

CASE NO. 007-V-21

PRELIMINARY MEMORANDUM

May 4, 2021

Petitioners: **Roland Mohr, via agent Tim Mohr**

Request: **Authorize the following Variance on a lot in the AG-1 Agriculture Zoning District:**

Part A: Authorize the construction and use of 4 proposed grain bins with a setback of 40 feet from the centerline of CR 400N and a front yard of 20 feet in lieu of the minimum required setback of 55 feet and front yard of 25 feet, per Section 5.3 of the Zoning Ordinance.

Part B: Authorize the construction and use of an existing grain bin with a setback of 36 feet from the centerline of CR 400N and a front yard of 16 feet in lieu of the minimum required setback of 55 feet and front yard of 25 feet, per Section 5.3 of the Zoning Ordinance.

Subject Property: A 160-acre tract in the Southeast Corner of Section 8, Township 17 North, Range 10 East of the Third Principal Meridian in Raymond Township, and commonly known as the farmland at the northwest corner of CR 400N and CR 2000E.

Site Area: **160 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 four grain bins adjacent to existing grain bins that are closer to the road than the Zoning Ordinance allows. A variance for an existing bin and the four proposed bins is required for front yard and for distance from the street centerline of CR 400N. P&Z Staff created an annotated aerial illustrating the measurements (Attachment C).

CR 400N has a 40 foot road right-of-way. Two farm sheds and the existing grain bins are located in the southeast corner of the 160 acres. Locating the proposed bins in another location on the property would separate them from the existing structures and would create a less efficient crop production area.

The petitioner stated on his application that he has spoken with Raymond Township Highway Commissioner William Lewis. Mr. Mohr indicated that the Commissioner had no issue with the new bins being 40 feet away from street centerline, and that he is expecting a letter stating such.

No other comments have been received.

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	Agriculture	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture
East	Agriculture, Residential	AG-1 Agriculture
West	Agriculture, Residential	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 in Raymond Township, which does not have a Planning Commission.

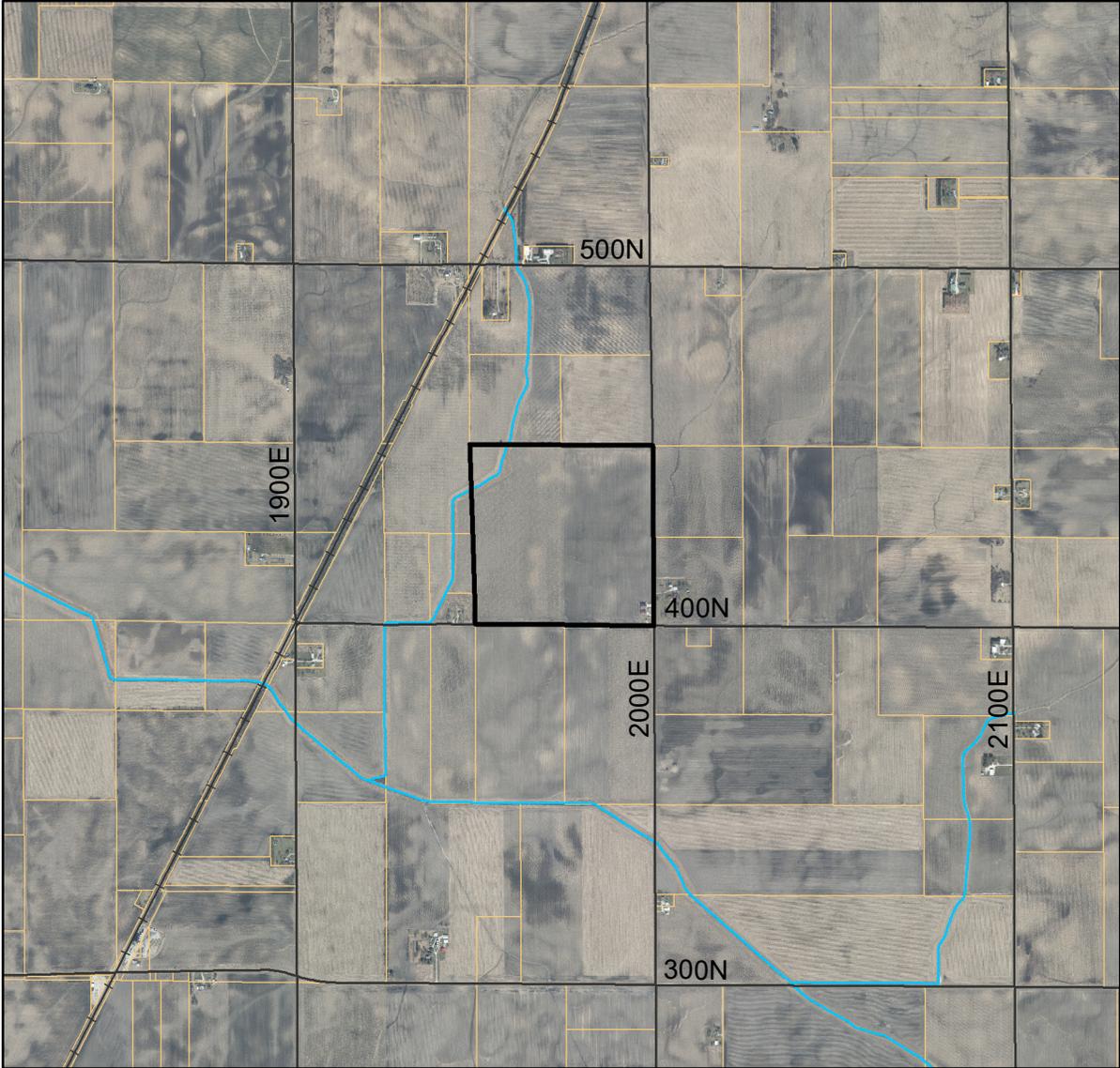
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received March 30, 2021
- C Annotated Aerial created by P&Z Staff on April 23, 2021
- D Images of subject property taken April 22, 2021
- E Draft Summary of Evidence, Finding of Fact, and Final Determination dated May 13, 2021

