

CASE 848-V-16

PRELIMINARY MEMORANDUM
SEPTEMBER 8, 2016

Petitioner: **Lawrence Griest**

Request: **Authorize the following variance from the Champaign County Zoning Ordinance in the CR Conservation-Recreation Zoning District:**

**Brookens Administrative
Center**
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708
zoningdept@co.champaign.il.us
www.co.champaign.il.us/zoning

Part A: Authorize the use of an existing lot that does not abut and have access to either a public street right of way or a private accessway as required by Section 4.2.1 H. of the Ordinance; and

Part B: Authorize a variance for the use of an existing lot with an average lot width of 169 feet in lieu of the minimum required 200 feet required by Section 5.3 of the Ordinance; and

Part C: Authorize the construction and use of an accessory structure with a side yard of 5 feet and a rear yard of 5 feet in lieu of the minimum 10 feet side yard and the minimum 10 feet rear yard required by Section 7.2.1 of the Ordinance.

Subject Property: **A 1.2 acre tract in the Southeast Quarter of the Southeast Quarter of Section 19, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, and commonly known as the residence with an address of 88A CR2000N, Mahomet.**

Site Area: **52,272 square feet (1.2 acre)**

Time Schedule for Development: **Existing and in use**

Prepared by: **Susan Chavarria**
Senior Planner

John Hall
Zoning Administrator

BACKGROUND

The petitioner would like to replace an existing detached garage with a larger detached garage in order to store his antique tractors. When he sought a permit for demolition and construction of the new garage, staff determined that a variance would be required because the proposed garage would sit only 5 feet from the rear and side yards. Staff also determined that the variance would need to include average lot width, because the lot does not meet the 200 feet minimum requirement. Further research determined that the lot does not have authorized access to a public street, which also requires a variance to bring the lot into compliance.

The petitioner stated that the location of the garage is limited by the existing house, easement access, and the slope of the lot toward the center.

No comments have been received regarding the proposed variance.

EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights on a variance and generally are not notified of such cases.

The subject property is located within Mahomet Township, which has a Plan Commission. Townships with Plan 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	Single family residence	CR Conservation Recreation
North		
East		
West		
South		

LOT AND ACCESS CREATION

The requirement that a lot have access to a public street right-of-way has existed since adoption of the Zoning Ordinance on October 10, 1973. The 1.2-acre subject property lot was created from a 2.57-acre tract as per the Alexander Survey dated April 6, 1984 and recorded on May 15, 1984.

An access easement which abuts and includes part of the subject property can be found in a variety of County records since 1983; however, the earliest easement found in County records which authorizes access to what is now the 1.2 acre Griest property was the warranty deed dated December 30, 1997 and recorded January 28, 1998.

Text Amendment 055-AT-96, approved on February 18, 1997, established that access via easement was no longer authorized; rather, a private accessway that is established by a duly approved and recorded plat of subdivision is required, along with additional conditions. The Griest property was not established by an approved and recorded plat of subdivision. Further, the access drive that leads to the principal structure on the subject property deviates from the easement in the property to the south, turning northeast to the property east of the subject property, before turning northwest back into the subject property. The subject property thus does not have a recognized access that complies with the Zoning Ordinance, and for this reason requires variance Part A.

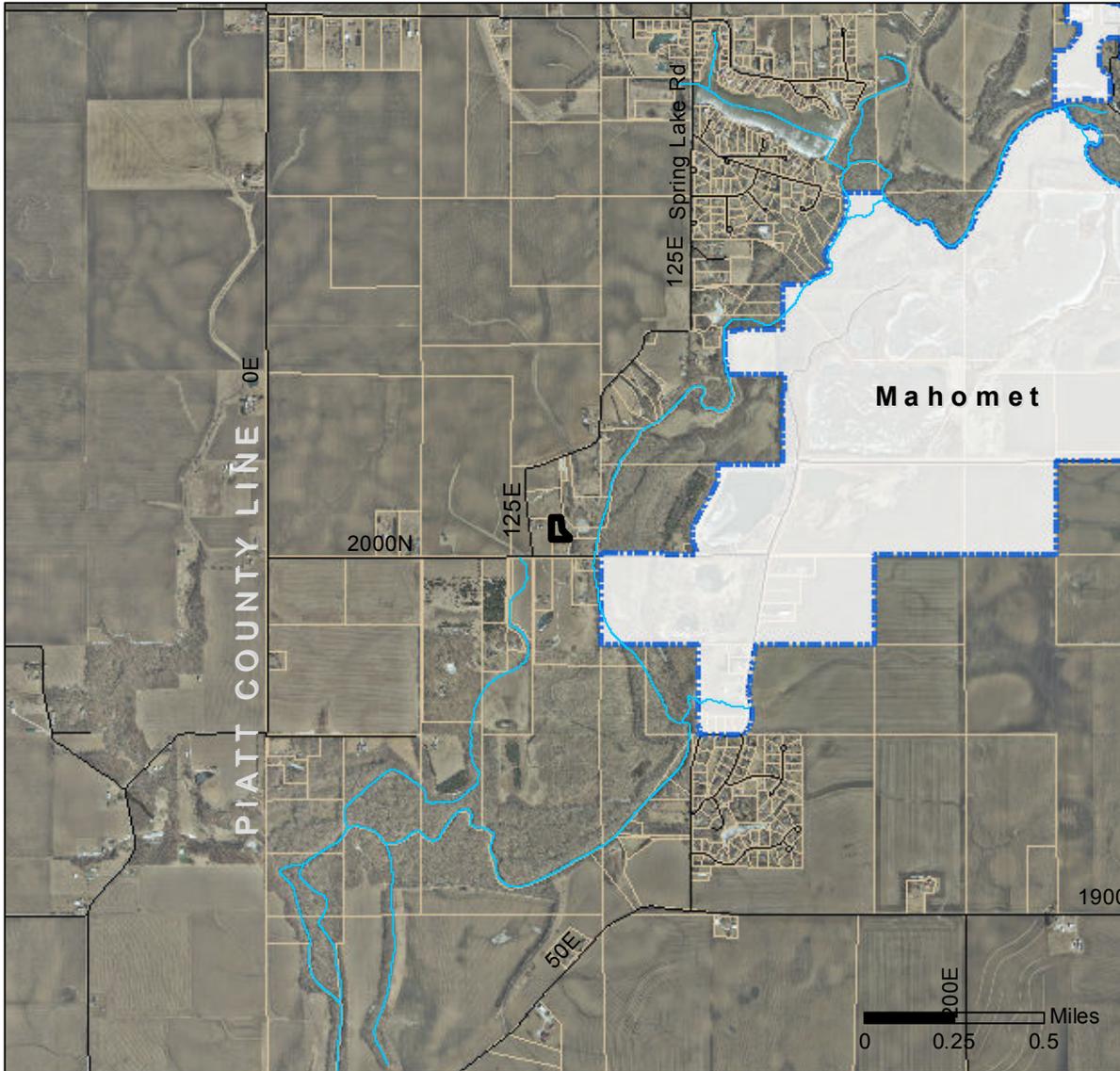
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received June 3, 2016
- C Plat of Survey submitted with ZUPA #116-83-01 dated April 22, 1983
- D Letter to Shelby Williams from Lois Rocker dated March 21, 1983
- E Alexander Survey for parent tract of subject property dated April 6, 1984 and recorded May 15, 1984
- F Warranty Deed for the subject property recorded on January 28, 1998
- G Images of Subject Property taken August 20, 2016
- H Draft Summary of Evidence, Finding of Fact, and Final Determination

