

CASE NO. 015-V-21

PRELIMINARY MEMORANDUM
AUGUST 3, 2021

Petitioner: **James Nonman**

Request: **Authorize a variance for a 3.9-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.**

Subject Property: **An 80-acre tract in the North Half of the Southwest Quarter of Section 24, Township 17 North, Range 10 East of the Third Principal Meridian in Raymond Township, commonly known as the farmstead with an address of 238 CR 2300E, Broadlands.**

Site Area: **3.9 acres of an 80-acre parent tract**

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

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

BACKGROUND

Petitioner James Nonman would like to split and square off 3.9 acres that was a farmstead from the tillable land on an 80-acre tract.

The lot split needs a variance from the County for creating a lot greater than three acres on Best Prime Farmland. The petitioner seeks to minimize on the ground changes to the property, other than to square up the former farmstead area, which would provide slightly more tillable land for the farmer. P&Z Staff created a map dated July 14, 2021 showing the proposed lot split over a 2020 aerial photo to demonstrate how squaring off the homestead might change tillable area (Attachment C). Another map showing the proposed lot over a 1973 aerial can be found in Attachment D.

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

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Former Farmstead (house demolished)	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Agriculture, Residential	AG-1 Agriculture
South	Agriculture, Ameren substation	AG-1 Agriculture

EXTRATERRITORIAL JURISDICTION

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

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

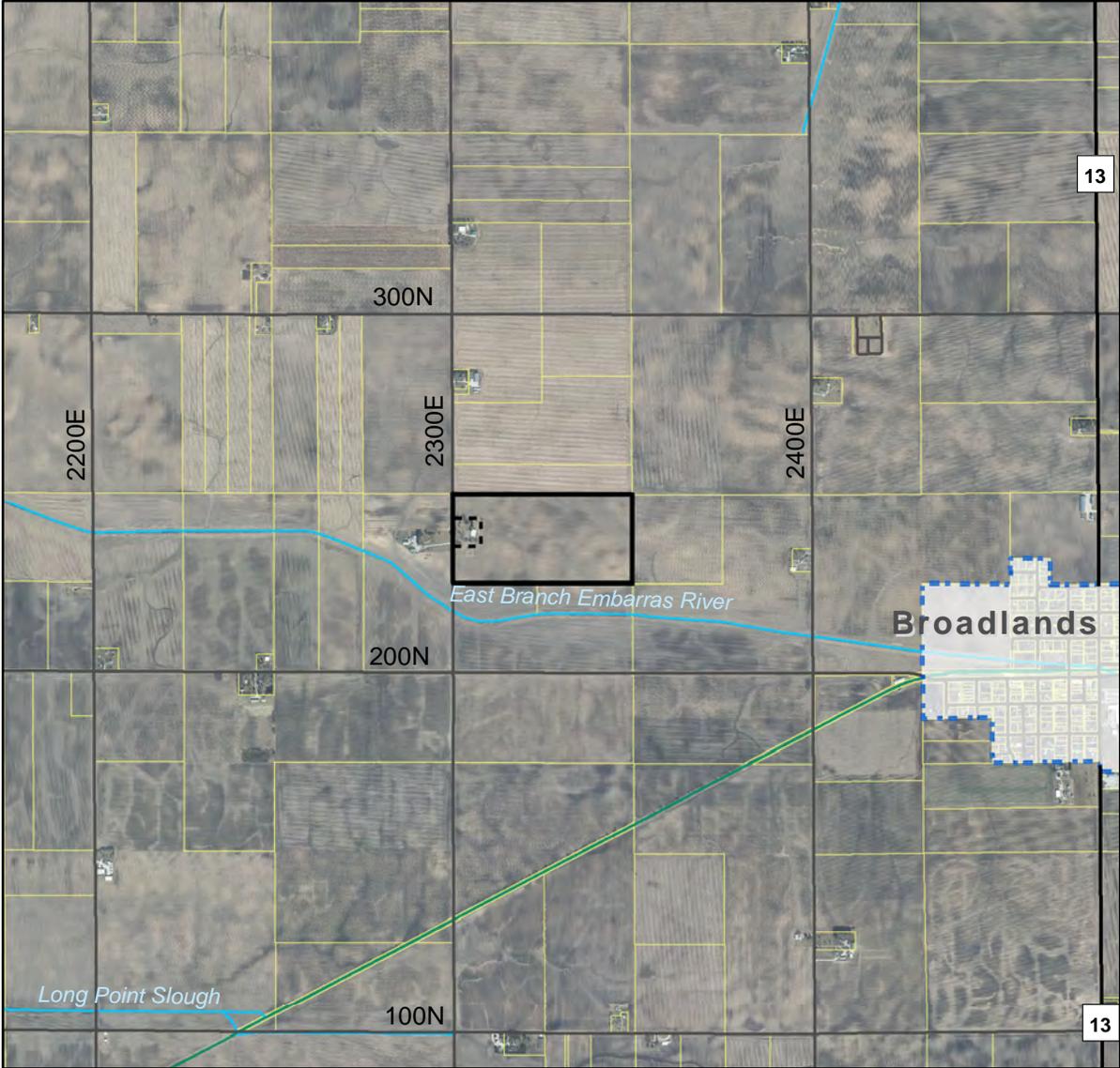
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan: Plat of Survey by Hartke Engineering and Surveying dated June 1, 2021 and received June 3, 2021
- C Map showing the proposed lot split over a 2020 aerial photo created by P&Z Staff on July 14, 2021
- D Map showing the proposed lot split over a 1973 aerial photo created by P&Z Staff on July 14, 2021
- E Site Images taken July 23, 2021
- F Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 015-V-21 dated August 12, 2021

