

CASE NO. 978-V-20

PRELIMINARY MEMORANDUM

August 5, 2020

Petitioners: **Michael & Sarah Douglass**

Request: **Authorize a variance in the AG-1 Agriculture Zoning District for an existing lot that does not abut and have access to a public street or a private accessway meeting Champaign County street standards, per Section 4.2.1 H., and that does not have access to a street located entirely within the lot lines, per Section 4.2.1 I. of the Champaign County Zoning Ordinance.**

Subject Property: **Lot 2 of Silver Subdivision, except the North 252.8 feet thereof, located in the Northeast Quarter of the Northwest Quarter of Section 11, Township 18 North, Range 9 East of the Third Principal Meridian in Philo Township, and commonly known as the residence with an address of 1633A CR 1100N, Urbana.**

Site Area: **2.63 acres**

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

Prepared by: **Susan Burgstrom**, Senior Planner
John Hall, Zoning Administrator

BACKGROUND

The petitioners applied for a Zoning Use Permit to construct a ground-mounted solar array on the property they purchased in 2017. Standard review by P&Z Staff revealed that the subject property was cut off from CR 1100N in 2003. No permit can be issued without seeking a variance for access:

- Section 4.2.1 H. requires that “no STRUCTURE shall be CONSTRUCTED nor USE established upon or moved to a LOT which does not abut and have access to a public street or abut a private accessway for a distance of no less than 20 feet at a point at which the LOT has the right of ACCESS to the STREET.”
- Section 4.2.1 I. requires that “the principal use on all lots shall have ACCESS to a STREET consisting of solid ground passable to emergency vehicles, no less than twenty feet in width, and located entirely within the LOT LINES.”

P&Z Staff created an annotated aerial (Attachment B) that will serve as the Site Plan for this case. The Site Plan shows the original Lots 1 and 2 of Silver Subdivision, and the newer configuration that triggered the variance.

EXTRATERRITORIAL JURISDICTION

The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

The subject property is located within Philo Township, which does not have a Planning Commission.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Residential/Ag	AG-1 Agriculture
North	Residential	AG-1 Agriculture
East	Agricultural	AG-1 Agriculture
West	Agricultural	AG-1 Agriculture
South	Residential	AG-1 Agriculture

PROPERTY HISTORY

The following evidence was added under Item 7.B. of the Summary of Evidence (Attachment G):

- (1) Silver Subdivision Lots 1 and 2 were approved on November 16, 1993 in subdivision case 111-93.
- (2) The owners of Lot 2 (as approved) secured an access easement for their lot from the owners of Lot 1 on May 14, 2002.
- (3) Lot 2 was then split and the northern 252.8 feet that connected the main part of Lot 2 to the public road was sold to the neighbors to the east on November 13, 2003. Lot 2 no longer connected to a public road with that transaction.
- (4) The current subject property, "Lot 2 except the north 252.8 feet thereof," was purchased by the petitioners on September 25, 2017 along with the access easement secured on May 14, 2002.
- (5) Ordinance #527 was approved by the Champaign County Board on February 18, 1997, for a text amendment to the Zoning Ordinance in Case 055-AT-96.
 - a. The amendment added Section 4.2.1 H., which required that "no STRUCTURE shall be CONSTRUCTED nor USE established upon or moved to a LOT which does not abut and have access to a public street or abut a private accessway for a distance of no less than 20 feet at a point at which the LOT has the right of ACCESS to the STREET."
 - b. The amendment also added Section 4.2.1 I., which required that "the principal use on all lots shall have ACCESS to a STREET consisting of solid ground passable to emergency vehicles, no less than twenty feet in width, and located entirely within the LOT LINES."
- (6) The November 13, 2003 sale of the north 252.8 feet of Lot 2 created a configuration that would not allow any future structure requiring a permit to be approved on Lot 2 until a variance for access was approved, per Ordinance #527 approved on February 18, 1997.