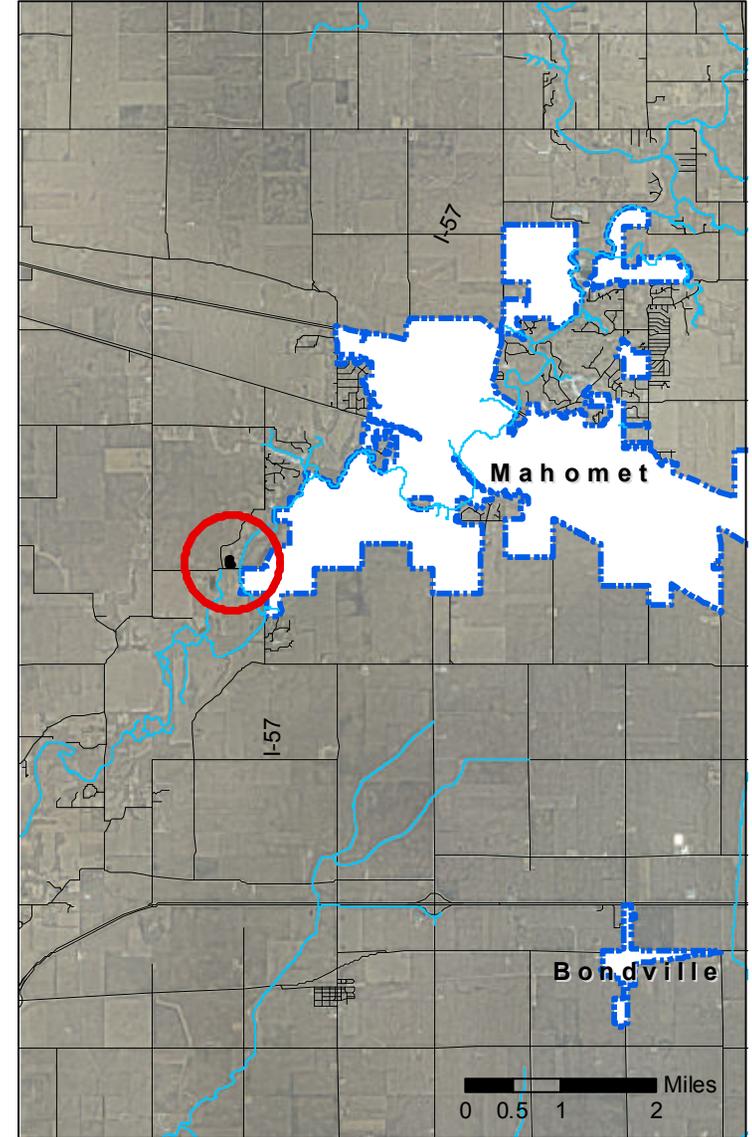
Location Map

Case 848-V-16
September 15, 2016

Subject Property



Property location in Champaign County



Legend

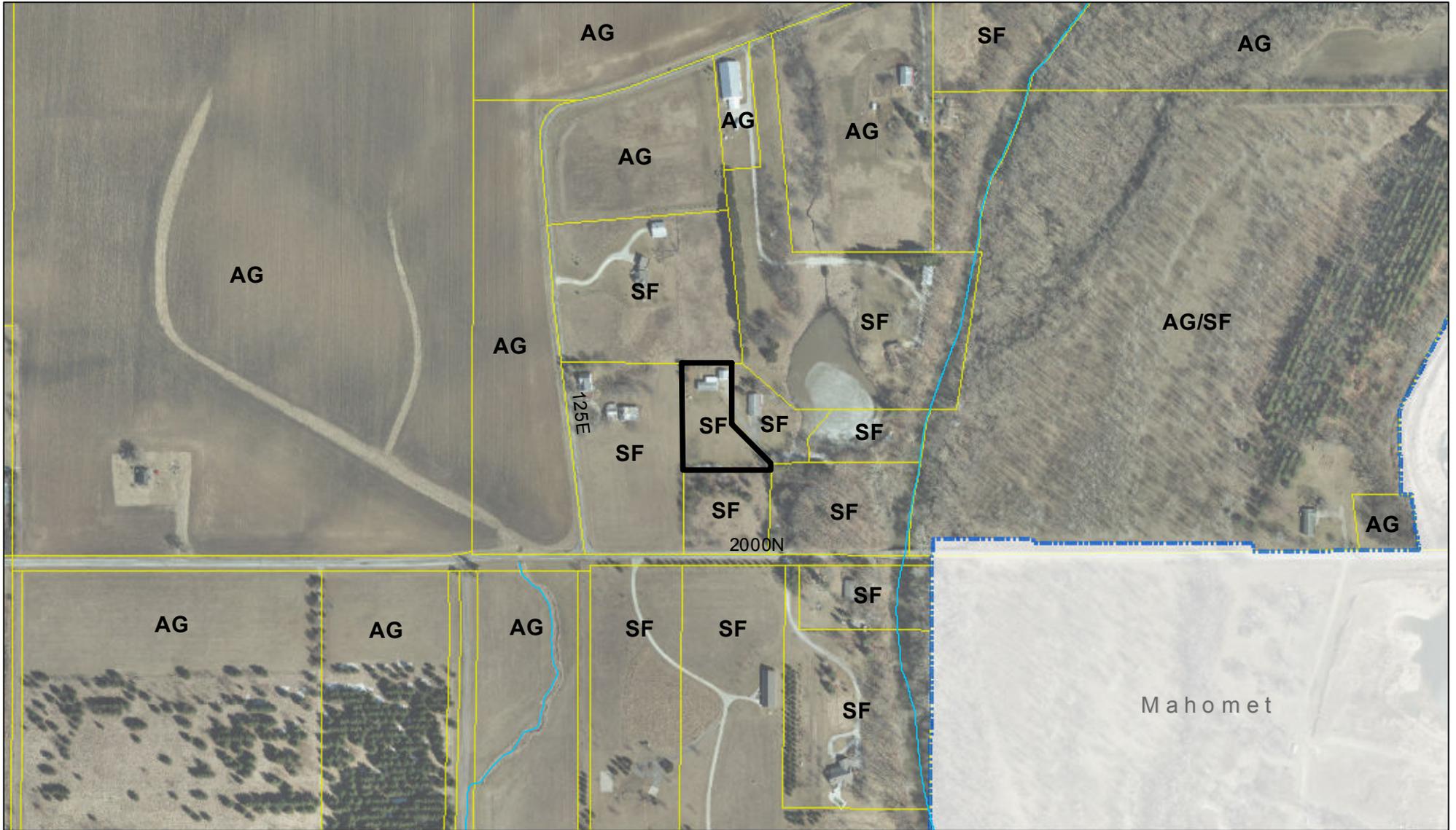
-  Subject Property
-  Municipal Boundary
-  Parcels
-  Streets
-  Streams



