

CASE NO. 107-V-23

PRELIMINARY MEMORANDUM

August 23, 2023

Petitioner: **Janice Fogerson**

Request: **Authorize a variance for a proposed 1.43-acre lot with an average lot width of 130 feet in lieu of the minimum required average lot width of 200 feet in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Subject Property: **Part of a 37.91-acre tract in the Northeast Quarter of the Northwest Quarter of Section 19, Township 17 North, Range 7 East of the Third Principal Meridian in Sadorus Township.**

Site Area: **1.43 of 37.91 acres**

Time Schedule for Development: **Already in use**

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

BACKGROUND

The petitioner recently inherited the 37.91-acre subject property but is only interested in keeping the two existing sheds in the northwest corner of the property. They want to split off the approximately 1.43-acre area to keep the sheds and sell the remaining land in production. The proposed average lot width of 130 feet does not meet the minimum required 200 feet, so either the lot would need to be increased in width or a variance would be required. The petitioner wants to keep the sheds for storage purposes but does not want to integrate land in agricultural production from the lot to the west that they also inherited, so the petitioner applied for the variance.

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

No comments have been received to date.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Agriculture, two sheds	AG-1 Agriculture
North	Agriculture, one residence	AG-1 Agriculture
East	Residence	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

EXTRATERRITORIAL JURISDICTION

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

The subject property is located within Sadorus Township, which does not have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

PROPOSED SPECIAL CONDITIONS

- A. A Plat of Survey for the proposed 1.43-acre lot must be recorded at the Champaign County Recorder of Deeds within 180 days of approval of Case 107-V-23.**

The special condition stated above is required to ensure the following:

That the lot is properly created per the Illinois Plat Act.

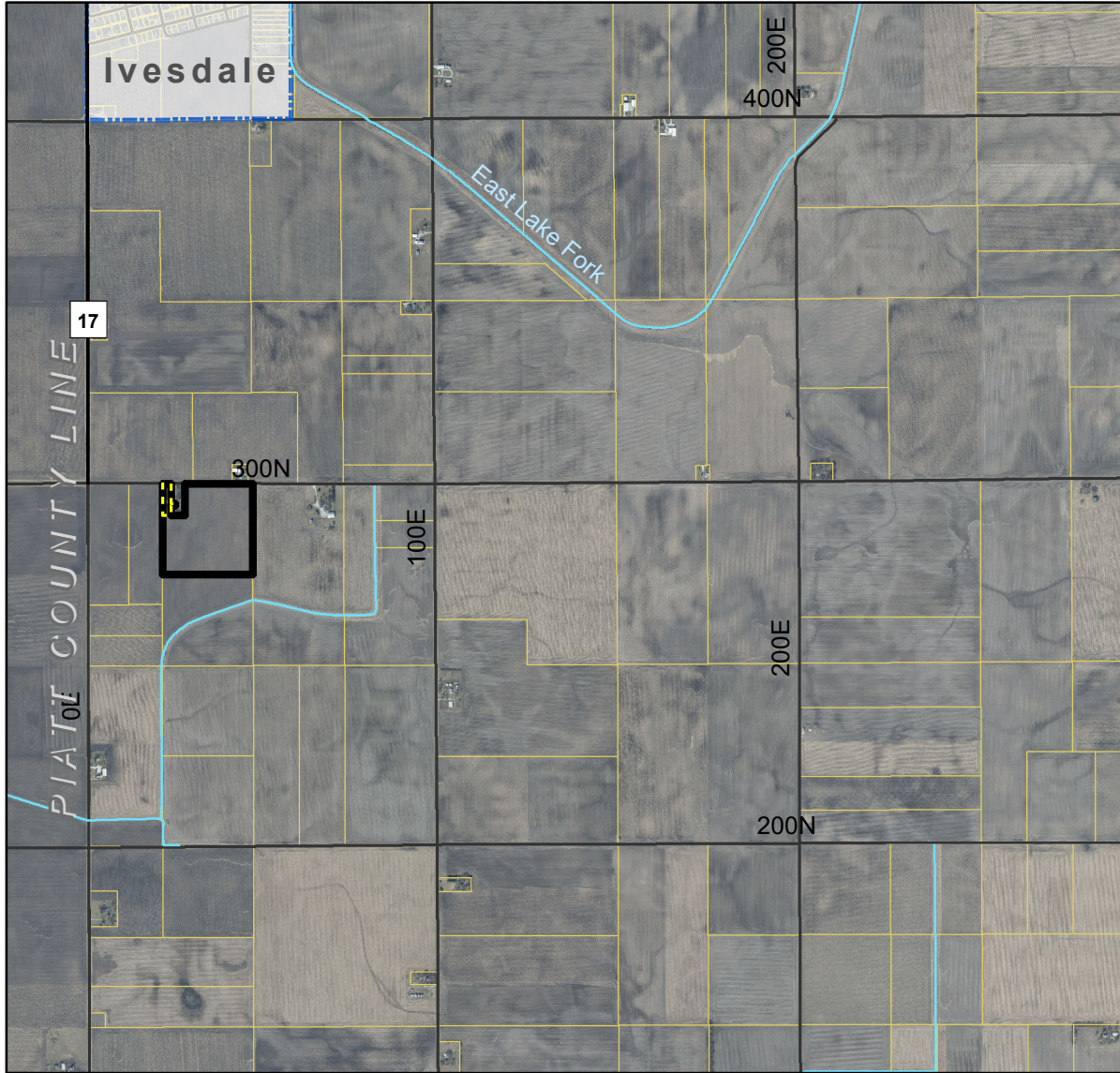
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received June 12, 2023
- C Annotated 2020 aerial photo created by P&Z Staff on June 12, 2023
- D Images of Subject Property taken June 22, 2023
- E Draft Summary of Evidence, Finding of Fact, and Final Determination dated August 31, 2023

