

CASE NO. 151-V-24

PRELIMINARY MEMORANDUM

October 9, 2024

Petitioner: **Thomas Meharry**

Request: **Authorize a variance for a proposed 3.84-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: **An existing 3-acre tract plus a .84 acres totaling 3.84 acres in the Southeast quarter of the Southwest quarter of Section 29, Township 18 North, Range 9 East of the Third Principal Meridian, in Philo Township, with an address of 1340 CR 700N, Tolono.**

Site Area: **3.84 acres**

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

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

BACKGROUND

The petitioner owns a 3-acre tract that contains a single-family residence, a detached garage, two agricultural storage buildings and two silos. The petitioner would like to acquire an additional .84 acres of property from the surrounding farm ground and combine it with the 3-acre lot. The proposed 3.84-acre lot is on Best Prime Farmland, which has a 3-acre maximum per the Zoning Ordinance.

The proposed 3.84-acre lot has been in use as a farmstead since before the adoption of the Champaign County Zoning Ordinance in 1973. The additional area to be added is grassed area to the east, west and north of the subject property.

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

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 Philo Township, which does not have a Plan Commission.

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	Agriculture	AG-1 Agriculture

SPECIAL CONDITIONS

No special conditions are proposed.

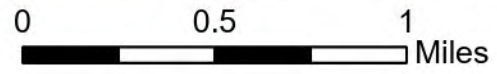
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Plat of Survey recorded March 13, 2023
- C Aerial Photos showing existing and proposed property lines received August 26, 2024
- D Letter from Petitioner Thomas Meharry received August 26, 2024
- E 2023 and 1973 Aerial Photos
- F Soils Map
- G Site Images taken October 9, 2024
- H Draft Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 151-V-24 dated October 17, 2024

