

Jo Daviess County Planning Commission/Zoning Board of Appeals
Minutes for Meeting
At the Courthouse-7:00 PM
January 28, 2015

Call to Order: Mel Gratton called the meeting to order at 7:00 p.m.

Roll Call Present:

Planning Commission:

- ✓ Melvin Gratton
- ✓ Nick Tranel
- ✓ Laura Winter
Ron Mapes
- ✓ Gary Diedrick
Jody Carroll, Alternate

Staff & County Board Members:

- ✓ Steve Keeffer, Highway Engineer
Matt Calvert, JDC Health Dept.
John Hay, State's Attorney
- ✓ Linda Delvaux, Building & Zoning
- ✓ John O'Boyle, JDC Board Member

Approval of Minutes: A motion was made by Gary Diedrick to accept the December minutes. Seconded by Laura Winter. Voice Vote: All Ayes Tranel-Abstain

Mel Gratton swore in all who might want to testify on any request this evening.

New Business

Lawrence & Ella Pfeleger, Trustees, (address: 17842 W Mississippi Drive, East Dubuque), and Matt Schwartz Construction, (address 7586 Indian Ridge, East Dubuque), requesting a one (1) lot subdivision. Common Location: 17842 W Mississippi Drive, East Dubuque.

Staff Report

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in the concentrated area of Important Farmland, Agricultural Preservation Area 2. This is land that although it does not qualify as prime farmland it can have a positive impact on the production of food, feed, fiber, forage and oilseed crop production. This request is in the mile and a half planning area for both East Dubuque and Menominee. Neither community has designated this area as a contiguous growth area. The County's Comprehensive Plan recognizes that home building provides an enormous infusion of dollars to the local economy. It contributes not only the construction value of the homes but also increases the tax base and provides hundreds of well-paying jobs. The County recognizes the importance of this sector of the local economy. At the same time The Comprehensive Plan also recognizes concerns with rural residential development such as: increased loss of farmland, nuisance conflicts with agricultural uses, increased cost of services such as fire, ambulance, police and school bus transportation traveling longer distances as well as concerns about proliferation of septic systems and safety with access points.
- Waste Treatment: A new, conventional septic system was installed and inspected

in 2002. This system meets code for a 3 bedroom house with a garbage disposal. An existing well is on this property that successfully meets all well – septic system setbacks. The change in lot size will not affect the septic system or well.

- Access Considerations: The proposed Lot 1 has an existing entrance onto Menominee Township maintained Mississippi Drive with adequate sight distance. Additional entrance(s) with adequate sight distance can be located along the frontage of the remaining 24 acre parcel.
- Other Considerations: This property had two acres rezoned to residential in 1999 and a building permit was issued in 2002 for a new home. Applicant now wants to split the smaller acreage off of the larger acreage so the remainder of the property can be sold. The Land Evaluation score on this property is 63.9, which is just above the County average of 62.2 with an overall LESA score of 176. Residential Zoning was established here in 1999 and the remainder of the property should remain in agricultural use.

Steve Schmidt, MSA Professional Services, surveyor

- Requesting to have 3.3 acres split from 18.7 acres. Matt will buy the 15.4 remaining acres and he already owns the adjoining 3 lots from Evergreen Estates that was done last year. He will collectively own 39 acres.

Public Testimony

None

Public Testimony Closed

A motion was made by Winter to recommend approval of the one (1) lot subdivision.

Seconded by Diedrick

Roll Call: Laura Winter – Aye Gary Diedrick – Aye
 Nick Tranel – Aye Mel Gratton– Aye

Keith Gerlich, owner (address: 516 Madison, Elizabeth), and Jim & Janice Craig, petitioner/contract purchaser (address 2339 E Oakwood Drive, Fox Lake, IL), requesting a Map Amendment from AG Agricultural District to R-1 Single Family Residential District and approval of a variance from the required eighty (80) foot setback from the centerline of the road right of way to twenty-six (26) feet from the centerline of the road right of way. A fifty-four (54) foot variation. Common Location: 3503 Eby's Mill Road, Elizabeth.

