

# CASE NO. 105-V-23

PRELIMINARY MEMORANDUM  
AUGUST 9, 2023

Petitioner: **Ed & Denise Sexton**

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

Subject Property: **Part of a 70-acre tract and part of a 55.44-acre tract totaling 5 acres in the Northwest Quarter of Section 10, Township 21 North, Range 9 East of the Third Principal Meridian in Rantoul Township, surrounding the 4.7-acre lot with an address of 2876 CR 1500E, Rantoul.**

Site Area: **5 acres**

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

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

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## BACKGROUND

The petitioners own a 4.7-acre lot and would like to create a 5-acre lot surrounding it as a buffer. The proposed lot is on Best Prime Farmland, which has a 3-acre maximum per the Zoning Ordinance.

No land will be taken out of production should the variance be approved. A soils map can be found in Attachment E.

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**

<b>Direction</b>	<b>Land Use</b>	<b>Zoning</b>
Onsite	Residential, Agriculture	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Agriculture, Residential	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

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**EXTRATERRITORIAL JURISDICTION**

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Rantoul, a municipality with zoning. Municipalities do not have protest rights on a variance and do not receive notification of such cases.

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

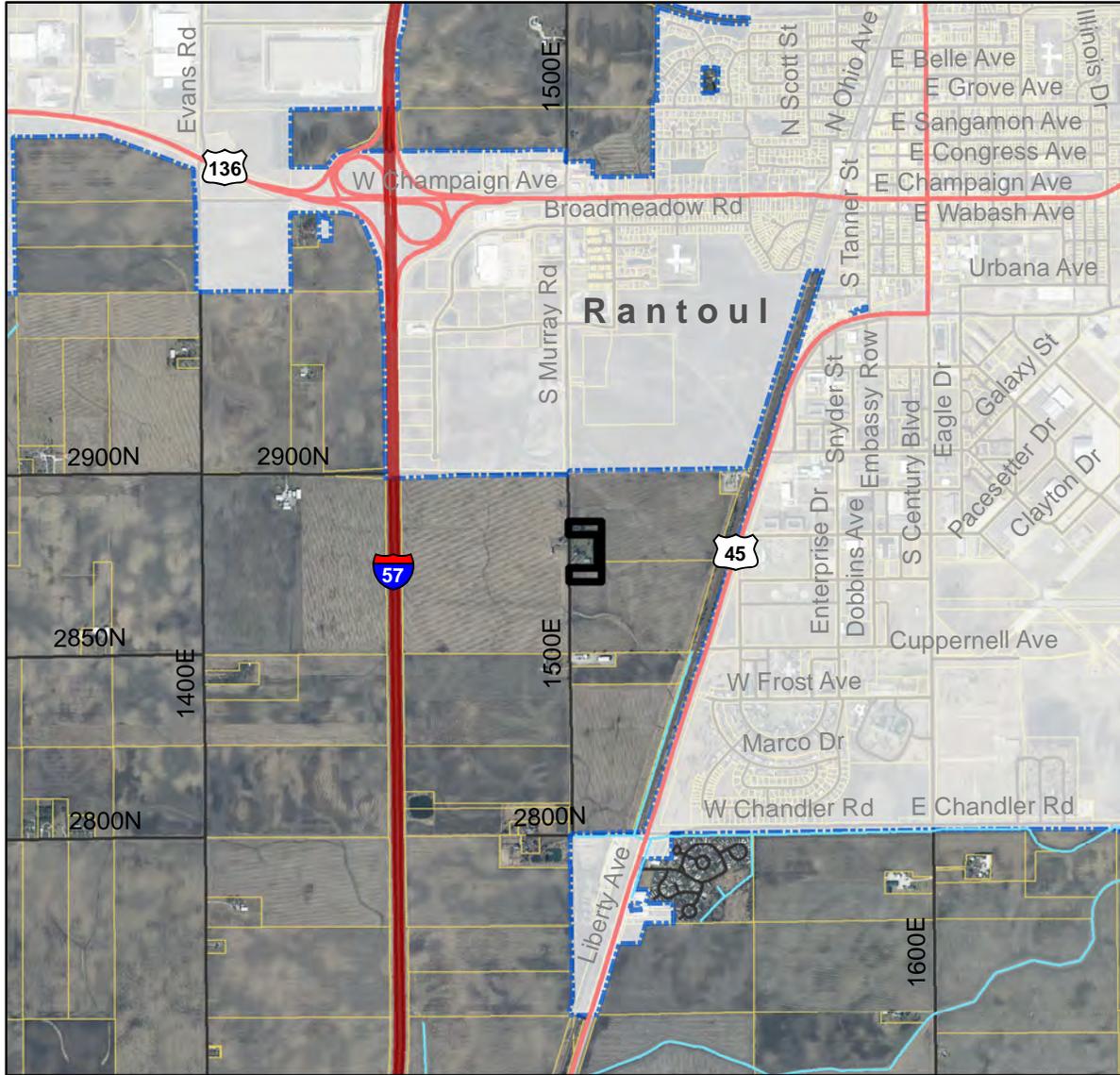
**ATTACHMENTS**

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received May 23, 2023
- C 2020 annotated aerial photo
- D 1973 aerial photo
- E Soils Map
- F Warranty Deed for James acreage dated March 1, 1918
- G Warranty Deed for James acreage dated January 2, 1987
- H Site Images taken June 2, 2023
- I Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 105-V-23 dated August 17, 2023