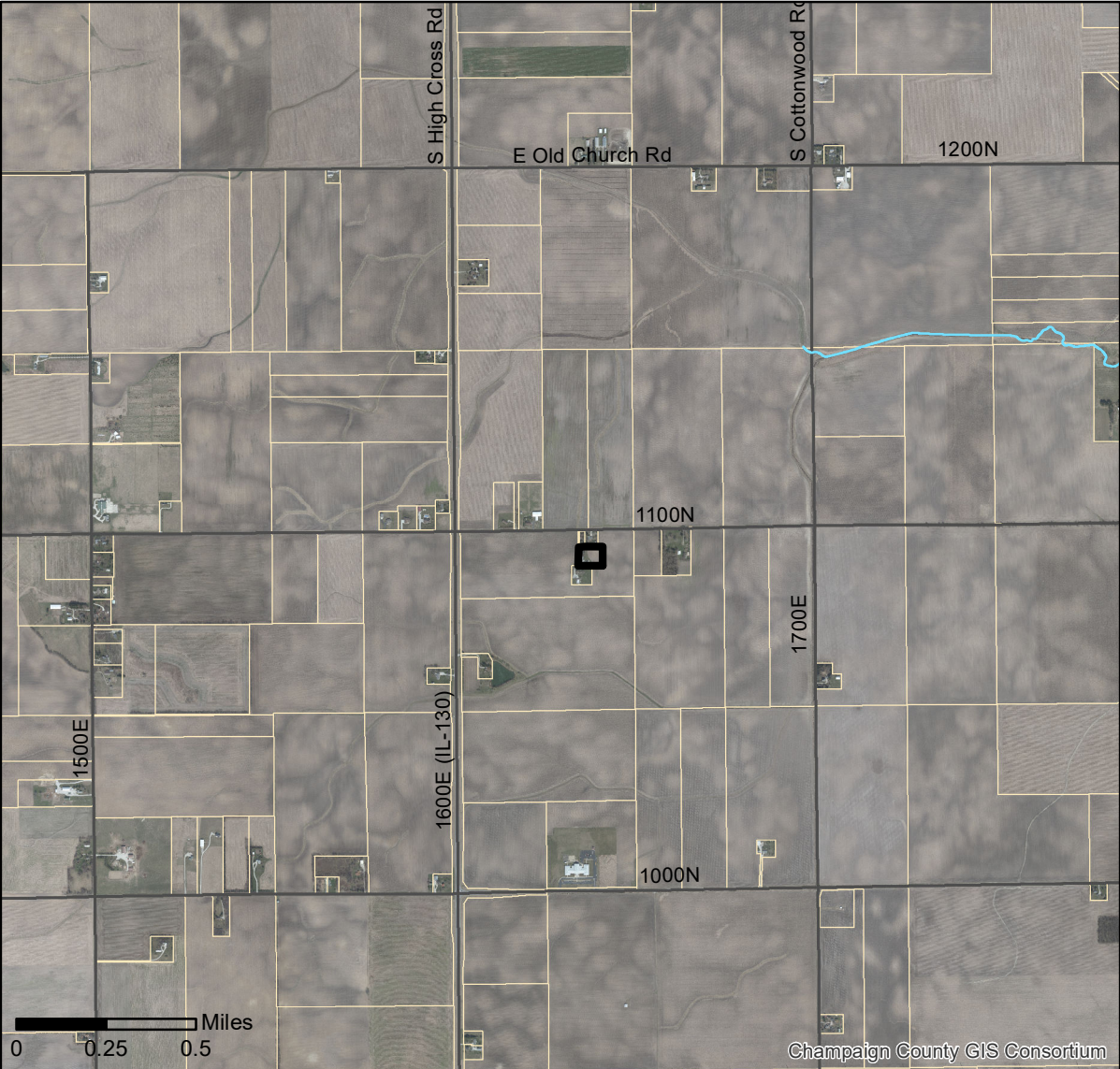
ATTACHMENTS

- A Case Maps (Location, Land Use, and Zoning)
- B Site Plan created by P&Z Staff on July 23, 2020
- C Plat of Survey by Moore Surveying for Silver Subdivision, approved November 16, 1993 and recorded as document #93R34697 on November 24, 1993
- D Easement for access to Lot 2 via Lot 1 recorded as document #2002R15413 on May 14, 2002
- E Quit Claim Deed recorded as document # 2003R50757 on November 13, 2003
- F Site Visit Photos taken July 22, 2020
- G Draft Summary of Evidence, Finding of Fact, and Final Determination dated August 13, 2020

