

CASE NO. 155-V-24

PRELIMINARY MEMORANDUM

October 24, 2024

Petitioner: Mary Schlueter c/o Teresa Smith

Request: Authorize a variance for a proposed 5.275-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 a 34.9-acre parcel in the Northwest quarter of the Northwest quarter of Section 12, Township 20 North, Range 10 East of the Third Principal Meridian, in Stanton Township, with an address of 2294A CR 2300E, St. Joseph.

Site Area: 5.275 acres

Time Schedule for Development: As soon as possible

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

BACKGROUND

The petitioner owns a 34.9-acre tract that contains a single-family residence and several agricultural buildings. The petitioner would like to divide off 5.275 acres at the northeast corner of property of the property that contains the existing house and structures and includes approximately 2.2 acres to be used as a pasture. The proposed lot is on Best Prime Farmland, which has a 3-acre maximum per the Zoning Ordinance.

The proposed 5.275-acre lot has been in use as a farmstead since before the adoption of the Champaign County Zoning Ordinance in 1973.

The plat of survey submitted by the petitioner shows approximately 2.2 acres of tilled farm ground that is proposed to be converted to pasture. A soils map can be found in Attachment E.

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. Municipalities do not have protest rights on a variance and do not receive notification of such cases.

The subject property is located within Stanton Township, which has a Plan Commission. Townships with Plan Commissions have protest rights on a variance and receive notification of such cases.

continued

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	Residential, Agriculture	AG-1 Agriculture
West	Residential, Agriculture	AG-1 Agriculture
South	Residential, Agriculture	AG-1 Agriculture

SPECIAL CONDITIONS

No special conditions are proposed.

ATTACHMENTS

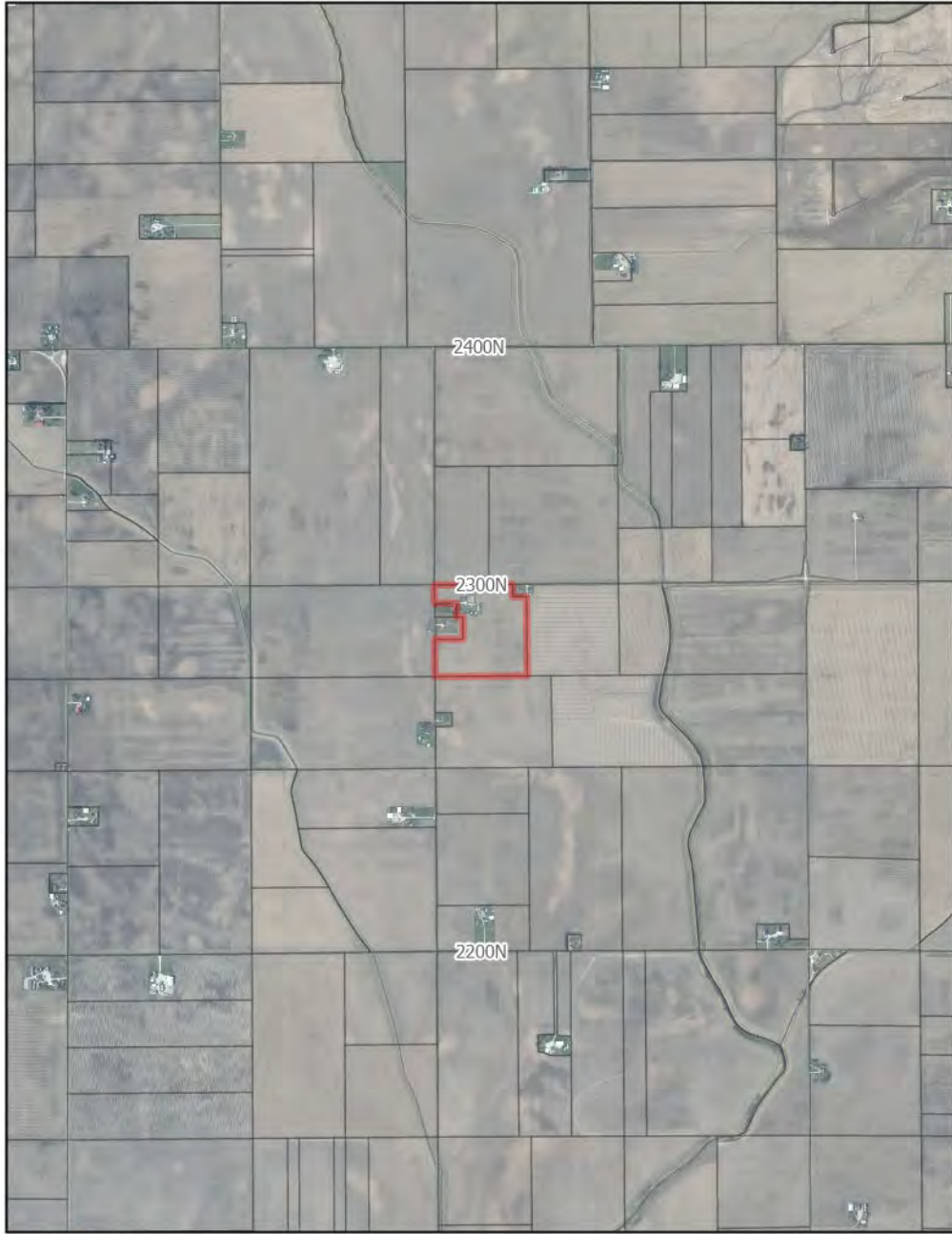
- A Case Maps (Location, Land Use, Zoning)
- B Plat of Survey received September 9, 2024
- C 2023 Aerial Photo
- D 1973 Aerial Photo
- E Soils Map
- F Site Images taken October 17, 2024
- G Draft Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 155-V-24 dated October 31, 2024



