

CASE NO. 016-V-21

PRELIMINARY MEMORANDUM
AUGUST 3, 2021

Petitioner: **Ronald Scudder and Jesse Pedigo**

Request: **Authorize a variance for a 5.834-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: **A 45.48-acre tract in the Northeast Quarter of Section 27, Township 21 North, Range 8 East of the Third Principal Meridian in Raymond Township, commonly known as the farmstead with an address of 982 CR 2550N, Champaign.**

Site Area: **5.834 acres of a 45.48-acre parent tract**

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

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

BACKGROUND

Co-petitioner Ronald Scudder owns the subject property. His family would like to split 5.834 acres that was a farmstead from the tillable land on a 45.48-acre tract. Co-petitioner Jesse Pedigo will purchase the property once the proposed lot has been finalized.

The lot split needs a variance from the County for creating a lot greater than three acres on Best Prime Farmland. The proposed lot includes a 2.03-acre Pheasants Forever habitat area west of the access lane. The petitioner proposes no on the ground changes to the property.

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	Farmstead	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Agriculture, Residential	AG-1 Agriculture
South	Agriculture, Residential	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 Condit 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.

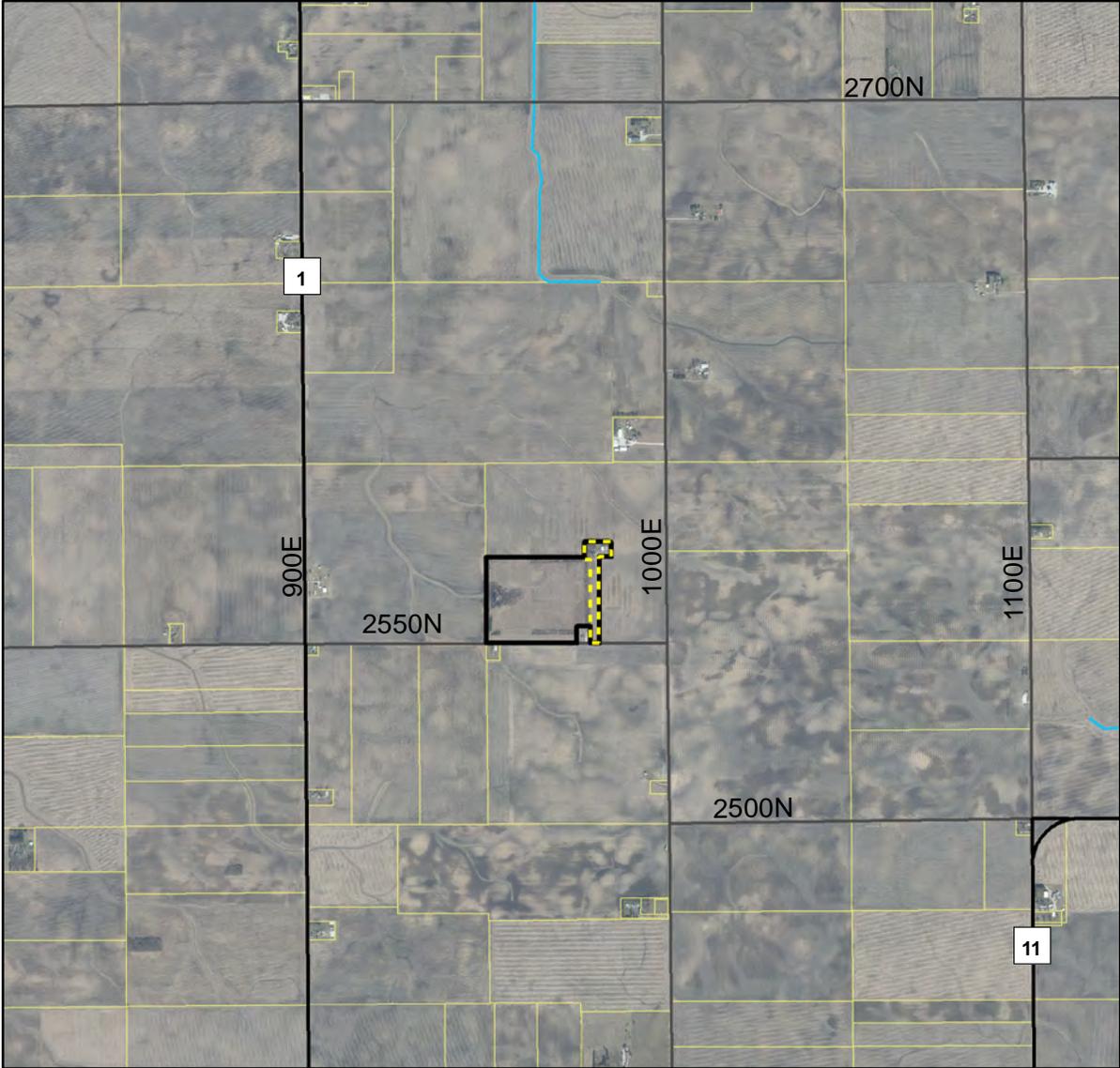
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan prepared by P&Z Staff on August 3, 2021
- C Plat of Survey by Rankin Land Surveying received July 9, 2021
- D Soils map prepared by P&Z Staff on August 3, 2021
- E Map showing the proposed lot split over a 2020 aerial photo created by P&Z Staff on August 3, 2021
- F Map showing the proposed lot split over a 1973 aerial photo created by P&Z Staff on August 3, 2021
- G Site Images taken July 23, 2021
- H Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 016-V-21 dated August 12, 2021

