

CASE NO. 085-V-23

*PRELIMINARY MEMORANDUM
FEBRUARY 22, 2023*

Petitioner: **Wes Taylor**

Request: **Authorize a variance for adding 1.31 acres to a 3.9-acre lot that was approved in Variance Case 015-V-21 for a total of 5.21 acres 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 3.9-acre tract plus a 1.31-acre tract totaling 5.21 acres 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, with an address of 238 CR 2300E, Broadlands.**

Site Area: **5.21 acres**

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

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

BACKGROUND

The petitioner requests adding 1.31 acres to an existing 3.9-acre lot on Best Prime Farmland.

In 2021, a variance was approved for creating a 3.9-acre lot on Best Prime Farmland in zoning case 015-V-21. The petitioner at the time, James Nonman, then sold the 3.9 acres to the current petitioner, Wes Taylor. In 2022, Mr. Taylor approached Mr. Nonman to purchase 1.31 acres to the south of the 3.9 acres. The 1.31 acres was not farmable because of extensive debris (i.e. concrete slabs, timber, etc.) onsite. A new variance is needed for this increase in lot size on Best Prime Farmland.

Per the 1973 aerial (Attachment C), the original farmstead encompassed most of the 3.9 acres and the 1.31 acres. Also of note is that Mr. Nonman does not farm the 1.31 acres, so no land will be taken out of production should the variance be approved. A soils map 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.

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.

**Brookens Administrative
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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

ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan created by P&Z Staff on February 6, 2023
- C 1973 aerial photo
- D Soils Map
- E Site Images taken February 6, 2023
- F Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 085-V-23 dated March 2, 2023

Location Map

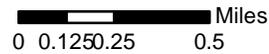
Case 085-V-23
March 2, 2023

Subject Property

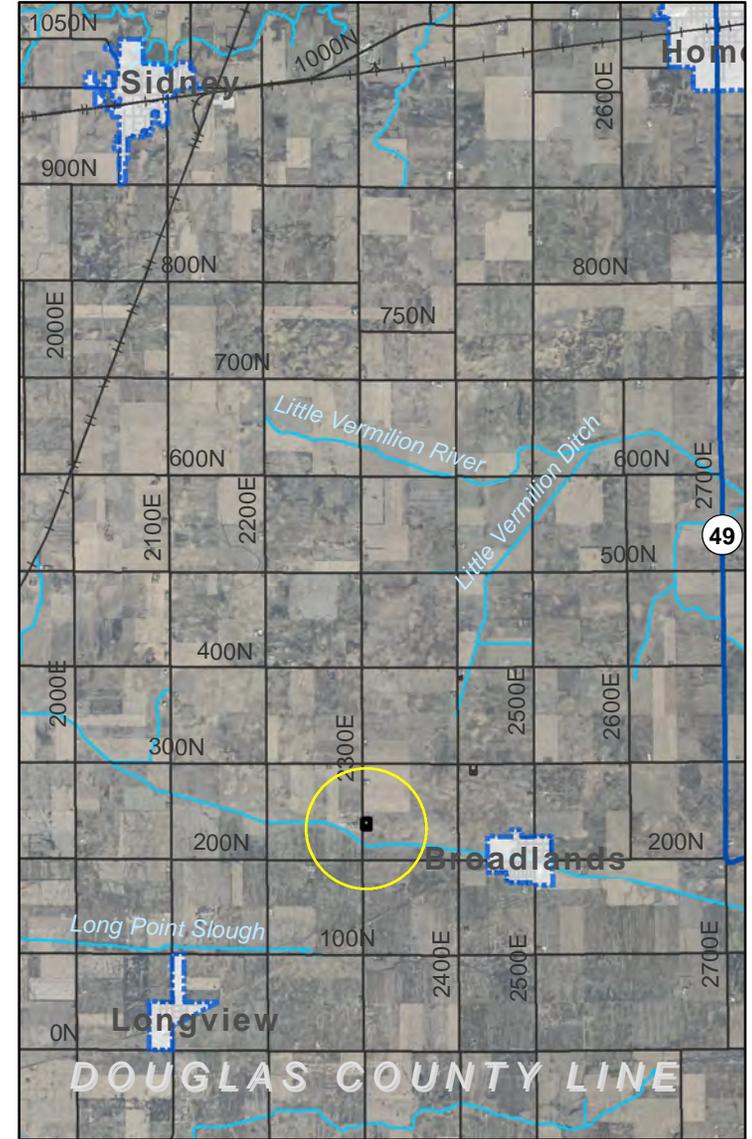


Legend

-  3.9-acre subject property
-  Parcels
-  1.31-acre proposed addition
-  Municipal Boundary