Location Map

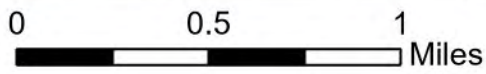
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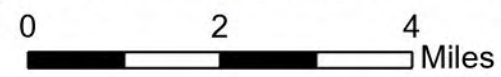
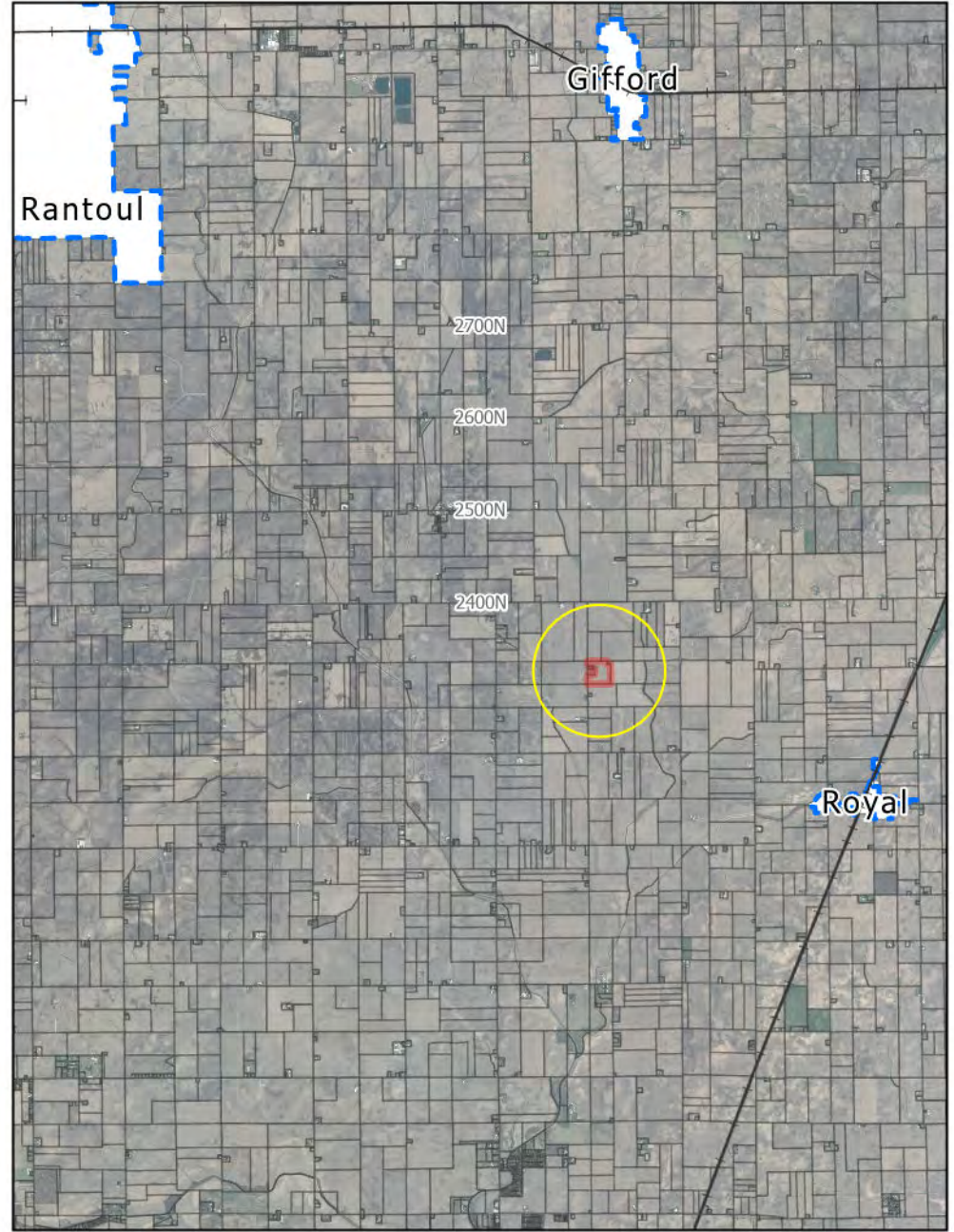
Subject Property