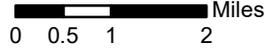
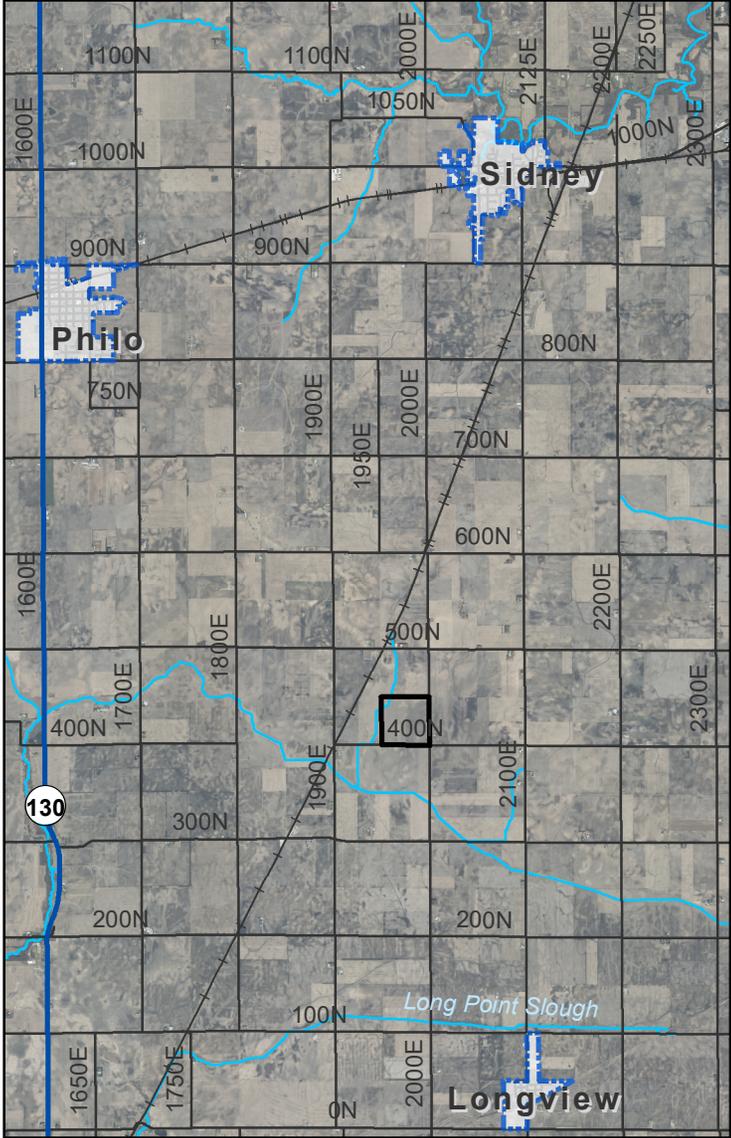
Location Map

