

**Jo Daviess County Planning Commission/Zoning Board of Appeals  
Minutes for Meeting  
At the Courthouse-7:00 PM  
March 23, 2016**

**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 Jody Carroll to accept the February 24, 2016 minutes. Seconded by Laura Winter. Voice Vote: All Ayes

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

**New Business**

**Wayne J Wand** (address: 6014 S Derinda Road, Elizabeth IL 61028), owner, and William & Dena Boehm (address: 4502 S Derinda Road, Elizabeth IL 61028), contract purchaser/petitioner, and Cody & Danesa Harbach, (4502 S Derinda Road, Elizabeth, IL 61028) petitioners requesting a Special User Permit to allow for a residence on a lot less than forty (40) acres in the AG Agricultural District and a time extension to commence use. Common Address: 4840 S Derinda Road, Elizabeth IL 61028

**Staff**

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in the area of farmland of statewide importance with corridor of Not Prime farmland running along the area of high elevation, in an agricultural preservation area 2. This parcel is within the mile and ½ planning area of the Village of Elizabeth but is not identified as part of 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 & V 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. This property will be served by private water well.

- Access Considerations: This parcel has frontage on county maintained Derinda Road. An access with adequate sight distance can be located within the frontage.
- Other Considerations: This requested property is surrounded by agricultural properties with a mix of residential and agricultural uses. There are a series of small lots developed along Derinda Road to the north of this request. The Land Evaluation score on this property is 40.9, which is below the County average of 62.2 with an overall LESA score of 153. Some of the contributing scores to the Site Assessment end of the LESA were the percent of Agricultural land adjacent coming in at 15 points, percent of land in agriculture within 1 mile coming in at 12 points, availability of public water and sewer came in at 10 points each, distance from community services at 12 points, soil suitability for on-site disposal came in at 25 points and the consistency with the County Comprehensive Plans came in at 10 points, this is due to the fact that the property falls within the 1.5 miles of the community, but, is not identified as a contiguous growth area by the Village of Elizabeth.
- The Village of Elizabeth has not commented on this request. The Natural Resource Inventory Report indicates that the upper level bedrock under this parcel is Silurian dolomite. Under Standard 8-5B-33 it states that the most sensitive areas for development in Jo Daviess County are underlain by Silurian geological formations. These elevated ridge tops and hillsides are scenic, prone to excessive erosion and often provide the least amount of ground water protection. These areas are mapped and are presented as part of the Natural Resources inventory (NRI) Report for every requested change in zoning for Jo Daviess County. Development located in these areas will be subject to standards 8-5B-33, of the Zoning Ordinance:

*A. A single-family, detached nonagricultural residence in the AG agricultural district that is permitted as a special use shall be subject to the following standards and regulations:*

- 1. A site plan which provides the following information shall be provided:*
  - a. The existing and proposed topography, slope, and drainage patterns of the lot.*
  - b. The erosion control measures that will be used during and after construction.*
  - c. The grade of the driveway which shall not exceed fifteen percent (15%) at any one point.*
  - d. The area to be cleared if the lot is wooded.*

*2. Jo Daviess County uses a land evaluation and site assessment (LESA) system to help local officials determine if farmland may be converted to other uses. This tool has a maximum of three hundred (300) points. A score of two hundred (200) points or more would indicate that land is important to retain for agricultural purposes. A score of less than two hundred (200) points would indicate the site may be suitable for nonagricultural uses.*

3. *On site wastewater facilities shall conform to all Illinois statutes and those established by the Jo Daviess County health department.*
4. *Identification of an appropriate septic area as provided by the natural resources inventory (NRI) reports.*
5. *Lot configuration (see section [8-5B-48](#) of this article).*
6. *All lighting shall conform to section [8-4E-3](#), "Outdoor Lighting Standards", of this title.*
7. *The most sensitive areas for development in Jo Daviess County are underlain by Silurian geological formations. These elevated ridge tops and hillsides are scenic, prone to excessive erosion and often provide the least amount of ground water protection. These areas are mapped and are presented as part of the natural resources inventory (NRI) report for every requested change in zoning for Jo Daviess County. Development located in these areas will be subject to the following additional standards:*
  - a. *Buildings and roads located on sloping sites shall be built to blend with the existing topography.*
  - b. *Exterior building colors are encouraged to blend with the natural background.*
  - c. *Yard areas shall not be clear cut, existing trees shall be protected whenever possible, clearing of trees to create a building site should be as minimal as possible and the continuity of wooded sites shall be preserved. If trees must be removed in the construction process, they should be replaced with trees of species similar to those in surrounding woodlands.*
  - d. *In no case shall the roofline of any structure be higher than the existing mature tree height or ridge top.*
  - e. *Additional erosion control will be required on highly erosive sites.*
  - f. *The impervious surface coverage of the lot, which includes the building footprint, paved roads and compacted gravel surfaces, etc. This area shall not exceed one-half (1/2) acre.*