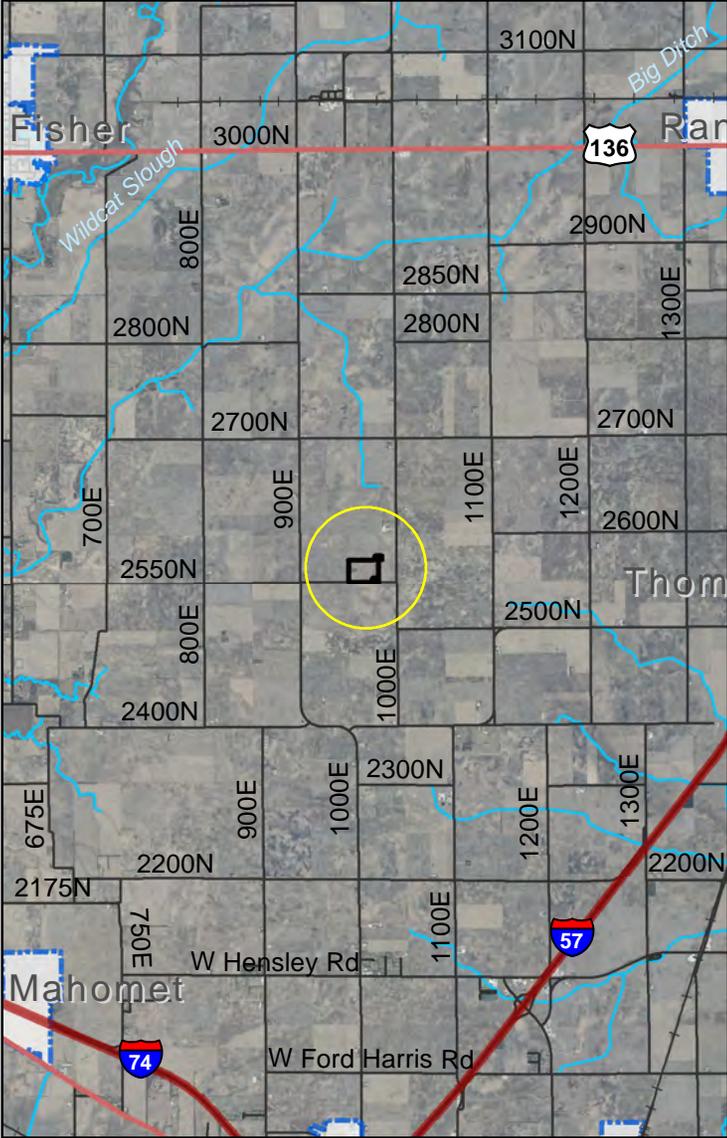
Location Map

Case 016-V-21
August 12, 2021

Subject Property



Property location in Champaign County



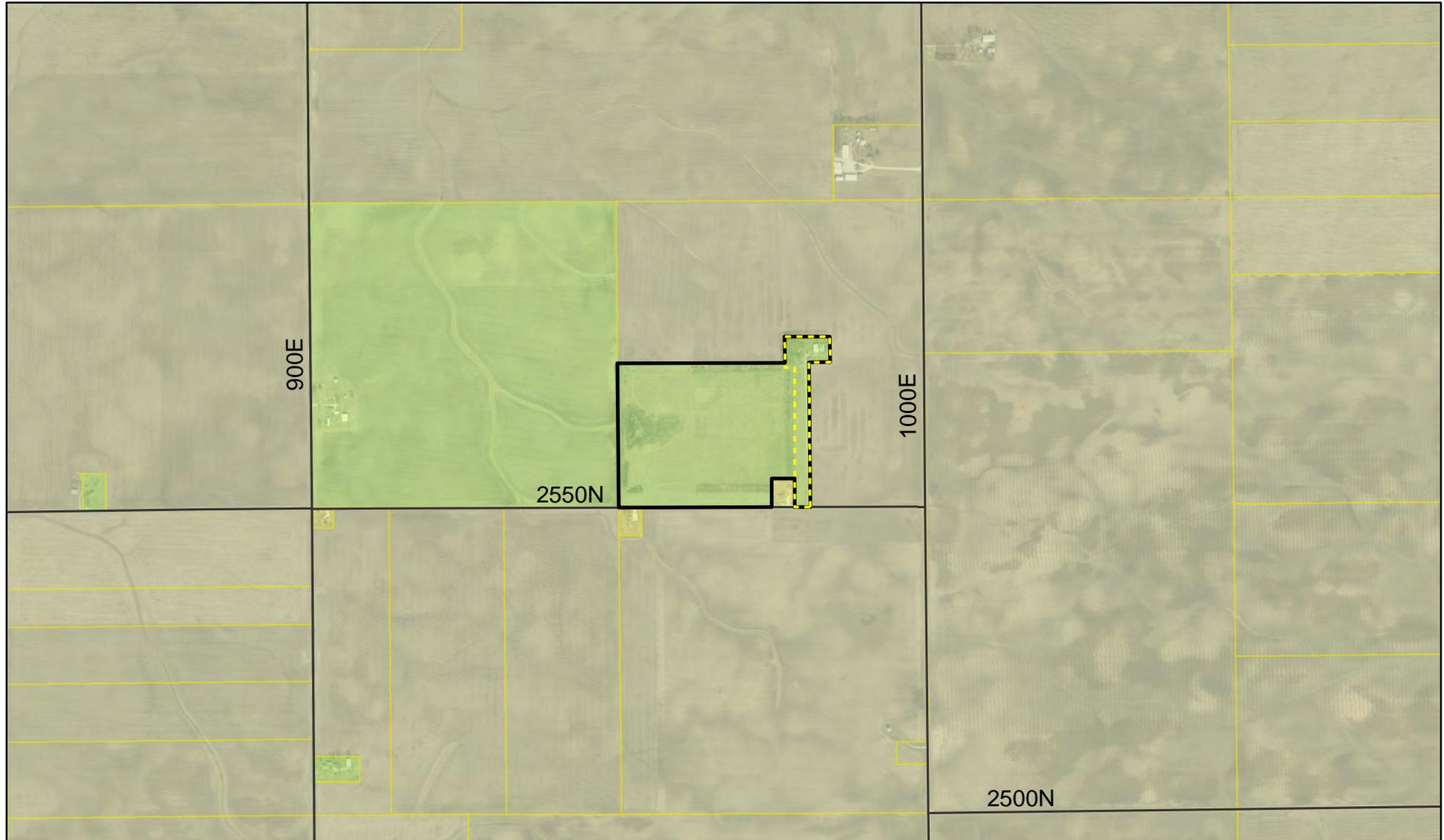
Legend

-  Subject Property
-  Proposed Lot
-  Parcels
-  Municipal Boundary



Land Use Map

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August 12, 2021



Legend

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

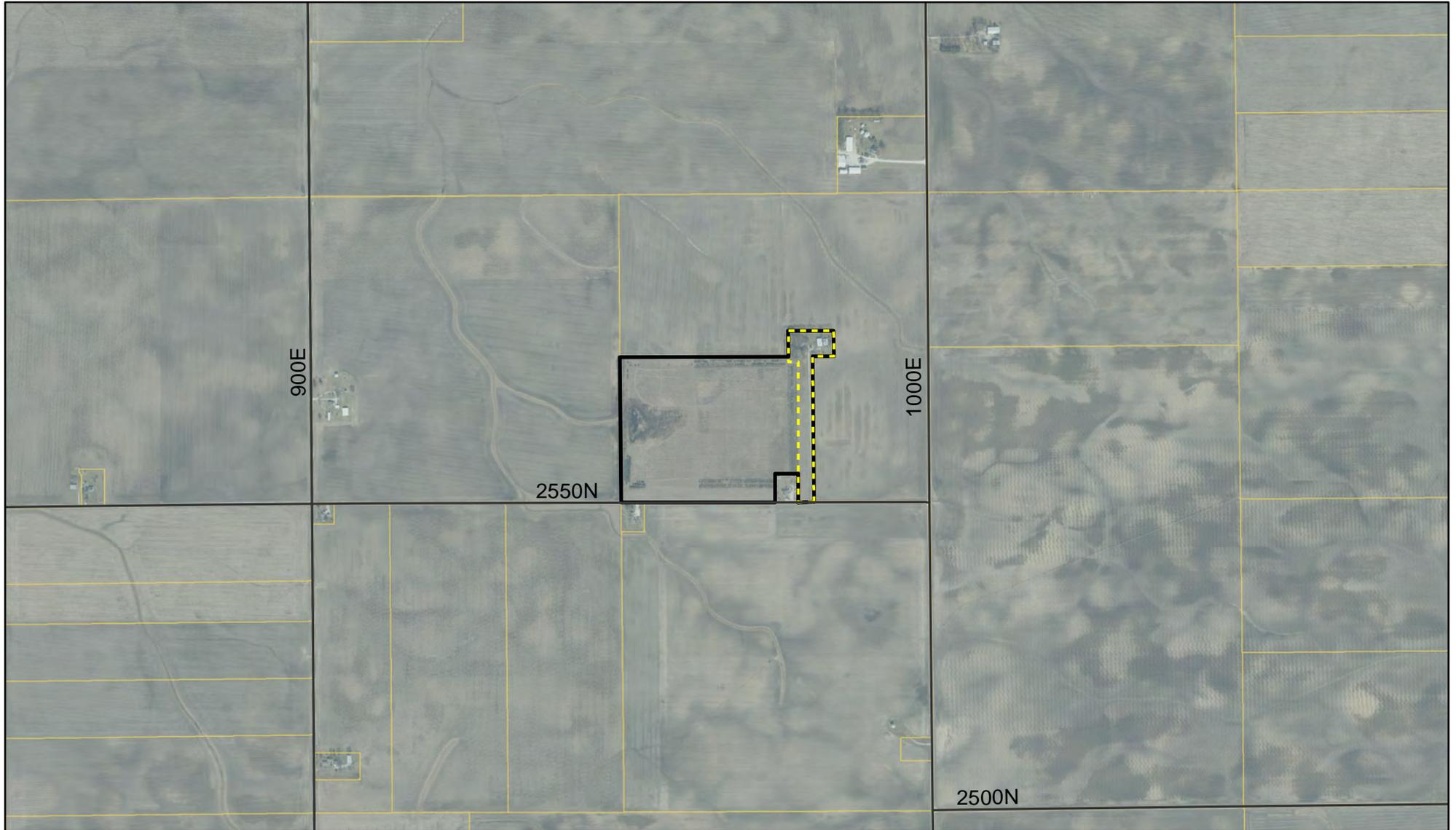
0 300 600 1,200 Feet



Champaign County
Department of
PLANNING &
ZONING

Zoning Map

Case 016-V-21
August 12, 2021



Legend

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

0 300 600 1,200 Feet



Site Plan

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Note: parent tract boundary line does not overlay exactly with aerial or the proposed property line. Plat of Survey will be the official property line if approved.



