

CASE NO. 098-V-23

PRELIMINARY MEMORANDUM

JUNE 21, 2023

Petitioner: **Ross Mansfield**

Request: **Authorize a variance for an existing 5-acre tract in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Subject Property: **An existing 5-acre tract in the North Half of the Southwest Quarter of the Northwest Quarter of Section 4, Township 21 North, Range 8 East of the Third Principal Meridian in Condit Township, with an address of 2974 CR 800E, Dewey.**

Site Area: **5 acres**

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

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

BACKGROUND

The petitioner purchased the five-acre lot in 2022 in order to establish a tree farm. He has since decided he would like to build a single-family residence on the subject property. A variance is required because the five-acre lot created in 2006 exceeds the maximum three acres allowed on Best Prime Farmland. Establishing a non-agricultural use on the parcel triggered the need for the variance.

The P&Z Department has not received any comments regarding the proposed variance, and staff does not propose any special conditions of approval.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

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

EXTRATERRITORIAL JURISDICTION

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

The subject property is located within Condit Township, which does not have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and do receive notification of such cases.

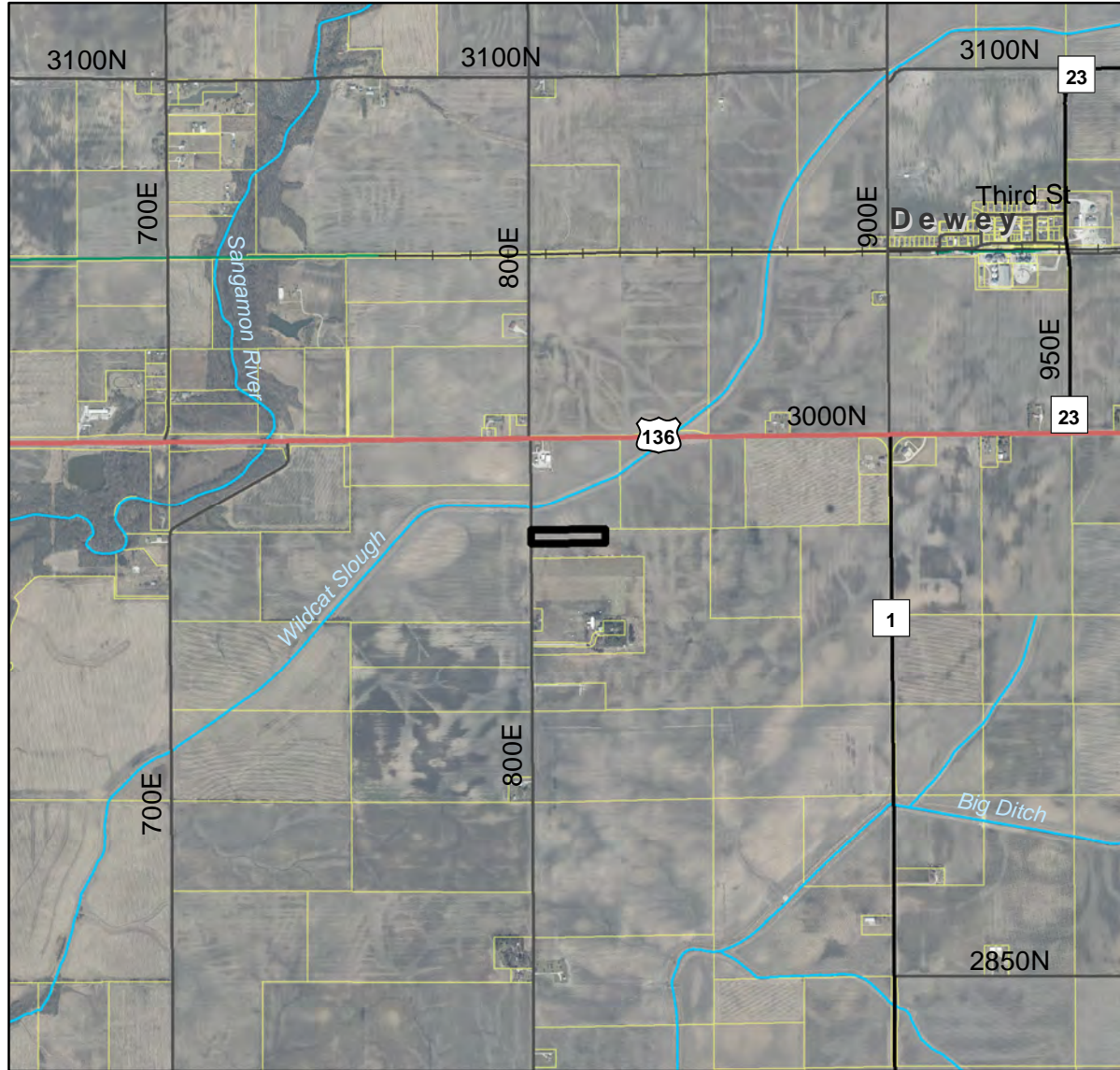
ATTACHMENTS




- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received April 14, 2023
- C 2020 Annotated aerial photo
- D Soils Map
- E Site Images taken May 3, 2023
- F Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 098-V-23 dated June 29, 2023