# Location Map

Case 105-V-23  
August 17, 2023

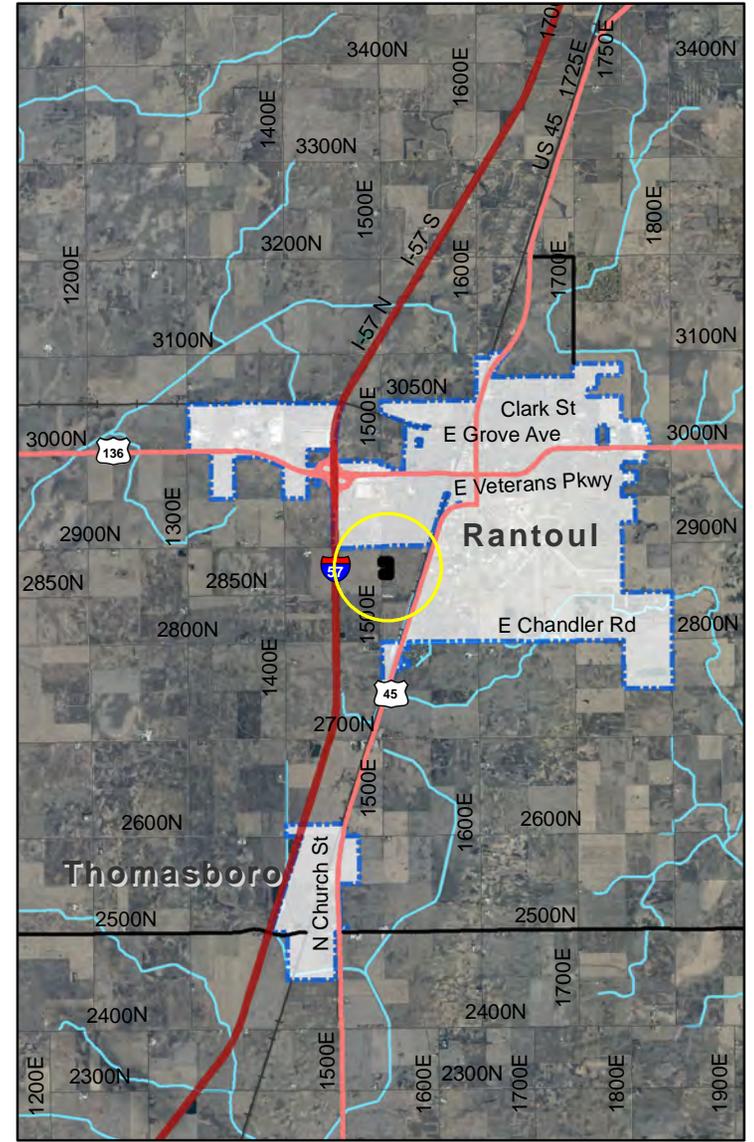
### Subject Property



-  Proposed Lot
-  Municipal Boundary
-  Parcels

