

CASES 878-V-17 and 882-V-17

**SUPPLEMENTAL MEMORANDUM #2
SEPTEMBER 21, 2017**

Petitioner: Philip Fiscella

Request: Authorize the following Variances in the CR Conservation Recreation Zoning District:

CASE 878-V-17: Authorize the use of a proposed lot with an average lot width of 141 feet in lieu of the required minimum 200 feet, and with a minimum lot area of 0.5 acre in lieu of the minimum required 1 acre, per Section 5.3 of the Zoning Ordinance.

CASE 882-V-17: Authorize a proposed division of a lot less than five acres in area, per Section 5.4.2 A.3. of the Zoning Ordinance.

Subject Property:

For Case 878-V-17: the west 150 feet of Lot 9 in Wildwood Acres Subdivision in Section 36, Township 21 North, Range 7 East of the Third Principal Meridian in Newcomb Township.

For Case 882-V-17: the complete Lot 9 in Wildwood Acres Subdivision

Site Area: Case 878-V-17 = 0.5 acre; Case 882-V-17 = 1.2 acres

Time Schedule for Development: As soon as possible

**Prepared by: Susan Burgstrom
Senior Planner**

**John Hall
Zoning Administrator**

STATUS

No comments have been received since the August 3, 2017, public hearing.

After the August 3, 2017, ZBA meeting, P&Z staff found additional information regarding the ownership of Lot 9. The following are provided as attachments to this memo:

- A Approved Plat of Wildwood Acres Subdivision dated May 28, 1966
- B Letter from John Guillou, Chief Waterway Engineer, State of Illinois Department of Public Works and Buildings dated August 25, 1966
- C Surveyor's Certificate signed September 20, 1966 and recorded September 22, 1966
- D Owner's Certificate signed September 9, 1966 and recorded September 22, 1966
- E Tax payment certification by County Clerk dated and recorded September 22, 1966
- F Warranty Deed for the west 150 feet of Lot 9 between Grantors Harold and Irene Madden and Grantee Opal Pearce dated January 2, 1969 and recorded February 7, 1969
- G Warranty Deed for Lot 8 between Grantors Harold and Irene Madden and Grantees Roy and Catherine Wright dated August 26, 1970 and recorded August 27, 1970

- H Warranty Deed for the east part of Lot 9 between Grantors Jay and Ethel Schreiber and Grantees Roy and Catherine Wright dated September 18, 1971 and recorded December 1, 1971
- I Warranty Deed for the west 150 feet of Lot 9 between Grantor Opal Pearce and Grantees Roy and Catherine Wright dated June 19, 1973 and recorded June 21, 1973
- J Gas Storage Easement Grant for Lots 8 and 9 dated May 4, 1990 and recorded May 7, 1990
- K Warranty Deed for the west 150 of Lot 9 between Grantor Catherine Wright (widow) and Grantee Robert Droege dated June 2, 1997 and recorded June 3, 1997
- L Warranty Deed for Lot 8 and east part of Lot 9 between Grantor Catherine Wright (widow) and Grantees Jones and Mary Sue Brockman dated June 18, 1997 and recorded June 23, 1997
- M Warranty Deed for the west 150 of Lot 9 between Grantor Robert Droege and Grantee Martin Coleclasure dated April 10, 2001 and recorded April 12, 2001
- N Tax Deed for the west 150 feet of Lot 9 to Grantee Philip Fiscella dated and recorded November 9, 2016

The new information requires the Summary of Evidence to be revised under Items 5.B. and 7.B.:

- B. The subject property has the following ownership history relevant to this case:
 - (1) Wildwood Acres Subdivision was platted prior to the adoption of the Champaign County Zoning Ordinance on October 10, 1973. Upon adoption of the Zoning Ordinance, the platted lots that were less than 1 acre in area and/or less than 200 feet in average lot width became non-conforming lots of record. Once any lot in the subdivision came under common ownership with an adjacent lot, they became either conforming or at least more conforming with the CR Conservation Recreation Zoning District requirements.
 - (2) Grantors Harold and Irene Madden sold the west 150 feet of Lot 9 to Grantee Opal Pearce per the Warranty Deed dated January 2, 1969 and recorded February 7, 1969, meaning that the division of Lot 9 took place prior to adoption of the Zoning Ordinance on October 10, 1973. Sometime in 1974, Lot 9 was split in two (without zoning approval) and each part was given a separate tax parcel number.
 - a. The Champaign County Tax Maps for 1967 and 1974 did not show the split of Lot 9.
 - (3) Grantors Harold and Irene Madden sold Lot 8 to Grantees Roy and Catherine Wright per the Warranty Deed dated August 26, 1970 and recorded August 27, 1970.
 - (4) Grantors Jay and Ethel Schreiber sold the east part of Lot 9 to Grantees Roy and Catherine Wright per the Warranty Deed dated September 18, 1971 and recorded December 1, 1971.
 - (5) Grantor Opal Pearce sold the west 150 feet of Lot 9 to Grantees Roy and Catherine Wright per the Warranty Deed dated June 19, 1973 and recorded June 21, 1973. This purchase brought the entirety of Lots 8 and Lot 9 into common ownership by the Wrights prior to the adoption of the Zoning Ordinance on October 10, 1973.
 - (6) A Gas Storage Easement Grant dated May 4, 1990 and recorded May 7, 1990 shows that Roy and Catherine Wright owned all of both Lots 8 and 9 at the time.

- (7) Grantor Catherine Wright, widow, sold the west 150 feet of Lot 9 to Grantee Robert Droege per the Warranty Deed dated June 2, 1997 and recorded June 3, 1997. From June 21, 1973 until June 3, 1997, Lots 8 and 9 had been under common ownership by the Wrights.
- (8) Grantor Robert Droege sold the East portion of Lot 9 and all of Lot 8 to Grantees Jones and Sue Brockman, per the Warranty Deed dated June 18, 1997 and recorded June 23, 1997.
- a. Lot 8, where the Brockman residence is located, is 39,051 square feet in area. The Brockman's part of Lot 9 is 30,197 square feet in area. The combined areas make a conforming lot that is 69,248 square feet, or 1.59 acres.
 - b. The minimum required lot size in the CR District is 1 acre with a minimum required average lot width of 200 feet; should the Brockmans decide to sell off part of their land, they need to retain enough land to have at least one acre in area and an average width of 200 feet. The peculiar shape of the Brockman property means that about 55,000 square feet of land is needed to result in an average lot width of 200 feet and therefore the Brockman property is about 14,248 square feet larger than it must be to comply with the Ordinance.
 - c. In order to have a conforming lot without a variance, the petitioner needs an additional 21,780 square feet.
- (9) Grantor Robert Droege sold the west 150 feet of Lot 9 to Martin Colclasure per the Warranty Deed dated April 10, 2001 and recorded April 12, 2001.
- (10) Mr. Fiscella purchased the west 150 feet of Lot 9 in a tax sale on October 25, 2013, per a Tax Deed dated and recorded on November 9, 2016.
- (11) The adjacent residents, Jones and Sue Brockman, have declined to sell any additional land to the petitioner.

AUGUST 3, 2017 ZBA PUBLIC HEARING

The following testimony received at the August 3, 2017 public hearing will be added under Item 11.F. of the Summary of Evidence.

- (1) Mr. David Kunde, who resides at 505F CR 2500 N, Mahomet, which is Lot 11 in the Wildwood Acres Subdivision, stated that he has several concerns; first off, he has to consider what the township has done with respect to drainage. He said that the drainage around Lot 12 normally ran around and into the Commons Area. He said that instead of continuing cleaning up the drainage ditch, the township put a pipe across into Lot 10, which now causes the drainage out of Lot 9 to drain into Lot 11 and down into his backyard. He said that with the creation of Lot 9, if you create a home in the front half of Lot 9, with a considerable amount more of drainage, it will then go into the drainage ditch through Lots 9 and 10, and then down into his backyard and take out his septic tank and he has a distinct problem with that. He said another thing we need to consider is that both Lots 10 and 11 have been declared

totally in the flood zone and up until a year ago, the back half of Lots 10 and 11 were in the flood zone; now they have moved the flood zone all the way up. He said that this happened with the creation of the Thornwood Subdivision, when they didn't put any holding ponds in, so now we get a massive amount of runoff and the river comes up so that 3-4 months out of the year the back half of his lot is full of water. He said that on days when they get an excessive amount of rain, the water goes up close to his back porch. He said that when you drain more out of Lot 9 by putting in a house and more drainage there, you're going to take out his septic system. He said that CR 2500N is closed multiple times during the year because of the flooding. He said that the six-acre commons area has not been talked about and Lakeview Drive exists because originally, the back half of the commons area was supposed to be a lake. He said that Lot 12 is supposed to drain into the commons area, as do the homes on the other side of Wildwood Drive. He said the next question is what does half of Lot 9 have to do with responsibilities with respect to the commons; he has heard no one talk about that. He said that the six acre commons area is owned by the lots in the subdivision, so does that part of Lot 9 only pay half the taxes. Mr. Kunde said there is no homeowner's association. He stated that he takes care of his outlet, and the person in Lot 12 takes care of his. Mr. Kunde said that it is supposed to be divided up amongst the lots, so when the taxes are paid for the lots, the owner would be paying 1/12th of the real estate taxes on the commons, but now that you're talking about splitting Lot 9 in half, are those owners going to have half the responsibility to the commons. Mr. Kunde stated that half of Lot 9 is owned by the Brockmans, and half by Mr. Fiscella. He said what the fees for the commons could be at some time, with more development, he does not know. Mr. Kunde stated that basically what is going to happen to him is, with the runoff from new development, it will go through Lots 10 and 11 and then into his backyard. He said that he became aware of Lots 10 and 11 being entirely in the flood zone when he looked at his insurance rate map about a year ago, because he was thinking about buying flood insurance, which had normally been around \$300 per year. He was given a quote for \$12,000 per year because now they are totally in the flood zone, including the house. When Mr. Thorsland asked if he had ever seen a For Sale sign on the property, Mr. Kunde responded that he had not seen a sign, but he had received a mailing with an offer to sell the property. He said the price was around \$12,000 or \$13,000, far more than what the tax bill was. He said he is 80 years old and retired, and he does not have that kind of money. Mr. Kunde stated if that building were back in the center of Lot 9, he would not have a problem, but because it's in the front half is where the drainage problem comes.