-  Subject Property
-  Municipal Boundary



Property Location in Champaign County

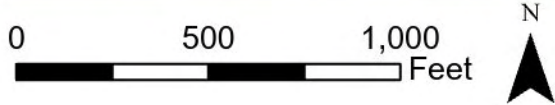


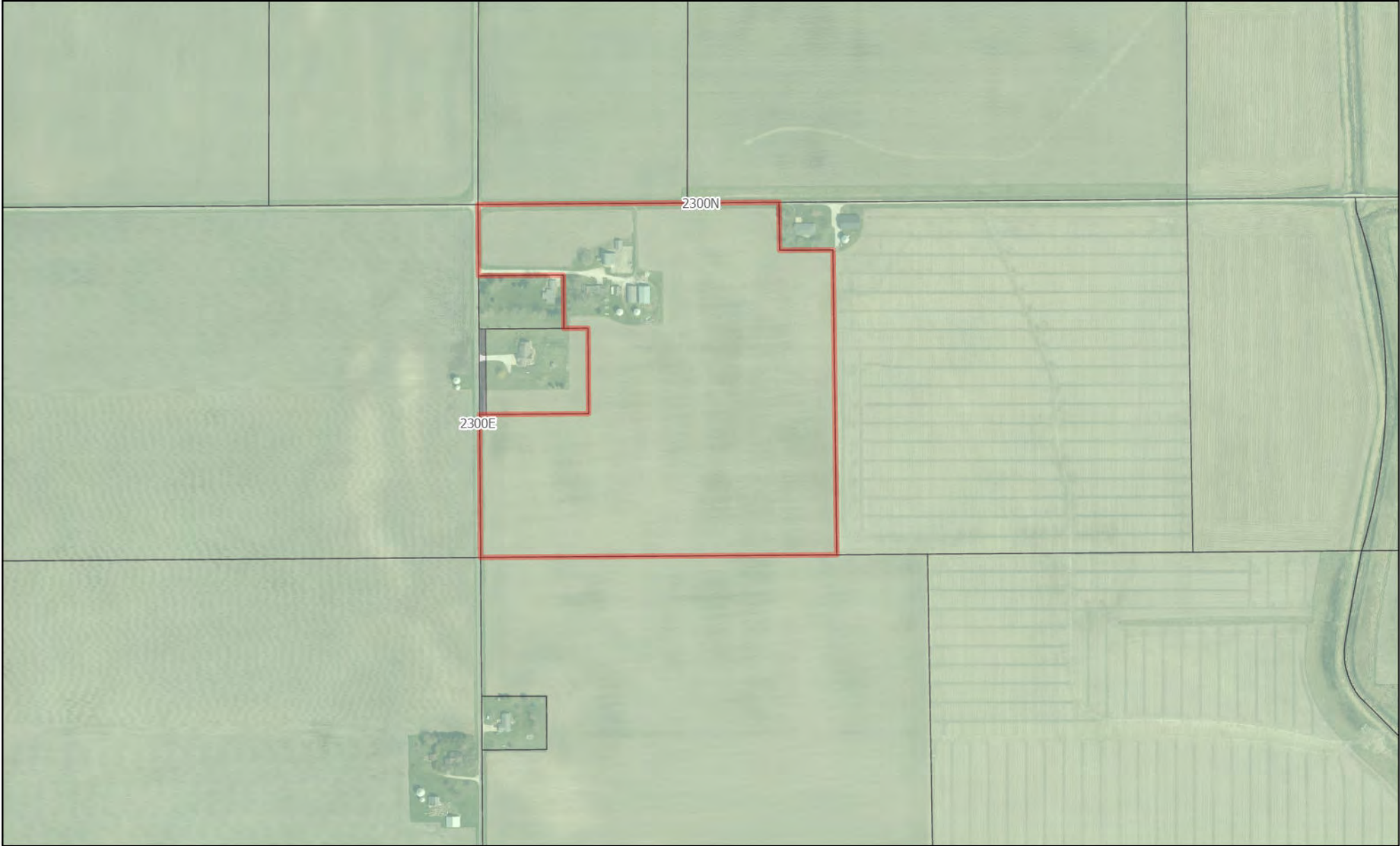
Land Use Map



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-  Subject Property
-  Agriculture/Residential
-  Agriculture
-  Residential