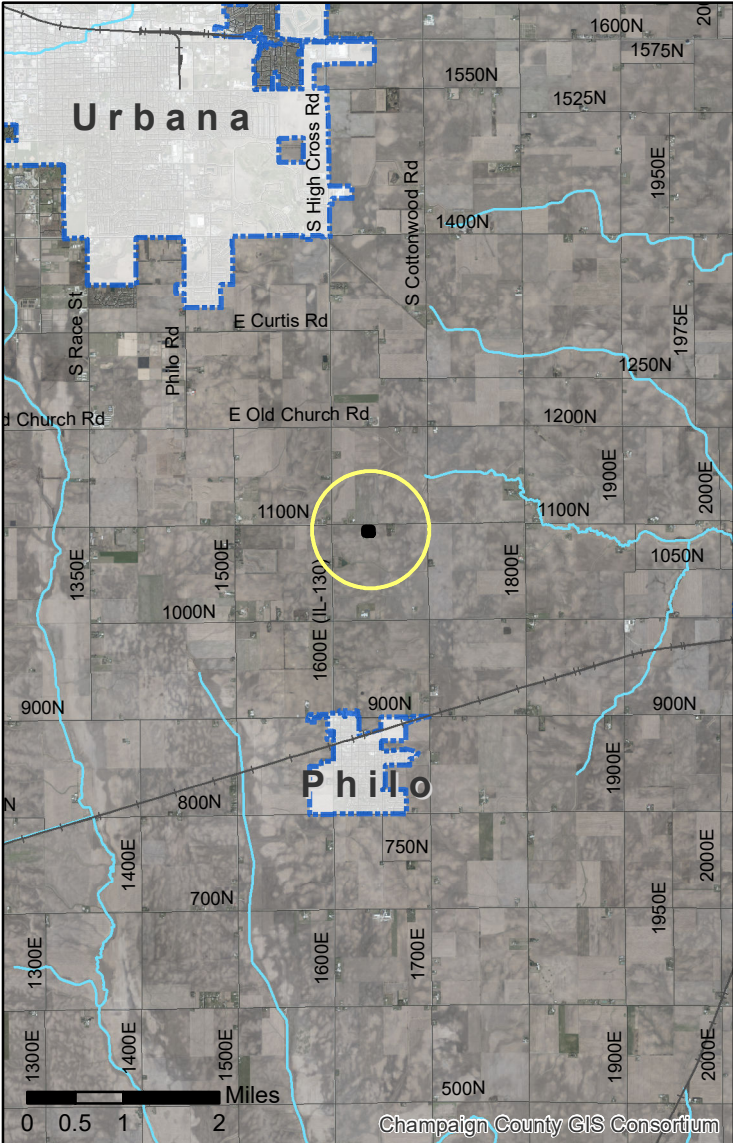
Location Map





Case 978-V-20
August 13, 2020

Subject Property



Property location in Champaign County



- Legend**
-  Subject Property
 -  Municipal Boundary
 -  Streets
 -  Parcels



Champaign County
Department of
**PLANNING &
ZONING**

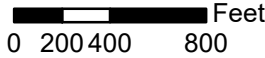
Land Use Map

Case 978-V-20
August 13, 2020



Legend

-  Subject Property
-  Streets
-  Residential
-  Ag/Residential
-  Agriculture



Champaign County
Department of
**PLANNING &
ZONING**

Zoning Map

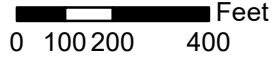
Case 978-V-20
August 13, 2020



Champaign County GIS Consortium

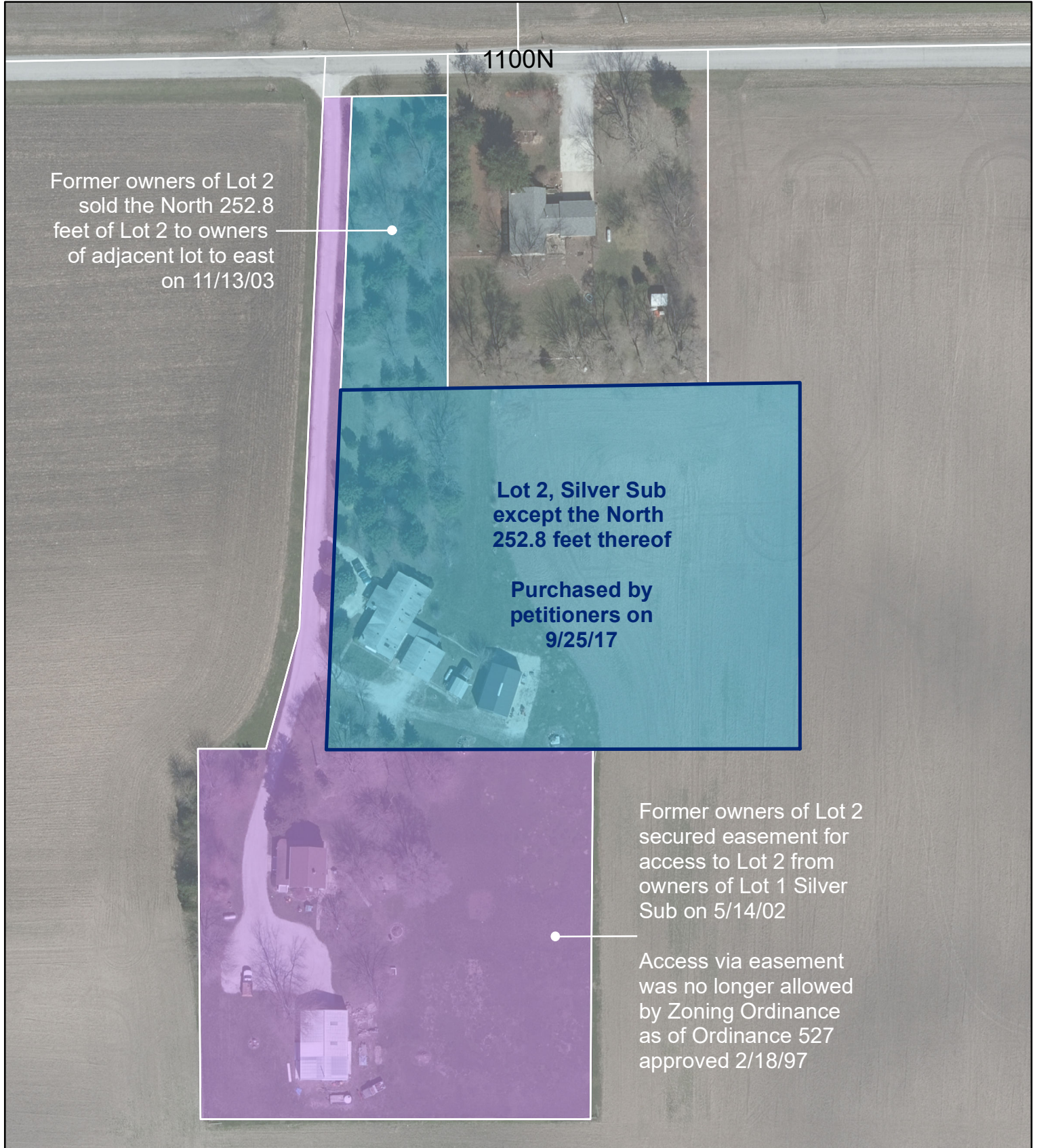
Legend

-  Subject Property
-  Parcels
-  AG-1 Agriculture



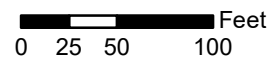
Site Plan: 2017 aerial photography

Case 978-V-20
August 13, 2020



Legend

-  Subject Property
 -  Lot 1 Original Silver Sub
 -  Lot 2 Original Silver Sub
- Parcels



SILVER SUBDIVISION
 CHAMPAIGN COUNTY, ILLINOIS
 NW 1/4, SECTION II, T18N, R9E, 3RD. P.M.

