

CASE 985-V-20

PRELIMINARY MEMORANDUM

NOVEMBER 3, 2020

Petitioner: **Herbert Osterbur, via agent Mitch Osterbur**

Request: **Authorize the following Variance in the AG-1 Agriculture Zoning District:**

Variance for a lot area of 0.83 acre with a net lot area of 0.67 acre (excluding road right-of-way) in lieu of the minimum required 1 acre, and an average lot width of 165 feet in lieu of the minimum required 200 feet, per Section 5.3 of the Zoning Ordinance.

Subject Property: **A 0.83-acre vacant lot in the Southeast Quarter of the Southeast Quarter of the Northeast Quarter of Section 22, Township 20 North, Range 10 East of the Third Principal Meridian in Stanton Township, approximately 400 feet south of the residence with an address of 2061 CR 2200 E, St. Joseph.**

Site Area: **0.83 acre with a net lot area of 0.67 acre (excluding right-of-way)**

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

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

BACKGROUND

Mitch Osterbur contacted the P&Z Department on behalf of his father, Herbert Osterbur, to make sure that his father's lot was a good zoning lot that could be sold. The 0.75-acre subject property was previously a 2.25-acre homestead comprised of two tracts. The 1.5-acre tract surrounding the subject property on the north and west was sold to the adjacent owner to the west in 1977, per Document No. 77R10663, leaving the 0.75-acre tract alone. The 0.75-acre subject property went to tax sale in 1980, and the petitioner purchased the 0.75-acre subject property in 1984.

In order to be a good zoning lot, a variance is needed for average lot width and lot area. The requirements for minimum average lot width of 200 feet and a lot area of one acre in the AG-1 Zoning District were established with the adoption of the Zoning Ordinance on October 10, 1973.

The P&Z Department has not received any comments regarding the proposed variance. No special conditions are proposed.

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 Stanton 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	Vacant	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan: Annotated 2020 Aerial created by P&Z Staff on October 19, 2020
- C Warranty Deed for adjacent 1.5-acre part of homestead dated August 16, 1977 and recorded September 15, 1977 as document number 77R20663
- D Tax Deed for subject property dated and recorded on May 14, 1984 as document number 1984R08307
- E Warranty Deed for subject property dated and recorded on October 17, 1984 as document number 1984R18641
- F Images of Subject Property taken October 2, 2020
- G Draft Summary of Evidence, Finding of Fact, and Final Determination dated November 12, 2020