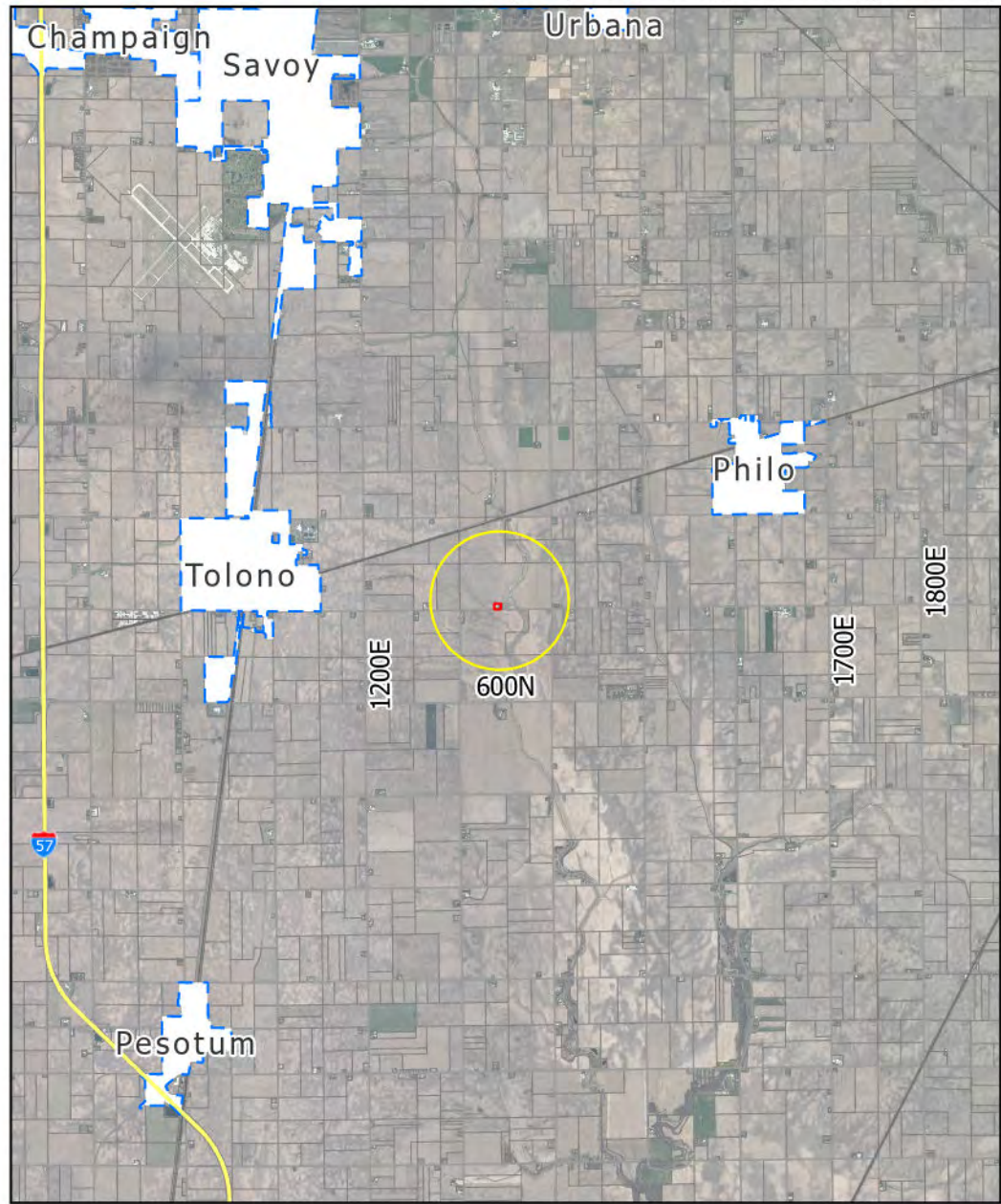
Location Map

Case 151-V-24
October 17, 2024

Subject Property

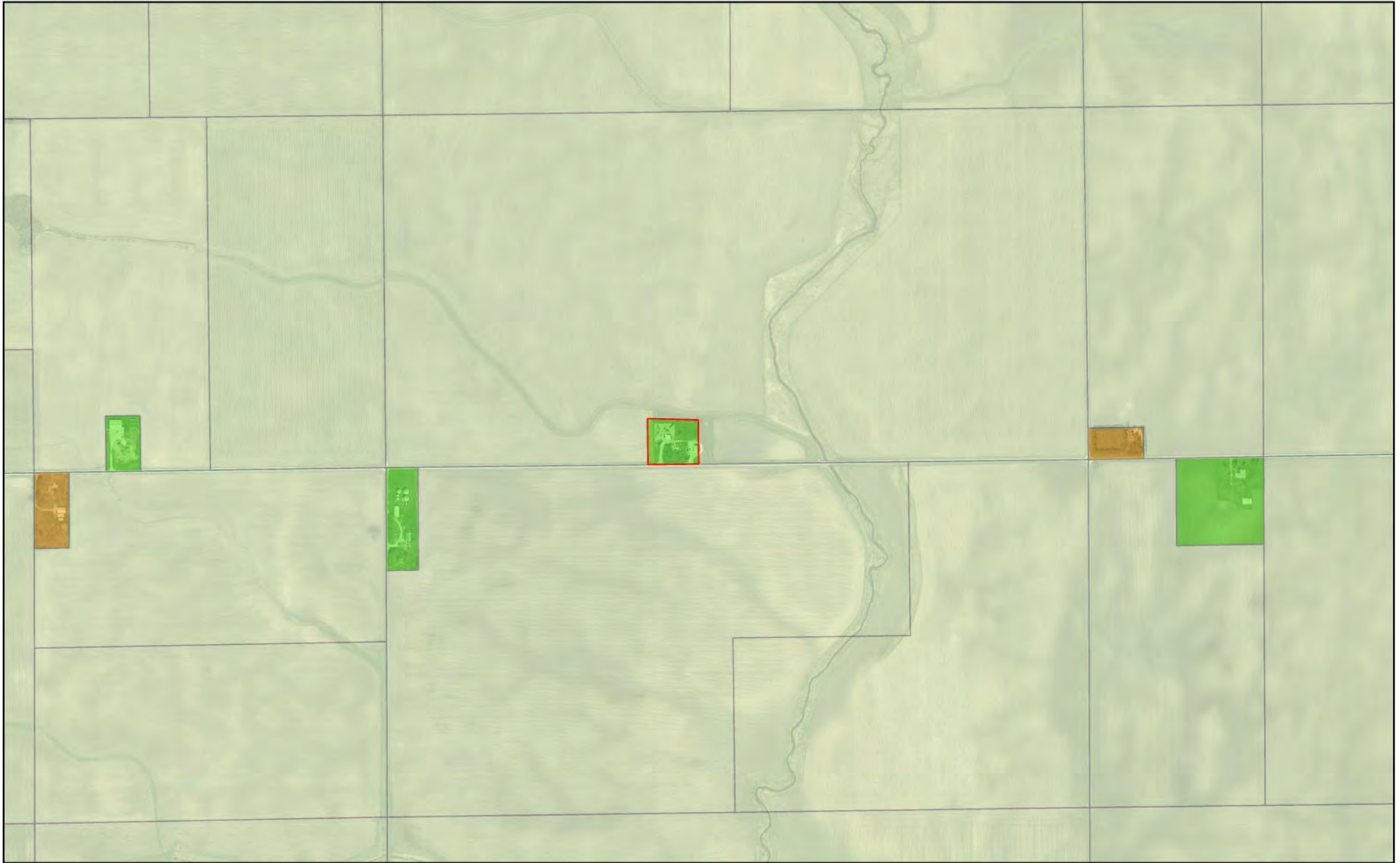


Property Location in Champaign County



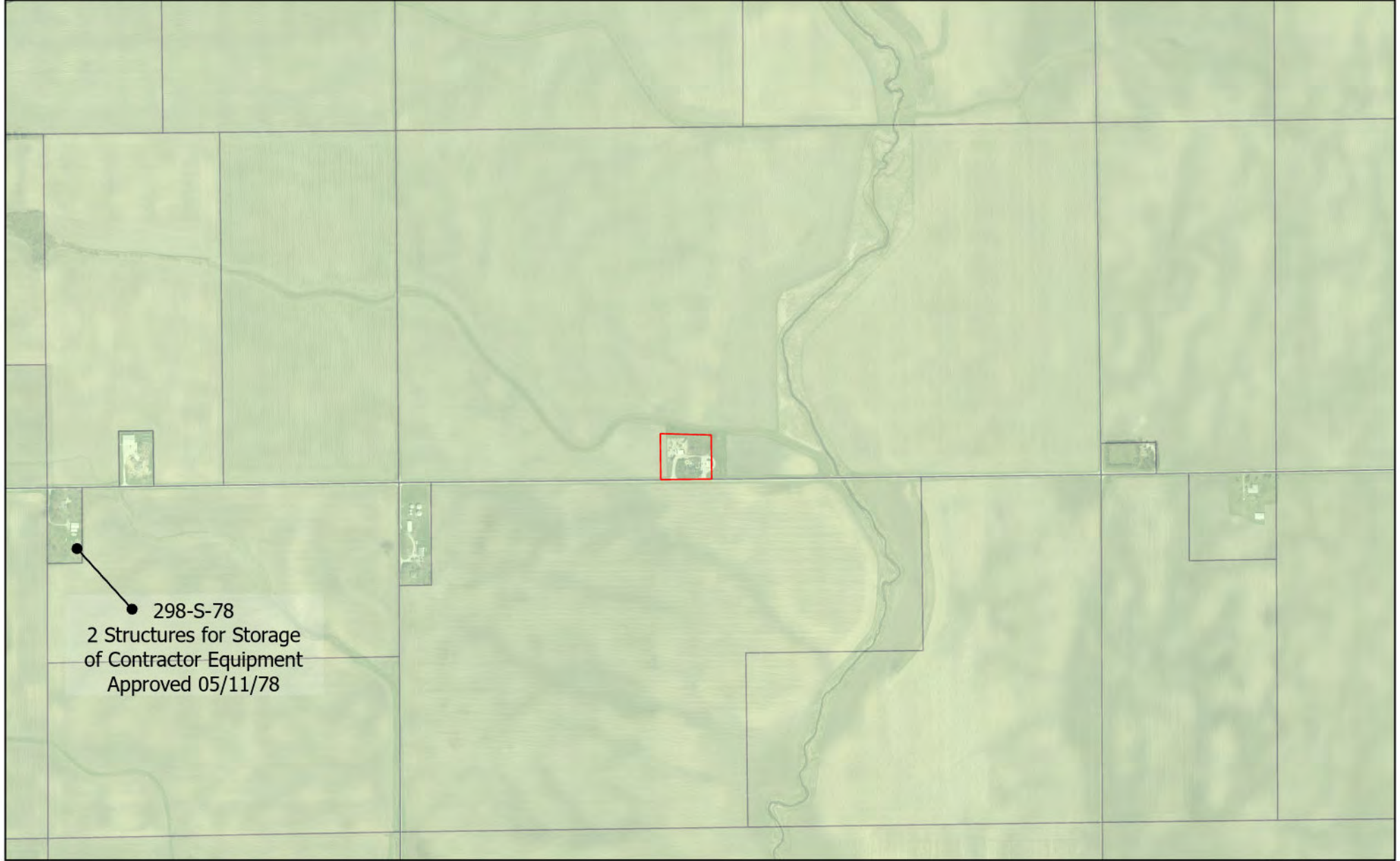
Land Use Map

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October 17, 2024

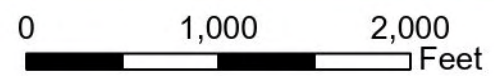


-  Subject Property
-  Agriculture/Residential
-  Agriculture
-  Residential





 Subject Property  AG-1 Agriculture



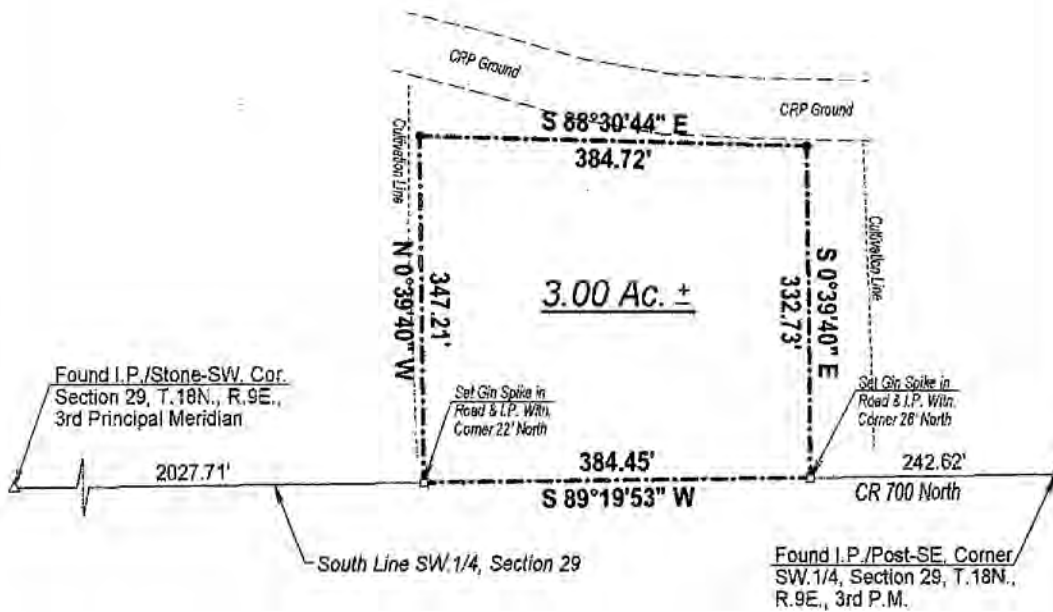


