

**Jo Daviess County Planning Commission/Zoning Board of Appeals
Minutes for Meeting
At the Courthouse-7:00 PM
November 18, 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 Nick Tranel to accept the October 28, 2015 minutes. Seconded by Gary Diedrick. Voice Vote: All Ayes

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

New Business

Cynthia Treiber, (address: 184 Ashley Way, Bloomingdale, IL 60108), & Sharon Strandt, (address: 106 Long Avenue, Schaumburg, IL 60193), owners, requesting a variance from the required rear lot line setback as indicated in Chapter 5, Article B-46, B-4b of the County Zoning Ordinance for Guest Accommodations use. Property is located in the RP Planned Residential District. Common Location: 65 Oak Glen Drive, Galena

Staff

- Comprehensive Plan: The Comprehensive Plan does not address Variances, but does recognize the importance of tourism and the use of the homes for rental is a direct result of tourism.
- Wastewater Treatment: This property is served by the Galena Territory's central sewer and water system. The variance should not have any effect on these utilities.
- Access Considerations: This property has a parking area along East Galena Township maintained Oak Glen Drive. Vehicles have to back out onto the low speed roadway to exit the property.
- Other Considerations: This is a parcel located in the Galena Territory with an existing residence. This is a parcel that was created prior to the adoption of Zoning in the County. The home on this parcel was built in 1988 prior to the setback standards being adopted in 2006. This home has greenspace to the rear, and developed lots on each side. 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.

Cynthia Treiber, owner

- We are looking to get a Guest Accommodations License, we are addressing the parking, we have widened that and moved it in. The houses to the side are far away and I don't think they are in the rental program. Behind us is greenspace and across the street. This is for a variance from the rear the requirement is 30 feet and we have about 23 feet. This is a 3 bedroom home.

Public Testimony

Paul Brashaw surveyor

- Asks if that was a platted setback
 - Linda indicates that it is not, it is a Guest Accommodations setback.

Public Testimony Closed

Gratton states we need to look at the variance standards to see if it meets. I think there is plenty of setback on the side and is quite a setback to the rear with the greenspace.

Diedrick asks the width of the greenspace to the rear

- Linda measures and indicates about 84 feet

Mapes was worried about parking and neighbors, but they are addressing the parking and no objection from neighbors tonight.

Diedrick asks if we have heard from neighbors.

- Linda states I have not heard from anyone on this one.

Gratton states that the construction of the parking was going on, but this is a suggestion with the limestone rock, there was a pretty huge step on the one part and it was jagged, lighting was torn out, I hope that is going to be replaced.

Standards were reviewed and siting of house is good and is naturally setback from its surroundings.

Gratton states I think this would meet the intent of the Guest Accommodations Ordinance.

A motion was made by Carroll to approve the variance from the required rear lot line setback as indicated in Chapter 5, Article B-46, B-4b of the County Zoning Ordinance for Guest Accommodations use.

Seconded by Mapes

Variance standards have been met.

Roll Call: Ron Mapes – Aye
Gary Diedrick – Aye
Nick Tranel – Aye

Jody Carroll – Aye
Mel Gratton – Aye

Nancy Perkins Trust, (address: 1424 Dartmouth, Flossmoor IL 60422), owner, & Todd Kluck, (address: 226 Blackhawk Trace, Galena IL 61036), contract purchaser, requesting a variance from the required rear lot line setback also the required side lot line setback as indicated in Chapter 5, Article B-46, B-4a & 4b of the County Zoning Ordinance for Guest Accommodations use. Property is located in the RP Planned Residential District. Common Location: 4 Whistler Court, Galena

Linda stated that our office received a call today from Attorney Craig Brown who is representing neighbors Dave & Linda Nogle in opposition. The Rules and Procedures for the Zoning Board states that the objector is to notify the applicant and the Building and Zoning Office 5 business days prior to the meeting, this has not been done, therefore it is up to the petitioner if they would like to proceed or continue the request till next month.

- Todd Kluck, contract purchaser states I am on a limited time for the contract and would like to proceed tonight.