Champaign County
Department of
PLANNING &
ZONING

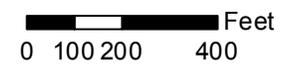
Land Use Map

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September 15, 2016



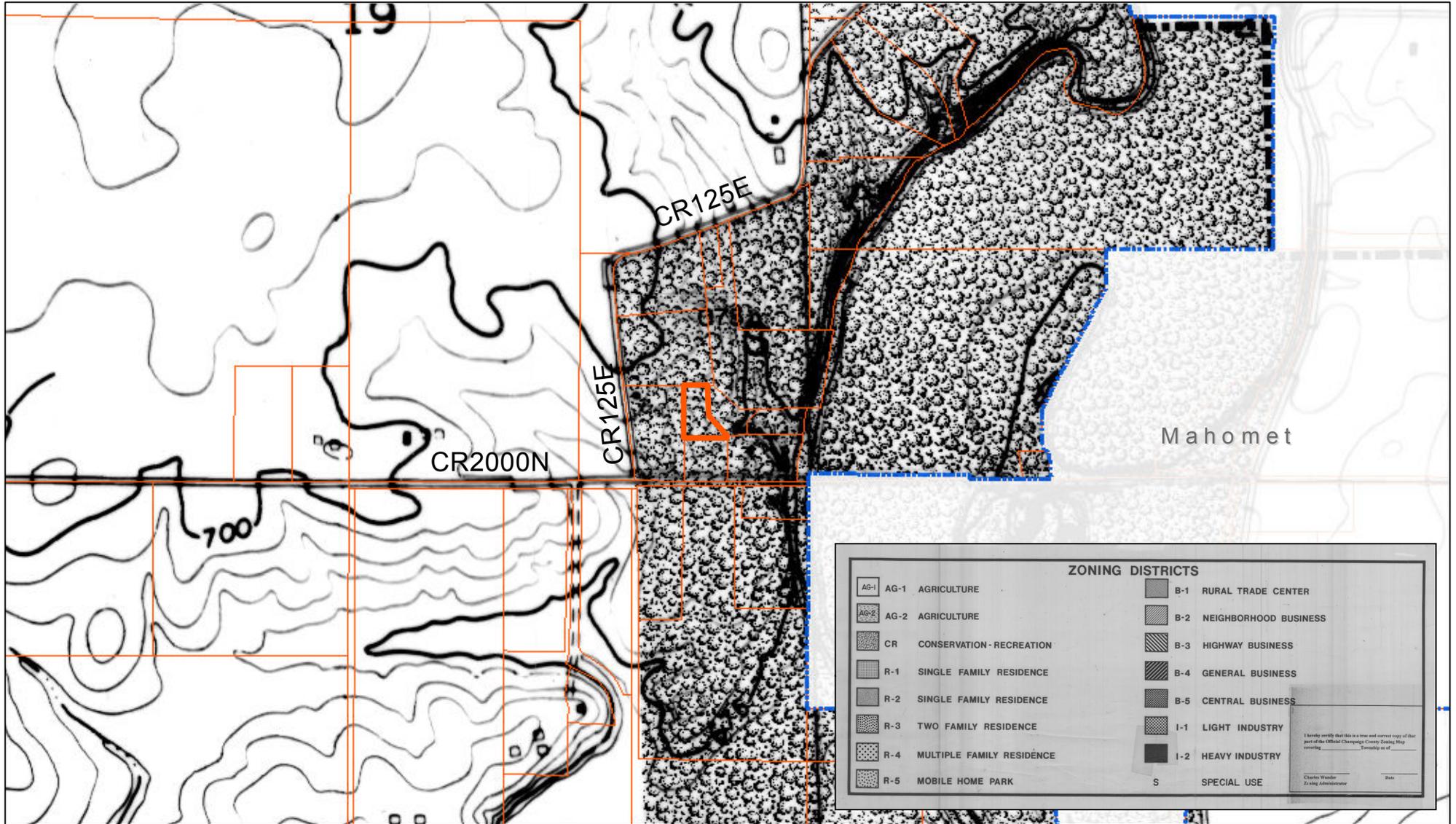
Legend

-  Subject Property
-  Streams
-  Parcels
- SF Single Family Residential
- AG Agriculture



Zoning Map

Case 848-V-16
September 15, 2016



Legend

-  Subject Property
-  Parcels

0 200 400 800 Feet



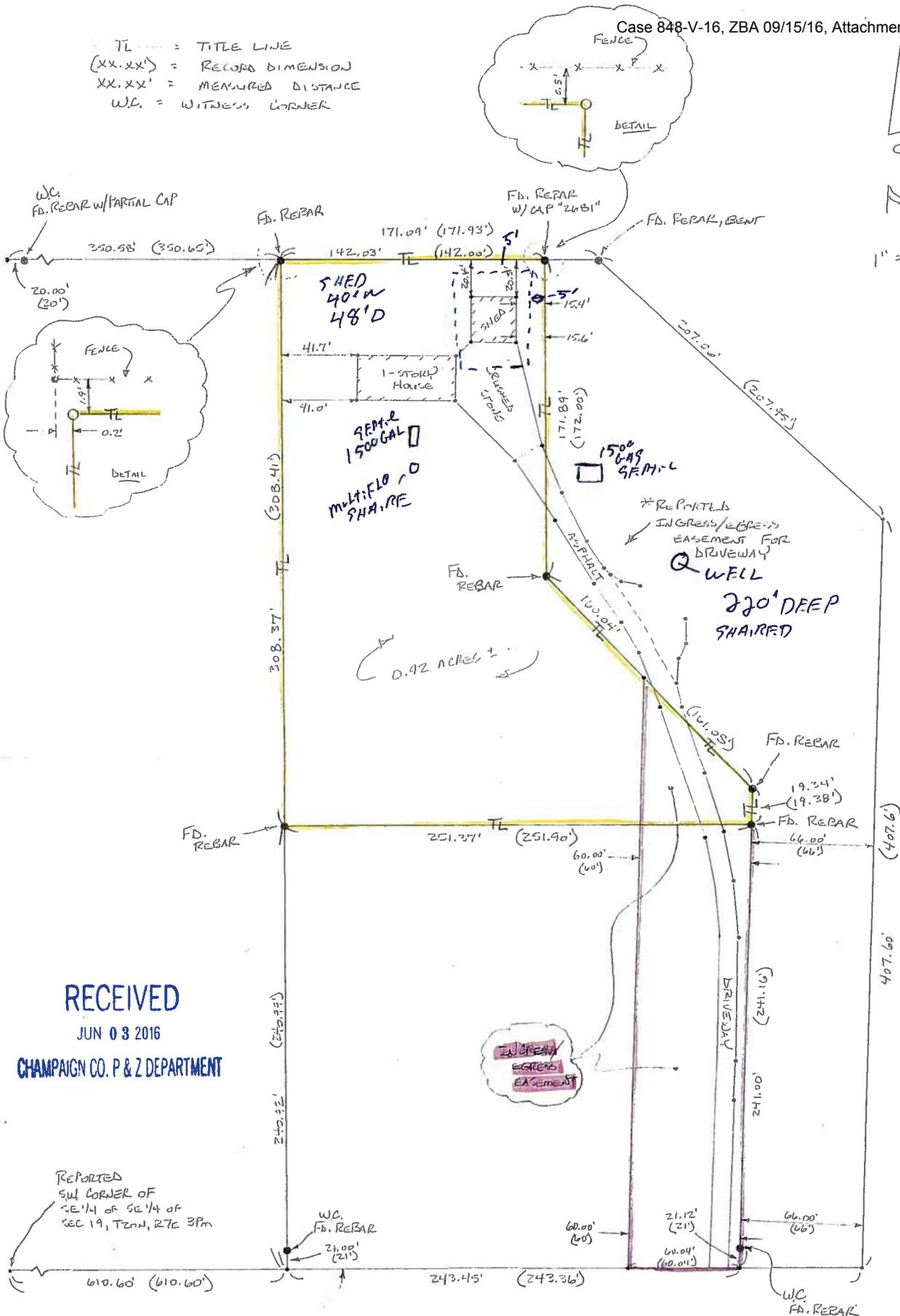
Champaign County
Department of
**PLANNING &
ZONING**