Staff Report

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in the concentrated area of Not Prime Farmland, Agricultural Area. This parcel is within the mile and ½ planning area of the Village of Elizabeth and is identified as a contiguous growth area. The County's Comprehensive Plan would encourage growth and development adjacent to a community. Although the structures in this case are existing, the County's Comprehensive Plan recognizes that home building provides an enormous infusion of dollars to the local economy. It contributes not only the construction value of the homes but also increases the tax base and provides hundreds of well-paying jobs. The County recognizes the importance of this sector of the local economy.

- **Waste Treatment:** No septic or well information is on file for this parcel. According to the USDA soil survey, the soils on this parcel are Group IV and not suitable for a conventional septic system. On-site soil borings have not been completed at this time and would ultimately determine the soil type and best location for the septic system. An alternative septic system, such as a sand filter system would be required, if on-site borings confirm the soils in the USDA soil survey. This property will be served by a private water well.
- **Access Considerations:** This property has an existing entrance onto Elizabeth Township maintained Eby's Mill Road with adequate sight distance for this low speed road. No significant changes to the entrance are mentioned in the application.
- **Other Considerations:** This property is surrounded by multiple smaller parcels used residentially. The Land Evaluation score on this property is 46.1, which is below the County average of 62.2 with an overall LESA score of 144. Some of the contributing scores to the Site Assessment end of the LESA were the percent of Agricultural land adjacent coming in at 20 points, percent of land in agriculture within 1 mile coming in at 12 points, availability of public water and sewer came in at 8 points each, distance from community services at 5 points, soil suitability for on-site disposal came in at 25 points and the consistency with the County Comprehensive Plans came in at 0 points. The applicant is also asking for a variance on the existing structures in order to bring them into compliance with the Zoning Ordinance.

Jim Craig, contract purchaser

- Currently I own a lot in Apple Canyon Lake and I saw this property and would like to make this into my retirement home. I will work with the existing structure. The property slopes down toward the river. The buildings were built in late 1940's to 1950. They build them on the flat ground at that time and that is why they are so close to the road. The barn closer to the river is 100 plus years old.

Diedrick asks if this structure had been used as house.

- Jim Craig indicates no, there is no septic, bathroom, and it just has a water spigot with a hose in the lower level.

Public Testimony

Tony Kolenko 3579 S Eby's Mill Road, Elizabeth, adjoining landowner

- I currently utilize an easement from Eby's Mill Road to access through this property to my property. Will this have any effect on the easement?
 - If a legal easement is in place, rezoning the property should not affect that, you should check with your legal counsel as to what is in place.

Public Testimony Closed

Tranel states there is residential all around this. The property is not currently being used as agricultural.

Diedrick states the area looks residential in appearance.

A motion was made by Tranel to recommend approval of the rezoning from AG Agricultural to R-1 Single Family Residential.

Seconded by Winter

Roll Call: Nick Tranel – Aye Mel Gratton– Aye
Gary Diedrick – Aye Laura Winter – Aye

Gratton states that these are existing structures that are in line with other on the road. This property is topographically challenged. Asks if any concerns about roadway.

Steve Keeffer states there are no issues, this is a lower traffic road and they will not be traveling fast on this road.

Diedrick asked if the house to the west had any concerns.

Linda Delvaux states that is the current owners' son and was notified of the request.

Jim Craig commented that he will have a shared well agreement with the neighbor to the west.

Tranel states this has not been created by the contract purchaser.

A motion was made by Tranel to approve the variance from the required eighty (80) foot setback from the centerline of the road right of way to twenty-six (26) feet from the centerline of the road right of way. A fifty-four (54) foot variation.

Standards have been met

Seconded by Diedrick

Roll Call: Gary Diedrick – Aye Laura Winter – Aye
Mel Gratton– Aye Nick Tranel – Aye

Paul & Deborah Studtmann and Nathan & Jessica Studtmann, owner's, (address: PO Box 6101, Galena, IL), requesting a Map Amendment from AG Agricultural District to R-1 Single Family Residential District and approval of a two (2) lot subdivision. Common Location: 9408 Powder House Hill Road, Galena

