
To: Susan Burgstrom
Subject: RE: road classification for Duncan Road?
Attachments: CB 2021-155 Signed Copy - Final.pdf

RECEIVED

APR 18 2023

CHAMPAIGN CO. P & Z DEPARTMENT

CAUTION External email, be careful when opening.

Susan,

Thanks. Just for info sharing – we did an Area General Plan a couple of years ago, to allow Randy Graham to create a legal lot of record around the home. Because the tract was over 30 acres, it didn't trigger some of the infrastructure improvements that would normally be associated with a subdivision.

I don't see any improvements to that part of Duncan in our lifetime by the City of Champaign, partly because the Savoy boundary agreement is along the south side of the Curtis Apple Orchard. But I also don't think that traffic counts will warrant it. Because of the location of the Interstate and the Curtis Road Interchange, the Monticello Road interchange, and the Airport, there isn't really a population density in there, that would create demand to widen the road. However, it is hard to predict the future.

Jeff Marino
Senior Planner
Planning and Development Department
City of Champaign

From: Susan Burgstrom <sburgstrom@co.champaign.il.us>
Sent: Tuesday, April 18, 2023 11:52 AM
To: Jeff Marino <Jeff.Marino@champaignil.gov>
Subject: RE: road classification for Duncan Road?

[EXTERNAL]

Thanks Jeff! We have a variance coming up for Randy Graham (PIN 03-20-34-151-004), who wants to add on to his house so that the addition is closer to the road by 24 feet. This makes it about 20 feet from the road right of way at Duncan. We don't usually notify municipalities of variance cases, but if the City has concerns or widening plans in this case, I think the Board will want to know about it.

Thanks,
Susan

From: Jeff Marino <Jeff.Marino@champaignil.gov>
Sent: Tuesday, April 18, 2023 10:45 AM
To: Susan Burgstrom <sburgstrom@co.champaign.il.us>
Subject: RE: road classification for Duncan Road?

CAUTION External email, be careful when opening.

Susan,

Our Street Classification Map shows that as a Minor Arterial. The Minor Arterial has a handful of options for the standard some include an urbanized cross section others are an interim cross section which has a more rural design with overland drainage in the ditches. Here is a  [link](#) to all of the approved cross sections.

The City has no plans to make any improvements to Duncan, south of Curtis in the near future. We would probably want to start thinking about infrastructure improvements as development occurred. However, since there are no immediate development plans for that stretch, it would likely be a number of years before it got into the 10 year CIP.

Did you have a question regarding road improvements out there? If so, was it from a pending development? I'm happy to talk about this in more detail, if a phone call is warranted.

Thanks,
Jeff Marino
Senior Planner
Planning and Development Department
City of Champaign

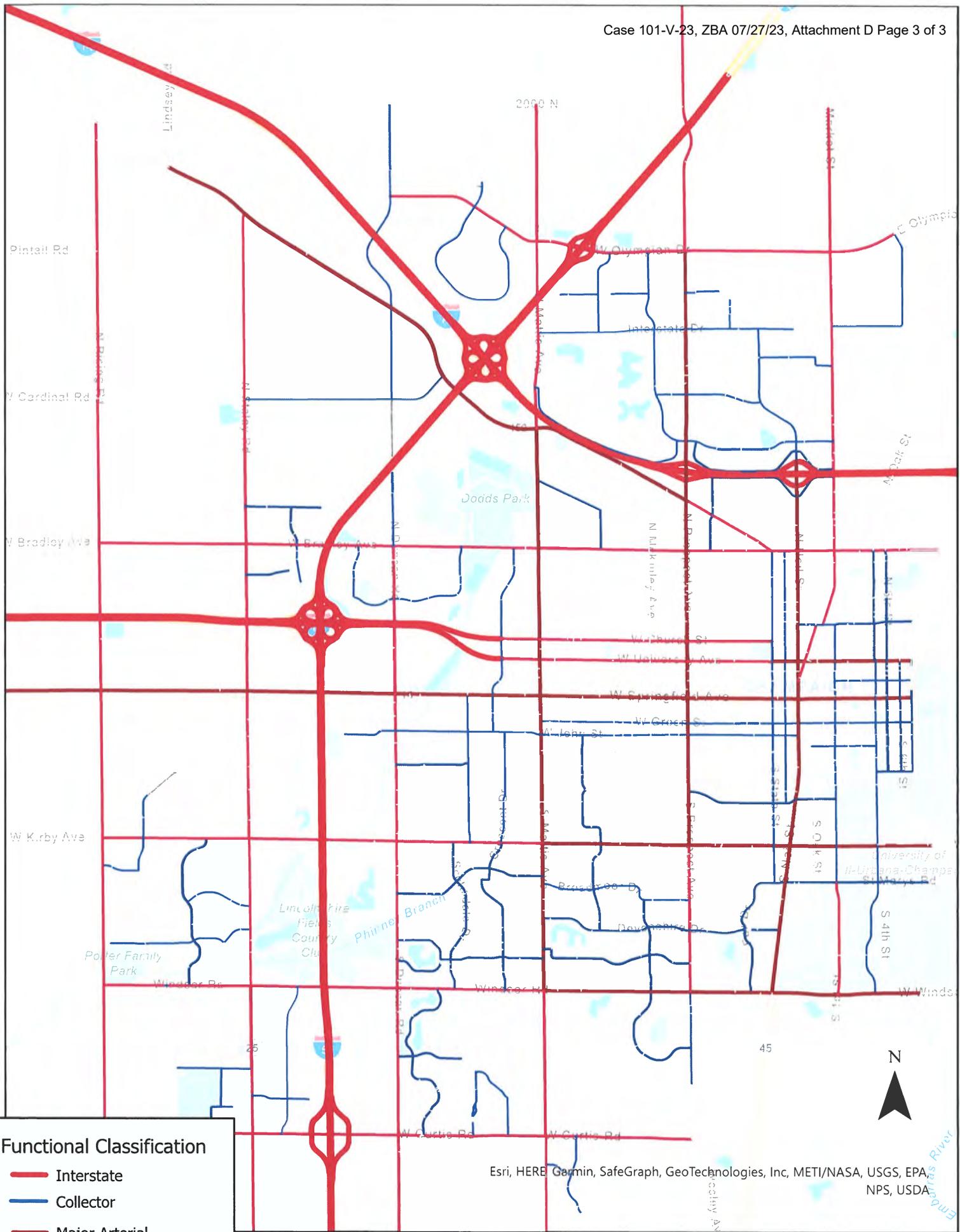
From: Susan Burgstrom <sburgstrom@co.champaign.il.us>
Sent: Monday, April 17, 2023 10:26 AM
To: Jeff Marino <Jeff.Marino@champaignil.gov>
Subject: road classification for Duncan Road?

