

CASE NO. 141-V-24

PRELIMINARY MEMORANDUM

June 19, 2024

Petitioner: **James Miller**

Request: **Authorize a variance for an existing 5-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 southwest quarter of the southeast quarter of Section 31, Township 17 North, Range 7 East of the Third Principal Meridian, in Sadorus Township, with an address of 62 CR 0N Ivesdale.

Site Area: **5 acres**

Time Schedule for Development: **In progress**

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

BACKGROUND

The petitioners own a 5-acre tract that currently has a quonset building, a barn, three machine sheds and nine metal grain bins, and previously contained a single-family dwelling and detached garage. The agricultural buildings are currently being rented by the farmer who farms the adjacent properties. The petitioners purchased the property in 2019 with the intent to demolish the existing home and garage and build a new home on the property.

The petitioner submitted a Zoning Use Application in April of 2024 for a new single-family home on the property to replace the previous home. During the permit review process, it was discovered that the existing 5-acre lot was created after 2004 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 maximum lot size regulation prior to approval of the Zoning Use Permit. The petitioner submitted an Application for Variance on May 6, 2024. The Zoning Use Permit was approved on May 8, 2024 with the condition that the petitioner 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 120-acre parcel. The current 5-acre lot was surveyed in 2006 and split off in 2013 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.

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	Residential, Agriculture	AG-1 Agriculture
South	Residential, Agriculture	Douglas County

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 Sadorus Township, which does not have a Plan Commission.

SPECIAL CONDITIONS

No special conditions are proposed.

ATTACHMENTS

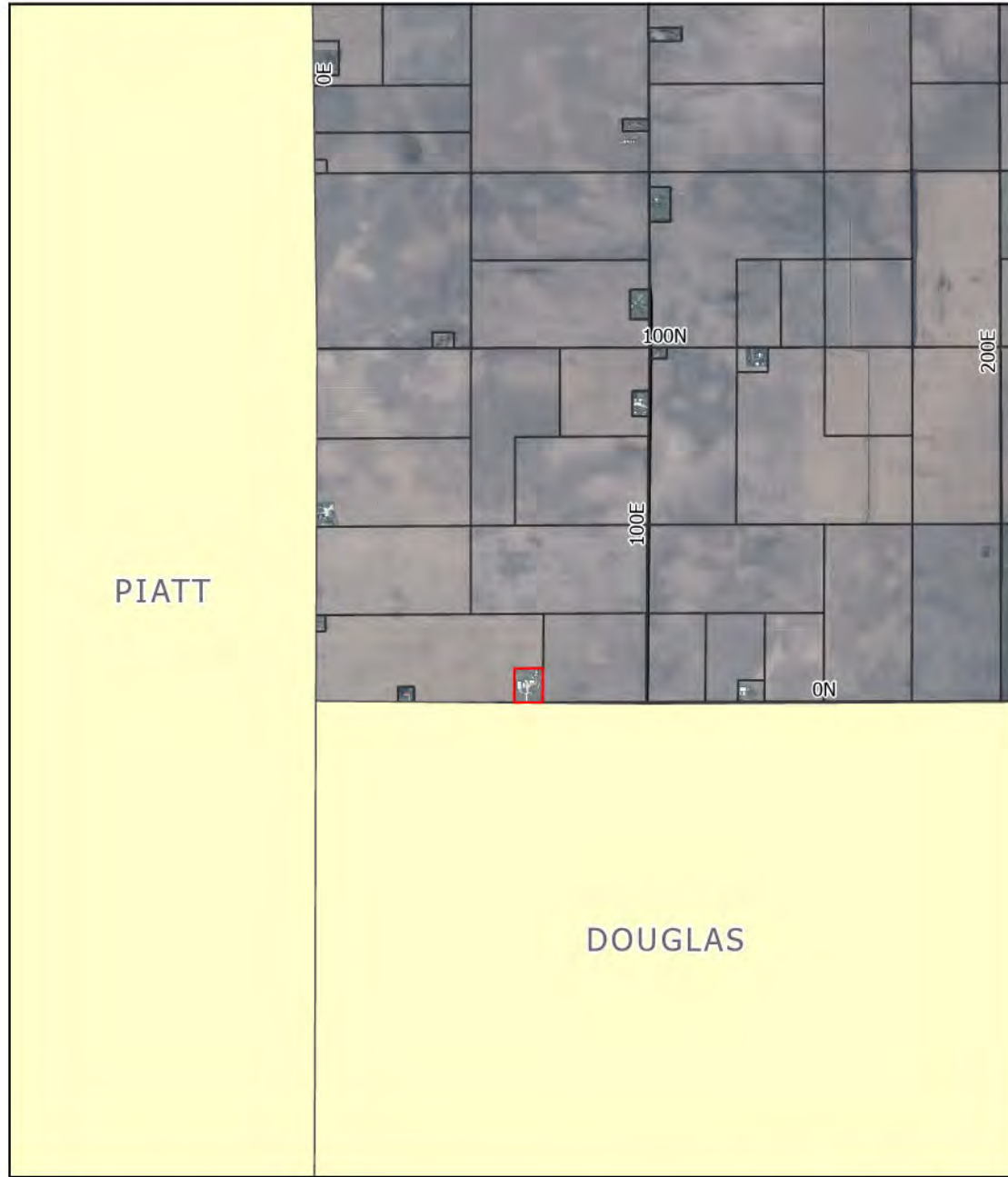
- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received May 6, 2024
- C 2023 Annotated Aerial Photo/Site Plan
- D 1973 Aerial Photo
- E Soils Map
- F Site Images taken June 17, 2024
- G Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 141-V-24 dated June 27, 2024