-  Proposed Tract (approximate)
-  Subject Property
-  Pheasants Forever area

0 70 140 280 Feet




Plat of Survey

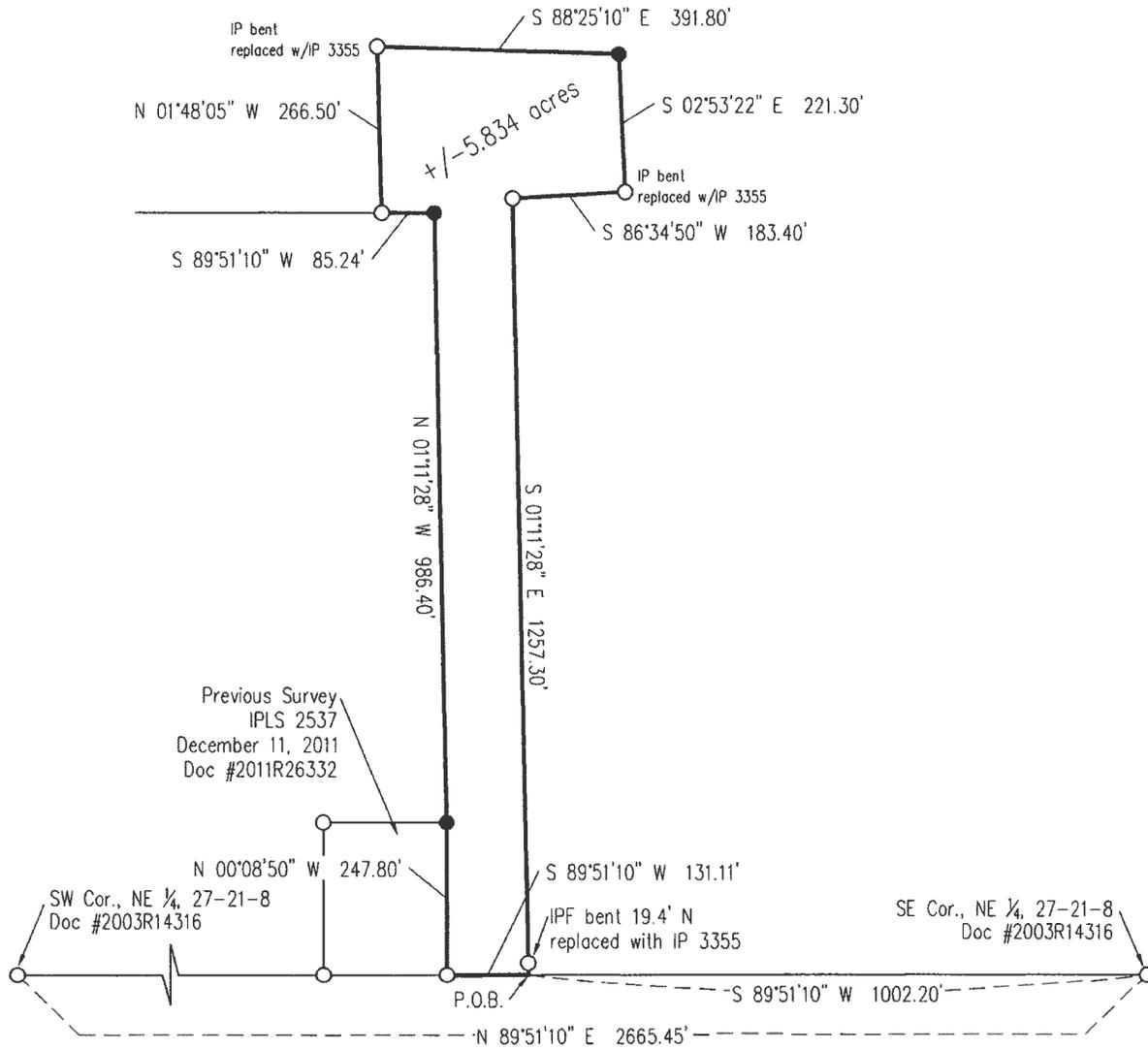
RECEIVED

JUL 09 2021

CHAMPAIGN CO. P & Z DEPARTMENT



Scale 1" = 300'



Legend

- Survey Marker Found
- Iron Pin set W/IPLS cap #3355
- Boundary of Property Surveyed

Survey Completed at the request of:

Jesse Pedigo

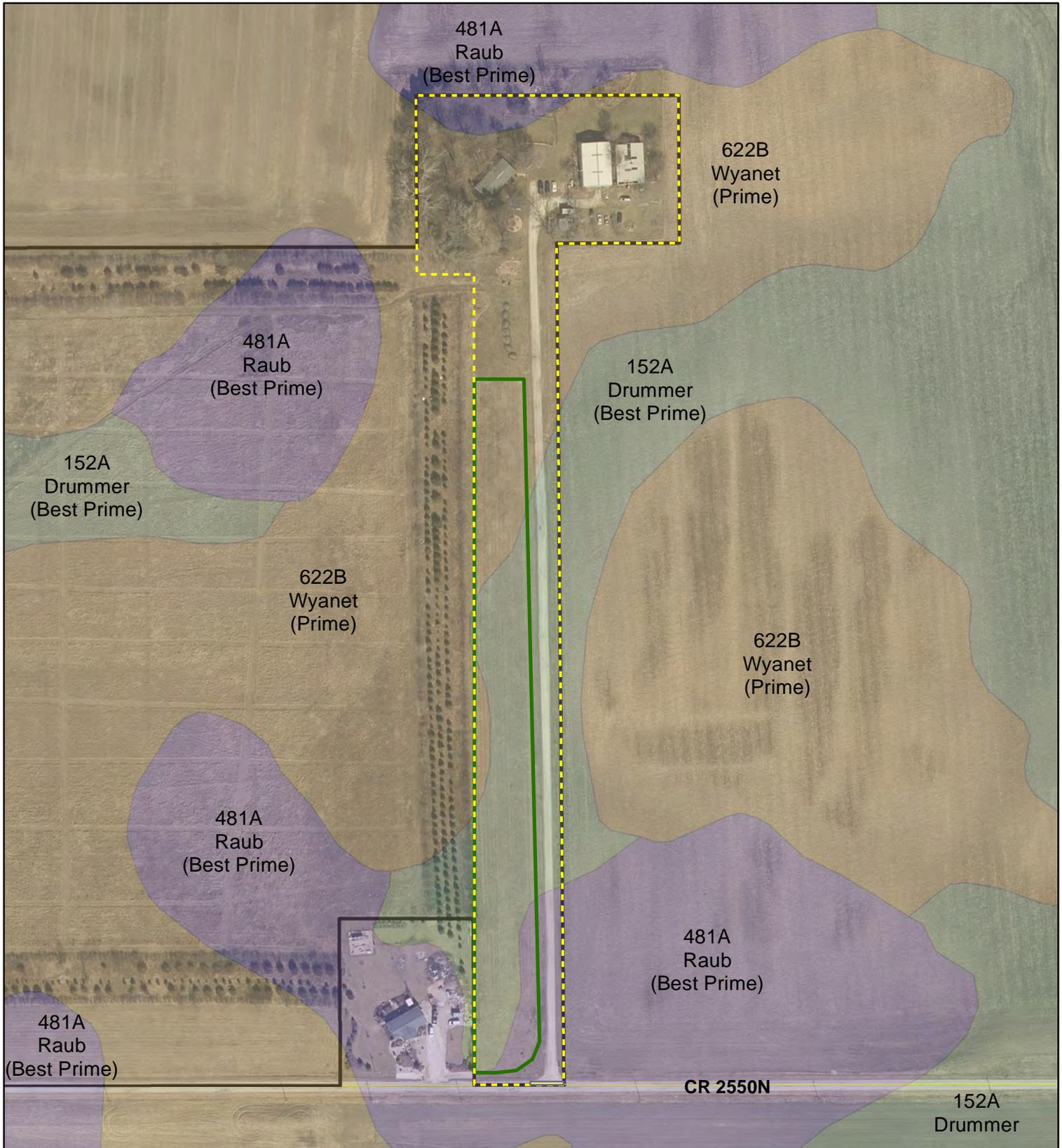
RANKIN LAND SURVEYING

2412 Prairie Avenue · Mattoon, IL 61938 · 217 460 0825
Illinois Professional Design Firm No. 184 007891-0008

RLS File No. 139911021
Sheet 2 of 2

Soils

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- Proposed Lot
- Subject Property
- Pheasants Forever area

0 50 100 200 Feet