[EXTERNAL]
Hi Jeff,

I'm looking for a road classification (arterial, minor arterial, local) for Duncan Road adjacent to Curtis Orchard, and also whether there are plans by the City to widen that stretch of Duncan Road.

Thanks,
Susan

Susan Burgstrom, AICP
Senior Planner
Champaign County Planning & Zoning
1776 E Washington St
Urbana, IL 61802
217-384-3708
www.co.champaign.il.us



Functional Classification

- Interstate
- Collector
- Major Arterial
- Minor Arterial

Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA

101-V-23 Site Images



From Duncan Road facing NE to residence



From Duncan Road facing east to garage addition area

101-V-23 Site Images



From subject property facing south on Duncan Road



From subject property facing north on Duncan Road

PRELIMINARY DRAFT

101-V-23

**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: ***{July 27, 2023}***

Petitioner: **Randy Graham**

Request: **Authorize a variance for a proposed garage addition with a setback from the street centerline of Duncan Road of 46 feet in lieu of the minimum required 75 feet and a front yard of 26 feet in lieu of the minimum required 30 feet in the AG-2 Agriculture 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 27, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Randy Graham, 3812 S Duncan Road, Champaign, owns the subject property.
2. The subject property is a 1.1-acre parcel in the Northwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 34, Township 19 North, Range 8 East of the Third Principal Meridian in Champaign Township, with an address of 3812 S Duncan Rd, Champaign.
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 Champaign, 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 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 1.1-acre subject property is zoned AG-2 Agriculture. Land use is a single-family residence.
 - B. Land to the north, south, and east is zoned AG-2 Agriculture and is in use as Curtis Orchard.
 - C. Land to the west is zoned AG-2 Agriculture and is land in agricultural production.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Site Plan created by P&Z Staff indicates the following:
 - (1) The following are existing structures on the subject property:
 - a. One 1,660 square feet single-family residence constructed under ZUPA #252-82-01 approved November 22, 1982.
 - (2) Proposed construction includes:
 - a. One 24 feet by 40 feet (960 square feet) garage addition to the west end of the existing residence.
 - B. The following are previous Zoning Use Permits for the subject property:
 - (1) ZUPA #252-82-01 was approved on November 22, 1982 to construct a single family residence.
 - (2) ZUPA #214-91-03 was approved on August 12, 1991 to construct an addition to the residence.

PRELIMINARY DRAFT**Case 101-V-23**

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- C. There are no prior Zoning Cases for the subject property.
- D. The required variance is as follows:
 - (1) Authorize a variance for a proposed garage addition with a setback from the street centerline of Duncan Road of 46 feet in lieu of the minimum required 75 feet and a front yard of 26 feet in lieu of the minimum required 30 feet in the AG-2 Agriculture Zoning District, per Section 5.3 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) “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.
 - (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 LINE, FRONT” is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
 - (4) “RIGHT-OF-WAY” is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
 - (5) “SETBACK LINE” is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY line.
 - (6) “STREET” is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
 - (a) MAJOR STREET: Federal or State highways.
 - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
 - (c) MINOR STREET: Township roads and other local roads.
 - (7) “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.