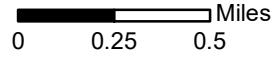
Location Map

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August 31, 2023

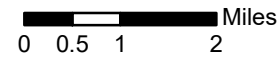
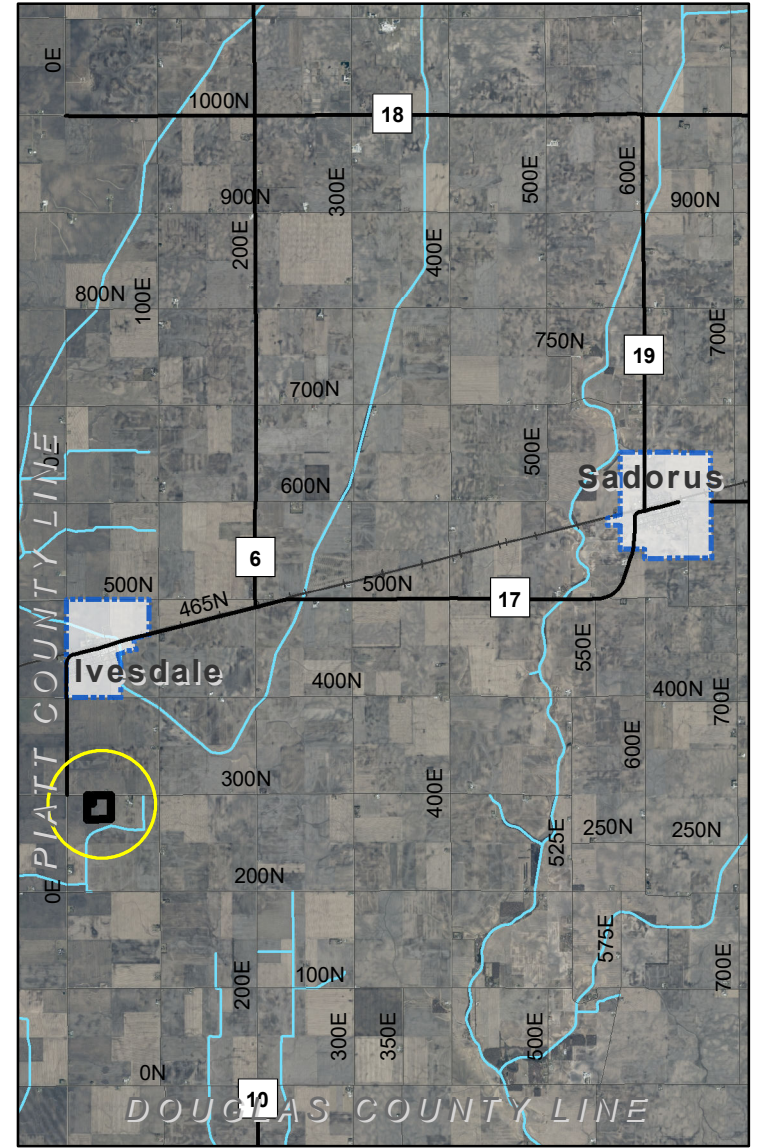
Subject Property



