

CASE NO. 139-V-24

PRELIMINARY MEMORANDUM

June 19, 2024

Petitioner: **Julie & Errol Root**

Request: **Authorize a variance for an existing 6.45-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Subject Property: **Part of the southeast quarter of the northeast quarter of Section 12, Township 20 North, Range 8 East of the Third Principal Meridian, in Hensley Township, with an address of 2251 CR 1200E Champaign.**

Site Area: **6.45 acres**

Time Schedule for Development: **In progress**

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

BACKGROUND

The petitioners own a 6.45-acre tract that contains one single-family dwelling, a detached garage a quonset building and a barn and is currently in use as a residential lot, with accessory agricultural uses.

The petitioner submitted a Zoning Use Application in April of 2024 for a new single-family home on the property to replace the existing aging home. During the permit review process, it was discovered that the existing 6.45-acre lot was greater than the 3-acre maximum lot size that is allowed on best prime farmland. The petitioner was required to apply for a variance to the maximum lot size regulation prior to approval of the Zoning Use Permit. The petitioner submitted an Application for Variance on April 30, 2024. The permit was then approved on April 30, 2024 with the condition that the petitioner must abide by any reasonable requirement of the Zoning Board of Appeals regarding the maximum lot size variance.

The farmstead that currently exists on the property was previously located on a 4.7-acre parcel that was enlarged to 6.45 acres when the surrounding farmland was sold in 2005, after the maximum lot size regulation was adopted in 2004.

The petitioner has not proposed to take any land out of agricultural production. A soils map can be found in Attachment D.

The P&Z Department has not received any comments regarding the proposed variance, and staff does not propose any special conditions of approval.

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

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

EXISTING LAND USE AND ZONING**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Residential, Agriculture	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
South	Residential, Agriculture	AG-1 Agriculture

EXTRATERRITORIAL JURISDICTION

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

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

SPECIAL CONDITIONS

No special conditions are proposed.

ATTACHMENTS

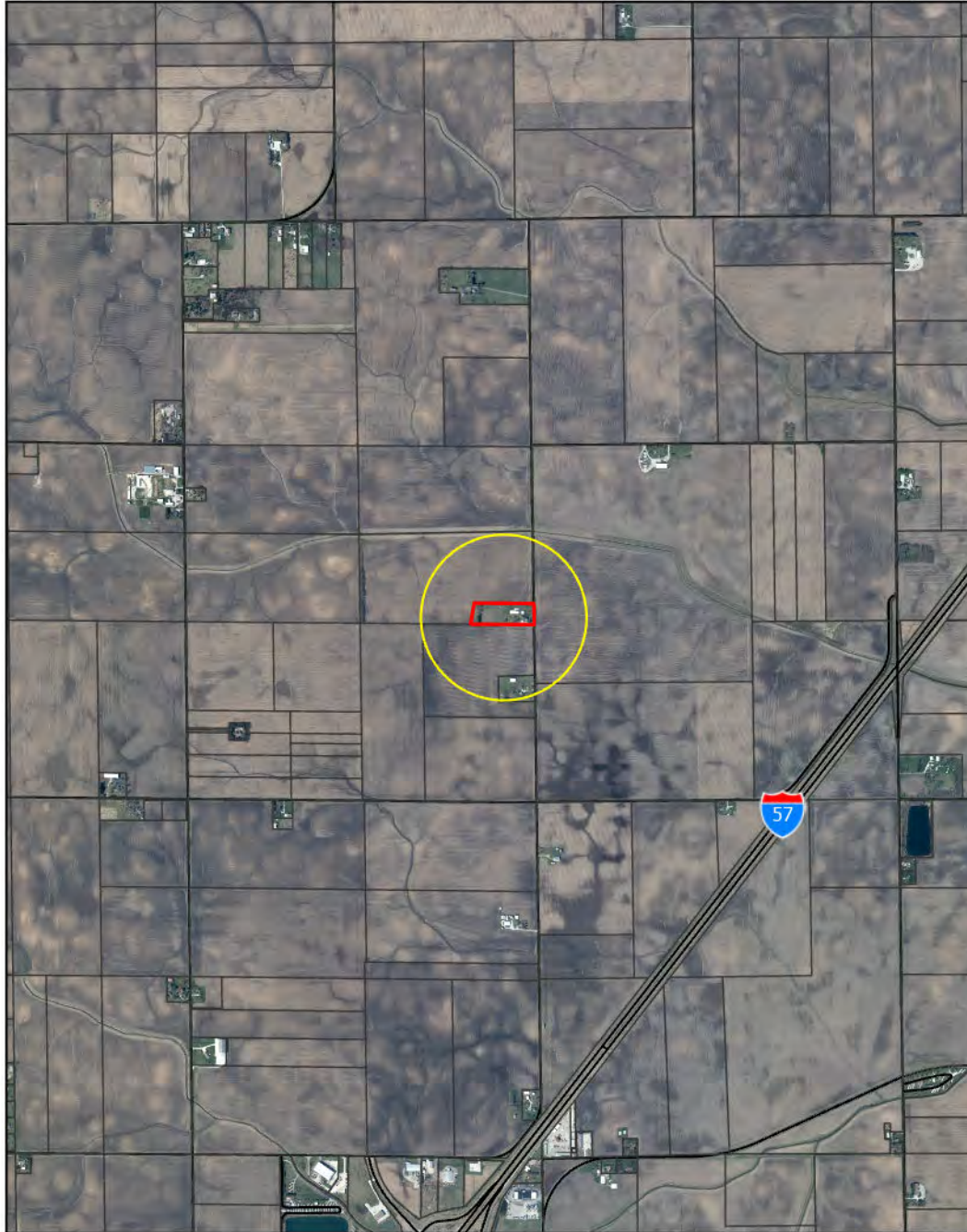
- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received April 15, 2024
- C 2023 Annotated Aerial Photo/Site Plan
- D 1973 Aerial Photo
- E 1988 Aerial Photo
- F Soils Map
- G Site Images taken June 17, 2024
- H Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 139-V-24 dated June 27, 2024