Location Map

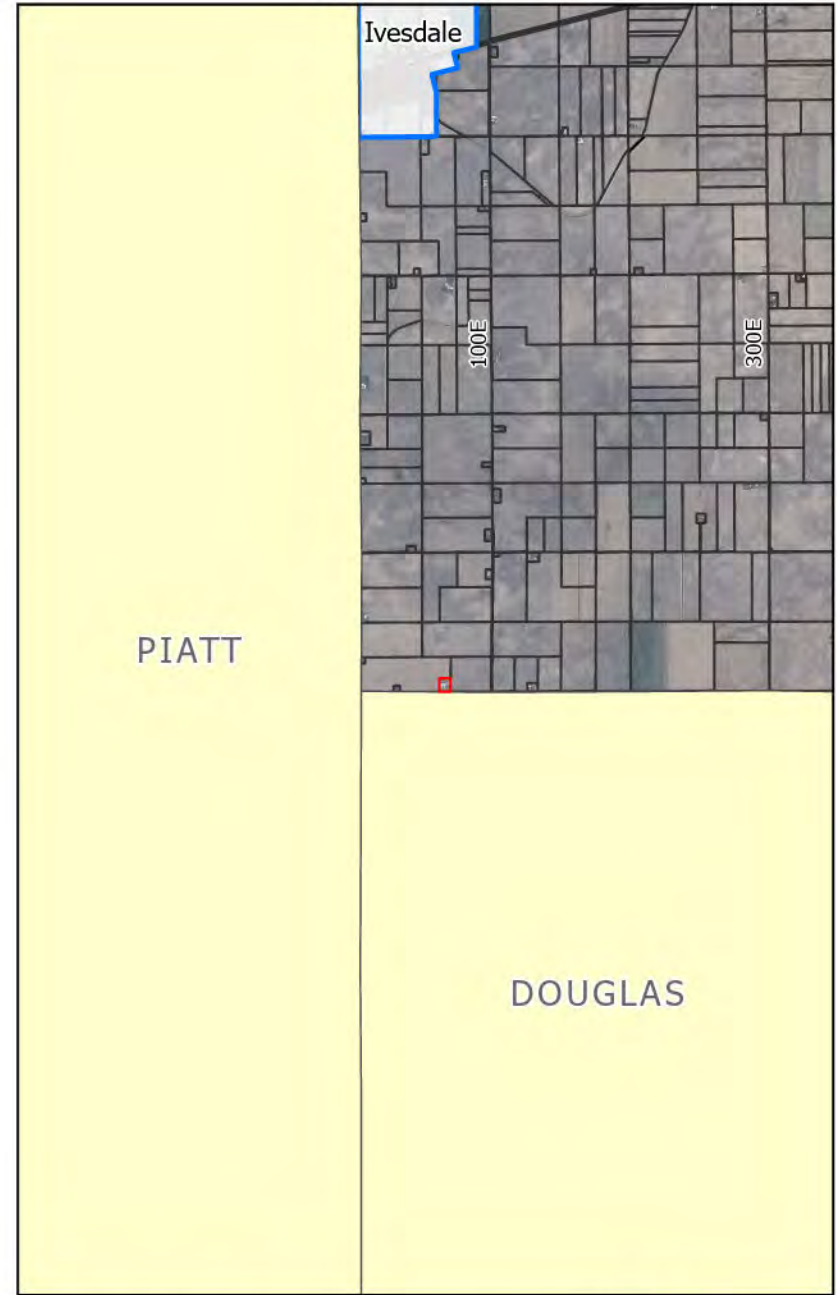
Case 141-V-24

June 27, 2024

Subject Property



Property Location in Champaign County



0 0.25 0.5 Miles

