

CASE 986-V-20

PRELIMINARY MEMORANDUM

OCTOBER 20, 2020

Petitioners: Ehler Bros. Co., represented by Dustin Ehler

Request: Authorize a variance for an average lot width of 150 feet in lieu of the minimum required 200 feet average lot width in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance

Subject Property: A 2.11 acre tract of land located in the Northeast corner of the Northeast Quarter of Section 33, Township 21N Range 9E in Rantoul Township and commonly known as the Ehler Bros. Co. facility on the south side of CR 2500N (County Highway 11), with an address of 1496 CR 2500N, Thomasboro.

Site Area: 91,912 square feet (2.11 acres)

Time Schedule for Development: As soon as possible

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

BACKGROUND

The minimum lot width requirement of 200 feet in the AG-1 Zoning District was established with the adoption of the Zoning Ordinance on October 10, 1973.

A survey done by Vail H. Moore recorded as Document No. 77R02629 on February 8, 1977, showed the subject property with a 150 feet lot width. The Survey was created in compliance with the Illinois Plat Act, but not in compliance with the Zoning Ordinance. While not a common occurrence, this is not the first or last time a Survey has been recorded creating a lot that did not comply with the Zoning Ordinance.

Ehler Bros. Co. acquired the lot on February 12, 1977 per Warranty Deed recorded as Document No. 77R03026 on February 15, 1977. There are no existing features on the subject property; a 72 feet by 252 feet pole shed built in 1978 was destroyed by high winds in early 2020.

The petitioners are requesting the variance to bring the lot into compliance so they can receive permits for the site if they decide to develop it.

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one-and-one-half miles of the Village of Thomasboro, a municipality with zoning. Municipalities within one-and-one-half miles of the subject property do not have protest rights on a variance, but are notified of such cases.

The subject property is located within Rantoul Township, which has a Planning Commission. Townships with Planning Commissions have protest rights on a variance, and are notified of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Agriculture	AG-1 Agriculture
North	Ehler Bros. Fertilizer	B-1 Rural Trade Center
East	Agriculture	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
South	Agriculture, cell tower	AG-1 Agriculture

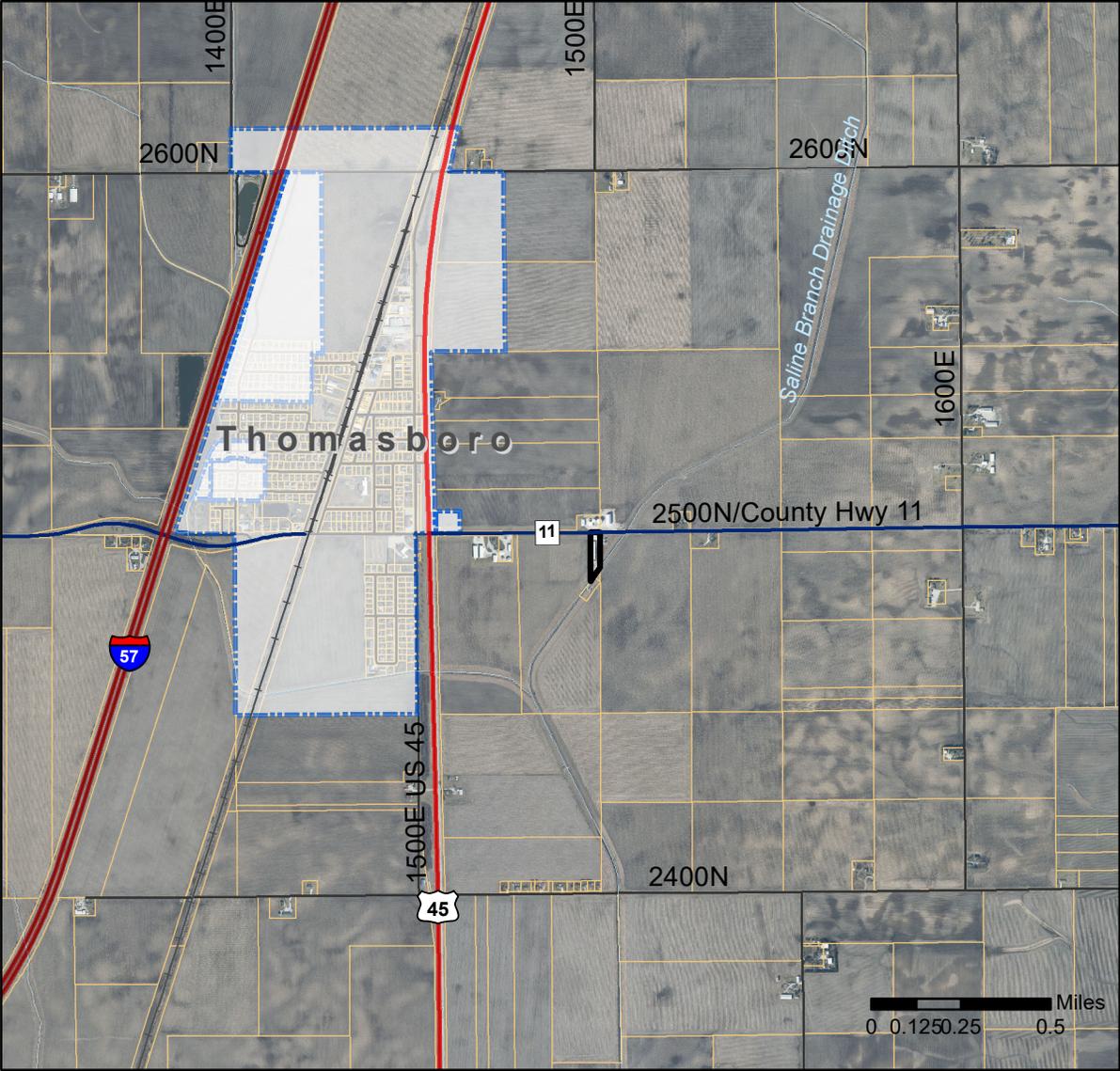
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received October 13, 2020
- C Survey by Vail H. Moore recorded as Document No. 77R02629 on February 8, 1977
- D Warranty Deed recorded as Document No. 77R3026 on February 15, 1977
- E Images of Subject Property taken October 2, 2020
- F Case 986-V-20 Draft Summary of Evidence, Finding of Fact, and Final Determination dated October 29, 2020