0 0.25 0.5 Miles

### Property location in Champaign County

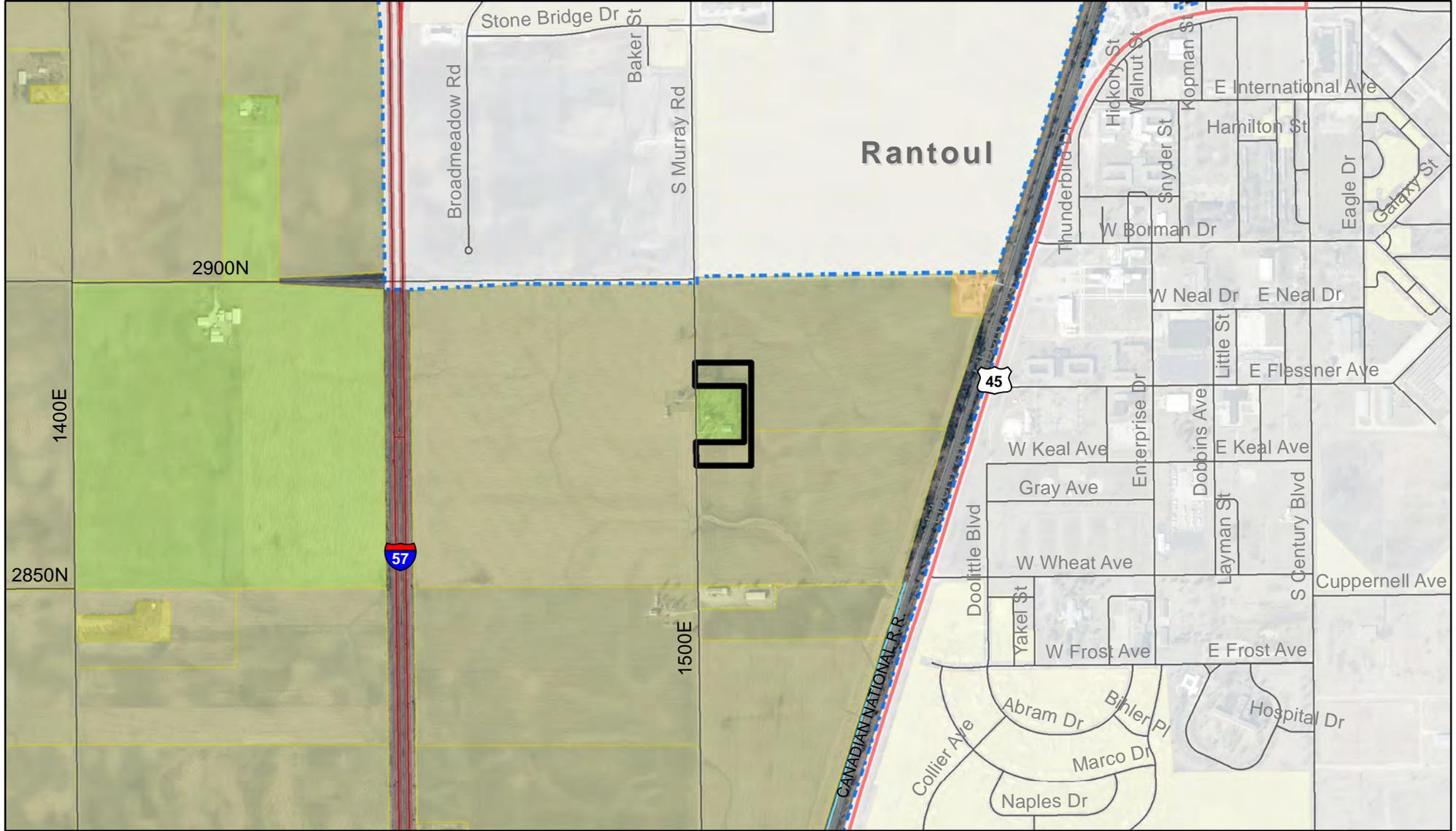


0 0.5 1 2 Miles

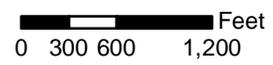