93R34697

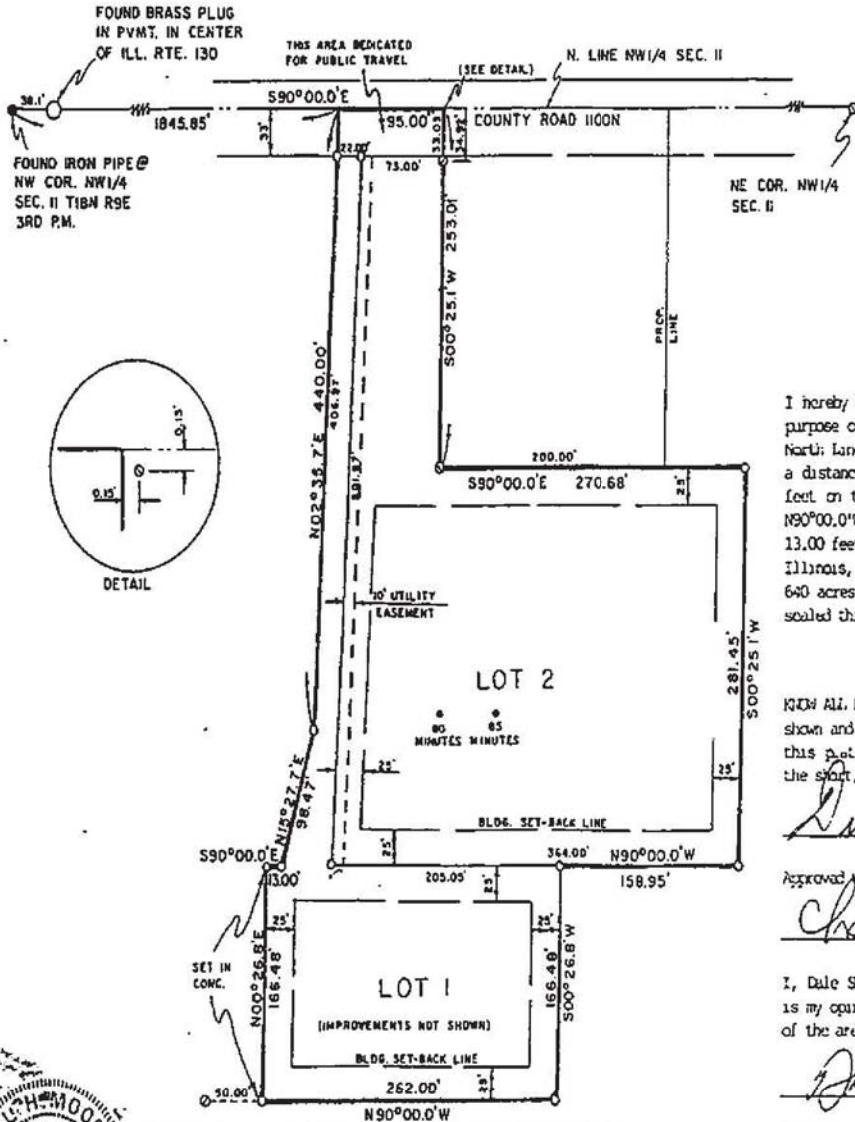
DOC # 93R34697
 CHAMPAIGN COUNTY, ILL
BB 266

'93 NOV 24 AM 11 46

Robert A. Moore
 RECORDER



516
 5/10/93



- 1/2" IRON PIPE FOUND W/ALUM. CAP STAMPED "ILS 1470"
- 1/2" IRON PIPE FOUND W/ALUM. CAP STAMPED "ILS 171K"
- 1/2" IRON ROD SET W/ORANGE PLAS. CAP STAMPED "ILS 2616"
- PERCOLATION TEST HOLE



I hereby certify that at the request of the owners, Duane and Shirley Ann Silver, I have surveyed and prepared this plat for the purpose of subdividing their land, which is to be known as SILVER SUBDIVISION and which is described as follows: Beginning on the North Line of the Northwest Quarter of Section 11, Township 18 North of the Base Line, Range 9 East of the Third Principal Meridian, a distance of 1845.85 feet east of the Northwest Corner of said 1/4, thence South 90 degrees 00.0 minutes East (S90°00.0'E) 95.00 feet on the said North Line, thence S00°25.1'W 253.01 feet, thence S90°00.0'E 270.68 feet, thence S00°25.1'W 261.45 feet, thence N90°00.0'W 158.95 feet, thence S00°26.8'W 166.48 feet, thence N00°00.0'W 262.00 feet, thence N00°26.8'E 166.48 feet, thence S90°00.0'E 13.00 feet, thence N15°27.7'E 98.47 feet, and thence N02°35.7'E 440.00 feet to the point of beginning; situated in Champaign County, Illinois, and comprising 4.064 acres. This tract is more than 500 feet from any drainage way or water course that drains more than 640 acres. No special Flood Hazard Area has been identified by the Federal Emergency Management Agency for this site. Signed and sealed this 26th day of October, 1993.

Robert A. Moore
 Robert A. Moore, Illinois Professional Land Surveyor No. 2616

KNOW ALL MEN BY THESE PRESENTS that we, Duane and Shirley Ann Silver, do hereby certify that we are the owners of the tract of land shown and described herein, that we have caused the same to be surveyed and subdivided, and that we do hereby acknowledge and adopt this plat under the style and title given. An easement for public utility service and access is hereby reserved as indicated by the short, dashed lines on this plat; no permanent type building or tree shall be placed on said easement.

Duane Silver *Shirley Ann Silver* *Nov. 10, 1993*
 Owner Owner Date

Approved this 10th day of NOVEMBER, 1993. CHAMPAIGN COUNTY ENVIRONMENT AND LAND USE COMMITTEE

Charles Beckwith *Frank Di'...*
 Chairman Subdivision Officer

I, Dale Shupler, Registrar Illinois Sanitarian No. 049 00 6141, do hereby certify that based upon field tests and record data it is my opinion that the proposed land use, the lot size shown on the final plat of SILVER SUBDIVISION and known soil characteristics of the area are suitable for private septic sewage disposal systems.

Dale Shupler *Gene Silver*
 Registered Illinois Sanitarian No. 049 00 6141 PRESENTED FOR RECORDING BY:

I, Gene Christian, Paul Township Road Commissioner, do hereby certify that this plat has been reviewed by me and approved with respect to roadway access and other matters under my jurisdiction.

Dated this 6 day of NOV, 1993.

Gene Christian
 Paul Township Road District Commissioner

REV. OCT. 28, 1993

MOORE SURVEYING & MAPPING PAXTON, ILLINOIS			
CLIENT DUANE SILVER	DATE OCT 26, 1993	SCALE 1"=100'	JOB NO. 1548



To the best of our knowledge and belief the drainage and surface water drainage will not be significantly changed by this subdivision.