- (2) Mr. Brian Wattles, Lot 10, 505E CR 2500N, stated that he had just become aware tonight that Mr. Fiscella had purchased this property 3 or 4 years ago. He said the neighbors had spoken about this issue several times over the past year, that he was prospecting to build a home on the property, and that he had been to their house and talked about it with them several times. He said that his point in all this is that Mr. Wattles has maintained the west part of Lot 9 for the almost 10 years he has lived on Lot 10. He said that when his family moved in, the west part of Lot 9 was just overgrown weeds. He said he just kept up on it; he calls it neighborhood beautification, just making it look presentable. He said he thinks everybody appreciates it as far as he can tell. Mr. Wattles was under the impression, from pretty

much the time he moved in there, that the west part of Lot 9 had tax issues; people had pursued paying the back taxes, going forward trying to get ownership of it but they never had, because of the fact that it couldn't be built on. He said he thought not building on it would be just fine; if nobody is going to build on it, then he would maintain it. He said he has been told in the past that this is basically the sand lot that the kids grew up on; its shape is a baseball diamond, and in the past, they played baseball on it, and that's where the kids hung out. He said it was a community area where all the homes could see what was going on, and he and his family have used it as that ever since they have been there. He said he and his child have pulled sleds out on the lot, rode dirt bikes, you name it, they had fun on the lot. He said whatever happens with the lot in the future is out of his control, pending trying to purchasing the lot himself. Mr. Wattles said he had never been approached by Mr. Fiscella about buying the lot. He said the person he bought his house off of had pursued purchasing it, and after Mr. Wattles had purchased their house about a year later, he started divorce filings and quit paying taxes on it. Mr. Wattles said that would have been his opportunity to try to pursue it, but he (previous owner) was told he couldn't build on it because of the half-lot issue. Mr. Wattles said he let it go at that; they have been trying to pay off their house and they just did it this week. Mr. Wattles concurred with Mr. Thorsland's statement that the general knowledge or word on the street was that the west half of Lot 9 was an unbuildable lot, since it was a remainder area and the Brockmans had the other part of Lot 9. Mr. Thorsland said that it seems no one was interested in the west part of Lot 9 at the time because it would only be of interest to the Brockmans by attachment or for Mr. Wattles to create some field of dreams. Mr. Wattles stated that they had discussed if Ray and Sue Brockman would sell their garden lot to Mr. Wattles at some point; that would be the only way Mr. Wattles would consider purchasing the lot. It was something that could be passed on down the road, and his son could build a house on it. Regarding flooding issues, Mr. Wattles said the area where Lot 10 and Lot 9 are is the high ground in the neighborhood, and it holds water. He has maintained it for 10 years and he knows when he can get on it and when he can't, or he's just going to sink with the lawnmower. He said it holds water just about as long as the bottoms do. He says Lot 9 takes forever to dry out, which in turn pushes water to all the houses around there, as far as he is concerned; it's an act of nature. Mr. Wattles said he can't say it has gotten worse, you just learn to expect what is going to happen. He said he has been there 10 years and it has pretty much been status quo. Every year you get 3 to 4 weeks of wetlands.

- (3) Jessica Wattles, Lot 10, 505E CR 2500N, stated that a modular home on that property is out of character with the rest of the homes in the neighborhood. She said her husband has maintained that property for 10 years and improved it. She said that part of the variance application said there was nothing natural of note on the property, but she doesn't think that is accurate. She said her husband has put mulch and trees on the property and there's an area where it is grassland, and if you look at it on Google Maps, you can see he has mowed in a peace sign. She said when they originally moved and became a renter on the property that they now own, it was Marty Colclasure from whom they rented to own for a year, to be applied towards the purchase of the property that was to include that part of Lot 9. But because they did not have a contract stating that, Mr. Colclasure changed his mind. She said because

they did not think they could build upon it, and because of their relationship with Mr. Colclasure, they were okay with it. She said her husband continued to maintain that lot the whole time. Mrs. Wattles said that personally, she did not know if her husband knew, but she did not know until that was part of the discussion of when they did not acquire the lot; her husband explained to her they could not have built on it anyway. She said she thought the purchase of the west part of Lot 9 had just happened; she asked if the purchase had actually happened in 2013 like the documentation says, or did it just happen. Mrs. Wattles stated that it surprised her this evening to know that the property had been purchased for this amount of time when they have been maintaining it for the neighborhood, and they had never met Mr. Fiscella to know about it as far as neighbors or anything. She said it is neither here nor there, but she doesn't know that there is really an interest in their community and their neighborhood as far as the purchasing of this lot and possibly putting a modular on it. She said that to the point of making a profit, they know that the back taxes were likely less than \$2,000, but they got a letter for \$29,000 to buy the property. Mrs. Wattles stated that she thinks they received the offer letter for \$29,000 in the last couple of months. She said it was not something they were going to pursue at that time, because they can't build on it and they knew what had been paid. She said even getting a little more than that would be a significant profit without putting a home on it. She said that if Mr. Fiscella had indeed found out that he could not build on that property, why would he send out a letter for \$29,000 to the rest of the neighbors to purchase it, and put them in the same situation. She said that is part of the reason Mr. Fiscella is here, is that he did not know about the lot, so she questions why he would sell it to someone else for that profit margin. Mrs. Wattles said that they had never approached the Brockmans about the half lot, but it is not something that they would talk about. She said that the Brockmans were unwilling to sell the lot, but it might be a matter of relationships and time in order to have that happen. She said that currently the Brockmans use that land as a garden. Regarding drainage, Mrs. Wattles said that when the water comes, it goes up to their property where the trees are, and they actually have canoes that they take when it rains, a couple times a year at least. She said when the water comes all the way up to their gas tank, they can launch their canoes out of their back yard to go to the river. She said that their property drains to the bottoms area. She said that Lot 9 is kind of land locked right now, and she does not know how drainage would work for that lot. She said she does not know a lot about drainage or septic systems, but she does not believe that the west part of Lot 9 has access to the commons area where their lot drains. Mrs. Wattles said that Mr. Kunde is the one that provided them with the covenant paperwork that they have on file, and he would be the best one to answer any questions. She said she does not understand the legality of it all. She said that the paperwork stated the original intention of the subdivision, and it was written up by at least two members of the subdivision. Regarding Mr. Fiscella's offer to purchase the lot, Mrs. Wattles said it wasn't that she was totally uninterested in the offer, but not at \$29,000.

ATTACHMENTS

- A Approved Plat of Wildwood Acres Subdivision dated May 28, 1966
- B Letter from John Guillou, Chief Waterway Engineer, State of Illinois Department of Public Works and Buildings dated August 25, 1966
- C Surveyor's Certificate signed September 20, 1966 and recorded September 22, 1966
- D Owner's Certificate signed September 9, 1966 and recorded September 22, 1966
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- N Tax Deed for the west 150 feet of Lot 9 to Grantee Philip Fiscella dated and recorded November 9, 2016
- O Revised Summary of Evidence, Finding of Fact, and Final Determination dated September 28, 2017



STATE OF ILLINOIS
DEPARTMENT OF PUBLIC WORKS AND BUILDINGS
SPRINGFIELD

FRANCIS S. LORENZ
DIRECTOR
NORBERT J. JOHNSON
ASST. DIRECTOR

CHICAGO

DIVISION OF HIGHWAYS
DIVISION OF WATERWAYS
DIVISION OF ARCHITECTURE

August 25, 1966

Mr. Robert W. Martin
Champaign County Recorder
Champaign, Illinois

Dear Mr. Martin:

Pursuant to the provisions of "An Act to revise the law in relation to recorders," approved March 9, 1874, as amended, the Department of Public Works and Buildings herewith files its report on the flood hazard potential of the following described plat for a subdivision:

WILDWOOD ACRES, being a subdivision in the NW¹/₄ of Section 36, Township 21 North, Range 7 East of the 3rd Principal Meridian in Champaign County, Illinois, with certificate of Illinois Licensed Land Surveyor No. 1462.

Based upon data available to the Department, it has been determined that the easterly portions of Lots 9, 10 and 11 will be subject to flood risks. It is anticipated that no major problems will be involved in adapting the building developments to the topographic and hydrologic conditions.

This report is based upon available public topographic and hydrologic data and information presented on the plat referred to above. The State of Illinois assumes no responsibility by reason of opinions set forth in this filing.

FRANCIS S. LORENZ
Director

By
John C. Guillou
Chief Waterway Engineer

SURVEYOR'S CERTIFICATE

I, John Delbert Goodell, do hereby certify that I am a registered Illinois Land Surveyor (No. 1462) and that at the request of the owners, Harold E. Madden and Irene V. Madden, I have surveyed and made a plat of the following described tract of land, to-wit:

Commencing at the Northwest Corner of Section 36, Township 21 North, Range 7 East of the Third Principal Meridian, proceed easterly along the North Line of Section 36, having an assumed bearing of South 89°54'30" East 503.00 feet; thence South 0° East 914.00 feet; thence along a curve to the right, having a radius of 326.50 feet; the initial tangent of which has a bearing of South 67°12'20" East 383.00 feet; thence South 0° East 359.00 feet; thence North 79°17'20" West 394.30 feet; thence North 62°57' West 132.37 feet; thence North 0° East 67.00 feet; thence North 89°54'30" West 198.00 feet to the West Line of Section 36; thence North 0° East along the West Line of Section 36, 774.00 feet to the Point of Beginning, situated in Champaign County, Illinois,

for said owners, who desire to facilitate the sale of said land by subdividing it into lots, which said plat to which this certificate is attached particularly described and sets forth all of the lots into which said lands have been so subdivided, and have numbered all such lots by progressive numbers and as one outlet, which numbers are shown in larger size on said plat, and have stated the precise dimensions of said lots on said plat, and to existing state highways adjacent thereto; that reference has been made upon said plat to known and permanent monuments from which future surveys may be made, and have placed iron pipe monuments at each lot corner and other places, all as shown upon the plat; that all distances are in feet and hundredths of a foot, and that said plat and said survey are in all respects true and correct.

That said subdivision is to be known as Wildwood Acres Subdivision in Champaign County, Illinois.

Signed and sealed this 20th day of September, 1966.