- Proposed Lot
- Subject Property
- Municipal Boundary
- Parcels



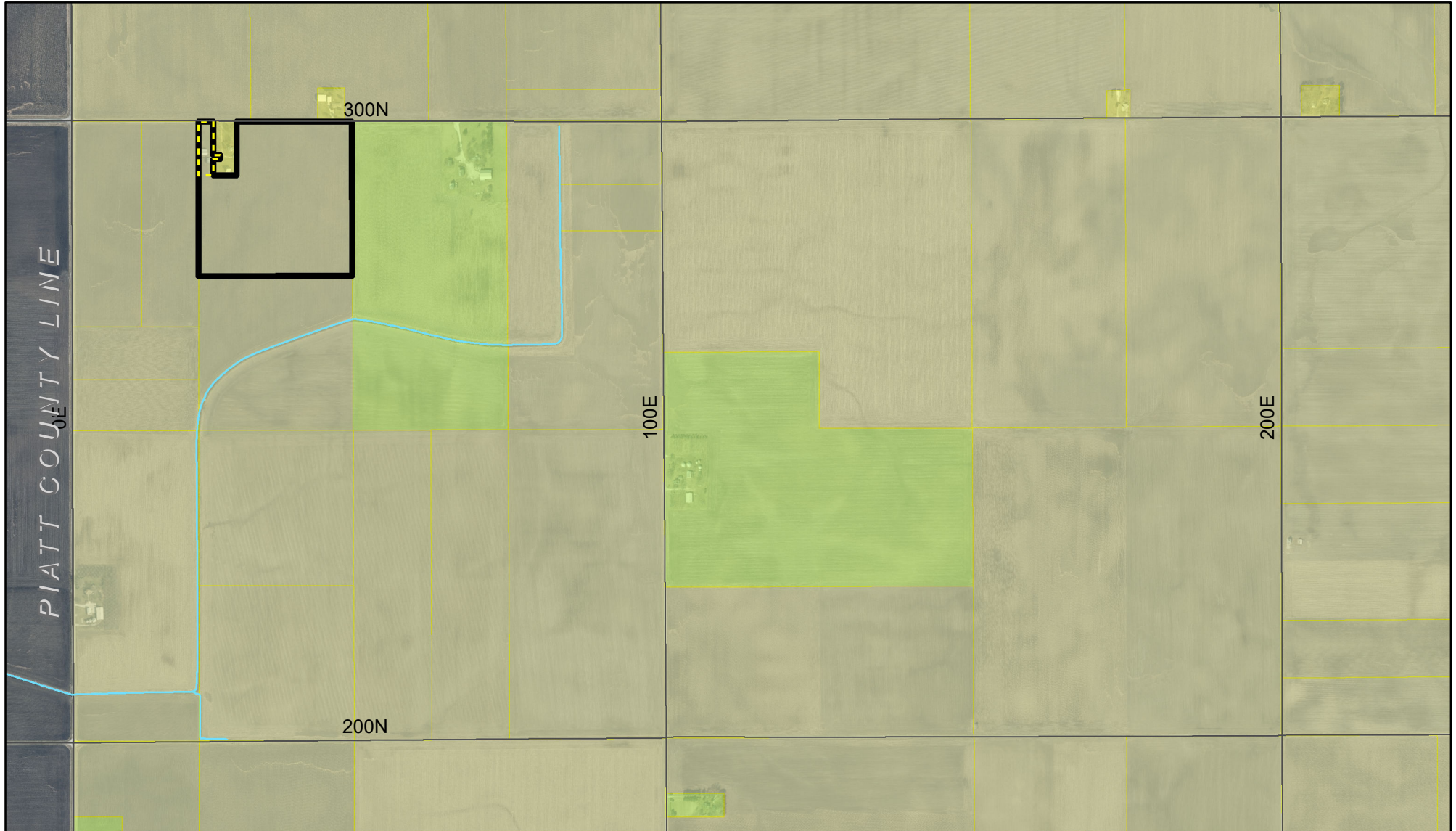
Property location in Champaign County








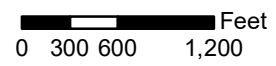
Champaign County
Department of