Location Map

Case 139-V-24

June 27, 2024

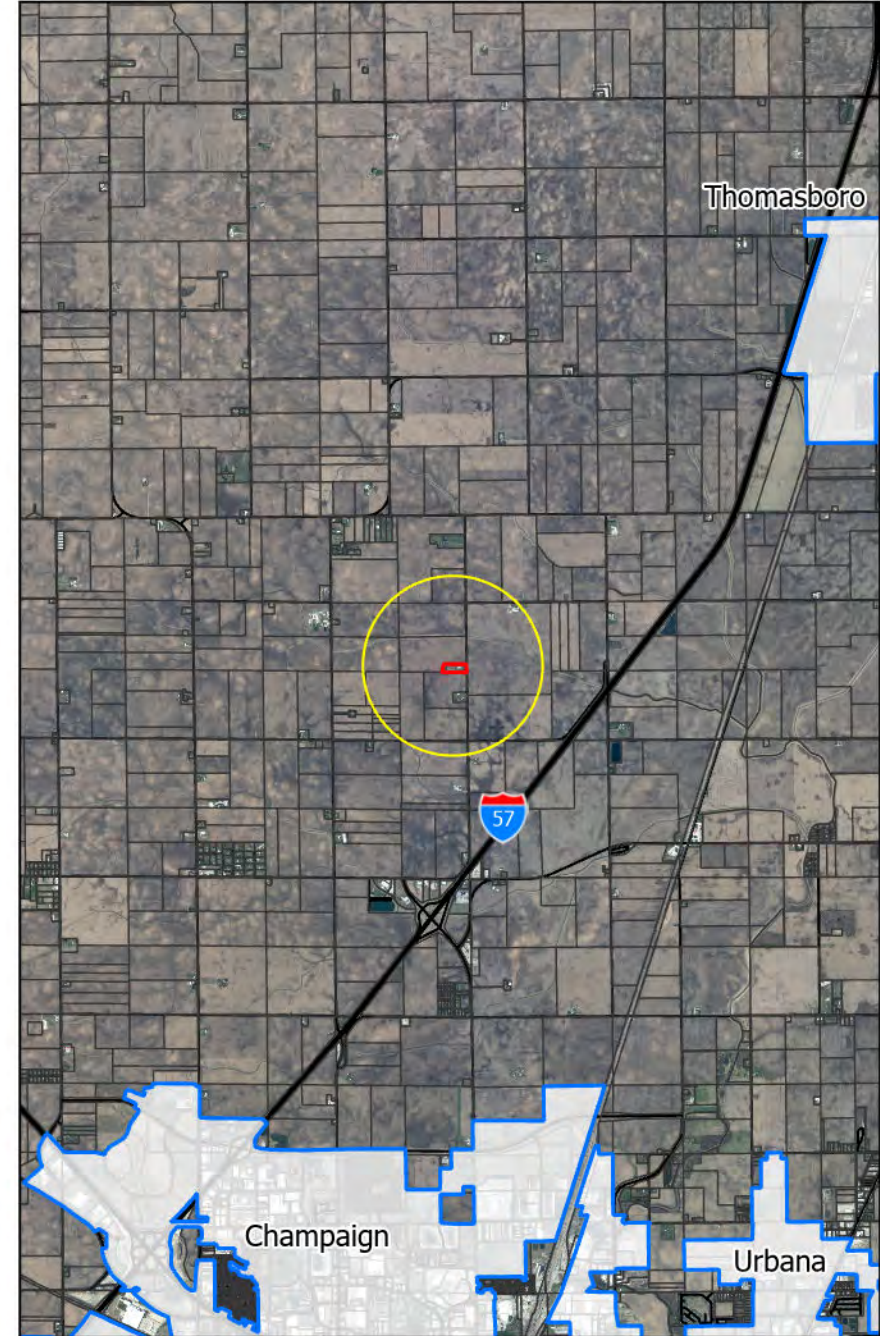
Subject Property



-  Subject Property
-  Municipal Boundary

0 0.25 0.5 Miles