Robert A. Moore
 Registered Professional Engineer #2587

6

2002R15413

RECORDED ON

05-14-2002 2:27:45

CHAMPAIGN COUNTY
RECORDER
BARBARA A. FRASCA

REC. FEE: 25.00
REV FEE:
PAGES: 3
PLAT ACT: 0
PLAT PAGE:

005734

EASEMENT

GRANTORS, KEVIN E. KENDRICK and MICHELLE I. KENDRICK, in consideration of Ten Dollars (\$10.00) good and valuable consideration in hand paid, do hereby grant an easement of ingress and egress to GRANTEES, DUANE W. SILVER and SHIRLEY ANN SILVER, upon the northern-most 501.97 feet and a minimum east-west width of 11 feet of Lot 1 of the Silver Subdivision, running from the public road commonly known as CR 1100N, for the purpose of use as a private driveway for the use of the owners of Lot 2, DUANE W. SILVER and SHIRLEY ANN SILVER, as a private driveway. For ease of reference, a Plat of Survey dated April 29, 2002 is attached hereto and incorporated herein by reference thereto, showing the center line of said driveway.

Maintenance repairs and improvements reasonably determined by Grantors to be necessary, and improvements agreed to by both parties in writing on said driveway shall be shared as follows:

One-third (1/3) of the cost to be paid by the owners of Lot 2 and
Two-thirds (2/3) of the cost to be paid by the owners of Lot 1.

Grantors shall be responsible for arranging, ordering and scheduling all of the maintenance, repairs and agreed to improvements and shall be held to the standard of a reasonable person in their execution thereof. This easement shall run with the land.



KEVIN E. KENDRICK, Grantor



DUANE W. SILVER, Grantee



MICHELLE I. KENDRICK, Grantor



SHIRLEY ANN SILVER, Grantee

015413

STATE OF ILLINOIS,)
)
COUNTY OF CHAMPAIGN) SS

I, the undersigned, a Notary Public for the State of Illinois, do hereby certify that SHIRLEY ANN SILVER, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed, sealed and delivered the said instrument as her free and voluntary act, for the uses and purposes therein set forth, including the waiver of the right of homestead.



Given under my hand and Notarial Seal this 10th day of May, 2002.

Gillian D.A. Simmons
Notary Public

I, the undersigned, a Notary Public for the State of Illinois, do hereby certify that DUANE W. SILVER, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth, including the waiver of the right of homestead.

Given under my hand and Notarial Seal this 10 day of MAY, 2002.



Deborah E. Pruitt
Notary Public

I, the undersigned, a Notary Public for the State of Illinois, do hereby certify that MICHELLE I. KENDRICK and KEVIN E. KENDRICK, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the waiver of the right of homestead.

Given under my hand and Notarial Seal this 10 day of MAY, 2002.