PLANNING &
ZONING

Land Use Map

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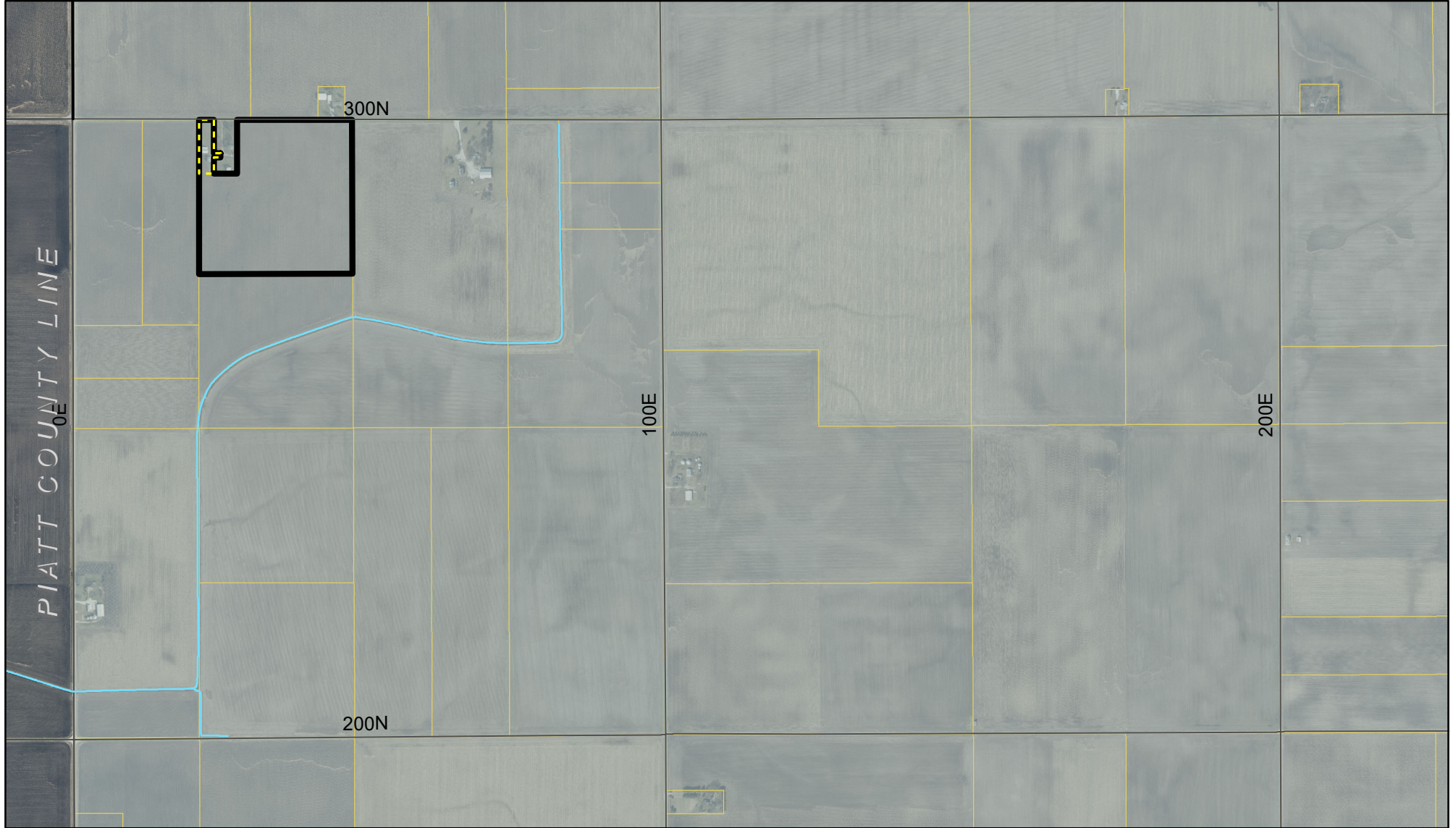
-  Proposed Lot
-  Subject Property
-  Agriculture
-  Ag/Residential
-  Residential