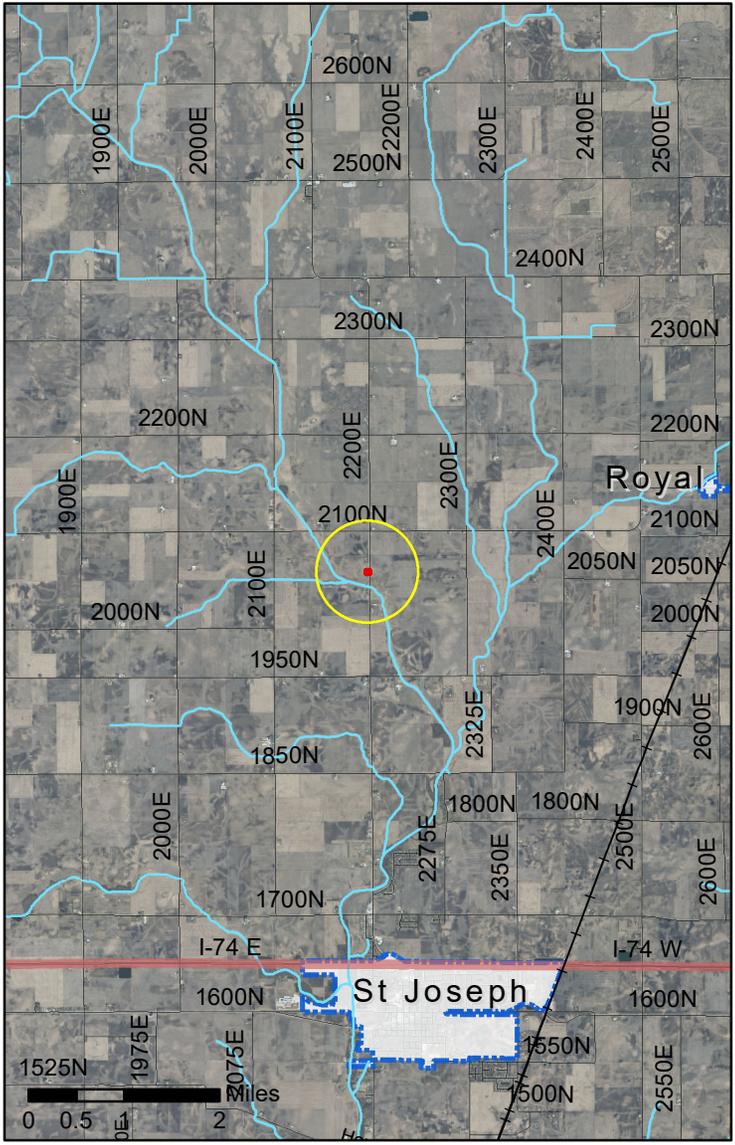
Location Map

Case 985-V-20
November 12, 2020

Subject Property



Property location in Champaign County



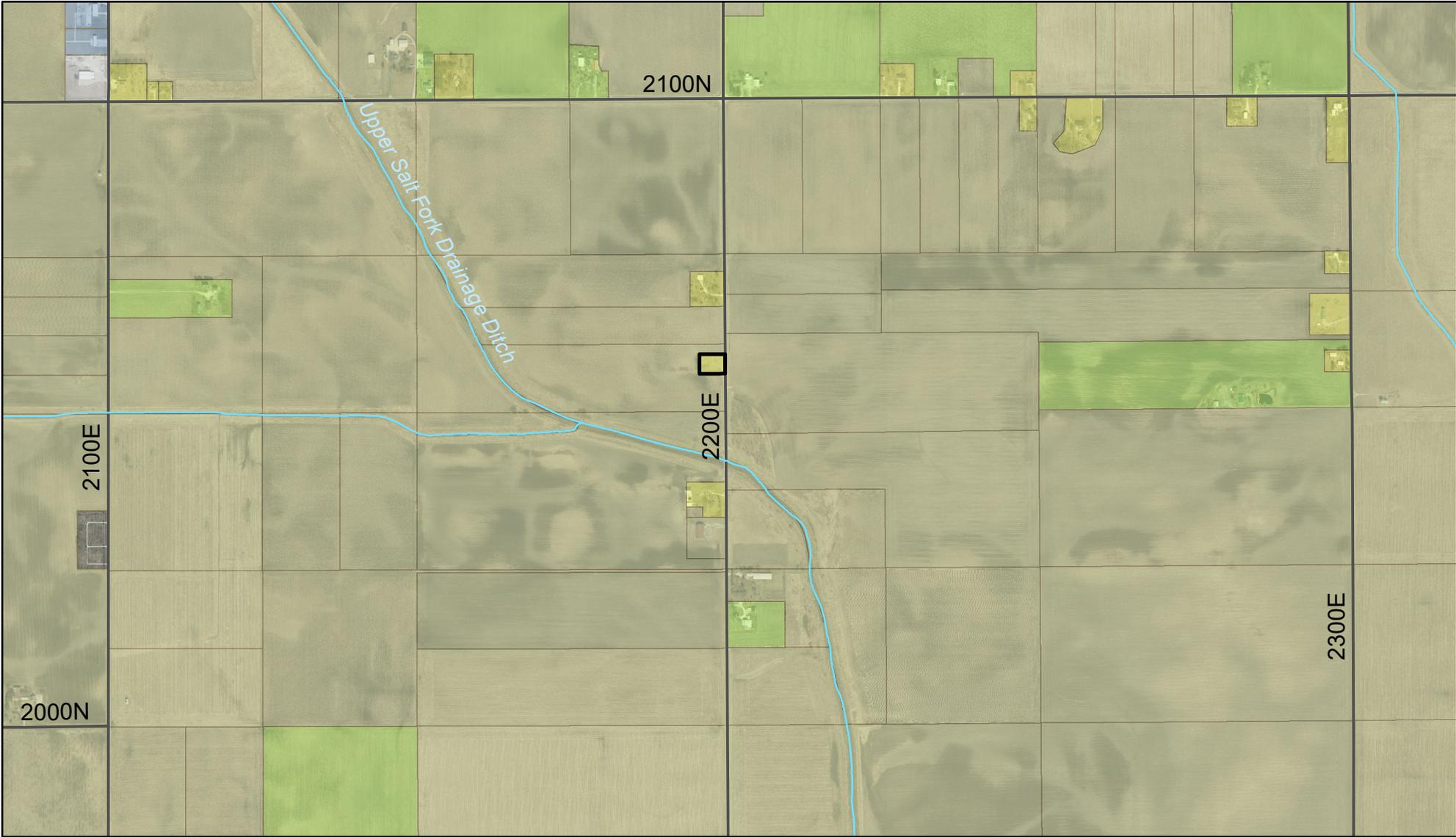
- Legend**
- Subject Property
 - Streets
 - Municipal Boundary
 - Parcels