John Delbert Goodell



STATE OF ILLINOIS }
 } SS.
COUNTY OF CHAMPAIGN }

OWNERS' CERTIFICATE, WILDWOOD ACRES SUBDIVISION

The undersigned, Harold E. Madden and Irene V. Madden, being the sole legal owners of the following described real estate, to-wit:

Commencing at the Northwest Corner of Section 36, Township 21 North, Range 7 East of the Third Principal Meridian, proceed easterly along the North Line of Section 36, having an assumed bearing of South 89°54'30" East 503.00 feet; thence South 0° East 314.00 feet; thence along a curve to the right, having a radius of 326.50 feet; the initial tangent of which has a bearing of South 67°12'20" East 383.00 feet; thence South 0° East 359.00 feet; thence North 79°17'20" West 394.30 feet; thence North 62°57' West 132.37 feet; thence North 0° East 67.00 feet; thence North 89°54'30" West 198.00 feet to the West Line of Section 36; thence North 0° East along the West Line of Section 36, 774.00 feet to the Point of Beginning, situated in Champaign County, Illinois,

have caused the same to be surveyed by John Delbert Goodall, registered Illinois Land Surveyor No. 1462 and have subdivided said real estate into lots as indicated on the annexed plat. Said Subdivision is to be known as Wildwood Acres Subdivision in Champaign County, Illinois.

It is hereby provided that all conveyances of property hereafter made by the present or future owners of any of the above described lands shall adopt the description of said platted lands as Wildwood Acres Subdivision in Champaign County, Illinois.

Certain of the Lots in said subdivision are subject to certain easements as shown on said plat identified therein as drainage and utility easements for the installations and maintenance of telephone and power lines, drainage facilities, gas, water and any other utility which may be needed for the benefit of the lots in said subdivision.

The area designated on said plat as "Commons" is to be used by the owners of lots in said subdivision and their families only and shall not be permitted to be used by the general public. Any person or persons who are

not the members of the family of a lot owner shall not use, trespass on or be upon the "Commons" area unless said person or persons shall have permission from a lot owner. Each lot owner shall be a 1/12 owner of the "Commons" of said subdivision, and shall share in the maintenance of said area.

It is hereby provided that all conveyances of property hereafter made by adopting the description of Wildwood Acres Subdivision in Champaign County, Illinois, be taken and understood as incorporating in such conveyances without repeating the same the following restrictions as being applicable to each tract of land described in said Surveyor's Certificate, to-wit:

1. All homes built in said subdivision shall have a floor area in excess of 1200 sq. ft. Homes with a concrete floor living area are prohibited. No homes or outbuildings shall have an exterior surface of concrete block more than 30 inches above the ground surface.

2. All homes and outbuildings shall be built of new material of a good quality. No old houses or buildings shall be placed on any of the lots.

3. All homes or outbuildings shall be completed within a one year period from start to finish.

4. No building shall be constructed nearer than 30 feet from the front property line of each lot nor nearer than 15 feet from the sides or rear of any lot.

5. No lot owner shall move or destroy the metal survey rods from their present position.

6. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that no more than two dogs, cats or other household pets may be kept on the lot. All dogs shall be kept in a pen or fenced in yard and shall not be permitted to do extensive barking.

7. No junk vehicle of any kind shall be kept on any lot.

Each of the foregoing restrictions shall run with the land and shall constitute restrictions on the use of each of the respective lots in said subdivision.

IN WITNESS WHEREOF, the undersigned have hereunto signed their names and affixed their seals this 9th day of September, 1966.

Donald E. Madden (SEAL)

Irene V. Madden (SEAL)

STATE OF ILLINOIS
COUNTY OF CHAMPAIGN

SS.

I, the undersigned, a Notary Public in and for said County and State aforesaid, do hereby certify that Donald E. Madden and Irene V. Madden, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act for the uses and purposes therein set forth. Given under my hand and Notarial Seal, this 9th day of September, 1966.



Louis L. Williams
Notary Public

STATE OF INDIANA }
County of Crawford } ss.

I, the undersigned, a Notary Public,
in and for, and residing in said County, in the State aforesaid,
DO HEREBY CERTIFY, that Harold E. Madden and Irene V.
Madden, husband and wife, each in his and her own
right and as the respective spouse of the other

are
personally known to me to be the same person^s whose name / subscribed to the
foregoing instrument, appeared before me this day in person and acknowledged that
t^y signed, sealed and delivered the said instrument as their free and
voluntary act for the uses and purposes therein set forth, including the release and
waiver of the right of homestead.

GIVEN under my hand and notarial seal, this 2 day of Jan
A. D., 19 69



June 4

Edith Freeman
Notary Public
1971

STATE OF
County of

} ss.
I,
a Notary Public, in and for, and residing in said County, in the State aforesaid,
DO HEREBY CERTIFY, that

personally known to me to be the same person whose name subscribed to the
foregoing instrument, appeared before me this day in person and acknowledged that
h signed, sealed and delivered the said instrument as free and
voluntary act for the uses and purposes therein set forth, including the release and
waiver of the right of homestead.

GIVEN under my hand and Notarial Seal, this _____ day of
A. D., 19 _____

My Commission Expires

19 _____

751

Warranty Deed

Gold E. Madden, et ux

TO

S. Opal Pearce

INDEXED

STATE OF ILLINOIS } ss.
CAMPAIGN COUNTY
Recorded in the Recorder's Office
of said county.

FEB 7 - 1969 - 3 .15 PM

Recorded on Page 146

Robert C. Martin

Recorder of Deeds

Opal Pearce

Box 266

Legal Blank Co., Hannibourg, Illinois
Marine, Ill.

Associated Abstract Co.
Phone 336-0501

WARRANTY DEED

17 Taylor
Champaign, Illinois

Joint Tenancy

The Grantor s, HAROLD E. MADDEN and IRENE MADDEN, his wife.

of the Village of English, County of
Crawford and State of Indiana for the consideration of

the sum of one dollar and other good and valuable consideration Dollars
in hand paid, CONVEY and WARRANT to ROY L. WRIGHT and CATHERINE WRIGHT,
husband and wife.

of the of, County of Champaign
State of Illinois not in tenancy in common, but in joint tenancy, the following described
Real Estate, to wit:

Lot 8 together with an undivided 1/12 interest
in the area designated as "Commons" in Wildwood
Acres Subdivision in Champaign County, Illinois
as per plat recorded in Plat Book "R" page 49,
situated in Champaign County, Illinois.

CHAMPAIGN
COUNTY
ILLINOIS
013207



STATE OF ILLINOIS
REAL ESTATE TRANSFER TAX
AUG 27 70 DEPT OF REVENUE \$ 23.00

in the County of Champaign in the State of Illinois hereby releasing and
waiving all rights under and by virtue of the Homestead Exemption laws of the State of Illinois.
To have and to hold, the above granted premises unto the said Grantees forever, not in tenancy in com-
mon, but in joint tenancy.

Dated this 26th day of August 1970.

[SEAL] Harold E. Madden [SEAL]
[SEAL] Irene Madden [SEAL]

Tax Bill to be sent to:
Roy L. Wright, R.R. #1, Mahomet, Ill.

STATE OF ILLINOIS }
Champaign County } ss. I, the undersigned

a Notary Public in and for said County, DO HEREBY CERTIFY, That
HAROLD E. MADDEN and IRENE MADDEN, his wife

personally known to me to be the same persons whose name are
subscribed to the foregoing instrument, as having executed the same, ap-
peared before me, this day in person and acknowledged that they
signed, sealed and delivered the said instrument as their free and
voluntary act for the purposes therein set forth, including the
release and waiver of the right of homestead.

Given under my hand and Notary Seal, at Champaign, Ill.

this 24th day
August 1970

STATE OF ILLINOIS

County } ss. I,

a Notary Public in and for said County, DO HEREBY CERTIFY, That

personally known to me to be the same person whose name ... subscribed to the foregoing instrument, as having executed the same, appeared before me this day in person, and acknowledged that ... he signed, sealed and delivered the said instrument as ... free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and Notarial Seal, at

this ... day of ... , A. D. 19 ...

Notary Public.

75R 7214 281

ARRANTY DEED

Joint Tenancy

to

7 OF ILLINOIS
COUNTY } ss
Record in the Recorder's Office
county.

JUG 27 1970 - 3 10 PM

932
Record on Page 385

Robert E. Martin
Notary Public

ASSOCIATED ABSTRACT CO.
17 TAYLOR ST., CHAMPAIGN
PHONE 356-0501

Paid Prompt and Efficient Abstracting

This Guarantee Policies
FEDERAL SAVINGS & LOAN
East Park Ave.
PAICH, ILLINOIS

71115779

Document No. CHAMPAIGN
at 12:30 o'clock P. filed for Record in Recorder's office of Champaign County, Illinois
VOL. 970 PAGE 873
WARRANTY DEED—Joint Tenancy Recorder of Deeds

Sept. 19 71

THIS INDENTURE WITNESSETH, That the Grantor s , JAY J. SCHREIBER and ETHEL M. SCHREIBER, each in his and her own right and as husband and wife,

of the City of Villa Grove, County of Douglas and State of Illinois consideration for and in consideration of the sum of One Dollar and other good and valuable things convey and Warrant to Grantee s, ROY L. WRIGHT and CATHERINE WRIGHT, his wife of R. R. # 1 Street, City of Mahomet, County of Champaign, State of Illinois not in Tenancy in Common, but in Joint Tenancy, the following described real estate to wit:

All of Lot Nine (9), except the West 150 feet thereof, in Wildwood Acres Subdivision in Champaign County, Illinois, and an undivided one-twenty-fourth interest in the area designated as "Commons" on the plat of Wildwood Acres Subdivision,

situated in the County of Champaign in the State of Illinois, hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

TO HAVE AND TO HOLD, the above granted premises unto the Grantees forever, not in tenancy in common, but in joint tenancy.

