Champaign County
Department of
PLANNING &
ZONING

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

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CASE NO. 161-V-24

PRELIMINARY MEMORANDUM February 5, 2025

Petitioners: Christine Wallace, Linda Allen, Richard Kesler

Request: Authorize a variance for a proposed 7.95-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, and CR Conservation Recreation Zoning Districts,

per Section 5.3 of the Champaign County Zoning Ordinance.

Subject Property: A proposed 7.95-acre tract in the Southwest Quarter of the

Northeast Quarter of Section 31, Township 21 North, Range 8 East of the Third Principal Meridian in Condit Township, with an

address of 2459 CR 700 E, Dewey.

Site Area: 7.95 acres

Time Schedule for Development: As soon as possible

Prepared by: Charlie Campo, Senior Planner

John Hall, Zoning Administrator

BACKGROUND

The petitioners own the 6.91-acre lot and the 33.09-acres of adjacent farmland with an address of 2459 CR 700E. The farmstead contains a 160 x 60-foot agricultural storage building that was constructed partially on both the 6.91-acre lot and the 33.09-acre lot. The petitioners would like to adjust the lot lines of the 6.91-acre lot adding approximately 1.04-acres, so the storage building and existing grass areas and trees would be on the same property as the home. The petitioners plan to sell the resulting 7.95-acre lot to a family member. The proposed lot is on Best Prime Farmland, which has a 3-acre maximum per the Zoning Ordinance.

The area has been in use as a farmstead since before the adoption of the Champaign County Zoning Ordinance in 1973.

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 Condit 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 & CR Conservation Recreation
North	Residential, Agriculture	AG-1 Agriculture
East	Residential, Agriculture	AG-1 Agriculture & CR Conservation Recreation
West	Agriculture	AG-1 Agriculture & CR Conservation Recreation
South	Agriculture	CR Conservation Recreation

SPECIAL CONDITIONS

No special conditions are proposed.

ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received November 25, 2024
- C 2023 Aerial Photo
- D 1988 Aerial Photo
- E 1973 Aerial Photo
- F Soils Map
- G Site Images taken February 5, 2025
- H Draft Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 161-V-24 dated February 13, 2025