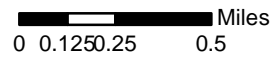
Location Map

Case 098-V-23
June 29, 2023

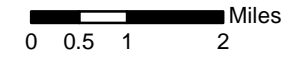
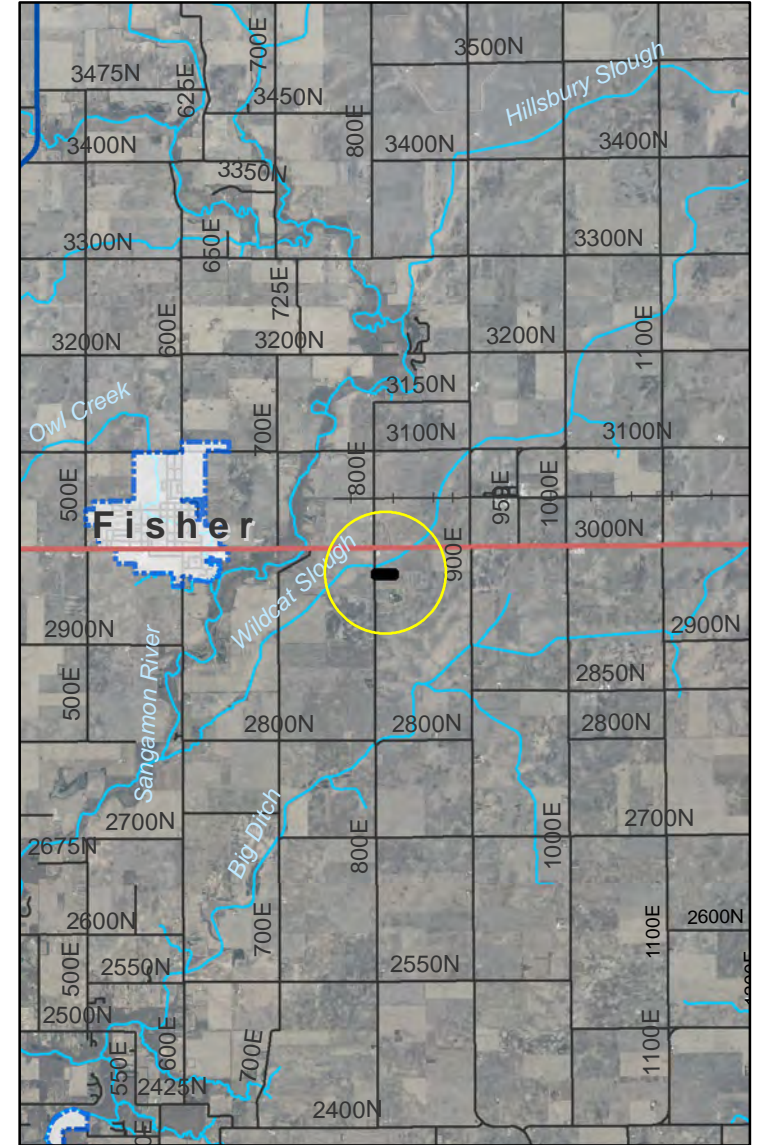
Subject Property



