

# CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: April 17, 2008  
Time: 7:00 p.m.  
Place: Lyle Shields Meeting Room  
Brookens Administrative Center  
1776 E. Washington Street  
Urbana, IL 61802

**Note: NO ENTRANCE TO BUILDING  
FROM WASHINGTON STREET PARKING  
LOT AFTER 4:30 PM.  
Use Northeast parking lot via Lierman Ave.,  
and enter building through Northeast  
door.**

*If you require special accommodations please notify the Department of Planning & Zoning at  
(217) 384-3708*

**EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM**

## AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (April 03, 2008)
5. Continued Public Hearings

**\*Case 587-S-07: Petitioner: Mark and Julie Hardy d.b.a. Hardy's Reindeer Ranch and Richard Hardy**

**Request: Authorize a Private Indoor Recreational Development with accessory outdoor recreational activities.**

**Location: The South 23.4 acres except for the South 233.71 feet of the West 208.71 feet in the West Half of the Southeast Quarter of Section 5, Township 21 North, Range 9 East, Rantoul Township, and commonly known as Hardy's Reindeer Ranch at 1356 CR 2900N, Rantoul.**

**Case 602-AM-07: Petitioner: Mark and Julie Hardy d.b.a. Hardy's Reindeer Ranch and Richard Hardy**

**Request: Amend the Zoning Map to change the zoning district designation from AG-1 Agriculture Zoning District to AG-2 Agriculture Zoning District.**

**Location: The South 58.88 acres except for the South 233.71 feet of the West 208.71 feet in the West Half of the Southeast Quarter of Section 5, Township 21 North, Range 9 East, Rantoul Township, and commonly known as Hardy's Reindeer Ranch and the field to the north all located at 1356 CR 2900N, Rantoul.**

*Champaign County Zoning Board of Appeals  
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6. New Public Hearings

**\*Case 605-V-08:** Petitioner: **Wes Miller and Trent Miller**

Request: **Authorize the following in the AG-1, Agriculture Zoning District**  
**A. The reconstruction and use of a detached accessory building with a setback of 34 feet and front yard of 4 feet in lieu of the required 55 feet setback and 25 feet front yard; and**  
**B. The division of a lot 2.643 acres in area in lieu of the requirement that a property be more than five acres in area to be divided.**

Location: **A 2.643 acre tract in the Northeast Quarter of Section 26 of Crittenden Township and commonly known as the house at 1601 CR 200N, Villa Grove.**

**\*Case 608-V-08:** Petitioner: **Stephen Fiol and Sam Banks**

Request: **Authorize the construction of a fence in the AG-2 District with a height of eight feet in lieu of the required six feet.**

Location: **Lots 3 and 4 of Rolling Acres IV Subdivision in Section 34 of Champaign County Township and commonly known as the houses at 5 and 6 Genevieve Court, Champaign.**

7. Staff Report

8. Other Business

9. Audience Participation with respect to matters other than cases pending before the Board

10. Adjournment

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**\* Administrative Hearing. Cross Examination allowed.**



1 Ms. Griest informed the audience that this is an Administrative Case and as such the County allows anyone  
2 the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of  
3 hands for those who would like to cross examine and each person will be called upon. She requested that  
4 anyone called to cross examine go to the cross examination microphone to ask any questions. She said that  
5 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
6 state their name before asking any questions. She noted that no new testimony is to be given during the  
7 cross examination. She said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are  
8 exempt from cross examination.  
9

10  
11 **Case 602-AM-07: Petitioner: Mark and Julie Hardy d.b.a. Hardy’s Reindeer Ranch and Richard**  
12 **Hardy Request: Amend the Zoning Map to change the zoning district designation from AG-1**  
13 **Agriculture Zoning District to AG-2 Agriculture Zoning District. Location: The South 58.88 acres**  
14 **except for the south 233.71 feet of the West 208.71 feet in the West Half of the Southeast Quarter of**  
15 **Section 5, Township 21 North, Range 9 East, Rantoul Township and commonly known as Hardy’s**  
16 **Reindeer Ranch and the field to the north all located at 1356 CR 2900N, Rantoul.**  
17

18  
19 Mr. Hall stated that Case 487-S-07 is a continued case and has been re-advertised. He said that the case was  
20 previously before the Board as a Major Rural Specialty Business in the AG-1 Zoning District. He said that  
21 the Petitioner followed the recommendation of the Board and revised the special use to be a “Private Indoor  
22 Recreational Development” therefore there is also a rezoning case before the Board tonight. He said that  
23 Case 602-AM-07 is a request to rezone all of the area of the Special Use Permit plus the rest of the land that  
24 is owned jointly to the AG-2 Zoning District. He said that this land is approximately 600 feet from the  
25 Village of Rantoul, which as expanded since the *Zoning Ordinance* was adopted; therefore the AG-2 Zoning  
26 District is appropriate for this request because it is the zoning district which was built around the urbanized  
27 areas. He said that the County has not expanded the AG-2 Zoning District as the urbanized areas have  
28 expanded over the years therefore in terms of whether this is a proper location for AG-2 it would certainly  
29 meet the purpose and intent statements included in the *Ordinance*. He said that “Private Indoor Recreational  
30 Development” is not allowed in the AG-1 Zoning District therefore establishing the AG-2 Zoning District  
31 would allow this “Private Indoor Recreational Development” to be considered.  
32

33 Mr. Hall stated that the Board has not seen the rezoning case before tonight and staff’s preliminary review,  
34 included in the Preliminary Memorandum dated March 28, 2008, indicates that the proposed rezoning  
35 achieves all of the goals and conforms to all of the relevant policies. He said that staff could not find any  
36 areas where the Board would have any difficult choices in regard to the requested rezoning.  
37

38 Mr. Hall stated that the Supplemental Memorandum dated March 28, 2008, included a revised condition and  
39 three new conditions for the Board’s consideration. He said that the revised condition was in regard to the  
40 sales of alcohol and it was not revised in regard to the intent but only some minor word changes. He said  
41 that staff proposed three new conditions which would make it clear as to what exactly the Board is  
42 approving. He said that the whole point of the condition relating to the limit of sales of goods not produced  
43 on the premises is that the Board is being asked to approve a “Private Indoor Recreational Development” and

1 certainly incidental sales are expected but no where in the AG-2 district does it allow retail sales as a Special  
2 Use. He said that one thing that this business will not be able to do over time is to become a completely  
3 retail business because it is not allowed in the AG-2 district. He said that while the “Private Indoor  
4 Recreational Development” doesn’t have all of the limitations of a “Major Rural Specialty Business” there  
5 are still some limits.  
6

7 Mr. Hall stated that the Petitioner had previously testified that there is some outdoor music as part of their  
8 current activities therefore staff has proposed a condition that would allow the Petitioner to carry on with  
9 what they have testified that they are doing in regard to amplified music. He said that the condition states 1)  
10 that amplified music shall not be audible at the property line at any time; and 2) outdoor music shall not  
11 occur in the evening more often than as allowed as a Temporary Use, which is five times within any 90 day  
12 period, and then only as authorized by a Champaign County Recreation and Entertainment License. He said  
13 that as far as staff knows this condition will let Hardy’s Reindeer Ranch continue with outdoor music, as  
14 they are currently doing, but more importantly it does establish some type of limit for the future in case the  
15 property would be sold to a different owner.  
16

17 Mr. Hall stated that staff added detail to the proposed condition to provide reliable and safe emergency  
18 access to the meeting hall. He said that staff suggested this condition at the last hearing in which the Board  
19 reviewed the Summary of Evidence. He said that the condition indicates that 1) the width of the driveways  
20 that provide access to the subject property shall be a minimum of 20 feet wide with at least six inches of  
21 gravel across the entire width to provide adequate access for emergency vehicles; and 2) there shall be a fire  
22 lane outside the meeting hall that shall be marked “Fire land no parking” except for required handicapped  
23 parking and shall be a minimum of 20 feet wide with at least six inches of gravel across the entire width.  
24

25 Mr. Hall distributed a Supplemental Memorandum dated April 3, 2008 regarding Case 587-S-07, for the  
26 Board’s review. He said that the purpose of the new memorandum is to add a new Item 9.B.(2)(c) to the  
27 Summary of Evidence as follows:  
28

29                      **A condition is proposed that will limit the goods not produced on the premises to**  
30                      **50 percent of the total stock in trade or gross business income. There are two current**  
31                      **activities at Hardy’s Reindeer Ranch which fall under that condition: the sale of**  
32                      **pumpkins not grown on the site; and the sale of all items in the gift shop, including**  
33                      **future alcohol sales. The sale of food in conjunction with recreational activities is**  
34                      **not intended to be limited by the proposed condition.**  
35

36 Mr. Hall stated that in terms to the activities that are currently going on with the Special Use Permit, these  
37 are the only two things that the Petitioner has to be careful not to allow those sales to become the major  
38 generator of income.  
39

40 Mr. Bluhm questioned the Christmas tree sales.  
41

42 Mr. Hall stated that Christmas tree sales lots are allowed “by-right” in the AG-1 and AG-2 Zoning Districts.  
43

1 Mr. Hall stated that an Item 12.A.(3) has been added to the Summary of Evidence to make it very clear that  
2 the sale of food in conjunction with recreational activities is not intended to be limited by the proposed  
3 condition. He said that the activity of having the tour groups with a meal is not limited in any way by the  
4 proposed conditions. He said that there are several conditions but most of them have been included in  
5 previous memorandums when the request was for a “Rural Specialty Business”.

6  
7 Ms. Griest asked if the Board had any questions for Mr. Hall and there were none.

8  
9 Ms. Griest called Mark Hardy.

10  
11 Mr. Hardy stated that occasionally they will host a company picnic where they will have a three piece band  
12 perform outside but most generally the band will play inside the banquet hall on the stage. He said that he is  
13 very considerate of his neighbors in regard to outside noise. He asked if the rezoning is approved and he  
14 decided to build an indoor play area, as may be required in the fall or Christmas time due to inclement  
15 weather, would he need to obtain a building permit.

16  
17 Mr. Hall stated that the construction of an indoor play area would be an expansion and if this construction is  
18 planned within the next five years he would recommend that the Petitioner take the time to revise his site  
19 plan to include the new building.

20  
21 Mr. Hardy stated that he would rather not have to build such an area but if he does decide to do so it would  
22 be within the next five years. He said that to date he could only estimate as to the size and location of the  
23 building.

24  
25 Mr. Hall stated that it would be his recommendation that the Board continue the cases to allow Mr. Hardy to  
26 submit a carefully revised site plan and a floor plan of the proposed building. He said that an Indoor  
27 Recreational building is something that he would like the Board to be completely comfortable in what they  
28 are approving.

29  
30 Mr. Hardy stated that he would like to have some type of indoor play area for the kids to enjoy during  
31 inclement weather. He said that the building would not be particularly heated or air conditioned but would  
32 have walls that could function in several different ways. He said that the building could potentially be  
33 placed on his father’s land or behind the banquet hall.

34  
35 Ms. Griest asked Mr. Hardy if he is actually speaking about an additional structure to be placed on the site.

36  
37 Mr. Hardy stated yes. He said that he does not have a lot of storage and they are lacking any shelter for the  
38 tourists during inclement weather.

39  
40 Ms. Griest informed Mr. Hardy that it will cost him less to make those decisions now and include those  
41 changes in this application rather than having to come back before the Board for additional requests.

42  
43 Mr. Hardy stated that he can revise the site plan to include any proposed expansions but noted that it will

1 only be an estimate.  
2

3 Ms. Griest asked Mr. Hall if Mr. Hardy's request will be limited by the size of building or expansion that he  
4 submits on the revised site plan but if he chooses to go smaller he would be allowed to do so without  
5 revisiting the Board.  
6

7 Mr. Hall stated that when it comes time to build the Zoning Administrator does not want to see anything  
8 more than 10% larger than what the Board approves. He said that the location of the proposed expansion or  
9 building is not as critical provided that no additional driveway entrances are added but noted that additional  
10 parking may be required. He said that this is why he has recommended that the case be continued to allow  
11 time for a revised site plan to be submitted and reviewed.  
12

13 Ms. McGrath stated that the location of the expansion or building may be critical in this case due to ingress  
14 and egress issues.  
15

16 Ms. Griest asked Mr. Hall if he would recommend that the Board move forward with Case 602-AM-07,  
17 while the Petitioner and Staff works out any concerns related to Case 587-S-07.  
18

19 Mr. Hall stated the Board could move forward with Case 602-AM-07, but staff has an ELUC mailing going  
20 out next week and he does not intend forwarding this case to ELUC in April. He said that the Board could  
21 move forward with the map amendment but it will not gain the Petitioner anything in doing so. He said that  
22 he is glad that Mr. Hardy mentioned any possible expansion or proposed buildings at tonight's meeting. He  
23 reminded Mr. Hardy that the Board will be approving the Special Use Permit based on a specific site plan as  
24 well as a description of the activities therefore it is not like someone who is in a business district where  
25 someone can almost do anything "by-right". He said that Mr. Hardy's plan should include any expansion  
26 foreseen within the next five to ten years.  
27

28 Mr. Hardy asked Mr. Hall if he could build additional shelters for the animals.  
29

30 Mr. Hall stated yes. He said that if a farm building, used exclusively for agricultural use, is required on the  
31 farmland the construction of that building would not be an issue but anything that is part of the "Indoor  
32 Recreational Development" needs to be included on the revised site plan.  
33

34 Mr. Irle asked Mr. Hardy if he had spoken to the Village of Rantoul.  
35

36 Mr. Hardy stated that he spoke to the Chief of Police for the Village of Rantoul and they appear to be very  
37 supportive of their business. Mr. Hardy said that personally he is concerned about the prospect of having  
38 light industry businesses proposed towards his property.  
39

40 Ms. Griest asked Mr. Hardy if had reviewed the proposed conditions and if so did he have any concerns  
41 regarding the proposed conditions.  
42

43 Mr. Hardy stated that he had reviewed the proposed conditions and had no concerns at this time.

1  
2 Ms. Griest asked the Board if there were any additional questions for Mr. Hardy and there were none.  
3  
4 Ms. Griest asked if staff had any questions for Mr. Hardy and there were none.  
5  
6 Ms. Griest asked the audience if anyone had any questions for Mr. Hardy and there was no one.  
7  
8 Ms. Griest asked the audience if anyone in attendance would like to present testimony regarding Case 587-S-  
9 07 or Case 602-AM-07 and there was no one.  
10  
11 Ms. Griest asked Mr. Hall if he had a recommendation for a continuance date.  
12  
13 Mr. Hall stated that if Mr. Hardy would only need a week to prepare the revised site plan the cases could be  
14 continued to April 17, 2008. He said that if Mr. Hardy cannot submit a site plan within this time period the  
15 next opening for a continuance date would be May 29, 2008.  
16  
17 Mr. Hardy stated that he would need to check his calendar to see if the April 17<sup>th</sup> meeting would be an  
18 acceptable date for continuance. He stated that he could call Mr. Knight tomorrow to confirm the date.  
19  
20 Mr. Griest informed Mr. Hardy that the Board must continue the cases to a specific date at this meeting.  
21  
22 Mr. Hall recommended that the Board continue the cases to the April 17, 2008, meeting and if Mr. Hardy is  
23 not available staff cannot report this information to the Board and the case can be continued to a later date.  
24 He informed Mr. Hardy that he will need a site plan and a schematic building plan so that the Board knows if  
25 there are going to be any significant life/safety issues.  
26  
27 Ms. Griest asked Mr. Hall if Mr. Hardy should submit a statement of purpose and intended use of the  
28 building.  
29  
30 Mr. Hall stated the Board will need to know the type of activities that are planned for the building. He said  
31 that staff would need all of the requested information by April 3<sup>rd</sup>. He said that it will be better to over  
32 estimate the building size so that there is a little bit of latitude. He said that this information is only for the  
33 Special Use Permit and when the Petitioner decides to construct the building a Zoning Use Permit and fees  
34 will be required.  
35  
36 Mr. Hardy stated that at this point he is not sure whether he will locate the building on his land or his father's  
37 land.  
38  
39 Mr. Hall stated that Mr. Hardy's father's land has been included in the legal advertisement for the Special  
40 Use Permit and the only time the building being placed on his property would be if Richard Hardy decided to  
41 sell the land.  
42  
43 **Mr. Irle moved, seconded by Mr. Bluhm to continue Cases 587-S-07 and 602-S-07 to the April 17,**