Staff

- **Comprehensive Plan:** The Comprehensive Plan does not address Variances, but does recognize the importance of tourism and the use of the homes for rental is a direct result of tourism.
- **Wastewater Treatment:** This property is served by the Galena Territory's central sewer and water system. The variance should not have any effect on these utilities.
- **Access Considerations:** This property is accessed from East Galena Township maintained Whistler Court. There is adequate sight distance for eth existing entrance located on a cul-de-sac.
- **Other Considerations:** This is a parcel located in the Galena Territory with an existing residence. This is a parcel that was created prior to the adoption of Zoning in the County. The home on this parcel was built in 1991 prior to the setback standards being adopted in 2006. This home has greenspace to the west, a developed lot to the east and a golf course to the north (rear) of the lot. The variances requested are from the requirements from three sides of the property. The site plan shows the outdoor activity area sitting at the 10 foot setback, the house currently sits 12.5 feet from the lot line to the west and 16.25 feet from the lot line to the east. 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.

Gratton asks for what the setback variances are.

Linda states the rear setback request is 10 feet, side setbacks are 12.5 feet and the other 16.25 feet. This is a five bedroom house which requires a 25 foot side setback and a 30 foot rear setback.

Todd Kluck, contract purchaser 226 Blackhawk Trace, Galena

- I am requesting a variance for 4 Whistler Court. I understand the property to the right has a house; the other side is greenspace to the left and to the rear. We are close to the back corner toward the other house, but that corner is the master bedroom, any activity outside of the house would be on the deck in the back on the other side of the house. My intention with this house, I live in a 1450 square foot house on Blackhawk Trace and I have this opportunity to buy this property, I have a new child and my

girlfriend and I being in that tight home which is more for a vacation home, would like to get some space and would like to live in this house, I am getting my house for sale and sell that before I move into this. The only way to be able to accomplish this is rent this home for 1-2 years while my home is for sale. I am not looking to profit from renting this. To the rear is the golf course with a pond, the vacant lot next door I will be acquiring with the purchase of this home.

Diedrick asks for a general layout of the home and where activity may take place.

- Todd Kluck shows on the GIS mapping, great room is to the north toward the greenspace and golf course. The deck is off the great room and is toward the golf course, it does have a walkway around the back of the deck to the master bedroom. This is a five bedroom home. I don't think this will be a big issue with having the master bedroom toward the adjacent property.

Mapes asks about the parking

- Todd Kluck states there is actually quite a bit. The driveway opens up into the property; you then have along the front, garage and in front of the garage.

Public Testimony

Craig Brown, attorney representing neighbor Dave & Linda Nogle (5 Whistler Court, Galena)

- The neighbors object to the Guest Accommodations License being issued. Primarily because of the traffic, noise, and character. Looking at the variance standard C: variation is not exclusively to make more money out of the property – I think the Guest Accommodations is very specifically for that purpose. While I will take Mr. Kluck's word that is only for a year or two it is nevertheless the purpose for a year or two. Standard E: The granting of the variation will not alter the essential character of the locality, and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located – I think this changes my clients nature of their property fairly significantly, just in the practicing of law in the area, I see the VRBO rentals and situations. When you have a five bedroom it attracts all kinds of groups for wedding related, bachelorette parties, especially with the bigger houses like this. The odds of having a lot of traffic, noise where the Nogles have never had that it is a very distasteful thought to them. They would very much like this board to turn down this request for variance.

Todd Kluck, contract purchaser 226 Blackhawk Trace, Galena

- Most neighbors are going to react that way. I would like this as my primary residence not profit from this, I understand what Mr. Brown has said, but that is not my intention. I can't do anything about that the setbacks were not in place when this house was built 24 years ago. I care about the territory and the beauty of it; I would not do anything to jeopardize that. I just think I should have the right to do what I need with the property temporarily in order to achieve residency. I think it is unfortunate that they were set that closely.

Craig Brown, attorney representing neighbor Dave & Linda Nogle (5 Whistler Court, Galena)

- I would answer any questions you may have.

Diedrick asks if the clients reside there full time.