Dated this 18 day of September, 1971

WITNESSE

Jay J. Schreiber (Seal)
Ethel M. Schreiber (Seal)

STATE OF ILLINOIS REAL ESTATE TRANSFER TAX DEPT. OF REVENUE 02.00



The undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY, that Jay J. Schreiber and Ethel M. Schreiber, each in his and her own right and as husband and wife,

personally known to me to be the same person... whose name s... subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that t. he y. signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

My commission expires August 30, 1974
Given under my hand and Notarial Seal, this 17th day of September, A.D. 1971
Notary Public

Mall Tax Statement to Roy L. Wright, R.R. #1 Street, Mahomet, Ill. 61853

90308134

1200
300
1500

DOC # _____
CHAMPAIGN COUNTY, ILL.
1685 n 591

Tract No. PGM 443,444,445

'90 MAY 7 PM 2 31

GAS STORAGE EASEMENT GRANT

[Handwritten signature]

FOR AND IN CONSIDERATION of the sum of Ten Dollars
RECORDED
(\$10.00) and other good and valuable consideration in hand
paid, the receipt of which is hereby acknowledged, the
undersigned (hereinafter referred to as "Grantor", whether one
or more), owner of the following described parcel of land
situated in the County of Champaign, State of Illinois, to-wit:

Township 21 North.- Range 7 East 3rd P.M.

Section 36: Lot #8 and #9 and an undivided 1/6th interest in the "commons"
in Wildwood subdivision per plat R/49.

(hereinafter referred to as "said land"), does hereby grant,
convey and warrant to THE PEOPLES GAS LIGHT AND COKE COMPANY,
an Illinois corporation (hereinafter referred to as "Grantee"),
its successors and assigns, the exclusive right, privilege and
authority to introduce natural gas or other gases or vapors
(all herein referred to as "gas") into any geological strata
underlying said land not containing oil or gas in commercial
quantities (all such strata being referred to as the "Storage
Reservoir"); to store gas in the Storage Reservoir and to
retain the possession of gas so stored as personal property; to
remove gas (with any water vapors absorbed) from the Storage
Reservoir; and to use, hold and occupy the Storage Reservoir
for all such purposes; all as part of and in connection with
the storage of gas under said land, and Grantor expressly
releases and waives any right of homestead.

TO HAVE AND TO HOLD the same unto Grantee, its
successors and assigns forever.

The rights hereunder granted unto Grantee shall be
enjoyed solely by underground access from other lands and shall

not involve the use of the surface of said land, and any use of any other portion of said land shall be solely for the purpose of underground gas storage.

This instrument embodies the entire agreement between Grantor and Grantee, and no verbal representation of any agent of Grantee shall have any force or effect.

The terms, covenants and conditions hereof shall be binding on the parties hereto, their heirs, successors and assigns.

IN WITNESS WHEREOF, Grantor has executed this Gas Storage Easement Grant this 4th day of May, 1990.

Roy L. Wright
236-01-9343

+ Catherine Wright
295-12-0100

Roy L. Wright

Catherine Wright

The undersigned, tenant(s) in possession of the land described in the foregoing instrument, in consideration of the payment of Ten Dollars (\$10.00), hereby adopt(s) and join(s) in the execution of same, and consent(s) to the enjoyment by the Grantee therein of the rights therein vested in the Grantee.

Dated this ___ day of _____, 19__.

Draft Nos. #1353

Tract No. PGM 443,444,445

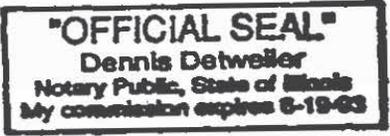
THIS INSTRUMENT PREPARED BY:
Stephen H. Armstrong, Esq.
The Peoples Gas Light
and Coke Company
122 South Michigan Avenue
Chicago, Illinois 60603

MAIL TO:
The Peoples Gas Light
and Coke Company
R. R. No. 1
Box 88
Fisher, Illinois 61843

STATE OF ILLINOIS)
) SS
COUNTY OF CHAMPAIGN)

I, Dennis Detweiler, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Roy L. Wright and Catherine Wright, personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that signed and delivered the said instrument as free and voluntary act for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 4th day of May, 1990.



[Signature]
Notary Public

My Commission Expires:
6/19/93

[Handwritten mark]

12.00
3.00
15.00

102343



CHICAGO TITLE INSURANCE COMPANY
201 N. NEIL STREET,
CHAMPAIGN, IL 61820
PH. (217)356-0501
FAX (217)351-2982

97 R 1 2 2 0 5

DOG # _____
CHAMPAIGN COUNTY, ILL



STATE OF ILLINOIS
REAL ESTATE TRANSFER TAX

JUN-3-97 DEPT. OF REVENUE
Champaign County
Real Estate Transfer Tax 8.50

17.00

'97 JUN -3 AM 9 10

Barbara A. Droege
RECORDER

WARRANTY DEED

THE GRANTOR, CATHERINE WRIGHT, a widow not since remarried

_____ of the City of

Mahomet, in the County of Champaign, and State of Illinois, for and in consideration of Ten

Dollars (\$10.00) and other good and valuable consideration in hand paid, CONVEY AND WARRANT to the GRANTEE,

ROBERT A. DROEGE

_____ of the

City of Mahomet, County of Champaign and State of

Illinois, the following described real estate:

The West 150 feet of Lot 9, together with an undivided 1/24 interest in the area designated as "Commons" in Wildwood Acres Subdivision, in Champaign County, Illinois, as per plat recorded in Plat Book "R" at Page 49, situated in Champaign County, Illinois.

PIN #: 16-07-36-102-003

Common Address: 505-C 2500 North, Mahomet, Illinois

(THIS FORM IS CONTINUED ON THE OTHER SIDE & SHOULD BE TYPEWRITTEN)

102534



CHICAGO TITLE INSURANCE COMPANY
201 N. NEIL STREET,
CHAMPAIGN, IL 61820
PH. (217)356-0501
FAX (217)351-2982

97R14157

1200
300
1500

DOC # _____
CHAMPAIGN COUNTY, ILL

'97 JUN 23 PM 2 51

Ember A. Drees
RECORDER

STATE OF ILLINOIS
REAL ESTATE TRANSFER TAX
JUN 19 1997 DEPT. OF REVENUE 115.00

Champaign County
Real Estate Transfer Tax 57.50

WARRANTY DEED - TENANCY BY THE ENTIRETY

THE GRANTOR, CATHERINE WRIGHT, a widow not since remarried

_____ of the City of

Mahomet, in the County of Champaign, and State of Illinois, for and in consideration of Ten

Dollars (\$10.00) and other good and valuable consideration in hand paid, CONVEY AND WARRANT to the GRANTEES,

JONES R. BROCKMAN and MARY SUE BROCKMAN

_____, husband and wife, of the

City of Albuquerque, County of _____, and State of

New Mexico, not in TENANCY IN COMMON, or in JOINT TENANCY, but in TENANCY BY THE ENTIRETY,

the following described real estate:

Lot 8 and all of Lot 9, except the West 150 feet, together with an undivided 1/24 interest in the area designated as "Commons" in Wildwood Acres Subdivision, in Champaign County, Illinois, as per plat recorded in Plat Book "R" at Page 49, situated in Champaign County, Illinois.

16-07-36-102-002
PIN #: 16-07-36-102-004

Common Address 505B CR 2500 North, Mahomet, Illinois

2

2001 R08325

RECORDED ON

04-12-2001 10:43:27

CHAMPAIGN COUNTY
RECORDER
BARBARA A. FRASCA

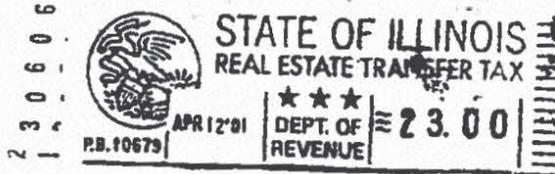
REC. FEE: 18.00
REV FEE: 34.50
PAGES: 2
PLAT ACT: 0
PLAT PAGE:

798364

WARRANTY DEED

Champaign County
Real Estate Transfer Tax 11.50

THE GRANTOR ROBERT A. DROEGE, a married person, of the Village of Mahomet, 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, MARTIN P. COLCLASURE, of the Village of Mahomet, County of Champaign, and State of Illinois, the following described real estate:

The West 150 feet Lot 9, together with an undivided 1/24 interest in the area designated as "Commons" in Wildwood Acres Subdivision, as per Plat recorded in Plat Book "R" at Page 49, situated in Champaign County, Illinois.

Commonly known as 505 C 2500 N and 505 E. Lakeview, Mahomet, Illinois.

PIN: 16-07-36-102-003

- Subject to:
- (1) Real Estate taxes for the year 2000 and subsequent years;
 - (2) Covenants, conditions, restrictions, easements apparent and 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. Grantor certifies that the property does not constitute homestead.

Dated this 11th day of April, 2001.


Robert A. Droege

008325

STATE OF ILLINOIS)
) SS.
COUNTY OF CHAMPAIGN)

I, the undersigned, a Notary Public in and for said County and State aforesaid, do hereby certify that Robert A. Droege, 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 10th day of April, 2001.



Valarie Olson
Notary Public

Prepared By:

Mary Ann Royse
HARRINGTON, TOCK & ROYSE
201 W. Springfield Ave., Suite 601
P.O. Box 1550
Champaign, IL 61824-1550
217-352-4167

Return to and Send Tax Bill to:

Martin P. Colclasure
103 1/2 Dunbar
Mahomet, IL 61853

RECEIVED



MAY 02 2017

CHAMPAIGN COUNTY DEPARTMENT

TAX DEED

STATE OF ILLINOIS }
COUNTY OF CHAMPAIGN } SS

2016R22250
REC ON: 11/09/2016 3:44:07 PM
CHAMPAIGN COUNTY
BARBARA A. FRASCA, RECORDER
REC FEE: 48.00
PAGES 1
PLAT ACT: 0 PLAT PAGE:

WHEREAS, at a public sale of Real Estate for the non-payment of taxes, made in the County aforesaid, on October 25, 2013, the following described Real Estate was sold, to wit:

Case #: 13-TX-01S-082

PIN: 16-07-36-102-003

Commonly known as: 505 CR 2500 N Mahomet, IL

Legal: The West 150 feet of Lot 9, together with 1/24 interest in the area designated as "commons" in Wildwood Acres Subdivision, as per Plat recorded in Plat Book "R" at page 49, situated in Champaign County, IL

AND WHEREAS, the same not having been redeemed for the sale, and it appearing that the holder of the Certificate of Purchase of the Real Estate has complied with the laws of the State of Illinois necessary to entitle him to a Deed of the said Real Estate:

NOW, THEREFORE, Know Ye, that I, Gordy Hulten, County Clerk of Said County of Champaign and State of Illinois, 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 to: Philip Fiscella whose true post office and/or residence is: 505 West Green St. Champaign, IL his heirs and assigns forever, the Real Estate hereinbefore described.