Champaign County
Department of
PLANNING &
ZONING

Zoning Map

Case 107-V-23
August 31, 2023

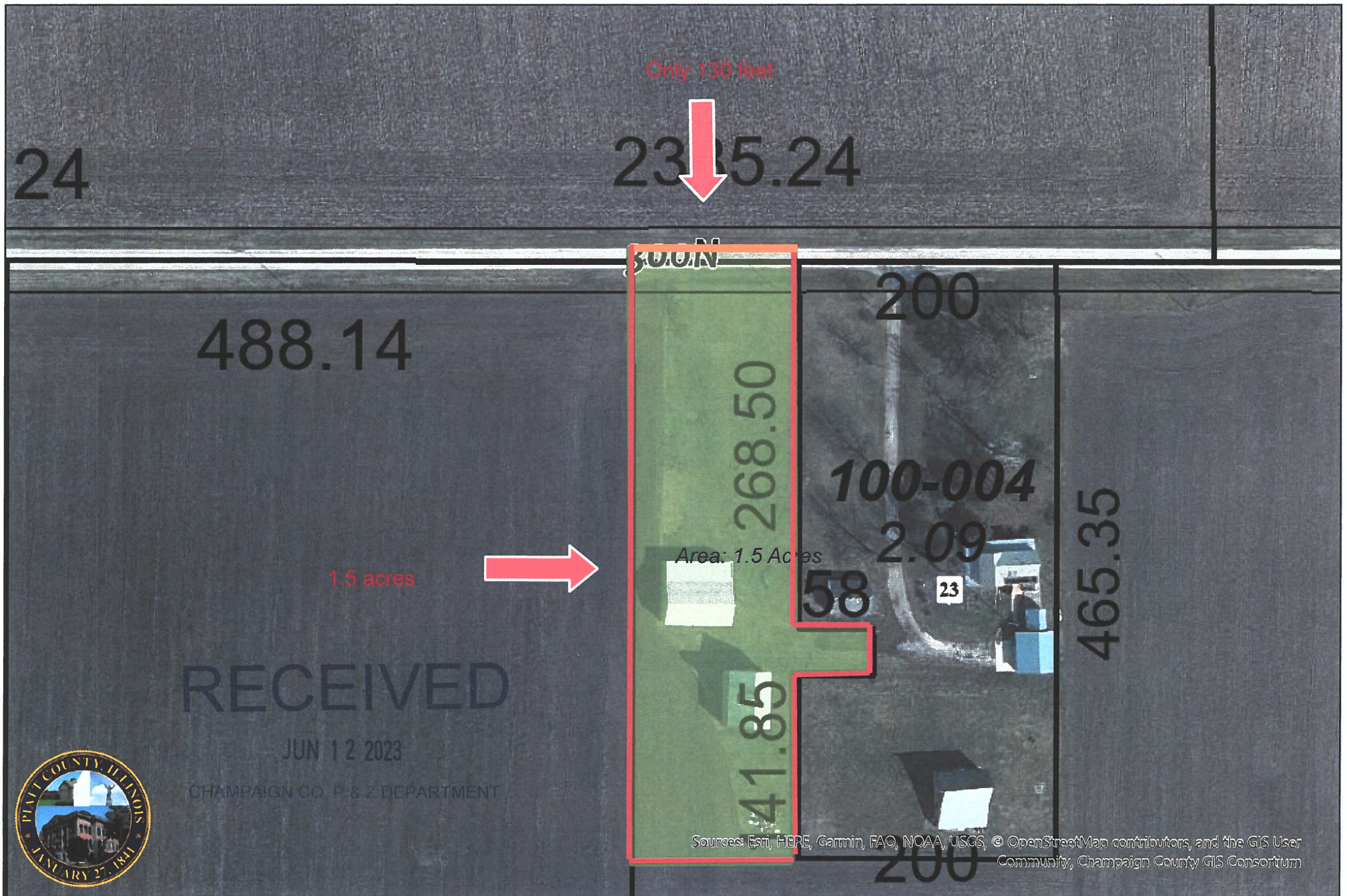


-  Proposed Lot
-  Subject Property
-  Parcels
-  AG-1 Agriculture

0 300 600 1,200 Feet



Champaign County
Department of
**PLANNING &
ZONING**






This map application was prepared with Piatt County geographic information system (GIS) data. Piatt County does 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 intended for detailed, site-specific analysis or resolution of legal matters. Users assume all risk arising from the use or misuse of this application and information contained herein. The use of this application constitutes acknowledgement of this disclaimer.

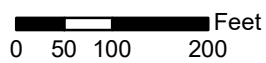


Annotated 2020 Aerial

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-  Proposed Lot
-  Subject Property
-  Parcels



107-V-23 Site Images



**From CR 300N facing SW to subject property –
building at left behind tree is on adjacent property**



From CR 300N facing SE to subject property

PRELIMINARY DRAFT

107-V-23

**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 31, 2023}***

Petitioners: **Janice Fogerson**

Request: **Authorize a variance for a proposed 1.43-acre lot with an average lot width of 130 feet in lieu of the minimum required average lot width of 200 feet 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 31, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Janice Fogerson owns the subject property.
2. The subject property is part of a 37.91-acre tract in the Northeast Quarter of the Northwest Quarter of Section 19, Township 17 North, Range 7 East of the Third Principal Meridian in Sadorus Township.
 - A. The petitioner proposes creating a 1.43-acre lot split from the 37.91 acres.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is not within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning.