I hereby certify that this is a true and correct copy of the part of the Official Champaign County Zoning Map covering _____ Township as of _____
Charles Wampler
Zoning Administrator

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TL = TITLE LINE
 (XX.XX') = RECORD DIMENSION
 XX.XX' = MEASURED DISTANCE
 W.C. = WITNESS CORNER

1" = 50'



RECEIVED

JUN 03 2016

CHAMPAIGN CO. P & Z DEPARTMENT

REPORTED SW CORNER OF SE 1/4 OF SEC 19, T20N, R7E 3PM

REPORTED SOUTH LINE OF SE 1/4 OF SEC. 19, T20N, R7E 3PM

LAWRENCE GRIEST BOUNDARY SURVEY
 MAHOMET TWP., CHAMPAIGN CO., IL.

Lawrence Griest

177 217



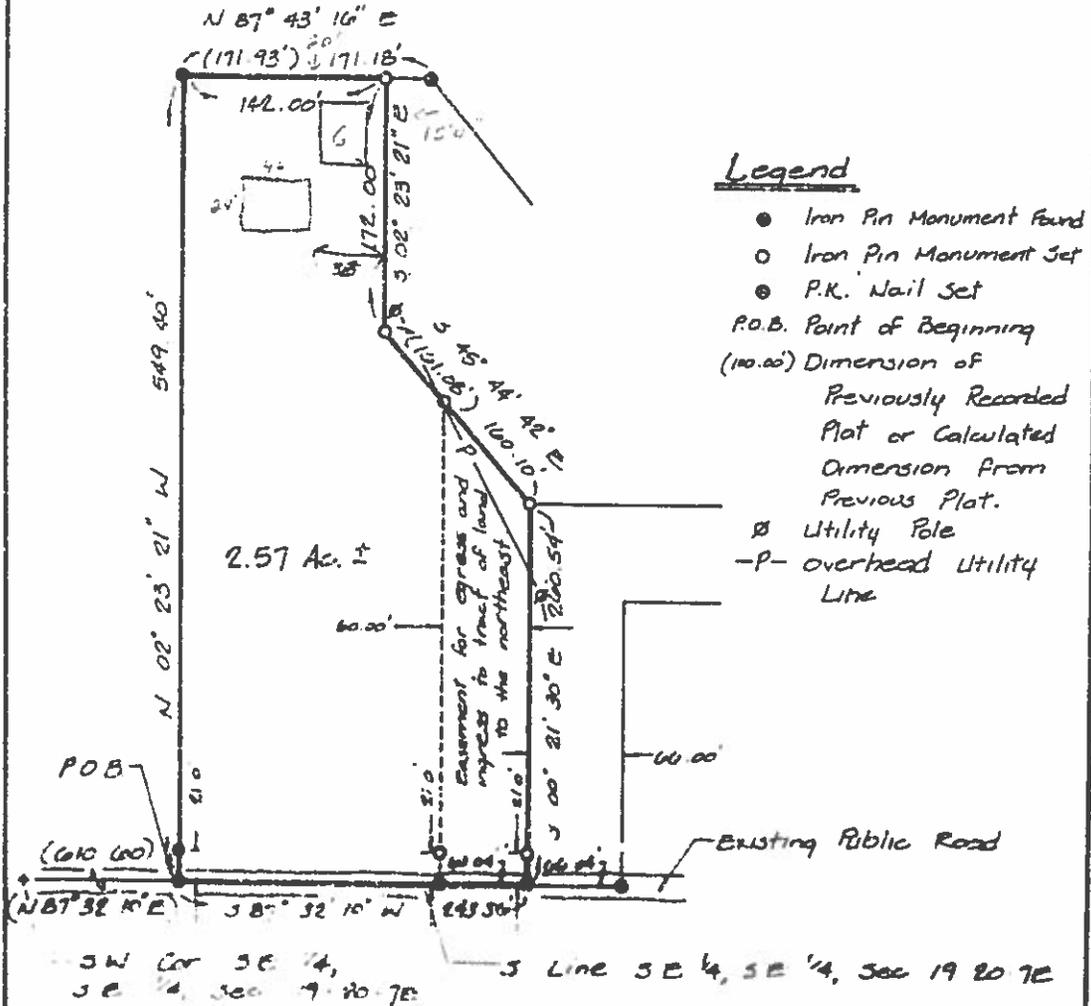
BERNS, CLANCY AND ASSOCIATES
 ENGINEERS • SURVEYORS • PLANNERS
 405 EAST MAIN STREET - POST OFFICE BOX 755
 URBANA, ILLINOIS 61803-0755
 PHONE: (217) 384-1144 - FAX: (217) 384-3365

F.B. 1306 Page 27 Sec. 19 - T. 20 N. - R. 7 E. - 3rd PM JOB NO. 3507

PLAT OF SURVEY
 SE 1/4, SE 1/4, SEC. 19,
 T. 20 N., R. 7 E., 3RD P.M.
 CHAMPAIGN COUNTY, ILLINOIS



- Notes:
- 1 A separate search of the records for easements is not to be implied by this plat.
 - 2 This tract of land is a part of a tract of land surveyed by D. Wayne Shoemaker, I.R.L.S. No. 10824 as shown on plat of survey revised dated 7-28-76.
- Scale: 1" = 100'



BAZZELL - PHILLIPS
 200
 ESCOQUITES, MO.
 200 East State Street
 Telephone: 386-0201
 24 Hours a Day



CHAMPAIGN COUNTY REGIONAL PLANNING COMMISSION

1333 NORTH CUNNINGHAM AVE.

P.O. BOX 339

URBANA, IL 61801-0339

(217) 328-3313

March 21, 1983

Mr. Shelby Williams
221 Vermilion
Mahomet, IL 61853

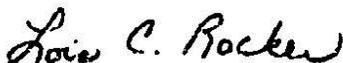
Dear Mr. Williams.

This letter is to confirm our discussion last week regarding a proposal by you to divide a tract of land of approximately 4.4 acres in Mahomet Township, Section 19 with a tax parcel number of 19-400-012 into two parcels. In reviewing the previous divisions of land including your property and the surrounding properties, Patricia Crowley, an Assistant State's Attorney, and I have concluded that you are allowed under Illinois Revised Statutes, Chapter 109 of the Plat Act, exemption number 9 of Section 1.(b). Therefore, you are allowed to divide your tract of land into two parcels. However, any future divisions of either parcel will have to meet the requirements of the Plat Act and the Champaign County Subdivision Regulations.