Staff Report

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in the concentrated area of Not Prime Farmland, Agricultural Area. This parcel is identified as a residential contiguous growth area and is adjacent to the City of Galena. The County's Comprehensive Plan would encourage growth and development adjacent to a community. Although the structures in this case are existing, the County's Comprehensive Plan recognizes that home building provides an enormous infusion of dollars to the local economy. It contributes not only the construction value of the homes but also increases the tax base and provides hundreds of well-paying jobs. The County recognizes the importance of this sector of the local economy.
- Waste Treatment: This parcel currently has two separate septic systems and wells. The existing septic system for Lot 1 was installed 9/7/1990 and is undersized for a one bathroom garage. The septic tank and drainfield are located west of the garage. This well was drilled 2/21/2005 and is located southwest of the garage. The existing septic system for Lot 2 was installed 12/15/1978 and is

sized for a one bedroom house. The septic tank and drainfield are located southeast of the house. No permit is on file for this well which is located east of the house. According to the USDA soil survey, the soils on this parcel are Group IV and not suitable for a conventional septic system. On-site soil borings have not been completed at this time and would ultimately determine the soil type and best location for the septic system. An alternative septic system, such as a sand filter system would be required, if on-site borings confirm the soils in the USDA soil survey. The separation of the parcel will not affect the septic systems or wells.

- Access Considerations: The proposed subdivision will be accessed from East Galena Township maintained Powder House Hill Road. Entrances with adequate sight distance can be located along the lot frontage. Removal of trees and brush along the roadway would help to improve or maintain sight distance.
- Other Considerations: This property is surrounded by multiple smaller parcels used residentially and a one larger Agricultural parcel that is mostly wooded. The Land Evaluation score on this property is 38.4, which is below the County average of 62.2 with an overall LESA score of 83. Some of the contributing scores to the Site Assessment end of the LESA were the percent of Agricultural land adjacent coming in at 0 points, percent of land in agriculture within 1 mile coming in at 6 points, availability of public water at 4 points and sewer at 0 points, distance from community services at 0 points and the consistency with the County Comprehensive Plans came in at 0 points, it is within the mile and ½ of a community, and is in their contiguous growth area, therefore the Municipal Plan scored a 0 as well.

Linda Delvaux stated she received a letter from the City of Galena stating they are in favor of the request.

Paul Brashaw, surveyor representing owners

- Lot 1 has the existing garage and septic and they have a potential buyer for this lot. Lot 2 will be for sale. Productivity index was a 38 well below county average of 62.2. I have not seen a LESA score of 83 before. The larger wood lot referred to in the staff is across the road and is phase 2 of the Timp Subdivision.

Public Testimony

None

Public Testimony Closed

Diedrick asks about the well for the house.

- Paul Brashaw states that it was probably installed when the house was built in 1978.

Gratton asks if the driveways will remain the same.

- Paul Brashaw indicates they will remain the same.

Gratton states access for lot 2 could be improved so if you are turning toward Galena.

A motion was made by Diedrick to recommend approval of the Map Amendment from AG Agricultural to R-1 Single Family Residential and a two (2) lot subdivision.

Seconded by Tranel

Roll Call: Mel Gratton– Aye
Laura Winter – Aye

Nick Tranel – Aye
Gary Diedrick – Aye

Kevin & Linden McKee, owner’s, (address: 4490 N Canyon Park Road, Stockton), requesting a variance from the required setback of one-hundred ten (110) feet from the centerline of the road right of way to forty eight (48) feet and sixty-eight (68) feet from the centerline of the road right of way in the AG Agricultural District. Common Location: 4490 N Canyon Park Road, Stockton.

Staff Report

- Comprehensive Plan: The Comprehensive Plan does not address Variances, but does recognize the importance of planning for future infrastructure such as roadway expansion, and variances should be reviewed with that in mind.
- Wastewater Treatment: The existing septic tank is located approximately 30 feet southeast of the house, and the drainfield is north of the house in the grass yard, surrounded by pine trees. The well is located approximately 45 feet west of the large barn, along the row of pine trees that separate the farm buildings from the crop land to the west. It appears that the grain bin additions are north of the house and east of the large barn. The proposed expansion would not affect any part of the septic system or well.
- Access Considerations: This parcel has an existing entrance onto Jo Daviess County maintained Canyon Park Road with adequate sight distance. There will be no changes to the entrance.
- Other Considerations: This is an existing farm operation off of N. Canyon Park Road, which is a County maintained roadway, with a structure setback of 110’ from the centerline of the roadway. The existing hog house currently sits forty eight (48) feet from the centerline of the road right of way; it will be shifted eight (8) feet north and maintain the existing setback from the centerline of the road right of way, which is why one of the variations is being requested. The second variation requested is to place two new grain bins sixty eight (68) feet from the centerline of the road right of way and appears to be instrumental in the flow of the farm operation. Below are the Standards from the Zoning Ordinance, careful consideration should be given to these standards as they will be included in the Finding of Fact and be the basis of which the Zoning Boards decision comes from.