# Land Use Map

Case 105-V-23  
August 17, 2023



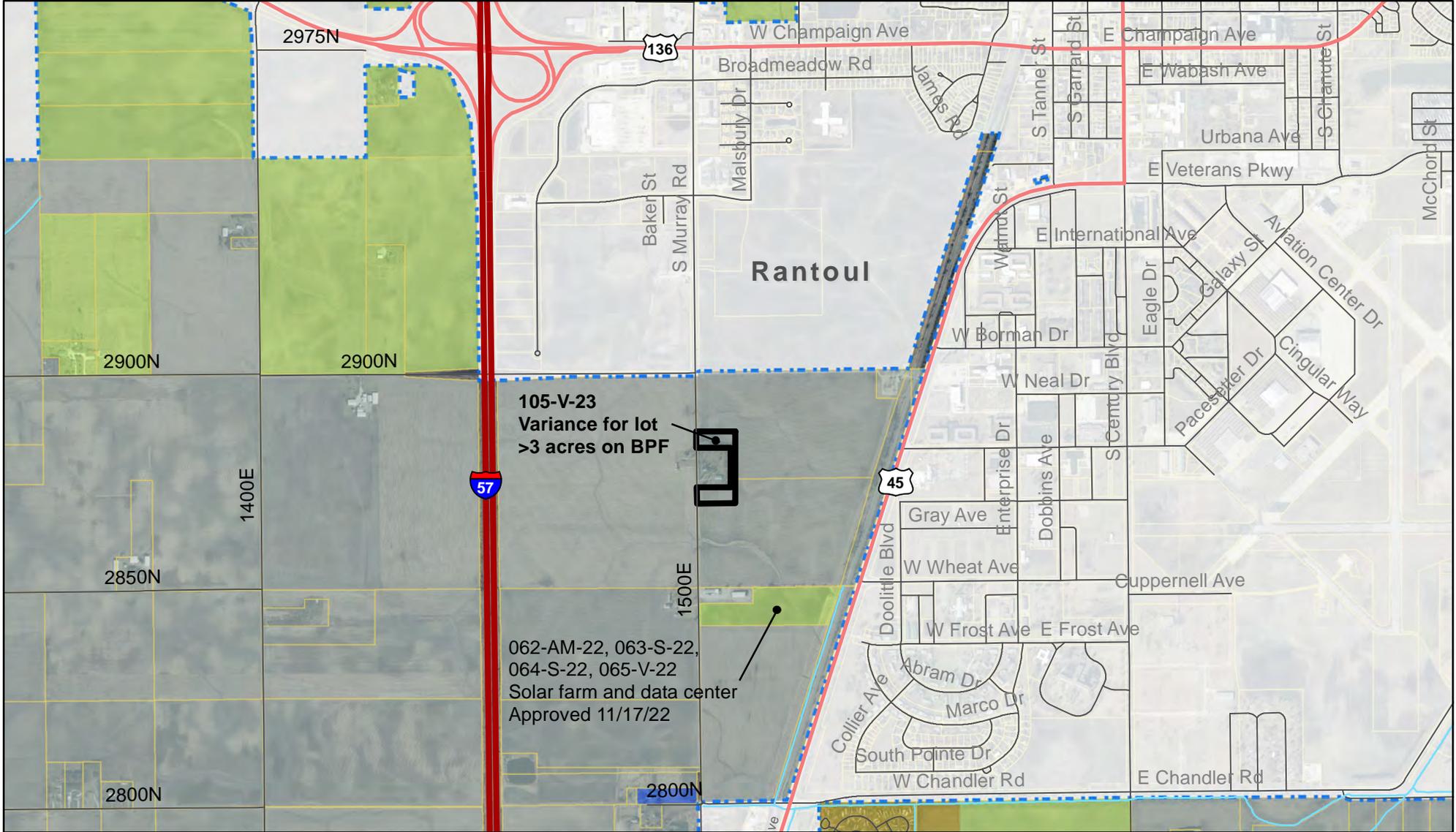
- Proposed Lot
- Municipal Boundary
- Agriculture
- Ag/Residential
- Residential
- Utilities