- Mr. Brown indicated I believe they winter elsewhere, I think they are gone about 90 days.

Gratton asks the size of the adjoining lot, maybe 0.4 acres. The requested lot is 0.31 acres.

- Mr. Brown states I am not sure, but that sounds about right.
- Mr. Kluck states the adjoining house I believe is currently for sale. So this is their full time residence.
- Mr. Brown states the owners are both retired so it is their full-time residence and that they are not leaving this house on the market or taking it off for the time being.

Diedrick asks what the configuration of the adjacent house is.

- Mr. Brown states I did not think to ask that of my clients. The 16 feet versus the 25 feet on the side, the reason for the law and setbacks is that it is 5 bedrooms and it is going to have a lot of people there. They are tightly together, even driveways. I understand that it will not be rented all the time, the character of living there on the weekends will feel very different, where 5 couples are back in there. I don't think the proximity to the recreation room in back is necessarily my client is focusing on, it is the amount of traffic, noise and that will likely happen during the warmer months. They are at the end of the cul-de-sac and once you get there you are right on top of each other.

Linda Delvaux asks Mr. Brown for clarification on residence status in the Territory as the mailing for notification to the Nogles was in Palatine. Did they just move here full time?

- Mr. Brown states from my understanding, I did not get into this with them, but I happen to know the Nogles and this is from social memory, I think Palatine was where they lived when working and earning an income, but they have been retired for some time and just haven't sold that house.
- Linda states that our information comes from the tax records and where the tax bills are currently being sent.
- Mr. Brown states I don't want to state for certainty, I don't know how many weeks they are here versus there. They own multiple homes and I am not sure where taking property tax exemption. I think they are here quite a bit now.
- Mr. Kluck states that I have been going over to the property about every day for the last 6 months and I have seen their car there once or twice, it has been for sale for the last two or three years. I don't think this is their full time residence, I think they are just trying to sell it; the price has gone way down.

Tranel asks how close is the neighbor's house to the property line.

- Linda Delvaux measures approximately, as you can only see where roof lines are, we are at about 8 feet. It could be at the 10 foot setback from the foundation that is the setback the territory has in place. Distance from structure to structure should be about 26 feet.

Mapes asks about the setback

- Linda Delvaux states that as you decrease in bedrooms the setback drops by 5 feet. If you have 5 bedrooms you must meet the requirements for that, unless you do construction changes in the home.

Public Testimony Closed

Diedrick talks about the standard of making more money out of the property, based on Mr. Klucks testimony he is not in it for the long run to make money. The other he brought up was the changing the character of the area from single family to a multi residential that variation

would be the one of most concern. Can we limit the time for a variance like one year?

- Linda Delvaux states you cannot.

Carroll asks how the house was used previously.

- Linda Delvaux states that all we have is that it never had a Guest Accommodations License previously.

Mapes states I am concerned that it doesn't meet all of the standards.

Carroll states that they will own to the other side, a lot of area and greenspace. I think of Galena Territory as a resort area, this is a big house and if live next door at some point there would be a lot of people there.

Gratton states that the other side and the rear does not cause an issue and meets the intent of the ordinance, but the other side you have two high valued properties that need to be protected and on small lots for the size of the home. You don't have a lot of outdoor activity area room. I have no issue with other side and rear, but the side with a home adjacent, I have concern.

A motion was made by Diedrick to deny the variance from the required rear lot line setback also the required side lot line setback as indicated in Chapter 5, Article B-46, B-4a & 4b of the County Zoning Ordinance for Guest Accommodations use as the standards for variation are not met

Seconded by Mapes

Roll Call:	Gary Diedrick – Nay	Mel Gratton – Aye
	Nick Tranel – Aye	Ron Mapes – Aye
	Jody Carroll – Nay	

George & Carol Anderson, (address: 6080 N Elizabeth Scales Mound Road, Scales Mound IL 61075), owners, & Susan Bader, (address: 8063 N Veta Grande Road, Scales Mound IL 61075), contract purchaser, requesting a Map Amendment from AG Agricultural District to R-1 Single Family Residential District. Common Location: Just north of 8063 N Veta Grande Road, Scaled Mound

Staff

- **Comprehensive Plan:** The Comprehensive Plan would indicate this parcel to be in the area of farmland of statewide importance with pockets of Prime farmland, in agricultural preservation area 1. This parcel is within the mile and ½ planning area of the Village of Scales Mound and is identified in their contiguous growth area. The County's Comprehensive Plan would encourage growth and development adjacent to a community or at least a part of the City or Villages desirable 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.
- **Waste Treatment:** 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 private water well.