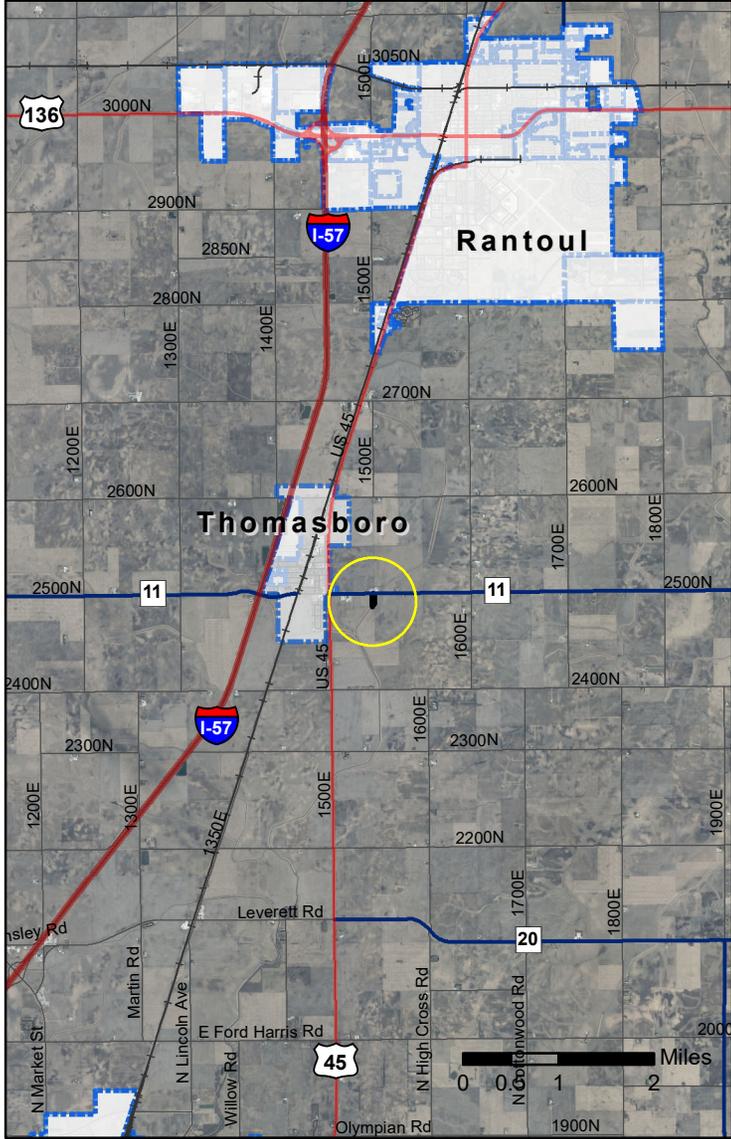
Location Map

Case 986-V-20
October 29, 2020

Subject Property



Property location in Champaign County



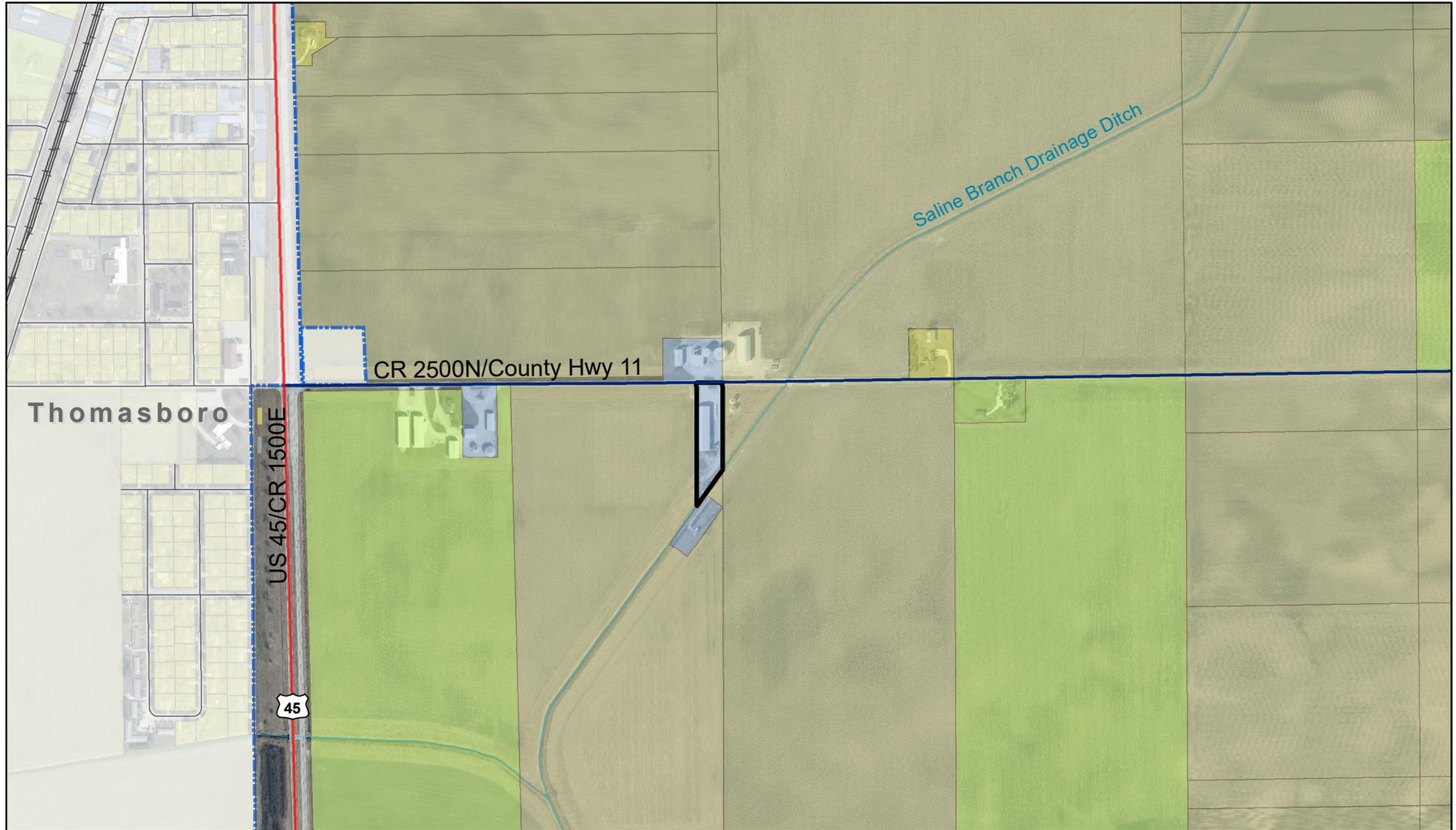
Legend

-  Subject Property
-  Municipal Boundary