-  Subject Property
-  Parcels
-  Municipal Boundary



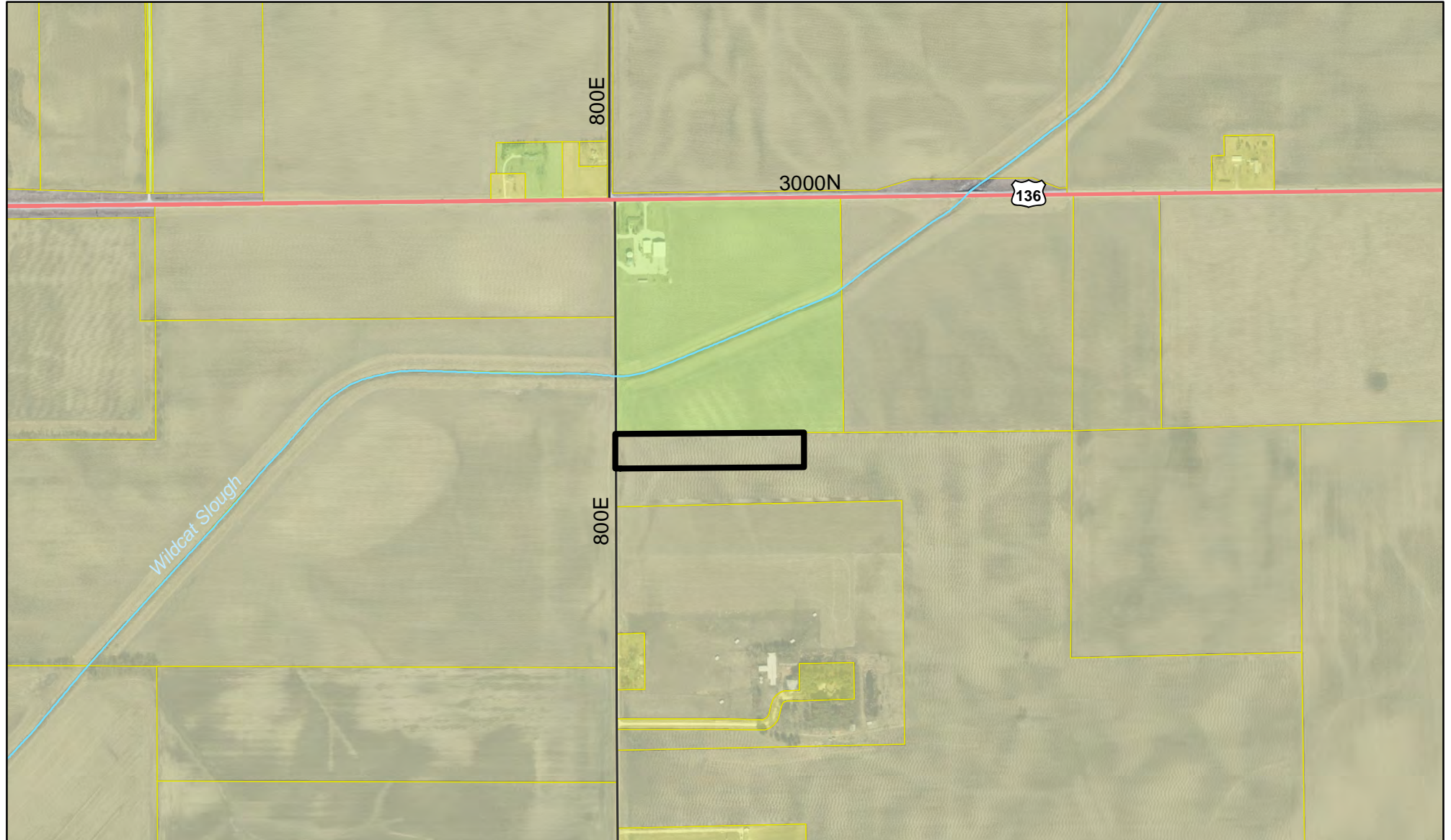
Property location in Champaign County






Champaign County
Department of
**PLANNING &
ZONING**

Land Use Map

Case 098-V-23
June 29, 2023