Property Location in Champaign County



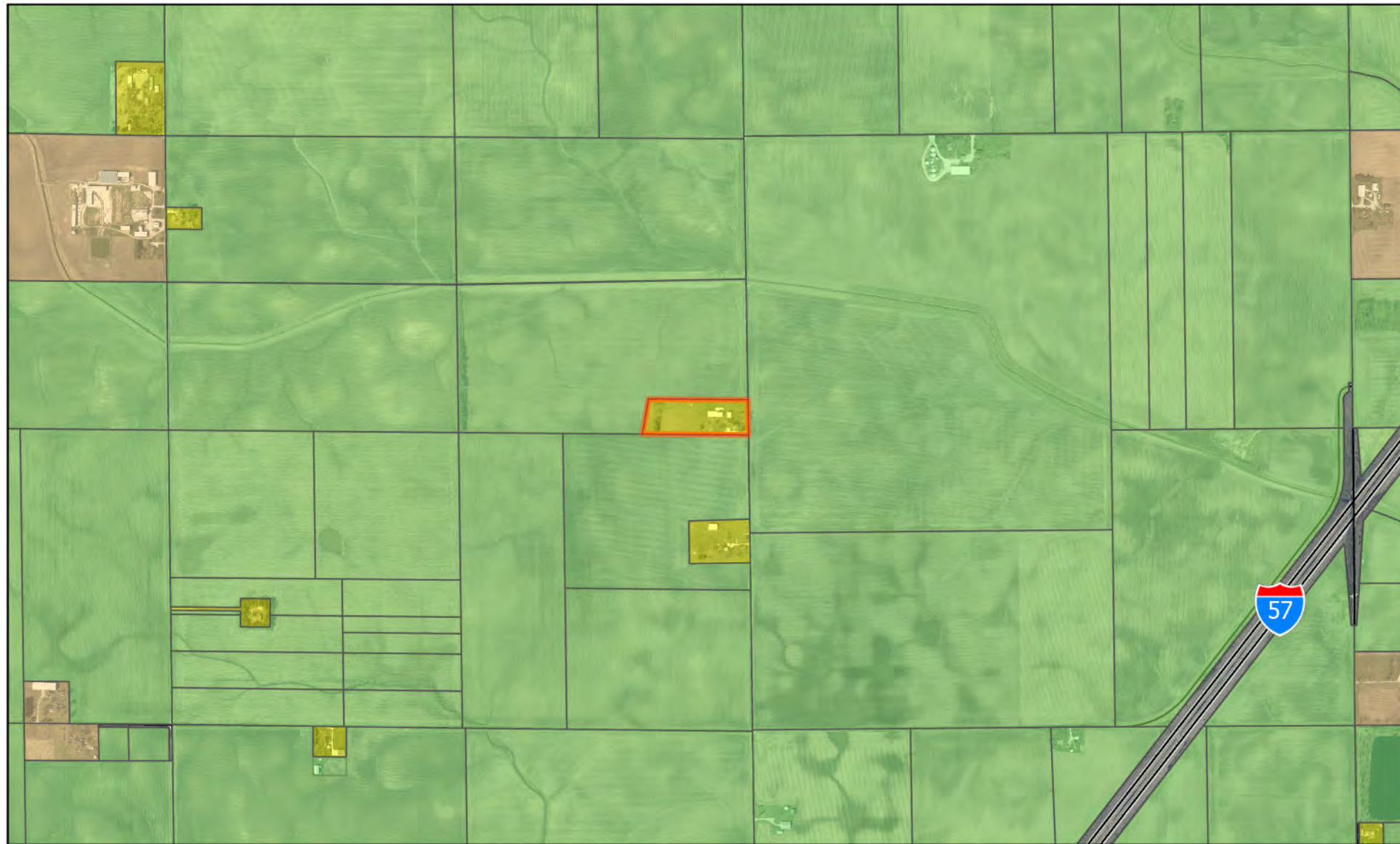
0 0.5 1 2 Miles



Land Use Map

Case 139-V-24

June 27, 2024



 Subject Property

 Residential

 Agriculture