-  Parcels



Land Use Map

Case 986-V-20
October 29, 2020



Legend

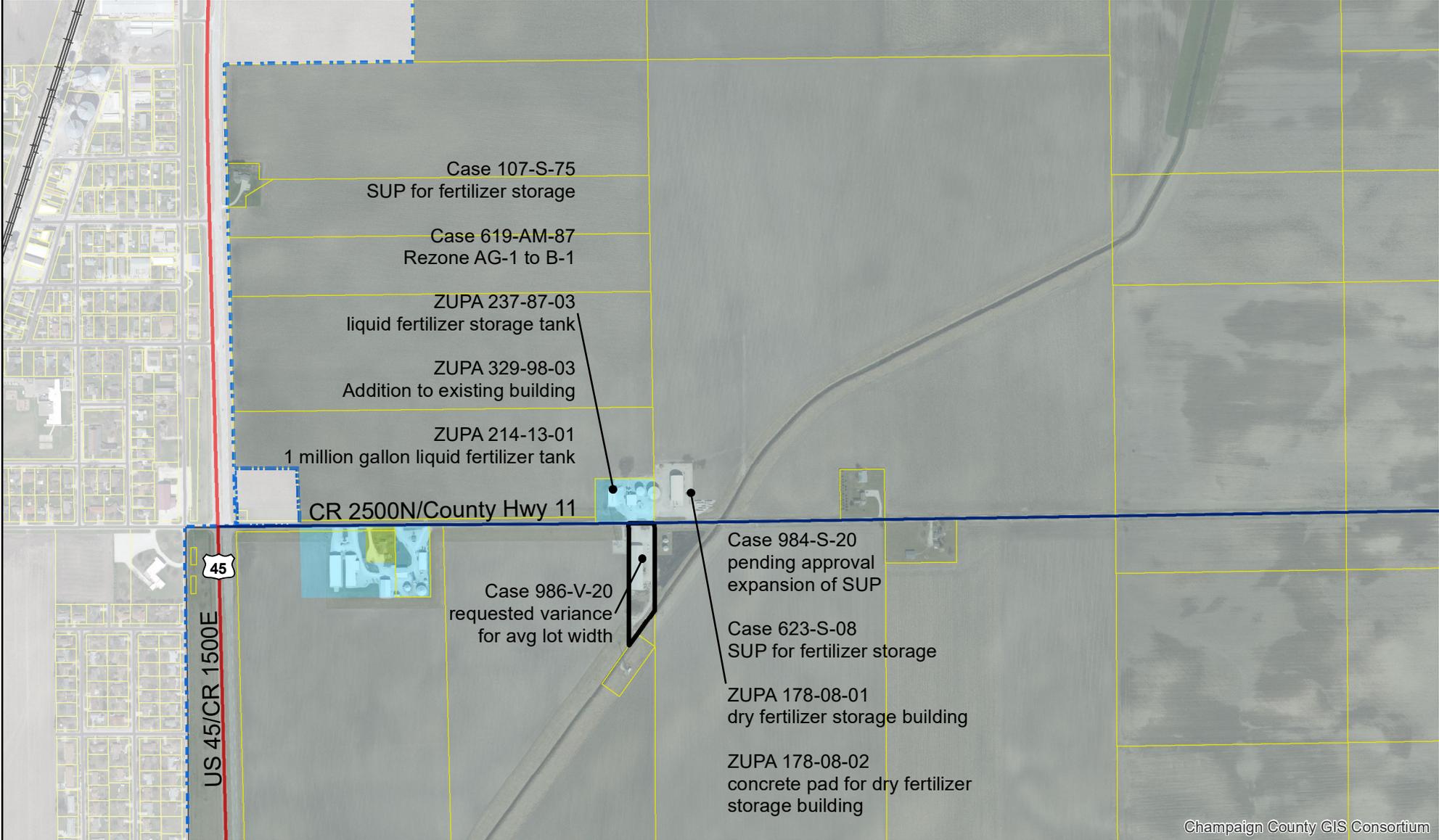
- | | |
|---|--|
|  Subject Property |  Ag/Residential |
|  Municipal Boundary |  Residential |
|  Agriculture |  Commercial |