COX LAND SURVEYING
 P.O. Box 184, Mt. Zion, IL. 62549
 Phone: (217)756-3252
 ALTA BOUNDARY
 Established 1979 SUBDIVISION TOPOGRAPHICAL
 Professional Design Firm License No. 184.005532
 (License Expires 04/30/2023)

(S. Littlefield)
 Project No. 1-23
 P.C.S. File 23

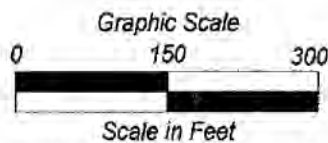
Plat of Survey

That part of the Southwest 1/4, of Section 29, Township 18 North, Range 9 East of the Third Principal Meridian, Champaign County, Illinois, described as follows: commencing at the Southeast corner of the Southwest 1/4, of said Section 29; thence S.89°19'53"W.-242.62 feet along the South line of the Southwest 1/4, of said Section 29 to a gin spike set for the point of beginning; thence continuing S.89°19'53"W.-384.45 feet along said South line to a gin spike set; thence N.0°39'40"W.-347.21 feet to an iron pin set; thence S.88°30'44"E.-384.72 feet to an iron pin set; thence S.0°39'40"E.-332.73 feet to the point of beginning, containing 3.00 acres, more or less.