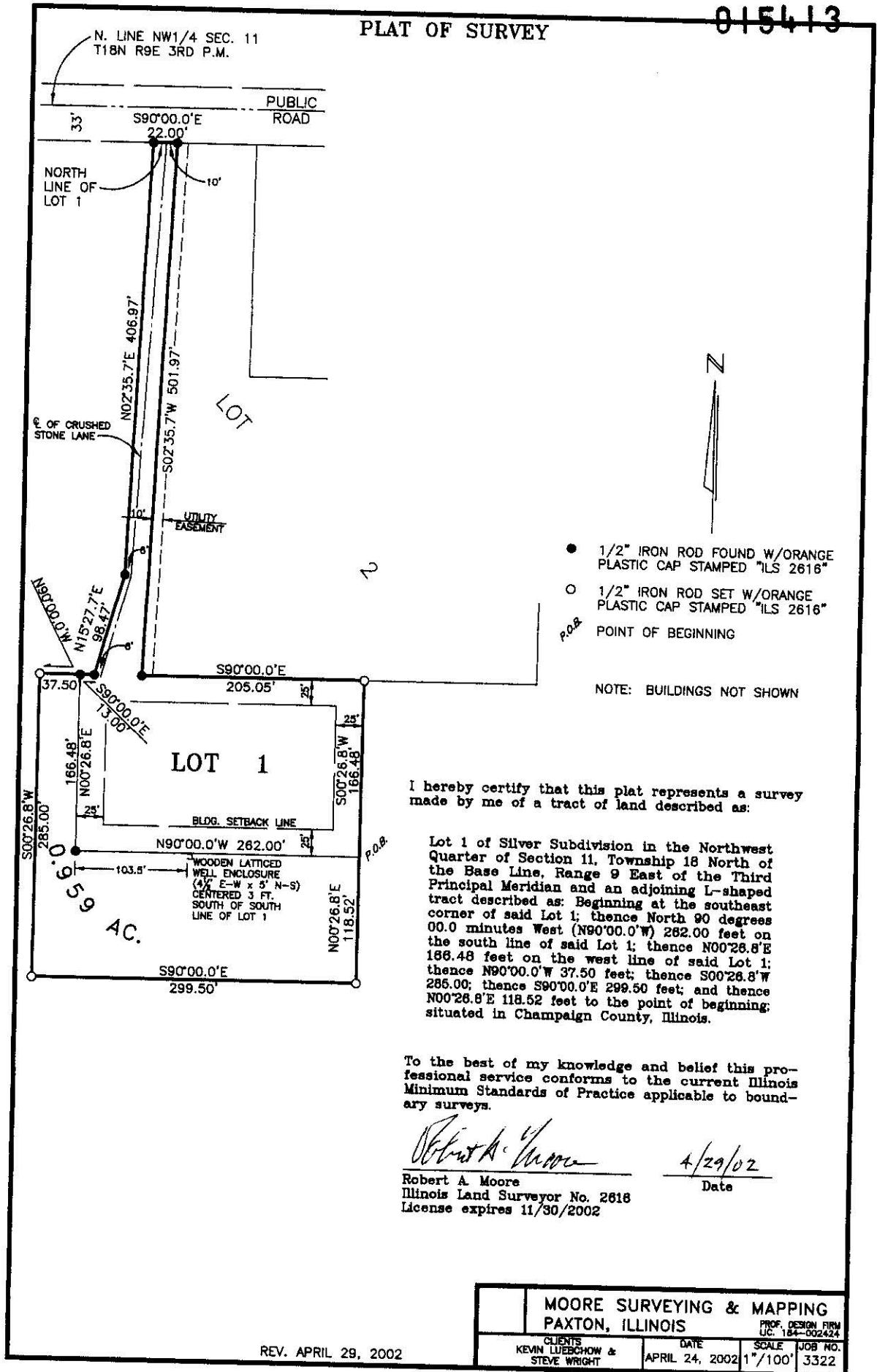
Deborah E. Pruitt
Notary Public

Return to: Duane A. Silver, 1633-A CR 1100N, Urbana, IL 61802

Prepared by: Steven D. Wright, Phebus & Winkelmann, 136 W. Main, Urbana, IL 61801

015413

PLAT OF SURVEY



- 1/2" IRON ROD FOUND W/ORANGE PLASTIC CAP STAMPED "ILS 2616"
- 1/2" IRON ROD SET W/ORANGE PLASTIC CAP STAMPED "ILS 2616"
- P.O.B. POINT OF BEGINNING

NOTE: BUILDINGS NOT SHOWN

I hereby certify that this plat represents a survey made by me of a tract of land described as:

Lot 1 of Silver Subdivision in the Northwest Quarter of Section 11, Township 18 North of the Base Line, Range 9 East of the Third Principal Meridian and an adjoining L-shaped tract described as: Beginning at the southeast corner of said Lot 1; thence North 90 degrees 00.0 minutes West (N90°00.0'W) 282.00 feet on the south line of said Lot 1; thence N00°26.8'E 166.48 feet on the west line of said Lot 1; thence N90°00.0'W 37.50 feet; thence S00°26.8'W 285.00; thence S90°00.0'E 299.50 feet; and thence N00°26.8'E 118.52 feet to the point of beginning; situated in Champaign County, Illinois.

To the best of my knowledge and belief this professional service conforms to the current Illinois Minimum Standards of Practice applicable to boundary surveys.

Robert A. Moore
 Robert A. Moore
 Illinois Land Surveyor No. 2618
 License expires 11/30/2002
 Date: 4/29/02

MOORE SURVEYING & MAPPING			
PAXTON, ILLINOIS			
CLIENTS	DATE	SCALE	JOB NO.
KEVIN LUEBCHOW & STEVE WRIGHT	APRIL 24, 2002	1"=100'	3322

REV. APRIL 29, 2002

24/23

2003R50757

RECORDED ON

11-13-2003 9:43:35

CHAMPAIGN COUNTY
RECORDER
BARBARA A. FRASCA

REC. FEE: 25.00
REV FEE:
PAGES: 2
PLAT ACT: 2
PLAT PAGE:

QUIT CLAIM DEED

THE GRANTORS, DUANE W. SILVER and SHIRLEY A. SILVER, his wife, of the County of Champaign and State of Illinois, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, in hand paid, CONVEYS and QUIT CLAIMS to the GRANTEES, ALLEN MOHR and LISA J. MOHR, husband and wife, of Champaign County, Illinois, not as Tenants in Common or as Tenants by the Entirety, but as Joint Tenants, the following described real estate, to-wit:

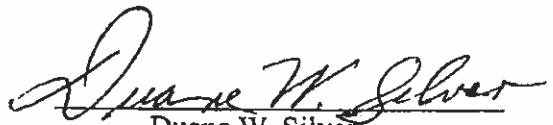
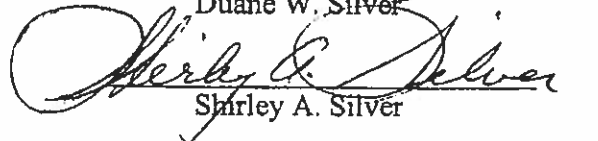
The North 252.80 feet of Lot 2 of Silver Subdivision, in the Northwest Quarter of Section 11, Township 18 North, Range 9 East, of the Third Principal Meridian, Champaign County, Illinois

PIN: Part of: 19-27-11-100-010

- Subject to:
- (1) Real estate taxes for the year 2003 and subsequent years;
 - (2) Covenants, conditions, restrictions and easements apparent or of record;
 - (3) All applicable zoning laws and ordinances;

hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

DATED this 3rd day of Nov., 2003.


Duane W. Silver

Shirley A. Silver

050757

STATE OF ILLINOIS)
) SS.
CHAMPAIGN COUNTY)

I, the undersigned, a Notary Public in and for said County and State aforesaid, **DO HEREBY CERTIFY** that DUANE W. SILVER and SHIRLEY A. SILVER, his wife, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the waiver of the right of homestead.

Given under my hand and Notarial Seal this 3rd day of Nov., 2003.

Sue Alcorn

Notary Public

PREPARED BY:

E. PHILLIPS KNOX of
TUMMELSON BRYAN & KNOX
115 N. Broadway - P.O. Box 99
Urbana, IL 61803-0099
Phone: 217 / 367-2500



SEND TAX BILL TO:

Allen and Lisa J. Mohr
1639 CR 1100 N
Urbana, IL 61801

AFTER RECORDING RETURN TO:

E. Phillips Knox
Tummelson Bryan & Knox
P.O. Box 99
Urbana, IL 61803-0099

EXEMPT under the provisions of Paragraph (e), Section 4, Real Estate Transfer Tax Act.

Dated: Nov 3, 2003

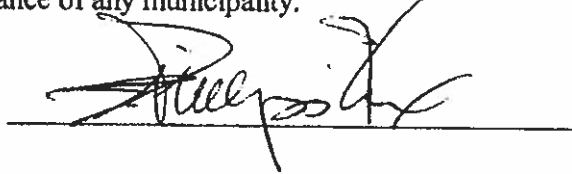
Signature: *Duane W. Silver*
Buyer, Seller or Representative

050757

CIRCLE NUMBER ABOVE WHICH IS APPLICABLE TO ATTACHED DEED.