In addition, as indicated in the meeting last Wednesday with Tyrone Clapper, the Champaign County Zoning Administrator, you will need to meet the requirements of the Champaign County Zoning Ordinance. Prior to recording the two parcels at the Recorder of Deeds Office, you might want to show Mr. Clapper your final survey of the two parcels to make sure you will have the proper lot width and any other zoning requirements. Also, prior to constructing the house you will need to obtain a Zoning Use Permit from Mr. Clapper to make sure setback requirements have been met.

If you have any further questions, please do not hesitate to contact me.

Sincerely,



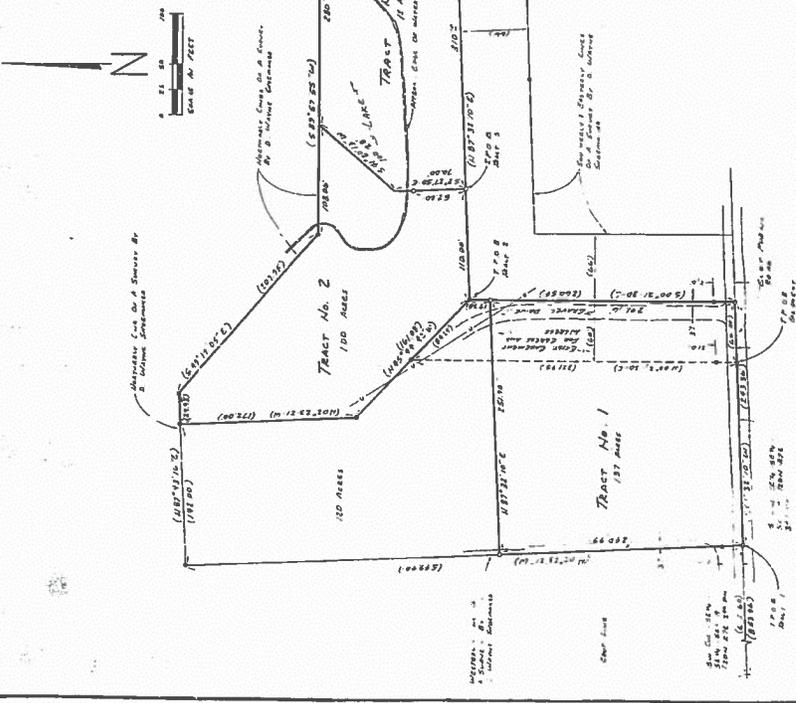
Lois C. Rocker
Associate Planner

LCR:vas

cc: Mr. Tyrone Clapper

ALEXANDER SURVEY

CHAMPAIGN COUNTY, ILLINOIS



STATE OF ILLINOIS
COUNTY OF CHAMPAIGN

Surveyor's Office

I, David P. Phillips, being Illinois Registered Land Surveyor No. 2319, do hereby certify that the above plat is a true and correct representation of the field notes and maps on file in my office, and is subject to appeal and protest.

PLAT No. 1

A tract of land being a part of the Southeast Quarter of Section 15, Township 20 North, Range 7 East of the 14th Principal Meridian, Champaign County, Illinois, the boundary of which is described as follows:

Commencing at the Southeast Corner of said Southeast Quarter of Section 15, proceed North 87° 57' 25" West 100.00 feet to a point on the South line of the Southeast Quarter of Section 15, the distance of which is 100.00 feet; thence North 87° 57' 25" West 100.00 feet to a point on the East line of said Southeast Quarter of Section 15, the distance of which is 100.00 feet; thence East 87° 57' 25" North 100.00 feet to a point on the North line of said Southeast Quarter of Section 15, the distance of which is 100.00 feet; thence North 87° 57' 25" West 100.00 feet to the true point of beginning. Containing 100.00 acres, more or less.

PLAT No. 2

A tract of land being a part of the Southeast Quarter of Section 15, Township 20 North, Range 7 East of the 14th Principal Meridian, Champaign County, Illinois, the boundary of which is described as follows:

Commencing at the Southeast Corner of said Southeast Quarter of Section 15, proceed North 87° 57' 25" West 100.00 feet to a point on the South line of the Southeast Quarter of Section 15, the distance of which is 100.00 feet; thence North 87° 57' 25" West 100.00 feet to a point on the East line of said Southeast Quarter of Section 15, the distance of which is 100.00 feet; thence East 87° 57' 25" North 100.00 feet to a point on the North line of said Southeast Quarter of Section 15, the distance of which is 100.00 feet; thence North 87° 57' 25" West 100.00 feet to the true point of beginning. Containing 100.00 acres, more or less.

PLAT No. 3

A tract of land being a part of the Southeast Quarter of Section 15, Township 20 North, Range 7 East of the 14th Principal Meridian, Champaign County, Illinois, the boundary of which is described as follows:

Commencing at the Southeast Corner of said Southeast Quarter of Section 15, proceed North 87° 57' 25" West 100.00 feet to a point on the South line of the Southeast Quarter of Section 15, the distance of which is 100.00 feet; thence North 87° 57' 25" West 100.00 feet to a point on the East line of said Southeast Quarter of Section 15, the distance of which is 100.00 feet; thence East 87° 57' 25" North 100.00 feet to a point on the North line of said Southeast Quarter of Section 15, the distance of which is 100.00 feet; thence North 87° 57' 25" West 100.00 feet to the true point of beginning. Containing 100.00 acres, more or less.

These are the facts and maps

Principal of said Survey, Champaign County, Illinois, is described as follows:

Commencing at the Southeast Corner of said Southeast Quarter of Section 15, Township 20 North, Range 7 East of the 14th Principal Meridian, Champaign County, Illinois, the boundary of which is described as follows:

Commencing at the Southeast Corner of said Southeast Quarter of Section 15, proceed North 87° 57' 25" West 100.00 feet to a point on the South line of the Southeast Quarter of Section 15, the distance of which is 100.00 feet; thence North 87° 57' 25" West 100.00 feet to a point on the East line of said Southeast Quarter of Section 15, the distance of which is 100.00 feet; thence East 87° 57' 25" North 100.00 feet to a point on the North line of said Southeast Quarter of Section 15, the distance of which is 100.00 feet; thence North 87° 57' 25" West 100.00 feet to the true point of beginning. Containing 100.00 acres, more or less.

I further certify that these tracts of land are a part of a tract of land surveyed by D. Moore Schaefer, D. S. 2319, as shown on his survey revised and dated July 28, 1916, that there is no overlap on the above described tracts of land with any other tract of land, and that the same are subject to appeal and protest.

Witness my hand this 1st day of August, 1916.