-  Subject Property
-  Parcels
-  Agriculture
-  Ag/Residential
-  Residential

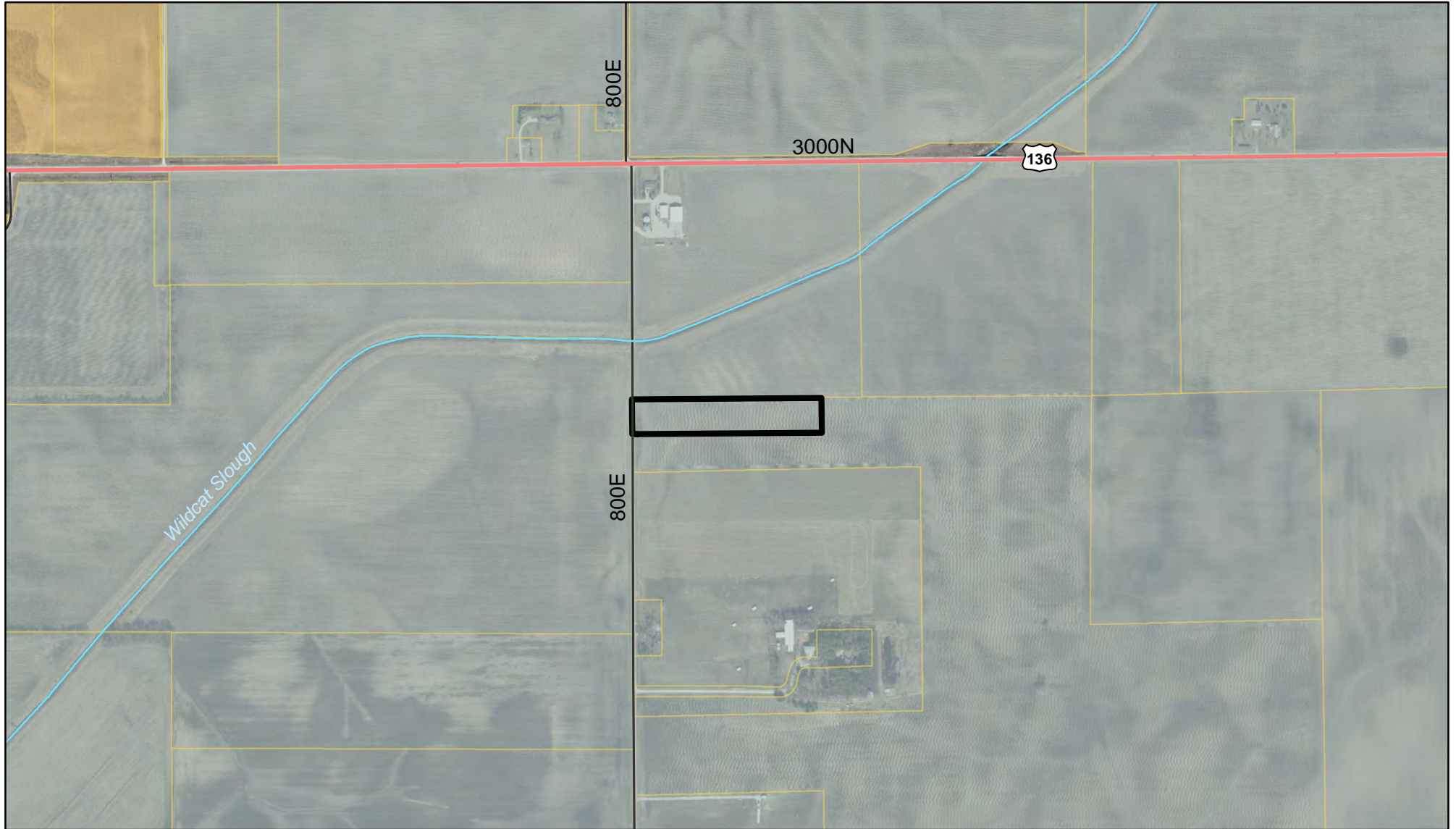
0 200 400 800 Feet



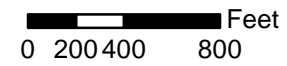
Champaign County
Department of
PLANNING &
ZONING