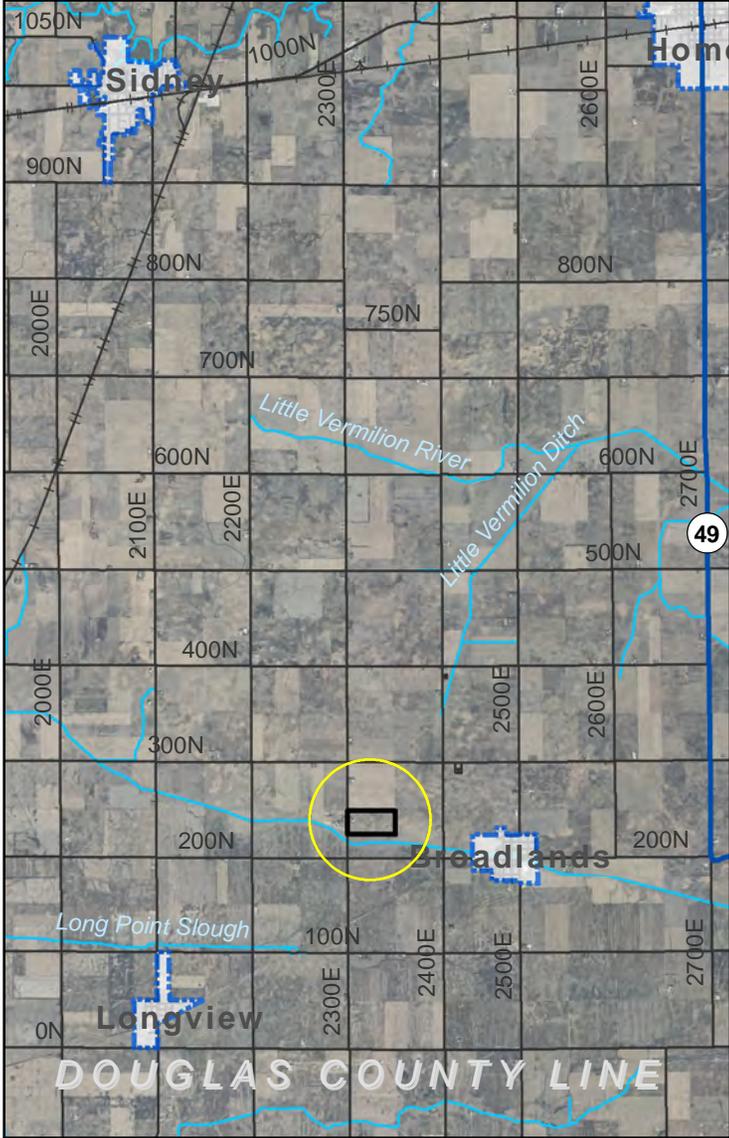
Location Map

Case 015-V-21
August 12, 2021

Subject Property



Property location in Champaign County

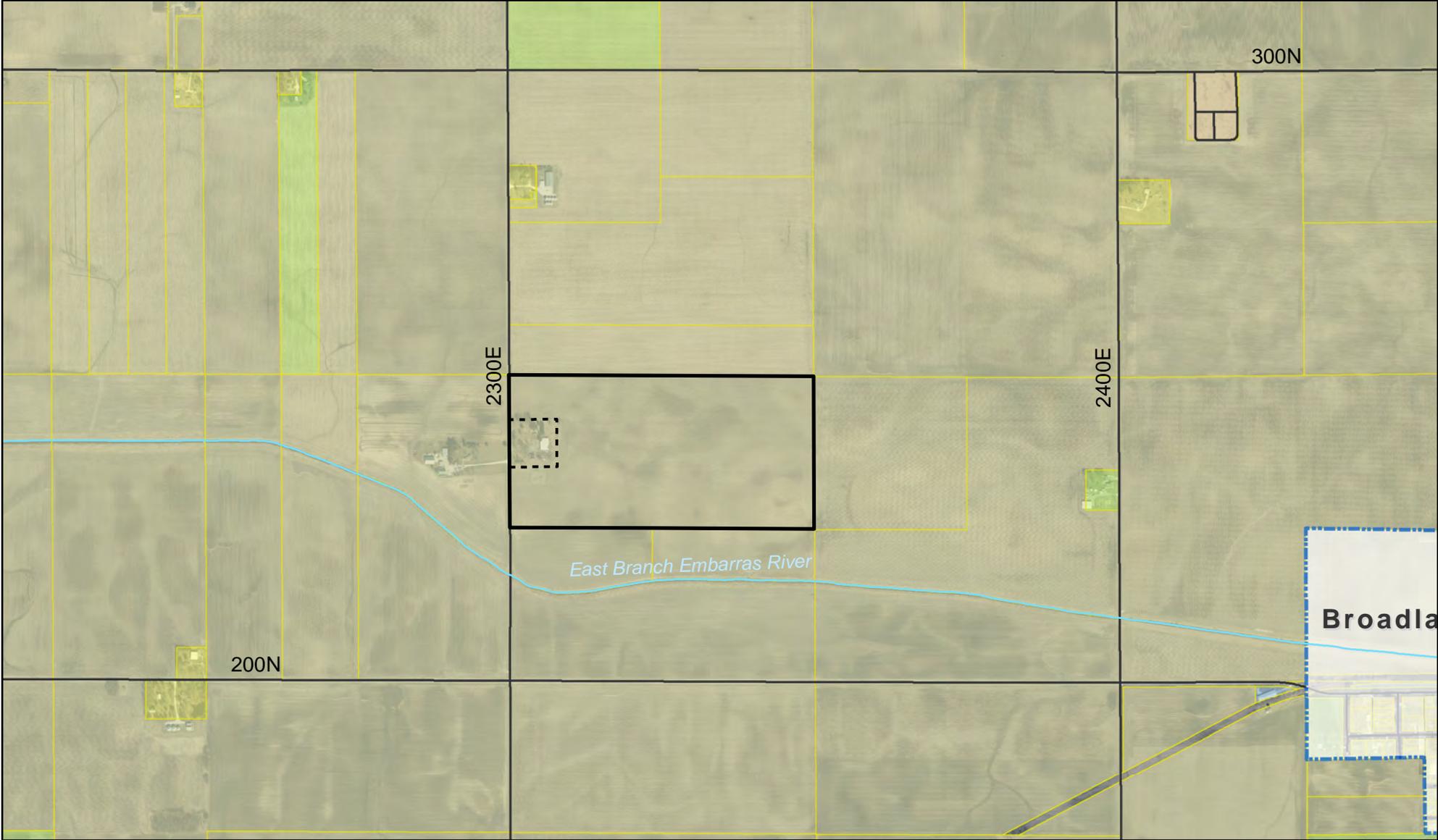


Legend

-  Subject Property
-  Parcels
-  Proposed Lot