Legend

- Scale: 1" = 150'
- = Iron Pipe or Pin
- = From Prev. Surveys
- = 5/8" Iron Pin
- Set This Survey
- ⊗ = Gin Spike Set



Bearings are based on the Illinois State Plane Coordinate System - (East Zone)



Fieldwork completed: Jan. '23 (RC)

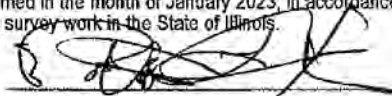
Survey Notes:

- 1.) The field and office procedures were performed by me, or under my direct supervision in the month of January 2023.
- 2.) No investigation was made concerning environmental or subsurface conditions or the existence of underground utilities in the course of this survey.
- 3.) No investigation was made concerning the compliance or non-compliance with local zoning ordinances in effect, if any, in the course of this survey.
- 4.) The boundary of this property was determined by the physical location of existing monumentation in Section 29 and the surrounding sections.
- 5.) This professional service conforms with the current IPLSA Minimum Standards of Practice applicable to boundary surveys.

Surveyor's Certificate

I, Robert L. Cox, Illinois Professional Land Surveyor Number 2442, do hereby certify to the best of my knowledge and belief, that this plat correctly represents the results of a survey performed in the month of January 2023, in accordance with state statutes governing survey work in the State of Illinois.

January 5, 2023



Robert L. Cox
 IL. Professional Land Surveyor No. 2442
 (License Expires November 30, 2024)



RECEIVED

AUG 26 2024

CHAMPAIGN CO. P & Z DEPARTMENT

Perimeter ?

1,679 ft

Area

3.84 ac





RECEIVED
 AUG 26 2024
 CHAMPAIGN CO. P & Z DEPARTMENT

Perimeter ?

1,451 ft

Area

3.01 ac

Current

COUNTY
P&Z

THIS PROPERTY FALLS ON A HALF SECTION THAT MY FAMILY HAS FARMED SINCE THE CIVIL WAR, AND IS STILL FARMING THIS LAND CURRENTLY. WE ALSO FARM MOST OF THE PROPERTY AROUND IT. MY GREAT GRAND FATHER, GRANDFATHER, AND DAD HAVE ALL GROWN UP ON THIS PROPERTY. NOW IT IS OWNED BY ME. BUT DUE TO THE COUNTY WORDING I COULD ONLY ATTAIN THREE ACRES OF THE EXISTING PROPERTY OF APPROXIMATELY 3.8 ACRES. THIS INQUIRED PROPERTY IS WHAT WE NOW TAKE CARE OF THE WHOLE LIFE OF THIS LOT. IT DOES NOT INCLUDE ANY TILLABLE GROUND. THE PROPERTY WILL HAVE FIELDS EAST & WEST BORDER A WATER WAY TO THE NORTH AND 700 NORTH TO THE SOUTH.

SEE ATTACHED PHOTOS

THANK YOU

TOM MEMARRY

RECEIVED

AUG 26 2024

CHAMPAIGN CO. P & Z DEPARTMENT

Annotated 2023 Aerial

Case 151-V-24
October 17, 2024



 Proposed Parcel



Annotated 1973 Aerial

Case 151-V-24
October 17, 2024

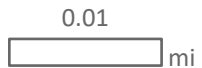


 Proposed Parcel





SSURGO, Champaign County GIS Consortium



This map was prepared with geographic information system (GIS) data created by the Champaign County GIS Consortium (CCGISC), or other CCGISC member agency. These entities do not warrant or guarantee the accuracy or suitability of GIS data for any purpose. The GIS data within this map is intended to be used as a general index to spatial information and not intended for detailed, site-specific analysis or resolution of legal matters. Users assume all risk arising from the use or misuse of this map and information contained herein. The use of this map constitutes acknowledgement of this disclaimer.



151-V-24 Site Images



From 700N facing northeast to Subject Property



From 700N facing north to Subject Property.