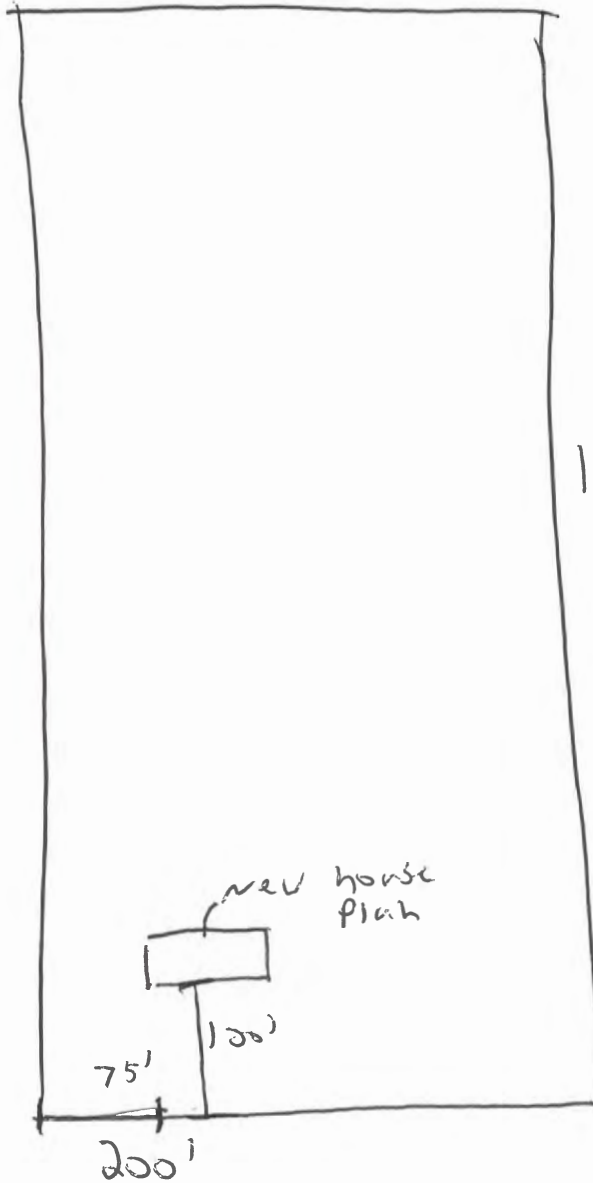
Zoning Map

Case 098-V-23
June 29, 2023



-  Subject Property
-  AG-1 Agriculture
-  Parcels
-  CR Conservation Recreation





1090'

- House Ruck on
Block foundation
~ 1200 sq ft.