-  Municipal Boundary

Land Use Map

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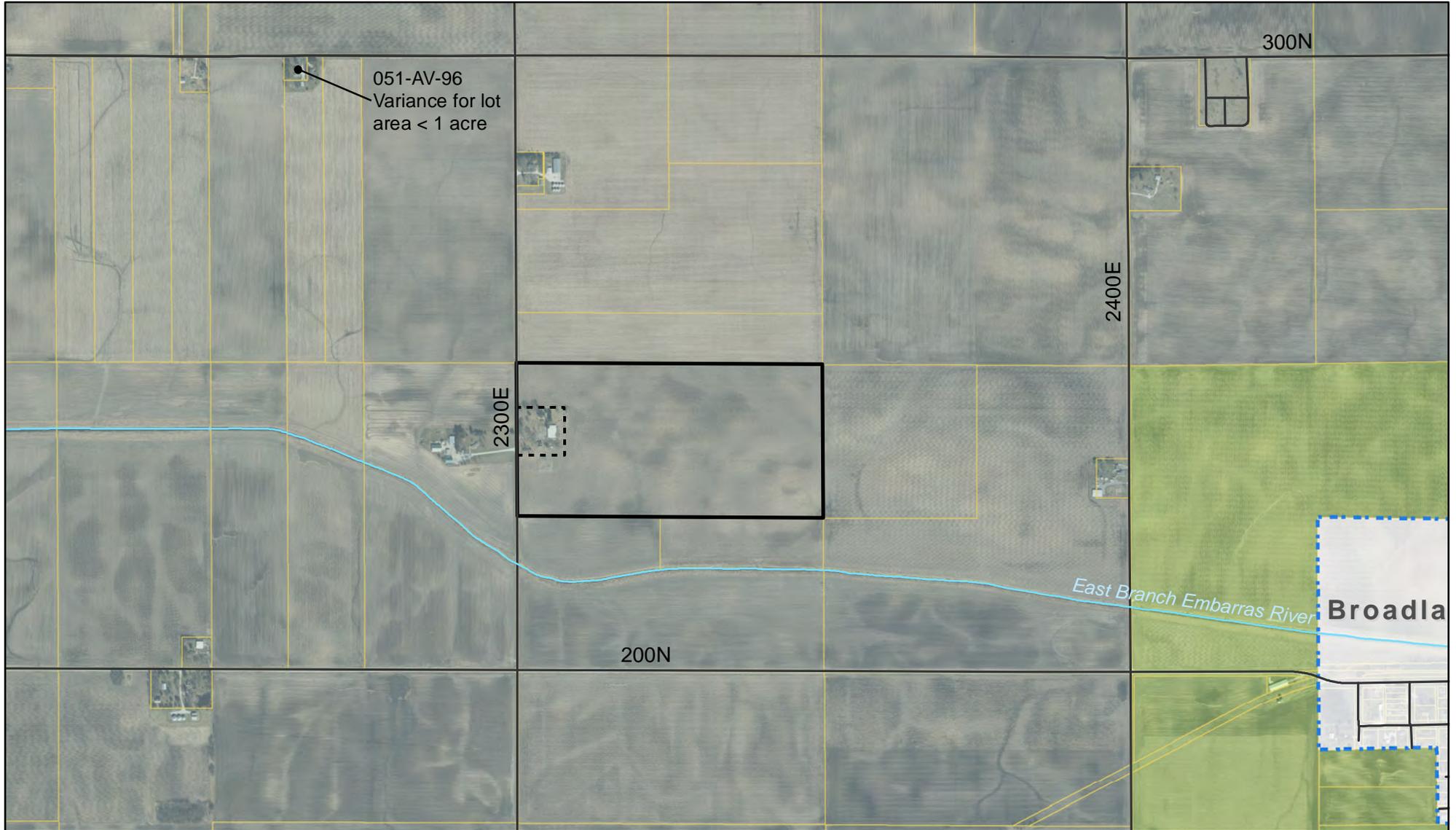
Legend

- Subject Property
- Parcels
- Residential
- Proposed Lot
- Agriculture
- Commercial
- Municipal Boundary
- Ag/Residential
- Cemetery



Zoning Map

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August 12, 2021



Legend

- Subject Property
- Proposed Lot
- Parcels
- Municipal Boundary
- AG-1 Agriculture
- AG-2 Agriculture