 Agriculture/Residential

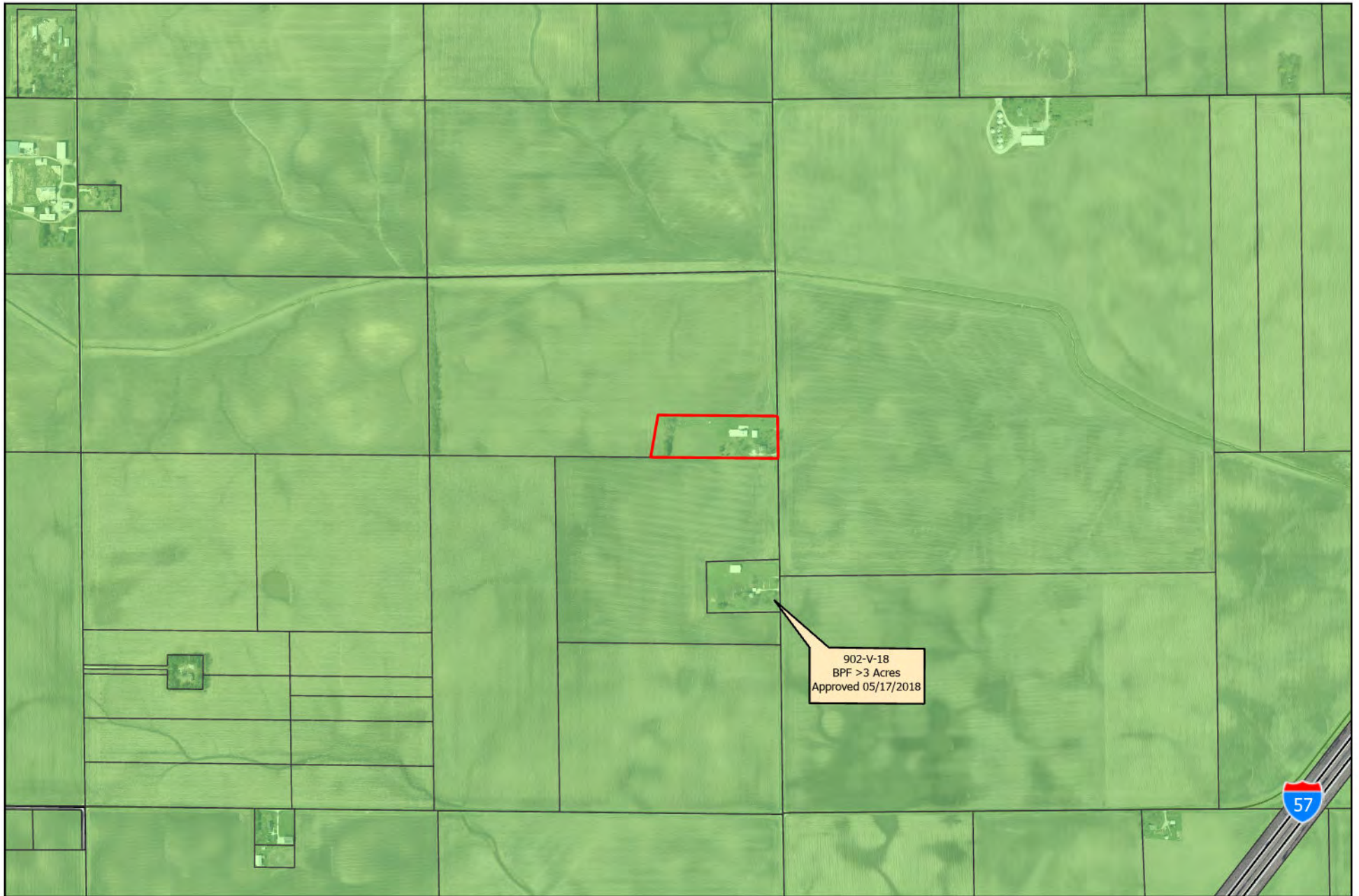
0 500 1,000 2,000
Feet




Zoning Map

Case 139-V-24

June 27, 2024

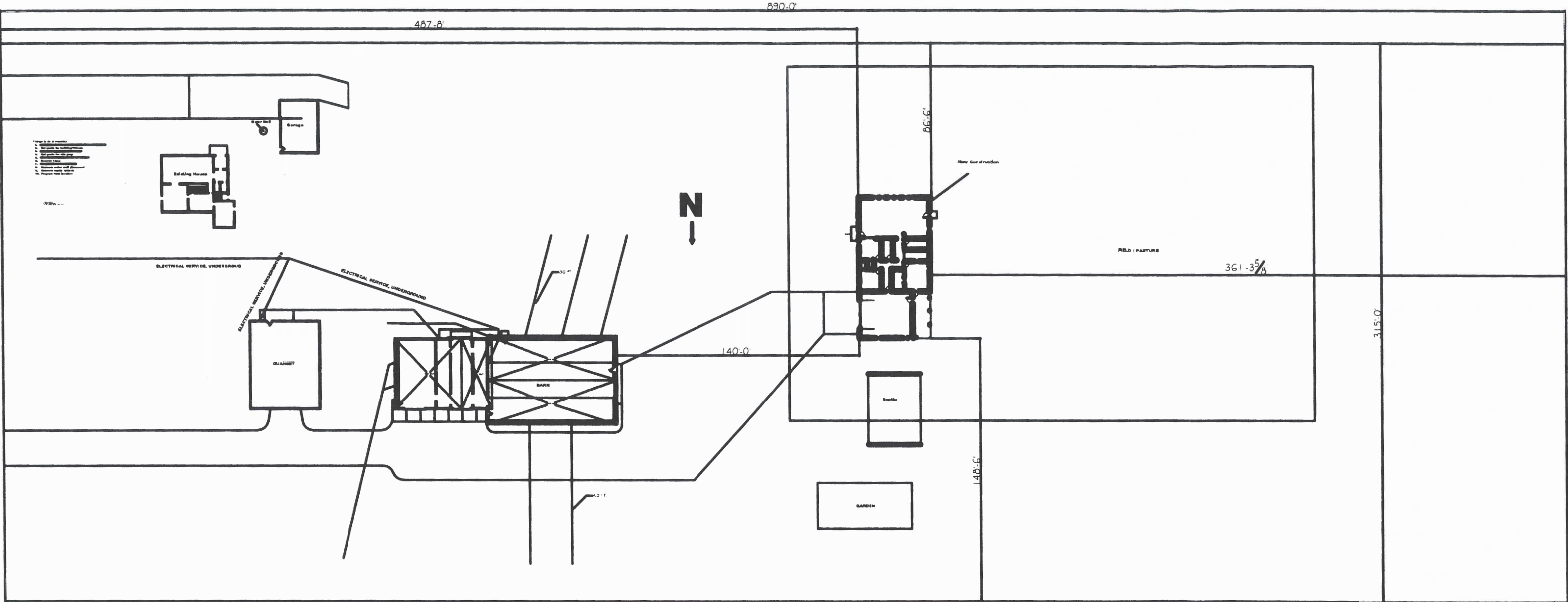


 Subject Property

 AG-1 Agriculture

0 1,000 2,000
Feet





Julie & Budd Root
 2251 CR 1200 E.
 Champaign, IL. 61822
 Parcel# 12-14-12-200-002
 Reciept# 850001, 106-24-01 New Shed House