← N

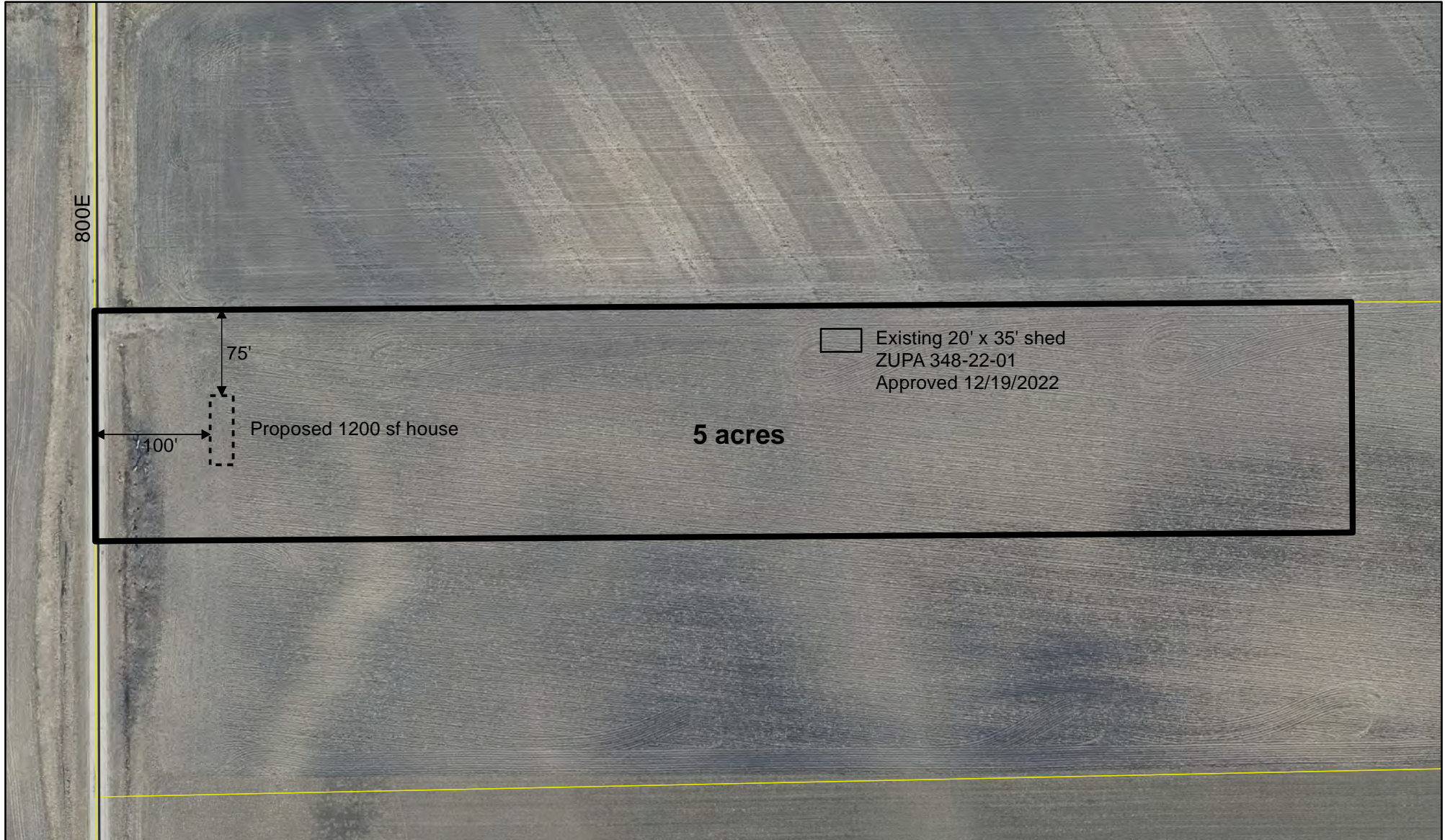
RECEIVED



APR 14 2023

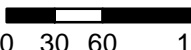
CHAMPAIGN CO. P & Z DEPARTMENT

Annotated 2020 aerial photo

Case 098-V-23
June 29, 2023



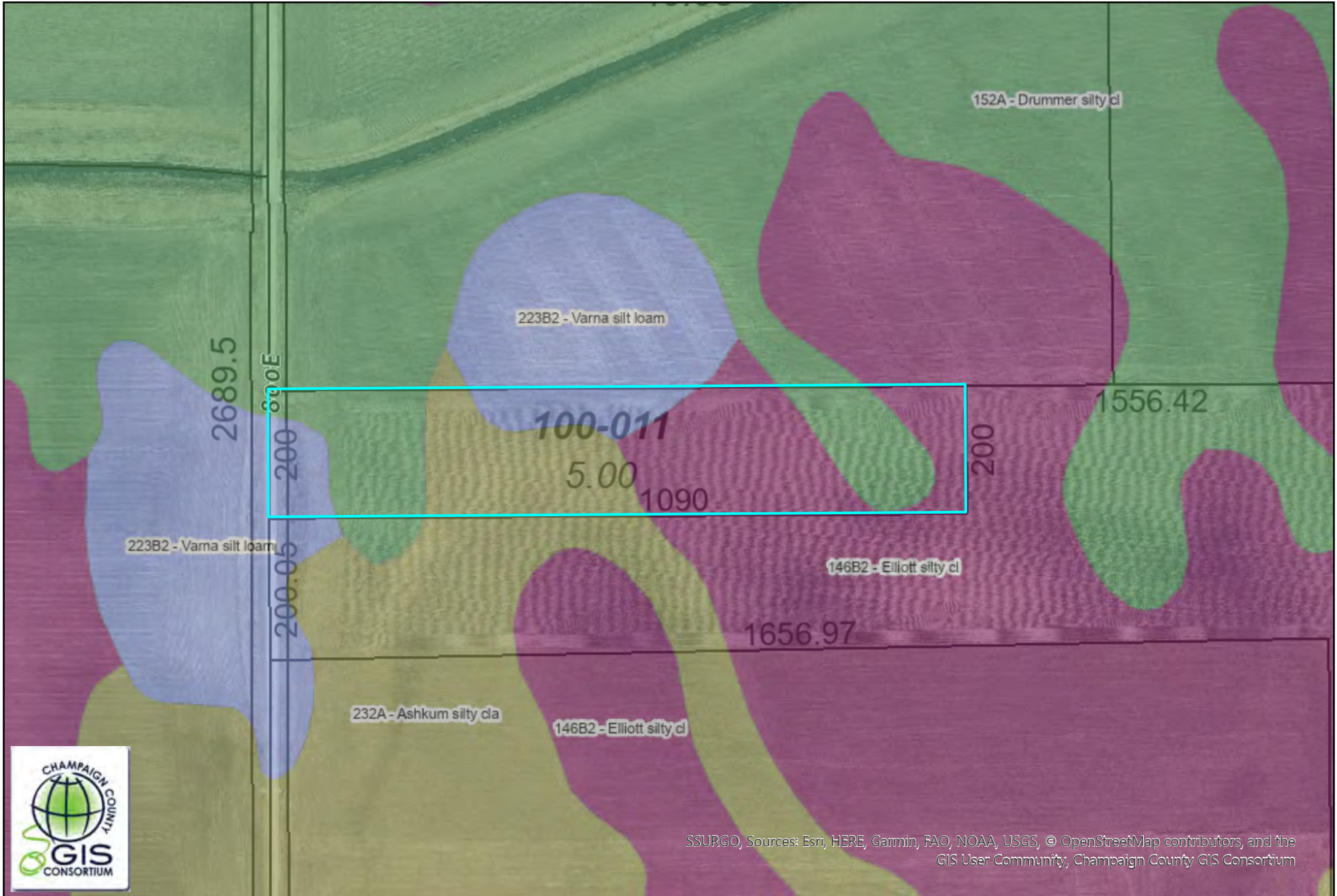
 Subject Property
 Parcels

 Feet
0 30 60 120



Champaign County
Department of
PLANNING &
ZONING

Soils Map 1:200



0.03
mi

This map was prepared with geographic information system (GIS) data created by the Champaign County GIS Consortium (CCGIS), or other CCGIS member agency. These entities do not warrant or guarantee the accuracy or suitability of GIS data for any purpose. The GIS data within this map is intended to be used as a general index to spatial information and not intended for detailed, site-specific analysis or resolution of legal matters. Users assume all risk arising from the use or misuse of this map and information contained herein. The use of this map constitutes acknowledgement of this disclaimer.



098-V-23 Site Images



From CR 800E facing SE to subject property



From CR 800E facing east to subject property

PRELIMINARY DRAFT

098-V-23

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

Final Determination: ***{GRANTED/GRANTED WITH SPECIAL CONDITION(S)/DENIED}***

Date: ***{June 29, 2023}***

Petitioners: **Ross Mansfield**

Request: **Authorize a variance for an existing 5-acre tract in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Table of Contents

General Application Information..... 2
Requested Variance 2
Specific Ordinance Requirements.....3 - 4
Variance Evidence 4 - 6
Documents of Record..... 7
Case 098-V-23 Findings of Fact..... 8
Case 098-V-23 Final Determination 9

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 29, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Ross Mansfield, 2974 CR 800E, Dewey, owns the subject property.
2. The subject property is an existing 5-acre tract in the North Half of the Southwest Quarter of the Northwest Quarter of Section 4, Township 21 North, Range 8 East of the Third Principal Meridian in Condit Township, with an address of 2974 CR 800E, Dewey.
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 Condit Township, which does not have a Planning Commission. Townships with Plan Commissions have protest rights on a variance and do receive notification of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The 5-acre subject property is zoned AG-1 Agriculture and is in use as a tree farm. The petitioner would like to construct a residence on the subject property.
 - B. Land to the north is zoned AG-1 Agriculture and is residential and agricultural in use.
 - C. Land to the south, west and east of the subject property is zoned AG-1 Agriculture and is in agricultural production.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Site Plan received on March 2, 2023, indicates the following:
 - (1) There are no existing structures on the subject property.