 - B. The subject property is located within Sadorus Township, which does not have a Plan Commission. Townships with Plan 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 37.91-acre subject property is zoned AG-1 Agriculture. Land use is agricultural production with two sheds in the northwest corner.
 - B. Land surrounding the subject property is also zoned AG-1 Agriculture and is in agricultural production. There is one residence to the east of the two sheds and another to the north of the subject property.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Petitioner's Site Plan received June 12, 2023, indicates the following:
 - (1) Existing features on the subject property include:
 - a. One 50 feet by 48 feet (2,400 square feet) shed; and
 - b. One 42 feet by 30 feet (1,260 square feet) shed.
 - (2) No construction is proposed.
 - B. There are no previous Zoning Use Permits for the subject property.
 - C. There are no previous Zoning Cases for the subject property.
 - D. The required variance is for an average lot width of 130 feet in lieu of the minimum required 200 feet in the AG-1 Agriculture Zoning District, per Section 5.3 of the Zoning Ordinance.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variances:
- 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) “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. The AG-1 Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURE pursuits.
- 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 9.1.9 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.
- D. The minimum average lot width requirement for the AG-1 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, **“Two sheds are located on the edge of the land. I am interested in owning these for storage.”**
 - B. The two sheds were part of the adjacent farmstead until the house was split from the sheds in 1992.
 - C. The proposed lot area of 1.43 acres is larger than the one-acre minimum required lot area in the AG-1 Zoning District.