RECEIVED

APR 15 2024

CHAMPAIGN CO. P & Z DEPARTMENT

Annotated Aerial and Site Plan

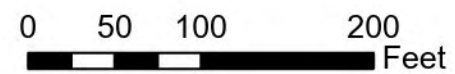
Case 139-V-24

June 27, 2024

Case 139-V-24, ZBA 6/27/24, Attachment C



 Proposed Home

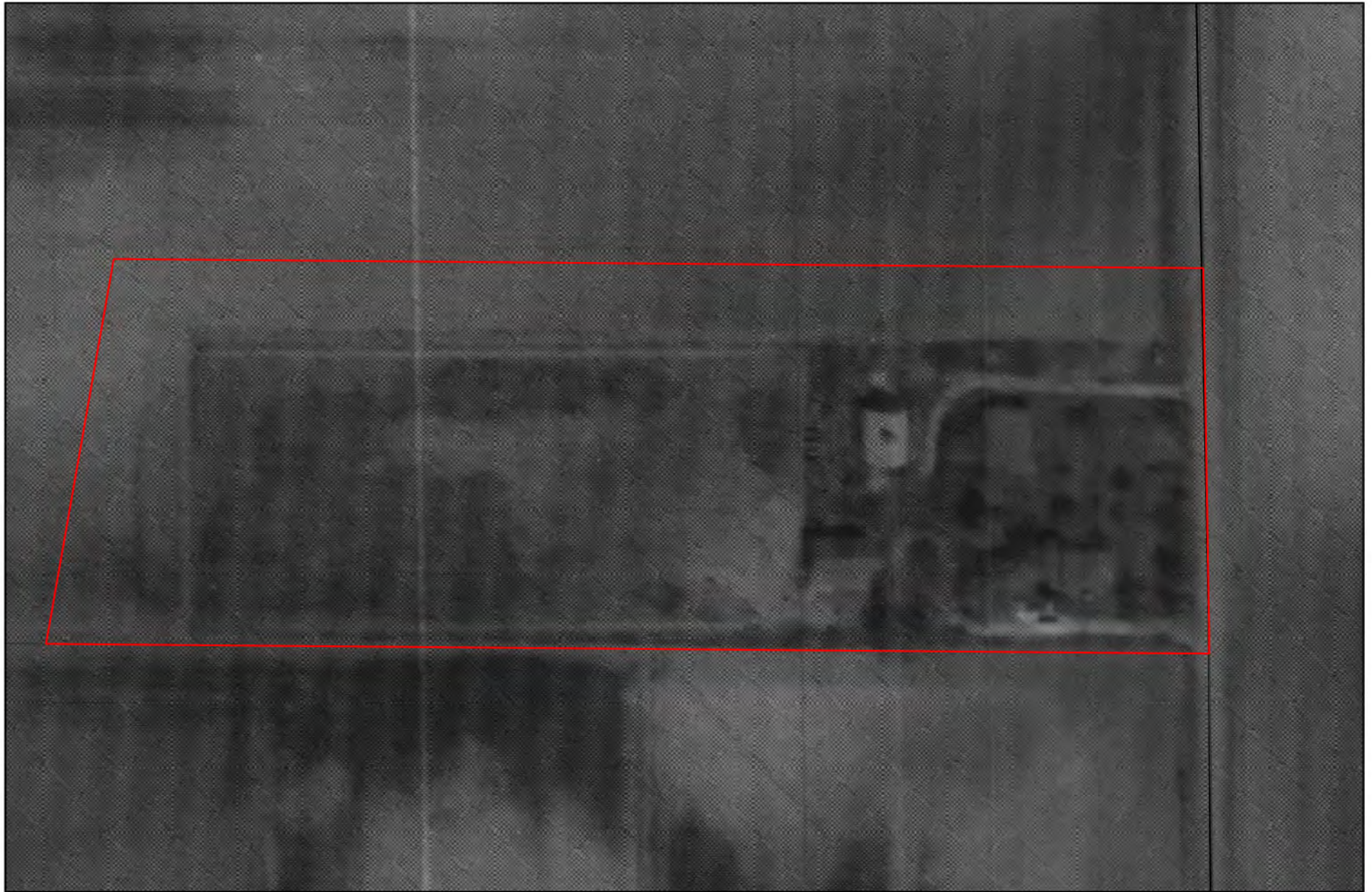


Annotated 1973 Aerial

Case 139-V-24

June 27, 2024

Case 139-V-24, ZBA 6/27/24, Attachment D



0 50 100 200 Feet



Annotated 1988 Aerial

Case 139-V-24

June 27, 2024

Case 139-V-24, ZBA 6/27/24, Attachment E



0 50 100 200 Feet



Soils Map

Case 139-V-24

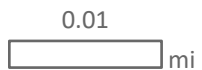
June 27, 2024

2023

Case 139-V-24, ZBA 6/27/24, Attachment F



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



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139-V-24 Site Images



From 1200E facing W to subject property



From Subject Property facing N along 1200E.

139-V-24 Site Images



From Subject Property facing S along 1200E



From Subject Property facing E across 1200E.