Champaign County
Department of
**PLANNING &
ZONING**

Land Use Map

Case 985-V-20
November 12, 2020



Legend

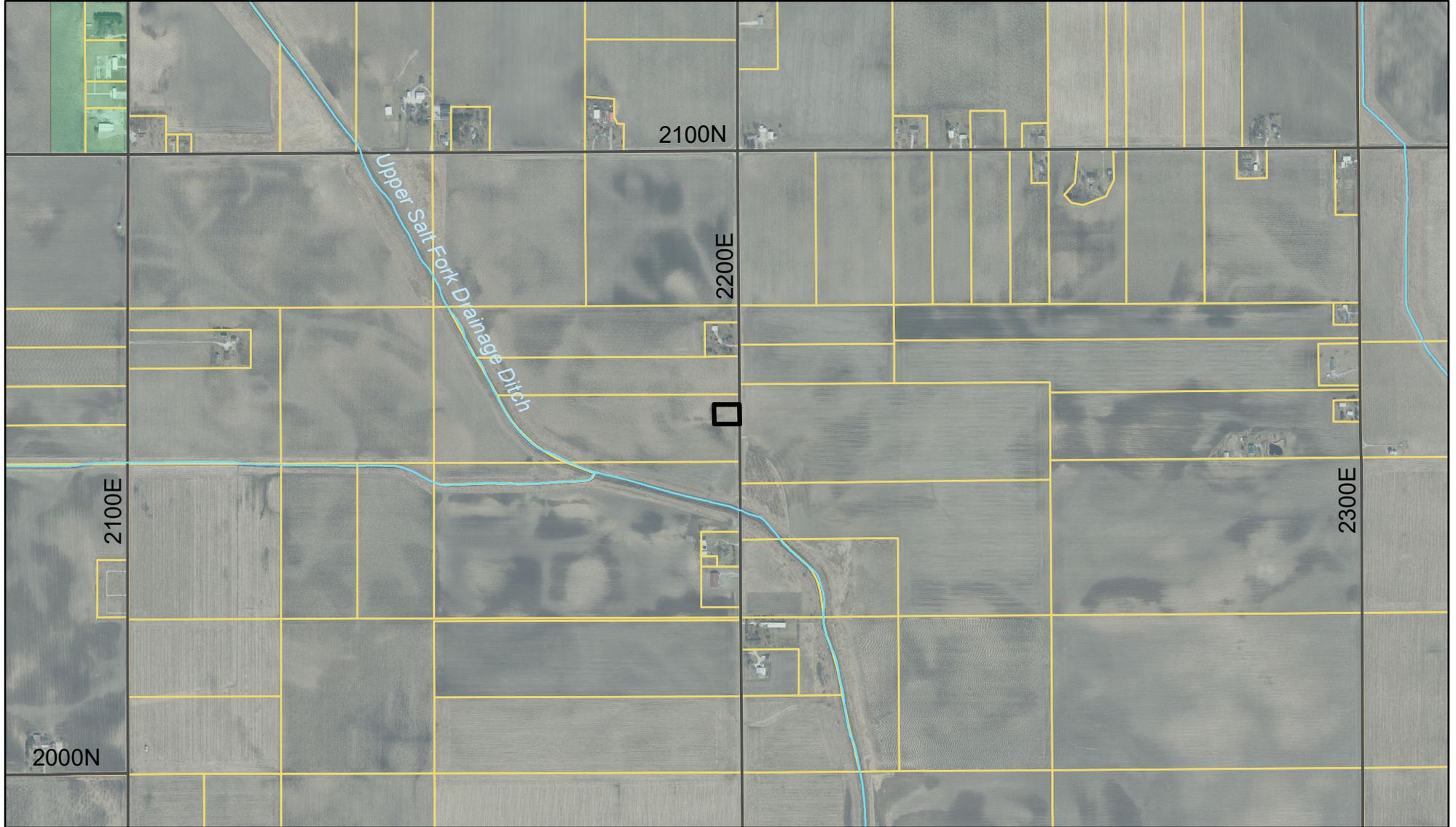
- Subject Property
- Residential
- Agriculture
- Commercial
- Ag/Residential
- Tax Exempt