Champaign County  
Department of  
PLANNING &  
ZONING

# Zoning Map

Case 105-V-23  
August 17, 2023



**105-V-23**  
Variance for lot  
>3 acres on BPF

062-AM-22, 063-S-22,  
064-S-22, 065-V-22  
Solar farm and data center  
Approved 11/17/22

- Proposed Lot
- Parcels
- AG-2 Agriculture
- R-5 Manufactured Home Park
- AG-1 Agriculture
- B-4 General Business

Feet  
 0 425 850 1,700



Champaign County  
Department of  
**PLANNING &  
ZONING**



Add 5 a  
H.88 ac  
Can size up  
back strip  
and more.



0.01



This map application 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 application is intended to be used as a general index to spatial information and not to depend on a scaled, site-specific analysis or resolution of legal matters. Users assume all liability from the use or misuse of this information and acknowledge acceptance of the use of this application constitutes acknowledgment of this disclaimer.

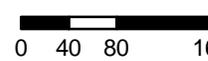
NOF

# Annotated 2020 Aerial

Case 105-V-23  
August 17, 2023



 Proposed 5-acre Lot  
 Parcels

 Feet  
0 40 80 160



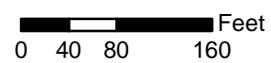
Champaign County  
Department of  
**PLANNING &  
ZONING**