Affiant(s) further state(s) that they make this Affidavit for the purpose of inducing the Recorder of Ford County, Illinois, to accept the attached Deed for recording.

Affiant(s) further state(s) that to the best of his/her knowledge and belief, the attached Deed does not violate the Subdivision Ordinance of any municipality.



A handwritten signature in black ink, appearing to read "Sue Alcorn", is written over a horizontal line.

Subscribed and sworn to before me this

10th day of November, 2003.



A handwritten signature in black ink, appearing to read "Sue Alcorn", is written over a horizontal line. Below the line, the text "Notary Public" is printed.



978-V-20 Site Images



Private access leading to Silver Sub Lots 1 & 2



Subject property residence on Lot 2

978-V-20 Site Images



Lot 1 residence southwest of subject property



Left to right: Silver Sub Lot 1, Lot 2 (subject property), and property closest to CR 1100N

PRELIMINARY DRAFT

978-V-20

**SUMMARY OF EVIDENCE, FINDING OF FACT,
AND FINAL DETERMINATION**

of

Champaign County Zoning Board of Appeals

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

Date: *{August 13, 2020}*

Petitioners: **Michael & Sarah Douglass**

Request: **Authorize a variance in the AG-1 Agriculture Zoning District for an existing lot that does not abut and have access to a public street or a private accessway meeting Champaign County street standards, per Section 4.2.1 H., and that does not have access to a street located entirely within the lot lines, per Section 4.2.1 I. of the Champaign County Zoning Ordinance.**

Table of Contents

General Application Information.....2 - 3

Required Variance.....3

Specific Ordinance Requirements.....3 - 4

Variance Evidence5 - 7

Documents of Record.....8

Case 978-V-20 Findings of Fact.....9

Case 978-V-20 Final Determination.....10

PRELIMINARY DRAFT

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **August 13, 2020**, the Zoning Board of Appeals of Champaign County finds that:

1. Michael & Sarah Douglass, 1633A CR 1100N, Urbana, Illinois, own the subject property.
2. The subject property is the 2.63 acre Lot 2 of Silver Subdivision, except the North 252.8 feet thereof, located in the Northeast Quarter of the Northwest Quarter of Section 11, Township 18 North, Range 9 East of the Third Principal Meridian in Philo Township, and commonly known as the residence with an address of 1633A CR 1100N, Urbana.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.
 - B. The subject property is located within Philo Township, which does not have a Planning Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on and adjacent to the subject property:
 - A. The subject property is zoned AG-1 Agriculture and is residential and agricultural in use.
 - B. Land surrounding the subject property is also zoned AG-1 Agriculture. Land uses are the following:
 - (1) Land to the north is residential in use.
 - (2) Land to the east is agricultural in use.
 - (3) Land to the south is residential in use.
 - (4) Land to the west is agricultural in use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan of the subject site:
 - A. The Site Plan for the proposed variance is a 2017 aerial photo with the CCGIS Consortium parcel layer created by P&Z Staff on July 23, 2020.
 - (1) Existing features include:
 - a. One single-family residence (ZUPA #328-93-02);
 - b. One detached garage (also in ZUPA #328-93-02); and
 - c. One detached barn (ag-exempt, no permit required).
 - (2) Proposed features include:
 - a. The petitioners were approved to install a ground-mounted solar array contingent upon approval of this case.

PRELIMINARY DRAFT**Case 978-V-20**

Page 3 of 10

- B. There are no previous zoning cases in the vicinity of the subject property other than the approval of Silver Subdivision in Case 111-93 approved on November 16, 1993.
- C. Previous Zoning Use Permits for the subject property are the following:
- (1) ZUPA #84-20-01 was approved on March 27, 2020, for construction of a ground-mounted solar array, contingent upon approval of Case 978-V-20.
 - (2) ZUPA #328-93-02 was approved on November 24, 1993 for construction of a house and detached garage.
 - (3) The barn constructed sometime between 2002 and 2005 was ag-exempt and therefore did not require a permit.
- D. The required variance is as follows:
- (1) A variance from Paragraph 4.2.1 H. of the Zoning Ordinance, which requires that no structure shall be constructed nor use established upon or moved to a lot that does not abut and have access to a public street or a private accessway meeting Champaign County street standards.
 - (2) A variance from paragraph 4.2.1 I. of the Zoning Ordinance, which requires the principal use on all lots to have access to a street consisting of solid ground passable to emergency vehicles, no less than twenty feet in width, and located entirely within the LOT LINES.

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) “ACCESS” is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
 - (2) “ACCESS STRIP” is that part of a FLAG LOT which provides the principal ACCESS to the LOT, and has FRONTAGE upon a STREET.
 - (3) “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) “LOT, FLAG” is an interior LOT separated from STREETS by intervening LOTS except for an ACCESS STRIP which provides FRONTAGE upon a STREET.
 - (5) “LOT LINES” are the lines bounding a LOT.
 - (6) “PLAT” is a map, plan or layout showing the SUBDIVISION of land and indicating the location and boundaries of individual LOTS.
 - (7) “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,