PRELIMINARY DRAFT

- (8) “YARD, FRONT” is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
- B. The AG-2 Agriculture 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.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Regarding the proposed variance:
- (1) Minimum setback from the centerline of a COLLECTOR STREET for a structure in the AG-2 Agriculture Zoning District is established in Section 5.3 of the *Zoning Ordinance* as 75 feet.
 - (2) Minimum FRONT YARD for a structure in the AG-2 Agriculture Zoning District is established in Section 5.3 of the *Zoning Ordinance* as 30 feet.

PRELIMINARY DRAFT**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, **“I wish to add a larger garage to the home in a location that allows me to enter the street facing forward for traffic safety. The variance would allow this.”**
- B. In an email received April 18, 2023, Jeff Marino, Planner with the City of Champaign, said, “the city has no plans to make any improvements to Duncan, south of Curtis in the near future.”

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, **“Building a 2-car garage without a variance would require that it not be attached to the house. The security of both the garage and the home are improved by attaching it. This requires a variance.”**
- B. Regarding the proposed variance: without the proposed variance, the petitioner could not construct a garage addition on their home.

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, **“Building norms have changed over time. When I built the home in 1983, I did not build garage space adequate to meet my needs 40 years later in 2023.”**
- B. There is no other location for attaching the proposed garage to the house other than the west side of the existing home.

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 a blind hill immediately south of my property on Duncan Road. Granting this variance allows for increased garage space without causing me to back onto a dangerous road.”**

PRELIMINARY DRAFT

- B. Regarding the proposed variance for a setback from the centerline of a collector street of 46 feet in lieu of 75 feet: the requested variance is 61.3% of the minimum required, for a variance of 38.7%.
- C. Regarding the proposed variance for a front yard of 26 feet in lieu of the minimum required 30 feet: the requested variance is 86.7% of the minimum required, for a variance of 13.3%.
- D. Regarding the proposed variance, the Zoning Ordinance does not clearly state the considerations that underlie the minimum setback and front yard requirements. Presumably the minimums are intended to ensure the following:
 - (1) Adequate separation from roads.
 - (2) Allow adequate area for road expansion and right-of-way acquisition.
 - a. There are no known plans to expand South Duncan Road.
 - (3) Parking, where applicable.

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: **“Granting this variance does not hinder public health, safety or welfare in any way. The property is far from any intersection and the nearest neighbor is Curtis Orchard.”**
 - B. The Champaign Township Road Commissioner has been notified of this variance, and no comments have been received.
 - C. The Champaign Fire Department has been notified of this variance, and no comments have been received.
 - D. In an email received April 18, 2023, City of Champaign Planner Jeff Marino stated that there are no plans to widen South Duncan Road.
 - E. The nearest structure on adjacent property to the existing residence is an outbuilding of Curtis Orchard, which is about 100 feet away.

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:

No special conditions are proposed at this time.

DOCUMENTS OF RECORD

1. Variance Application received on April 17, 2023, with attachment:
 - A Floor Plan
2. Site Plan created by P&Z Staff
3. Email from Jeff Marino, City of Champaign Planner, received April 18, 2023
4. Preliminary Memorandum dated July 19, 2023, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan created by P&Z Staff
 - C Floor Plan received April 17, 2023
 - D Email from Jeff Marino, City of Champaign Planner, received April 18, 2023
 - E Images of subject property taken April 28, 2023
 - F Draft Summary of Evidence, Finding of Fact, and Final Determination dated July 27, 2023

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **101-V-23** held on **July 27, 2023**, 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. *In an email received April 18, 2023, Jeff Marino, Planner with the City of Champaign, said, “the city has no plans to make any improvements to Duncan, south of Curtis in the near future.”*
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 could not construct a garage addition on their home.*
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. *There is no other location for attaching the proposed garage to the house other than the west side of the existing home.*
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. *There are no known plans to widen South Duncan Road, and there is no parking along South Duncan Road.*
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 variance, and no comments have been received.*
 - b. *In an email received April 18, 2023, Jeff Marino, Planner with the City of Champaign, said, “the city has no plans to make any improvements to Duncan, south of Curtis in the near future.”*
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 **101-V-23** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner, **Randy Graham**, to authorize the following variance:

Authorize a variance for a proposed garage addition with a setback from the street centerline of Duncan Road of 46 feet in lieu of the minimum required 75 feet and a front yard of 26 feet in lieu of the minimum required 30 feet in the AG-2 Agriculture Zoning District, per Section 5.3 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