Subject Property Municipal Boundary

Neighboring County

0 1 2 Miles

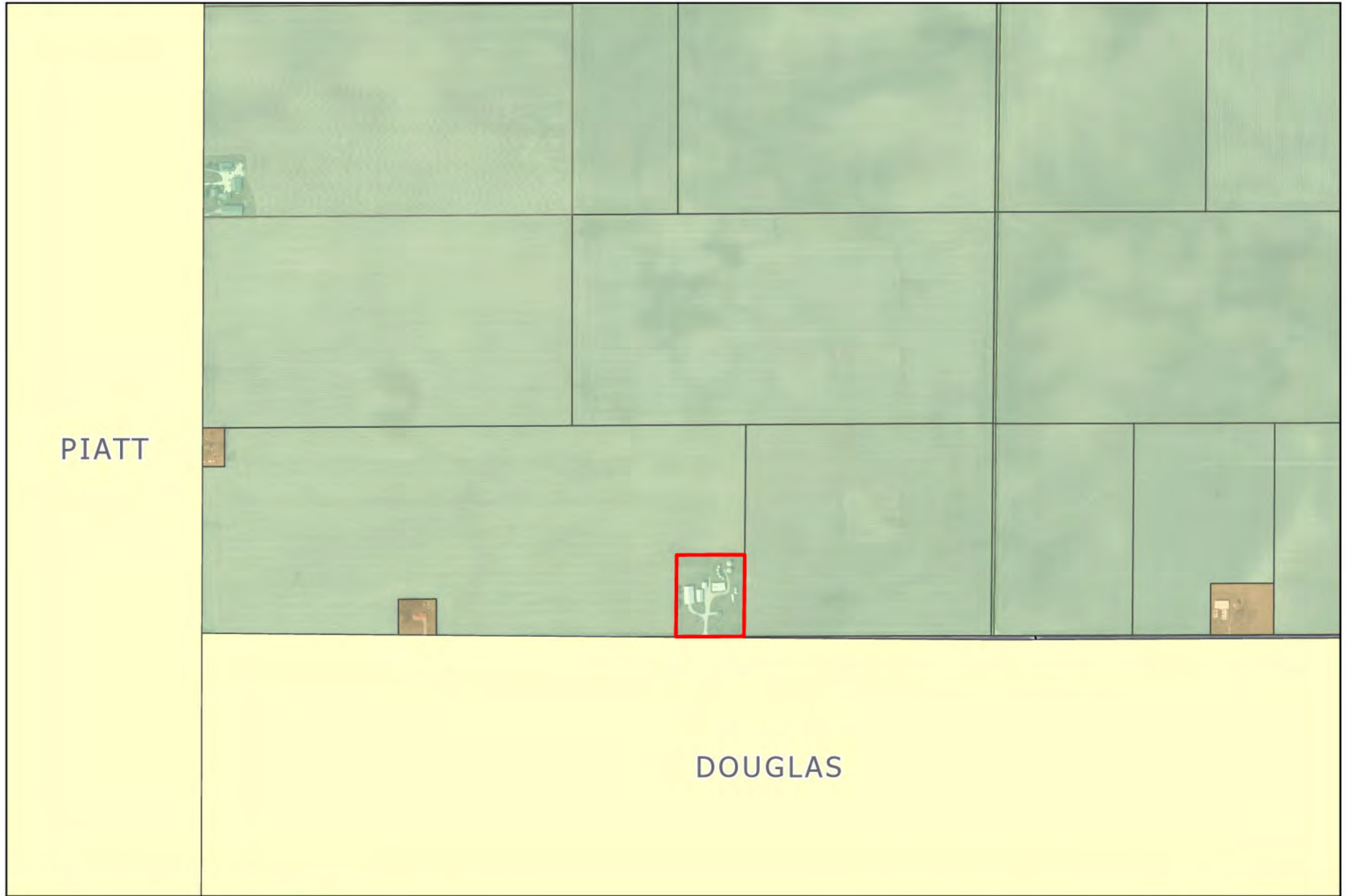
N

PLANNING & ZONING

Land Use Map


Case 141-V-24