Kevin McKee, owner

- Would like to move the existing shed north 8 feet and construct two 30 foot grain bins. This will add grain storage to my facility as well as let me maneuver trucks during difficult weather conditions and keep the bins in line with the others. Would like to move the existing hog house due north eight (8) feet, it has a good roof and stores my personal and Ag items as well as a workshop. Addresses standards 1- this would be cost effective, efficient and not take up green space on my property. 2- This is unique in the way it is set up and our farm is a prime example of a family farm. 3- This will make things more efficient, but not gain more money. 4 – The buildings were built before zoning and before the widening of the highway in 1960’s. 5 – This will not be detrimental to the public. 6 – This will not impair supply of light or air to adjacent properties. I will be backing into my driveway from the roadway, but I will use signage to make traffic aware of trucks entering ahead. 7 – Yes this is the

- minimum variation that can be requested.
- This is an active farm; site distance for the roadway is good. I also sent informational letters to the neighbors telling them what I wanted to do and received no contact back.

Diedrick asks if it is possible to move the hog house west and put in line with the bins

- Kevin McKee states that the crib is a drive thru, so I would be blocking that.

Public Testimony

None

Public Testimony Closed

Gratton asks Steve Keeffer about any road changes.

Steve Keeffer states no road changes are in the works.

Kevin McKee asks Steve Keeffer if he is able to widen his driveway entrance by 10 feet to the north.

Steve Keeffer states that you would just need to notify us before you do it.

A motion was made by Diedrick to recommend approval of the variances for forty eight (48) feet and sixty-eight (68) feet from the centerline of the road right of way in the AG Agricultural District.

Standards have been met

Seconded by Winter

Roll Call:	Laura Winter – Aye	Gary Diedrick– Aye
	Nick Tranel – Aye	Mel Gratton – Aye

Karen Koester, owner, (address: 2913 S Elizabeth Scales Mound Road, Elizabeth), requesting a variance from the required side property line setback of twenty (20) feet to twelve (12) feet and from the required rear property line setback of forty (40) feet to ten (10) feet in the AG Agricultural District. Common Location: 2913 S Elizabeth Scales Mound Road, Elizabeth

Staff Report

- Comprehensive Plan: The Comprehensive Plan does not address Variances, but does recognize the importance of planning for future infrastructure such as roadway expansion, and variances should be reviewed with that in mind.
- Wastewater Treatment: The existing septic tank for the house is located approximately 35 feet southeast of the house, and the drainfield is southwest of the septic tank. The existing septic tank for the shop is located approximately 55 feet southwest of the shop, and the drainfield is southwest of the septic tank. The well is located off north of the house. It appears that the garage addition is north & east of the house and the proposed expansion would not affect any part of the septic system or well.
- Access Considerations: The property has an existing entrance onto Jo Daviess County maintained Elizabeth Scales Mound Road with adequate sight distance. No changes to the entrance are being proposed.
- Other Considerations: This is a parcel with an existing residence off of Elizabeth Scales Mound Road, which is a County maintained roadway. The

residence had an accessory structure that sat behind the house which was torn down recently and the applicant would like to replace the structure, but cannot meet the required setbacks. The applicant owns the property directly behind her, but by acquiring the rear and side variations it will bring the applicants structure into compliance with the Zoning Ordinance. Ideal location for the accessory building is directly behind the existing residence. Available area is limited due to the structure on the parcel directly behind the requested area. This request is adjacent to IDOT established corridor for the proposed US Route 20. Although this structure shows to be outside of the corridor it is strongly recommended that the applicant check with IDOT prior to completing the project. Below are the Standards from the Zoning Ordinance, careful consideration should be given to these standards as they will be included in the Finding of Fact and be the basis of which the Zoning Boards decision comes from.