Case 007-V-21
May 13, 2021

Subject Property



Property location in Champaign County



Legend

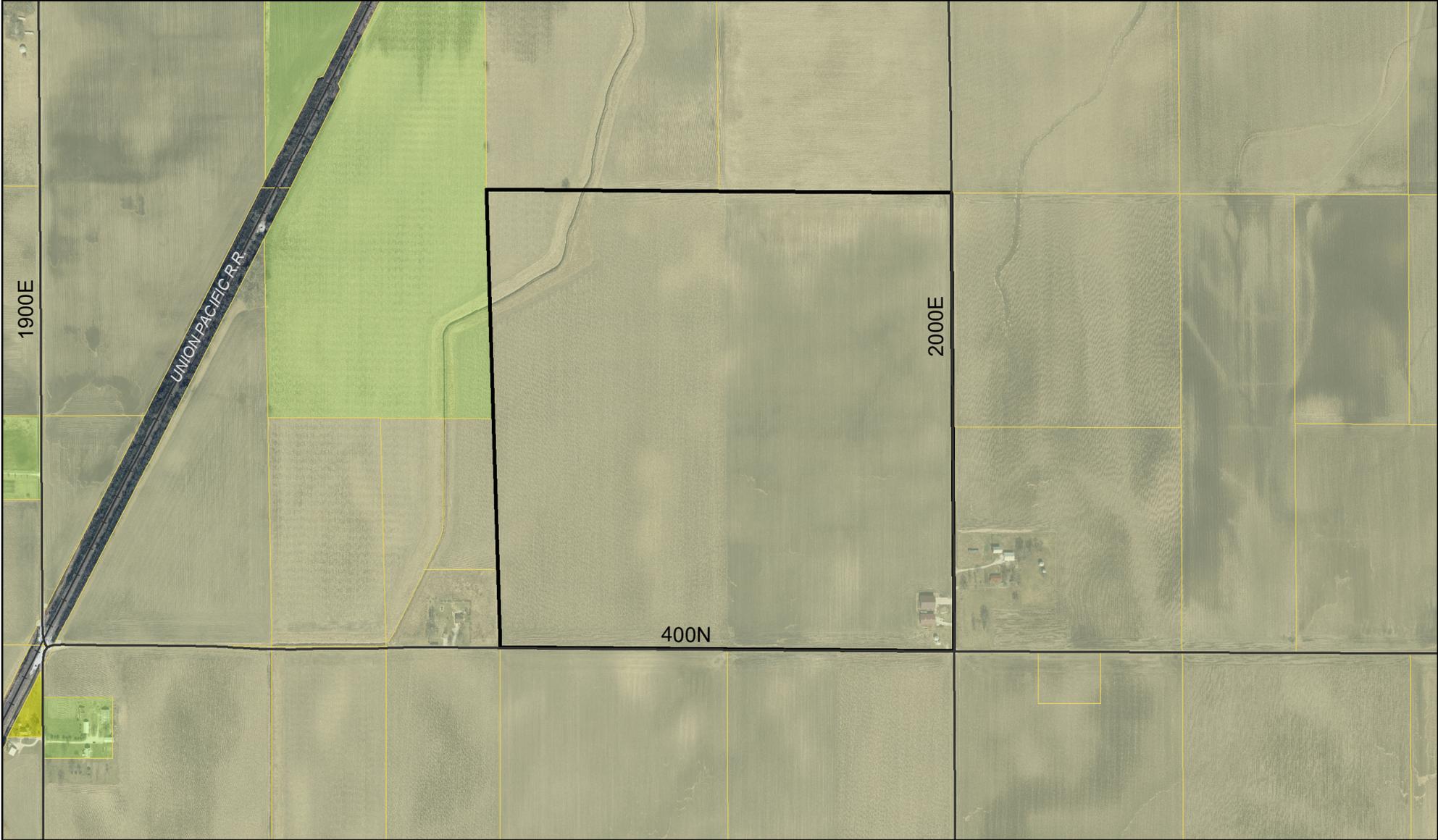
-  Subject Property
-  Streams
-  Parcels
-  Municipal Boundary