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Proposed lot split on 1973 Aerial Photo

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0 25 50 100 Feet



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Proposed lot split on 2020 Aerial Photo

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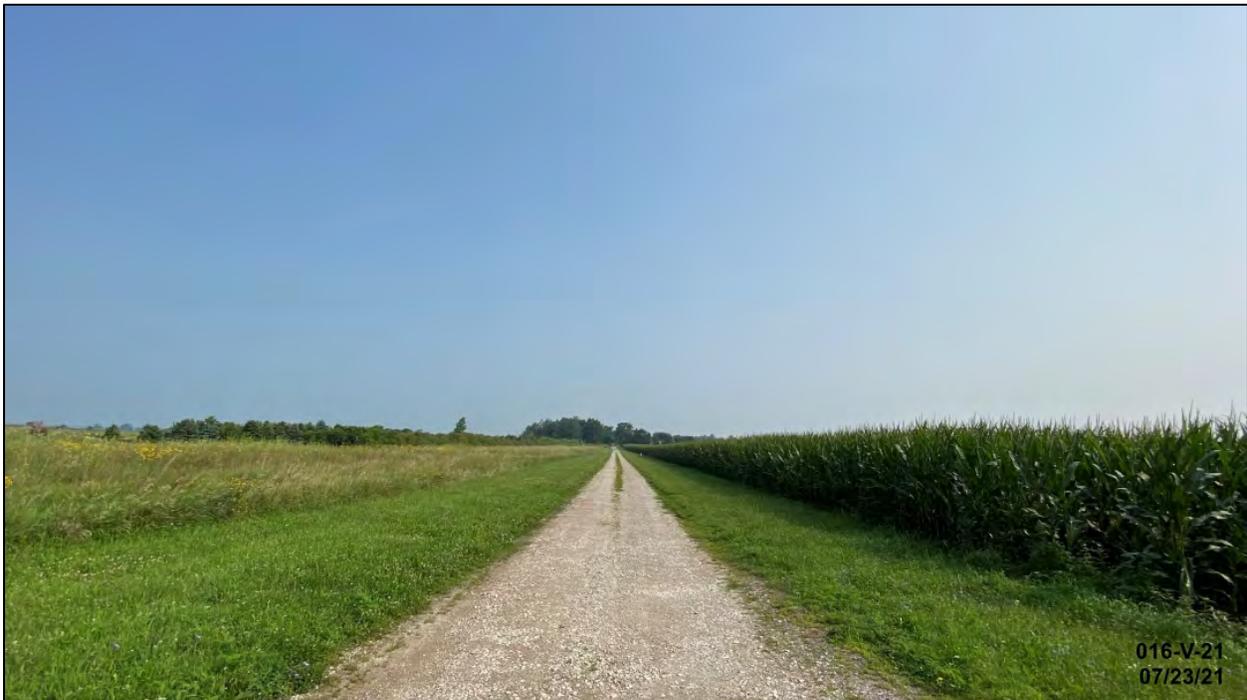