 - (2) Proposed construction includes the following:
 - a. A 1,200 square foot single-family residence.
 - B. The following are Zoning Use Permits for the subject property.
 - (1) ZUPA #348-22-01 was approved on December 19, 2022 to establish a tree farm.
 - C. There are no previous zoning cases for the subject property.
 - D. The requested variance is for an existing 5-acre lot in lieu of the maximum area of 3 acres for lots on soils that are best prime farmland, per Section 5.3 of the Zoning Ordinance.

PRELIMINARY DRAFT**Case 098-V-23**

Page 3 of 9

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
- (1) “AGRICULTURE” is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry and the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.
 - (2) “AREA, LOT” is the total area within the LOT LINES.
 - (3) “BEST PRIME FARMLAND” is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
 - (a) Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation and Site Assessment (LESA) System;
 - (b) Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA System; or
 - (c) Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils, as determined by the Champaign County LESA System.
 - (4) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (5) “LOT LINES” are the lines bounding a LOT.
 - (6) “VARIANCE” is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
- B. Section 5.3 of the Zoning Ordinance Footnote 13 states:

PRELIMINARY DRAFT

13. The following maximum LOT AREA requirements apply in the CR, AG-1 and AG-2 DISTRICTS:
- A) LOTS that meet all of the following criteria may not exceed a maximum LOT AREA of three acres:
- 1) The LOT is RRO-exempt;
 - 2) The LOT is made up of soils that are BEST PRIME FARMLAND; and
 - 3) The LOT is created from a tract that had a LOT AREA greater than or equal to 12 acres as of January 1, 1998.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Paragraph 9.1.9 E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner testified the following on the application: **“The 5-acre lot was created in 2006 as a legal lot per Illinois Plat Act but not in compliance with the Zoning Ordinance.”**

PRELIMINARY DRAFT**Case 098-V-23**

Page 5 of 9

- B. Regarding the soils that make up the subject property:
- (1) The soil on the 5-acre lot is BEST PRIME FARMLAND and consists of 152A Drummer silty clay loam, 146B2 Elliott silty clay loam, 232A Ashkum silty clay, and 223B2 Varna silt loam, and has an average LE of 88.
 - a. The 5-acre lot is considered BEST PRIME FARMLAND because at least 10% of the lot is comprised of soils in agricultural value groups 1, 2, 3 or 4 as determined by the Champaign County LESA System.
- C. The 5-acre lot was created in 2006 in compliance with the Illinois Plat Act so that its creation would not require a Plat of Subdivision, but this lot size exceeds the 2005 Zoning Ordinance requirement for a maximum 3-acre lot size on Best Prime Farmland.