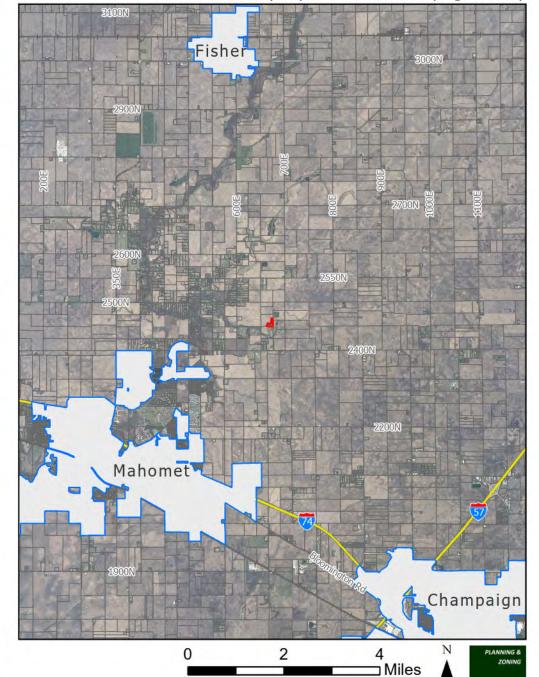
Municipal Boundary

Subject Property

Miles

Property Location in Champaign County

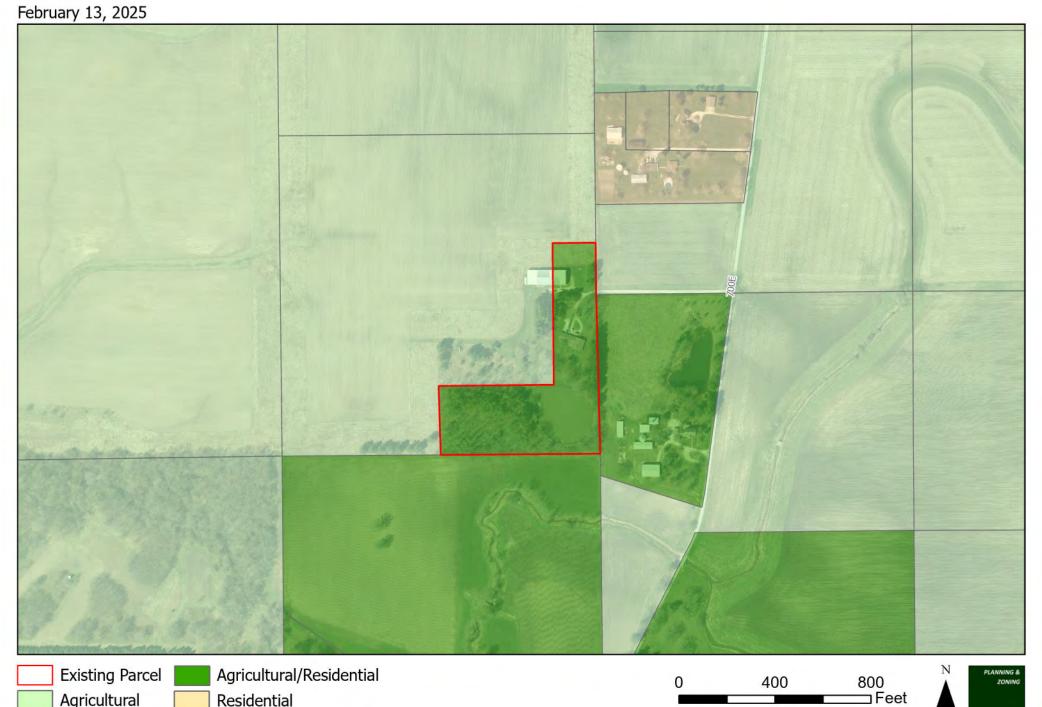




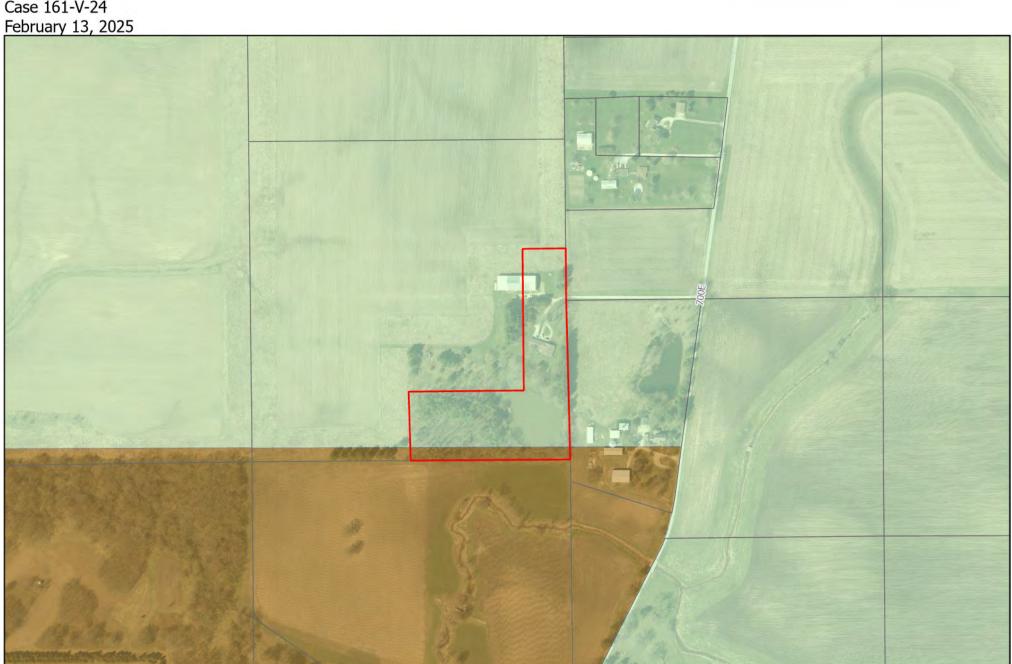
Land Use Map Case 161-V-24

Agricultural

Residential



Zoning Map Case 161-V-24

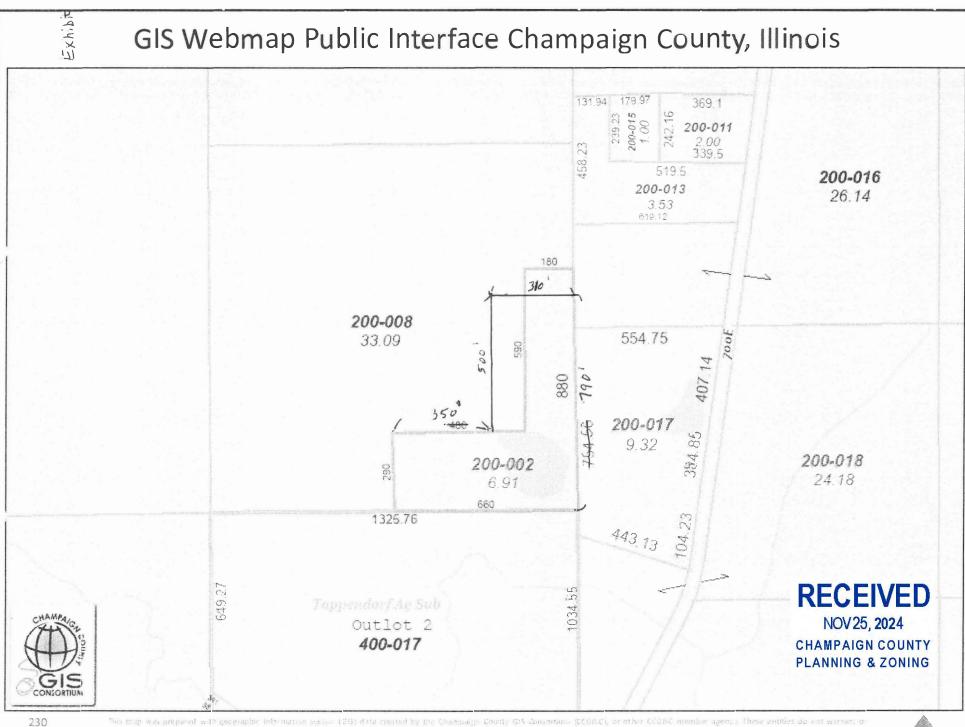


Existing Parcel CR Conservation & Recreation 0 500 1,000

AG-1 Agriculture





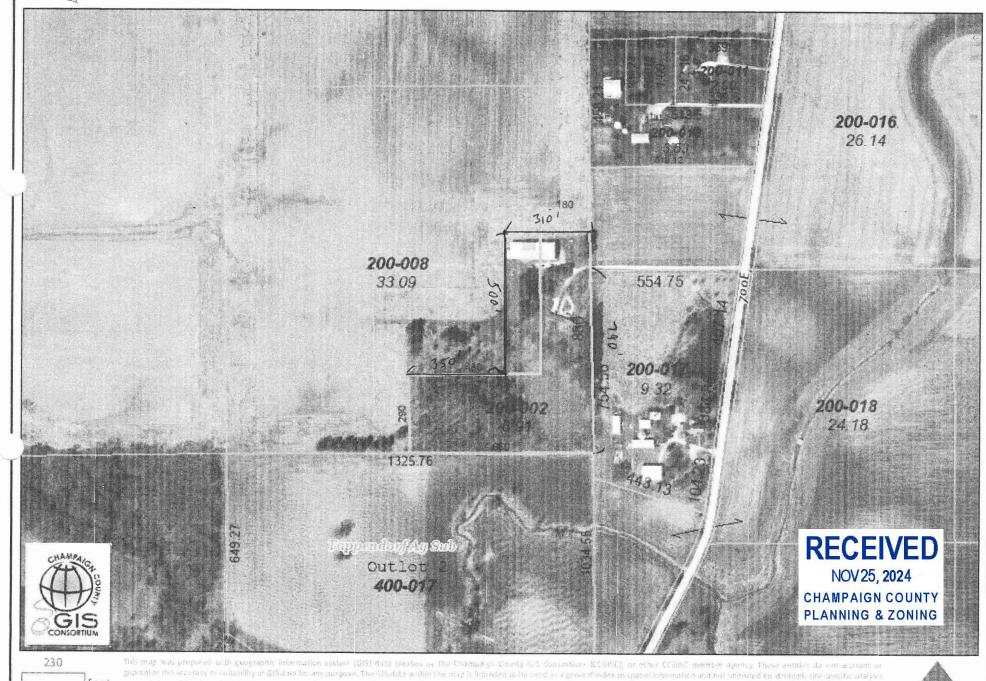


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NORTH

Exh.bit 88

GIS Webmap Public Interface Champaign County, Illinois

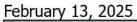


or condution of legal matters. Uses assume all risk assume all

Date: Wednesday, November 6, 2024

Annotated 2023 Aerial

Case 161-V-24





Proposed Parcel Changes

Existing Parcel





Annotated 1988 Aerial

Case 161-V-24

February 13, 2025



Annotated 1973 Aerial

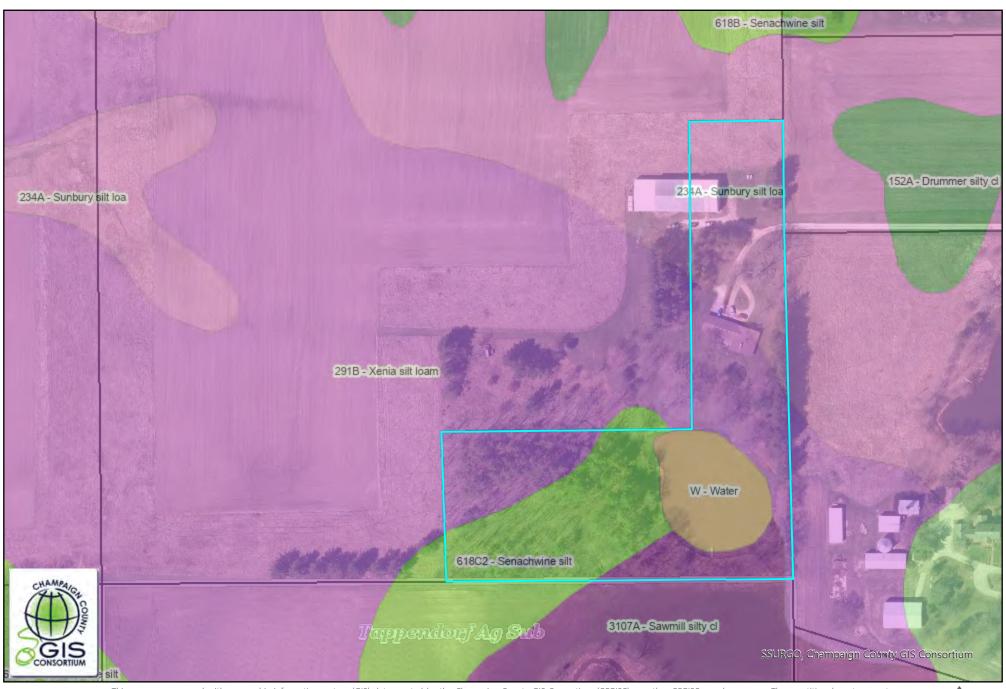
Case 161-V-24

February 13, 2025





2023 Aerial



0.03

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161-V-24 Site Images



From 700E looking west toward subject property