Champaign County
Department of
**PLANNING &
ZONING**

Zoning Map

Case 985-V-20
November 12, 2020



Legend

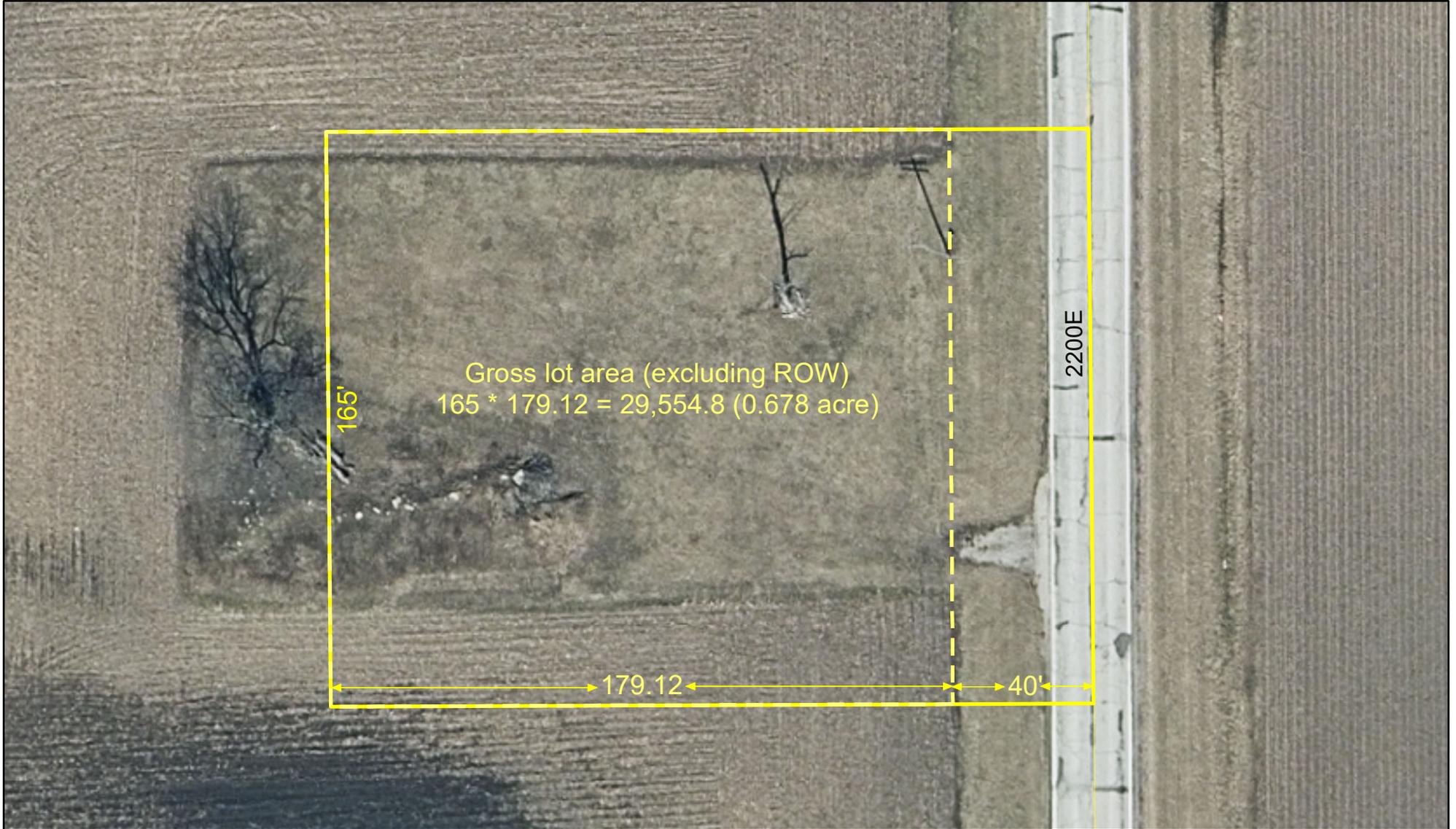
-  Subject Property
-  Parcels
-  AG-1 Agriculture
-  AG-2 Agriculture