0 300 600 1,200 Feet



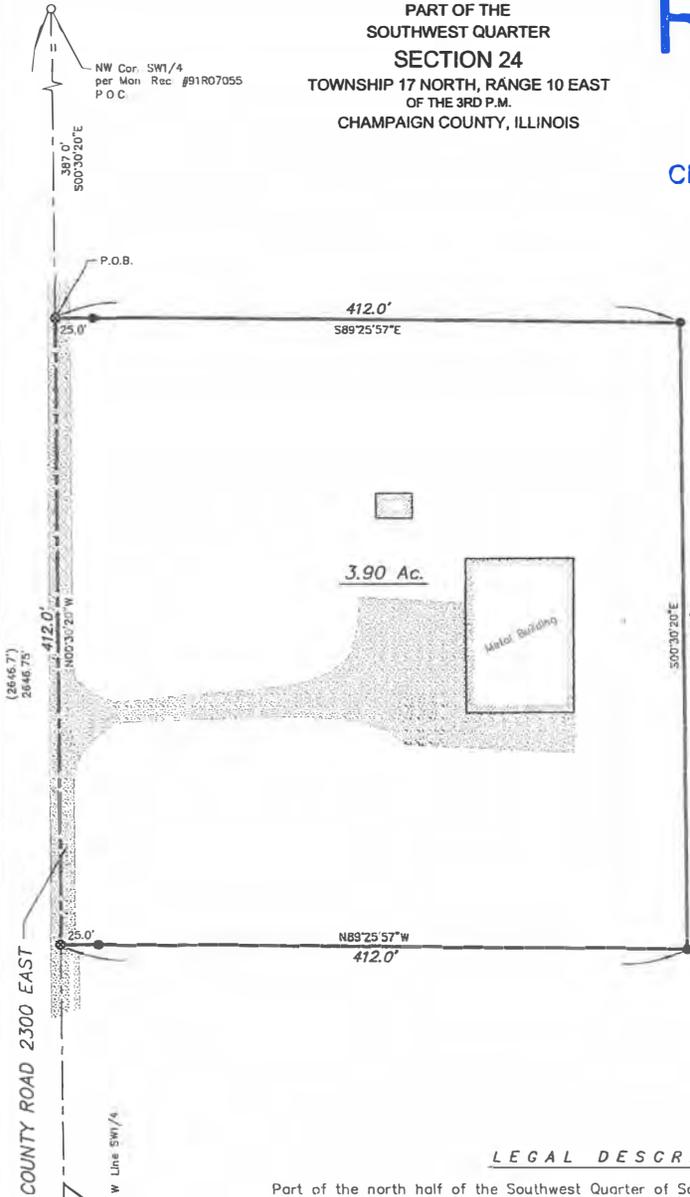
PLAT OF SURVEY
 PART OF THE
 SOUTHWEST QUARTER
 SECTION 24
 TOWNSHIP 17 NORTH, RANGE 10 EAST
 OF THE 3RD P.M.
 CHAMPAIGN COUNTY, ILLINOIS

RECEIVED

JUN 03 2021

CHAMPAIGN CO P & Z DEPARTMENT

SPACE RESERVED FOR RECORDING OFFICER



SCALE : 1" = 80'
 BEARINGS REFERENCED TO ILLINOIS
 STATE PLANE COORDINATE SYSTEM
 NAD 1983, EAST ZONE

LEGEND

- 1/2" x 30" Iron Pipe Set with I.P.L.S. 3594 Identification Cap
- ⊙ MAG Spike Set
- Iron Rod/Pipe Found
- ⊗ PK Nail/Washer in a Vault
- (123.4') Distance from a plat of survey by Robert Moore, IPLS 2616
- Surveyed Boundary Line
- - - Section/Sub-Section Line
- ▨ Oil/Chip Surface
- ▭ Building
- P.O.C. Point of Commencement
- P.O.B. Point of Beginning

LEGAL DESCRIPTION

Part of the north half of the Southwest Quarter of Section 24, Township 17 North, Range 10 East of the 3rd P.M., being more particularly described as follows:

Commencing at an Iron Rod situated at the northwest corner of the Southwest Quarter of Section 24, Township 17 North, Range 10 East of the 3rd P.M.; thence South 00 degrees 30 minutes 20 seconds East, along the west line thereof, a distance of 387.0 feet to a MAG Spike for the point of beginning; thence South 89 degrees 25 minutes 57 seconds East a distance of 412.0 feet to an Iron Pipe; thence South 00 degrees 30 minutes 20 seconds East, parallel with said west line, a distance of 412.0 feet to an Iron Pipe; thence North 89 degrees 25 minutes 57 seconds West a distance of 412.0 feet to a MAG Spike situated on said west line; thence North 00 degrees 30 minutes 20 seconds West, along said west line, a distance of 412.0 feet to the point of beginning, encompassing 3.90 acres, more or less, being situated in Champaign County, Illinois.