151-V-24 Site Images



From 700N facing east



From 700N facing west

151-V-24 Site Images



From 700N facing South toward adjacent property

PRELIMINARY DRAFT

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

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

Date: ***{October 17, 2024}***

Petitioner: **Thomas Meharry**

Request: **Authorize a variance for a proposed 3.84-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 **September 26, 2024**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Thomas Meharry, 1340 CR 700N, Tolono, IL, owns the 3-acre lot in the Southeast quarter of the Southwest quarter of Section 29, Township 18 North, Range 9 East of the Third Principal Meridian, in Philo Township, with an address of 1340 CR 700N, Tolono. The petitioner wishes to acquire an additional .84 acres of property and combine it with the 3-acre lot.
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 Philo Township, which does not have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and receive notification 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 proposed 3.84-acre subject property is zoned AG-1 Agriculture and is in use as residential.
 - B. Land surrounding the subject property is zoned AG-1 Agriculture to the north, south, east, and west and is used for agriculture.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Site Plan received on April 26, 2024, indicates the following:
 - (1) Existing structures on the property include:
 - a. One single family dwelling and detached garage
 - b. Two silos
 - c. A 32 x 48 machine shed
 - d. A 30 x 40 agricultural building
 - (2) The petitioner is not proposing any construction at this time.
 - B. The single-family dwelling was constructed prior to the adoption of the Champaign County Zoning Ordinance in October 1973.
 - C. The existing 3-acre lot was divided off from the surrounding farmland in 2023.
 - D. There are no previous zoning cases for the subject property.
 - E. The petitioner wishes to acquire an additional .84 acres from the surrounding property and add it to the existing 3-acre lot. The additional area is grassed areas on the east and west

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sides of the property as well as grassed area between the Subject Property and the drainage way to the north.

- E. The requested variance is a proposed 3.84-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.
 - (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.

PRELIMINARY DRAFT

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

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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 testified the following on the application: **“This was an existing lot on a 320-acre half section that has never been zoned separately”**
 - B. The proposed 3.84-acre lot is comprised of Flanagan silt loam and Drummer silty clay which are soils that are considered BEST PRIME FARMLAND and has a relative value of 100 LE.
 - C. The petitioner purchased the existing 3-acre lot in 2023 which was the maximum lot size that could be divided off without a variance.
 - D. The petitioner seeks to make the best use of the surrounding unfarmed land by combining it with the 3-acre farmstead. Adding an additional .84 acres to the property would allow the lot to encompass the entire grassed area of the original farmstead.
 - E. No land is proposed to be taken out of agricultural 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: **“This is land that is taken care of by the landowner of the 3 acres where the acreage requested will never be farmed.”**
 - B. The existing 3-acre lot is smaller than the grassed area of the original farmstead.
 - C. Requiring the additional .84 acres of grassed area with the surrounding farmland would result in a farmstead that will not contain all the existing surrounding grassed area, and surrounding farmland that will have area that will likely not be farmed.

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: **“N/A”**
 - B. The petitioner purchased the property in 2023, with the maximum acreage allowed by the Zoning Ordinance which resulted in a property that didn’t contain all the grassed area of the existing farmstead and kept unfarmed area with the surrounding farm ground.

GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

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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 entirety of this lot has been established for over 100 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 3.84-acre lot area is 128% of the required three acre maximum, for a variance of 28%.
 - E. 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

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: **“Family farm the entire two sections surrounding”**.
 - C. The Embarrass River Mutual Drainage District has been notified of this variance, and no comments have been received.
 - B. The Philo Township Highway Commissioner has been notified of this variance, and no comments have been received.
 - C. The Philo Township Supervisor has been notified of this variance, and no comments have been received.
 - D. The Philo 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 land has been and will be taken care of by myself and my family for years to come.”**
 - B. The area to be added is not land that is farmed. No land is proposed to be taken out of production.

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GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. **No special conditions are proposed at this time.**

PRELIMINARY DRAFT

DOCUMENTS OF RECORD

1. Application for Variance Permit received August 26, 2024, with attachments:
 - A Aerial Photos showing existing and proposed property lines
 - B Plat of Survey recorded March 13, 2023
 - C Letter from Petitioner Thomas Meharry received August 26, 2024

2. Preliminary Memorandum dated October 9, 2024, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Plat of Survey recorded March 13, 2023
 - C Aerial Photos showing existing and proposed property lines received August 26, 2024
 - D Letter from Petitioner Thomas Meharry received August 26, 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 **151-V-24** held on **October 17, 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 petitioner wants to expand their property to include the surrounding grass area and trees. The proposed 3.84-acre lot will provide adequate setbacks for the existing structures and will not remove any land from agricultural production.***
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 not have access to the full area that has been used as part of the farmstead for many years, and the surrounding farmland would be left with an area that is not practical for farming.***
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. ***The area of the proposed lot has been used as a farmstead prior to the adoption of the Champaign County Zoning Ordinance. The petitioner purchased the maximum of 3-acres that is allowed by the zoning ordinance, and seeks to add the additional area of the farmstead to their property 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 encompass all of the grass area and trees of the existing farmstead area.***
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 **151-V-24** is hereby ***{GRANTED/ GRANTED WITH CONDITIONS/ DENIED}*** to the petitioner, **Thomas Meharry**, to authorize the following:

Authorize a variance for a proposed 3.84-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