From subject property looking east toward 700E along access drive

161-V-24 Site Images



From the East property line looking north



From the east property line looking south

161-V-24 Site Images



From the east property line looking toward the subject property



Looking south on the subject property toward the residence

PRELIMINARY DRAFT

161-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: {February 13, 2025}

Petitioner: Christine Wallace, Linda Allen, Richard Kesler

Request: Authorize a variance for a proposed 7.95-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, and CR Conservation Recreation Zoning Districts,

per Section 5.3 of the Champaign County Zoning Ordinance.

Table of Contents

General Application Information	2-3
Required Variance	
Specific Ordinance Requirements	3-5
Variance Evidence	
Documents of Record	
Case 161-V-24 Findings of Fact	10
Case 161-V-24 Final Determination	11

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **February 13, 2025**, the Zoning Board of Appeals of Champaign County finds that:

- 1. Petitioners Christine Wallace, 1691 CR 1000E Champaign, Linda Allen 19784 Hilst Rd. Delevan, IL, and Richard Kesler, 1320 S. Lee's Summit Rd. Independence MO, as Independent Co-Executers of the Will of Lora Mae Kessler, deceased, own the 6.91-acre lot and the 33.09-acres of adjacent farmland with an address of 2459 CR 700E, in the Southwest Quarter of the Northeast Quarter of Section 31, Township 21 North, Range 8 East of the Third Principal Meridian in Condit 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 Condit 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 proposed 7.95-acre subject property is zoned AG-1 Agriculture and CR Conservation Recreation with the southern 53 feet (approximately) being zoned CR and is in use as residential and agriculture.
 - B. Land to the north is zoned AG-1 Agriculture and is in use as residential and agricultural.
 - C. Land to the west is zoned AG-1 Agriculture and CR Conservation Recreation and is in agricultural production.
 - D. Land to the south is zoned CR Conservation Recreation and is in agricultural production.
 - E. Land to the east is zoned AG-1 Agriculture and CR Conservation Recreation and is in use as residential and agricultural.