Subject to the rights of the public in the roadway, commonly known as County Road 2300 East, lying along the west side of the above described real estate, and also subject to easements of record and public utilities.

NOTES

- 1 Client Name: James Nonman
2. Field Work Completed: 5/28/2021
3. Utilities and other improvements exist, but are not shown on this survey.

This professional service conforms to the current Illinois minimum standards for a boundary survey. Dimensions are shown in feet, tenths, and hundredths. Signed and dated in Ogden, Illinois, this 1st day of June, 2021.

[Signature]
 Illinois Professional Land Surveyor No. 3594



Expires 11/30/21

DATE OF PREPARATION: 6/01/2021	PROJECT ID: 21019200
HARTKE ENGINEERING AND SURVEYING, INC. 217.840.1612 ted@harkts.com	SHEET NO. 1
117 S. EAST AVE. P.O. BOX 123 OGDEN, IL 61859 101 W. OTTAWA ROAD FAYTON, IL 60957	OF 1 SHEETS
ILLINOIS PROFESSIONAL DESIGN FIRM NO. 184.006128	

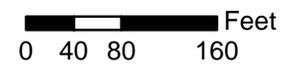
Proposed Lot Split on 2020 Aerial

Case 015-V-21
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Legend

 Proposed Lot



Champaign County
Department of
**PLANNING &
ZONING**

Proposed Lot Split on 1973 Aerial

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CR 2300E

0 40 80 160 Feet



Champaign County
Department of
**PLANNING &
ZONING**

015-V-21 Site Images



From CR 2300E facing North to subject property at right



From CR 2300E facing east

015-V-21 Site Images



From CR 2300E at south stake of proposed lot



From CR 2300E at north stake of proposed lot

PRELIMINARY DRAFT

015-V-21

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

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

Date: *{August 12, 2021}*

Petitioners: **James Nonman**

Request: **Authorize a variance for a 3.9-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance**

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **August 12, 2021**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner James Nonman, 402 E Main St, Sidney, owns the subject property.
2. The subject property is an 80-acre tract in the North Half of the Southwest Quarter of Section 24, Township 17 North, Range 10 East of the Third Principal Meridian in Raymond Township, commonly known as the farmstead with an address of 238 CR 2300E, Broadlands.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.
 - B. The subject property is located within Raymond Township, which does not have a Planning Commission. Townships with Plan Commissions have protest rights on a variance and do receive notification of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The 80-acre subject property is zoned AG-1 Agriculture and is a former farmstead.
 - B. Land surrounding the subject property is also zoned AG-1 Agriculture and is in agricultural production. There is one farmstead across the street to the west.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The site plan is a Plat of Survey prepared by Hartke Engineering and Surveying dated June 1, 2021 and received June 3, 2021. The Plat of Survey indicates the following:
 - (1) Existing structures on the property include:
 - a. One 70 feet by 100 feet (7,000 square feet) metal building constructed prior to the adoption of the Zoning Ordinance on October 10, 1973; and
 - b. One 16 feet by 24 feet (384 square feet) shed located northwest of metal building constructed prior to the adoption of the Zoning Ordinance on October 10, 1973.
 - (2) There is no known construction proposed.
 - B. There are no Zoning Use Permits for the subject property; prior construction was either prior to adoption of the Zoning Ordinance on October 10, 1973, or agriculture exempt and thus did not require permits.
 - C. The requested variance is for a lot size of 3.9 acres in lieu of the maximum area of 3 acres for lots on soils that are best prime farmland, per Section 5.3 of the Zoning Ordinance.

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GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

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

PRELIMINARY DRAFT

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

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner testified the following on the application: **“Due to existing mature tree line and oil and chip driveway, additional acreage is needed to square property.”**

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- B. Regarding the soils that make up the subject property:
- (1) The soil on the proposed 3.9-acre lot is BEST PRIME FARMLAND and consists of 56B Dana silt loam, 622C2 Wyanet silt loam, and 154A Flanagan silt loam, and has an average LE of 93.