0 300 600 1,200 Feet



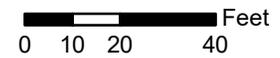
Annotated 2020 Aerial

Case 985-V-20
November 12, 2020



Legend

 Subject Property



Champaign County
Department of
PLANNING &
ZONING

WARRANTY DEED

BOOK 1131 PAGE 632

Case 985-V-20, ZBA 11/12/20, Attachment C, Page 1 of 1

DOCUMENT NO. 77R20663

THE GRANTOR, KENNETH W. GRONEWALD,

a bachelor,

For Recorder's Certificate Only

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

SEP 15 1977 11 45 AM

Recorded in Book 1131
of Receipts on Page 632

Robert C. Martin
Recorder of Deeds

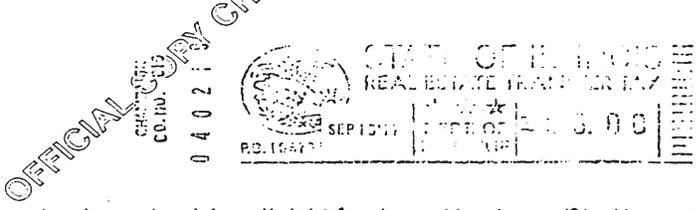
of the City of Champaign, in the County of Champaign, and State of Illinois

for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, CONVEYS and WARRANTS to the GRANTEE, JUNIOR POPPE HULS,

of the Village of St. Joseph, County of Champaign, and State of Illinois, the following described real estate:

Commencing at the Southeast corner of the Northeast Quarter of Section 22, Township 20 North, Range 10 East of the Third Principal Meridian; thence N 00° 00' 00" E along the East line of the Northeast Quarter of Section 22, 326.70 feet; thence N 89° 45' 19" W along the South line of the North 253.30 feet of the South 580.00 of the Northeast Quarter of said Section 22, 219.12 feet for a true place of beginning; thence N 89° 45' 19" W along the South line of the North 253.30 feet of the South 580.00 feet of the Northeast Quarter of said Section 22, 180.88 feet; thence N 00° 00' 00" E parallel to the East line of the Northeast Quarter of said Section 22, 253.30 feet; thence S 89° 45' 19" E along the North line of the South 580.00 feet of the Northeast Quarter of said Section 22, 400.00 feet to the East line of the Northeast Quarter of said Section 22; thence S 00° 00' 00" W along the East line of the Northeast Quarter of said Section 22, 88.30 feet; thence S 89° 45' 19" E, 219.12 feet; thence S 00° 00' 00" W parallel to the East line of the Northeast Quarter of said Section 22, 165.00 feet to the place of beginning, said tract containing 1.50 acres, more or less, and situated in Champaign County, Illinois.

Subject to: (1) Real estate taxes for the year 1976 and subsequent years; (2) Covenants, conditions, restrictions and easements apparent or of record; (3) All applicable zoning laws and ordinances;



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

Dated this 16th day of August, 1977.
Kenneth W. Gronewald

KENNETH W. GRONEWALD

STATE OF ILLINOIS }
CHAMPAIGN COUNTY } SS

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY, that Kenneth W. Gronewald, a bachelor,

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 he signed, sealed and delivered the said instrument as his 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 16th day of August, A.D. 1977.

Thomas J. Gordon Notary Public

Deed Prepared By: Junior Poppe Huls, 2103 S. Neil, Champaign, IL. Tax Bill To: Junior Poppe Huls, P.O. Box 3, St. Joseph, IL 61873. Exempt under provisions of Paragraph Section 4, Real Estate Transfer Tax Act. Date Signature Buyer, Seller or Representative

1984R08307
BOOK 1361 PAGE 656

STATE OF ILLINOIS }
COUNTY OF CHAMPAIGN } ss.

TAX DEED

WHEREAS, At a public sale of Real Estate for the non-payment of taxes, made in the County aforesaid,
on OCTOBER 21 1980, the following described

27 16 22 200 008

Real Estate was sold, to-wit: COMMENCING AT THE SOUTHEAST CORNER OF THE NE 1/4 OF SEC. 22,
TWP. 20 N.R. 10E. OF THE 3RD P.M. THENCE NORTH ALONG THE EAST LINE OF THE NE 1/4
OF SEC. 22, 326.70 FEET TO THE PLACE OF BEGINNING, THENCE NORTH 89°45'19" WEST.
219.12 FEET THENCE NORTH PARALLEL TO THE EAST LINE OF SAID SEC.22, A DISTANCE
OF 165 FEET, THENCE NORTH 89°45'19" EAST, A DISTANCE OF 219.12 FEET TO THE EAST
LINE OF SAID SEC. 22 THENCE SOUTH 165 FEET TO THE PLACE OF BEGINNING, EXCEPT
THAT PART CONVEYED TO THE COUNTY OF CHAMPAIGN, STATE OF ILLINIOS BY DOCUMENT #
73 R 1466, SITUATED IN CHAMPAIGN COUNTY, ILLINIOS.