GENERALLY REGARDING THE PROPOSED SITE PLAN

- 5. Regarding the site plan for the subject property:
 - A. The Site Plan received on November 25, 2024, indicates the following:
 - (1) Existing structures on the property include:
 - a. One single family dwelling
 - b. One 160 x 60-foot agricultural storage building
 - (2) The agricultural storage building currently crosses the property line and is on both the existing 6.91-acre home lot and the 33.09-acre agricultural property.
 - (3) The petitioner is not proposing any construction at this time.

- B. Zoning Use Permit 276-77-01 was approved November 3, 1977, for the single-family dwelling.
- C. The agricultural building was constructed after the dwelling and later expanded. No permit was required for the agricultural building.
- D. The subject property has access to County Road 700E by a 20-foot easement along the south property line of the property with PIN 07-08-31-200-016 and a 10-feet easement along the north property line of the property with PIN 07-08-31-200-017.
- E. The property was created prior to the adoption of the Champaign County Zoning Ordinance and is legally non-conforming.
- E. There are no previous zoning cases for the subject property.
- F. The petitioners seek to adjust the lot lines of the property to include the agricultural storage building on the same lot as the single-family dwelling, pond and tree area.
- G. The requested variance is a proposed 7.95-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 and CR Conservation Recreation Zoning Districts, 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):
 - "AGRICULTURE" is the growing, harvesting and storing of crops including **(1)** 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 form 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.

PRELIMINARY DRAFT

- (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.
- (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.

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: "The residence was constructed in 1978. The machine shed on the property was constructed in the 1980's and current maps show one line of the existing 6.971-acre parcel extending through the middle of the shed. Tyler Wallace, a grandson of Keneth Kesler has expressed an interest in purchasing the residence, but he desires to include the machine shed with the residence property. Applicants would like to accede to his request, so the east line of the proposed legal description would be reduced from 880' to 790', and the north line, which should meet setback requirements for the shed, would be lengthened from 180' to 310'. Currently land within the northerly 09' of the 6.971-acre parcel is enrolled in the Conservation Reserve Program (CRP), and if the requested legal description of the residence property is allowed, while the acreage would be increased to 7.9522-acres, the northerly 90' X 180' or 1,620 sq. ft. would be moved from the residence parcel to the farmland parcel and would remain subject to the CRP election"

"The greatest part of any prime agricultural land in the area is already within the current 6.971-acres residence property and none of the small area that would be added to the proposed residence property legal description is currently in agricultural production. It is more a conservation area, with trees and lawn and pond. See Exhibit #6A-2, a GIS map provided by the Zoning Administrator. The area in green and labeled 618C2-Senachwine silt is primarily situated within the existing 6.971-acre parcel and is in an area planted in conifer trees as a windbreak."

"The existing structures on the property (residence and machine shed) were constructed at times when Applicants believe they conformed to the Champaign County Zoning Ordinance (lot size, prime agricultural land, and accessibility

restrictions apparently were not in force or did not apply or permitted each structure as of its respective date of construction). No new construction is requested."

"As to the lack of contact with a public road, the 80-acre tract has been in the Kesler family for over 100 years and has been accessed by easement for all that time. Kenneth Kesler obtained a 10' easement from Rayburn and a 20' easement from Herriott."

- B. Regarding the soils that make up the subject property:
 - (1) The proposed 7.95-acre lot contains approximately 1.7 acres (approximately 21% of the lot area) of Sunbury silt loam soil which has a relative value of 91 LE and is considered BEST PRIME FARMLAND. The balance of the proposed lot is composed of Xenia silt loam, Senachwine silt and Sawmill silty clay.
 - (2) The proposed lot has an average LE score of 80.
- C. The petitioner seeks to adjust the lot lines of the property to include the agricultural storage building on the same lot as the single-family dwelling, pond and tree area.
- D. The subject property will be increased in area by approximately 1.04-acres.
- 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: "After he acquired the 6.971-acre parcel, Kenneth Kessler planted a number of trees and shrubs and constructed a farm pond immediately south of the residence and a windbreak west of the pond. There would be currently no agricultural production within the proposed 7.9522-acre parcel."
 - "The lack of contiguity with a public road as a basis for denying requesting variances would create a hardship as the access by easements has been in existence for over 100 years and the placement of the road in an area not adjacent to the section line was hardly the fault of the applicants."
 - B. Without the proposed variance, the petitioners would not be able to reconfigure the property to include the agricultural storage building on the same lot as the single-family dwelling and the other existing improvements and trees.