PRELIMINARY DRAFT

139-V-24

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

Final Determination: ***{GRANTED/GRANTED WITH SPECIAL CONDITION(S)/DENIED}***

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

Petitioners: **Julie & Errol Root**

Request: **Authorize a variance for an existing 6.45-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Table of Contents

General Application Information..... 2
Requested Variance2-3
Specific Ordinance Requirements3 - 5
Variance Evidence5 - 7
Documents of Record.....8
Case 139-V-24 Findings of Fact.....9
Case 139-V-24 Final Determination 10

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 Julie & Errol Root, 2251 CR 1200E, Champaign, own the 6.45-acre lot with an address of 2251 CR 1200E, in the southeast quarter of the northeast quarter of Section 12, Township 20 North, Range 8 East of the Third Principal Meridian, in Hensley Township.
2. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.
 - B. The subject property is located within Hensley 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 existing 6.45-acre subject property is zoned AG-1 Agriculture and is in use as single-family residential and agriculture.
 - B. Land surrounding the subject property is also zoned AG-1 Agriculture and is in agricultural production. There is one 4.78-acre property to the south that is zoned AG-1 Agriculture and is in residential use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the Annotated Aerial/Site Plan for the subject property:
 - A. The Site Plan received as part of Zoning Use Permit 106-24-01, for a proposed new home on the subject property indicates the following:
 - (1) Existing structures on the property include:
 - a. One single family residence
 - b. A detached garage
 - c. A quonset building
 - d. A barn
 - (2) The petitioner is proposing to construct a 40 ft. x 80 ft. home with attached garage and demolish and remove the existing home.
 - B. The existing buildings on the property were constructed prior to the adoption of the Champaign County Zoning Ordinance on October 10, 1973, and the barn has been expanded twice since that time.
 - C. The petitioner submitted a Zoning Use Application in April of 2024 for a new single-family home on the property. During the permit review process, it was discovered that the 6.45-acre lot was greater than the 3-acre maximum lot size that is allowed on best prime farmland. The petitioner was required to apply for a variance to the maximum lot size

PRELIMINARY DRAFT**Case 139-V-24****Page 3 of 10**

regulation prior to approval of the Zoning Use Permit. The petitioner submitted an Application for Variance on April 30, 2024. The permit was approved on April 30, 2024 with the condition that the petitioner abide by any reasonable requirement of the Zoning Board of Appeals regarding the maximum lot size variance.

- D. There are no previous zoning cases for the subject property.
- E. The requested variance is to allow an existing 6.45-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

- 6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
 - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
 - (1) “AGRICULTURE” is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry and the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.
 - (2) “AREA, LOT” is the total area within the LOT LINES.
 - (3) “BEST PRIME FARMLAND” is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
 - (a) Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation and Site Assessment (LESA) System;
 - (b) Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA System; or
 - (c) Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils, as determined by the Champaign County LESA System.

PRELIMINARY DRAFT

- (4) “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.
 - (5) “LOT LINES” are the lines bounding a LOT.
 - (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. Section 5.3 of the Zoning Ordinance Footnote 13 states:
- 13. The following maximum LOT AREA requirements apply in the CR, AG-1 and AG-2 DISTRICTS:
 - A) LOTS that meet all of the following criteria may not exceed a maximum LOT AREA of three acres:
 - 1) The LOT is RRO-exempt;
 - 2) The LOT is made up of soils that are BEST PRIME FARMLAND; and
 - 3) The LOT is created from a tract that had a LOT AREA greater than or equal to 12 acres as of January 1, 1998.
- 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 9.1.9C. 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.

PRELIMINARY DRAFT**Case 139-V-24****Page 5 of 10**

- D. Paragraph 9.1.9 E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

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 Petitioners testified the following on the application: **“The home at 2251 County Road 1200 E has been a single-family residence that predates the County Zoning Codes. Due to aging, the American Four-Square home on the parcel is experiencing increasing failures of vital systems and has reached a point that repairs are no longer feasible. The requested variance is for replacing the home on the existing 6.45-acre lot in lieu of the maximum area of 3 acres for lots on soils that are best prime farmland, per Section 5.3 of the Zoning Ordinance”**
- B. Regarding the soils that make up the subject property:
- (1) The soils on the existing 6.45-acre lot are BEST PRIME FARMLAND and consist of 56B Dana silt loam, 152A Drummer silty clay loam and 198A Elburn silt loam, and the property has an average LE score of 93.
- C. The location has been in use as a farmstead since prior to 1973. The farmstead that currently exists on the property was previously located on a 4.7-acre parcel that was enlarged to 6.45 acres when the surrounding farmland was sold in 2005, after the maximum lot size regulation was adopted in 2004.
- D. The petitioner submitted a Zoning Use Application for a new single-family home on the property on April 15, 2024. During the permit review process, it was discovered that the 6.45-acre lot had been made more non-conforming when it was enlarged from 4.7 acres to 6.45 acres and is greater than the 3-acre maximum lot size that is allowed on best prime farmland. The petitioner was required to apply for a variance to the 3-acre maximum lot size regulation prior to approval of the Zoning Use Permit. An Application for Variance was submitted on April 30, 2024. The Zoning Use Permit was approved on April 30, 2024, with the condition that the petitioner abide by any reasonable requirement of the Zoning Board of Appeals regarding the maximum lot size variance.
- E. No changes to the existing parcel lines are proposed and no land will be removed from production.