0 200 400 800 Feet



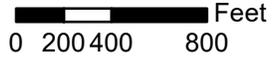
Zoning Map

Case 986-V-20
October 29, 2020



Legend

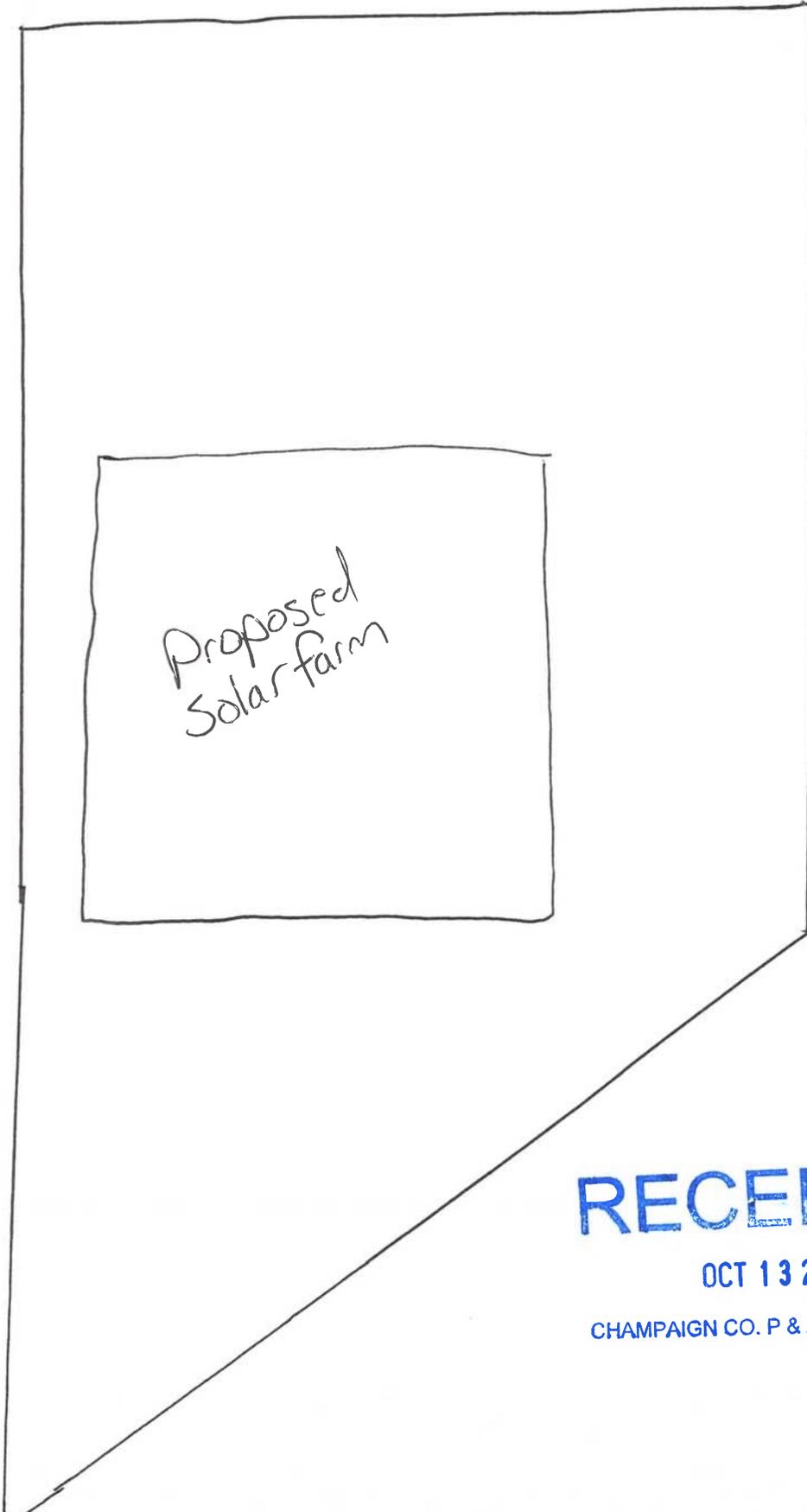
-  Subject Property
-  Parcels
-  AG-1 Agriculture
-  AG-2 Agriculture
-  B-1 Rural Trade Center