Champaign County
Department of
**PLANNING &
ZONING**

Land Use Map

Case 007-V-21
May 13, 2021



Legend

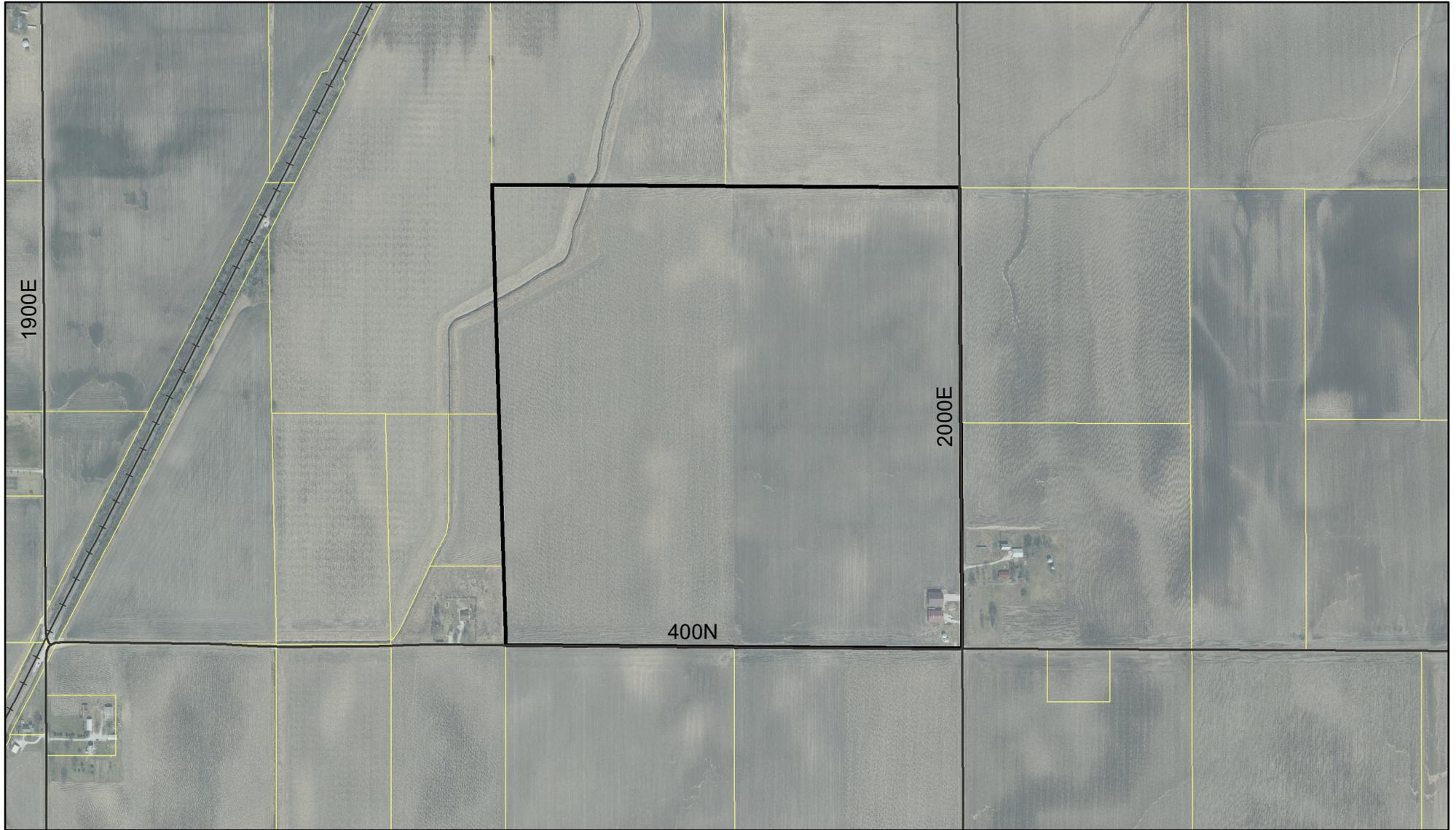
-  Subject Property
-  Agriculture
-  Parcels
-  Ag/Residential
-  Residential