Paul Brashaw, surveyor representing petitioner

- January they came through to request rezoning of this property and withdrew the request due to concerns of the board. They are requesting a special use permit with a 3 year time extension to commence use. A couple trees will need to be removed with the current approximate placement of the home within a 100 x 150 foot area. The home will be about ¼ mile off Derinda Road. Erosion control will be addressed at the time of construction. Driveway grade will be from 1%-8%. Screening will be installed along the driveway along neighbor's property. Property will have private well and septic. The lot meets lot configuration requirements. The house location will be to the rear and will not be able to see it from Derinda Road.

Gratton talks about uniqueness of this with the elevated area with the underlain bedrock of Silurian will have shallow soils. This goes along with the Comprehensive Plan of preserving as much as possible.

- Paul Brashaw indicates that they will have minimal excavation for the driveway, not going to build out on the highest point

### **Public Testimony**

Craig & Jenny Schnitzler, 4794 S Derinda Road, Elizabeth – adjoining property

- The driveway will be about 36 to 40 feet from the back of our house. I will be sitting on my back deck and then they will be driving by back and forth. The wind 95% of the time comes from the west; we open our windows during the summer and will not be able to open them, now we will have to run the AC unit instead.

Gratton asks if other driveways along there are gravel or blacktop.

Across the road they have a gravel drive

Paul Brashaw indicates that they could put oil down for the dust and plant trees to block the view of the driveway and dust; it will depend on the amount of traffic. We feel that the standards for Special Use have been met and the LESA score and the productivity of the land are favorable.

- Craig Schnitzler states that oil smells and that will come directly toward my house. Can they use a different entrance, which would eliminate a lot of problems for us.

### **Public Testimony Closed**

Board asks Delvaux how far the neighbors house sits from the property line. Delvaux indicates that the existing house would have to be 40 feet from the rear lot line because of setbacks, otherwise it would not be in compliance.

- Craig Schnitzler states the distance I was talking about is how wide there property is at the narrowest location to install a driveway. It measures about 36 feet wide.
- Linda did another measurement and she came up with about 50 feet. It could be less than 50 feet, these are not exact measurements.

The impervious surface requirement should be met based on information provided.

Septic will be determined prior to construction.

Driveway will be 10 feet wide with gravel and will be close to the west property line

Winter asks if we have granted a 3 year time extension at the time of Special Use

- Linda states yes we have. If they do not commence use or renew the special use before the 3 years the Special Use becomes void.

Deidrick asks about the ingress/egress, could they get an easement from the neighbor to use that access then branch off that.

- Paul Brashaw indicates that there are family issues, they got what they got at the time and probably can't get more land. I think if you use the other driveway it would get steep when you would go from that driveway to this property – grades would be 12-15%.

Review special use standards:

A: Could be for the neighbor. Comments about keeping the driveway to the west property line and install green screening, work with neighbors to the east. B: Met. C: Met. D: Utilities, roads and any other facilities will be provided at time of construction. E: Met. Additional Compliance: Met and Standard #33 shall be complied with.

Carroll asks if we need to put anything about the screening work with neighbors

Erosion control – silt fence, seeding, etc will be addressed at time of building permit and construction

Craig Schnitzler comments about his son having breathing problems and what the dust may do to him. What are the health concerns of breathing lime every day?

Gratton comments that dust usually occurs when you drive repeatedly over and over and grind down the rock and the speed you travel on the road as well.

A motion was made by Tranel to recommend approval of the Special Use Permit for a single family residence on a lot less than forty (40) acres with a three (3) year time extension to commence use stating the following:

1. Work with neighbors for screening of driveway

Seconded by Carroll

Standards are met and additional Standard #33 information has been provided and shall be adhered to at time of construction.

**Additional Discussion:**

Diedrick asks about asphaltting the entryway of the road that is of concern. 300-400 feet.

Bill Boehm states that he went to Schnitzler’s and asked to put the road to the north of their property with an easement so the driveway would not be directly behind their house, we never got an answer.

I could put a road in on my property even if we don’t build a house

- Delvaux states that would be correct.