1 2008 meeting. The motion carried by voice vote.  
2  
3

4 **6.        New Public Hearings**

5  
6 None  
7

8 **7.        Staff Report**

9  
10 None  
11

12 **8.        Other Business**

13  
14 Ms. Griest stated that a special meeting has been requested on the docket for May 1, 2008. She said that the  
15 concern is that there may be a thin Board on that specific date but since it is important to get this agricultural  
16 use case on the docket it was decided to go ahead and request a special meeting.  
17

18 Mr. Irle asked if Grand Prairie Co-op will be constructing a new grain elevator.  
19

20 Mr. Hall stated that there are two cases docketed for Grand Prairie Co-op. He said that one case is based on  
21 what they received approval for previously although they didn't really know what the height would be at the  
22 time for the proposed structure. He said that the structure will be over 100 feet in height and the *Zoning*  
23 *Ordinance* requires that a grain bin over 100 feet in height requires a Special Use Permit. He said that Grand  
24 Prairie Co-op is also proposing a significant expansion of storage in the other case and the Board has some  
25 flexibility for these cases. He said that the Special Use Permit for height would be relatively easy because the  
26 Board has already dealt with all of the non-height related issues for that case and it would just be going back  
27 and considering the proposed height. He said that the case for the expansion and new storage will be a  
28 different matter.  
29

30 Mr. Irle asked if the Village of Sidney will have any issues with the proposed expansion.  
31

32 Mr. Hall stated that the conditions have changed since the previous case because the Petitioner and the  
33 Village of Sidney have worked together and there really may not be any issues left but given the previous  
34 experience it is unknown what issues may arise. He said that staff only received the applications last week  
35 and approval for both requests is needed for this fall. He said that May 1, 2008, is the quickest date that the  
36 Board can review these two cases.  
37

38 Mr. Bluhm stated that if it is so urgent that Grand Prairie Co-op receives a quick approval for fall then why  
39 did they wait until last week to submit the application.  
40

41 Mr. Hall stated that the Village of Sidney informed Grand Prairie Co-op that it was up to the Village and the  
42 Village indicated that the requests would be okay. He said that if the Board will recall the facility is located  
43 both within the Village of Sidney and the County and apparently the entire property will never be within just

1 one jurisdiction therefore they have to work with both jurisdictions. He said that the location of the current  
2 requests is entirely located within the County therefore the only right that the Village of Sidney has is to  
3 comment on the Special Use Permit request.  
4

5 Mr. Schroeder asked if this is the case where they had originally requested to build two storage facilities but  
6 ended up only building one.  
7

8 Mr. Hall stated that they did want to build two storage facilities in the beginning but what they ended up  
9 doing is building a temporary ring which is now proposed to be removed for the new bin, which requires the  
10 special use permit for height. He said that the Board may desire to review only one of these cases on May  
11 1<sup>st</sup>.  
12

13 Ms. Griest asked the Board if a quorum will be in attendance for a special meeting on May 1<sup>st</sup>.  
14

15 Mr. Irle and Mr. Bluhm indicated that they may be in the field on May 1<sup>st</sup> and are not sure if they will be able  
16 to attend the special meeting.  
17

18 Ms. Griest stated that a quorum of the Board would consist of four members present.  
19

20 **Mr. Irle moved, seconded by Mr. Steeves to schedule a special meeting for May 1, 2008, to hear Cases**  
21 **613-S-08 and 614-V-08, Grand Prairie Co-op. The motion carried by voice vote.**  
22

23 **9. Audience Participation with respect to matters other than cases pending before the Board**  
24

25 None  
26

27 **10. Adjournment**  
28

29 The meeting adjourned at 7:35 p.m.  
30  
31  
32  
33  
34  
35

36 Respectfully submitted  
37  
38  
39  
40

41 Secretary of Zoning Board of Appeals  
42  
43

# CASE NO. 587-S-07

## SUPPLEMENTAL MEMORANDUM

April 11, 2008

Champaign  
County  
Department of

**PLANNING &  
ZONING**

Petitioners: **Mark and Julie Hardy d.b.a.  
Hardy's Reindeer Ranch; and Richard  
Hardy**

Request: **Authorize a Private Indoor  
Recreational Development with  
accessory outdoor recreational  
activities in the AG-2 District.**

Site Area: **24.3 acres**

Location: **A 5.24 acre tract and portions  
of adjacent tracts totaling 23.4 acres in  
the South half of the Southwest  
Quarter of the Southeast Quarter of  
Section 5 in Township 21N, Range 9E  
in Rantoul Township, and commonly  
known as Hardy's Reindeer Ranch  
located at 1356 CR 2900N, Rantoul.**

Time Schedule for Development:  
**N/A**

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

(217) 384-3708  
FAX (217) 328-2426

Prepared by: **J.R. Knight**  
Associate Planner  
**John Hall**  
Zoning Administrator

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### *STATUS*

This case was continued from the April 3, 2008, ZBA meeting. At that meeting the Petitioners indicated they have plans to construct additional structures on their property in the next few years. Since that meeting the Petitioner has submitted a revised site plan, which indicates two planned structures, a storage building behind the banquet hall and a covered play area next to the pedal cart track.

There is a new item of evidence for the Summary of Evidence proposed below. New Item 5.B(3) reviews the revised site plan.

Two new conditions are proposed that relate to the new proposed covered play area. New condition 12D (renumber subsequent items accordingly) is a proposed condition which will require the same level of life safety review for the new building as is currently required for the banquet hall. New condition 12J requires the Petitioner to contact the Illinois Capital Development Board for guidance on what is required for compliance with accessibility requirements for the site as a whole.

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### **NEW EVIDENCE FOR SUMMARY OF EVIDENCE**

The following paragraph should be inserted as new Item 5.B.(3):

- (3) Regarding the amended site plan received April 8, 2008, there are two new structures indicated on this site plan as future additions:
  - (a) The first is a 40 foot by 40 foot building labeled as a storage building. It will presumably be a fully enclosed pole building.
  - (b) The second is a 60 foot by 40 foot building labeled as a covered play area. Staff has discussed this building with the Petitioner, and it will most likely be a completely open structure with no walls or it will possibly have convertible walls that could be used to enclose the building on a temporary basis.

- 
- (c) If the building will be enclosed, even if only on a temporary basis, life safety concerns become an issue. A new condition is proposed that requires the same life safety review for the covered play area as is already proposed for the banquet hall.
  - (d) The addition of this new building to the site plan also raises issues of handicapped accessibility for the site as a whole. Previous review of accessibility focused on the banquet hall, but future review needs to take into account the entire site, which is beyond the scope of review that staff is capable of. A new condition is therefore proposed which will require the Petitioner to contact the Capital Development Board for guidance in what is required for compliance with accessibility requirements for the site as a whole.

**NEW CONDITION 12D.**

The proposed covered play area should be subject to the same life safety review as the banquet hall, and the following condition requires such review.

**The Zoning Administrator shall not issue a Compliance Certificate for the proposed covered play area referred to on the site plan for Hardy's Reindeer Ranch received on April 8, 2008, until the Petitioners submit either of the following:**

- (1) **A statement from an Illinois Licensed Architect certifying that the covered play area is in compliance with the life safety standards of the State Fire Marshal, or**
- (2) **A letter from the Chief of the Rantoul Fire Department stating that he is satisfied with the accommodations for public safety in the covered play area**

to ensure that:

**the covered play area is a safe place for public assembly.**

**NEW CONDITION 12I.**

The addition of the covered play area to the site plan raises the issue of handicapped accessibility for the site as a whole, which goes beyond the capability of staff to review. Therefore the following condition requires the Petitioner to contact the Illinois Capital Development Board for guidance in making the entire site handicapped accessible.

**The Zoning Administrator shall not issue a Zoning Use Permit for the proposed covered play area until the Petitioner provides a letter from the Capital Development Board that indicates what is required for Hardy's Reindeer Ranch to meet the standards for accessibility**

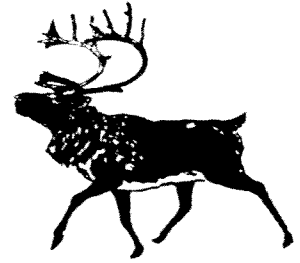
to ensure that:

**the entire site is accessible.**

**ATTACHMENT**

A Amended site plan received on April 8, 2008

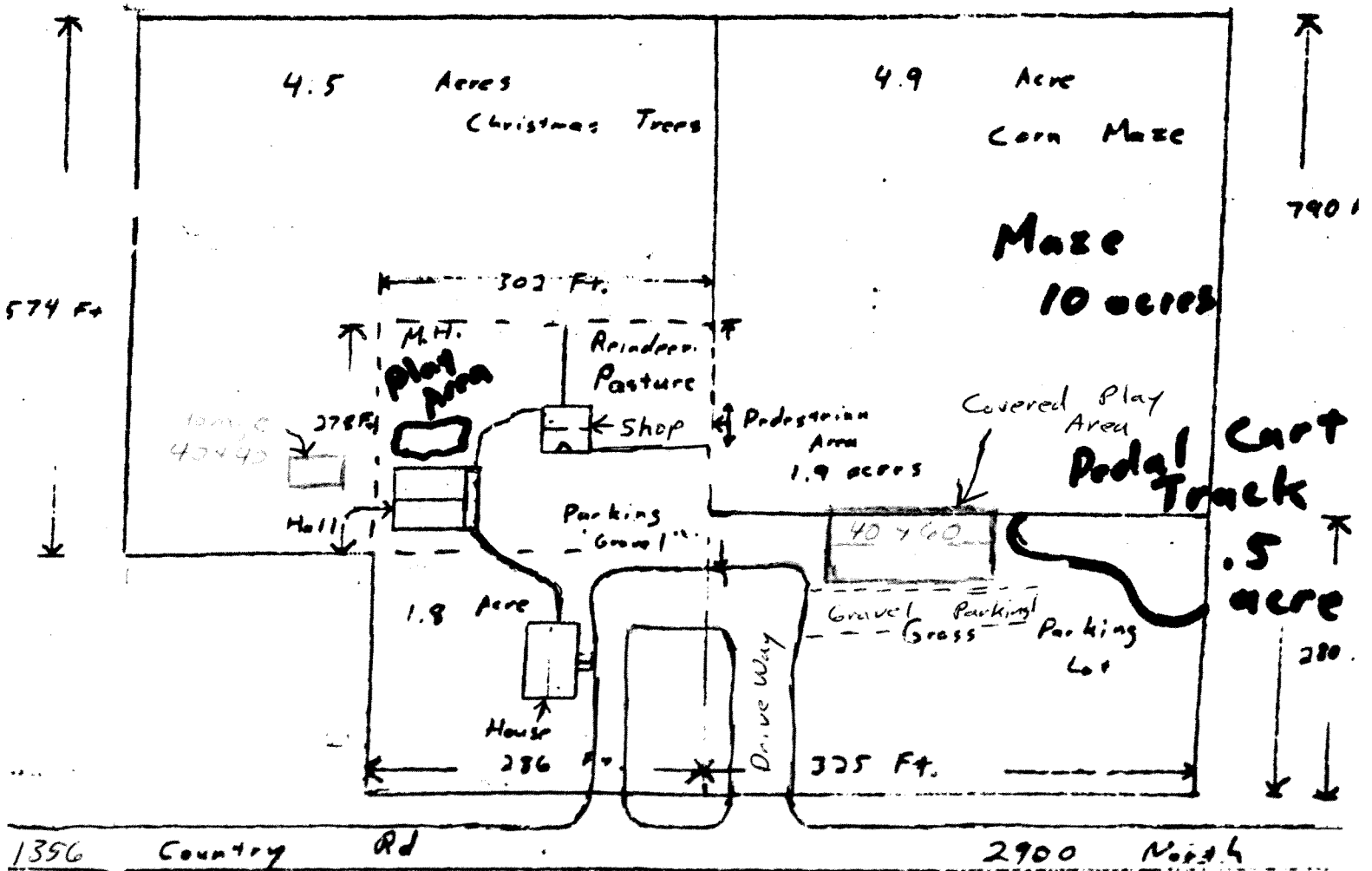
# Hardy's Reindeer Ranch & Chuckwagon BBQ



Mark & Julie Hardy  
1356 CR 2900N • Rantoul, IL 61866  
217-893-3407

Future additions: 40 x 60 Ft Covered  
Play Area + Storage

40 x 40 Ft Storage Shed



RECEIVED

APR 08 2008

CHAMPAIGN CO. P & Z DEPARTMENT Total 15.6 Acres

Champaign County  
Planning & Zoning Dept.  
1776 E. Washington Street  
Urbana, Illinois 61802

Exhibit C. Site Plan submitted by Petitioner

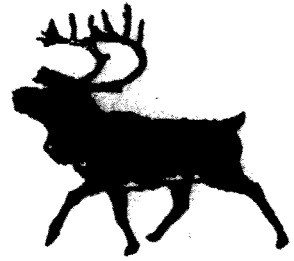
447: JR

# Hardy's Reindeer Ranch & Chuckwagon BBQ

## RECEIVED

APR 11 2008

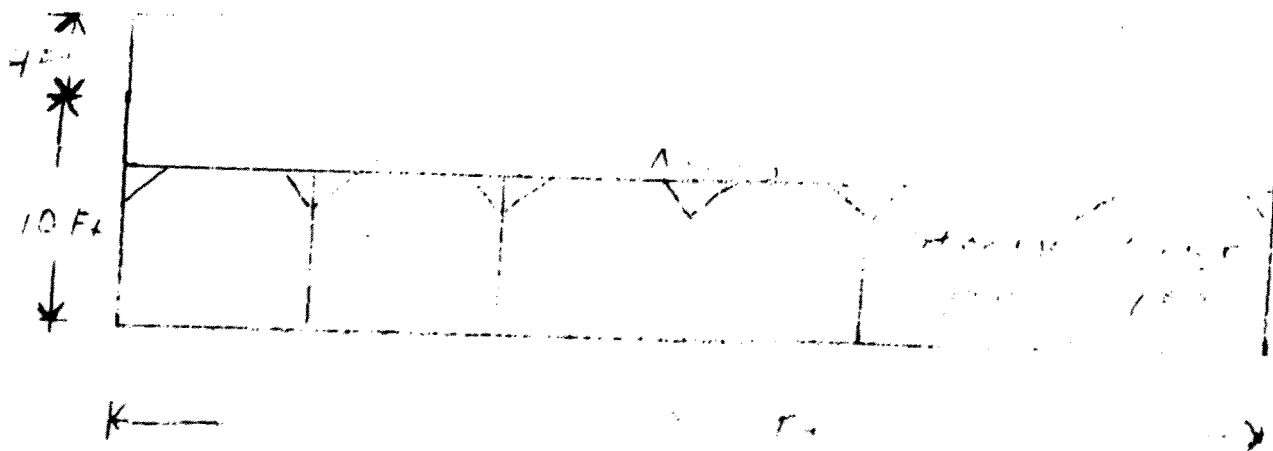
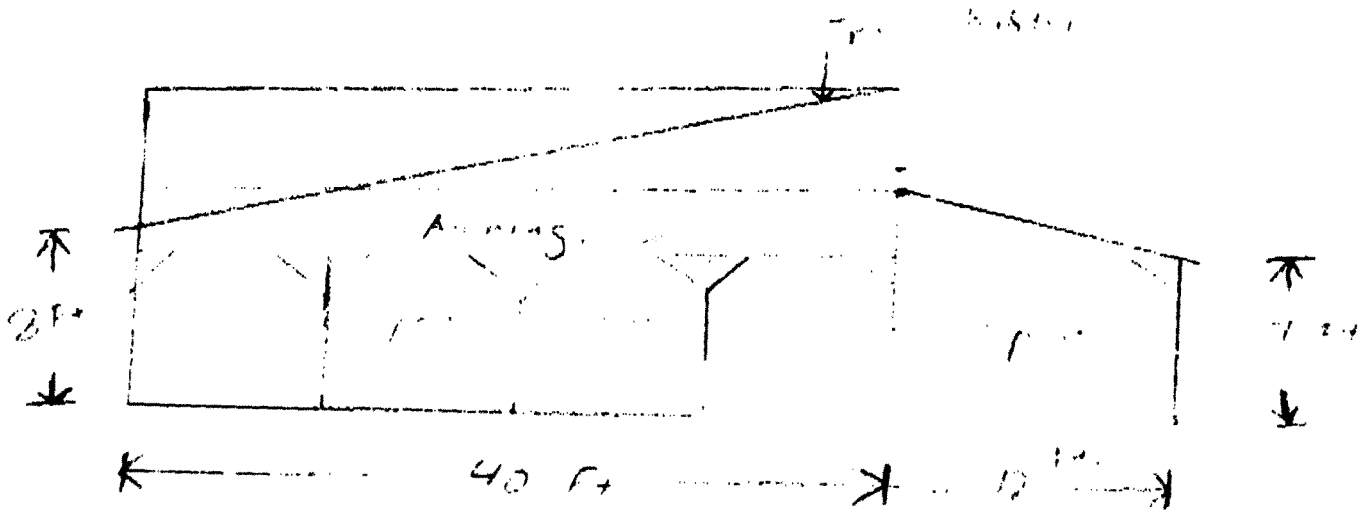
CHAMPAIGN CO. P & Z DEPARTMENT



Mark J. Julie Hardy  
1356 CR. 2900N - Rantoul, IL 61866  
217-893-3407

*Proposed  
Covered Play Shed  
+ Storage*

*— capacity 50  
People*



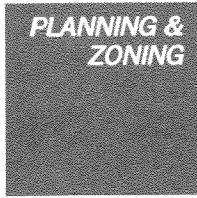
# CASE NO. 605-V-08

PRELIMINARY MEMORANDUM

April 11, 2008

Champaign  
County  
Department of

Petitioners: **Wes and Trent Miller**



Site Area: **2.643 acres**

Time Schedule for Development:  
**Immediate**

Request: **Authorize the following in the AG-1, Agriculture Zoning District:**

A. **The reconstruction and use of a detached accessory building with a setback of 34 feet and front yard of 4 feet in lieu of the required 55 feet setback and 25 feet front yard, in regard to CR 200N, a minor street; and**

B. **The division of a lot 2.643 acres in area in lieu of the requirement that a property be more than five acres in area to be divided.**

Location: **A 2.643 acre tract in the Northwest Quarter of the Northwest Quarter of Section 26 of Crittenden Township and commonly known as the house at 1601 CR 200N, Villa Grove.**

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

(217) 384-3708  
FAX (217) 328-2426

Prepared by: **J.R. Knight**  
Associate Planner  
**John Hall**  
Zoning Administrator

---

## BACKGROUND

The Petitioners first inquired with the Department about dividing their property on October 10, 2006. They were told they would need a variance and a plat of subdivision approved by the County to divide the subject property. On January 2, 2008, the Petitioner's engineer contacted the Department for more specific requirements and the applications necessary. An application for variance was received on January 22, 2008. The subject property is in the Special Flood Hazards Area (SFHA) and ground elevations have been provided. The surveyor's sketch also indicated the Quonset hut is nonconforming.