Champaign County
Department of
**PLANNING &
ZONING**

Zoning Map

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May 13, 2021

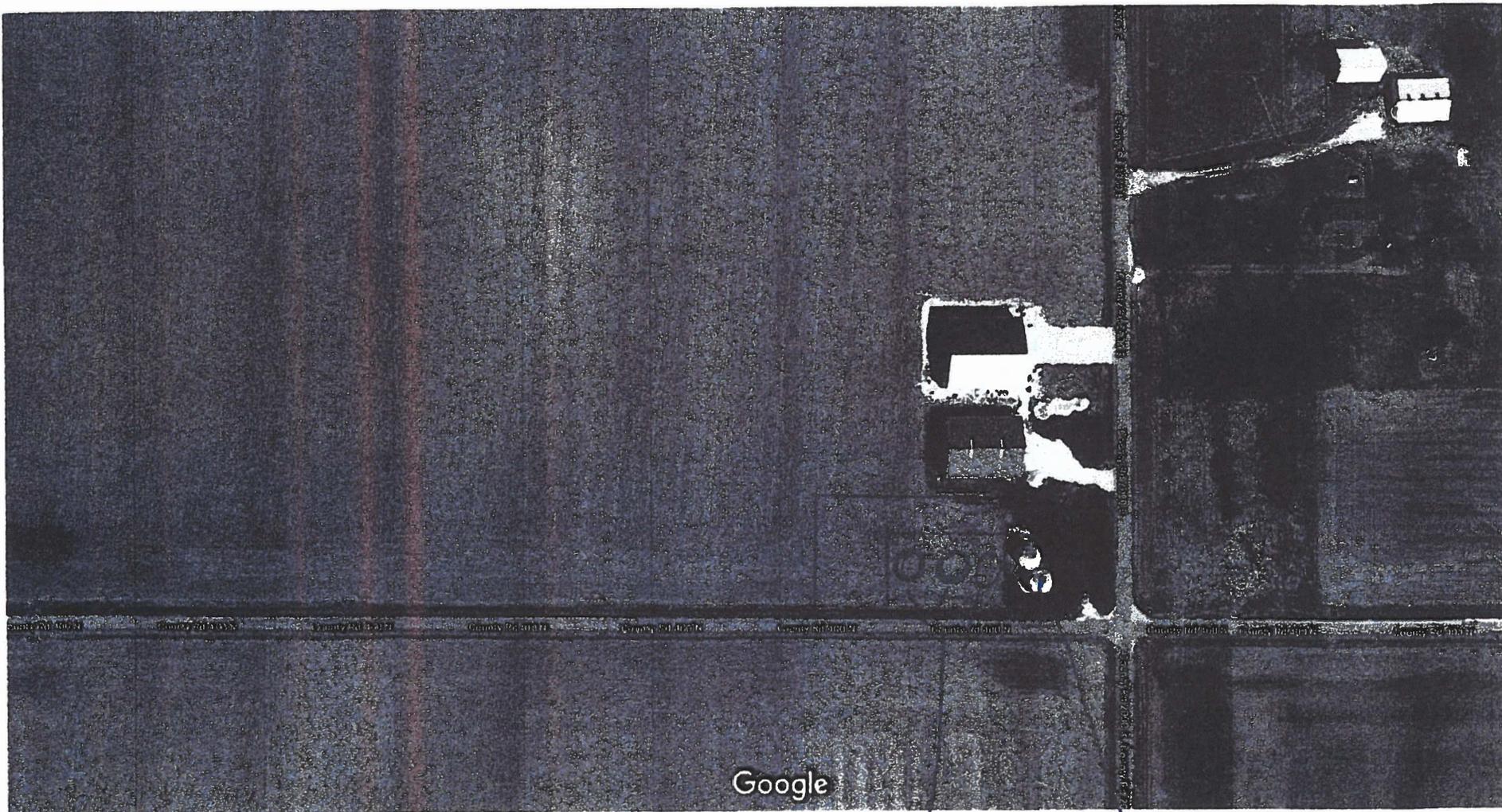


Legend

-  Subject Property
-  Parcels
-  AG-1 Agriculture

0 200 400 800 Feet





Google

Imagery ©2021 Champaign County GIS Consortium, Maxar Technologies, Map data ©2021 50 ft