*Exempt under the provisions of Paragraph F, Section 4, of the Real Estate Transfer Tax Act.

DATED: November 9, 2016

This instrument was prepared by: Champaign County Clerk 1776 E. Washington St. Urbana, Illinois 61802

Gordy Hulten, Champaign County Clerk

Send tax bill to: Philip Fiscella 505 West Green St. Champaign, IL 61820

Return instrument to: Philip Fiscella 505 West Green St. Champaign, IL 61820

REVISED DRAFT 09/28/17

878-V-17 and 882-V-17

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

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

Date: ***{September 28, 2017}***

Petitioner: Philip Fiscella

Request: Authorize the following Variance in the CR Conservation Recreation Zoning District:

CASE 878-V-17: Authorize the use of a proposed lot with an average lot width of 141 feet in lieu of the required minimum 200 feet, and with a minimum lot area of 0.5 acre in lieu of the minimum required 1 acre, per Section 5.3 of the Zoning Ordinance.

CASE 882-V-17: Authorize a proposed division of a lot less than five acres in area, per Section 5.4.2 A.3. of the Zoning Ordinance.

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Case 878-V-17 Final Determination 22
Case 882-V-17 Final Determination 23

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **August 3, 2017, and September 28, 2017**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Philip Fiscella owns the west 150 of Lot 9 in Wildwood Acres Subdivision, which is the subject property for Case 878-V-17. Jones and Sue Brockman own the eastern part of Lot 9; they have declined to co-sign the variance application.
2. The subject property for Case 878-V-17 is the west 150 feet of Lot 9 in Wildwood Acres Subdivision in Section 36, Township 21 North, Range 7 East of the Third Principal Meridian in Newcomb Township. The subject property for Case 882-V-17 is the complete Lot 9 in Wildwood Acres Subdivision.
 - A. ~~The west 150 feet of Lot 9 was divided out sometime in 1974, according to Champaign County Sidwell Tax Maps. Grantors Harold and Irene Madden sold the west 150 feet of Lot 9 to Grantee Opal Pearce per the Warranty Deed dated January 2, 1969 and recorded February 7, 1969, meaning that the division of Lot 9 took place prior to adoption of the Zoning Ordinance on October 10, 1973.~~
 - a. The Champaign County Tax Maps for 1967 and 1974 did not show the split of Lot 9.
 - B. The west 150 feet of Lot 9 is not a good zoning lot and no use or construction can be authorized on that lot unless the Champaign County Zoning Board of Appeals authorizes a variance, or the petitioner purchases additional land.
 - C. The adjacent residents who own the east part of Lot 9 and all of Lot 8 have declined to sell any additional land to the petitioner.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of such cases.
 - (1) At the time the subdivision was created, the subject property was in Champaign County's subdivision jurisdiction.
 - B. The subject property is located within Newcomb Township, which does have a Planning Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property for Case 878-V-17 is a 0.5 acre vacant proposed lot and is currently zoned CR Conservation Recreation.
 - B. The subject property for Case 882-V-17 is the 1.2 acre Lot 9; its east 0.7 acre is in common ownership with Lot 8 to the north, is currently zoned CR Conservation Recreation, and is in use as a garden for the residents on Lot 8.

- C. Land surrounding the subject property is zoned CR Conservation Recreation and is residential in use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan of the subject site:
- A. The Petitioner's Site Plan, received May 2, 2017, indicates the following proposed conditions:
- (1) A 60 feet by 32 feet house;
 - (2) A 25 feet by 25 feet attached garage;
 - (3) A septic tank west of the house and leach field in the northwest corner of the subject property.
 - a. In an email received April 11, 2017, Michael Flanagan of Champaign-Urbana Public Health District stated, "For a lot sized at ½ acre, I see no reason that a septic system and well could not be installed at this location. Attention to placement of the system and the protection of the site would be required as to not disturb the soils from compaction or removal."
 - b. Mr. Flanagan assumed use of a 1,000 gallon septic tank for the property, which is the size of tank used for a 3 bedroom residence.
 - c. P&Z Staff reviewed whether the subject property has room for a reserve septic field, and it appears that there is sufficient area for a reserve system.
- B. There are no previous Zoning Use Permits on the subject property; however, the following history of the lot is relevant:
- (1) Wildwood Acres Subdivision was platted prior to the adoption of the Champaign County Zoning Ordinance on October 10, 1973. Upon adoption of the Zoning Ordinance, the platted lots that were less than 1 acre in area and/or less than 200 feet in average lot width became non-conforming lots of record. Once any lot in the subdivision came under common ownership with an adjacent lot, they became either conforming or at least more conforming with the CR Conservation Recreation Zoning District requirements.
 - (2) Grantors Harold and Irene Madden sold the west 150 feet of Lot 9 to Grantee Opal Pearce per the Warranty Deed dated January 2, 1969 and recorded February 7, 1969, meaning that the division of Lot 9 took place prior to adoption of the Zoning Ordinance on October 10, 1973. Sometime in 1974, Lot 9 was split in two (without zoning approval) and each part was given a separate tax parcel number.
 - a. The Champaign County Tax Maps for 1967 and 1974 did not show the split of Lot 9.
 - (3) Grantors Harold and Irene Madden sold Lot 8 to Grantees Roy and Catherine Wright per the Warranty Deed dated August 26, 1970 and recorded August 27, 1970.

- (4) Grantors Jay and Ethel Schreiber sold the east part of Lot 9 to Grantees Roy and Catherine Wright per the Warranty Deed dated September 18, 1971 and recorded December 1, 1971.
- (5) Grantor Opal Pearce sold the west 150 feet of Lot 9 to Grantees Roy and Catherine Wright per the Warranty Deed dated June 19, 1973 and recorded June 21, 1973. This purchase brought the entirety of Lots 8 and Lot 9 into common ownership by the Wrights prior to the adoption of the Zoning Ordinance on October 10, 1973.
- (6) A Gas Storage Easement Grant dated May 4, 1990 and recorded May 7, 1990 shows that Roy and Catherine Wright owned all of both Lots 8 and 9 at the time.
- (7) Grantor Catherine Wright, widow, sold the west 150 feet of Lot 9 to Grantee Robert Droege per the Warranty Deed dated June 2, 1997 and recorded June 3, 1997. From June 21, 1973 until June 3, 1997, Lots 8 and 9 had been under common ownership by the Wrights.
- (8) Grantor Robert Droege sold the East portion of Lot 9 and all of Lot 8 to Grantees Jones and Sue Brockman, per the Warranty Deed dated June 18, 1997 and recorded June 23, 1997.
- a. Lot 8, where the Brockman residence is located, is 39,051 square feet in area. The Brockman's part of Lot 9 is 30,197 square feet in area. The combined areas make a conforming lot that is 69,248 square feet, or 1.59 acres.
 - b. The minimum required lot size in the CR District is 1 acre with a minimum required average lot width of 200 feet; should the Brockmans decide to sell off part of their land, they need to retain enough land to have at least one acre in area and an average width of 200 feet. The peculiar shape of the Brockman property means that about 55,000 square feet of land is needed to result in an average lot width of 200 feet and therefore the Brockman property is about 14,248 square feet larger than it must be to comply with the Ordinance.
 - c. In order to have a conforming lot without a variance, the petitioner needs an additional 21,780 square feet.
- (9) Grantor Robert Droege sold the west 150 feet of Lot 9 to Martin Colclasure per the Warranty Deed dated April 10, 2001 and recorded April 12, 2001.
- (10) Mr. Fiscella purchased the west 150 feet of Lot 9 in a tax sale on October 25, 2013, per a Tax Deed dated and recorded on November 9, 2016.
- (11) The adjacent residents, Jones and Sue Brockman, have declined to sell any additional land to the petitioner.
- C. The required variances are as follows:
- (1) Case 882-V-17: Authorize a proposed division of a lot less than five acres in area, per Section 5.4.2 A.3. of the Zoning Ordinance.

- (2) Case 878-V-17: Authorize the use of a proposed lot with an average lot width of 141 feet in lieu of the required minimum 200 feet, and with a minimum lot area of 0.5 acre in lieu of the minimum required 1 acre, per Section 5.3 of the Zoning Ordinance.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variance:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (capitalized words are defined in the Ordinance):
- (1) “AREA, LOT” is the total area within the LOT LINES.
 - (2) “DWELLING” is a BUILDING or MANUFACTURED HOME designated for non-transient residential living purposes and containing one or more DWELLING UNITS and/or LODGING UNITS.
 - (3) “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.
 - (4) “LOT, CORNER” is a LOT located:
 - a. at the junction of and abutting two or more intersecting STREETS; or
 - b. at the junction of and abutting a STREET and the nearest shoreline or high water line of a storm or floodwater runoff channel or basin; or
 - c. at and abutting the point of abrupt change of a single STREET where the interior angle is less than 135 degrees and the radius of the STREET is less than 100 feet.
 - (5) “LOT LINE, FRONT” is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
 - (6) “LOT LINE, REAR” is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE or to a tangent to the midpoint of the FRONT LOT LINE. In the case of a triangular or gore shaped LOT or where the LOT comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at the maximum distance from the FRONT LOT LINE or said tangent.
 - (7) “LOT LINES” are the lines bounding a LOT.
 - (8) “LOT WIDTH, AVERAGE” is the LOT AREA divided by the LOT DEPTH or, alternatively, the diameter of the largest circle that will fit entirely within the LOT LINES.
 - (9) “NONCONFORMING LOT, STRUCTURE, OR USE” is a LOT, SIGN, STRUCTURE, or USE which does not conform to the regulations and standards of the DISTRICT in which it is located.
 - (10) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.

- (11) “STREET” is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
- (a) MAJOR STREET: Federal or State highways.
 - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
 - (c) MINOR STREET: Township roads and other local roads.
- (12) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
- (13) “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 CR, Conservation-Recreation DISTRICT is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Section 4.3.4 G. requires that lots created after June 22, 1999 in the AG-1, AG-2, and CR Districts shall conform to the requirements of Subsection 5.4.