David P. Phillips
Illinois Registered Land Surveyor No. 2319



planning
engineering
architecture
surveying

1302 south montic
champaign, illinois
61820
217-354-0243

6.18.16

No.	607
Book	126
Page	126
Survey	126
Approved	

28 JULY 1916

12.00
3.00
15.00

98R02282

105579

DOC # _____
CHAMPAIGN COUNTY, ILL

STATE OF ILLINOIS
REAL ESTATE TRANSFER TAX
JAN 28 '98 DEPT. OF REVENUE
60.00
Champaign County
Real Estate Transfer Tax 30.00

'98 JAN 28 PM 3 03

Barbara A. Prasca
RECORDER

WARRANTY DEED

THE GRANTORS, SHELBY E. WILLIAMS and PAMELA SUE WILLIAMS, each in his and her own right and as husband and wife, of the Town of Mahomet, 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, LYLURN A. GREER, of the Town of Mahomet, County of Champaign, and State of Illinois, the following described real estate, to-wit:

TRACT 1:

A TRACT OF LAND BEING A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 20 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN CHAMPAIGN COUNTY, ILLINOIS, THE BOUNDARY OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER OF SECTION 19, PROCEED NORTH 87 DEGREES 32 MINUTES 10 SECONDS EAST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 19 FOR A DISTANCE OF 610.60 FEET TO THE SOUTHWEST CORNER OF A TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, ILLINOIS REGISTERED LAND SURVEYOR NO. 1684, AND SHOWN ON A PLAT OF SURVEY REVISED DATED JULY 28, 1976, SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING; THENCE NORTH 2 DEGREES 23 MINUTES 21 SECONDS WEST ALONG THE WEST LINE OF SAID TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, 549.40 FEET TO THE NORTHWEST CORNER OF SAID TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER; THENCE NORTH 87 DEGREES 43 MINUTES 16 SECONDS EAST ALONG A NORTH LINE OF SAID TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, 142.00 FEET; THENCE SOUTH 2 DEGREES 23 MINUTES 21 SECONDS EAST PARALLEL WITH SAID WEST LINE OF A TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, 172.00 FEET; THENCE SOUTH 45 DEGREES 44 MINUTES 42 SECONDS EAST, 161.08 FEET; THENCE SOUTH 0 DEGREES 21 MINUTES 30 SECONDS EAST PARALLEL WITH AND 66.00 FEET WEST OF AS MEASURED PERPENDICULAR TO A EAST LINE OF SAID TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, 260.54 FEET TO THE SAID SOUTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 19; THENCE SOUTH 87 DEGREES 32 MINUTES 10 SECONDS WEST ALONG SAID SOUTH LINE, SAID LINE ALSO BEING A SOUTH LINE OF SAID TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, 243.36 FEET TO THE TRUE POINT OF BEGINNING IN CHAMPAIGN COUNTY, ILLINOIS.

98R02282

-2-

EXCEPT THE FOLLOWING DESCRIBED TRACT:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER OF SECTION 19, PROCEED NORTH 87 DEGREES 32 MINUTES 10 SECONDS EAST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 19 FOR A DISTANCE OF 610.60 FEET TO THE SOUTHWEST CORNER OF A TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, ILLINOIS REGISTERED LAND SURVEYOR NO. 1684, AND SHOWN ON A PLAT OF SURVEY REVISED DATED JULY 28, 1976, SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING; THENCE NORTH 2 DEGREES 23 MINUTES 21 SECONDS WEST ALONG THE WEST LINE OF SAID TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, 240.99 FEET; THENCE NORTH 87 DEGREES 32 MINUTES 10 SECONDS EAST, 251.90 FEET; THENCE SOUTH 0 DEGREES 21 MINUTES 30 SECONDS EAST PARALLEL WITH AND 66.00 FEET WEST OF AS MEASURED PERPENDICULAR TO A EAST LINE OF SAID TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, 241.16 FEET TO SAID SOUTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 19; THENCE SOUTH 87 DEGREES 32 MINUTES 10 SECONDS WEST ALONG SAID SOUTH LINE, SAID LINE ALSO BEING A SOUTH LINE OF SAID TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, 243.66 FEET TO THE TRUE POINT OF BEGINNING.

TRACT 2:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF TRACT 1 AS GRANTED BY INSTRUMENT DATED DECEMBER 17, 1997 AND RECORDED DECEMBER 26, 1997 AS DOCUMENT 97 R 31886, FOR THE SOLE AND ONLY PURPOSES OF INGRESS AND EGRESS ONLY OVER, UNDER AND THROUGH A TRACT OF LAND BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 20 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS. THE BOUNDARY OF WHICH IS DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER OF SECTION 19, PROCEED NORTH 87 DEGREES 32 MINUTES 10 SECONDS EAST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 19 FOR A DISTANCE OF 793.92 FEET TO A POINT ON A SOUTH LINE OF A TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, ILLINOIS REGISTERED LAND SURVEYOR NO. 1684, AND SHOWN ON A PLAT OF SURVEY REVISED DATED JULY 28, 1976, SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING; THENCE NORTH 0 DEGREES 21 MINUTES 30 SECONDS WEST ALONG A LINE BEING PARALLEL WITH AND 126.00 FEET WEST OF AS MEASURED PERPENDICULAR TO AN EAST LINE OF SAID TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, 321.95 FEET; THENCE SOUTH 45 DEGREES 44 MINUTES 42 SECONDS EAST, 84.29 FEET; THENCE SOUTH 0 DEGREES 21 MINUTES 30 SECONDS EAST ALONG A LINE BEING PARALLEL WITH AND 66.00 FEET WEST OF AS MEASURED PERPENDICULAR TO SAID EAST LINE OF A TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, 260.54 FEET TO SAID SOUTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 19; THENCE SOUTH 87 DEGREES 32 MINUTES 10 SECONDS WEST ALONG SAID SOUTH LINE, SAID LINE ALSO BEING SAID SOUTH LINE OF A TRACT OF LAND SURVEYED BY D. WAYNE SHOEMAKER, 60.04 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH ALL OF GRANTOR'S RIGHT, TITLE AND INTEREST IN AND TO AN EASEMENT FOR EGRESS AND INGRESS ACROSS PART OF THE EXTREME EAST PORTION OF PREMISES IN QUESTION AS GRANTED BY DOCUMENT 97R 31886 RECORDED DECEMBER 26, 1997.

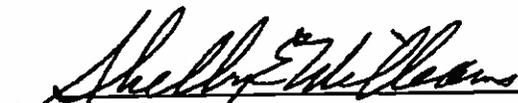
98R02282

Commonly known as 88 County Road 200N, Mahomet, Illinois.

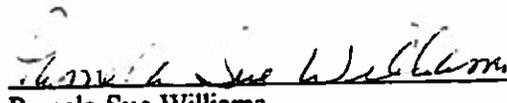
- Subject to:
- (1) Real estate taxes for the year 1997, and subsequent years; Permanent Real Estate Index #15-13-19-400-017;
 - (2) Covenants, conditions, restrictions and easements apparent or of record;
 - (3) All applicable zoning laws and ordinances;

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

Dated this 21 day of January, 1998.



 Shelby E. Williams



 Pamela Sue Williams

STATE OF ILLINOIS)
) SS
 COUNTY OF CHAMPAIGN)

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY, that SHELBY E. WILLIAMS and PAMELA SUE WILLIAMS, each in his and her own right and as husband and wife, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the waiver of the right of homestead.

Given under my hand and Notarial Seal, this 21 day of January, 1998.