Champaign County
Department of
**PLANNING &
ZONING**

North

CR 2500

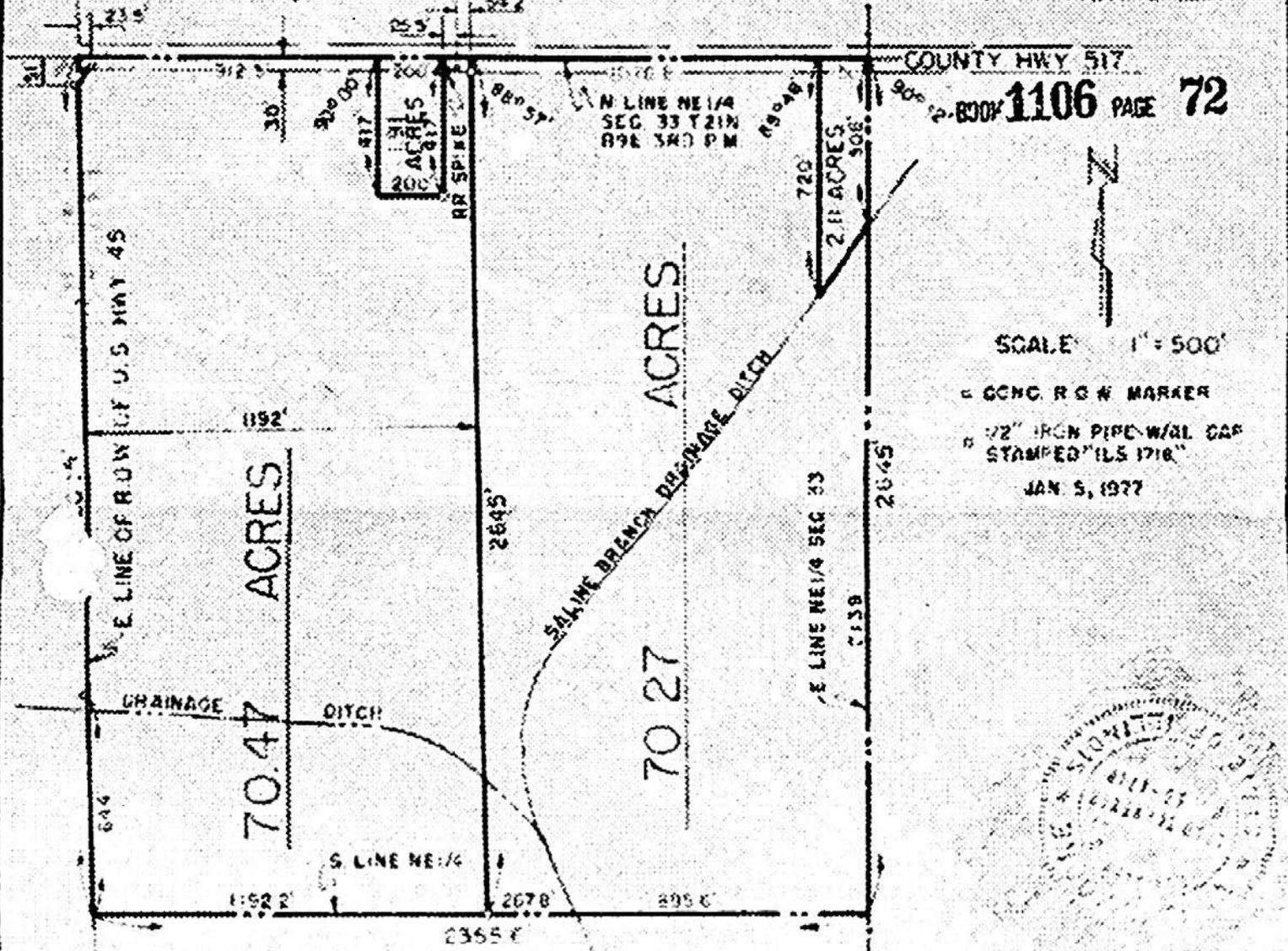


RECEIVED

OCT 13 2020

CHAMPAIGN CO. P & Z DEPARTMENT

PLAT OF PART OF NE¹/₄ SEC. 33 T21N R9E S40 PM, IN COUNTY OF CHAMPAIGN & STATE OF ILL.



SCALE 1" = 500'
 CCNC R & W MARKER
 1/2" IRON PIPE W/AL CAP
 STAMPED "ILS 1718"
 JAN 5, 1977



I hereby certify to S. Tida Siler that this plat represents a survey, made under my direction, January 5, 1977, on four tracts of land in the NE¹/₄ of Section 33, Township 21 North, Range 9 East of the 3rd Principal Meridian, in Champaign County, Ill., and described as follows:

WEST TRACT - Beginning on the North Line of said NE¹/₄ 1200 feet west of the Northeast Corner of said NE¹/₄, running thence west 76.7 feet on said N. Line, thence 90°00' to the left 117 ft., thence 90°00' to the right 200 feet, thence 90°00' to the right 117 ft. to said N. Line, thence west 212.5 feet on said N. Line to the east boundary of the right of way of U.S. Hwy. 45, thence southerly on said east boundary to the S. line of said NE¹/₄, thence east 1192.2 feet on said S. line, and thence northerly 2645 ft. to the point of beginning, encompassing a proximately 70.47 acres.