PRELIMINARY DRAFT

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.
- (8) “SUBDIVISION” is any division, development, or re-subdivision of any part, LOT, area or tract of land by the OWNER or agent, either by LOTS or by metes and bounds, into LOTS two or more in number, for the purpose, whether immediate or future, of conveyance, transfer, improvement, or sale, with the appurtenant STREETS, ALLEYS, and easements, dedicated or intended to be dedicated to public use or for the use of the purchasers or OWNERS within the tract subdivided. The division of land for AGRICULTURAL purposes not involving any new STREET, ALLEY, or other means of ACCESS, shall not be deemed a SUBDIVISION for the purpose of the regulations and standards of this ordinance.
- (9) “VARIANCE” is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
- B. Paragraph 9.1.9.D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- C. 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, **“The property is surrounded by land owned by others after part of it was sold that allowed for public access, leaving only an easement for a drive as access.”**
- B. Regarding the 2.36-acre subject property and the proposed variance:
- (1) Silver Subdivision Lots 1 and 2 were approved on November 16, 1993 in subdivision case 111-93.
 - (2) The owners of Lot 2 (as approved) secured an access easement for their lot from the owners of Lot 1 on May 14, 2002.
 - (3) Lot 2 was then split and the northern 252.8 feet that connected the main part of Lot 2 to the public road was sold to the neighbors to the east on November 13, 2003. Lot 2 no longer connected to a public road with that transaction.
 - (4) The current subject property, “Lot 2 except the north 252.8 feet thereof,” was purchased by the petitioners on September 25, 2017 along with the access easement secured on May 14, 2002.
 - (5) Ordinance #527 was approved by the Champaign County Board on February 18, 1997, for a text amendment to the Zoning Ordinance in case 055-AT-96.
 - a. The amendment added Section 4.2.1 H., which required that “no STRUCTURE shall be CONSTRUCTED nor USE established upon or moved to a LOT which does not abut and have access to a public street or abut a private accessway for a distance of no less than 20 feet at a point at which the LOT has the right of ACCESS to the STREET.”
 - b. The amendment also added Section 4.2.1 I., which required that “the principal use on all lots shall have ACCESS to a STREET consisting of solid ground passable to emergency vehicles, no less than twenty feet in width, and located entirely within the LOT LINES.”
 - (6) The November 13, 2003 sale of the north 252.8 feet of Lot 2 created a configuration that would not allow any future structure requiring a permit to be approved on Lot 2 until a variance for access was approved, per Ordinance #527 approved on February 18, 1997.

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:

PRELIMINARY DRAFT

- A. The Petitioner has testified on the application, **“The property owners that could sell me the land as access/compliance are not willing to sell even the small amount needed.”**
- B. Regarding the proposed Variance:
 - (1) Without the proposed variance, the petitioners cannot get a permit approved for installing their solar array or any other structure requiring a permit.

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

- 9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioner has testified on the application, **“No, the property was divided before it was purchased by us.”**
 - B. The lot split creating the required variance occurred on November 13, 2003. The petitioners purchased the property on September 25, 2017.

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, **“This variance will still allow for all of the purposes and intents of the Zoning Ordinance to be followed.”**
 - B. Regarding the requested variance for a lot that does not abut and have access to a public street or a private accessway meeting Champaign County street standards: the requested variance is 0% of the minimum required, for a variance of 100%.
 - C. Regarding the proposed variance for a lot without access to a street consisting of solid ground passable to emergency vehicles, no less than 20 feet in width, and located entirely within the lot lines: the requested variance is 0% of the minimum required, for a variance of 100%.
 - D. Regarding the proposed variance:
 - (1) Zoning Case 055-AT-96, approved on February 18, 1997, established the need for a 20 feet wide access drive consisting of solid ground passable to emergency vehicles due to safety concerns expressed by first responders.
 - (2) The petitioners still have access via easement that is 22 feet wide and passable by emergency responders.
 - 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:

PRELIMINARY DRAFT

- A. The Petitioner has testified on the application: **“This subdivision is only 2 lots and in a rural setting. There is also legal compliance within the 2 deeds to allow access to the public road.”**
- B. The Philo Township Road Commissioner has been notified of this variance and no comments have been received.
- C. The Philo Fire Protection District has been notified of this variance and no comments have been received.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

- 12. Generally regarding and other circumstances which justify the Variance:
 - A. The Petitioner has testified on the application, **“An easement is established in deed to legally allow access to the public road.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 13. Regarding proposed special conditions of approval:

No special conditions are currently proposed.

PRELIMINARY DRAFT

DOCUMENTS OF RECORD

1. Variance Application received on July 20, 2020
2. Site Plan created by P&Z Staff on July 23, 2020
3. Plat of Survey by Moore Surveying for Silver Subdivision, approved November 16, 1993 and recorded as document #93R34697 on November 24, 1993
4. Easement for access to Lot 2 via Lot 1 recorded as document #2002R15413 on May 14, 2002
5. Quit Claim Deed for the North 252.8 feet of Lot 2 of Silver Subdivision, recorded as document #2003R59757 on November 13, 2003.
6. Preliminary Memorandum dated August 5, 2020, with attachments:
 - A Case Maps (Location, Land Use, and Zoning)
 - B Site Plan created by P&Z Staff on July 23, 2020
 - C Plat of Survey by Moore Surveying for Silver Subdivision, approved November 16, 1993 and recorded as document #93R34697 on November 24, 1993
 - D Easement for access to Lot 2 via Lot 1 recorded as document #2002R15413 on May 14, 2002
 - E Quit Claim Deed recorded as document # 2003R50757 on November 13, 2003
 - F Site Visit Photos taken July 22, 2020
 - G Draft Summary of Evidence, Finding of Fact, and Final Determination dated August 13, 2020

PRELIMINARY DRAFT**Case 978-V-20**

Page 9 of 10

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **978-V-20** held on **August 13, 2020**, 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 FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

PRELIMINARY DRAFT

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C **{HAVE/HAVE NOT}** been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case **978-V-20** is hereby **{GRANTED / GRANTED WITH CONDITIONS / DENIED}** to the petitioners, **Michael & Sarah Douglass**, to authorize the following in the AG-1 Agriculture Zoning District:

Authorize a variance for an existing lot that does not abut and have access to a public street or a private accessway meeting Champaign County street standards, per Section 4.2.1 H., and that does not have access to a street located entirely within the lot lines, per Section 4.2.1 I. of the Champaign County Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals
Date