 Notary Public

DEED PREPARED BY:
 DONALD R. ALDEEN
 MEYER, CAPEL, HIRSCHFELD,
 MUNCY, JAHN & ALDEEN, P.C.
 306 West Church Street
 P. O. Box 6750
 Champaign, IL 61826-6750

SEND TAX BILL TO:
 Lylburn A. Greer
 88 County Road 2000N
 Mahomet, IL 61853

848-V-16 Site Images



Facing north, subject property is on left



Facing north, east side of existing shed (to be replaced)

848-V-16 Site Images



Facing west, east side of existing shed



Facing west, north side of shed; orange stakes show proposed shed boundary

848-V-16 Site Images



Facing west, north side of shed; orange stakes show proposed shed boundary



Facing south, west side of shed; orange stakes show proposed shed boundary

848-V-16 Site Images



Facing west, south side of shed; orange stakes show proposed shed boundary



Facing south, existing shared access drive via partial easement

848-V-16 Site Images



Facing south toward CR2000N, existing shared access drive via partial easement



Facing north from CR2000N, existing shared access drive via partial easement

PRELIMINARY DRAFT

848-V-16

**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: *{September 15, 2016}*

Petitioner: **Lawrence Griest**

Request: **Authorize the following variance from the Champaign County Zoning Ordinance in the CR Conservation-Recreation Zoning District:**

Part A: Authorize the use of an existing lot that does not abut and have access to either a public street right of way or a private accessway as required by Section 4.2.1 H. of the Ordinance; and

Part B: Authorize a variance for the use of an existing lot with an average lot width of 169 feet in lieu of the minimum required 200 feet required by Section 5.3 of the Ordinance; and

Part C: Authorize the construction and use of an accessory structure with a side yard of 5 feet and a rear yard of 5 feet in lieu of the minimum 10 feet side yard and the minimum 10 feet rear yard required by Section 7.2.1 of the Ordinance.

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PRELIMINARY DRAFT

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 15, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Lawrence Griest, owns the subject property.
2. The subject property is a 1.2 acre tract in the Southeast Quarter of the Southeast Quarter of Section 19, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, and commonly known as the residence with an address of 88A CR2000N, Mahomet.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of such cases.
 - B. The subject property is located within Mahomet Township, which does 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 subject property is a 1.2 acre lot currently zoned CR Conservation Recreation and is in use as a single family residence.
 - B. Land to the north, east, south and west is zoned CR Conservation Recreation and is in use as single family residences.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The Petitioner's Site Plan, received June 3, 2016, indicates the following:
 - (1) Existing buildings consist of the following:
 - a. One residence of undetermined size;
 - b. One shed of undetermined size;
 - c. One 1500-gallon septic tank south of the residence;
 - d. One shared Multi-Flo south of the residence;
 - e. A crushed stone driveway which extends into the property to the east, then through the property to the south via an easement to CR2000N;
 - f. A shared 220 feet deep well on the property to the east;
 - (2) The proposed building consists of the following:
 - a. One shed, approximately 30 feet by 50 feet, to replace the existing shed;

PRELIMINARY DRAFT**Case 848-V-16**

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- B. There is one previous Zoning Use Permit for the subject property:
- (1) ZUPA #116-83-01 was approved on April 26, 1983, to construct the single family residence on the property. The detached garage was already on the property according to the Site Plan from this ZUPA.
 - (2) The garage was constructed on the property in 1978 according to County Assessor's records; no permit was found for the garage.
- C. The required variance is as follows:
- (1) Part A: Authorize the use of an existing lot that does not abut and have access to either a public street right of way or a private accessway as required by Section 4.2.1 H. of the Ordinance; and
 - (2) Part B: Authorize a variance for the use of an existing lot with an average lot width of 169 feet in lieu of the minimum required 200 feet required by Section 5.3 of the Ordinance; and
 - (3) Part C: Authorize the construction and use of an accessory structure with a side yard of 5 feet and a rear yard of 5 feet in lieu of the minimum 10 feet side yard and the minimum 10 feet rear yard required by Section 7.2.1 of the Ordinance.

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) "ACCESS" is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
 - (2) "ACCESSORY BUILDING" is a BUILDING on the same LOT within the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.
 - (3) "BUILDING, DETACHED" is a BUILDING having no walls in common with other BUILDINGS.
 - (4) "DWELLING" is a BUILDING or MANUFACTURED HOME designated for non-transient residential living purposes and containing one or more DWELLING UNITS and/or LODGING UNITS.
 - (5) "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.
 - (6) "LOT, FLAG" is an interior LOT separated from STREETS by intervening LOTS except for an ACCESS STRIP which provides FRONTAGE upon a STREET.

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- (7) “LOT LINES” are the lines bounding a LOT.
 - (8) “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.
 - (9) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
 - (10) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
 - (11) “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.
 - (12) “YARD” is an OPEN SPACE, other than a COURT, of uniform width or depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
 - (13) “YARD, REAR” is a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.
 - (14) “YARD, SIDE” is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. Paragraph 5.1.3 states: The CR, Conservation-Recreation DISTRICT is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY.
- 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.

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- 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. Section 4.2.1 H. states that no STRUCTURE shall be CONSTRUCTED nor USE established upon or moved to a LOT which does not abut and have ACCESS to a public STREET RIGHT-OF-WAY for a distance of no less than 20 feet at a point at which the LOT has the right of ACCESS to the STREET.
- E. AVERAGE LOT WIDTH for the CR Conservation Recreation District is established in Section 5.3 of the Zoning Ordinance as 200 feet.
- F. Minimum SIDE YARD for an accessory structure in the CR Conservation Recreation District is established in Section 7.2.1.B. of the Zoning Ordinance as 10 feet.
- G. Minimum REAR YARD for an accessory structure in the CR Conservation Recreation District is established in Section 7.2.1.C. of the Zoning Ordinance as 10 feet.

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, **“Lot dimensions odd shape, easement access limits location. Lot slopes to center of property about 8’–10’ deep.”**
 - B. Regarding Part A of the Variance, which authorizes the use of an existing lot that does not abut and have access to either a public street right of way or a private accessway:
 - (1) The requirement that a lot have access to a public street right-of-way has existed since adoption of the Zoning Ordinance on October 10, 1973.
 - (2) On March 21, 1983, Associate Planner Lois Rocker wrote a letter to parent tract owner Shelby Williams that his proposed division of the parent tract would “need to meet the requirements of the Champaign County Zoning Ordinance. She recommended that he show Zoning Administrator Mr. Ty Clapper his final survey of the parcels to make sure he had the proper lot width and any other zoning requirements.

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- (3) The 1.2 acre subject property lot and 1.37 acre lot to the south was created from a 2.57 acre tract as per the Alexander Survey dated April 6, 1984.
- (4) Shelby Williams then sold the newly divided 1.37 acre property south of the subject property to J. Ralph and Stephanie Alexander on May 8, 1984.
- (5) An access easement which abuts and includes part of the subject property can be found in a variety of County records since 1983.
 - a. The earliest easement found in County records which authorizes access to what is now the 1.2 acre Griest property was the warranty deed dated December 30, 1997 and recorded January 28, 1998.
 - b. Text Amendment Case 055-AT-96 approved on February 18, 1997, established that access via easement was no longer authorized.
 - c. Further, the access drive that leads to the principal structure on the subject property deviates from the easement in the property to the south, turning northeast to the property east of the subject property, before turning northwest back into the subject property.
 - d. The subject property thus does not have a recognized access that complies with the Zoning Ordinance, and for this reason requires variance Part A.