NORTH CENTRAL TRACT - Beginning on the North Line of said NE¹/₄ 1200 feet west of the NE Corner of said NE¹/₄, running west 200 feet on said N. line, thence 90°00' to the left 117 ft., thence 90°00' to the left 200 ft., and thence north 117 ft. to the R.R. for approx. 1.01 ac.

NORTHEAST TRACT - Beginning at the RR corner of said NE¹/₄, running thence west 120 ft. on the N. Line of said NE¹/₄, thence 33°15' to the left 720 ft. to the center of Saline Branch Drainage Ditch, thence northeasterly on the centerline of said Ditch to the E. line of said NE¹/₄, and thence north 700 ft. on said E. line to the P.O.M., encompassing approximately 2.11 acres.

SOUTHEAST TRACT - Beginning on the N. Line of said NE¹/₄ 150 ft. west of the NE Corner of said NE¹/₄, running thence west 1076.5 ft. on said N. Line, thence 91°03' to the left 2645 ft. to the S. line of said NE¹/₄, thence east 1103.4 ft. to the SE Corner of said NE¹/₄, thence north 2130 ft. on the E. line of said NE¹/₄ to the center of Saline Branch Drainage Ditch, thence south-westerly on the centerline of said Ditch to a point 150 ft. west of said S. line, thence north 720 ft. to the point of beginning, encompassing approximately 70.27 acres.

WILLIAM H. MOORE, Registered Illinois Land Surveyor No. 1718, Champaign, Ill.