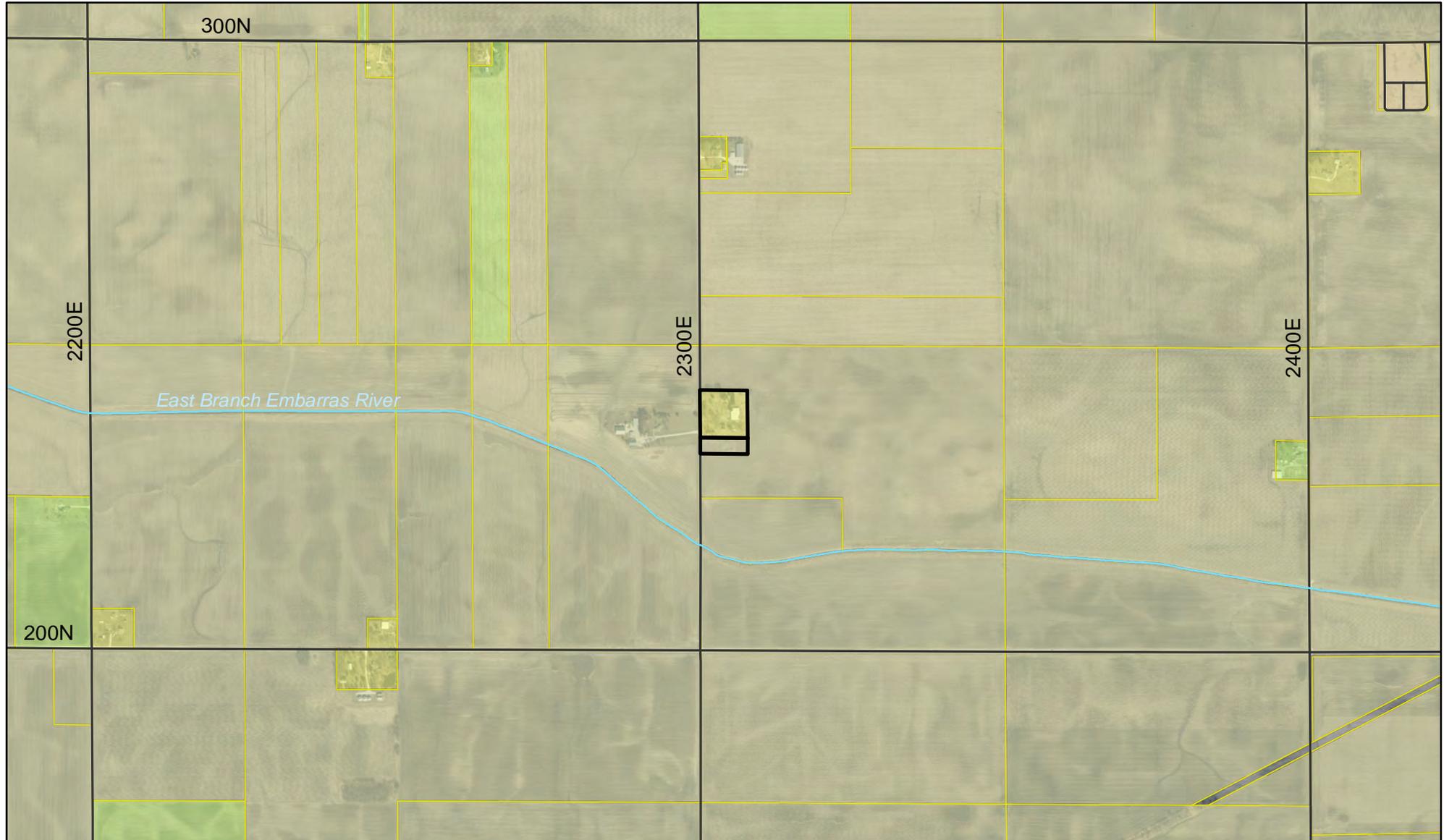
Property location in Champaign County



Champaign County
Department of
**PLANNING &
ZONING**

Land Use Map

Case 085-V-23
March 2, 2023



Legend

- | | | |
|-----------------------------|----------------|-------------|
| 3.9-acre subject property | Parcels | Residential |
| 1.31-acre proposed addition | Agriculture | Commercial |
| | Ag/Residential | Cemetery |