Karen Koester, owner

- Would like to build a new garage to put my own equipment in. I don't know if the two buildings are even 40 feet apart.

Diedrick asks the size of the garage that was torn down.

- Linda Delvaux measured approximately 900 square feet.
- Karen Koester states I am adding on each side from 18 inches to two feet, and onto the back and front.

Public Testimony

None

Public Testimony Closed

Karen Koester states that this is really the only place to put the garage, back where the previous one was due to so many sink holes on my property. I have 8 that have showed up. There was mining in this area previously.

A motion was made by Tranel to recommend approval of the variances from the required side property line setback of twenty (20) feet to twelve (12) feet and from the required rear property line setback of forty (40) feet to ten (10) feet in the AG Agricultural District.

Standards have been met

Seconded by Winter

Roll Call:	Nick Tranel - Aye	Mel Gratton– Aye
	Gary Diedrick – Aye	Laura Winter – Aye

Mark & Lisa Worsham, owners, (address: 3939 NW Miner Road, Galena), requesting a variance from the required side property line setback of twenty (20) feet to five (5) feet for a garage addition, seven (7) feet for a house addition and one (1) foot for the upstairs access deck in the AG Agricultural District. Common Location: 3939 NW Miner Road, Galena

Staff Report

- Comprehensive Plan: The Comprehensive Plan does not address Variances, but does recognize the importance of planning for future infrastructure such as

roadway expansion, and variances should be reviewed with that in mind.

- **Wastewater Treatment:** The existing septic tank is located approximately 40 feet northwest of the house, and the drainfield is west of the septic tank. The well is located off the southwest corner of the house, near the existing garage. It appears that the garage and house addition is north & east of the house and the proposed expansion would not affect any part of the septic system or well.
- **Access Considerations:** This property has an existing entrance onto East Galena Township maintained Miner Road. Sight distance to the south is adequate. Sight distance to the north is 300 feet which equates to a 25 mph design speed.
- **Other Considerations:** This is a parcel with an existing residence off of NW Miner Road, which is a Township maintained roadway. This is a parcel that was created prior to the adoption of Zoning in the County, the home and accessory structures were also built pre zoning. The configuration of this lot makes meeting the setbacks on the majority of the buildable area on property difficult at best, in addition to the area that is unusable due to the close proximity of the creek. The applicant constructed the garage and the house addition without a building permit and is coming forward for the requested variations to bring the structures into compliance with the Zoning Ordinance. Although the Zoning Ordinance allows for up to eight (8) steps servicing an entrance to be in the setback area, we have included the step setback in this request because there are more than the allowed number of steps and there is a second floor deck area attached to the access steps. Below are the Standards from the Zoning Ordinance, careful consideration should be given to these standards as they will be included in the Finding of Fact and be the basis of which the Zoning Boards decision comes from.

Mark Worsham, owner

- Built a garage and addition onto my house. I could not go out to the front of the house or to the rear due to the location of the septic and well. The creek floods and into the back of the existing garage on the property. The steps access the back of the house. We have lived here for nine years. The retaining wall in the rear initially collapsed after we bought the house, I replaced it and had collapsed again this past spring, so we asked the neighbors if we could drive the cement truck onto their property so I can get a cement retaining wall built. They allowed me to do that. I also built a crawl space with a storm shelter. The steps are 11 feet on the front and 1 foot on the back from the lot line to access from the outside.
- Standards – 1 – the property has hills and creek along property line, I couldn't add on any other way. Existing house was within 20 feet setback and garage was eight feet from the lot line. 2 – The lot has a weird shape and the topography in the back prohibits from building. 3 – Did not address 4 – I built, but in the only place I could. I did not place the house on the lot initially. 5 – This is not going to be detrimental to the north property. The cattle graze in that area. The house on the north lot is empty. 6 – I used same windows, siding, not affecting light and air. Bringing up the value of my property would only help keep values for others in the area. This is a two story so might create shade in that area at times. 7 – The steps were there to access the back of the house; the garage was built as narrow as possible to get stairs.

Gratton asks why you are here at the Zoning Board of Appeals.

- I received the letter that I needed the permit and I went to the office the next day and that is when I found out about the setback issue.

Gratton states that we are doing this backwards.

- Mark Worsham states that he is sorry about doing things backwards. I had no intentions to harm or against the rules or violate rules. I built everything as small as I possibly could.