DOCUMENT NO. 77R 3026

Associated Abstract Co. - 17 Taylor - Champaign, Illinois 61820 - Phone 356-0501

WARRANTY DEED BOOK 1106 PAGE 512

For Recorder's Certificate Only

STATE OF ILLINOIS }
CHAMPAIGN COUNTY } SS
Filed for record in the Recorder's Office
of said county.

FEB 15 1977 - 12 35 PM

Recorded in Book 1106
of Records on Page 512

Robert C. Martin
Recorder of Deeds

THE GRANTORS, TIDA EHLER, a widow, and
VERNON LEE EHLER,

~~XXXXXX~~ ~~XXXX~~ of, in 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, CONVEY AND WARRANT to
the GRANTEE, EHLER BROS. CO.,
an Illinois corporation,

of the ~~of~~ County of Champaign, and State
of Illinois, the following described real estate: A tract of approximately 2.11 acres
in the Northeast Quarter of Section 33, Township 21 North, Range 9 East of the Third Principal
Meridian, in Champaign County, Illinois, described as follows:

The parcel known as the Northeast Tract, as described on the plat
and survey made by Vail H. Moore, registered Illinois Land
Surveyor No. 1718, dated January 5, 1977, which plat and certificate
of survey thereto attached was filed for record on February 8, 1977,
and appears of record at Page 72 of Book 1106 of the records in
the Recorder's Office of said Champaign County, and which Northeast
Tract is described as follows, viz: Beginning at the NE Corner of
said NE $\frac{1}{4}$, running thence west 150 ft. on the N. Line of said
NE $\frac{1}{4}$, thence 89°08' to the left 720 ft. to the center of Saline Branch
Drainage Ditch, thence northeasterly on the centerline of said Ditch
to the E. Line of said NE $\frac{1}{4}$, and thence north 506 ft. on said E. Line
to the P.O. B., encompassing approximately 2.11 acres,

- Subject to: (1) Real estate taxes for the year 1976 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 12th day of February, 1977.

Tida Ehler
Tida Ehler
Vernon Lee Ehler
Vernon Lee Ehler

STATE OF ILLINOIS }
CHAMPAIGN COUNTY } SS

I, the undersigned, a Notary Public in and for said County and State
aforesaid, DO HEREBY CERTIFY, that Tida Ehler, a widow,
and Vernon Lee Ehler,
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 12th
day of February, A.D. 1977.

Lawrence R. Hatch Notary Public



Deed Prepared By: <u>Hatch & Baker, Lawyers</u> <u>113 N. Neil Street</u> <u>P.O. Box 578</u> <u>Champaign, IL 61820</u>	Send Tax Bill To: <u>Ehler Bros. Co.</u> <u>R.R. #1</u> <u>Thomasboro, IL 61878</u>
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Exempt under provisions of Paragraph (e), Section 4, Real Estate Transfer Tax Act.
Date February 12, 1977 Signature L.R. Hatch atty.
Buyer, Seller or Representative

986-V-20 Site Images



From east side of property facing NW – shed used to be where semi is



From east side of property facing west – shed was between the trailers and the semi

PRELIMINARY DRAFT

986-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: ***{October 29, 2020}***

Petitioners: **Ehler Bros. Co., represented by Dustin Ehler**

Request: **Authorize a variance for an average lot width of 150 feet in lieu of the minimum required 200 feet average lot width in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 29, 2020**, the Zoning Board of Appeals of Champaign County finds that:

1. Ehler Bros. Co., PO Box 546, Thomasboro, represented by Dustin Ehler, 510 N West St, Gifford, own the subject property.
2. The subject property is a 2.11 acre tract of land located in the Northeast corner of the Northeast Quarter of Section 33, Township 21N Range 9E in Rantoul Township and commonly known as the Ehler Bros. Co. facility on the south side of CR 2500N (County Highway 11), with an address of 1496 CR 2500N, Thomasboro.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is located within the one-and-one-half miles of the Village of Thomasboro, a municipality with zoning. Municipalities within one-and-one-half miles of the subject property do not have protest rights on a variance, but are notified of such cases.
 - B. The subject property is located within Rantoul Township, which has a Planning Commission. Townships with Planning Commissions have protest rights on a variance, and are notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is a 2.11 acre tract and is currently zoned AG-1 Agriculture. Land use is agriculture.
 - B. Land to the north is zoned B-1 Rural Trade Center, and is an Ehler Bros. facility.
 - C. Land to the east and west is zoned AG-1 Agriculture and is farmland in production.
 - D. Land to the south is zoned AG-1 Agriculture. There is a cell tower directly south of the subject property, surrounded by farmland in production.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the Site Plan for the subject property:
 - A. There are no existing features on the subject property; a 72 feet by 252 feet pole shed built in 1978 was destroyed by high winds in early 2020.
 - B. The petitioners are requesting the variance to bring the lot into compliance.
 - C. There are no previous Zoning Use Permits for the subject property:
 - (1) No permit was found on file for the pole shed built in 1978.
 - D. There are no previous zoning cases for the subject property.
 - E. The required variance is as follows:
 - (1) Authorize a variance for an average lot width of 150 feet in lieu of the minimum required 200 feet average lot width in the AG-1 Agriculture Zoning District.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variance:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (capitalized words are defined in the Ordinance):
- (1) “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.
 - (2) “LOT LINES” are the lines bounding a LOT.
 - (3) “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.
 - (4) “PLAT” is a map, plan or layout showing the SUBDIVISION of land and indicating the location and boundaries of individual LOTS.
 - (5) “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 9.1.9 C. 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. Minimum average lot width in the AG-1 Agriculture District is established in Section 5.3 of the *Zoning Ordinance* as 200 feet.