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

**Donald Gissler, Lynn Patton Gissler Trust**, (address: 2106 Modena Court, Naples FL 34105), owners, & Paul Brashaw, petitioner (4413 W Stagecoach Trail, Galena IL 61036) requesting a Special Use Permit to allow for a residence on a lot less than forty (40) acres in the AG Agricultural District. Common Address: 11915 S Derinda Road, Elizabeth IL 61028.

**Staff**

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in the Agricultural Preservation 2 Area, and shows Important Farmland Soils with some pockets of prime farmland soils. This request is approximately 6.5

miles southeast of Hanover. The Counties 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. 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. This parcel has an existing home which was built in 2003.

- Waste Treatment: A new conventional septic system was installed in 2003 to serve a 3 bedroom house & barn. This house shares a well with the neighboring house to the south.
- Access Considerations: The property has an existing entrance onto Jo Daviess County maintained Derinda Road with adequate sight distance. No changes to the existing entrance are being proposed.
- Other Considerations: This property is surrounded by Ag and residential uses. In 2003 there were two homes built on a larger property which was permitted agriculturally. The original owner has since split the two homes onto two separate parcels. The home to the south was left with 14.5 acres and came through for a special use permit in 2012. This home was left on a 22.8 acre parcel, but, was purchased by the adjacent owner, which then qualified the home on a compliant zoning lot. A zoning lot is defined as one or more contiguous lots. The owner would now like to be able to sell the home on a lot less than forty (40) acres which requires him to come through for a special use permit. The Land Evaluation score on this property is 63.5, which is just above the County average of 62.2 with an overall LESA score of 201.5. Some of the Site Assessment factors contributing to the overall score were percent of land in agriculture within 1 mile, 15 points, percent of land in Ag adjacent to the perimeter, 25 points, as well as distance from community services and the fire district rating class coming in at 15 points each. An Eco Cat for endangered species protection and natural areas preservation has indicated the Gray/Timber Wolf, a protected species, may be in the vicinity of the proposed project

Paul Brashaw, petitioner representing owner

- Owner would like to sell off the 23 acres with the house, no longer need the house, but would retain the farm ground. In 2012 the adjacent property came through for a special use permit to have a house on less than 40 acres and was issued. That LESA score was 175 at that time, not sure what the difference is from this being 201.5. Adequate site distance.

Deidrick asks about the property to the south, if they use the existing driveway, but that does not go all the way to the house or if they go through this property to access the adjacent property.

- Andy Klemmt states that he sold the property to the south and they do not go through this property for access, the existing access goes to the house.

Paul Brashaw indicates that there is a shared well agreement and no easements are in place for the neighbor.

**Public Testimony**

None

## Public Testimony Closed

Linda Delvaux clarifies the difference in the LESA scores; this has a larger acreage so more farmland, the size of the parent parcel, the slope was different and the land evaluation productivity was different from 47 to 63.5.

Reviewed special use standards

Standards have been reviewed and met

A motion was made by Deidrick to recommend approval of the Special Use Permit for the single family home on a lot less than forty (40) acres.

Seconded by Winter

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

**Scott & Cheryl Lombardo**, owners, (3460 Melody St. Mundelein IL 60060), requesting a variance from the required side lot line setback as established in Title 8, Chapter 5, Article B-46, B.4; Building Siting and Orientation. Requesting to vary from the required forty feet (40) to twenty-six (26) feet (fourteen (14) foot variation) on the north side and fourteen (14) feet (twenty-six (26) foot variation) on the south side of the parcel to allow for Guest Accommodations Use. Also requesting a variance from Title 8, Chapter 5, Article B-46, B. 1; Parking requirements. Requesting to vary from the eight (8) required parking spaces to six (6) and requesting to allow for parking off the property on the Road Right-of-Way. Property is located in the RP Planned Residential District. Common Address: 18 Lookout Trace, Galena IL 61036

### 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, and also recognizes the importance of planning for future infrastructure such as roadway expansion, and variances should be reviewed with that in mind.
- Wastewater Treatment: This house has an existing septic system that was installed in 2002. The septic tanks (2) are located 32' west of the house and the buried sand filter & septic drainfield are located west of the tank. The engineered drawings submitted in 2001 indicated that this is a seven bedroom house without a garbage disposal & the septic system is sized accordingly. However, it appears that now the house has eight bedrooms. According to the Guest Accommodations Ordinance, if this house is to be rented for more than 7 bedrooms, then the septic system has to be brought to current code.
- Access Considerations: The property has a parking area contiguous to Guilford Township maintained Lookout Trace like most of the other homes in this area. There is adequate sight distance to safely back out onto the aforementioned Lookout Trace from the parking area.
- 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 pre 1995; an addition was added in 2001 which is prior to the setback standards being adopted in 2006. A final inspection has never been requested for this addition, therefore there is no occupancy permit on file. The applicant will need to get this taken care of prior to any other use being permitted. The applicant has requested a variance from the required setbacks as indicated in the county Zoning Ordinance under 8-5B-46 and has also requested a variance from the parking requirements also listed under 8-5B-46 in the Zoning Ordinance, but, this particular requirement is also listed under Title 4, Chapter 6 of The Guest Accommodations Ordinance, of which this Zoning Board of Appeals has no statutory authority to vary. Therefore it is the determination of the Zoning Administrator that even a variance relief on parking under the zoning ordinance will not allow for the parking to be on the public right-of-way.