0 300 600 1,200 Feet



Champaign County
Department of
PLANNING &
ZONING

Zoning Map

Case 085-V-23
March 2, 2023



Legend

-  3.9-acre subject property
-  Parcels
-  AG-1 Agriculture
-  1.31-acre proposed addition
-  Municipal Boundary
-  AG-2 Agriculture



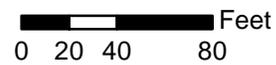
Site Plan

Case 085-V-23

March 2, 2023



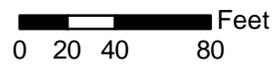
-  3.9-acre subject property
-  1.31-acre proposed addition



1973 aerial

Case 085-V-23

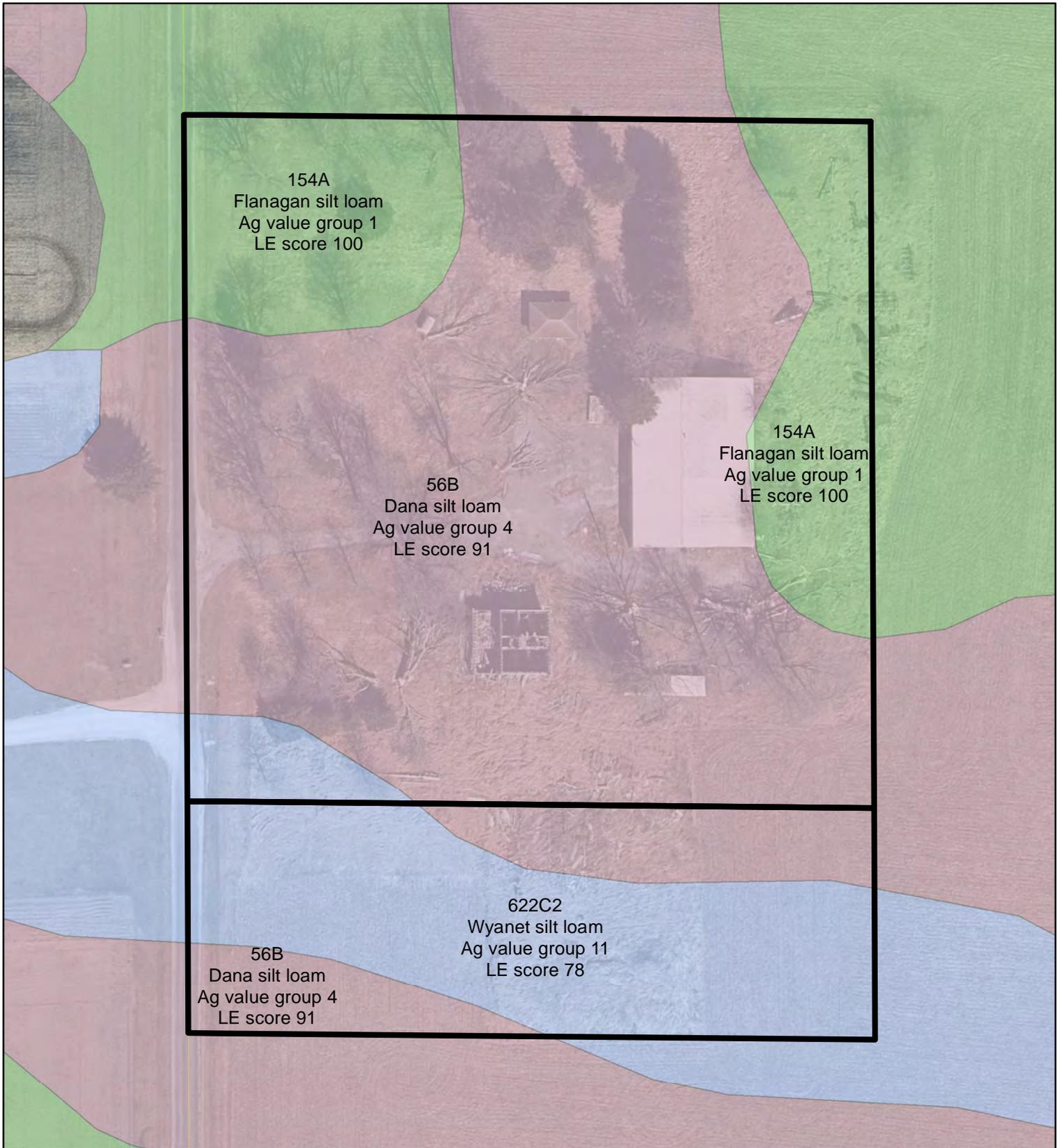
March 2, 2023



Soils

Case 085-V-23

March 2, 2023



- 56B Dana silt loam
- 154A Flanagan silt loam
- 622C2 Wyanet silt loam



085-V-23 Site Images



From CR 2300E facing north to subject property



From 2300E facing south to subject property

PRELIMINARY DRAFT

085-V-23

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

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

Date: *{March 2, 2023}*

Petitioners: **Wes Taylor**

Request: **Authorize a variance for adding 1.31 acres to a 3.9-acre lot that was approved in Variance Case 015-V-21 for a total of 5.21 acres 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**