## EXTRATERRITORIAL JURISDICTION

The subject property is not within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning. Municipalities with zoning do not have protest rights in variance cases and they are not notified of such cases.

## EXISTING LAND USE AND ZONING

**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Single Family Dwelling	AG-1 Agriculture
North	Single Family Dwelling	AG-1 Agriculture
East	Farmland	AG-1 Agriculture
West	Single Family Dwelling	CR Conservation-Recreation
South	Farmland	AG-1 Agriculture

**ATTACHMENTS**

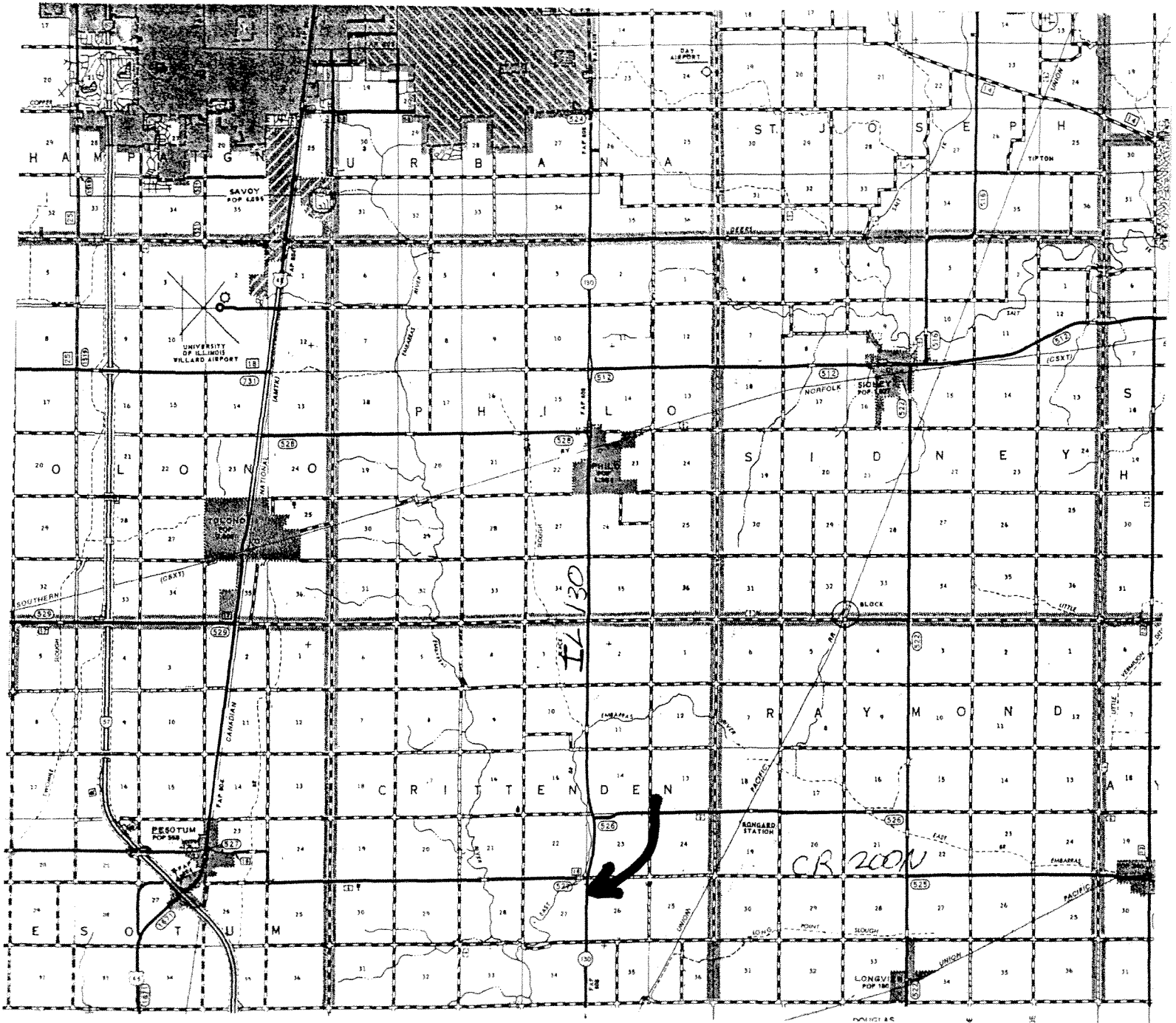
- A Case Maps (Location, Land Use, Zoning)
- B Site Plan of subject property received on January 10, 2008
- C Ground Elevation Survey, received on March 7, 2008
- D Annotated Site Plan
- E Excerpt of Champaign County Soil Survey
- F Excerpt of Soil Potential Ratings for Septic Tank Absorption Fields for Champaign County, Illinois
- G Traffic Map from Illinois Department of Transportation website
- H Table of Common Conditions Influencing the Suitability of Locations for Rural Residential Development in Champaign County
- I Comparing the Proposed Site Conditions to Common Champaign County Conditions
- J Draft Summary of Evidence for Case 605-V-08



ATTACHMENT A. LOCATION MAP

Case 605-V-08

APRIL 11, 2008



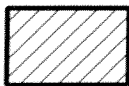
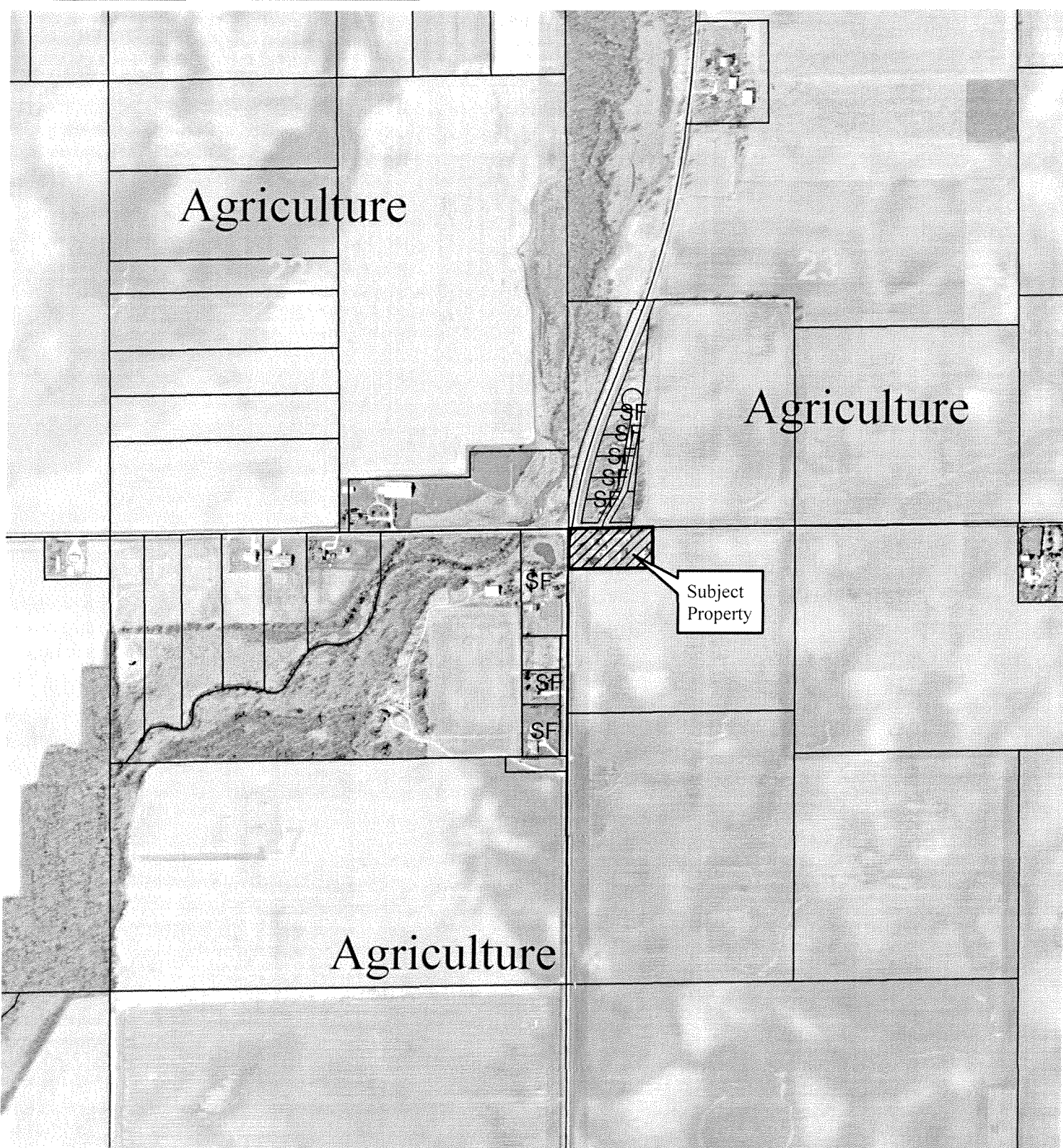
Champaign  
County  
Department of  
**PLANNING &  
ZONING**



ATTACHMENT A. LAND USE MAP

Case #-X-07

MONTH #, 2007



Area of Concern



Single Family



Farmstead



1 inch equals 800 feet

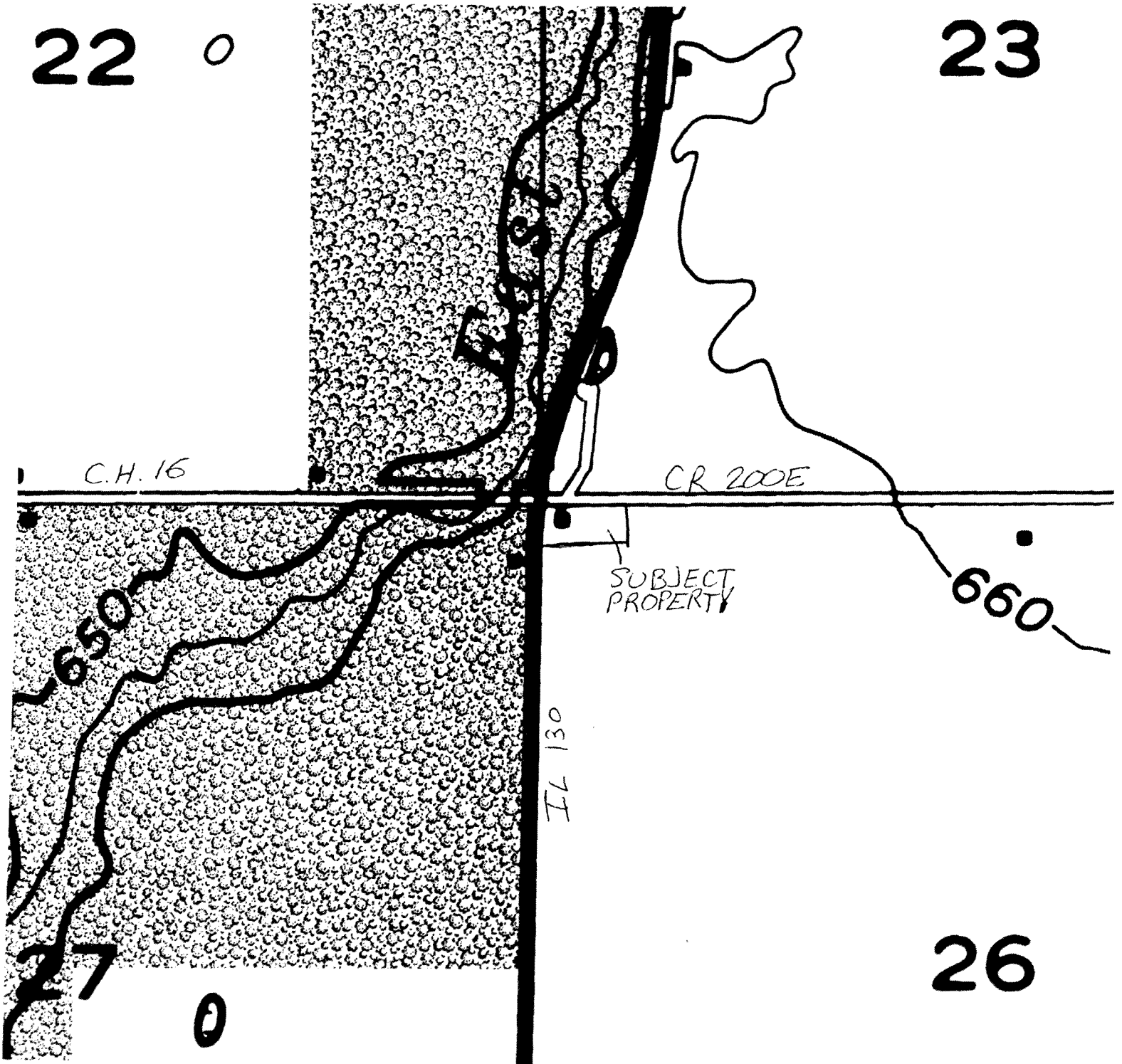
Champaign  
County  
Department of



ATTACHMENT A. ZONING MAP

Case 605-V-08

APRIL 11, 2008



AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	NORTH <b>Champaign County Department of PLANNING &amp; ZONING</b>
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation- Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry	