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: "Applicants are not aware of having taken any action that resulted wholly or partly in any special conditions, circumstances, hardships, or practical difficulties cited in the application"
- B. The petitioners plan to sell the proposed 7.95-acre lot to a family member.
- C. The area of the proposed lot has been used as a farmstead in conjunction with the adjacent farmland since before the adoption of the Champaign County Zoning Ordinance.

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: "Granting the requested variances and allowing the use of the legal description of the 7.9522 acre residence property would eliminate any line of the 6.971-acre parcel shown by the Supervisor of Assessments as passing through the machine shed; would join the CRP property with the contiguous farm parcel; and any inclusion of prime agricultural land would be miniscule and would not result in the loss of any agricultural land in current production."
 - 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 propose 7.95-acre lot area is 265% of the required three acre maximum, for a variance of 165%.
 - 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: "The requested variances would not result in any change discernible by the naked eye of any person driving by public road 700E".
 - B. The Lower Big Slough Drainage District has been notified of this variance, and no comments have been received.

Case 161-V-24 Page 8 of 11

PRELIMINARY DRAFT

- C. The Condit Township Highway Commissioner has been notified of this variance, and no comments have been received.
- D. The Condit Township Supervisor has been notified of this variance, and no comments have been received.
- E. The Sangamon Valley 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: "As an item of information, when Kenneth Kesler discovered the machine shed he had constructed on the property spanned two PIN parcels, he attempted to remedy the problem by conveying the North 188' (or .777-acres) of the 6.971-acre residence property to his wife, Lora Mae Kessler, who in turn conveyed such property to Kenneth for life, remainder interest to their three children, the applicants. The quitclaim deed record as Bk 1226, Page 819, of the records of the Recorder of Deeds of Champaign County is attached hereto as Exhibit #7A-1. In any event, no change was made in the dimensions of PIN 07-08-31-200-002 by the Supervisor of Assessments office as a result of the recorded deed"
 - B. The area to be reconfigured includes the home and agricultural storage building as well as the existing pond and tree area. 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.

DOCUMENTS OF RECORD

- 1. Application for Variance received November 25, 2024, with attachments:
 - A Legal Description of the proposed property and the remaining adjacent farmland
 - B Quit Claim Deed Recorded with the Champaign County Recorder of Deeds Book 1226 Page 819
 - C Site plan showing the proposed property lines
 - D Easements for access to CR 700E on properties with PINs 07-08-31-200-016 and 07-08-31-200-017
- 2. Preliminary Memorandum dated February 5, 2025, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received November 25, 2024
 - C 2023 Aerial Photo
 - D 1988 Aerial Photo
 - E 1973 Aerial Photo
 - F Soils Map
 - G Site Images taken February 5, 2025
 - H Draft Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 161-V-24 dated February 13, 2025

SUMMARY DRAFT FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 161-V-24 held on February 13, 2025, 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 seek to adjust the lot lines of the property to include the agricultural storage building on the same lot as the single-family dwelling, pond and tree area. The proposed 7.95-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 be able to reconfigure the property to include the agricultural storage building on the same lot as the single-family dwelling and the other existing improvements and trees.
- 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 in conjunction with the adjacent farmland since before the adoption of the Champaign County Zoning Ordinance.
- 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 include the agricultural storage building on the same lot as the single-family dwelling and the other existing improvements and trees.
- 7. {NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}

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 161-V-24 is hereby {GRANTED/GRANTED WITH CONDITIONS/DENIED} to the petitioners, Christine Wallace, Linda Allen and Richard Kesler, to authorize the following:

Authorize a variance for a proposed 7.95-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, and CR Conservation Recreation Zoning Districts, 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.

Ryan Elwell, Chair Champaign County Zoning Board of Appea	ls

SIGNED:

ATTEST:

Secretary to the Zoning Board of Appeals Date