AND WHEREAS, the same not having been redeemed from said sale, and it appearing that the holder
of the Certificate of Purchase of said Real Estate ha S complied with the laws of the State of Illinois
necessary to entitle IT to a Deed of said Real Estate:
(Him, Her, or Them)

NOW, THEREFORE, Know Ye, That I DENNIS R. BING,

County Clerk of said County of CHAMPAIGN

in consideration of the premises and by virtue of the statutes
of the State of Illinois in such cases provided, do hereby grant
and convey unto MIDWEST LAND DEVELOPEMENT

of COUNTY OF KANKAKEE, STATE OF ILLINIOS
P.O. BOX 99, BOURBONNAIS, IL 60914

h heirs and assigns forever, the said Real Estate hereinbefore
described.

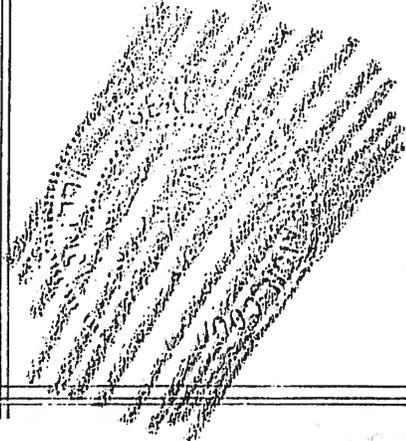
Dated May 14th, 1984

Dennis R. Bing
(County Clerk)

EXEMPT UNDER PROVISIONS OF PAGAGRAPH F, SECTION 4, REAL ESTATE TRANSFER
TAX ACT. 5-14-84
BRADY FITZGERALD

5/14/84
DATE

[Signature]
REPRESENTATIVE



This Indenture, Made this 20TH day of JULY 1984

between FIRST TRUST & SAVINGS BANK OF KANKAKEE, Kankakee, Illinois, a Corporation of Illinois, as trustee under the provisions of a deed or deeds in trust, duly recorded and delivered to said company in pursuance of a trust agreement dated the 23 day of JULY 1973 and known as Trust Number 1926, party of the first part, and HERBERT J. OSTERBUR of ST. JOSEPH, ILLINOIS, parties of the second part.

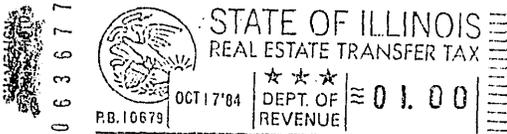
Witnesseth, That said party of the first part, in consideration of the sum of TEN DOLLARS AND 00/100 Dollars, and other good and valuable considerations in hand paid, does hereby convey and warrant (but as to its own acts and sufferances as such Trustee only) unto said parties of the second part, the following described real estate, situated in CHAMPAIGN County, Illinois, to-wit: 27 16 22 200 008

COMMENCING AT THE SOUTHEAST CORNER OF THE NE $\frac{1}{4}$ OF SECTION 22, TWP. 20 N. R. 10 E. THE 3RD P.M. THENCE NORTH ALONG THE EAST LINE OF THE NE $\frac{1}{4}$ OF SECTION 22, 326.70 FEET TO THE PLACE OF BEGINNING, THENCE NORTH 89° 45' 19" WEST, 219.12 FEET, THENCE NORTH PARALLEL TO THE EAST LINE OF SAID SECTION 22, A DISTANCE OF 165 FEET, THENCE NORTH 89° 45' 19" EAST, A DISTANCE OF 219.12 FEET TO THE EAST LINE OF SAID SECTION 22, THENCE SOUTH 165 FEET TO THE PLACE OF BEGINNING, EXCEPT THAT PART CONVEYED TO COUNTY OF CHAMPAIGN, STATE OF ILLINOIS, BY DOCUMENT NO. 73R 1466, SITUATED IN CHAMPAIGN COUNTY, ILLINOIS. THAT PART OF THE SE $\frac{1}{4}$ OF THE NE $\frac{1}{4}$ OF SECTION 22, TOWNSHIP 20 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN.

SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

together with the tenements and appurtenances thereunto belonging.

To Have and to Hold The same unto said parties of the second part forever.



CHAMPAIGN COUNTY
STAMPS 1.00
DATE 10-17-84

This deed is executed pursuant to and in the exercise of the power and authority granted to and vested in said trustee by the terms of said deed or deeds in trust delivered to said trustee in pursuance of the trust agreement above mentioned. This deed is made subject to the lien of every trust deed or mortgage (if any there be) of record in said county given to secure the payment of money, and remaining unreleased at the date of the delivery hereof.