RECEIVED

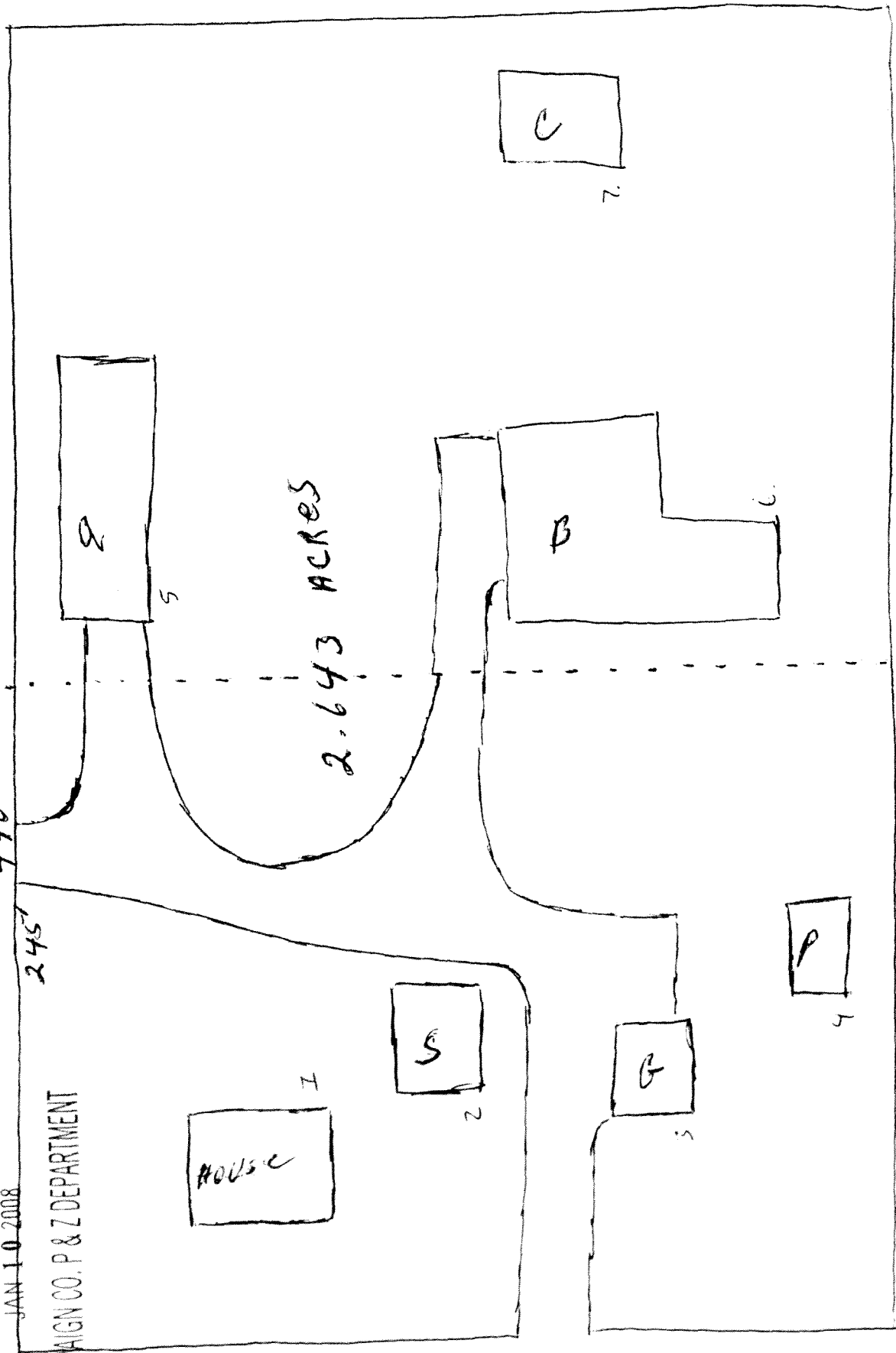
JAN 10 2008

CHAMPAIGN CO. P & Z DEPARTMENT

CR 200 N ↑

490'

245'



2.643 ACRES

HOUSE

P

S

B

C

G

P

7. cur crib

4. pavilion

5. squirrel hut

6. barn

1. house

2. car garage

3. 2 car garage

RT 130



RECEIVED

JAN 10 2008

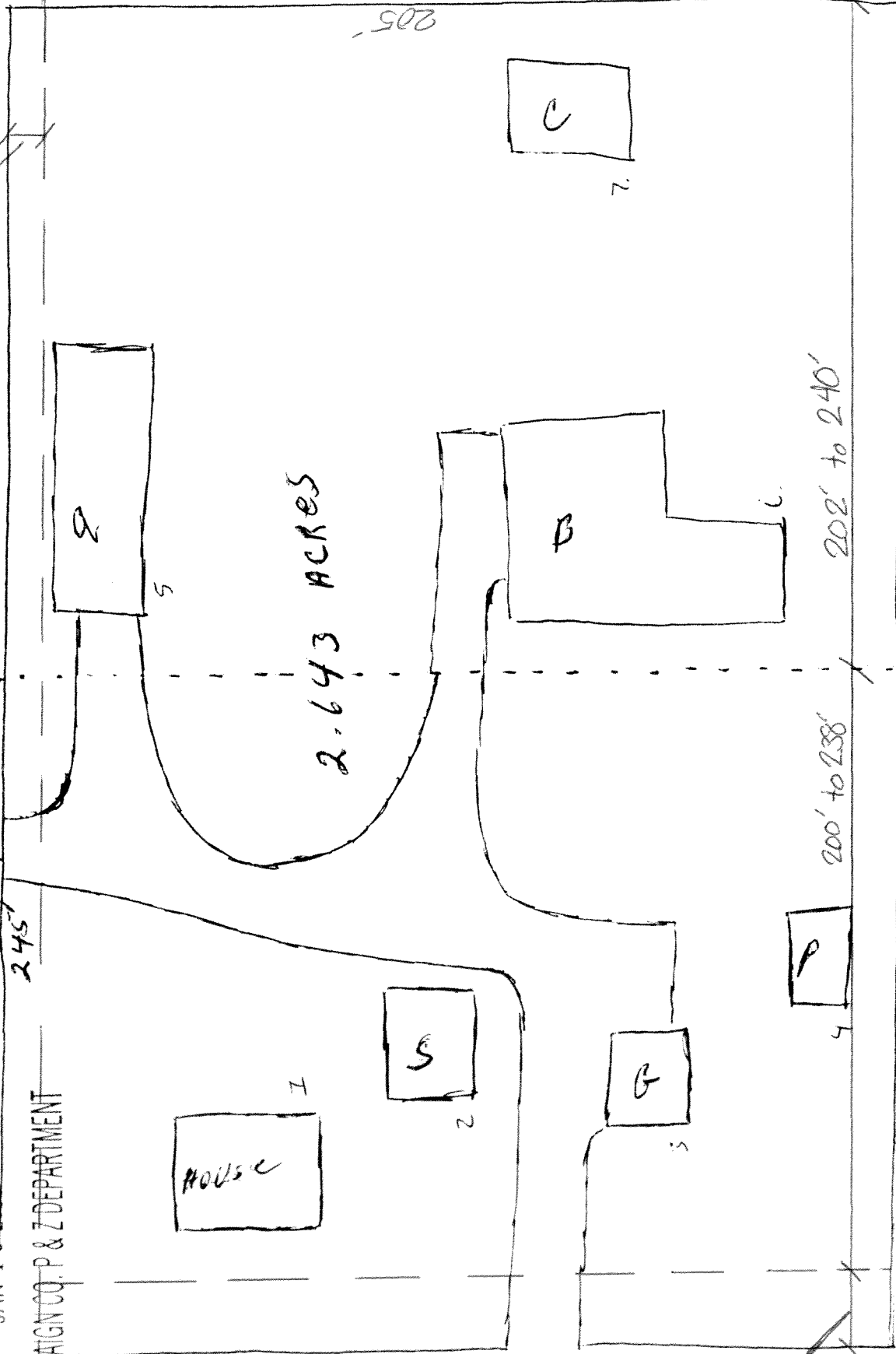
CHAMPAIGN CO. P & Z DEPARTMENT

CR 200 N N ↑

30' ROW

490'

245'



2.643 ACRES

House

C

B

P

S

G

**ANNOTATED**

- 1 house
- 2 car garage
- 3 2 car garages
- 4 pavilion
- 5 gravel lot
- 6 barn

RT 130  
assumed 50' ROW

\*Adequate right-of-way must be dedicated for IL 130.



WORKSHEET FOR PREPARING SOIL POTENTIAL RATINGS

Soil Use: Septic Tank Absorption Fields

Area: Champaign County, Illinois

Mapping Unit: Kendall silt loam, 0 to 3 percent slopes 242A

Evaluation Factors	Soil and Site Conditions	Degree of Limitation	Effects On Use	Typical Corrective Measures		Typical Continuing Limitations	
				Kinds	Index	Kinds	Index
Flooding	None	Slight	None	None		None	
Depth to High Water Table (Ft)	1.0-3.0	Severe	System Failure	Subsurface Drainage or fill and curtain drain	12	Possible surfacing of effluent	5
Permeability (IN/HR) (24-60")	0.6-2.0	Moderate	None	Standard Absorp. Field 210-290Sq.Ft./Bedroom	0	None	
Slope (PCT)	0-3	Slight	None	None		None	
				Total	12	Total	5

$$\frac{100}{\text{Performance Standard Index}} - \frac{12}{\text{Measure Cost Index}} - \frac{5}{\text{Continuing Limitation Cost Index}} = \frac{83}{\text{Soil Potential Index 1/}}$$

Performance Standard Index

Measure Cost Index

Continuing Limitation Cost Index


Soil Potential Index 1/

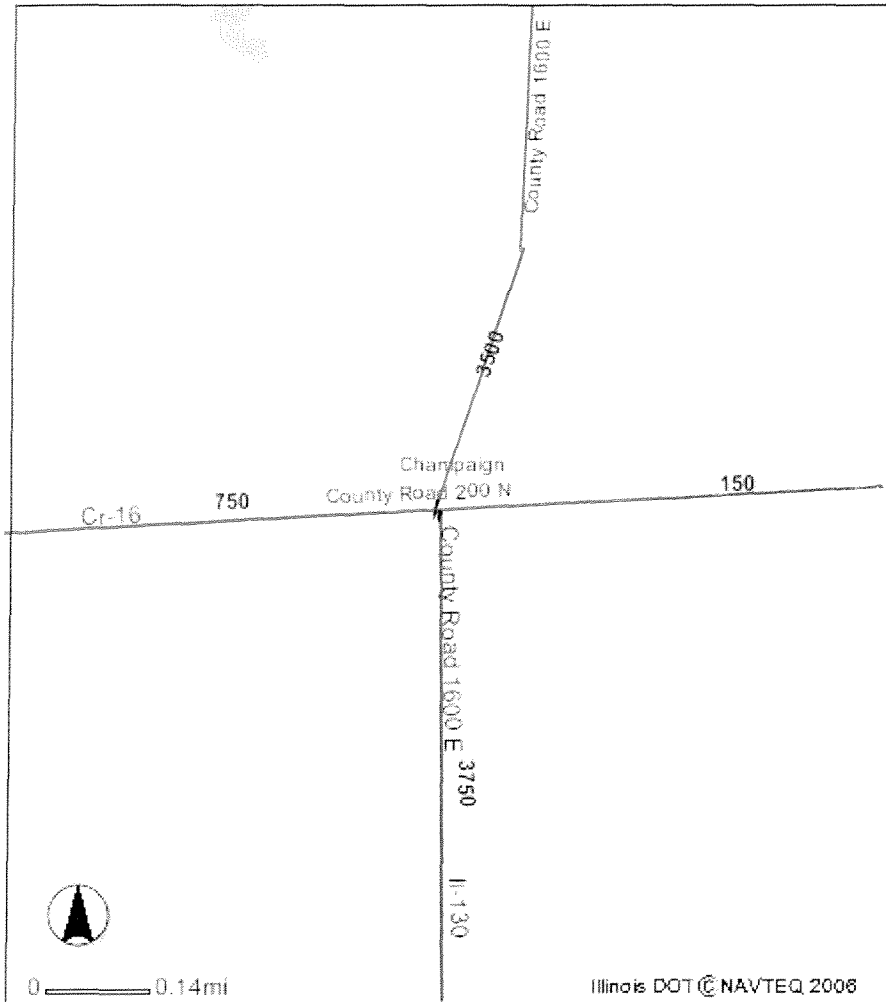
1/ If performance exceeds the standard increase SPI by that amount.





# Illinois Department of Transportation

 Send to printer



Date:4/11/2008

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Illinois Department of Transportation  
2300 S. Dirksen Pky  
Springfield, IL 62764

**Table Of Common Conditions<sup>1</sup> Influencing The Suitability Of Locations For Rural Residential Development In Champaign County (continued)**

REVISED November 17, 2005






Page 3 of 4

<p><b>Worst Or Nearly Worst Condition<sup>3</sup></b> ■</p>	<p><b>Much Worse Than Typical Condition<sup>4</sup></b> □</p>	<p><b>More Or Less Typical Condition<sup>5</sup></b> ○</p>	<p><b>Much Better Than Typical Condition<sup>4</sup></b> ☆</p>	<p><b>Ideal Or Nearly Ideal Conditions<sup>6</sup></b> ★</p>
<p><b>RRO<sup>2</sup> ZONING FACTOR: Adequacy and safety of roads providing access</b></p>				
<p>Access for all trips is from a Township Highway that has serious deficiencies (based on existing traffic load) in terms of both pavement width and shoulder width. There may also be other deficiencies in the roadway.</p> <p>The point of access to the Township Highway is a location with serious visibility problems.</p> <p>The site is at more than five miles from a County or State highway. The intersections are uncontrolled and have visibility problems.</p>	<p>Access for all trips is from a Township Highway that has serious deficiencies (based on existing traffic load or traffic speed) in terms of both pavement width and shoulder width between the proposed site and where the road connects to a County or State Highway <b>OR</b> there is an uncontrolled railroad crossing between the proposed site and where the road connects to a County or State Highway. The site is within five miles of a County or State highway. The road intersections are uncontrolled and have visibility problems. The point of access to the Township Highway has reasonable visibility.</p>	<p>Access from a Township Highway which does not have adequate shoulder width and may also have insufficient (based on either existing traffic load or traffic speed) pavement width for a small portion of the distance between the proposed site and where the road connects to a County or State Highway. The site is within five miles of a County or State highway. The intersections are uncontrolled and have visibility problems. The point of access to the Highway has good visibility. See discussion of Effects On Farms for farm related traffic concerns.</p>	<p>Access is from a Township Highway with no deficiencies (even including the proposed increase in ADT) between the proposed site and where the road connects to a County or State Highway.</p> <p>The intersections are uncontrolled and have visibility problems.</p> <p>Access is at a location with good visibility.</p>	<p>Access from any of the following: 1) a County Highway or 2) a Township Highway with no deficiencies (even including the proposed increase in ADT) and is less than one mile travel to a County or State Highway.</p> <p>Access is at a location with good visibility.</p> <p>Access should not be directly to a State or Federal highway because vehicle turning movements could create safety concerns.</p>
<p><b>RRO<sup>2</sup> ZONING FACTOR: Effects on drainage both upstream and downstream</b></p>				
<p>100% of site has wet soils that must be drained for development. Large parts of the site also pond. There is no natural drainage outlet for either surface or subsurface flows so offsite improvements are necessary. An alternative problem is the condition in which the site is bisected by a natural drainageway with large flows from upstream offsite areas which have significant effects on site development.</p>	<p>Between 90% and 100% of the site has wet soils that must be improved for development.</p> <p>Only about half of the site drains to existing road ditches. The rest of the site drains over adjacent land that is under different ownership which require offsite improvements. Ponding is a significant problem.</p>	<p>Approximately 90% of the site has wet soils that must be improved for development. There may be also be large areas where ponding occurs. Most of the site drains through township road ditches that do not have adequate capacity.</p>	<p>Probably less than half of the site has wet soils.</p> <p>The site drains to Township road ditches that are more or less adequate or to other natural drainage features that have adequate capacity.</p>	<p>No wet soils so no "dry weather flows" problems <b>OR</b> if wet soils are present the site drains directly to a drainage district facility with adequate capacity or to a river.</p>

**Table Of Common Conditions<sup>1</sup> Influencing The Suitability Of Locations For Rural Residential Development In Champaign County (continued)**

REVISED November 17, 2005






Page 4 of 4

Worst Or Nearly Worst Condition <sup>3</sup> 	Much Worse Than Typical Condition <sup>4</sup> 	More Or Less Typical Condition <sup>5</sup> 	Much Better Than Typical Condition <sup>4</sup> 	Ideal Or Nearly Ideal Conditions <sup>6</sup> 
<p>NOTES</p> <p>1. Five different “typical” conditions are identified that are representative of the range of conditions that exist in Champaign County. The characterization of these conditions are based solely on the opinions of County Staff.</p> <p>2. RRO= Rural Residential Overlay</p> <p>3. The WORST conditions are based on the worst possible conditions <u>for each factor</u> that can be found in rural Champaign County regardless of the amount of land that might be available and regardless of whether or not any individual site would likely ever combine “worst” ratings on all factors.</p> <p>4. MUCH WORSE THAN TYPICAL and MUCH BETTER THAN TYPICAL conditions are Staff judgements.</p> <p>5. Where possible, TYPICAL Champaign County rural residential development site conditions are based on averages for the entire County. For example, the overall average Land Evaluation is for all of the land in the County. Some factors are based on a review of data for all major rural subdivisions (such as the gross average lot size). Differences in water availability are localized and not averaged over the entire County.</p> <p>6. The IDEAL Champaign County rural residential development site conditions are based on the best possible conditions <u>for each factor</u> that can be found in rural Champaign County regardless of the amount of land that might be available and regardless of whether or not any individual site would likely ever combine “ideal” ratings on all factors.</p> <p>7. Ambulance service can presumably be further than five miles distance and be acceptable. <i>NO STANDARD OF COMPARISON IS PROPOSED FOR EMERGENCY AMBULANCE SERVICE.</i></p> <p>8. Any location in the County is subject to natural hazards such as tornadoes, freezing rain, etc.</p>				