Table of Contents

General Application Information..... 2

Requested Variance3

Specific Ordinance Requirements.....3 - 4

Variance Evidence5 - 7

Documents of Record.....8

Case 085-V-23 Findings of Fact.....9

Case 085-V-23 Final Determination..... 10

PRELIMINARY DRAFT

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 2, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Wes Taylor, 238 CR 2300E, Broadlands, owns the subject property.
2. The subject property is a 3.9-acre tract plus a 1.31-acre tract totaling 5.21 acres 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, 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 5.21-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 created by P&Z Staff on February 6, 2023, 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 9,071 square foot residence located northwest of metal building.
 - c. One 60 feet by 40 feet (2,400 square feet) detached storage shed located south of the residence.
 - (2) There is no known construction proposed.
 - B. There is one Zoning Use Permit for the subject property. ZUPA #144-22-02 was approved on May 25, 2022 to construct a single family residence with attached garage.
 - (1) The petitioners applied for an amendment to this permit to also construct a 60 feet by 40 feet detached storage shed south of the house.
 - C. There is one zoning case for the subject property. Case 015-V-21 was approved on August 12, 2021 for a 3.9 acre lot on Best Prime Farmland.

PRELIMINARY DRAFT**Case 085-V-23**

Page 3 of 10

- D. The requested variance is for adding 1.31 acres to the existing 3.9 acres for a total of 5.21 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.
 - (5) “LOT LINES” are the lines bounding a LOT.

PRELIMINARY DRAFT

- (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.

PRELIMINARY DRAFT**Case 085-V-23**

Page 5 of 10

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: **“The 1.31 acre lot in question was acquired o October 21, 2022 by Wes Taylor. Mr. Taylor approached Mr. Nonman (seller) asking if Mr. Nonman was interested in selling the 1.31 acres. Mr. Nonman was not farming the 1.31 acres. Due to the physical characteristics of the lot, Mr. Nonman found it difficult to farm the land. There are concrete slabs located on the land, in addition to debris and other characteristics that made it not farmable for Mr. Nonman. Mr. Taylor sought to acquire the land because he found it difficult to maintain his existing property (21-34-24-300-007), which is adjacent to the 1.31 acres. Both Mr. Taylor and Mr. Nonman found the 1.31 acres to impede each of their purposes. As a solution, Mr. Taylor purchased the land and was able to maintain his lot efficiently and completely as it was properly squared off, as many of the surrounding properties are. Mr. Nonman was now able to farm a squared off lot as well which made his life easier. Mr. Taylor does not plan on improving the 1.31 acres or adding any additional structures. His main purpose for purchasing the lot was to square off both his and Mr. Nonman’s lots. Mr. Taylor plans to clean up the debris, timber and other items in order to make the lot more aesthetically pleasing.”**
- B. Regarding the soils that make up the subject property:
- (1) The soil on the proposed 5.21-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 90.
- a. The lot is considered BEST PRIME FARMLAND because at least 10% of the lot is comprised of soils in agricultural value groups 1, 2, 3 or 4 as determined by the Champaign County LESA System.
- C. As shown on the 1973 aerial photo, the original farmstead included both the 3.9-acre lot and the 1.31 acres to the south, and no land is being removed from agricultural production.

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: **“Carrying out the regulations sought to be varied would cause unreasonable difficulties to Mr. Taylor, Mr. Nonman and the community as a whole. Mr. Taylor would have a more difficult time maintaining his existing property (-007). He would not know how far out to maintain and at what angle. Mr. Nonman didn’t farm the area before and probably would not do so even if he reacquired the land. The shape of the land makes it difficult for anyone to farm. The community as a whole benefits from even and squared-off lot lines. Any owners of any adjacent parcel moving forward would benefit from the proposed variance.”**

Case 085-V-23
Page 6 of 10

PRELIMINARY DRAFT

- B. Without the proposed variance, the land could not be maintained by Mr. Taylor.