In Witness Whereof, said party of the first part has caused its corporate seal to be hereto affixed, and has caused its name to be signed to these presents by its Vice President and attested by its Asst. Cashier, the day and year first above written.

This document prepared by:
HARRY FITZGERALD
P.O. BOX 99
BOURBONNAIS

FIRST TRUST & SAVINGS BANK OF KANKAKEE, Kankakee, Illinois,
as Trustee as aforesaid.

By [Signature] Vice President

Attest [Signature] Assistant Cashier

STATE OF ILLINOIS }
COUNTY OF KANKAKEE } ss.

I, the undersigned, a Notary Public in and for Kankakee County, Illinois, DO HEREBY CERTIFY that the above-named Vice President and Assistant Cashier of First Trust & Savings Bank of Kankakee, grantor, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President and Assistant Cashier respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act of said Bank, as Trustee, for the uses and purposes therein set forth, and the said Assistant Cashier did then and there acknowledge that he, as custodian of the corporate seal of said Bank, did affix the said corporate seal of said Bank to said instrument as his own free and voluntary act, and as the free and voluntary act of said Bank, as Trustee, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal on

JULY 20 _____ 19 84

Doreen E. ...
Notary Public

Send tax bills to:
HERBERT J. OSTERBUR
BOX 71
ST. JOSEPH, IL 61873

AFTER RECORDING
MAIL THIS INSTRUMENT TO: ~~SAME AS ABOVE~~

*Herbert Osterbur
Box 71
St. Joseph, Ill 61873*

84118641

Trustee's Deed

First Trust & Savings Bank of
Kankakee, Kankakee, Illinois
As Trustee under Trust Agreement

TO

STATE OF ILLINOIS }
KANKAKEE COUNTY } ss.

Filed for record in the Recorder's Office
of said county

OCT 17 1984 11 20 AM

Recorded in Book 1382
of *Records* on Page 6

Robert C. ...
Recorder of Deeds

600Pd

985-V-20 Site Images



From access drive facing west



From access drive facing north

985-V-20 Site Images



From CR 2200E facing NW



Exiting access drive facing south on CR 2200E

PRELIMINARY DRAFT

985-V-20

**SUMMARY OF EVIDENCE, FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: ***{GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED}***

Date: ***{November 12, 2020}***

Petitioners: **Herbert Osterbur, via agent Mitch Osterbur**

Request: **Authorize the following Variance in the AG-1 Agriculture Zoning District:**
**Variance for a lot area of 0.83 acre with a net lot area of 0.67 acre
(excluding road right-of-way) in lieu of the minimum required 1 acre,
and an average lot width of 165 feet in lieu of the minimum required
200 feet, per Section 5.3 of the 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 **November 12, 2020**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Herbert Osterbur owns the subject property. His son, Mitch Osterbur, is his agent for this zoning case.
2. The subject property is a 0.83-acre vacant lot in the Southeast Quarter of the Southeast Quarter of the Northeast Quarter of Section 22, Township 20 North, Range 10 East of the Third Principal Meridian in Stanton Township, approximately 400 feet south of the residence with an address of 2061 CR 2200 E, St. Joseph.
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 Stanton Township, which has 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 vacant subject property is 36,155 square feet (0.83 acre) and is currently zoned AG-1 Agriculture.
 - B. Land surrounding the subject property is also zoned AG-1 Agriculture and is in agricultural production.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. The Site Plan for the subject property is a 2020 Annotated Aerial created by P&Z Staff on October 19, 2020. The vacant lot is being brought into compliance in order to sell it, with no current development plans.
 - A. There are no previous Zoning Use Permits for the subject property.
 - B. There are no previous Zoning Cases for the subject property.
 - C. The required variance is as follows:
 - (1) A lot area of 0.83 acre with a net lot area of 0.67 acre (excluding road right-of-way) in lieu of the minimum required 1 acre, and an average lot width of 165 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):

PRELIMINARY DRAFT**Case 985-V-20**

Page 3 of 9

- (1) "AREA, LOT" is the total area within the LOT LINES.
 - (2) "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.
 - (3) "LOT LINES" are the lines bounding a LOT.
 - (4) "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.
 - (5) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning BOARD of Appeals are permitted to grant.
- B. 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 lot area requirement for the AG-1 District is established in Section 5.3 of the *Zoning Ordinance* as 1 acre, exclusive of right-of-way.
- E. 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, **“The lot has always been a residential lot. The old house was torn down at least 25 years ago.”**
- (1) The 0.75 acre subject property was previously a 2.25-acre homestead comprised of two tracts. The 1.5 acre tract surrounding the subject property on the north and west was sold to the adjacent owner to the west, leaving the 0.75 acre tract alone.