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 Petitioners testified the following on the application: **“Without a variance to replace the aging home, the current home will eventually become inhabitable and will need to be abandoned.”**

PRELIMINARY DRAFT

- B. Without the proposed variance, the petitioners would need to reconfigure their property lines in order to provide proper setbacks for the existing and proposed buildings and would be left with irregular shaped lots.

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 Petitioners testified the following on the application: **“The property was purchased in 2019 for the purpose of being a primary single-family residence. We were not aware of zoning regulations that would prevent replacement of an aging home in the future.”**
- B. The existing lot was not created by the petitioner. The lot was originally a farmstead prior to 1973. The surrounding farmland was sold off in 2005 leaving the current 6.45-acre lot. The petitioners purchased the property in 2019 with all the existing structures and grass/pasture and tree line.

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 Petitioners testified the following on the application: **“The purpose of 2251 County Road 1200 E has been a Single-Family Residence that predates the County Zoning Codes. Zoning laws are important for the safety and protection of communities and in this regard, to protect Best Prime Farmland but this is an established homestead that has been in existence for over a hundred years and the variance is not requesting to develop on land that has been used for farming in many years.”**
- B. The maximum lot size on best prime farmland requirement was first established by Ordinance No. 726 (Case 444-AT-04) on July 22, 2004. It was made permanent with Ordinance No. 773 approved December 20, 2005.
- C. Ordinance No. 914 (Case 711-AT-12) approved on November 27, 2012, revised the best prime farmland definition to have a Land Evaluation (LE) rating of 91 or higher rather than the previous rating of 85 or higher.
- D. The 6.45-acre lot area is 215% of the required three acre maximum, for a variance of 115%.
- E. The property was originally a farmstead prior to 1973.
- F. No land is proposed to be taken out of agricultural production.
- G. The requested variance is not prohibited by the *Zoning Ordinance*.

PRELIMINARY DRAFT

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 Petitioners testified the following on the application: **“The current home is aging and built before most current construction standards and zoning ordinances. New construction would better meet current regulations and ordinances for safety and protection of the community. We anticipate no new impacts to any of the surrounding properties”.**
 - B. The Beaver Lake Drainage District has been notified of this variance, and no comments have been received.
 - C. The Hensley Township Highway Commissioner has been notified of this variance, and no comments have been received.
 - D. The Hensley Township Supervisor has been notified of this variance, and no comments have been received.
 - E. The Thomasboro 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 Petitioners testified the following on the application: **“The property is used as a primary single-family residence and the barn and pasture is used to provide care for various animals. Without a viable residence on the property the animals would need to be relocated or dispatched.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:

No special conditions are proposed at this time.

PRELIMINARY DRAFT

DOCUMENTS OF RECORD

1. Application for Variance received April 30, 2024, with attachment:
 - Site Plan from Zoning Use Permit 106-24-01 received April 15, 2024

2. Preliminary Memorandum dated June 19, 2024, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received April 15, 2024
 - C 2023 Annotated Aerial Photo/Site Plan
 - D 1973 Aerial Photo
 - E 1988 Aerial Photo
 - F Soils Map
 - G Site Images taken June 17, 2024
 - H Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 139-V-24 dated June 27, 2024

PRELIMINARY DRAFT**Case 139-V-24**

Page 9 of 10

SUMMARY DRAFT FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **139-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 petitioners want to keep an existing 6.45-acre lot that will provide adequate setbacks for the existing and proposed structures on the property and keep the existing grass area, and trees on their 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 proposed variance, the petitioners would need to reconfigure their property lines creating multiple, irregular shaped lots that would not allow all of their existing and proposed improvements to be on the same lot.***
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. ***The existing 6.45-acre lot was not created by the petitioner. The petitioner wants to construct a new home on the property to replace the existing aging home and is requesting to bring the existing lot into conformance with the Zoning Ordinance through the variance process.***
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. ***No land is proposed to be taken out of production.***
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 this case, 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: ***it is the minimum lot size that will provide adequate setbacks for existing and proposed structures keeping all of the improvements on a single lot.***
7. **{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}**

Case 139-V-24
Page 10 of 10

PRELIMINARY DRAFT

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 **139-V-24** is hereby *{GRANTED/ GRANTED WITH CONDITIONS/ DENIED}* to the petitioners, **Julie and Errol Root**, to authorize the following:

Authorize a variance for an existing 6.45-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 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