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, **“Creating a 200 foot lot width would require breaking up farmland to the west that the family wants to sell off.”**
 - B. Regarding the proposed variance for an average lot width of 130 feet in lieu of the minimum required 200 feet: without the proposed variance, the petitioner would have to add on farmland in agricultural production to make a 200-foot-wide lot.

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.”**
 - B. The lot splitting the house from the sheds was created in 1992, and the petitioner recently inherited the surrounding farmland and two sheds.

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, **“Allowing this variance would protect the precious farmland and maintain the line of tillage.”**
 - B. Regarding the proposed variance for an average lot width of 130 feet in lieu of the minimum required 200 feet: the requested variance is 65% of the minimum required, for a variance of 35%.
 - C. Regarding the proposed variance for average lot width:

PRELIMINARY DRAFT**Case 107-V-23****Page 5 of 8**

- (1) Since the adoption of the Zoning Ordinance on October 10, 1973, the AG-1 District has always required a minimum average lot width of 200 feet.
- (2) 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:
 - a. Adequate light and air: The subject property is in agricultural production. The surrounding properties are in agricultural production with the exception of the residential property directly east of the sheds.
 - b. Separation of structures to prevent conflagration: The subject property is within the Ivesdale Fire Protection District and the station is approximately 1.9 road miles from the subject property. The nearest residence is approximately 175 feet northeast of the closest shed on the subject property.
 - c. 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 on the ground changes are proposed.”**
 - B. The Sadorus Township Road Commissioner has been notified of this variance and no comments have been received.
 - C. The Ivesdale 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: **“If we sell, I do not want to break up the farmland.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:
 - A. **A Plat of Survey for the proposed 1.43-acre lot must be recorded at the Champaign County Recorder of Deeds within 180 days of approval of Case 107-V-23.**

The special condition stated above is required to ensure the following:

That the lot is properly created per the Illinois Plat Act.

DOCUMENTS OF RECORD

1. Variance Application received June 12, 2023, with attachment:
 - A Site Plan

2. Preliminary Memorandum dated August 23, 2023, with attachments:
 - A Case Maps (Location, Land Use, Zoning)

 - B Site Plan received June 12, 2023

 - C Annotated 2020 aerial photo created by P&Z Staff on June 12, 2023

 - D Images of Subject Property taken June 22, 2023

 - E Draft Summary of Evidence, Finding of Fact, and Final Determination dated August 31, 2023

PRELIMINARY DRAFT**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **107-V-23** held on **August 31, 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 two sheds were part of the adjacent farmstead until the house was split from the sheds in 1992.***
 - b. ***The proposed lot area of 1.43 acres is larger than the one-acre minimum required lot area in the AG-1 Zoning District.***
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 petitioner would have to add on farmland in agricultural production to make a 200-foot-wide lot.***
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. ***The lot splitting the house from the sheds was created in 1992, and the petitioner recently inherited the surrounding farmland and two sheds.***
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. ***There is adequate light and air and separation from adjacent structures.***
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 were notified of the variance 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. ***This is the minimum lot area needed to keep the sheds without adding farmland.***
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***
 - A. **A Plat of Survey for the proposed 1.43-acre lot must be recorded at the Champaign County Recorder of Deeds within 180 days of approval of Case 107-V-23.**

The special condition stated above is required to ensure the following:

That the lot is properly created per the Illinois Plat Act.

FINAL DETERMINATION FOR CASE 107-V-23

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 **107-V-23** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners, **Janice Fogerson**, to authorize the following:

Authorize a variance for a proposed 1.43-acre lot with an average lot width of 130 feet in lieu of the minimum required average lot width of 200 feet in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A. A Plat of Survey for the proposed 1.43-acre lot must be recorded at the Champaign County Recorder of Deeds within 180 days of approval of Case 107-V-23.**

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

SIGNED:

ATTEST:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date