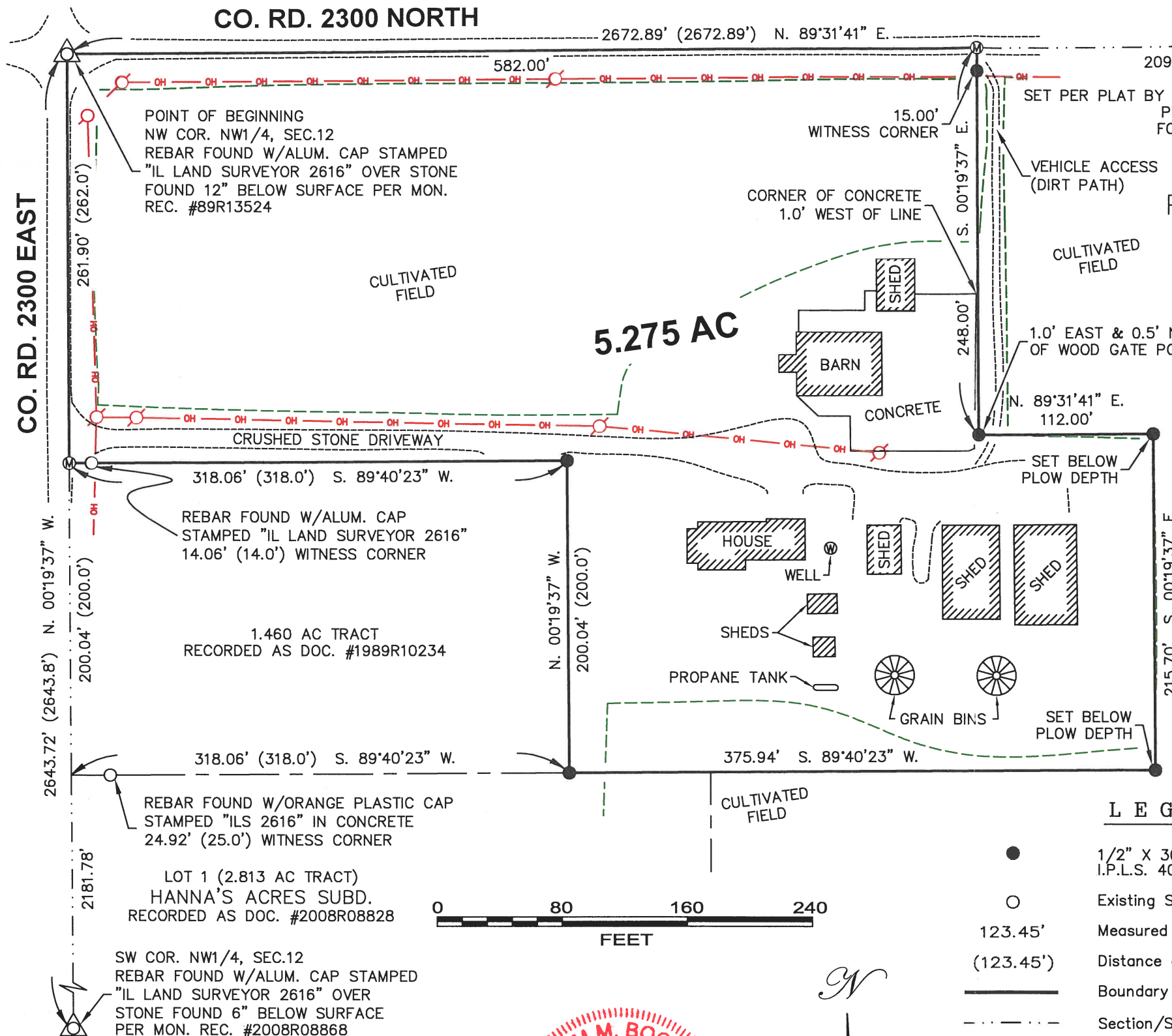




-  Subject Property
-  AG-1 Agriculture

0 500 1,000 Feet





PLAT OF SURVEY

PART OF THE NORTHWEST QUARTER OF SECTION 12
TOWNSHIP 20 NORTH, RANGE 10 EAST
OF THE THIRD PRINCIPAL MERIDIAN
CHAMPAIGN COUNTY, ILLINOIS

DESCRIPTION

Part of the Northwest Quarter of Section 12, Township 20 North, Range 10 East of the Third Principal Meridian, more particularly described as:

Beginning at a Stone at the Northwest Corner of the Northwest Quarter of Section 12, Township 20 North, Range 10 East of the Third Principal Meridian; thence N.89°31'41"E., coincident with the North Line of said Northwest Quarter, a distance of 582.00 feet to a Mag Spike; thence S.00°19'37"E., parallel with the West Line thereof, a distance of 248.00 feet to an Iron Pipe; thence N.89°31'41"E., parallel with said North Line, a distance of 112.00 feet to an Iron Pipe; thence S.00°19'37"E., parallel with said West Line, a distance of 215.70 feet to an Iron Pipe; thence S.89°40'23"W., perpendicular to said West Line and on the Easterly Extension of the North Line of Hanna's Acres Subdivision recorded as Document Number 2008R08828 in the Champaign County Recorder's Office, a distance of 375.94 feet to an Iron Pipe at the Southeast Corner of a 1.460 acre tract as shown on Plat of Survey recorded as Document Number 1989R10234; thence N.00°19'37"W., coincident with the East Line of said tract, a distance of 200.04 feet to an Iron Pipe at the Northeast Corner of said tract; thence S.89°40'23"W., coincident with the North Line of said tract, a distance of 318.06 feet to a Mag Spike situated on said West Line; thence N.00°19'37"W., coincident with said West Line, a distance of 261.90 feet to the Point of Beginning; encompassing 5.275 acres, more or less, all said real estate being situated in Champaign County, Illinois and said real estate being subject to the rights of the public in the roadways commonly known as "Co. Rd. 2300 East" and "Co. Rd. 2300 North" and existing public utilities.