# Annotated 1973 Aerial

Case 105-V-23  
August 17, 2023

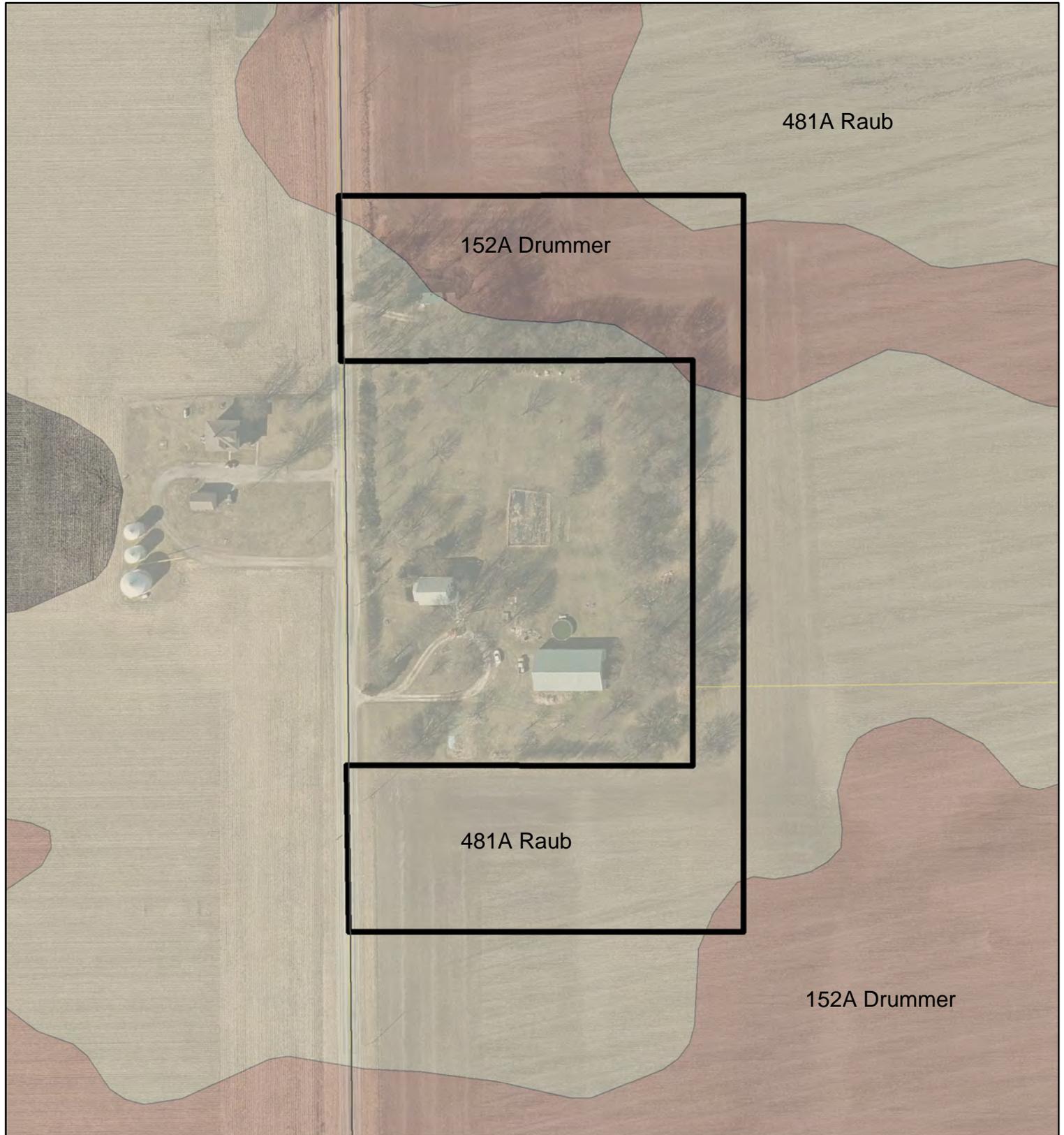


-  Proposed 5-acre Lot
-  Parcels

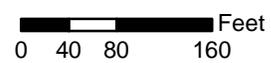


# Soils Map

Case 105-V-23  
August 17, 2023



-  Proposed 5-acre Lot
-  Drummer silty clay loam
-  Raub silt loam





Associated - Champaign Office • Chicago Title Insurance Company  
201 North Neil - Champaign, Illinois 61820 - Phone 356-0501



DOCUMENT NO. \_\_\_\_\_

For Recorder's Certificate Only

# WARRANTY DEED

THE GRANTOR, DIANE G. ATKINSON, a widow  
not since remarried

Doc # 877 1592  
CHAMPAIGN COUNTY, ILL  
BOOK 1502 PAGE 678

'87 JAN 22 PM 1 03

*Deanna S. Galbraith*  
RECORDER

600  
1-20  
700

of the Village of Rantoul, 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, DARWIN W. JAMES

of the Village of Rantoul, County of Champaign, and State  
of Illinois, the following described real estate: An undivided 1/2 interest in:

The South 1/2 of the Northwest 1/4 of Section 10, Township 21 North, Range 9 East of the Third Principal Meridian except the Illinois Central Railroad right-of-way; and also a tract described as follows: Commencing at an iron pipe survey monument found at the Northwest corner of the Northwest 1/4 of Section 10, Township 21 North, Range 9 East of the Third Principal Meridian; thence Southerly along the West line of the Northwest 1/4 of said Section 10 approximately 57 rods to the place of beginning; thence East to the East edge of the line of trees running North and South on the farmstead border; thence South to the quarter quarter section line of said Section 10 (a point 80 rods North of the South edge of the farm and 80 rods South of the North edge of the farm); thence West along said quarter quarter section line of said Section 10 to the West line of the Northwest 1/4 of said Section 10; thence Northerly along the West line of the Northwest 1/4 of said Section 10 approximately 23 rods to the place of beginning; all located in Champaign County, Illinois and containing in total approximately 60.14 acres.

- Subject to:
- (1) Real estate taxes for the year 19 86 and subsequent years;
  - (2) Covenants, conditions, restrictions and easements apparent or of record;
  - (3) All applicable zoning laws and ordinances;

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

Dated this 2nd day of January, 1987.