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 testified the following on the application: **“Without proposed variance a residence could not be built.”**
 - B. Without the proposed variance, no Zoning Use Permit can be approved for the subject property.

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 testified the following on the application: **“The lot was created in 2006 prior to current owner purchase in 2022.”**

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 testified the following on the application: **“Single family is permitted in AG-1.”**
 - B. The maximum lot size on best prime farmland requirement was first established by Ordinance No. 726 (Case 444-AT-04) on July 22, 2004. It was made permanent with Ordinance No. 773 approved December 20, 2005.
 - (1) The 5-acre lot was created in 2006.
 - C. Ordinance No. 914 (Case 711-AT-12) approved on November 27, 2012, revised the best prime farmland definition to have a Land Evaluation (LE) rating of 91 or higher rather than the previous rating of 85 or higher, and also included the rule that any development site that includes a significant amount (10% or more of the area proposed to be developed) of

PRELIMINARY DRAFT

Agriculture Value Groups 1, 2, 3 and/or 4 soils, as determined by the Champaign County LESA System would be considered Best Prime Farmland.

- (1) The 5-acre lot meets the current definition of Best Prime Farmland, and therefore a variance is necessary.
- D. The 5-acre lot area is 166% of the required three acre maximum, for a variance of 66%.
- E. The majority of land will be used for agriculture production (tree farm).
- F. The requested variance is not prohibited by the *Zoning Ordinance*.

GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The Petitioners testified the following on the application: **“Minimal.”**
 - B. The Condit Township Highway Commissioner has been notified of this variance, and no comments have been received.
 - C. The Condit Township Supervisor has been notified of this variance, and no comments have been received.
 - D. The Sangamon Valley Fire Protection District has been notified of this variance, and no comments have been received.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

12. Generally regarding and other circumstances which justify the Variance:
 - A. The Petitioners testified the following on the application: **“Tree farm will take up a majority of the lot. The house is being built to protect assets. With not living there a high amount of money in equipment is sitting.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:
No special conditions are proposed at this time.

PRELIMINARY DRAFT

Case 098-V-23
Page 7 of 9

DOCUMENTS OF RECORD

1. Application for Variance Permit received April 14, 2023
2. Site Plan received April 14, 2023
3. Preliminary Memorandum dated June 21, 2023, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received April 14, 2023
 - C 2020 Annotated aerial photo
 - D Soils Map
 - E Site Images taken May 3, 2023
 - F Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 098-V-23 dated June 29, 2023

SUMMARY DRAFT FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **098-V-23** held on **June 29, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances ***{DO / DO NOT}*** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because:
 - a. ***The 5-acre lot was created in 2006 in compliance with the Illinois Plat Act so that its creation would not require a Plat of Subdivision, but this lot size exceeds the 2005 Zoning Ordinance requirement for a maximum 3-acre lot size on Best Prime Farmland.***
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied ***{WILL / WILL NOT}*** prevent reasonable or otherwise permitted use of the land or structure or construction because:
 - a. ***Without the proposed variance, no Zoning Use Permit for construction could be approved.***
3. The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant because:
 - a. ***The 5-acre lot was created in 2006, and the petitioner purchased the lot in 2022.***
4. The requested variance ***{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}*** in harmony with the general purpose and intent of the Ordinance because:
 - a. ***Most of the subject property will be used as a tree farm.***
5. The requested variance ***{SUBJECT TO THE PROPOSED CONDITION} {WILL / WILL NOT}*** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because:
 - a. ***Relevant jurisdictions have been notified of this case, and no comments have been received.***
6. The requested variance ***{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}*** the minimum variation that will make possible the reasonable use of the land/structure because:
 - a. ***The lot cannot be further subdivided without a variance and a Plat of Subdivision.***
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

PRELIMINARY DRAFT

Case 098-V-23
Page 9 of 9

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 **098-V-23** is hereby *{GRANTED/ GRANTED WITH CONDITIONS/ DENIED}* to the petitioner, **Ross Mansfield**, to authorize the following:

Authorize a variance for an existing 5-acre tract in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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

SIGNED:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals
Date