LEGEND

- 1/2" X 30" Iron Pipe Set with I.P.L.S. 4029 Identification Cap
- Existing Survey Monument
- 123.45' Measured Distance
- (123.45') Distance of Record
- Boundary of Surveyed Tract
- - - Section/Sub-Section Line
- - - Existing Tract Line
- - - Cultivation Line
- - - Edge of Road Surface
- OH — Overhead Utility Line
- ⊕ Utility Pole
- Ⓜ Mag Spike Set
- △ Stone Found

NOTES

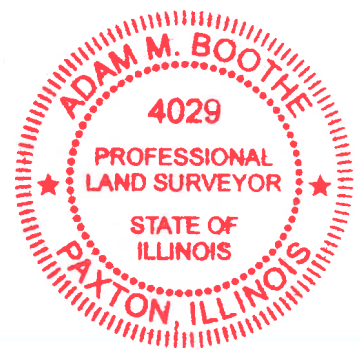
1. Client Name: Teresa Smith
 2. Field Work Completion Date: July 11, 2024 **SEP 09 2024**
 3. Basis of Bearings: Illinois State Plane Coordinate System (East Zone 1201) **CHAMPAIGN CO. P & Z DEPARTMENT**
 4. Utilities and other improvements exist, but are not shown on this survey.
 5. REFERENCE: Plat of Survey by Thomas B. Kyle, Co. Surveyor Dated Sept.5, 1885 Found in Surv. Rec.1 Pg.232 & 234
- Document numbers 2013R12240, 2008R09803, & 2006R26004 found in the Champaign County Recorder's Office.

RECEIVED

This professional service conforms to the current Illinois minimum standards for a boundary survey. Dimensions are shown in feet, tenths, and hundredths. Signed and dated in Paxton, Illinois, this 18th day of July, 2024.

A.M.B.-IL

Adam M. Boothe
Illinois Professional Land Surveyor No. 4029




Expires 11/30/24

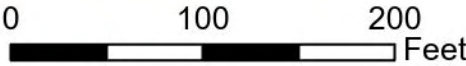
DATE OF PREPARATION: 07/18/2024	PROJECT ID: 24011900
<p>HARTKE ENGINEERING AND SURVEYING INC. 217.840.1612 tedhartke@hartke.pro</p>	SHEET NO.
	1
117 S. EAST AVE P.O. BOX 123 OGDEN, IL 61859 101 W. OTTAWA ROAD PAXTON, IL 60957	OF 1 SHEETS
ILLINOIS PROFESSIONAL DESIGN FIRM NO. 184.006128	