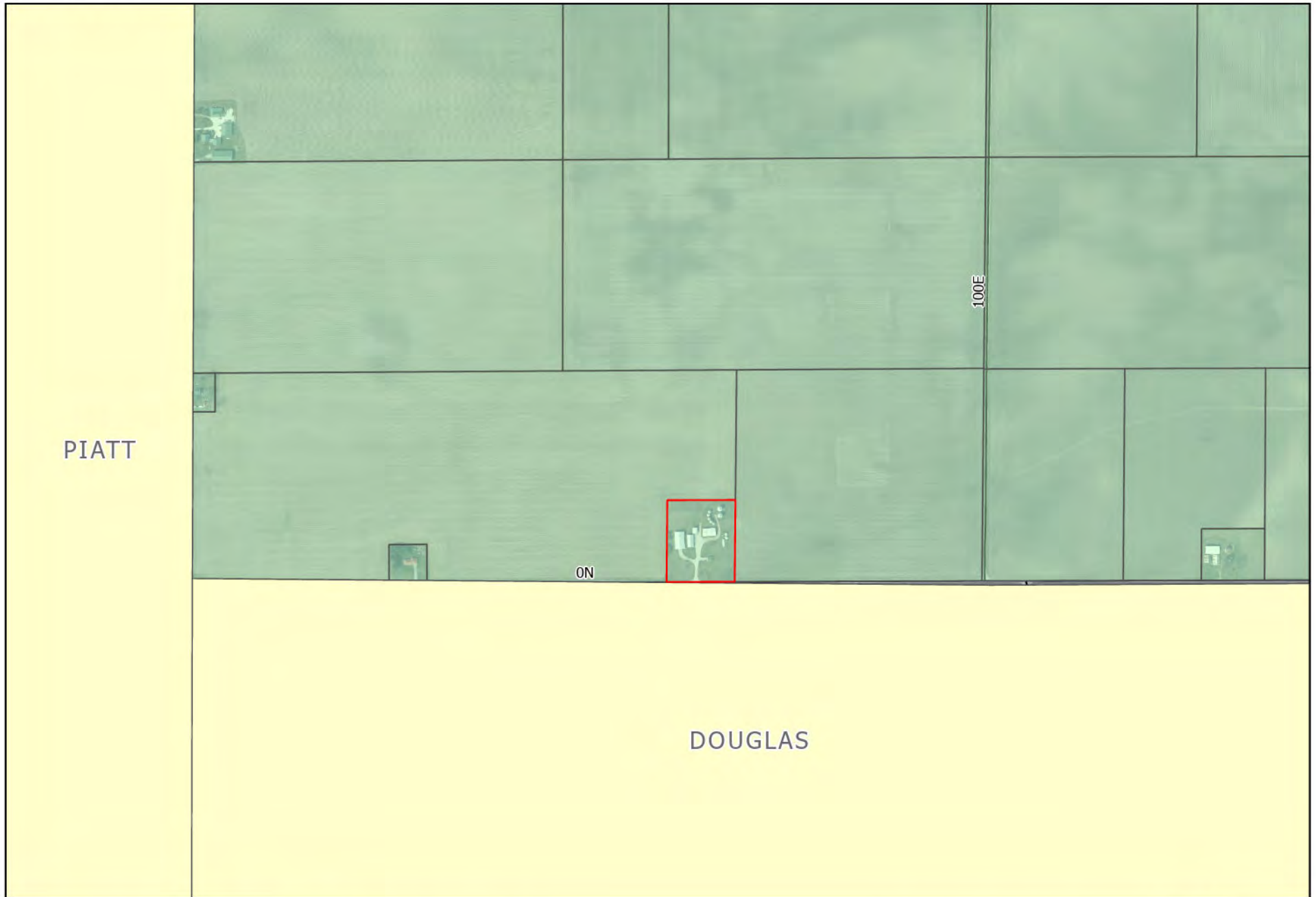
June 27, 2024






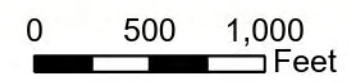
-  Subject Property
-  Agriculture
-  Neighboring County
-  Residential