- (1) Subsection 5.4: Rural Residential Overlay Zoning District specifies in paragraph 5.4.1. that “No building shall be constructed upon a lot in the AG-1, AG-2, or CR District that was not created in conformance with this Section.”
 - (2) Paragraph 5.4.2. lists the exemptions to requiring a Rural Residential Overlay; part 5.4.2 A.3. allows an exemption for dividing a lot no smaller than 5 acres.
 - a. The proposed variance for a division of a lot less than 5 acres in area would allow for the creation of the proposed 0.5 acre lot without requiring a Rural Residential Overlay.
- E. Minimum average lot width in the CR Conservation Recreation District is established in Section 5.3 of the Zoning Ordinance as 200 feet.
- F. Minimum lot size in the CR Conservation Recreation District is established in Section 5.3 of the Zoning Ordinance as 1 acre.

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:
 - (1) **“This subdivision was created before zoning, and the vast majority of lots currently developed with homes in the subdivision are smaller than the parcel in question. The variance will not create a home that is out of character in the subdivision.”**
 - (2) **“The streets in question have minimal traffic (Wildwood is, in fact, basically a driveway only one car in width to the south of the parcel in question). Traffic speeds are slow, and there is no additional hazard created by allowing a small reduction in the sight triangle on this corner.”**
 - (3) **“If desired, applicant is willing to compensate the Newcomb Township Supervisor for the cost of installing and maintaining Stop or Yield signs at this intersection.”**
 - B. The subject property has the following ownership history relevant to this case:
 - (1) Wildwood Acres Subdivision was platted prior to the adoption of the Champaign County Zoning Ordinance on October 10, 1973. Upon adoption of the Zoning Ordinance, the platted lots that were less than 1 acre in area and/or less than 200 feet in average lot width became non-conforming lots of record. Once any lot in the subdivision came under common ownership with an adjacent lot, they became either conforming or at least more conforming with the CR Conservation Recreation Zoning District requirements.
 - (2) Grantors Harold and Irene Madden sold the west 150 feet of Lot 9 to Grantee Opal Pearce per the Warranty Deed dated January 2, 1969 and recorded February 7, 1969, meaning that the division of Lot 9 took place prior to adoption of the Zoning

Ordinance on October 10, 1973. Sometime in 1974, Lot 9 was split in two (without zoning approval) and each part was given a separate tax parcel number.

- a. The Champaign County Tax Maps for 1967 and 1974 did not show the split of Lot 9.
- (3) Grantors Harold and Irene Madden sold Lot 8 to Grantees Roy and Catherine Wright per the Warranty Deed dated August 26, 1970 and recorded August 27, 1970.
 - (4) Grantors Jay and Ethel Schreiber sold the east part of Lot 9 to Grantees Roy and Catherine Wright per the Warranty Deed dated September 18, 1971 and recorded December 1, 1971.
 - (5) Grantor Opal Pearce sold the west 150 feet of Lot 9 to Grantees Roy and Catherine Wright per the Warranty Deed dated June 19, 1973 and recorded June 21, 1973. This purchase brought the entirety of Lots 8 and Lot 9 into common ownership by the Wrights prior to the adoption of the Zoning Ordinance on October 10, 1973.
 - (6) A Gas Storage Easement Grant dated May 4, 1990 and recorded May 7, 1990 shows that Roy and Catherine Wright owned all of both Lots 8 and 9 at the time.
 - (7) Grantor Catherine Wright, widow, sold the west 150 feet of Lot 9 to Grantee Robert Droege per the Warranty Deed dated June 2, 1997 and recorded June 3, 1997. From June 21, 1973 until June 3, 1997, Lots 8 and 9 had been under common ownership by the Wrights.
 - (8) Grantor Robert Droege sold the East portion of Lot 9 and all of Lot 8 to Grantees Jones and Sue Brockman, per the Warranty Deed dated June 18, 1997 and recorded June 23, 1997.
 - a. Lot 8, where the Brockman residence is located, is 39,051 square feet in area. The Brockman's part of Lot 9 is 30,197 square feet in area. The combined areas make a conforming lot that is 69,248 square feet, or 1.59 acres.
 - b. The minimum required lot size in the CR District is 1 acre with a minimum required average lot width of 200 feet; should the Brockmans decide to sell off part of their land, they need to retain enough land to have at least one acre in area and an average width of 200 feet. The peculiar shape of the Brockman property means that about 55,000 square feet of land is needed to result in an average lot width of 200 feet and therefore the Brockman property is about 14,248 square feet larger than it must be to comply with the Ordinance.
 - c. In order to have a conforming lot without a variance, the petitioner needs an additional 21,780 square feet.
 - (9) Grantor Robert Droege sold the west 150 feet of Lot 9 to Martin Colclasure per the Warranty Deed dated April 10, 2001 and recorded April 12, 2001.
 - (10) Mr. Fiscella purchased the west 150 feet of Lot 9 in a tax sale on October 25, 2013, per a Tax Deed dated and recorded on November 9, 2016.

- (11) The adjacent residents, Jones and Sue Brockman, have declined to sell any additional land to the petitioner.
- C. Lot areas in Wildwood Acres Sub are the following:
- (1) Lots 1 through 6 west of Wildwood Drive are 20,832 square feet (0.48 acre).
 - (2) Lots 7 and 8 are 39,050 square feet (0.9 acre).
 - (3) The western part of Lot 9 is 21,858 square feet (0.5 acre).
 - (4) The eastern part of Lot 9 is 30,197 square feet (0.69 acre).
 - (5) Lot 10 is 43,447 square feet (1 acre).
 - (6) Lot 11 is 41,416 square feet (0.95 acre).
 - (7) Lot 12 is 29,917 square feet (0.69 acre).
 - (8) The commons area is 75,339 square feet (1.73 acres).

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, **“Under the strict letter of the regulations, there will be NO legal use for the parcel in question. The owner of the neighboring two parcels has stated unequivocally that his property is not for sale, and that he has no interest in acquiring the property in question.”**
 - B. Without the proposed variance, the Petitioner would be unable to build a new house or other structure requiring a Zoning Use Permit.

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, **“The applicant acquired the property from the county via a tax sale. Applicant was unaware at the time that the lot did not conform to zoning, and was surprised to find out that this parcel is, due to the new zoning regulations, too small to build on.”**
 - B. The 1 acre minimum lot size and 200 feet average lot width requirements have been a part of the *Zoning Ordinance* since its adoption on October 10, 1973.
 - C. Item 7.B. summarizes ownership history that is relevant to this variance criterion.

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 parcel in question is located in the CR district. The entirety of the parcel in question is located above the FEMA 500 Year Base Flood Elevation, and development of a single family home on this parcel should not conflict with the stated purpose of the district. Namely, the ‘restriction of development in areas subject to frequent or periodic Flooding’. The parcel in question is seeded with grass, mowed, and is, in the opinion of the applicant, neither particularly natural nor scenic. The parcel is 660 feet from the nearest stream, and is not visible from the waterway. The parcel in question is landlocked, located in a developed subdivision, and has no practical agricultural value. The highest and best use for the property is most certainly as the location of a quality single family residence.”**
 - B. Regarding the proposed Variance for a division of a lot less than 5 acres, the creation of a 0.5 acre lot does not meet the minimum requirement, for a variance of 100%.
 - C. Regarding the proposed Variance for an average lot width of 141 feet in lieu of the minimum required 200 feet: the requested variance is 70.5% of the minimum required, for a variance of 29.5%.
 - D. Regarding the proposed Variance for a lot that is 0.5 acres in lieu of the minimum required 1 acre in the CR District, the lot is 50% of the minimum required, for a variance of 50%.
 - E. Regarding the division of a lot less than 5 acres:
 - (1) Paragraph 4.3.4 G. requires that lots created after June 22, 1999, in the AG-1, AG-2, and CR Districts shall conform to the requirements of Subsection 5.4.
 - a. Subsection 5.4: Rural Residential Overlay Zoning District specifies in paragraph 5.4.1. that “No building shall be constructed upon a lot in the AG-1, AG-2, or CR District that was not created in conformance with this Section.”
 - b. Paragraph 5.4.2. lists the exemptions to requiring a Rural Residential Overlay; part 5.4.2 A.3. allows an exemption for dividing a lot no smaller than 5 acres.
 - (a) The proposed variance for a division of a lot less than 5 acres in area would allow for the creation of the proposed 0.5 acre lot without requiring a Rural Residential Overlay.
 - (2) The Zoning Ordinance does not clearly state the considerations that underlie the restriction on division of lots that are 5 acres or less. This amendment resulted from zoning Case 431-AT-03 Part B and so is related to the County’s desire to limit the number of new lots in the rural areas. The Rural Residential Overlay (RRO) Zoning District is an overlay zoning designation that is the primary method by which Champaign County limits the number of new lots in the rural zoning districts. The RRO District is established using the basic rezoning procedure except that specific considerations are taken into account in approvals for rezoning to the

RRO District. Paragraph 5.4.3 C.1. of the *Zoning Ordinance* requires the Zoning Board of Appeals to consider the following factors in making the required findings:

- a. Adequacy and safety of roads providing access to the site.
- b. Effects on drainage both upstream and downstream.
- c. The suitability of the site for onsite wastewater systems.
- d. The availability of water supply to the site.
- e. The availability of emergency services to the site.
- f. The flood hazard status of the site.
- g. Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat.
- h. The presence of nearby natural or man-made hazards.
- i. Effects on nearby farmland and farm operations.
- j. Effects of nearby farm operations on the proposed residential development.
- k. The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated.
- l. The LESA (Land Evaluation and Site Assessment) score of the subject site.

(3) Regarding the RRO factors for the subject property:

- a. Adequacy and safety of roads providing access to the site.
 - (a) The Petitioner proposes a new driveway opening south onto Lakeview Drive, which is approximately 12 feet wide in a 60 feet wide right-of-way.
 - (b) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). No traffic volume was available for the two roads in the subdivision.
 - (c) CR 2500 North adjacent to the subdivision is an approximately 18 feet wide rural two-lane road. The ADT for CR 2500N was 750 in 2016.
 - (d) The addition of one residence to the subdivision would be unlikely to diminish traffic safety on area roads.
- b. Effects on drainage both upstream and downstream. The subject property is relatively flat and appears to drain to the east toward the Big Ditch and then to the Sangamon River.
- c. The suitability of the site for onsite wastewater systems.
 - (a) An On-site Soil Evaluation for Septic Filter Field was completed for the subject property on March 31, 2017, by Certified Professional Soil Scientist and Soil Classifier Galen Litwiller. The analysis suggests that the soils on the site are naturally moderately well drained. The area is nearly level and surface water runoff is slow.
 - (b) In an email received April 11, 2017, Michael Flanagan of Champaign-Urbana Public Health District stated, "For a lot sized at ½ acre, I see no reason that a septic system and well could not be

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installed at this location. Attention to placement of the system and the protection of the site would be required as to not disturb the soils from compaction or removal.”