**Table Of Common Conditions<sup>1</sup> Influencing The Suitability Of Locations For Rural Residential Development In Champaign County (continued)**

REVISED November 17, 2005






Page 1 of 4

Worst Or Nearly Worst Condition <sup>3</sup> 	Much Worse Than Typical Condition <sup>4</sup> 	More Or Less Typical Condition <sup>5</sup> 	Much Better Than Typical Condition <sup>4</sup> 	Ideal Or Nearly Ideal Conditions <sup>6</sup> 
<b>RRO<sup>2</sup> ZONING FACTOR: Availability of water supply</b>				
In the area with suspected problems of groundwater availability near existing wells which have experienced reliability problems and for which no investigations have proven otherwise.	An area with suspected problems of groundwater availability and for which no investigations have proven otherwise.	Reasonable confidence of water availability (area with no suspected problems of groundwater availability) and no reason to suspect impact on neighboring wells.	?	Virtual certainty of water availability (ie, located above the Mahomet-Teays Aquifer) or where anywhere that investigations indicate availability with no significant impact on existing wells.
<b>RRO<sup>2</sup> ZONING FACTOR: Suitability for onsite wastewater systems</b>				
100% of site with Low or Very Low Potential for septic tank leach fields.	More than 50% of site (but less than 95%) with Low Potential for septic tank leach fields.	No more than 50% of site with Low Potential for septic tank leach fields.	More than 50% of site with at least a Moderate Potential for septic tank leach fields.	100% of site with at least a High Potential for septic tank leach fields or positive soil analysis (regardless of soil potential).
<b>RRO<sup>2</sup> ZONING FACTOR: Flood hazard status</b>				
Every lot is entirely within the SFHA (based on actual topography) as is the road that provides access.	Some of the proposed lots and parts of the road that provide access are in the SFHA. Some lots may require fill to have adequate buildable area above the BFE.	Small portions of the site may be in the SFHA but all lots have adequate buildable area outside of the SFHA.	?	No part of the proposed site nor the roads that provide emergency access are located in the Special Flood Hazard Area (SFHA, which is the 100-year floodplain).
<b>RRO<sup>2</sup> ZONING FACTOR: The availability of emergency services<sup>7</sup></b>				
Located more than five road miles from a fire station within the district with an intervening railroad crossing with heavy rail traffic.	Located more than five road miles from a fire station within the district.	Located about five road miles from a fire station within the district.	Located between two-and-half and five road miles from a fire station within the district.	Located less than two-and-half road miles from the fire station within the district and with no intervening railroad grade crossings.
<b>RRO<sup>2</sup> ZONING FACTOR: The presence of nearby natural<sup>8</sup> or manmade hazards</b>				
More than one man-made hazard is present or adjacent to the site.  Access roads from fire protection station are prone to snow drifts.	One or more man-made hazards are present or adjacent to the site.  Access roads from fire protection station are prone to snow drifts.	It is not unusual for a site to be close to some kind of hazard such as a pipeline, high tension electrical transmission lines, or railroad tracks. Snow drifts may block access from fire protection station.	Not close to any man-made hazard although snow drifts may block access from fire protection station.	Not close to any man-made hazard and relatively close to urbanized areas.

**Table Of Common Conditions<sup>1</sup> Influencing The Suitability Of Locations For Rural Residential Development In Champaign County (continued)**

REVISED November 17, 2005

Page 2 of 4

<b>Worst Or Nearly Worst Condition<sup>3</sup></b> 	<b>Much Worse Than Typical Condition<sup>4</sup></b> 	<b>More Or Less Typical Condition<sup>5</sup></b> 	<b>Much Better Than Typical Condition<sup>4</sup></b> 	<b>Ideal Or Nearly Ideal Conditions<sup>6</sup></b> 
<b>RRO<sup>2</sup> ZONING FACTOR: Effects on wetlands, historic or archeological sites, natural or scenic areas, and/or wildlife habitat</b>				
Significant negative effects for more than one concern.	?	Archaeological concerns may apply to a small part of the site but in general no negative effects. <sup>6</sup>	?	Nothing present to be concerned about.
<b>RRO<sup>2</sup> ZONING FACTOR: Effects of nearby farm operations on the proposed development</b>				
Bordered by row crop agriculture on three sides and an existing livestock and/or stable operation on the fourth side.	Bordered by row crop agriculture on three sides but also close to and downwind of an existing livestock and/or stable operation.	Bordered on all sides by significant (more than a few acres) row crop agriculture so there are some incompatibilities that may lead to complaints from residences.	Bordered on no more than two sides by significant row crop agriculture	No effects because not adjacent to significant row crop agriculture nor downwind of any animal operations.
<b>RRO<sup>2</sup> ZONING FACTOR: The LESA score</b>				
292 to 286 (Very high rating for protection)  Land Evaluation part: 100 to 98 (100% of soil in Ag. Value Groups 1 & 2; Flanagan & Drummer soils generally)  Site Assessment part: 192 to 188 (See hypothetical worksheet for assumptions)	285 to 256 (Very high rating for protection)  Land Evaluation part: 97 to 93 (remainder between worst & overall average)  Site Assessment part: 187 to 163 (remainder between worst & overall average)	254 to 238 (Very high rating for protection)  Land Evaluation part: 92 (reflects overall average for entire County)  Site Assessment part: 162 to 146 (See hypothetical worksheet for assumptions)	237 to 188 (Very high rating to moderate rating for protection)  Land Evaluation part: 91-85 (remainder between overall average & ideal)  Site Assessment part: 145 to 103 (remainder between overall average & ideal)	186 to 121 (Moderate rating to low (170) rating for protection)  Land Evaluation part: 84 to 41 <sup>4</sup> (No best prime farmland soils)  Site Assessment part: 102 to 80 (Conditions intended to reflect a rural location within a municipal ETJ without sewer or water; typical urban subdivision at or near municipal boundary has site assessment of 82 to 54; see hypothetical worksheet for assumptions)

**Table 2. Comparing The Proposed Site Condition To Common Champaign County Conditions**  
**Case 605-V-08**

**PRELIMINARY DRAFT**

APRIL 11, 2008

p. 1 of 2

RRO Rezoning Factor	Conditions At The Proposed Site Are Most Comparable To The Following Common Conditions:
1) Availability of water supply	<input type="checkbox"/> <b>Much Worse Than Typical Conditions.</b> The subject property is located in the area with limited groundwater availability.
2) Suitability for onsite wastewater systems	★ <b>Much Better Than Typical Conditions.</b> 100% of the soils on the property have Medium suitability compared to the approximately 51% of the entire County that has a Low Potential.
3) Flood hazard status	■ <b>Nearly Worst Conditions.</b> The entire proposed site, and a small portion of the roads that provide emergency access are located in the Special Flood Hazard Area.
4) The availability of emergency services <sup>4</sup>	<input type="checkbox"/> <b>Much Worse Than Typical Conditions.</b> The site is approximately 6.6 road miles from the Philo Fire Station.
5) The presence of nearby natural or manmade hazards <sup>5</sup>	★ <b>Much Better Than Typical Conditions.</b> There are no man-made hazards nearby.
6) Effects on wetlands, historic or archeological sites, natural or scenic areas, and/or wildlife habitat	⊕ <b>Nearly Ideal Conditions.</b> No negative affects.
7) Effects of nearby farm operations on the proposed development	★ <b>Much Better Than Typical Conditions.</b> The subject property is bordered on two sides by significant row crop agriculture.
8) The LESA score	<b>Unknown Conditions.</b> Staff did not calculate a LESA score at this time.
9) Adequacy and safety of roads providing access	⊕ <b>Ideal Conditions.</b> Access is from a Township Highway and the subject property is located next to a State Highway (IL 130).
10) Effects on drainage both upstream and downstream	★ <b>Much Better Than Typical Conditions.</b> Although all of the soils are "wet" soils; the subject property is located very close to the Embarrass River.
<p>LEGEND (Also see the Descriptions of Prototypical Champaign County Conditions)</p> <ul style="list-style-type: none"> <li>⊕ <i>WITH NO CORRECTIVE IMPROVEMENTS</i>, the proposed site is more or less equal to the ideal Champaign County site</li> <li>★ <i>WITH NO CORRECTIVE IMPROVEMENTS</i>, the proposed site is much better than typical but not equal to the ideal Champaign County site</li> <li>⊙ <i>WITH NO CORRECTIVE IMPROVEMENTS</i>, the proposed site is equal to or somewhat better than the typical Champaign County site</li> <li>— <i>WITH NO CORRECTIVE IMPROVEMENTS</i>, the proposed site is worse than the typical Champaign County site</li> <li>— <i>WITH NO CORRECTIVE IMPROVEMENTS</i>, the proposed site is more or less equal to the worst Champaign County site for</li> </ul>	

**Table 2. Comparing The Proposed Site Condition To Common Champaign County Conditions**  
**Case 605-V-08**

**PRELIMINARY DRAFT**

APRIL 11, 2008

p. 1 of 2

RRO Rezoning Factor	Conditions At The Proposed Site Are Most Comparable To The Following Common Conditions:
<p>NOTES</p> <ol style="list-style-type: none"><li>1. Typical Champaign County rural residential development site conditions are based on averages for the entire County except for water availability. For example, the overall average Land Evaluation is for all of the land in the County. Some factors are based on a review of data for all major rural subdivisions (such as the gross average lot size).</li><li>2. The ideal Champaign County rural residential development site conditions are based on the best possible conditions <u>for each factor</u> that can be found in rural Champaign County regardless of the amount of land that might be available and regardless of whether or not any individual site would likely ever combine ideal ratings on all factors.</li><li>3. Typical factor is based on a review of data from major rural subdivisions in the AG-1 and CR districts and does not reflect conditions found in rural residential development that occurred under the requirements of the Illinois Plat Act and without County subdivision approval. These Plat Act Developments typically take up much more land since the minimum lot size is five acres.</li><li>4. Ambulance service can presumably be further than five miles distance and be acceptable. <i>NO STANDARD OF COMPARISON IS PROPOSED FOR EMERGENCY AMBULANCE SERVICE.</i></li><li>5. Any location in the County is subject to natural hazards such as tornadoes, freezing rain, etc.</li></ol>	

*PRELIMINARY DRAFT*

605-V-08

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

---

Final Determination: *{GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED}*

Date: April 17, 2008

Petitioners: Wes Miller and Trent Miller

Request: Authorize the following in the AG-1, Agriculture Zoning District:

- A. The reconstruction and use of a detached accessory building with a setback of 34 feet and front yard of 4 feet in lieu of the required 55 feet setback and 25 feet front yard, in regard to CR 200N, a minor street; and
- B. The division of a lot 2.643 acres in area in lieu of the requirement that a property be more than five acres in area to be divided.

---

**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 17, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. The Co-Petitioner, Trent Miller, owns the subject property.
2. The subject property is a 2.643 acre tract in the Northwest Quarter of the Northwest Quarter of Section 26 of Crittenden Township and commonly known as the house at 1601 CR 200N, Villa Grove.
3. 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 in variance cases and are not notified of such cases.

***GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY***

4. Regarding land use and zoning on the subject property and adjacent to it:
  - A. The subject property is zoned AG-1 Agriculture, and is in use as a single family dwelling.
  - B. Land to the north, east, and south of the subject property is zoned AG-1 Agriculture.
  - C. Land to the west is zoned CR Conservation-Recreation.
  - D. Land to the north and west is in use as single family dwellings.



**PRELIMINARY DRAFT**

E. Land to the south and east is in use as farmland.

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. The Petitioners have not provided a site plan that illustrates how they intend to divide the subject property. The Petitioners will be required to have a Plat of Subdivision approved by the County if they are granted the proposed variance. In conversations with staff, the Petitioners have indicated they wish to divide the subject property more or less in half. An annotated Site Plan is included with the Preliminary Memorandum (see Attachment C), which illustrates possible lot lines that would provide at least the minimum required lot area for both proposed lots.

**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) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.
- (2) "AREA, LOT" is the total area within the LOT LINES.
- (3) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
- (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) "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 STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
- (7) "LOT WIDTH, AVERAGE" is the LOT AREA divided by the LOT DEPTH or, alternatively, the diameter of the largest circle that will fit entirely within the LOT LINES.
- (8) "RIGHT-OF-WAY" is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.

- (9) "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.
  - (10) "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.
  - (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 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. As amended on August 19, 2004, subparagraph 5.4.2.A.3. states the following:
- No lot that is 5 acres or less may be further divided.
- C. Minimum setbacks from the centerline of a street and minimum front yards in the AG-1 District are established in Section 5.3 and Subsection 4.3.2 of the *Zoning Ordinance* as follows:
- (1) The minimum setback from a minor street is listed in Section 5.3 and Subsection 4.3.2 as 55 feet.
  - (2) The minimum front yard in regards to a minor street is listed in Footnote 3 of Section 5.3 and Subsection 4.3.2 as 25 feet.
- D. 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

**PRELIMINARY DRAFT**

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 9.1.9D.2.
- E. 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 has testified on the application that, **“This lot is owned by my son and myself. The lot is already used a residential and this action would not negatively impact the agricultural ground.”**
  - B. Regarding Part A, the Quonset hut appears to be non-conforming because it was constructed before the adoption of zoning on October 10, 1973.
  - C. Regarding Part B, the subject property appears to be a former farmstead that was divided off the adjacent farmland at some point after 1980 but before 1991, according to the Tax Atlas.
  - D. The prohibition on division of lots less than five acres was first added to the Zoning Ordinance on an interim basis by Ordinance No. 709 (Case 431-AT-03 Part A) on February 19, 2004, and made permanent by Ordinance No. 729 (Case 464-AT-04 Parts A and B) on April 19, 2004.

*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 that, **“If I am not allowed to construct a residential structure on this lot I will lose the money already invested in this property. (electrical upgrade, new well, etc.) I have been planning on this for 5 years and at that time I was told there would be no problem.”**
  - B. Regarding Part A, the Quonset hut cannot be moved from its current location and was constructed there before the adoption of zoning.
  - C. Regarding Part B, purchase of additional land to bring the lot area up to more than five acres may be possible, and it is unknown at this time if the Petitioners have pursued purchase of additional land as an alternative course of action. However, purchase of additional land in this location would remove existing farmland from production.

*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 that, **“No”**
  - B. Regarding Part A, the Quonset hut was constructed before the adoption of zoning when there were no minimum setbacks or yards.
  - C. Regarding Part B, land adjacent to the subject property that could be added to increase the area of the subject property is under different ownership. However, purchase of additional land in this location would remove existing farmland from production.

*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 that, **“In granting this variance there would be no negative impact on neighboring residential or agricultural ground. It would not decrease the amount of agricultural ground.”**
  - B. The subject property conforms to all other Zoning Requirements.

*PRELIMINARY DRAFT*

- C. The Zoning Ordinance does not clearly state the considerations that underlay the setback and front yard requirements. In general, the setback is presumably intended to ensure the following:
- (1) Right of way acquisition: If County Highway 16 is ever extended further east of IL Rt. 130 additional right-of-way will be required on the subject property and the Quonset hut will be required to be removed.
  - (2) Off-street parking: The subject property provides the required amount of off-street parking outside of the setback.
  - (3) Aesthetics: Aesthetic benefit may be a consideration for any given front yard and setback but can be very subjective.
- D. The Zoning Ordinance does not clearly state the considerations that underlay the restriction on division of lots that are 5 acres or less. This amendment resulted from zoning Case 431-AT-03 Part B and so is related to the County's desire to limit the number of new lots in the rural areas. The Rural Residential Overlay (RRO) Zoning District is an overlay zoning designation that is the primary method by which Champaign County limits the number of new lots in the rural zoning districts. The RRO District is established using the basic rezoning procedure except that specific considerations are taken into account in approvals for rezoning to the RRO District. Paragraph 5.4.3 C.1. of the *Zoning Ordinance* requires the Zoning Board of Appeals to consider the following factors in making the required findings:
- (1) Adequacy and safety of roads providing access to the site.
  - (2) Effects on drainage both upstream and downstream..
  - (3) The suitability of the site for onsite wastewater systems.
  - (4) The availability of water supply to the site.
  - (5) The availability of emergency services to the site.
  - (6) The flood hazard status of the site.
  - (7) Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat.
  - (8) The presence of nearby natural or man-made hazards.
  - (9) Effects on nearby farmland and farm operations.
  - (10) Effects of nearby farm operations on the proposed residential development.
  - (11) The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated.
  - (12) The LESA (Land Evaluation and Site Assessment) score of the subject site.
- E. Regarding the RRO factors for the subject property:
- (1) Adequacy and safety of roads providing access to the site. Without the proposed variance only one dwelling could be permitted on the subject property. With the variance an additional dwelling could be permitted, which would lead to an increase of approximately 10 ADT for CR 200N.