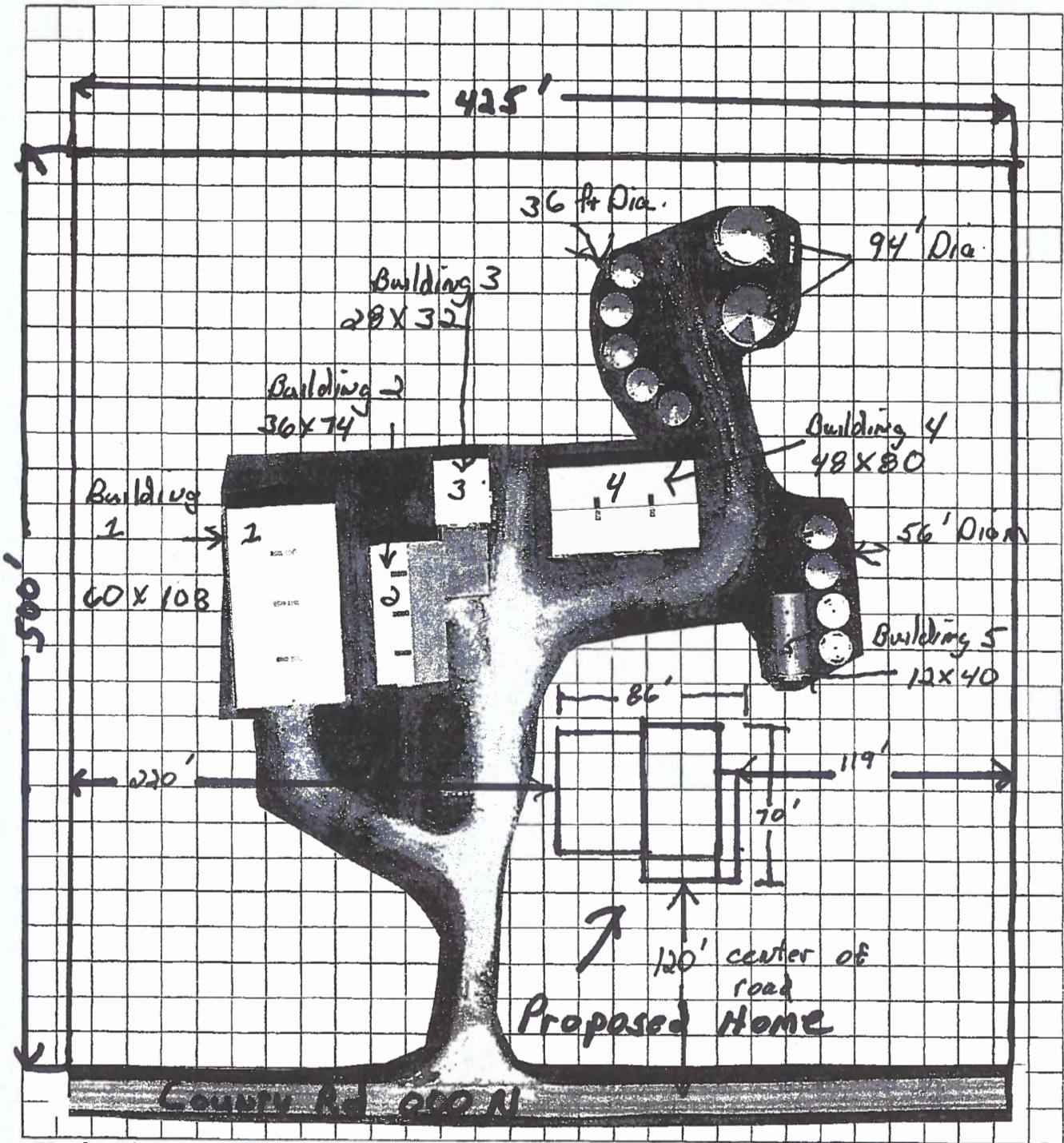
0 500 1,000 Feet





-  Subject Property
-  AG-1 Agriculture
-  Neighboring County





Check which applies:

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

Date Received:

North Arrow:

Approval (Office Use Only):



Permit Application No. _____

Applicant Name: _____

CCDPZ Form 12/01/14

RECEIVED

MAY 06 2024

CHAMPAIGN CO. P & Z DEPARTMENT

Annotated Aerial and Site Plan

Case 141-V-24


June 27, 2024

Case 141-V-24, ZBA 6/27/24, Attachment C



 Proposed Single-Family Home

0 75 150 Feet



Annotated 1973 Aerial

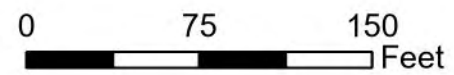
Case 141-V-24

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Case 141-V-24, ZBA 6/27/24, Attachment D



ON



Soils Map

Case 141-V-24

June 27, 2024

2023 Aerial

Case 141-V-24, ZBA 6/27/24, Attachment E



ON

Douglas
County

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

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Date: Friday, June 14, 2024

141-V-24 Site Images



From Subject property facing W along ON



From Subject Property facing E along ON

141-V-24 Site Images



Facing N toward Subject Property from ON



From Subject Property facing S across ON.

PRELIMINARY DRAFT

141-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}***

Petitioner: **James Miller**

Request: **Authorize a variance for an existing 5-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.**

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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. Petitioner James Miller, 413 Oak Circle Dr., Arthur, IL, owns the 5-acre lot with an address of 62 CR 0N, in the southwest quarter of the southeast quarter of Section 31, Township 17 North, Range 7 East of the Third Principal Meridian, in Sadorus 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 Sadorus 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 5-acre subject property is zoned AG-1 Agriculture and contained a single-family residence, garage and several agricultural structures when the petitioners purchased the property in 2019. The aging house and garage on the property was demolished after the petitioners purchased the property in 2019. The existing agricultural buildings and structures are rented to the farmer who farms the surrounding land.
 - B. Land surrounding the subject property north of County Road 0N is also zoned AG-1 Agriculture and is in agricultural production. The land to the south of County Road 0N is in Douglas County which does not have a Zoning Code. There are two residential properties approximately 150 feet to the west of the Subject Property on the south side of County Road 0N. The rest of the area to the south of County Road 0N is in agricultural production.

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 114-24-01, for a proposed new home on the subject property indicates the following:
 - (1) Existing structures on the property include:
 - a. A small quonset building
 - b. 3 machine sheds
 - c. A barn
 - d. 9 metal grain bins
 - (2) The petitioner is proposing to construct a single-family residence with attached garage in the same location as the previous home on the property.