Annotated Aerial

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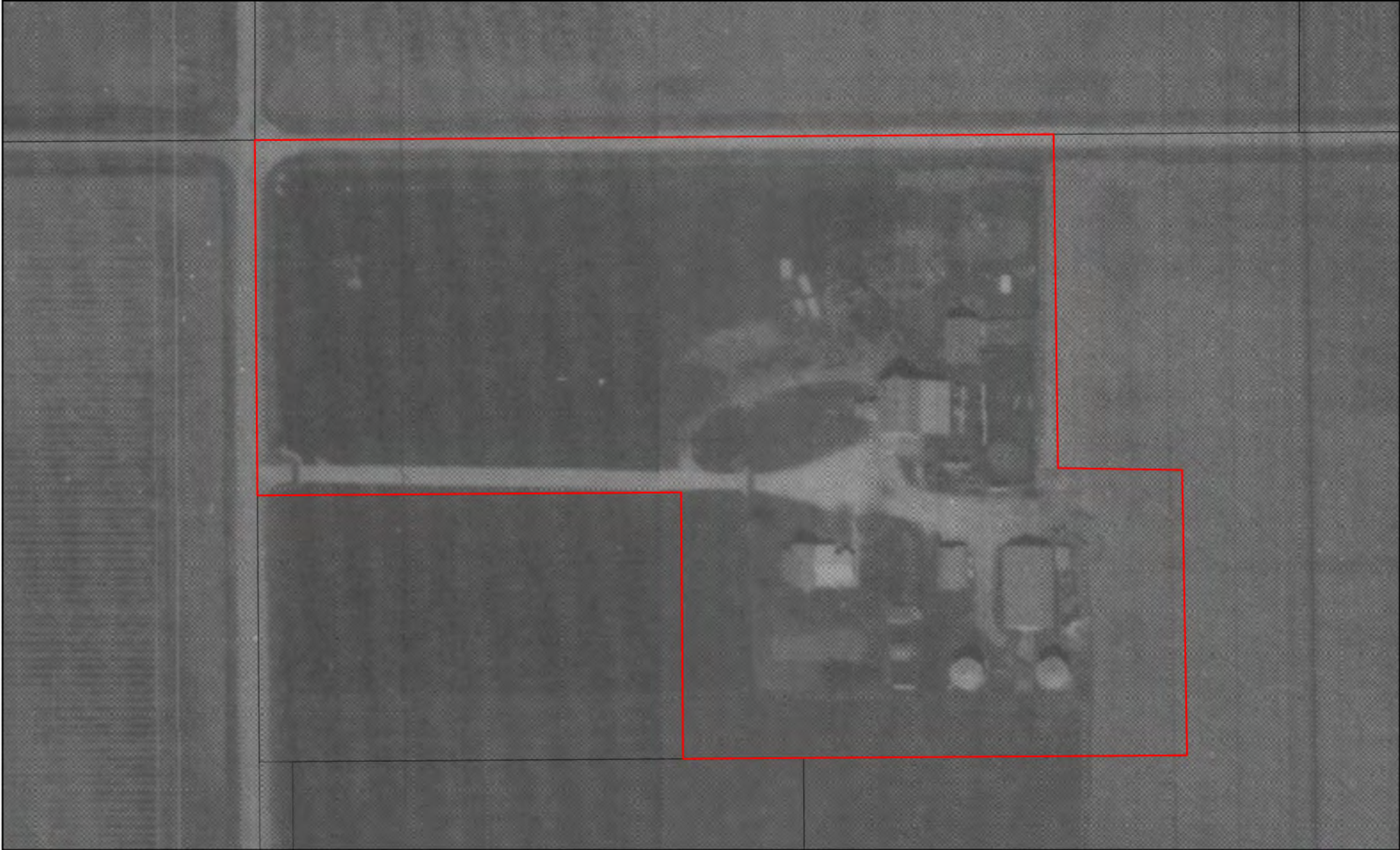


 Proposed Parcel

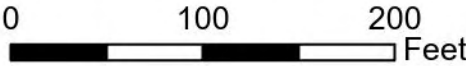


Annotated 1973 Aerial

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October 31, 2024



 Proposed Parcel





Hanna's Acres

SSURGO, Champaign County GIS Consortium

0.01
mi

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.



155-V-24 Site Images



From 2300N facing southwest to Subject Property



From 2300E facing east to Subject Property.

155-V-24 Site Images



From intersection of 2300N and 2300E facing south



From intersection of 2300N and 2300E facing southwest to Subject Property

PRELIMINARY DRAFT

155-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: ***{October 31, 2024}***

Petitioner: **Mary Schlueter c/o Teresa Smith**

Request: **Authorize a variance for a proposed 5.275-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 Mary Schlueter, 2294 CR 2300E, St. Joseph, IL, owns the 34.90-acre lot with an address of 2294A CR 2300E, in the Northwest quarter of the Northwest quarter of Section 12, Township 20 North, Range 10 East of the Third Principal Meridian, in Stanton 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 Stanton Township, which has 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 5.275-acre subject property is zoned AG-1 Agriculture and is in use as residential and agriculture.
 - B. Land surrounding the subject property is zoned AG-1 Agriculture to the north, south, east, and west. There are residential properties to the east and southwest of the proposed lot, to the north and south the area is in agricultural production.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Site Plan received on September 09, 2024, indicates the following:
 - (1) Existing structures on the property include:
 - a. One single family dwelling
 - b. Four agricultural sheds
 - c. One barn
 - d. Two small yard sheds
 - d. Two gran bins
 - (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 area of the proposed lot has been used as a farmstead since prior to the adoption of the Champaign County Zoning Ordinance.
 - D. There are no previous zoning cases for the subject property.