RECEIVED

MAR 30 2021

CHAMPAIGN CO. P & Z DEPARTMENT

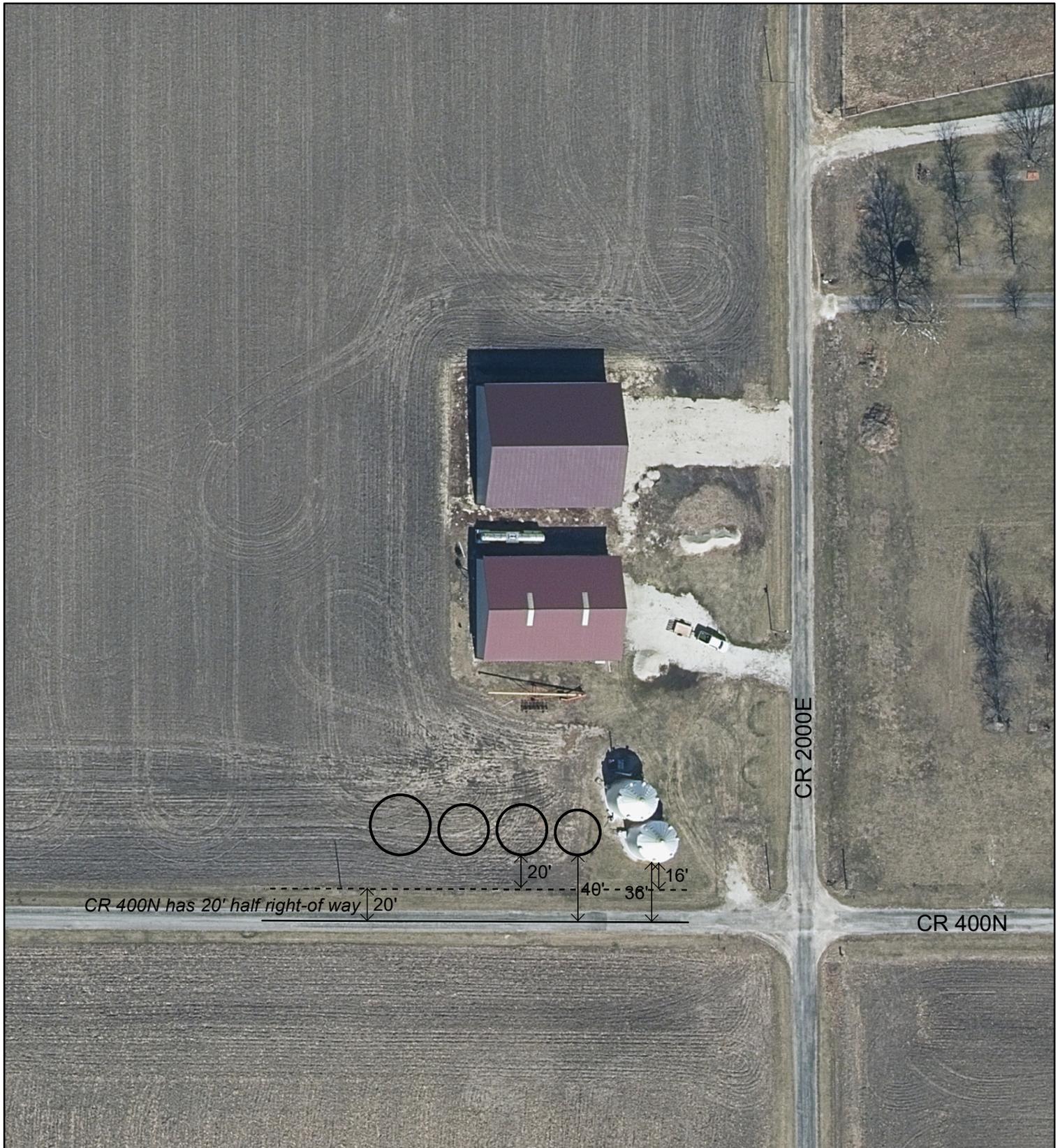
NEW Grain Bin Construction
 VARIANCE to 40' from county wide 55'
 *Approved by Raymond TWP. Road Committee

Existing Grain Bin
 30' Center of Rd to South Edge

Annotated 2020 Aerial Photo

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May 13, 2021



Proposed bin locations are not exact, but all would be built at least 20' from right-of-way line and 40' from street centerline if variance is approved.