0 25 50 100 Feet



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016-V-21 Site Images



Lane to homestead, from CR 2550N facing North



Residence and front yard from lane

016-V-21 Site Images



From CR 2550N, facing North showing prairie and Pheasants Forever sign west of lane



From lane facing east to CR 2550N

PRELIMINARY DRAFT

016-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: **Ronald Scudder and Jesse Pedigo**

Request: **Authorize a variance for a 5.834-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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PRELIMINARY DRAFT

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. Ronald and Donna Scudder, 982 CR 2550N, Champaign, own the subject property. Jesse Pedigo plans to purchase the proposed lot.
2. The subject property is a 45.48-acre tract in the Northeast Quarter of Section 27, Township 21 North, Range 8 East of the Third Principal Meridian in Raymond Township, commonly known as the farmstead with an address of 982 CR 2550N, Champaign.
 - A. The proposed tract is 5.834 acres on the east side of the parent tract.
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 Condit 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 45.48-acre subject property is zoned AG-1 Agriculture and is a farmstead. The lot has not been in agricultural production since approximately 2005.
 - B. Land surrounding the subject property is also zoned AG-1 Agriculture and is in agricultural production with two residences to the south.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The site plan created by P&Z Staff dated August 3, 2021 indicates the following:
 - (1) Existing features on the property include:
 - a. One 27 feet by 60 feet (1,620 square feet) mobile home brought onto the property sometime between 1973 and 1988 (pre-1973 house was demolished);
 - b. One 64 feet by 42 feet (2,688 square feet) shed located east of the residence;
 - c. One 60 feet by 40 feet (2,400 square feet) shed located east of the first shed;
 - d. One 1,290 feet long lane that was established prior to 1973;
 - e. A 2.03-acre Pheasants Forever habitat area to the west of the lane established between 2008 and 2011; and
 - f. A windbreak consisting of three rows of trees is to the west of the access strip and adjacent to the Pheasants Forever habitat area.
 - (2) There is no known construction proposed.

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- 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 5.834 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.

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.

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- (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.
- 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.

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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: **“Variance is needed because of location of the home down the long lane and because the house is located so far off the road.”**
 - (1) The house is located approximately one-quarter mile north of CR 2550N.
 - B. Regarding the soils that make up the subject property:
 - (1) The soil on the proposed 5.834-acre lot is BEST PRIME FARMLAND and consists of 481A Raub silt loam, 622B Wyanet silt loam, and 152A Drummer silty clay loam, and has an average LE of 90.
 - a. Per the definition of Best Prime Farmland, if 10% or more of the property is located in Agriculture Value Groups 1 through 4, it is considered to be Best Prime Farmland. 45% of the soils on the subject property are in those groups, and therefore the soils are Best Prime Farmland.
 - C. The existing east lot line and driveway are not parallel.
 - D. The Plat of Survey received July 9, 2021 uses existing property markers that appear to be located further from the driveway than is required, which means that the area included in the access strip is greater than is required.
 - E. The access strip is proposed to be 131.11 feet wide, which is wider than the minimum required 20 feet for an access strip.
 - F. The access strip for the proposed lot includes an area managed by Pheasants Forever that is approximately 2.03 acres in area. This area has not been in agricultural production since at least 2008. The Pedigos plan to maintain the Pheasants Forever habitat area as is.