Gratton asks if he works in construction and if you are not aware of building codes, construction requirements, setbacks, and building permitting.

- Mark Worsham states he does, almost all the things I do are within the City of Galena. The city has significantly more requirements than I have ever seen before. I mostly do work that is small or for myself. I have never had a situation where I added onto a house or anything like that, I was kind of unaware of the 20 foot setback and I would ask for the variance to be met since it is there now.

Diedrick asks what the existing garage setbacks are and if that violates any setbacks.

- Linda Delvaux states the existing garage on the property and the existing home would be considered an existing legal non-conformity, in that it existed prior to the setback requirements, but it can remain as is.

Public Testimony

Jane and John Soppe, 4690 NW Miner Road, Galena, adjoining landowner

- This is not some flipid decision that John and I made to come and protest the request. We feel badly, but that this is just not right. Mark works in construction and should have known this required a permit, I know that a permit is required, but maybe didn't know setbacks, I didn't know the setbacks. We put a septic tank in on a farm we own and we called around to see what we needed in order to do that. He also owns five other properties in the county. If he would have applied for a permit he would have been notified of the setbacks and given guidance. His decision to proceed as he did could impact highly on our property and others. We feel compelled to protest this variance for our own protection and others. Should his steps, deck, garage and addition be allowed to stand we or possibly future property owners would never endure any problems from him or any future property owner of his property? He did ask us about replacing the railroad ties and wanted to put a wall up, and we allowed him to do that, but that was all that he indicated to us. Never did he mention to us when asking about the cement truck about adding a deck, addition, or garage. We were told that if we don't protest this and it is allowed to stand that at some time in the future we could face claim of adverse possession later. We are definitely here to stand up for our rights in respect to the standards for variation. We feel that they would have had room to build on the south side of the house. Houses have been built on rocks and if flooding is an issue, I have seen houses built on stilts. I don't feel their situation is unique. Mr. and Mrs. Pete Berning lived there with their two children. If this is allowed this may set a precedent for others to be able to do the same. The concept of build now and ask forgiveness later and they may not deny me. Standard #4 – the alleged difficult is caused by persons presently having an interest in the property not by the ordinance. Viewing this addition this morning the deck and steps are right on the property line not even one foot away. We believe allowing the steps, a deck, garage, and the addition this close to what is now and has been a cattle pasture could be both injurious and hazardous to both people and cattle. What if a bull or cow jump the fence or push each other through the fence and land on or hurt their children or anybody. The cows could walk onto the garage roof; the dogs they go up onto the garage roof and sit there now. The stairs are right at the property line and if the cow jumps the fence they will land on the steps and fall down, what

happens to our cow. When cows find a nice windbreak or comfy tree they get settled in and when they get up there are issues, with bodily fluids, with anything in its path, property, people or picnic lunch on the deck. If granting this variance it may create endangerment to the public and possibly more costs to reinforcing the fence to keep it separated. The setbacks are in the ordinance for a reason. I believe allowing this variance could devalue both properties; a new owner may inherit unwanted liabilities. We feel he took the maximum space that he could take being right at the property line or closer than one foot. This will not allow us the use of our property or enjoyment or if want to build a building, we would need 40 feet to get the separation from his home. We assumed he had a permit when the construction was happening. The Worshams do not meet several of the variance standards. We thank you for your notification, time and thoughtful consideration. Submit an objection letter to the request.

Dennis Story, 3825 NW Miner Road, Galena, adjoining landowner

- The construction does not directly affect me, but have the same feelings about the setbacks and variance. I moved here 18 years ago to move away from close neighbors. I don't want to give up my property line at any time in the future due to the adverse possession. We watched the construction during the summer and thought he had a permit. I am opposed to the variance. Asking for variance after the fact.

Paul Brashaw, 4413 W Stagecoach Trail, Galena,

- I have seen you make people move things because they did not meet and could meet. This is setting a precedent of coming in after the fact and wanting approval. I don't feel it should be granted. Mr. McKee did it the right way tonight, asking for permission prior to constructing.

John Soppe, 4690 NW Miner Road, Galena, adjoining landowner

- I agree with what my wife, Jane, said. I have operated this farm since 1981, and owned it since 1991. I feel this will affect my full enjoyment of the land that I own. I think it will cause problems.