- d. The availability of water supply to the site. The subject property does not have a well; the petitioner proposes a well located in the southeastern part of the subject property.
 - e. The availability of emergency services to the site. The subject property is approximately 4.7 road miles from the Cornbelt Fire Protection District station in Mahomet.
 - f. The flood hazard status of the site. The subject property is not within the Special Flood Hazard Area.
 - g. Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat. The subject property contains no historic, natural, or archeological sites, and the proposed division would have no effect on such sites.
 - h. The presence of nearby natural or man-made hazards. There are no known man-made hazards nearby.
 - i. Effects on nearby farmland and farm operations. The proposed variance should not have an impact on agricultural operations.
 - j. Effects of nearby farm operations on the proposed residential development. The proposed variance would not change the level of agricultural operations surrounding the property.
 - k. The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated. The proposed variance will not remove any land from agricultural production.
 - l. The LESA (Land Evaluation and Site Assessment) score of the subject site. The subject property is part of an established subdivision that has not been in agricultural production since the 1960s. No LESA analysis is necessary.
- (4) While the proposed variance is required, the proposed variance will not result in a net increase in buildable lots over the original Wildwood Acres Subdivision. The original subdivision was for 12 buildable lots and the variance would result in no more than 12 dwellings in total.
- F. Regarding the minimum required lot area and average lot width:
- (1) Since the adoption of the Zoning Ordinance on October 10, 1973, the CR District has always required a minimum lot area of one acre and a minimum average lot width of 200 feet.

- (2) The proposed minimum lot requirements are less than what Section 4.3.4 B. of the Zoning Ordinance would require for a new lot in the AG-2 District without a connected public sanitary sewer system or a connected public water supply system.
 - a. The minimum for a new lot per Section 4.3.4 B. is 30,000 square feet with an average lot width of 150 feet.
 - b. The proposed lot size with the variance is 0.5 acre in area with an average lot width of 141 feet.
- (3) The provisions of Section 5.3 for a minimum lot area of one acre and a minimum average lot width of 200 feet in the CR District apply.
- (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 has an existing single family home. There are residential uses to the west, east and south of the property and natural wooded areas to the north.
 - b. Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time. The subject property is within the Cornbelt Fire Protection District and the station is approximately 4.7 road miles from the subject property.
 - c. Aesthetics may also play a part in the minimum lot area requirement.

G. 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 Petitioner has testified on the application: **“The proposed use is in character with the existing neighborhood. The streets in question have minimal traffic (Wildwood is, in fact, basically a driveway only one car in width to the south of the parcel in question). Traffic speeds are slow, and there is no additional hazard created by allowing a small reduction in the sight triangle on this corner. If desired, applicant is willing to compensate the Newcomb Township Supervisor for the cost of installing and maintaining Stop or Yield signs at this intersection. The parcel in question is of comparable area to the majority of the developed (originally platted) lots in Wildwood acres, and the proposed reduced setbacks are comparable to the setbacks of most of the existing homes in the neighborhood.”**
 - B. The Newcomb Township Road Commissioner has been notified of this variance but no comments have been received.

- C. The Cornbelt Fire Protection District has been notified of this variance but no comments have been received.
- D. The nearest residence on neighboring property is approximately 32 feet from the northeast corner of the subject property.
- E. In a note transcribed by Susan Burgstrom in a meeting with Jones and Sue Brockman on July 13, 2017, Mr. and Mrs. Brockman, owners of the eastern part of Lot 9 and all of Lot 8, stated the following:
- (1) They are opposed to having a house built on Mr. Fiscella's property.
 - (2) They appreciate the view that they have from their house.
 - (3) The back of a house built on Mr. Fiscella's property would be too close to their front yard and south side.
 - (4) Neighbors on Lot 10 have taken care of Mr. Fiscella's area and plantings for at least 3 years.
 - (5) Mr. Fiscella told them that he plans to put a modular home on the property. They are especially opposed to having a trailer placed on the property.
 - a. It is not known if Mr. Fiscella's use of the term "modular home" refers to a home brought in pieces and constructed on site, or if he was referring to a trailer.
- F. The following public comments were received at the August 3, 2017 ZBA meeting:
- (1) Mr. David Kunde, who resides at 505F CR 2500 N, Mahomet, which is Lot 11 in the Wildwood Acres Subdivision, stated that he has several concerns; first off, he has to consider what the township has done with respect to drainage. He said that the drainage around Lot 12 normally ran around and into the Commons Area. He said that instead of continuing cleaning up the drainage ditch, the township put a pipe across into Lot 10, which now causes the drainage out of Lot 9 to drain into Lot 11 and down into his backyard. He said that with the creation of Lot 9, if you create a home in the front half of Lot 9, with a considerable amount more of drainage, it will then go into the drainage ditch through Lots 9 and 10, and then down into his backyard and take out his septic tank and he has a distinct problem with that. He said another thing we need to consider is that both Lots 10 and 11 have been declared totally in the flood zone and up until a year ago, the back half of Lots 10 and 11 were in the flood zone; now they have moved the flood zone all the way up. He said that this happened with the creation of the Thornwood Subdivision, when they didn't put any holding ponds in, so now we get a massive amount of runoff and the river comes up so that 3-4 months out of the year the back half of his lot is full of water. He said that on days when they get an excessive amount of rain, the water goes up close to his back porch. He said that when you drain more out of Lot 9 by putting in a house and more drainage there, you're going to take out his septic system. He said that CR 2500N is closed multiple times during the year because of the flooding. He said that the six-acre commons area has not been talked about and Lakeview Drive exists because originally, the back half of the commons area was supposed to be a lake. He said that Lot 12 is supposed to drain into the commons area, as do the homes on the

other side of Wildwood Drive. He said the next question is what does half of Lot 9 have to do with responsibilities with respect to the commons; he has heard no one talk about that. He said that the six acre commons area is owned by the lots in the subdivision, so does that part of Lot 9 only pay half the taxes. Mr. Kunde said there is no homeowner's association. He stated that he takes care of his outlet, and the person in Lot 12 takes care of his. Mr. Kunde said that it is supposed to be divided up amongst the lots, so when the taxes are paid for the lots, the owner would be paying 1/12th of the real estate taxes on the commons, but now that you're talking about splitting Lot 9 in half, are those owners going to have half the responsibility to the commons. Mr. Kunde stated that half of Lot 9 is owned by the Brockmans, and half by Mr. Fiscella. He said what the fees for the commons could be at some time, with more development, he does not know. Mr. Kunde stated that basically what is going to happen to him is, with the runoff from new development, it will go through Lots 10 and 11 and then into his backyard. He said that he became aware of Lots 10 and 11 being entirely in the flood zone when he looked at his insurance rate map about a year ago, because he was thinking about buying flood insurance, which had normally been around \$300 per year. He was given a quote for \$12,000 per year because now they are totally in the flood zone, including the house. When Mr. Thorsland asked if he had ever seen a For Sale sign on the property, Mr. Kunde responded that he had not seen a sign, but he had received a mailing with an offer to sell the property. He said the price was around \$12,000 or \$13,000, far more than what the tax bill was. He said he is 80 years old and retired, and he does not have that kind of money. Mr. Kunde stated if that building were back in the center of Lot 9, he would not have a problem, but because it's in the front half is where the drainage problem comes.

- (2) Mr. Brian Wattles, Lot 10, 505E CR 2500N, stated that he had just become aware tonight that Mr. Fiscella had purchased this property 3 or 4 years ago. He said the neighbors had spoken about this issue several times over the past year, that he was prospecting to build a home on the property, and that he had been to their house and talked about it with them several times. He said that his point in all this is that Mr. Wattles has maintained the west part of Lot 9 for the almost 10 years he has lived on Lot 10. He said that when his family moved in, the west part of Lot 9 was just overgrown weeds. He said he just kept up on it; he calls it neighborhood beautification, just making it look presentable. He said he thinks everybody appreciates it as far as he can tell. Mr. Wattles was under the impression, from pretty much the time he moved in there, that the west part of Lot 9 had tax issues; people had pursued paying the back taxes, going forward trying to get ownership of it but they never had, because of the fact that it couldn't be built on. He said he thought not building on it would be just fine; if nobody is going to build on it, then he would maintain it. He said he has been told in the past that this is basically the sand lot that the kids grew up on; its shape is a baseball diamond, and in the past, they played baseball on it, and that's where the kids hung out. He said it was a community area where all the homes could see what was going on, and he and his family have used it as that ever since they have been there. He said he and his child have pulled sleds out on the lot, rode dirt bikes, you name it, they had fun on the lot. He said whatever happens with the lot in the future is out of his control, pending trying to purchasing the lot himself. Mr. Wattles said he had never been approached by Mr. Fiscella about buying the lot. He said the person he bought his house off of had pursued purchasing

it, and after Mr. Wattles had purchased their house about a year later, he started divorce filings and quit paying taxes on it. Mr. Wattles said that would have been his opportunity to try to pursue it, but he (previous owner) was told he couldn't build on it because of the half-lot issue. Mr. Wattles said he let it go at that; they have been trying to pay off their house and they just did it this week. Mr. Wattles concurred with Mr. Thorsland's statement that the general knowledge or word on the street was that the west half of Lot 9 was an unbuildable lot, since it was a remainder area and the Brockmans had the other part of Lot 9. Mr. Thorsland said that it seems no one was interested in the west part of Lot 9 at the time because it would only be of interest to the Brockmans by attachment or for Mr. Wattles to create some field of dreams. Mr. Wattles stated that they had discussed if Ray and Sue Brockman would sell their garden lot to Mr. Wattles at some point; that would be the only way Mr. Wattles would consider purchasing the lot. It was something that could be passed on down the road, and his son could build a house on it. Regarding flooding issues, Mr. Wattles said the area where Lot 10 and Lot 9 are is the high ground in the neighborhood, and it holds water. He has maintained it for 10 years and he knows when he can get on it and when he can't, or he's just going to sink with the lawnmower. He said it holds water just about as long as the bottoms do. He says Lot 9 takes forever to dry out, which in turn pushes water to all the houses around there, as far as he is concerned; it's an act of nature. Mr. Wattles said he can't say it has gotten worse, you just learn to expect what is going to happen. He said he has been there 10 years and it has pretty much been status quo. Every year you get 3 to 4 weeks of wetlands.