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: **“We couldn’t access the home.”**
 - B. The existing access lane and east property line were both established years ago.
 - C. The existing access lane and Pheasants Forever area is approximately 3.88 acres, which on its own comprises more than the 3-acre maximum lot size.
 - D. The 2.03-acre Pheasants Forever habitat area could be left with the rest of the 45.48-acre lot, but neither the habitat area nor the adjacent row of trees are likely to be brought back into agricultural production.

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- E. The changes to the property since 2005 were done in a good faith effort to develop conservation areas and a public archery range, but the archery range never materialized.

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: **“Home was constructed on 49 acres and we are wanting to establish the home separate from the farm.”**
 - B. The proposed lot dimensions are based on existing corner pins where available and the existing tree line.

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: **“We are not changing anything. Single family homes are allowed in the zoning district.”**
 - B. The maximum lot size on best prime farmland requirement was first established by Ordinance No. 726 (Case 444-AT-04) on July 22, 2004. It was made permanent with Ordinance No. 773 approved December 20, 2005.
 - C. Ordinance No. 914 (Case 711-AT-12) approved on November 27, 2012, revised the best prime farmland definition to have a Land Evaluation (LE) rating of 91 or higher rather than the previous rating of 85 or higher.
 - D. The 5.834-acre lot area is 194.5% of the required three acre maximum, for a variance of 94.5%.
 - 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: **“There is no other way to access the home, except over the best prime farmland soils.”**
 - B. Drainage District #1 of the Town of Condit has been notified of this variance, and no comments have been received.
 - C. The Condit Township Highway Commissioner has been notified of this variance, and no comments have been received.

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- D. The Condit Township Supervisor has been notified of this variance, and no comments have been received.
- E. The Sangamon Valley 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: **“Because of the location of the driveway, the best prime farmland soils are causing the zoning variance.”**

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. Application for Variance Permit received May 28, 2021
2. Site Plan prepared by P&Z Staff on July 26, 2021
3. Plat of Survey by Rankin Land Surveying received July 9, 2021
4. Preliminary Memorandum dated August 3, 2021, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan prepared by P&Z Staff on August 3, 2021
 - C Plat of Survey by Rankin Land Surveying received July 9, 2021
 - D Soils map prepared by P&Z Staff on August 3, 2021
 - E Map showing the proposed lot split over a 2020 aerial photo created by P&Z Staff on August 3, 2021
 - F Map showing the proposed lot split over a 1973 aerial photo created by P&Z Staff on August 3, 2021
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 - H Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 016-V-21 dated August 12, 2021

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SUMMARY DRAFT FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **016-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. *The house is located approximately one-quarter mile north of CR 2550N.*
 - b. *The proposed lot is to be divided out of an existing 45.48-acre lot.*
 - c. *The existing 45.48-acre lot has not been in agricultural production since about 2005.*
 - d. *The existing east lot line and driveway are not parallel.*
 - e. *The survey uses existing property markers that appear to be located further from the access lane than is required, which means that the area included in the access strip is greater than is required.*
 - f. *The access strip is proposed to be 131.11 feet wide, which is wider than the minimum required 20 feet for an access strip.*
 - g. *The access strip for the proposed lot includes an area managed by Pheasants Forever that is approximately 2.03 acres in area. This area has not been in agricultural production since at least 2008.*
 - h. *A windbreak consisting of three rows of trees is located west of the access strip and adjacent to the Pheasants Forever habitat area.*

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. *The existing access lane and east property line were both established years ago.*
 - b. *The existing access lane and Pheasants Forever area is approximately 3.88 acres, which on its own comprises more than the 3-acre maximum lot size.*
 - c. *The 2.03-acre Pheasants Forever habitat area could be left with the rest of the 45.48-acre lot, but neither the habitat area nor the adjacent row of trees are likely to be brought back into agricultural production.*
 - d. *The changes to the property since 2005 were done in a good faith effort to develop conservation areas and a public archery range, but the archery range never materialized.*

3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. *No on the ground changes are proposed.*

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4. The requested variance ***{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}*** in harmony with the general purpose and intent of the Ordinance because:
 - a. ***No on the ground changes are proposed.***
 - b. ***The Pedigos plan to maintain the Pheasants Forever habitat area as is.***
 - b. ***The proposed lot dimensions are based on existing corner pins where available and the existing tree line. In light of the changes to the property since 2008, there is no compelling justification to deny the requested variance.***
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 **016-V-21** is hereby *{GRANTED/ GRANTED WITH CONDITIONS/ DENIED}* to the petitioners, **Ronald Scudder and Jesse Pedigo**, to authorize the following:

Authorize a variance for a 5.834-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