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, **“Easement access, slope of lot to center about 8’-10’ deep. I need a bigger for building for antique tractor collection.”**
 - B. Regarding Part A of the proposed Variance: without the proposed variance, the subject property would be an illegal lot that could not be improved, because the only recorded easement of access for the property was dated after the text amendment to the Zoning Ordinance that no longer allowed easements.
 - C. Regarding Part B of the proposed Variance: without the proposed variance, the subject property would be an illegal lot that could not be improved, because the lot with insufficient average lot width was created after adoption of the Zoning Ordinance on October 10, 1973.
 - D. Regarding Part C of the proposed Variance: without the proposed variance, the Petitioner would not be able to construct the proposed detached garage.

PRELIMINARY DRAFT**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, **“Replace existing building, built on property at purchase.”**
 - B. According to the Assessor’s property records, the Petitioner has owned the property since 2007.
 - a. The residence on the property was constructed under ZUPA #116-83-01, which was approved on April 26, 1983. The detached garage was already on the property according to the Site Plan from this ZUPA.
 - b. The division of the parent tract that created the 1.2 acre subject property was recorded on the Alexander Survey dated April 6, 1984 and recorded May 15, 1984.
 - c. Further discussion of how previous owners are at fault for the creation of the lot and access can be found under Item 7.B.

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, **“Zoning Ordinance allows accessory structures.”**
 - B. Regarding Part A of the proposed Variance, for authorizing the use of an existing lot that does not abut and have access to either a public street right of way or a private accessway: the requested variance is 100%.
 - C. Regarding Part B of the proposed Variance, for the use of an existing lot with an average lot width of 169 feet in lieu of the minimum required 200 feet: the requested variance is 85% of the minimum required, for a variance of 15%.
 - D. Regarding Part C of the proposed Variance, for an accessory building with a side yard and rear yard of 5 feet in lieu of the minimum required 10 feet in the CR Conservation Recreation District: the requested variance is 50% of the minimum required, for a variance of 50%.
 - E. Regarding Part A of the proposed Variance, for authorizing the use of an existing lot that does not abut and have access to either a public street right of way or a private accessway:
 - (1) Zoning Case 847-AT-93 amended the Zoning Ordinance to clarify regulations for lot access and flag lots. The Finding of Fact for that case provided the considerations that underlie requirements for frontage on public streets: “The division of large tracts potentially creates problems with respect to drainage, emergency vehicle access, and extension of public streets and utilities if not reviewed by means of a plat of subdivision.”

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- (2) The property has a paved, shared access driveway that reaches CR2000N via two neighbors' properties.
 - (3) Drainage for the property does not appear to be impacted by the lack of frontage onto a public street; topography and ditches still provide proper drainage despite the lack of frontage.
 - (4) No extension of public streets or utilities is anticipated for this property.
- F. Regarding Part B of the proposed Variance, for the use of an existing lot with an average lot width of 169 feet in lieu of the minimum required 200 feet:
- (1) Since the adoption of the Zoning Ordinance on October 10, 1973, the CR District has always required a minimum lot area of one acre and a minimum average lot width of 200 feet.
 - (2) The County reviewed the minimum lot area and minimum average lot width requirements in Case 847-AT-93. That case established the importance of accommodating onsite wastewater treatment on lots without connection to a sanitary sewer system. As amended, following Case 847-AT-93, the Ordinance requires a minimum lot area of 30,000 square feet and a minimum average width of 150 feet for any new lot (in other than the CR and AG-1 Districts) if there is no sanitary sewer and no public water supply. Further, if a connected public water supply system is available, Paragraph 4.3.4.B. only requires a minimum lot area of 20,000 square feet and a minimum average lot width of 100 feet.
 - (3) Besides the importance of accommodating onsite wastewater treatment and disposal as part of the basis for the minimum lot area and average lot width requirement, other considerations are as follows:
 - a. Adequate light and air: The subject property is in residential use. The surrounding properties are also in residential use.
 - b. Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time. The subject property is within the Cornbelt Fire Protection District and the station is approximately 4.1 road miles from the subject property. The nearest structure to the proposed shed on adjacent property is a residence that is approximately 70 feet away.
 - c. Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.
- G. Regarding Part C of the proposed Variance, for an accessory building with a side yard and rear yard of 5 feet in lieu of the minimum required 10 feet in the CR Conservation Recreation District: the Zoning Ordinance does not clearly state the considerations that underlie the side and rear yard requirements. In general, the side and rear yards are presumably intended to ensure the following:

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- (1) Adequate light and air: The subject property is in residential use. The surrounding properties are also in residential use.
- (2) Separation of structures to prevent conflagration: The subject property is within the Cornbelt Fire Protection District and the station is approximately 4.1 road miles from the subject property. The nearest structure to the proposed shed on adjacent property is a residence that is approximately 70 feet away.
- (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: **“Building to be used as a garage for antique tractor.”**
 - B. The Township Road Commissioner has been notified of this variance but no comments have been received.
 - C. The Cornbelt Fire Protection District has been notified of this variance but no comments have been received.
 - D. No comments have been received to date regarding the proposed variance.
 - E. The nearest structure to the proposed shed on adjacent property is a residence that is approximately 65 feet from the shared property line.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

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

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:

No special conditions are proposed at this time.

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DOCUMENTS OF RECORD

1. Variance Application received June 3, 2016, with attachment:
 - A Site Plan received June 3, 2016
2. Case File for ZUPA #116-83-01, including Plat of Survey submitted with application dated April 22, 1983
3. Letter to Shelby Williams from Lois Rocker dated March 21, 1983
4. Alexander Survey for parent tract of subject property dated April 6, 1984 and recorded May 15, 1984
5. Warranty Deed for the subject property recorded on January 28, 1998
6. Preliminary Memorandum dated September 8, 2016 with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received June 3, 2016
 - C Plat of Survey submitted with ZUPA #116-83-01 dated April 22, 1983
 - D Letter to Shelby Williams from Lois Rocker dated March 21, 1983
 - E Alexander Survey for parent tract of subject property dated April 6, 1984 and recorded May 15, 1984
 - F Warranty Deed for the subject property recorded on January 28, 1998
 - G Images of Subject Property taken August 20, 2016
 - H Draft Summary of Evidence, Finding of Fact, and Final Determination

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **848-V-16** held on **September 15, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: _____
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: _____
3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: _____
4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:

5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____
6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because:

7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

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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 **848-V-16** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner **Lawrence Griest** to authorize the following variance in the CR Conservation Recreation Zoning District:

Part A: Authorize the use of an existing lot that does not abut and have access to either a public street right of way or a private accessway as required by Section 4.2.1 H. of the Ordinance; and

Part B: Authorize a variance for the use of an existing lot with an average lot width of 169 feet in lieu of the minimum required 200 feet required by Section 5.3 of the Ordinance; and

Part C: Authorize the construction and use of an accessory structure with a side yard of 5 feet and a rear yard of 5 feet in lieu of the minimum 10 feet side yard and the minimum 10 feet rear yard required by Section 7.2.1 of the 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:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date