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: **“When the lot was purchased, Mr. Taylor was not aware of or in the position to be aware of the applicable zoning regulations. To his knowledge, he believed a violation would only occur if 3 or more acres were to be purchased. Since he was only purchasing 1.31, he did not believe he was violating any ordinance or regulation. His only intention was to make his existing land easier to maintain. Mr. Taylor has not altered the physical character of the lot nor does he plan to.”**
- B. As shown on the 1973 aerial photo, the original farmstead included both the 3.9-acre lot and the 1.31 acres to the south.
- 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: **“The Zoning Ordinance seeks to protect and preserve agricultural land, as outlined in Section 2.0(n) & (q). This certainly includes best prime farmland. It was reasonable and warranted for the Zoning Department to seek to protect such land to maintain the agricultural nature of Champaign County. However, what we have here is not a situation in which best prime farmland is being taken away from a farmer and given to the owner of an adjacent home site. The 1.31 acre lot was never farmed by Mr. Nonman, nor did he plan to farm it. It was too difficult for Mr. Nonman to farm due to its physical features (i.e. concrete slabs, debris, timber, etc.). Mr. Taylor has not reduced the amount of land Mr. Nonman farms by purchasing these 1.31 acres. Mr. Taylor merely wanted to make his home site maintenance much easier and manageable. Prior to purchasing, Mr. Taylor did not know where he needed to maintain, especially since the concrete slabs and timber fell on the property line. In fact, this purchase has furthered the Zoning Department’s purpose of promoting the public health, safety, comfort, morals and general welfare of the community, as outlined in Section 2.0(e) of the Zoning Ordinance.”**
- 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.

PRELIMINARY DRAFT**Case 085-V-23****Page 7 of 10**

- 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 5.21-acre lot area is 174% of the required three acre maximum, for a variance of 74%.
- E. No land is being taken out of agricultural production.
- F. 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: **“Access has not been impacted by this purchase. County Road 2300E allows for access to both Mr. Taylor and Mr. Nonman’s land. There have been no changes to firefighting purposes, traffic flow, drainage, odor, smoke, fumes, or any other potential issues to the public health, safety, or welfare.”**
 - 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: **“Mr. Taylor’s acquisition of the 1.31 acres improved both his and Mr. Nonman’s life. Mr. Taylor was able to identify where he needed to maintain. Mr. Nonman was able to farm the same amount of farmland as he did before the sale, just now without having to deal with a not farmable area that had concrete slabs, timber, debris, etc. Mr. Taylor’s hope to clean up the lot will improve community aesthetics and allow for a more visibly pleasing area. Additionally, the squared off lot lines will benefit any future owners as well.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 13. Regarding proposed special conditions of approval:

No special conditions are proposed at this time.

PRELIMINARY DRAFT

DOCUMENTS OF RECORD

1. Application for Variance Permit received January 9, 2023
2. Site Plan created by P&Z Staff on February 6, 2023
3. Preliminary Memorandum dated February 22, 2023, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan created by P&Z Staff on February 6, 2023
 - C 1973 aerial photo
 - D Soils Map
 - E Site Images taken February 6, 2023
 - F Summary of Evidence, Summary Draft Finding of Fact, and Final Determination for Case 085-V-23 dated March 2, 2023

PRELIMINARY DRAFT**Case 085-V-23**

Page 9 of 10

SUMMARY DRAFT FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **085-V-23** held on **March 2, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances ***{DO / DO NOT}*** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because:
 - a. ***As shown on the 1973 aerial photo, the original farmstead included both the 3.9-acre lot and the 1.31 acres to the south, and no land is being removed from agricultural production.***
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied ***{WILL / WILL NOT}*** prevent reasonable or otherwise permitted use of the land or structure or construction because:
 - a. ***Without the proposed variance, the land could not be maintained by Mr. Taylor.***
3. The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant because:
 - a. ***As shown on the 1973 aerial photo, the original farmstead included both the 3.9-acre lot and the 1.31 acres to the south.***
 - b. ***The petitioner seeks to create a lot that maximizes the ease of tillage while 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. ***No land is being taken out of agricultural production.***
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: ***it is the minimal amount of squared-off land that includes the area they seek to clean up.***
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

Case 085-V-23
Page 10 of 10

PRELIMINARY DRAFT

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 **085-V-23** is hereby **{GRANTED/ GRANTED WITH CONDITIONS/ DENIED}** to the petitioner, **Wes Taylor**, to authorize the following:

Authorize a variance for adding 1.31 acres to a 3.9-acre lot that was approved in Variance Case 015-V-21 for a total of 5.21 acres 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