007-V-21 Site Images



From CR 2000E south of CR 400N facing NW



From CR 400N facing NE

007-V-21 Site Images



From CR 2000E facing west



From CR 400N facing NW

PRELIMINARY DRAFT

007-V-21

**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: ***{May 13, 2021}***

Petitioner: Roland Mohr, via agent Tim Mohr

Request: Authorize the following Variance on a lot in the AG-1 Agriculture Zoning District:

Part A: Authorize the construction and use of 4 proposed grain bins with a setback of 40 feet from the centerline of CR 400N and a front yard of 20 feet in lieu of the minimum required setback of 55 feet and front yard of 25 feet, per Section 5.3 of the Zoning Ordinance.

Part B: Authorize the construction and use of an existing grain bin with a setback of 36 feet from the centerline of CR 400N and a front yard of 16 feet in lieu of the minimum required setback of 55 feet and front yard of 25 feet, per Section 5.3 of the 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 **May 13, 2021**, the Zoning Board of Appeals of Champaign County finds that:

1. Roland Mohr owns the subject property; his son, Tim Mohr, is his agent for the zoning case.
2. The subject property is a 160-acre tract in the Southeast Corner of Section 8, Township 17 North, Range 10 East of the Third Principal Meridian in Raymond Township, and commonly known as the farmland at the northwest corner of CR 400N and CR 2000E.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is not within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning.
 - B. The subject property is located within Raymond Township, which does not have a Plan Commission.

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 160-acre lot and is zoned AG-1 Agriculture. Land use is agricultural production.
 - B. Land surrounding the subject property is zoned AG-1 Agriculture and is land in production, with one residence on either side of the property to the east and west.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Petitioner's Site Plan, received August 18, 2020, indicates the following existing and proposed features:
 - (1) The following are existing features on the subject property:
 - a. One 70 feet by 80 feet (5,600 square feet) detached shed;
 - b. One 60 feet by 80 feet (4,800 square feet) detached shed;
 - c. Two grain bins.
 - (2) Proposed construction consists of four grain bins to be located west of the existing grain bins.
 - B. There are no previous Zoning Use Permits for the subject property, and none were required due to the agricultural exemption.
 - C. There are no prior Zoning Cases for the subject property or its surrounding area.
 - D. The requested variance is as follows:
 - (1) Part A: Authorize the construction and use of 4 proposed grain bins with a setback of 40 feet from the centerline of CR 400N and a front yard of 20 feet in lieu of the minimum required setback of 55 feet and front yard of 25 feet, per Section 5.3 of the Zoning Ordinance.

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- (2) Part B: Authorize the construction and use of an existing grain bin with a setback of 36 feet from the centerline of CR 400N and a front yard of 16 feet in lieu of the minimum required setback of 55 feet and front yard of 25 feet, per Section 5.3 of the 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) “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) “BUILDING, DETACHED” is a BUILDING having no walls in common with other BUILDINGS.
 - (3) “FRONTAGE” is that portion of a LOT abutting a STREET or ALLEY.
 - (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, CORNER” is a LOT located:
 - (a) at the junction of and abutting two or more intersecting STREETS; or
 - (b) at the junction of and abutting a STREET and the nearest shoreline or high water line of a storm or floodwater runoff channel or basin; or
 - (c) at and abutting the point of abrupt change of a single STREET where the interior angle is less than 135 degrees and the radius of the STREET is less than 100 feet.
 - (6) “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

PRELIMINARY DRAFT

STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.

- (7) “RIGHT-OF-WAY” is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
 - (8) “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.
 - (9) “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.
 - (10) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
 - (11) “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.
 - (12) “YARD” is an OPEN SPACE, other than a COURT, of uniform width or depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
 - (13) “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-1 Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURE pursuits.

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- 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 minor street in the AG-1 Agriculture District is established in Section 5.3 of the *Zoning Ordinance* as 55 feet.
 - (2) Minimum front yard from the street right of way to the proposed structure in the AG-1 Agriculture District is established in Section 5.3 of the *Zoning Ordinance* as 25 feet.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the *Zoning Ordinance* requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
 - A. The Petitioner has testified on the application, **“This will allow to place new grain bins in the same place and line as current ones.”**
 - B. The existing grain bins appear to have been in place prior to adoption of the *Zoning Ordinance* on October 10, 1973.