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- E. The petitioner is planning to split off a 5.275-acre parcel that contains the home and agricultural buildings as well as an approximately 2.2-acre field to be used as a pasture.
- F. The requested variance is a proposed 5.275-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.

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- (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.

PRELIMINARY DRAFT

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
 - A. The Petitioner testified the following on the application: **“Pasture land”**
 - B. Regarding the soils that make up the subject property:
 - (1) The proposed 5.275-acre lot contains approximately 3.525 acres (approximately 67% of the lot area) of Drummer silty clay loam soil which has a relative value of 100 LE and is considered BEST PRIME FARMLAND. The balance of the proposed lot is composed of La Hogue Loam.
 - (2) The proposed lot has an average LE score of 95.
 - C. The petitioner wants to separate off the existing farmstead from the surrounding farmland. The proposed lot will extend to the corner of 2300N and 2300E and include a 2.2-acre field to be used as a pasture.
 - D. Approximately 2.2 acres will be converted from row crops to pasture.
 - 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: **“Modern farm equipment size is so large that it is difficult to farm.”**
 - B. Without the proposed variance, the petitioners would not be able to divide off a lot that is large enough to encompass the existing buildings and structures as well as the proposed pasture area.

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: **“We want this to be pasture land”**
 - B. The petitioner is planning to sell the proposed 5.275-acre lot to a family member who will continue to farm the surrounding farmland.

PRELIMINARY DRAFT

- C. The area of the proposed lot has been used as a farmstead since before the adoption of the Champaign County Zoning Ordinance. The proposed 2.2-acre pasture area was previously used as pasture when animals were kept by the owner and their family.

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: **“It will still be used for agricultural purposes.”**
 - 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 5.275-acre lot area is 176% of the required three acre maximum, for a variance of 76%.
 - 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

- 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: **“We are not changing anything”**.
 - B. The Spoon River Drainage District has been notified of this variance, and no comments have been received.
 - C. The Stanton Township Highway Commissioner has been notified of this variance, and no comments have been received.
 - D. The Stanton Township Supervisor has been notified of this variance, and no comments have been received.
 - E. The St. Joseph-Stanton Fire Protection District has been notified of this variance, and no comments have been received.

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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: **“N/A.”**
 - B. The area to be divided off includes the home and agricultural buildings as well as an approximately 2.2-acre field to be used as a pasture No land is proposed to be taken out of production.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

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

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PRELIMINARY DRAFT

DOCUMENTS OF RECORD

1. Application for Variance received September 9, 2024, with attachments:
 - A Plat of Survey received September 9, 2024

2. Preliminary Memorandum dated October 24, 2024, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Plat of Survey received September 9, 2024
 - C 2023 Aerial Photo
 - D 1973 Aerial Photo
 - E Soils Map
 - F Site Images taken October 17, 2024
 - G Draft Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 155-V-24 dated October 31, 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 **155-V-24** held on **October 31, 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 divide off a lot containing the residence and farm buildings and include an approximately 2.2-acre pasture area. The proposed 5.275-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 petitioner would not be able to keep the proposed pasture area on the same property as the house and agricultural buildings.***
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 since before the adoption of the Champaign County Zoning Ordinance. The proposed 2.2-acre pasture area was previously used as a pasture when animals were kept by the owner and their family.***
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 existing structures and proposed pasture area of the farmstead.***
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 **155-V-24** is hereby *{GRANTED/ GRANTED WITH CONDITIONS/ DENIED}* to the petitioner, **Mary Schlueter**, to authorize the following:

Authorize a variance for a proposed 5.275-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