- (3) Jessica Wattles, Lot 10, 505E CR 2500N, stated that a modular home on that property is out of character with the rest of the homes in the neighborhood. She said her husband has maintained that property for 10 years and improved it. She said that part of the variance application said there was nothing natural of note on the property, but she doesn't think that is accurate. She said her husband has put mulch and trees on the property and there's an area where it is grassland, and if you look at it on Google Maps, you can see he has mowed in a peace sign. She said when they originally moved and became a renter on the property that they now own, it was Marty Colclasure from whom they rented to own for a year, to be applied towards the purchase of the property that was to include that part of Lot 9. But because they did not have a contract stating that, Mr. Colclasure changed his mind. She said because they did not think they could build upon it, and because of their relationship with Mr. Colclasure, they were okay with it. She said her husband continued to maintain that lot the whole time. Mrs. Wattles said that personally, she did not know if her husband knew, but she did not know until that was part of the discussion of when they did not acquire the lot; her husband explained to her they could not have built on it anyway. She said she thought the purchase of the west part of Lot 9 had just happened; she asked if the purchase had actually happened in 2013 like the documentation says, or did it just happen. Mrs. Wattles stated that it surprised her this evening to know that the property had been purchased for this amount of time when they have been maintaining it for the neighborhood, and they had never met Mr. Fiscella to know about it as far as neighbors or anything. She said it is neither here nor there, but she doesn't know that there is really an interest in their community and their neighborhood as far as the purchasing of this lot and possibly putting a modular on it. She said that to the

point of making a profit, they know that the back taxes were likely less than \$2,000, but they got a letter for \$29,000 to buy the property. Mrs. Wattles stated that she thinks they received the offer letter for \$29,000 in the last couple of months. She said it was not something they were going to pursue at that time, because they can't build on it and they knew what had been paid. She said even getting a little more than that would be a significant profit without putting a home on it. She said that if Mr. Fiscella had indeed found out that he could not build on that property, why would he send out a letter for \$29,000 to the rest of the neighbors to purchase it, and put them in the same situation. She said that is part of the reason Mr. Fiscella is here, is that he did not know about the lot, so she questions why he would sell it to someone else for that profit margin. Mrs. Wattles said that they had never approached the Brockmans about the half lot, but it is not something that they would talk about. She said that the Brockmans were unwilling to sell the lot, but it might be a matter of relationships and time in order to have that happen. She said that currently the Brockmans use that land as a garden. Regarding drainage, Mrs. Wattles said that when the water comes, it goes up to their property where the trees are, and they actually have canoes that they take when it rains, a couple times a year at least. She said when the water comes all the way up to their gas tank, they can launch their canoes out of their back yard to go to the river. She said that their property drains to the bottoms area. She said that Lot 9 is kind of land locked right now, and she does not know how drainage would work for that lot. She said she does not know a lot about drainage or septic systems, but she does not believe that the west part of Lot 9 has access to the commons area where their lot drains. Mrs. Wattles said that Mr. Kunde is the one that provided them with the covenant paperwork that they have on file, and he would be the best one to answer any questions. She said she does not understand the legality of it all. She said that the paperwork stated the original intention of the subdivision, and it was written up by at least two members of the subdivision. Regarding Mr. Fiscella's offer to purchase the lot, Mrs. Wattles said it wasn't that she was totally uninterested in the offer, but not at \$29,000.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

12. Generally regarding and other circumstances which justify the Variance:
 A. The Petitioner did not respond to this question on the application.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:
- A. Within 30 days of Final Action of Cases 878-V-17, the petitioner shall file a miscellaneous document with the Champaign County Recorder of Deeds that documents the following:**
- (1) A variance was granted in Zoning Case 878-V-17 to authorize a lot less than one acre in area.**
 - (2) Because of the size of the lot, there are concerns whether a replacement wastewater (septic) system can be installed on the lot in the future.**

- (3) **Any new wastewater (septic) system will need to be authorized by the Champaign County Health Department.**
- (4) **For further information interested parties should contact the Champaign County Department of Planning and Zoning.**

The special condition stated above is required to ensure the following:

That potential buyers of the property are aware of how the lot was created and the possible limitations regarding the replacement of wastewater systems on the property.

DOCUMENTS OF RECORD

1. Variance Application received May 2, 2017, with attachments:
 - A Site Plan received May 2, 2017
 - B Tax Deed dated November 9, 2016, and received May 2, 2017
2. Email from Michael Flanagan (Champaign Urbana Public Health District) received April 11, 2017, with attachments:
 - A Soil Evaluation Report
3. Note transcribed by Susan Burgstrom in a meeting with Jones and Sue Brockman on July 13, 2017
4. Preliminary Memorandum dated July 26, 2017, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received May 2, 2017
 - C 2014 Aerial Photo of Lots 8 and 9 created by P&Z staff on July 19, 2017
 - D Wildwood Acres Subdivision Recorded Plat approved by the Champaign County Board on May 28, 1964
 - E Champaign County Tax Maps for Newcomb Township Section 36, 1974 Sidwell Edition, and 1980 Sidwell Edition (revised January 1, 1975)
 - F Email from Michael Flanagan (Champaign Urbana Public Health District) received April 11, 2017, with attachment: Soil Evaluation Report
 - G Note transcribed by Susan Burgstrom in a meeting with Jones and Sue Brockman on July 13, 2017
 - H Images of Subject Property taken July 12-13, 2017
 - I Draft Summary of Evidence, Finding of Fact, and Final Determination dated August 3, 2017
5. Supplemental Memorandum #1 dated August 3, 2017, with attachments:
 - A Email received July 25, 2017 from Carol Brockman
6. Supplemental Memorandum #2 dated September 21, 2017, with attachments:
 - A Approved Plat of Wildwood Acres Subdivision dated May 28, 1966
 - B Letter from John Guillou, Chief Waterway Engineer, State of Illinois Department of Public Works and Buildings dated August 25, 1966
 - C Surveyor's Certificate signed September 20, 1966 and recorded September 22, 1966
 - D Owner's Certificate signed September 9, 1966 and recorded September 22, 1966
 - E Tax payment certification by County Clerk dated and recorded September 22, 1966
 - F Warranty Deed for the west 150 feet of Lot 9 between Grantors Harold and Irene Madden and Grantee Opal Pearce dated January 2, 1969 and recorded February 7, 1969
 - G Warranty Deed for Lot 8 between Grantors Harold and Irene Madden and Grantees Roy and Catherine Wright dated August 26, 1970 and recorded August 27, 1970
 - H Warranty Deed for the east part of Lot 9 between Grantors Jay and Ethel Schreiber and Grantees Roy and Catherine Wright dated September 18, 1971 and recorded December 1, 1971
 - I Warranty Deed for the west 150 feet of Lot 9 between Grantor Opal Pearce and Grantees Roy and Catherine Wright dated June 19, 1973 and recorded June 21, 1973
 - J Gas Storage Easement Grant for Lots 8 and 9 dated May 4, 1990 and recorded May 7, 1990

- K Warranty Deed for the west 150 of Lot 9 between Grantor Catherine Wright (widow) and Grantee Robert Droege dated June 2, 1997 and recorded June 3, 1997
- L Warranty Deed for Lot 8 and east part of Lot 9 between Grantor Catherine Wright (widow) and Grantees Jones and Mary Sue Brockman dated June 18, 1997 and recorded June 23, 1997
- M Warranty Deed for the west 150 of Lot 9 between Grantor Robert Droege and Grantee Martin Coleclasure dated April 10, 2001 and recorded April 12, 2001
- N Tax Deed for the west 150 feet of Lot 9 to Grantee Philip Fiscella dated and recorded November 9, 2016
- O Revised Summary of Evidence, Finding of Fact, and Final Determination dated September 28, 2017

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning cases **878-V-17** and **882-V-17** held on **August 3, 2017**, **and September 28, 2017**, 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:}***

For Case 878-V-17:

A. Within 30 days of Final Action of Cases 878-V-17, the petitioner shall file a miscellaneous document with the Champaign County Recorder of Deeds that documents the following:

- (1) A variance was granted in Zoning Case 878-V-17 to authorize a lot less than one acre in area.**
- (2) Because of the size of the lot, there are concerns whether a replacement wastewater (septic) system can be installed on the lot in the future.**
- (3) Any new wastewater (septic) system will need to be authorized by the Champaign County Health Department.**
- (4) For further information interested parties should contact the Champaign County Department of Planning and Zoning.**

The special condition stated above is required to ensure the following:

That potential buyers of the property are aware of how the lot was created and the possible limitations regarding the replacement of wastewater systems on the property.

FINAL DETERMINATION FOR CASE 878-V-17

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 **878-V-17** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner, **Philip Fiscella**, to authorize the following variance in the CR Conservation Recreation Zoning District:

Authorize the use of a proposed lot with an average lot width of 141 feet in lieu of the minimum required 200 feet, and with a minimum lot area of 0.5 acre in lieu of the minimum required 1 acre, per Section 5.3 of the Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A. Within 30 days of Final Action of Cases 878-V-17, the petitioner shall file a miscellaneous document with the Champaign County Recorder of Deeds that documents the following:**
 - (1) A variance was granted in Zoning Case 878-V-17 to authorize a lot less than one acre in area.**
 - (2) Because of the size of the lot, there are concerns whether a replacement wastewater (septic) system can be installed on the lot in the future.**
 - (3) Any new wastewater (septic) system will need to be authorized by the Champaign County Health Department.**
 - (4) For further information interested parties should contact the Champaign County Department of Planning and Zoning.**

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

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

FINAL DETERMINATION FOR CASE 882-V-17

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 **882-V-17** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner, **Philip Fiscella**, to authorize the following variance in the CR Conservation Recreation Zoning District:

Authorize a proposed division of a lot less than five acres in area, per Section 5.4.2 A.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:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date