PRELIMINARY DRAFT

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, **“55 feet setback does not allow for space to unload trucks.”**
 - B. Regarding Part A of the proposed variance, for four proposed grain bins with a minimum setback from the centerline of a minor street of 40 feet in lieu of 55 feet and a front yard of 20 feet in lieu of 25 feet: without the proposed variance, there would be 15 feet less maneuvering room between the bins and the shed to the north.
 - C. Regarding Part B of the proposed variance for an existing grain bin with a minimum setback from the centerline of a minor street of 36 feet in lieu of 55 feet and a front yard of 16 feet in lieu of 25 feet: without the proposed variance, the grain bins would have to be moved 19 feet to the north, which would limit maneuvering room between the bins and the shed to the north.

GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioner has testified on the application, **“No.”**
 - B. The existing grain bins appear to have been in place prior to adoption of the Zoning Ordinance on October 10, 1973.
 - C. The proposed location is in an area that is more difficult to operate farm machinery and is adjacent to an agricultural storage area and existing bins.

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, **“Allow placement for farm storage to work.”**
 - B. Regarding Part A of the proposed variance for a minimum setback from the centerline of a minor street of 40 feet in lieu of 55 feet: the requested variance is 72.7% of the minimum required, for a variance of 27.3%.
 - C. Regarding Part A of the proposed variance for a front yard of 20 feet in lieu of the minimum required 25 feet: the requested variance is 80% of the minimum required, for a variance of 20%.

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- D. Regarding Part B of the proposed variance for a minimum setback from the centerline of a minor street of 36 feet in lieu of 55 feet: the requested variance is 65.5% of the minimum required, for a variance of 34.5%.
- E. Regarding Part B of the proposed variance for a front yard of 16 feet in lieu of the minimum required 25 feet: the requested variance is 64% of the minimum required, for a variance of 36%.
- F. Regarding the proposed variance, the Zoning Ordinance does not clearly state the considerations that underlie the minimum setback requirements and front yard requirements. Presumably the setback from street centerline and front yard minimum is 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 CR 400N or CR 2000E.
 - (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: **“None.”**
 - B. The Township Road Commissioner has been notified of this variance, and no comments have been received.
 - (1) The Petitioner has testified on the application: **“Spoke with Township Road Commissioner, and he has approved to 40 feet.”**
 - C. The Broadlands Fire Protection District has been notified of this variance, and no comments have been received.
 - D. The nearest structure on adjacent property to the grain bins is a residence located over 400 feet northeast of the subject property, on the other side of CR 2000E.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

12. Generally regarding and other circumstances which justify the Variance:
- A. The Petitioner has testified on the application: **“Spoke with Township Road Commissioner, and he has approved to 40 feet.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:

No special conditions are proposed.

DOCUMENTS OF RECORD

1. Variance Application received on March 30, 2021, with attachments:
 - A Site Plan

2. Annotated Aerial created by P&Z Staff on April 23, 2021

3. Preliminary Memorandum dated October 20, 2020 with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received March 30, 2021
 - C Annotated Aerial created by P&Z Staff on April 23, 2021
 - D Images of subject property taken April 22, 2021
 - E Draft Summary of Evidence, Finding of Fact, and Final Determination dated May 13, 2021

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **007-V-21** held on **May 13, 2021**, 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 existing grain bins appear to have been in place prior to adoption of the Zoning Ordinance on October 10, 1973.***
 - b. ***The petitioner seeks to align the proposed bins with the existing bins.***
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, there would be less room between the existing shed and existing/proposed bins for maneuvering trucks for unloading.***
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. ***The existing grain bins appear to have been in place prior to adoption of the Zoning Ordinance on October 10, 1973.***
 - b. ***The proposed location is in an area that is more difficult to operate farm machinery and is adjacent to an agricultural storage area and existing bins.***
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 location of the proposed bins would allow agricultural storage operations to work more effectively.***
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. ***The Township Road Commissioner and Fire Protection District have been notified, and no negative 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:
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

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 007-V-21 is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners, **Tim Mohr**, to authorize the following variance in the AG-1 Agriculture Zoning District:

Part A: Authorize the construction and use of 4 proposed grain bins with a setback of 40 feet from the centerline of CR 400N and a front yard of 20 feet in lieu of the minimum required setback of 55 feet and front yard of 25 feet, per Section 5.3 of the Zoning Ordinance.

Part B: Authorize the construction and use of an existing grain bin with a setback of 36 feet from the centerline of CR 400N and a front yard of 16 feet in lieu of the minimum required setback of 55 feet and front yard of 25 feet, per Section 5.3 of the 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