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 lot was created prior to Ehler Bros ownership. The lot was originally used to solely warehouse farm equipment and eventually it was used for commercial agriculture as well.”**
- B. Regarding the subject property lot’s creation:
- (1) The minimum lot width requirement of 200 feet in the AG-1 Zoning District was established with the adoption of the Zoning Ordinance on October 10, 1973.
- a. The land was in agricultural production in 1973, with no buildings present.
- (2) The first appearance of the 2.11 acre lot was in a Survey created by Vail H. Moore recorded as Document No. 77R02629 on February 8, 1977.
- a. The Survey was created in compliance with the Illinois Plat Act, but not in compliance with the Zoning Ordinance. While not a common occurrence, this is not the first or last time a Survey has been recorded creating a lot that did not comply with the Zoning Ordinance.
- (3) Ehler Bros. Co. acquired the lot on February 12, 1977 per Warranty Deed recorded as Document No. 77R03026 on February 15, 1977.

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, **“Cannot acquire the appropriate permit without obtaining a variance.”**
- B. Regarding the proposed Variance: without the proposed variance, the Petitioner would not be able to receive a building 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.”**

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, **“Obtaining the variance will allow us to properly utilize the lot for our day to day operations in accordance with County zoning.”**

PRELIMINARY DRAFT**Case 986-V-20**

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- B. Regarding the proposed variance for an average lot width of 150 feet in lieu of the minimum required 200 feet; the required variance for average lot width is 75% of the minimum requirement, for a variance of 25%.
- C. Regarding the proposed Variance, besides the importance of accommodating onsite wastewater treatment and disposal as part of the basis for the average lot width requirement, other considerations are as follows:
 - (1) Adequate light and air: The subject property has no buildings, and is surrounded by agricultural related uses.
 - (2) Separation of structures to prevent conflagration: The subject property is within the Thomasboro Fire Protection District and the station is approximately 0.5 road miles from the subject property. There are no structures on the subject property.
 - (3) Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.

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: **“No inherent changes will be made to the lot.”**
 - B. The Township Road Commissioner has been notified of this variance, and no comments have been received.
 - C. The Thomasboro Fire Chief has been notified of this case, and no comments have been received.
 - D. The nearest structures on adjacent property are two grain bins approximately 50 feet east of the subject property.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

- 12. Generally regarding and other circumstances which justify the Variance: the Petitioner did not provide a response on the application.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 13. Regarding proposed special conditions of approval:
 - A. **No special conditions are currently proposed.**

DOCUMENTS OF RECORD

1. Variance Application received October 13, 2020, with attachment:
 - A Site Plan
2. Survey by Vail H. Moore recorded as Document No. 77R02629 on February 8, 1977
3. Warranty Deed for subject property recorded as Document No. 77R3026 on February 15, 1977
4. Preliminary Memorandum dated October 20, 2020, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received October 13, 2020
 - C Survey by Vail H. Moore recorded as Document No. 77R02629 on February 8, 1977
 - D Warranty Deed recorded as Document No. 77R3026 on February 15, 1977
 - E Images of Subject Property taken October 2, 2020
 - F Case 986-V-20 Draft Summary of Evidence, Finding of Fact, and Final Determination dated October 29, 2020

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **986-V-20** held on **October 29, 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 CONDITIONS} {IS / IS NOT}*** in harmony with the general purpose and intent of the Ordinance because:
5. The requested variance ***{SUBJECT TO THE PROPOSED CONDITIONS} {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 CONDITIONS} {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:}***

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 **986-V-20** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner, **Ehler Bros. Co.**, to authorize the following variance in the AG-1 Agriculture Zoning District:

Authorize a variance for an average lot width of 150 feet in lieu of the minimum required 200 feet average lot width, per Section 5.3 of the Champaign County Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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

SIGNED:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date