- (a) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* are general design guidelines for local road construction using Motor Fuel Tax funding and relate traffic volume to recommended pavement width, shoulder width, and other design considerations. The *Manual* indicates the following pavement widths for the following traffic volumes measured in Average Daily Traffic (ADT):
- A local road with a pavement width of 16 feet has a recommended maximum ADT of no more than 150 vehicle trips.
  - A local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.
  - A local road with a pavement width of 20 feet has a recommended maximum ADT between 250 and 400 vehicle trips.
  - A local road with a pavement width of 22 feet has a recommended maximum ADT of more than 400 vehicle trips.
  - Review of an aerial photograph from the Champaign County GIS Consortium indicates that CR 200N appears to range from over 20 feet wide to approximately 18 feet wide where the subject property would have access to it. This change in pavement width is due to the transition from County Highway to Township Road that occurs at the intersection of CR 200N and IL Rt. 130.
- (b) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Annual Average Daily Traffic (AADT). The most recent (2006) AADT data in the vicinity of the subject property is 150 ADT for Airport Road in front of the subject property.
- (2) Effects on drainage both upstream and downstream. The subject property appears to drain either overland or through road ditches to the East Branch of the Embarras River.
- (3) The suitability of the site for onsite wastewater systems. There is no Natural Resource Report for the subject property but the Soil Survey indicates that the subject property likely consists of Kendall silt loam, map unit 242A.

The pamphlet *Soil Potential Ratings For Septic Tank Absorption Fields Champaign County, Illinois*, is a report that indicates the relative potential of the various soils in Champaign County for use with subsurface soil absorption wastewater systems (septic tank leach fields). The pamphlet reviews 60 different soils that have potential ratings (indices) that range from 103 (very highest suitability) to 3 (the lowest suitability).

*PRELIMINARY DRAFT*

Excerpts from this pamphlet were included for the soils on the subject property as attachments to the Preliminary Memorandum. The excerpts indicate that these soils have the following general characteristics:

242A Kendall silt loam has Medium suitability for septic tank leach fields with a soil potential index of 83. Kendall soil has a severely high groundwater level. It has moderate permeability and only a slight problem due to slope. The typical corrective measures are subsurface drainage improvements (underground drain tiles) to lower the groundwater level. There are 27 soil types in Champaign County that have lower suitability potential than Kendall.

- (4) The availability of water supply to the site. The subject property is located in the area of limited groundwater availability. The proposed subdivision should have little or no affect on water availability.
- (5) The availability of emergency services to the site. The subject property is approximately 6.6 road miles from the Philo Fire Protection District station.
- (6) The flood hazard status of the site. The subject property is within the Special Flood Hazard Area. The Base Flood Elevation is 654.8 feet mean sea level (MSL). Ground elevations have been provided which indicate that the subject property is not below the Base Flood Elevation.
- (7) Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat. The subject property contains no historic or archeological sites, and the proposed subdivision would have no effect on such sites.
- (8) The presence of nearby natural or man-made hazards. There are no known man-made hazards nearby.
- (9) Effects on nearby farmland and farm operations. The proposed variance and resulting subdivision would result in twice the development of the subject property than would be otherwise allowed and would therefore result in twice the impacts on nearby farmland.
- (10) Effects of nearby farm operations on the proposed residential development. The proposed variance and resulting subdivision would divide the existing property into smaller lots which would provide a lesser amount of buffer from farm operations.
- (11) The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated. The proposed variance and resulting subdivision do not propose to take any current farmland out of production.
- (12) The LESA (Land Evaluation and Site Assessment) score of the subject site. Because there is no Natural Resource Report for the subject property staff has not calculated a LESA score at this time.

- F. The subject property requires the following amounts of variance:
  - (1) Regarding Part A, the proposed setback of 34 feet is 61.8% of the required 55 feet setback for a variance of 38.2%. The proposed front yard of 4 feet is 16% of the required 25 feet for a variance of 84%.
  - (2) Regarding Part B, it is impossible to calculate the percent variance mathematically but for practical purposes the requested variance is a 100% variance.
- G. 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 Petitioner has testified on the application that, **“It will allow me to put up a residence. Constructing a residence will not negatively impact the neighborhood, public health or safety.”**
  - B. The Township Road Commissioner has received notice of this variance but no comments have been received.
  - C. The Fire Protection District has been notified of this variance but no comments have been received.



**DOCUMENTS OF RECORD**

1. Variance Application from Wes and Trent Miller received on January 22, 2008, with attachments:
  - A Boundary Survey of subject property prepared by F. F. Tanquary
  - B Site Plan of existing structures on subject property (not to scale)
2. Elevation Certificate and Ground Elevation Survey, received on March 7, 2008
3. Preliminary Memorandum for Case 605-V-08, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan of subject property received on January 22, 2008
  - C Ground Elevation Survey, received on March 7, 2008
  - D Annotated Ground Elevation Survey
  - E Excerpt of Champaign County Soil Survey
  - F Excerpt of Soil Potential Ratings for Septic Tank Absorption Fields for Champaign County, Illinois
  - G Traffic Map from Illinois Department of Transportation website
  - H Table of Common Conditions Influencing the Suitability of Locations for Rural Residential Development in Champaign County
  - I Comparing the Proposed Site Conditions to Common Champaign County Conditions
  - J Draft Summary of Evidence for Case 605-V-08

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **605-V-08** held on **April 17, 2008**, 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: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
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: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in harmony with the general purpose and intent of the *Ordinance* because: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
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: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
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 TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND 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 of 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 **605-V-08** is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioners, **Wes and Trent Miller**, to authorize **the following in the AG-1 Agriculture District:**

- A. The reconstruction and use of a detached accessory building with a setback of 34 feet and front yard of 4 feet in lieu of the required 55 feet setback and 25 feet front yard, in regard to CR 200N, a minor street; and**
- B. The division of a lot 2.643 acres in area in lieu of the requirement that a property be more than five acres in area to be divided.**

*{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:

Debra Griest, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals  
Date

# CASE NO. 608-V-08

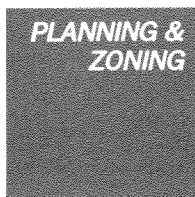
PRELIMINARY MEMORANDUM

April 11, 2008

Champaign  
County  
Department of

Petitioners: **Stephen Fiol and Sam Banks**

Request: **Authorize the construction of a fence in the AG-2 District with a height of eight feet in lieu of the required six feet.**



Site Area: **approx. 35,000 square feet**

Location: **Lots 3 and 4 of Rolling Acres IV Subdivision in Section 34 of Champaign Township, and commonly known as the houses at 5 and 6 Genevieve Court, Champaign.**

Time Schedule for Development:

**Immediate**

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

(217) 384-3708

FAX (217) 328-2426

Prepared by: **J.R. Knight**

Associate Planner

**John Hall**

Zoning Administrator

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## BACKGROUND

The Petitioners want to construct a privacy along their west lot lines (bordering Duncan Road) in order to buffer their property from increased traffic along Duncan Road.

The Petitioners have not provided a site plan that shows the extent of the proposed fence.

This case is related to Zoning Case 593-V-07, and the proposed fence in this case would be a continuation of the fence authorized in that case. An excerpt of the minutes of that case is included.

## EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Champaign. Municipalities with zoning do not have protest rights in variance cases and they are not notified of such cases.

## EXISTING LAND USE AND ZONING

**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Single Family Dwelling	R-1 Single Family Dwelling
North	Single Family Dwelling	R-1 Single Family Dwelling
East	Single Family Dwelling	R-1 Single Family Dwelling
West	Farmstead	AG-2 Agriculture
South	Single Family Dwelling	R-1 Single Family Dwelling

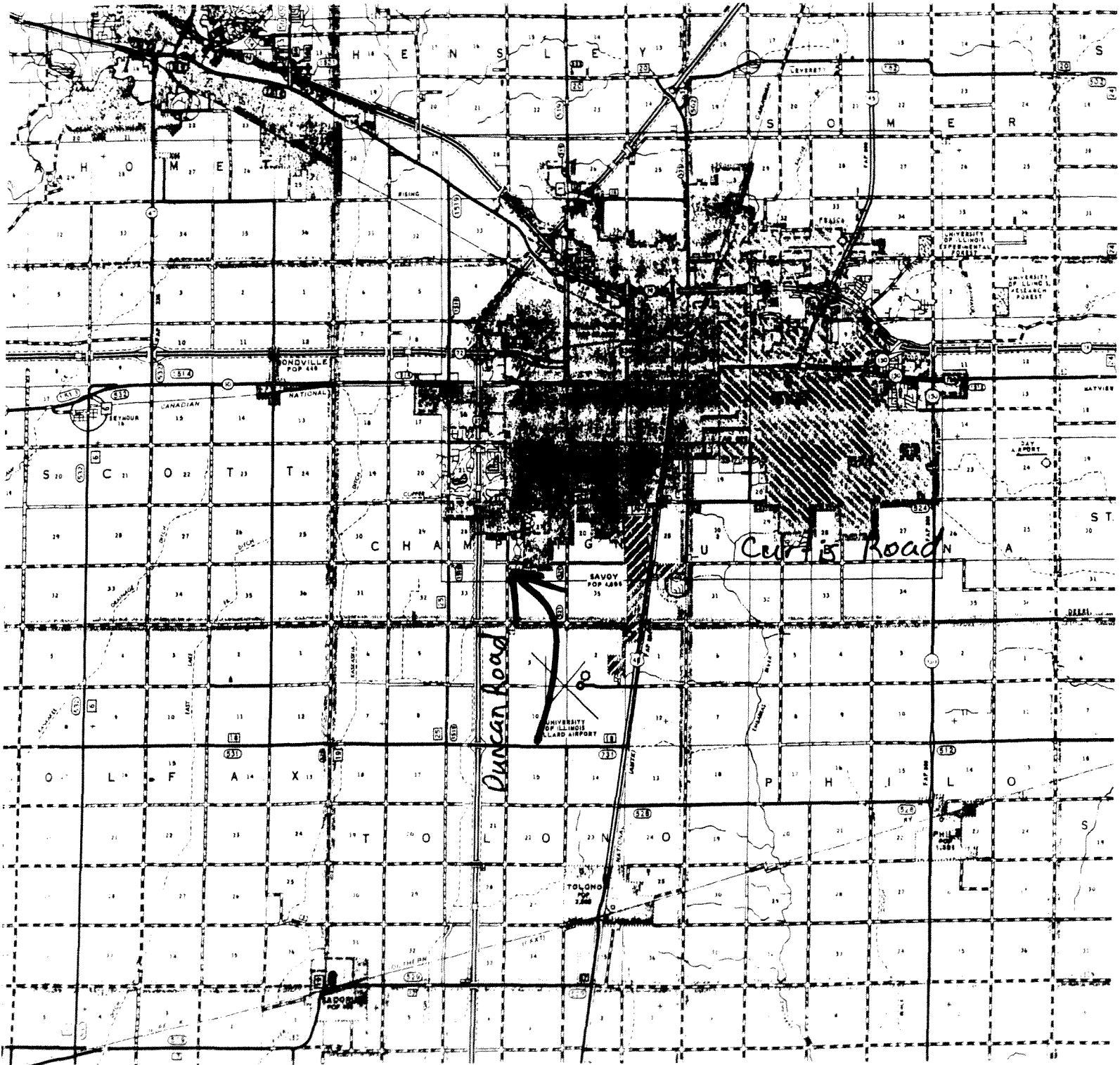
## ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Excerpt of Minutes for October 25, 2007, ZBA meeting
- C Draft Summary of Evidence for Case 608-V-08

ATTACHMENT A. LOCATION MAP

Case 608-V-08

APRIL 11, 2008



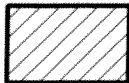
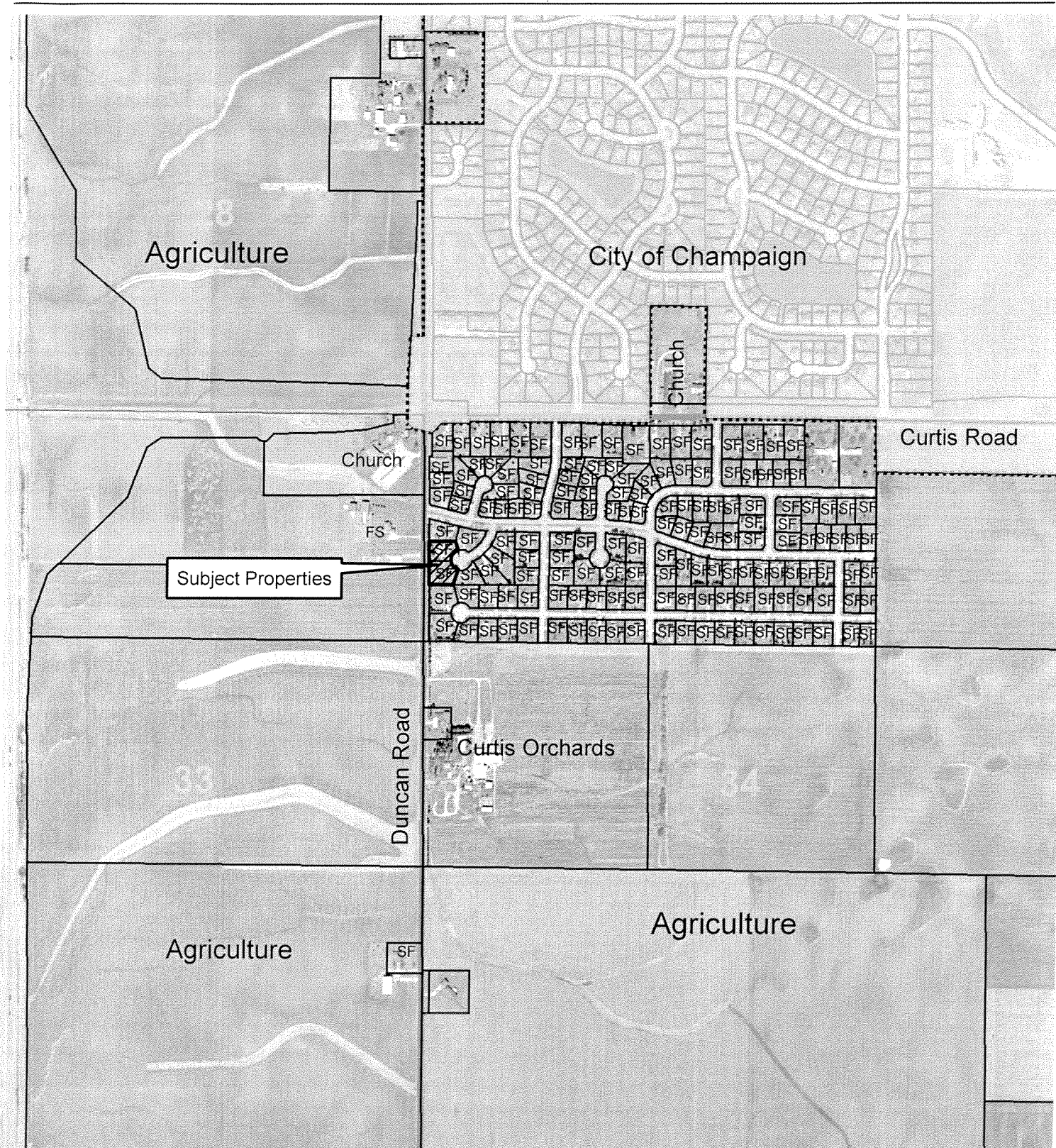
Champaign  
County  
Department of  
**PLANNING &  
ZONING**