*DIANE G. ATKINSON*  
DIANE G. ATKINSON

STATE OF ILLINOIS }  
CHAMPAIGN COUNTY } SS



I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY, that DIANE G. ATKINSON, a widow not since remarried 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 2nd day of January, A.D. 1987.

*Kelle Deppa*  
Notary Public

Deed Prepared By: <u>ALLEN &amp; KORKOWSKI &amp; ASSOCIATES</u> 123-125 N. Garrard Rantoul IL 61866	Send Tax Bill To: <u>Darwin W. James</u> R. R. 1, Box 20 Rantoul IL 61866
Exempt under provisions of Paragraph _____, Section 4, Real Estate Transfer Tax Act. Date <u>1-16-87</u>	Signature <i>Darwin W. James</i> Buyer, Seller or Representative

### 105-V-23 Site Images



**From CR 1500E facing SE to subject property**



**From CR 1500E facing NE to subject property**

### 105-V-23 Site Images



**From CR 1500E facing east to northern house**



**From CR 1500E facing east to southern house**

**PRELIMINARY DRAFT**

**105-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: *{August 17, 2023}*

Petitioners: **Ed & Denise Sexton**

Request: **Authorize a variance for a proposed 5-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture 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 **August 17, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioners Ed & Denise Sexton, 2876 CR 1500E, Rantoul, own the 4.7-acre lot with an address of 2876 CR 1500E. Denise is a trustee of the 55.44 acres southeast of that lot, part of which they would like to integrate into the proposed five-acre lot. They have a verbal agreement to purchase land from the owner of the 70 acres to the northeast of the 4.7-acre lot to also become part of the proposed five-acre lot.
2. The subject property is part of a 70-acre tract and part of a 55.44-acre tract totaling 5 acres in the Northwest Quarter of Section 10, Township 21 North, Range 9 East of the Third Principal Meridian in Rantoul Township, surrounding the 4.7-acre lot with an address of 2876 CR 1500E, Rantoul.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
  - A. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Rantoul, a municipality with zoning. Municipalities do not have protest rights on a variance and do not receive notification of such cases.
  - B. The subject property is located within Rantoul Township, which has a Plan 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 proposed 5-acre subject property is zoned AG-1 Agriculture and is in use as residential and agriculture.
  - B. Land surrounding the subject property is also zoned AG-1 Agriculture and is in agricultural production. There is one farmstead across the street to the west.

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. Regarding the site plan for the subject property:
  - A. The Site Plan received on May 23, 2023, indicates the following:
    - (1) Existing structures on the property include:
      - a. One single family residence on the north part of the proposed lot.
    - (2) There is no construction proposed.
  - B. There are no previous Zoning Use Permits for the subject property. The house on the property was constructed prior to the adoption of the Zoning Ordinance on October 10, 1973.
  - C. There are no previous zoning cases for the subject property.

**PRELIMINARY DRAFT****Case 105-V-23****Page 3 of 9**

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

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES**

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
- (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.

**PRELIMINARY DRAFT**

- (6) “VARIANCE” is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
- B. Section 5.3 of the Zoning Ordinance Footnote 13 states:
13. The following maximum LOT AREA requirements apply in the CR, AG-1 and AG-2 DISTRICTS:
- A) LOTS that meet all of the following criteria may not exceed a maximum LOT AREA of three acres:
- 1) The LOT is RRO-exempt;
  - 2) The LOT is made up of soils that are BEST PRIME FARMLAND; and
  - 3) The LOT is created from a tract that had a LOT AREA greater than or equal to 12 acres as of January 1, 1998.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
- a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
  - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
  - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
  - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
  - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Paragraph 9.1.9 E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

**PRELIMINARY DRAFT****Case 105-V-23****Page 5 of 9****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: **“Part of family farm for over 100 years.”**
  - B. Regarding the soils that make up the subject property:
    - (1) The soil on the proposed 5-acre lot is BEST PRIME FARMLAND and consists of 152 Drummer silty clay loam and 481A Raub silt loam, and has an average LE of 96.
  - C. The petitioners want to create a 5-acre buffer around their existing 4.7-acre property. The proposed 5-acre lot would contain a residence to the north and farmland to the south.
  - D. No land will be removed from production.

**GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE**

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. The Petitioners testified the following on the application: **“Want to add 5 acres to our existing property.”**
  - B. Without the proposed variance, the petitioners would have to get a Plat of Subdivision approved for a new lot to make the buffer on the south side. The new lot would likely then be taxed as a residential lot even though there is no desire or intent to sell the lot for development.

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

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The Petitioners testified the following on the application: **“No.”**
  - B. The petitioner seeks to create a lot that forms a buffer from potential development while minimizing the amount of change on the ground.

**GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE**

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioners testified the following on the application: **“Land that is farmed now will still be in production.”**

***PRELIMINARY DRAFT***

- B. The maximum lot size on best prime farmland requirement was first established by Ordinance No. 726 (Case 444-AT-04) on July 22, 2004. It was made permanent with Ordinance No. 773 approved December 20, 2005.
- C. Ordinance No. 914 (Case 711-AT-12) approved on November 27, 2012, revised the best prime farmland definition to have a Land Evaluation (LE) rating of 91 or higher rather than the previous rating of 85 or higher.
- D. The 5-acre lot area is 167% of the required three acre maximum, for a variance of 67%.
- E. No land is being taken out of agricultural production.
- F. The requested variance is not prohibited by the *Zoning Ordinance*.

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

- 11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
  - A. The Petitioners testified the following on the application: **“No plans to build on or change the land.**
  - B. The Triple Fork Drainage District has been notified of this variance, and no comments have been received.
  - C. The Rantoul Township Highway Commissioner has been notified of this variance, and no comments have been received.
  - D. The Rantoul Township Supervisor has been notified of this variance, and no comments have been received.
  - E. The Rantoul Fire Department 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: **“Preserve a small piece of the family farm. Provide a buffer against any future development.”**

***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 105-V-23**  
**Page 7 of 9**

**DOCUMENTS OF RECORD**

1. Application for Variance Permit received May 23, 2023, with attachment:
  - Site Plan
  
2. Preliminary Memorandum dated August 9, 2023, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan received May 23, 2023
  - C 2020 annotated aerial photo
  - D 1973 aerial photo
  - E Soils Map
  - F Warranty Deed for James acreage dated March 1, 1918
  - G Warranty Deed for James acreage dated January 2, 1987
  - H Site Images taken June 2, 2023
  - I Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 105-V-23 dated August 17, 2023

## SUMMARY DRAFT FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **105-V-23** held on **August 17, 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 petitioners want to create a 5-acre buffer around their existing 4.7-acre property and no land will be removed from production.*
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because:
  - a. *Without the proposed variance, the petitioners would have to get a Plat of Subdivision approved for a new lot to make the buffer on the south side. The new lot would likely then be taxed as a residential lot even though there is no desire or intent to sell the lot for development.*
3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because:
  - a. *The petitioner seeks to create a lot that forms a buffer from potential development while minimizing the amount of change on the ground.*
4. The requested variance ~~*{SUBJECT TO THE PROPOSED CONDITION}*~~ *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
  - a. *No land is being taken out of agricultural production.*
5. The requested variance ~~*{SUBJECT TO THE PROPOSED CONDITION}*~~ *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because:
  - a. *Relevant jurisdictions have been notified of this case, and no comments have been received.*
6. The requested variance ~~*{SUBJECT TO THE PROPOSED CONDITION}*~~ *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: *creating a lot less than five acres requires a subdivision with the Village of Rantoul.*
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

**PRELIMINARY DRAFT**

**Case 105-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 **105-V-23** is hereby *{GRANTED/ GRANTED WITH CONDITIONS/ DENIED}* to the petitioners, **Ed & Denise Sexton**, to authorize the following:

**Authorize a variance for a proposed 5-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture 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