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- B. The previous home and some of the agricultural buildings on the property were constructed prior to the adoption of the Champaign County Zoning Ordinance on October 10, 1973. Other agricultural buildings and structures have been added since 1973.
- 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 5-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 May 6, 2024. The permit was approved on May 8, 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 5-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:

PRELIMINARY DRAFT

- (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.
- (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.

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- 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. 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 special circumstance is this lot has already been used as a homestead. It has machine sheds, grain bins, a shop, trees, a large circle drive. It had a home that was removed because of unreparable condition. I only wish to build a new home where the old home was located”**
 - B. Regarding the soils that make up the subject property:
 - (1) The soils on the existing 5-acre lot are BEST PRIME FARMLAND and consist of 154A Flanagan silty loam and 152A Drummer silty clay loam and has an average LE score of 100.
 - C. The farmstead that currently exists on the property was previously located on a 120-acre parcel. The current 5-acre lot was surveyed in 2006 and split off in 2013 after the maximum lot size regulation was adopted in 2004.
 - D. 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 5-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 May 6, 2024. The permit was approved on May 8, 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:

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- A. The Petitioners testified the following on the application: **“The difficulty would be the property is already covered with buildings, grain bins and trees.”**
- B. Without the proposed variance, the petitioners would need to reconfigure their property lines and create multiple lots in order to provide proper setbacks for the existing and proposed buildings, trees and grass area, 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: **“No, this homestead was already established for generations when I bought it from the previous owners. I only wish to build a new home on the exact location of the previous home that was removed due to its unrepairable condition.”**
 - B. The existing lot was not created by the petitioner. The area in question was a farmstead prior to 1973. The subject property was split off from the surrounding farmland in 2013. The petitioners purchased the property in 2019 with all the existing structures and grass area.

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 lot will remain in harmony with the general intent and purpose of the ordinance because over half of the property is covered with machine sheds, grain bins, general shop, that are being used to store farm machinery and grain. The property is being used as a working farm by Silver Top Farms who were working the farm ground adjacent to this property when I bought it.”**
 - 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 5-acre lot area is 167% of the required three acre maximum, for a variance of 67%.
 - E. No land is proposed to be taken out of agricultural production.
 - F. The requested variance is not prohibited by the *Zoning Ordinance*.

GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

PRELIMINARY DRAFT

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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: **“Granting the variance will not be injurious to the neighborhood, or detrimental to the public health, safety, or welfare in any way. We are requesting to build a new home where the old home was located for decades”**.
 - B. The Lake Fork Drainage District has been notified of this variance, and no comments have been received.
 - C. The Sadorus Township Highway Commissioner has been notified of this variance, and no comments have been received.
 - D. The Sadorus Township Supervisor has been notified of this variance, and no comments have been received.
 - E. The Ivesdale 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: **“Most of this property will continue to be utilized for agricultural use. The machine sheds and grain bins will be rented out to the farmers that have farmed the adjacent fields for many years.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:

No special conditions are proposed at this time.

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PRELIMINARY DRAFT

DOCUMENTS OF RECORD

1. Application for Variance received May 6, 2024, with attachment:
 - Site Plan from Zoning Use Permit 114-24-01

2. Preliminary Memorandum dated June 19, 2024, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received May 6, 2024
 - C 2023 Annotated Aerial Photo/Site Plan
 - D 1973 Aerial Photo
 - E Soils Map
 - F Site Images taken June 17, 2024
 - G Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 141-V-24 dated June 27, 2024

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SUMMARY DRAFT FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **141-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 5-acre lot that will provide adequate setbacks for the existing and proposed structures, 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 5-acre lot was not created by the petitioner. The petitioner wants to construct a new home on the property to replace the previously demolished 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 and grass area on a single lot.***
7. **{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}**

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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 **141-V-24** is hereby *{GRANTED/ GRANTED WITH CONDITIONS/ DENIED}* to the petitioners, **James Miller**, to authorize the following:

Authorize a variance for an existing 5-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