ATTACHMENT A. LAND USE MAP

Case 608-V-08

APRIL 11, 2008



Area of Concern



Single Family



Farmstead

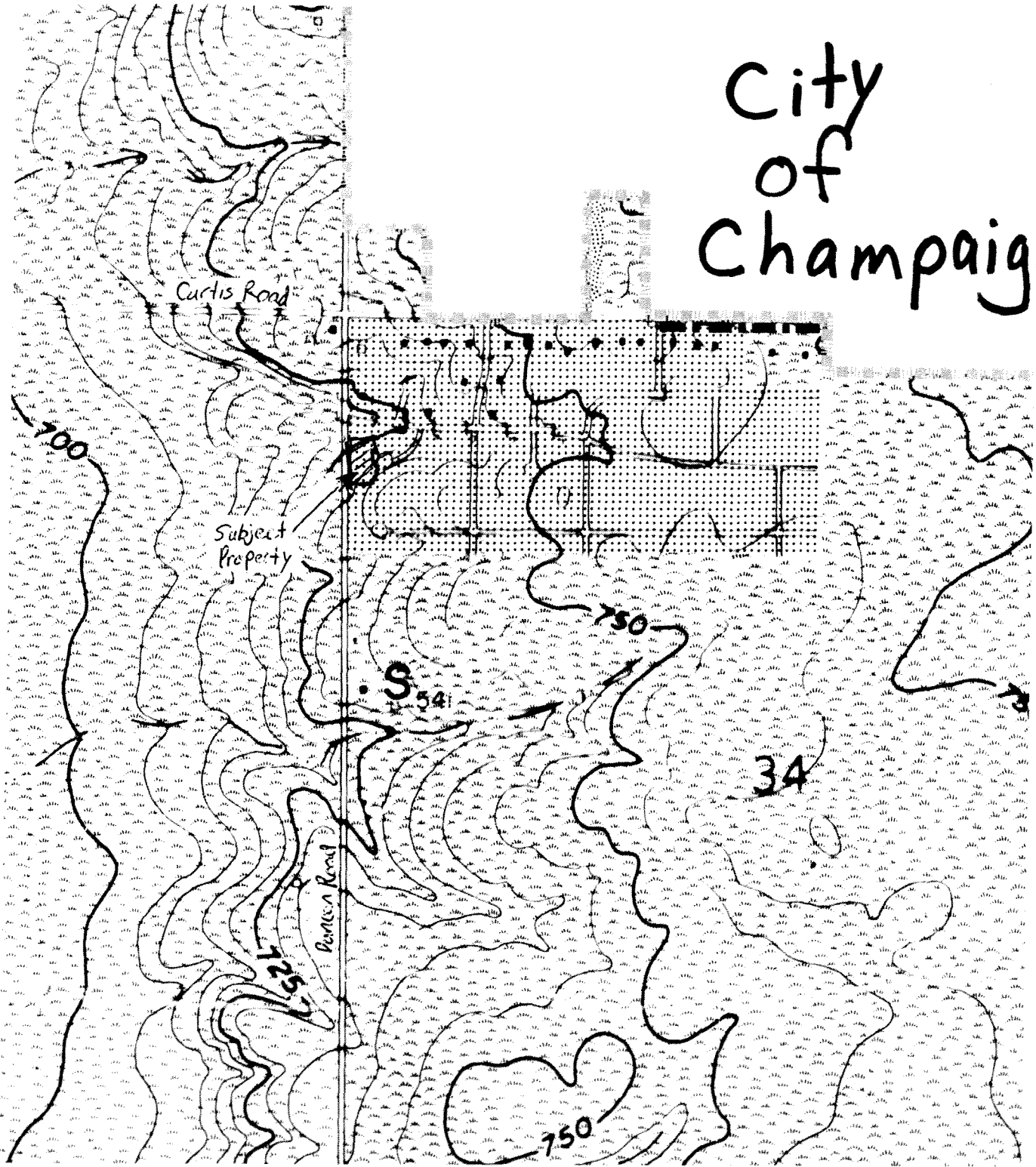


Champaign  
County  
Department of  
**PLANNING &  
ZONING**

1 inch equals 800.0025

ATTACHMENT A. ZONING MAP  
 Case 608-V-08  
 APRIL 11, 2008

City  
 of  
 Champaign



	AG-1 Agriculture		R-1 Single Family Residence		R-4 Multiple Family Res.		B-2 Neighborhood Business		B-5 Central Business
	AG-2 Agriculture		R-2 Single Family Residence		R-5 Mobile Home Park		B-3 Highway Business		I-1 Light Industry
	CR Conservation- Recreation		R-3 Two-family Residence		B-1 Rural Trade Center		B-4 General Business		I-2 Heavy Industry



Champaign  
 County  
 Department of  
**PLANNING &  
 ZONING**

Final Determination for Case 592-V-07:

Mr. Goldenstein moved, seconded by Mr. Bluhm that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.9.C HAVE 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 592-V-07 is hereby GRANTED WITH CONDITIONS to the petitioners, the Estate of Howard J. Whalen and Michael Whalen, executor, to authorize the use and construction on a proposed 5 acre lot on best prime farmland in lieu of the required 3 acre lot size on best prime farmland in the AG-1 Zoning District, subject to the following condition:

A Plat of Survey must be filed with the Champaign County Recorder of Deeds to ensure: **Compliance with the Illinois Plat Act.**

The roll was called:

<b>Bluhm-yes</b>	<b>Goldenstein-yes</b>	<b>Irle-yes</b>
<b>Miller-yes</b>	<b>Schroeder-yes</b>	<b>Steeves-absent</b>
<b>Griest-yes</b>		

Case 593-V-07 Petitioner: **Ron and Michel Watkins** Request to authorize the construction of a fence in the AG-2 District with a height of eight feet in lieu of the required six feet and a visibility triangle of zero feet in lieu of the required 50 feet. Location: **Lot 2 in Rolling Acres IV** Subdivision in Section 34 of Champaign Township and commonly known as the house at 2901 Rolling Acres, Champaign.

Ms. Griest informed the audience that this is an Administrative Case and as such the County allows anyone



10/25/07

**DRAFT SUBJECT TO APPROVAL SUBJECT**

**ZBA**

1 the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of  
2 hands for those who would like to cross examine and each person will be called upon. She requested that  
3 anyone called to cross examine go to the cross examination microphone to ask any questions. She said that  
4 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
5 state their name before asking any questions. She noted that no new testimony is to be given during the  
6 cross examination. She said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are  
7 exempt from cross examination.

8  
9 Mr. Knight distributed a Supplemental Memorandum dated October 25, 2007, to the Board for review. He  
10 said that the Petitioners desire to construct a privacy fence primarily along their west lot line in order to  
11 buffer their property from increased traffic along Duncan Road. He said that the Petitioners have not  
12 provided an exact site plan which shows the extent of the proposed fence. He said that the Supplemental  
13 Memorandum includes additional information regarding the fence which should be included in the Summary  
14 of Evidence as a new Item #5 and two proposed special conditions of approval. The proposed special  
15 conditions are as follows:

16  
17 **A. The Petitioner shall contact the Zoning Administrator when the fence is complete**  
18 **to ensure: the Zoning Administrator can verify the constructed fence does comply**  
19 **with the authorized variance.**

20  
21 **B. The fence height above grade may exceed eight feet if necessary to make fence**  
22 **panels that are manufactured to be eight feet tall, accommodate changes in ground**  
23 **surface and be at least two inches above grade at any point to ensure: the authorized**  
24 **variance is adequate for the use intended.**

25  
26 Mr. Irle requested that Mr. Knight read the handwriting under the submitted photographs which are included  
27 in the Preliminary Memorandum dated October 16, 2007.

28  
29 Mr. Knight stated that the submitted aerial photograph indicates the following handwritten text: "Fence run

1 to 108' – 110'." He said that Photograph B states the following: "Shows view from westbound road clear  
2 for 100's of feet. Please note the car coming northbound. Also see that the car is behind the line." He said  
3 that Photograph C states the following: "Taken from the car window. Visibility is good for 100's of feet  
4 due to the median and the other one way." He said that Photograph D states the following: "Eastbound road  
5 view showing that even at the corner there will be enough visibility to see the other road standing at 50 feet  
6 from East bound curb. The fence would be 10 feet to the right or about a foot on the other side of the  
7 telephone/electric pole on the right."

8  
9 Ms. Griest asked the Board if there were any questions for Mr. Knight and there were none.

10  
11 Mr. Ronald Watkins, who resides at 2901 Rolling Acres, Champaign stated that they recently moved in to  
12 the property in July, 2007. He said that they moved in knowing that Duncan Road was going to be pretty  
13 bad and when the Curtis Road interchange is completed the traffic will become even worse. He said that he  
14 is aware that there are plans for retail businesses to be located across the street from his property as well as  
15 construction further down Duncan Road. He said that the biggest concern is that there is enough visibility  
16 for people who are pulling out on to the road and that concern is based upon a two-way street but in this case  
17 there are two one-way streets with a median in the center. He said that where he plans to locate his fence  
18 and the area where people will be pulling out has 65 feet of visibility. He said that their property line runs  
19 130 feet along Duncan Road and the fence will be placed approximately 110 feet which will leave from the  
20 110 feet to the far median approximately 65 feet. He said that this will ease the concern that if someone is  
21 pulling in to the one-way street that no one is sitting there at the one-way for whatever reason. He said that  
22 he took the photograph from 50 feet off to show that there isn't a visibility concern if someone was taking a  
23 right hand turn on to the other one-way street. He said that realistically there is plenty a visibility even if the  
24 fence was to be placed all the way up against the road but that is not what he is requesting. He said that he  
25 would just like to be able to place his fence within 25 to 30 feet from the edge of his lot line which would  
26 still leave 65 to 70 feet of visibility for the people who are pulling out plus the fence will be set far enough  
27 back that the cars will pull up enough to see all the way down the road without the fence being in the way.  
28 He noted that Photograph C would clarify the placement of the fence and the visibility issue. He said that he  
29 and his three neighbors plan to install one consolidated fence so that it has a nice looking consistent feel

10/25/07

**DRAFT SUBJECT TO APPROVAL SUBJECT**

**ZBA**

1 when someone pulls in to the neighborhood. He said that currently they are constantly dealing with trash and  
2 noise pollution so it was decided that they would request as much of a barrier as possible to deal with these  
3 issues.

4  
5 Mr. Knight stated that it appears that the neighbor who is immediately to the south of Mr. Watkins' property  
6 has already installed a fence.

7  
8 Mr. Watkins stated that his fence line would be just inside of his neighbor's fence and that is where the other  
9 neighbors plan to install their fences as well because there is a question as to if the existing fence is sitting  
10 exactly on the property line.

11  
12 Mr. Irle asked Mr. Watkins if he feels that going from a six foot fence to an eight foot fence is going to give  
13 him that more of a barrier.

14  
15 Mr. Watkins stated that he does not know if the additional two foot will give him any more of a barrier but at  
16 this point he will take whatever he can get. He said that recently they had their child's first birthday party  
17 and they had to have adults line the property to keep the kids safe. He said that the fence will help with the  
18 safety issue but there yard will be cut in half if they are required to follow the 50 foot visibility triangle  
19 requirement.

20  
21 Mr. Irle stated that some type of vegetation may be more effective in regard to noise.

22  
23 Mr. Watkins stated that he and his neighbor have already discussed planting vegetation along the property  
24 line to cut down on some of the noise.

25  
26 Mr. Irle asked Mr. Watkins what type of fence would be constructed.

27  
28 Mr. Watkins stated that it would be a solid panel wood fence because trash is a big problem and it will  
29 continue to get worse. He said that all of the neighbors which are south of his property are interested in

1 building a continuous fence to make the neighborhood look nice and mitigate the noise and trash pollution as  
2 well as adding to safety. He said that this fence will also add to the curb appeal for the entire neighborhood.  
3  
4 Mr. Goldenstein asked Mr. Watkins if he had a cost estimate on the eight foot fence.  
5  
6 Mr. Watkins stated that they do have estimates for a six foot and an eight foot fence as a group.  
7  
8 Mr. Irle asked Mr. Watkins if the subdivision has any active covenants regarding the fence.  
9  
10 Mr. Fiol, who resides at 6 Genevieve Ct, Champaign and is a resident of Rolling Acres IV, stated that he  
11 hasn't seen any covenants regarding the construction of the fence and no one has paid any attention to any of  
12 the other covenants for 25 years.  
13  
14 Ms. Griest stated that the issue of covenants has been discussed before and they are not part of zoning.  
15  
16 Ms. Griest asked if the Board had any additional questions for Mr. Watkins.  
17  
18 Mr. Miller asked Mr. Watkins if he is confident of the location of his property lines.  
19  
20 Mr. Watkins stated yes. He said that the County actually came and tore up everything on their side therefore  
21 there is a very clear distinction between green grass and dirt. He said that his property line is essentially one  
22 foot inside of the electric lines.  
23  
24 Mr. Bluhm asked Mr. Watkins if he has found his property pins.  
25  
26 Mr. Watkins stated no.  
27  
28 Mr. Irle suggested that Mr. Watkins call J.U.L.I.E. before installing the fence.  
29

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1 Mr. Watkins stated that he will absolutely call J.U.L.I.E.

2

3 Ms. Griest asked Mr. Watkins if he had reviewed the proposed condition and if so, did he have any  
4 objections to the condition.

5

6 Mr. Watkins stated that he has no problems with the proposed special condition.

7

8 Ms. Griest stated that the Board is very specific and sometimes a little too specific on exact inches and  
9 square feet therefore this is a little broader condition than what the Board would normally grant.

10

11 Mr. Watkins stated that another reason for the variance is that they may install the six foot panels and place  
12 lattice work on top of it. He said that increasing the height of the fence almost doubles the cost. He said  
13 that he is not sure that they will place lattice work on top but if they are contemplating it they might as well  
14 ask for the eight foot height.

15

16 Ms. Griest asked if the Board had any additional questions for Mr. Watkins and there were none.

17

18 Mr. Goldenstein asked Mr. Knight if the other homeowners will be required to come before the ZBA to  
19 request variances.

20

21 Mr. Knight stated yes. He said that if the Board should keep this in mind if Mr. Watkins' variance is  
22 approved.

23

24 Ms. Griest asked Mr. Knight if the granting of this variance would give staff the ability to grant an  
25 Administrative Variance to the other homeowners.

26

27 Mr. Knight stated no, because an Administrative Variance is only possible if the variance is within 10%.

28

29 Mr. Goldenstein asked if the other homeowner's could come collectively.

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Mr. Knight stated that once this case is approved it would be possible for the other homeowner's to share in the cost of the variance and file a collective petition. He said that Mr. Watkins could amend this petition but the case would have to be re-advertised.

Ms. Griest asked if the Board had any additional questions for Mr. Watkins and there were none.

Ms. Griest asked if staff had any questions for Mr. Watkins and there were none.

Ms. Griest asked the audience if anyone desired to cross examine Mr. Watkins and there was no one.

Mr. Stephen Fiol, who resides at 6 Genevieve Ct, Champaign stated that his property is immediately to the south of Mr. Watkins' property. He said that when he looks out his rear patio window he looks across Mr. Watkins' yard therefore he has a vested interest in having a beautiful fence blocking the view of the new Curtis/Duncan Road interchange. He said that he currently has a six foot fence on his property.

Mr. Bluhm asked Mr. Fiol if his fence is currently along Duncan Road.

Mr. Fiol stated yes the fence is currently along Duncan Road and he also has a split rail fence on the back side of his property. He said that he supports Mr. Watkins' request because it would enhance their quality of life.

Ms. Griest asked if the Board had any questions for Mr. Fiol and there were none.

Ms. Griest asked if staff had any questions for Mr. Fiol and there were none.

Ms. Griest asked if Mr. Watkins had any questions for Mr. Fiol and he indicated that he did not.

Ms. Griest asked the audience if anyone desired to cross examine Mr. Fiol and there was no one.

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Ms. Griest asked if anyone in attendance desired to sign the witness register to present testimony regarding this case and there was no one.

Mr. Knight stated that new Item #5, as stated in the Supplemental Memorandum dated October 25, 2007 should be added to the Summary of Evidence. He said that Mr. Watkins testified that the fence would be approximately 25 feet from the corner.

Mr. Watkins stated that he is not sure what the exact measurement will be from the corner. He said that he measured from where the fence would be to where the road begins. He said that since the aerial photograph was taken the County has installed a new drainage system and sidewalk therefore part of his yard was taken.

Mr. Bluhm stated that Mr. Watkins' property line is 130.2 feet and if 110 feet of fence is going to be installed there will be 20 feet to the corner.

Mr. Watkins stated that he is not sure where his property line begins and Mr. Fiol's property ends because there are no property pins. He said that it is 130.2 feet from where Mr. Fiol's existing fence is located. He said that by looking at the aerial it is hard to tell where the property lines are located.

Mr. Bluhm stated that from the side of the pavement to where Mr. Watkins' fence will be located is 70 feet.