Linda Delvaux states that you would only need to be 20 feet from your side property line. Rear lot line setback would be 40 foot setback. Anything 120 square feet or larger requires permit, any size structure needs to meet the setbacks. We can't speak to the adverse possession concerns.

Mark Worsham

- I did not know anybody was going to be at this meeting. A lot of this got added on after working on the retaining wall. The retaining wall collapsed and I needed to fix it. I don't know why they would want to build where they indicated because of the grade. I don't have another place to attach the garage onto the house. The garage couldn't have been built smaller and I should be allowed a garage attached to my house. Should I be denied just because of where the house was put originally or just because of a setback? Other people are allowed to have attached garages, and I should be allowed to have one as well. I am asking for forgiveness after the fact. If I would have gone through the permit process I would have requested the variance, the fact that I have done it afterwards is no reason for it not to be granted, and a variance

can still be granted. I don't know if the cows could get on my deck or if that would happen. I could put up a six foot privacy fence for separation to address the issues.

Jane Soppe, 4690 NW Miner Road, Galena, adjoining landowner

- We previously had a fence dispute initially about who maintains what and he asked for the meeting with the fence viewer and his representative showed up, we showed up with our representative, but he ended up not showing up for the meeting. He would not build the fence to the standards that were recommended.

Mark Worsham

- In my defense I was not aware of any meeting, or asked for it. I asked what the rules were and they have hated me since that, five years ago. The cows have broken through the fence so many times in that area. I don't know what this fencing thing is.

Public Testimony Closed

Gratton states that he stated he would have asked for the same thing if came prior to building, but we don't know what we would have done with this at that time. This is totally backwards. We will have a problem if we approve or deny the request.

Diedrick states we either approve or deny, but in that motion can we ask the petitioner to make changes.

Linda Delvaux states no.

Gratton states that is why this is problematic because it is already done. This lot does pose problems. We have made people move buildings to meet the setback, we can deny this and let States Attorney deal with it. We have a lot configuration requirement today to avoid lots like this.

Diedrick asks if they could come back if made changes if we denied tonight.

Linda Delvaux states yes they could.

Tranel states that we need to protect the value of the neighbor's property; I can't see how this could not adversely affect the neighbor's property. They could have added on somewhere else and possibly been further from property line than what they are asking for. The ordinance setbacks have been in place since 1995, 20 years.

Mark Worsham states that if the steps and deck are the problem I could lessen them to 3 feet wide instead of the 4 feet wide, as long as that would meet building code. I could also do the privacy fence. I would ask to meet with them to satisfy what their concerns are. I would be open to suggestions.

Gratton states I hate to tell him that he has to tear his building down, but on the other hand this is what the ordinance suggests, we should be doing. There are other options that you could also buy property from the neighbors. Also this project did not get building inspections.

Jane Soppe asks about adverse possession.

Gratton states that would be a legal question.

Gratton states that granting this it is possibly saying that the neighbor could be building the same distance as this request.

Winter states that this was done backwards. Can the deck be moved to the other side or reconfigured so that we are not looking at one foot or less than one foot.

Mark Worsham states that the stairs were put there to access the door that we put on the upstairs of the house for entrance. Going out the back is a steep hill, going to the left you are in the neighbor's property, right you are on top of the house. I can make the deck and stairs slightly smaller and still meet building code.

Linda Delvaux states that he has a couple options; he could let you vote on this tonight or ask for a continuance to see what he can do. He could make changes possibly eliminating one of the variance requests and come back, or pull the request and submit something new.

Mark Worsham asks for a continuance. I will do my best to talk with neighbors and make necessary changes if that is what people want me to do. I would ask for continuance until April, due to his wife being due with a baby March 16th.

Look at your options, but don't do any construction. Bring back your plan and we will rule on the request. This doesn't mean that it will be approved or denied.

A motion was made by Tranel to grant the continuance until April.

Seconded by Winter

Roll Call:	Gary Diedrick – Aye	Laura Winter – Aye
	Mel Gratton– Aye	Nick Tranel – Aye

Reports and Comments:

Tranel made a motion to adjourn at 9:30 PM. Diedrick seconded. Voice Vote: All Ayes