- Access Considerations: The parcel is located along Scales Mound Township maintained Veta Grande Road. There are locations within the proposed frontage where an entrance can be placed with adequate sight distance.
- Other Considerations: This property is surrounded by multiple smaller parcels mostly timber, agriculture and some used residentially. The Land Evaluation score on this property is 35.7, which is below the County average of 62.2 with an overall LESA score of 179. 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 10 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 Scales Mound Geological Area as mapped by the Illinois Natural Areas Inventory is approximately 1 mile to the southeast of this request. This is an area that has outstanding geological features.

Paul Brashaw, surveyor representing

- Requesting a map amendment for these 8.41 acres. This is horse pasture right now, there are a couple encroachments with a pond and arena and those will be addressed if Susan is allowed to get this property for single family home. The neighbor which is a sister and brother in law would like to buy to make them conforming. This is not prime farm ground, this is within 1.5 miles of Scales Mound, LESA score of 179, productivity is 35.7 which is well below county average. There are several similar size parcels in the area and this is the best use of the land. Soil borings were not done.

Carroll states that you are not going to split the pond.

- Paul Brashaw states that when it was constructed Saam Construction tried to put it in a certain location, but wouldn't work, George Anderson gave permission where it is and they want to get it fixed.

Gratton asks what that does to the zoning of the land that is sold to the neighbor.

- Linda Delvaux states that it would be residential, it is not enough to build on, will not have the road frontage.
- Paul Brashaw states that this will give her flexibility on where to build, it may take her down to as much as 4 acres
- Linda Delvaux states that you need to watch where you create the new property lines. If you create a setback issue then you have created a violation.
- Paul Brashaw states I am fully aware of that.

Mapes asks if they could build two home sites.

- Paul Brashaw states that is not the intent.
- Linda Delvaux states they would have to subdivide the property.

Gratton asks if she has a preferred site for the home.

- Susan Bader states that they want to expand to include the barn with stalls and hay. I would like to build up in the north corner of the property. I would have a walkout toward the road. We are working on the access, maybe getting an easement utilizing

an existing drive just to the north of this lot. It will stay horse pasture, fence off my yard and driveway.

- Linda Delvaux states the only way to sell this to them would be as an adjoining landowner, and not create it as a separate piece of property.

Public Testimony

None

Public Testimony Closed

Gratton was concerned with lines through the pond and arena. Is access okay where indicated?

- Steve Keeffer indicated that I was looking further south, but with that much frontage you can come up with something that will work.

A motion was made by Mapes to recommend approval of the Map Amendment from AG Agricultural District to R-1 Single Family Residential District.

Seconded by Carroll

Roll Call:	Nick Tranel – Aye	Ron Mapes – Aye
	Jody Carroll – Aye	Gary Diedrick – Aye
	Mel Gratton – Aye	

Review and approve 2016 ZBA meeting dates

All meeting held on the Fourth Wednesday of the month in the Jo Daviess County Board Room at 7:00 PM unless otherwise indicated

January 27, February 24, March 23, April 27, May 25, June 22, July 27, August 24, September 28, October 26, November 16 (third Wednesday of the Month because of Thanksgiving), December 21 (third Wednesday of the Month because of Christmas/New Year Holidays)

A motion was made by Tranel to approve the meeting date schedule as presented.

Seconded by Diedrick

Voice Vote: All Ayes

Reports and Comments:

Nick Tranel made a motion to adjourn at 8:15 PM. Ron Mapes seconded. Voice Vote: All Ayes