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

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. The Petitioners testified the following on the application: **“Position of existing structures make narrowing lot impractical.”**
 - B. Complying with the maximum lot size of three acres would require greater changes on the ground, including removal of trees, to allow for tillage on that part of the farmstead that would not be included in any reasonable lot that would meet the three-acre maximum.

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

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The Petitioners testified the following on the application: **“No.”**
 - B. Per 1973 aerial photography, the farmstead at that time was close to 4.75 acres, and the petitioners are requesting only a 3.9-acre lot.
 - C. The petitioner seeks to create a lot that maximizes the ease of tillage with minimizing the amount of change on the ground.

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

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioners testified the following on the application: **“It will create a more uniform shape with will be conducive to ease of farming.”**
 - B. The maximum lot size on best prime farmland requirement was first established by Ordinance No. 726 (Case 444-AT-04) on July 22, 2004. It was made permanent with Ordinance No. 773 approved December 20, 2005.
 - C. Ordinance No. 914 (Case 711-AT-12) approved on November 27, 2012, revised the best prime farmland definition to have a Land Evaluation (LE) rating of 91 or higher rather than the previous rating of 85 or higher.
 - D. The 3.9-acre lot area is 130% of the required three acre maximum, for a variance of 30%.
 - E. The requested variance is not prohibited by the *Zoning Ordinance*.

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

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The Petitioners testified the following on the application: **“All natural habitats and existing vegetation will be undisturbed.”**
 - B. The Embarras River Special Drainage District has been notified of this variance, and no comments have been received.
 - C. The Raymond Township Highway Commissioner has been notified of this variance, and no comments have been received.
 - D. The Raymond Township Supervisor has been notified of this variance, and no comments have been received.
 - E. The Broadlands Fire Protection District has been notified of this variance, and no comments have been received.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

12. Generally regarding and other circumstances which justify the Variance:
 - A. The Petitioners testified the following on the application: **“By adding additional acreage (minimal) to lot, farming the surrounding prime farmland will be enhanced.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:

No special conditions are proposed at this time.

PRELIMINARY DRAFT

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DOCUMENTS OF RECORD

1. Application for Variance Permit received May 19, 2021
2. Site Plan: Plat of Survey by Hartke Engineering and Surveying dated June 1, 2021 and received June 3, 2021
3. Preliminary Memorandum dated August 3, 2021, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan: Plat of Survey by Hartke Engineering and Surveying dated June 1, 2021 and received June 3, 2021
 - C Map showing the proposed lot split over a 2020 aerial photo created by P&Z Staff on July 14, 2021
 - D Map showing the proposed lot split over a 1973 aerial photo created by P&Z Staff on July 14, 2021
 - E Site Images taken July 23, 2021
 - F Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 015-V-21 dated August 12, 2021

SUMMARY DRAFT FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **015-V-21** held on **August 12, 2021**, 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. *A mature tree line sets a natural boundary for the proposed lot.*
 - b. *A rectangular residential site creates more tillable acreage that is more efficient for the farmer.*

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. *Complying with the maximum lot size of three acres would require greater changes on the ground, including removal of trees, to allow for tillage on that part of the farmstead that would not be included in any reasonable lot that would meet the three-acre maximum.*

3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because:
 - a. *The petitioner seeks to create a lot that maximizes the ease of tillage with minimizing the amount of change on the ground.*

4. The requested variance ~~*{SUBJECT TO THE PROPOSED CONDITION}*~~ *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
 - a. *The proposed lot minimizes the changes on the ground.*

5. The requested variance ~~*{SUBJECT TO THE PROPOSED CONDITION}*~~ *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because:
 - a. *Relevant jurisdictions have been notified of this case, and no comments have been received.*

6. The requested variance ~~*{SUBJECT TO THE PROPOSED CONDITION}*~~ *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because:

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 **015-V-21** is hereby *{GRANTED/ GRANTED WITH CONDITIONS/ DENIED}* to the petitioner, **James Nonman**, to authorize the following:

Authorize a variance for a 3.9-acre lot in lieu of the maximum allowed 3 acres in area for a lot with soils that are best prime farmland in the AG-1 Agriculture Zoning District, per Section 5.3 of the Champaign County Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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

SIGNED:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals
Date