Mr. Watkins stated that Mr. Bluhm was correct.

Mr. Knight stated that the variance request should be amended because the Board is not considering a zero visibility triangle.

Ms. Griest stated that the Board is considering some type of visibility triangle variance because the variance is not for the fence's position on the lot but is for the visibility triangle.

1 Mr. Bluhm stated that the only information that the Board has at this point is that the road right-of-way is 80  
2 feet therefore it would be 40 feet each way from the center of the median.

3  
4 Mr. Knight stated no. He said that a portion of the right-of-way was dedicated in one subdivision and the  
5 rest of it was dedicated to Rolling Acres IV.

6  
7 Ms. Griest asked how the visibility triangle would be measured.

8  
9 Mr. Bluhm asked if a special condition could be placed indicating that before construction the zoning office  
10 shall be contacted to confirm the measurement.

11  
12 Mr. Schroeder stated that an appropriate site plan should be submitted for staff's review.

13  
14 Mr. Knight stated that the problem with staff visiting the site to measure is that it is not clear what the  
15 petitioner is truly requesting. He said that the Board needs to determine how much the visibility triangle is  
16 reasonable and then that information is what staff would be verifying during their site visit.

17  
18 Mr. Bluhm stated that if the Board determines that the fence is to be no closer than 70 feet to the edge of the  
19 south side of the westbound pavement will determine what the visibility triangle shall be and at that point no  
20 future owner of the subject property could extend the fence out any further.

21  
22 Ms. Griest stated that the visibility triangle will also be determined by its distance from Curtis Road.

23  
24 Mr. Watkins indicated on the aerial photograph where the fence would be located.

25  
26 Mr. Bluhm stated that it is better that the fence will be angled towards the house rather than being parallel to  
27 the road.

28  
29 Ms. Griest stated that the visibility triangle is not changed.



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Mr. Irle stated that an accurate site plan should be required.

Mr. Watkins asked Mr. Knight what would be considered accurate.

Mr. Knight stated that a site plan which can be measured to scale indicating the location of the fence.

Ms. Griest asked Mr. Watkins if he received a copy of the Plat of Subdivision for Rolling Acres IV when he purchased his property.

Mr. Watkins stated that he is not sure if he received such a document but he will check. He asked if he could obtain a copy of the plat from the County.

Mr. Knight stated yes.

Ms. Griest requested that Mr. Knight provide a condition that would adequately provide Mr. Watkins with the flexibility to install a maximum of 115 foot fence.

Mr. Knight stated that a special condition could be proposed indicating the following:

**#13.C. The proposed fence shall not be constructed closer than 70 feet to the south edge of the westbound pavement of Rolling Acres Drive to ensure that the visibility triangle can be measured by staff.**

Ms. Griest stated that the two lanes are one-way lanes and the Board is considering the edge of the pavement not the top of the curb.

Mr. Bluhm stated that this is why it would be appropriate to require that a site plan, drawn to scale, be submitted to staff prior to construction of the fence.

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Mr. Schroeder moved, seconded by Mr. Miller to recess the Board for a five minute break. The motion carried by voice vote.

The Board recessed at 8:12 p.m.  
The Board resumed at 8:17 p.m.

Mr. Knight read the following condition:

**#13.D. The Petitioner shall provide a to-scale site plan to the Department of Planning and Zoning before construction to ensure that there is minimal variation and that the fence is properly constructed according to the approved variance.**

Mr. Knight revised Item #13.A. as follows:

**#13.A. The Petitioner shall contact the Zoning Administrator when the fence is complete to ensure that The Zoning Administrator can verify the constructed fence does comply with the authorized variance.**

Ms. Griest asked why the condition in Item #13 of the Preliminary Draft Summary of Evidence only applies to Duncan Road.

Mr. Knight stated that staff was not sure where the fence was being constructed therefore the eight feet is necessary for buffering and privacy along Duncan Road only.

Ms. Griest stated that since this is a corner lot Rolling Acres Drive is as subject to noise and debris as Duncan Road.

Mr. Knight stated that if Mr. Watkins decides to maintain the lattice work for the whole fence then he would

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ZBA

1 need the eight foot variance.

2  
3 Mr. Bluhm proposed that Item #13 of the Preliminary Draft Summary of Evidence indicating that the  
4 proposed fence may only be eight feet tall along the right-of-way line for Duncan Road be eliminated.

5  
6 Ms. Griest agreed and proposed that the entire fence may only be eight feet tall.

7  
8 Mr. Knight stated that the original special condition of approval in Item #13 of the Preliminary Draft  
9 Summary of Evidence will be eliminated and the proposed special conditions will be re-numbered  
10 accordingly and become new Items #13.A-D.

11  
12 Mr. Knight stated that a new Item #3 should be added to the Documents of Record indicating the  
13 Supplemental Memorandum dated October 19, 2007; and a new Item #4 Attachment A; Aerial Photograph  
14 amended by Mr. Watkins at the October 25, 2007, public hearing.

15  
16 **Mr. Irle moved, seconded by Mr. Goldenstein to adopt the following special conditions:**

17  
18 **#13.A The Petitioner shall contact the Zoning Administrator when the fence is complete**  
19 **to ensure that The Zoning Administrator can verify the constructed fence does comply**  
20 **with the authorized variance.**

21  
22 **#13.B The fence height above grade may exceed eight feet if necessary to make fence panels**  
23 **that are manufactured to be eight feet tall accommodate changes in ground surface**  
24 **and be at least two inches above grade at any point to ensure that The authorized**  
25 **variance is adequate for the use intended.**

26  
27 **#13.C The proposed fence shall not be constructed closer than 70 feet to**  
28 **the south edge of the westbound pavement of Rolling Acres Drive to**  
29 **ensure that the visibility triangle can be measured by staff.**

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**#13.D. The Petitioner shall provide a to-scale site plan to the Department of Planning and Zoning before construction to ensure that there is minimal variation and that the fence is properly constructed according to the approved variance.**

**The motion carried by voice vote.**

**Finding of Fact for Case 593-V-07:**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **593-V-07** held on **October 25, 2007**, the Zoning Board of Appeals of Champaign County finds that:

- 1. Special conditions and circumstances DO 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.**

Mr. Bluhm stated that special conditions and circumstances DO 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 the subject property is in an area of rapid growth due to the new interchange on Interstate 57 and retail development.

Mr. Irle stated that the Petitioner is trying to diminish the potential increase in traffic and noise by building a taller fence due to the potential commercial development adjacent to the property.

- 2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.**

Mr. Bluhm stated that practical difficulties or hardships created by carrying out the strict letter of the

1 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure  
2 or construction because the property is a corner lot and the Ordinance would basically cut the yard size in  
3 half.

4  
5 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**  
6 **result from actions of the applicant.**

7  
8 Mr. Irle stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result  
9 from actions of the applicant because the subdivision was platted before the potential commercial enterprises  
10 across the road which would increase noise and trash pollution.

11  
12 Mr. Bluhm stated that the subdivision was platted prior to the adoption of the *Zoning Ordinance*.

13  
14 **4. The requested variance, subject to the proposed conditions, IS in harmony with**  
15 **the general intent of the *Ordinance*.**

16  
17 Mr. Irle stated that the requested variance, subject to the proposed conditions, IS in harmony with the general  
18 intent of the *Ordinance* because the visibility will not be greatly and dramatically decreased since Rolling  
19 Acres Drive is in fact two, one-way streets that is approximately 80 feet in width and allows for an increase  
20 in the visibility triangle to begin with.

21  
22 **5. The requested variance, subject to the proposed conditions, WILL NOT be injurious**  
23 **to the neighborhood or otherwise detrimental to the public health, safety or welfare.**

24  
25 Mr. Miller stated that the requested variance, subject to the proposed conditions, WILL NOT be injurious to  
26 the neighborhood or otherwise detrimental to the public health, safety or welfare because special  
27 considerations have been made to ensure safe lines of visibility at the intersection.

28  
29 Mr. Irle stated that the addition of the fence will increase the safety potential for the children in the

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3           **6.       The requested variance, subject to the proposed conditions, IS the minimum**  
4                   **variation that will make possible the reasonable use of the land/structure.**  
5

6 Mr. Bluhm stated that the requested variance, subject to the proposed conditions, IS the minimum variation  
7 that will make possible the reasonable use of the land/structure because if the fence is to be built in  
8 accordance to the *Zoning Ordinance* it would cut their yard in half due to the subject property being a corner  
9 lot.

10  
11 **Mr. Irle moved, seconded by Mr. Miller to adopt the Summary of Evidence, Documents of Record and**  
12 **Finding of Fact as amended. The motion carried by voice vote.**

13  
14 **Mr. Bluhm moved, seconded by Mr. Goldenstein to close the public hearing for Case 593-V-07. The**  
15 **motion carried by voice vote.**

16  
17 **Final Determination for Case 593-V-07:**

18  
19 **Mr. Irle moved, seconded by Mr. Bluhm that the Champaign County Zoning Board of Appeals finds**  
20 **that, based upon the application, testimony, and other evidence received in this case, that the**  
21 **requirements of Section 9.1.9.C HAVE been met, and pursuant to the authority granted by Section**  
22 **9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign**  
23 **County determines that the Variance requested in Case 593-V-07 is hereby GRANTED WITH**  
24 **CONDITIONS to the Petitioners, Ron and Michel Watkins, to authorize the construction of a fence in**  
25 **the R-1, Single Family Dwelling District with a height of eight feet in lieu of the required six feet and a**  
26 **visibility of zero feet in lieu of the required 50 feet, subject to the following conditions:**

- 27  
28           **#13.A The Petitioner shall contact the Zoning Administrator when the fence is complete**  
29                   **to ensure that The Zoning Administrator can verify the constructed fence does comply**

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**#13.B The fence height above grade may exceed eight feet if necessary to make fence panels that are manufactured to be eight feet tall accommodate changes in ground surface and be at least two inches above grade at any point to ensure that The authorized variance is adequate for the use intended.**

**#13.C The proposed fence shall not be constructed closer than 70 feet to the south edge of the westbound pavement of Rolling Acres Drive to ensure that the visibility triangle can be measured by staff.**

**#13.D. The Petitioner shall provide a to-scale site plan to the Department of Planning and Zoning before construction to ensure that there is minimal variation and that the fence is properly constructed according to the approved variance.**

Ms. Griest informed Mr. Watkins that one Board member is absent from tonight’s hearing and it is at his discretion whether the present Board will proceed with the Final Determination or continue the case until a meeting when all Board members are present. She asked Mr. Watkins how he would like the Board to proceed.

Mr. Watkins requested that the present Board proceed to the Final Determination.

The roll was called:

- |                       |                        |                   |
|-----------------------|------------------------|-------------------|
| <b>Bluhm-yes</b>      | <b>Goldenstein-yes</b> | <b>Irle-yes</b>   |
| <b>Schroeder-yes</b>  | <b>Miller-yes</b>      | <b>Griest-yes</b> |
| <b>Steeves-absent</b> |                        |                   |

7. Staff Report

*PRELIMINARY DRAFT*

608-V-08

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

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Final Determination: *{GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED}*

Date: April 17, 2008

Petitioners: Stephen Fiol and Sam Banks

Request: Authorize the construction of a fence in the AG-2 District with a height of eight feet in lieu of the required six feet.

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**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 17, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. The Petitioners, Stephen Fiol and Sam Banks own the subject property.
2. The subject property is as follows:
  - A. Co-Petitioner Stephen Fiol owns Lot 3 of Rolling Acres IV Subdivision in Section 34 of Champaign Township, and commonly known as the house at 6 Genevieve Court, Champaign.
  - B. Co-Petitioner Sam Banks owns Lot 4 of Rolling Acres IV Subdivision in Section 34 of Champaign Township, and commonly known as the house at 5 Genevieve Court, Champaign.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Champaign. Municipalities do not have protest rights in variance cases and are not notified of such cases.

***GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY***

4. Regarding land use and zoning on the subject property and adjacent to it:
  - A. The subject property is zoned R-1 Single Family Residential and is in use as a single family dwelling.
  - B. Land to the north, east, and south is all zoned R-1 Single Family Residential and in use as single family dwellings.
  - C. Land to the west is zoned AG-2 Agriculture and is in use as a farmstead.



**PRELIMINARY DRAFT**

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. The Petitioners have not provided a specific site plan, as follows:
- A. On the application they refer to a variance granted to their neighbor, Ron Watkins, also for fence height. That variance was Zoning Case 593-V-07.
  - B. In that case Co-Petitioner, Stephen Fiol testified to the extent of the proposed fence, as follows:
    - (1) The proposed fence will run along the west property line of both lots, which divides the subject properties from the right-of-way for Duncan Road.
    - (2) The fence is proposed to be 8 feet in height and to be a single solid fence running from the corner of Rolling Acres Drive and Duncan Road to the south property line of Lot 4 of Rolling Acres IV.

**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) “GRADE” is the average of the elevations of the surface of the ground measured at all corners of BUILDING.
    - (2) “HEIGHT” As applied to an Enclosed or Unenclosed STRUCTURE; STRUCTURE, DETACHED: The vertical measurement from the average level of the surface of the ground immediately surrounding such STRUCTURE to the uppermost portion of such STRUCTURE.
    - (2) “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.
    - (4) “RIGHT-OF-WAY” is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
    - (5) “STREETS” are 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 STREETS” are Federal or State highways.
      - (b) “COLLECTOR STREETS” are COUNTY highways and urban arterial STREETS.
      - (c) “MINOR STREETS” are Township roads and other local roads.
    - (6) “STRUCTURE” is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the

ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.

- (7) "STRUCTURE, DETACHED" is a STRUCTURE not connected to another STRUCTURE.

- B. Maximum fence height in R Districts is set in Subsection 4.3.3. of the *Zoning Ordinance* in Subparagraph G.1., as follows:

Fences in R Zoning Districts and on residential lots less than five acres in the AG Districts shall not exceed six feet in HEIGHT and may be located in required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E. of this ordinance. (See Item 6B. above)

- 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 9.1.9D.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 has testified on the application that, **“Request 2 foot fence increased height.”**
  - B. Recent development has caused a significant increase in traffic on Duncan Road, an urban arterial street.

*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 that, **“Due to increased vehicular traffic, pedestrian traffic, noise, letter and visual aesthetics and due to new construction and anticipated commercial zoning we are requesting this variance.”**
  - B. The maximum allowed six feet fence may not be sufficient to adequately screen the subject property from an arterial street.

*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 that, **“No”**
  - B. Rolling Acres Subdivision IV was platted before the adoption of the *Zoning Ordinance* and before there was a significant degree of development in the vicinity of the subject property. Recent development has caused a significant increase in traffic on Duncan Road, and a privacy fence can provide some buffering from noise.

*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 that, **“We believe the curb appeal will be improved as well as serving the issues listed above.”**

- B. Maximum fence height restrictions are intended to ensure compatibility by preventing fences from being so high they cut off light to neighboring properties or are aesthetically unpleasing. The proposed fence is along a major street.
- C. The proposed height of eight feet is 133% of the maximum six feet for a variance of 33%.
- 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 Petitioner has testified on the application that, **“Variance of fence height to 8 feet was granted to neighbor to the north, Ron Watkins at 2901 Rolling Acres Drive.”**
  - B. The fence will not be located between two adjacent properties, and so the effect of its extra height on any other properties should be negligible.
  - C. The Fire Protection District has received notice of this variance but no comments have been received.
  - E. The Township Highway Commissioner has also received notice of this variance, but no comments have been received.
- 12. Elsewhere on the application the Petitioner has also testified that, **“This will be a continuation and adjoining Mr. Watkins’ fence.”**

**DOCUMENTS OF RECORD**

1. Variance Application from Stephen Fiol and Sam Banks, received on February 13, 2008
2. Preliminary Memorandum for Case 608-V-08, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Excerpt of Minutes for October 17, 2007, ZBA meeting
  - C Draft Summary of Evidence for Case 608-V-08

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **608-V-08** held on **April 17, 2008**, 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: \_\_\_\_\_  
\_\_\_\_\_

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: \_\_\_\_\_  
\_\_\_\_\_

3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: \_\_\_\_\_  
\_\_\_\_\_

4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in harmony with the general purpose and intent of the *Ordinance* because: \_\_\_\_\_  
\_\_\_\_\_

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: \_\_\_\_\_  
\_\_\_\_\_

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 TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND 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 of 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 **608-V-08** is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the Petitioners, **Stephen Fiol and Sam Banks**, to authorize **the construction of a fence in the R-1 Single Family Dwelling District with a height of eight feet in lieu of the required six feet.**

*{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:

Debra Griest, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals  
Date