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, **“The farmland the lot is located on is not available to make the lot bigger. This is the original size of the lot.”**
- B. Regarding the proposed variance for a lot area of 0.83 acre (0.67 acre exclusive of right-of-way) in lieu of the minimum required 1 acre and for an average lot width of 165 feet in lieu of the minimum required 200 feet: without the proposed variance, no buildings could be constructed on the 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, **“When the property was purchased, the zoning laws were different and lot size was legal.”**
- B. The requirements for minimum average lot width of 200 feet and a lot area of one acre in the AG-1 Zoning District were established with the adoption of the Zoning Ordinance on October 10, 1973.
- C. The 0.75 acre subject property was previously a 2.25-acre homestead comprised of two tracts. The 1.5 acre tract surrounding the subject property on the north and west was sold to the adjacent owner to the west in 1977, per Document No. 77R10663, leaving the 0.75-acre tract alone.
- D. The 0.75-acre subject property went to tax sale in 1980. The petitioner purchased the 0.75-acre subject property in 1984.

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, **“The lot is located in an open area with no structures within 600 feet.”**
 - B. Regarding the proposed variance for a lot area of 0.83 acre (0.67 acre exclusive of right-of-way) in lieu of the minimum required 1 acre: the requested variance is 67% of the minimum required, for a variance of 33%.
 - C. Regarding the proposed variance for an average lot width of 165 feet in lieu of the minimum required 200 feet: the requested variance is 82.5% of the minimum required, for a variance of 17.5%.
 - D. Regarding the proposed variance for lot area and average lot width:
 - (1) Since the adoption of the Zoning Ordinance on October 10, 1973, the AG-1 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 (0.689 acre) 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) In regards to accommodating onsite wastewater treatment and disposal:
 - a. There is no known septic system on the subject property.
 - (4) 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 vacant use. The surrounding land is in agricultural production.
 - b. Separation of structures to prevent conflagration: The subject property is within the St. Joseph-Stanton Fire Protection District and the station is approximately 4.8 road miles from the subject property. The nearest residence is approximately 500 feet to the north.
 - 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: **“The area in consideration has no “neighborhood” and would not affect any drainage or nearby structures.”**
 - B. The Stanton Township Road Commissioner has been notified of this variance and no comments have been received.
 - C. The St. Joseph-Stanton 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: **“This variance is justifiable since this lot has been this size for at least 60 years since a house was there before.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:

No special conditions are proposed.

PRELIMINARY DRAFT**DOCUMENTS OF RECORD**

1. Variance Application received August 28, 2020
2. Site Plan: Annotated 2020 Aerial created by P&Z Staff on October 19, 2020
3. Warranty Deed for adjacent 1.5-acre part of homestead dated August 16, 1977 and recorded September 15, 1977 as document number 77R20663
4. Tax Deed for subject property dated and recorded on May 14, 1984 as document number 1984R08307
5. Warranty Deed for subject property dated and recorded on October 17, 1984 as document number 1984R18641
6. Preliminary Memorandum dated November 3, 2020, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan: Annotated 2020 Aerial created by P&Z Staff on October 19, 2020
 - C Warranty Deed for adjacent 1.5-acre part of homestead dated August 16, 1977 and recorded September 15, 1977 as document number 77R20663
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 - E Warranty Deed for subject property dated and recorded on October 17, 1984 as document number 1984R18641
 - F Images of Subject Property taken October 2, 2020
 - G Draft Summary of Evidence, Finding of Fact, and Final Determination dated November 12, 2020

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **985-V-20** held on **November 12, 2020**, the Zoning Board of Appeals of Champaign County finds that:

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

PRELIMINARY DRAFT

FINAL DETERMINATION FOR CASE 985-V-20

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 **985-V-20** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner, **Herbert Osterbur, via agent Mitch Osterbur**, to authorize the following variance in the AG-1 Agriculture Zoning District:

Authorize a variance for a lot area of 0.83 acre with a net lot area of 0.67 acre (excluding road right-of-way) in lieu of the minimum required 1 acre, and an average lot width of 165 feet in lieu of the minimum required 200 feet, per Section 5.3 of the 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:

ATTEST:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date