Scott Lombardo, owner

- The house addition was built with Galena Territory approval as a 7 bedroom, 7 baths home. We only use 6 bedrooms and 7 baths. We are asking for the approval for 7 bedrooms and 7 baths. The siting and parking were approved by the Galena Territory Association. This would have pre-dated the ordinance for rental. The two lower rooms are used for kids play rooms, not bedrooms. There are a dozen to two dozen other homes on this road that have on street parking on the right of way.

Paul Brashaw, surveyor

- Parking on the property would be prohibitive with the slope. Branigar created the parking situations when they were originally developed.

Andy Klemmt, realtor

- This county has two main industries and they are Agriculture and Tourism. The hospitality end they need larger rentals to accommodate the small business meetings, family reunions and such. We do not have these types in the Galena Territory.

Scott Lombardo, owner

- House was designed for every two bedrooms they have a living room contiguous to them. The six bedrooms are well suited for weddings and family reunions. The separation from the other houses as it does not meet lot line setbacks, but there is ample wooded area between the houses.

Gratton asks if the owner could address the variance standards

- Scott Lombardo indicated that he couldn't see anything that he would be in violation of or that we don't meet the variance standards. We have six paved parking spaces, could add two additional between existing parking provided the association allows them.
- Paul Brashaw indicates the site line variance from the lot lines.

Diedrick asks when the parking was installed

- Scott Lombardo indicates the additional was installed in 2003, the parking spaces on the north existed then there were 3 additional added.

**Public Testimony**

Joe Mattingley, Chief Executive Officer for The Galena Territory Association

- Provided a handout of the information he will be going over. We would like to go over the facts as far as where the association is at. This packet includes the application from

the applicant. Part of the application states that the home was constructed to be used in the rental program prior to the side lot clearance and the parking ordinance. #3 – This is a fax from Mr. Lombardo at the time when he was going through the architectural review process prior to construction he indicated that this was a 5 bedroom home for his family and would not be in the rental program, this was in 2001, but stated that it would not be in the rental program. #4 & #5 is the Jo Daviess County Health Department septic permit for a seven bedroom house and #5 is a letter to Mr. Lombardo dated October 19, 2001 stating within the letter #4 states, ‘The approval of the seven bedroom septic system does not authorize the addition of the two potential bedrooms without Architectural Review approval.’ This approval has not occurred. #6 shows that we have declarations and deed restrictions for what can happen within the Galena Territory, one of the items is that in July 1999, the Board of Directors approved a resolution that any residence proposing more than six bedrooms shall be denied. This is still currently in place today. #7 & #8 covers the Jo Daviess County Guest Accommodations Ordinance and what he would have to meet for occupancy and parking. You are always going to have a parking issue on this road because of how it was developed, but you do have an ordinance in place. #9 is the biggest because of the space between the homes and what is required to get a Guest Accommodations license, we are looking at about 26 feet on one side and 14 on the other, but that is a dilemma with this many people that could be in the home. The GTA ARC is concerned about this. Setbacks are a concern. Board of Directors did have a meeting and they are highly concerned about the request for the variance and would like it to come back to the GTA for further discussion and consideration versus having the county just approve the ordinance as presented. Mr. Lombardo has always been forthright and direct with us, and we always know what is going on in general, we understand the request, but see way too many holes in the bottom of the bucket.

#### **Public Testimony Closed**

Gratton states that we have a number of things to look at - number of bedrooms, setback requirements on each side, septic, and parking issues.

Gratton states that setbacks were put in place for a minimum separation from adjoining lots to still be able to use and enjoy their property. We have used 5 feet per bedroom as the standard. This request is 26 feet and 14 feet setback. I think we have to look at this as an eight bedroom home, we can't tell him to shut doors to meet the requirement.

Linda Delvaux states that in 2001 when this was permitted by our office it was permitted as a five bedroom house. Now we have additional bedrooms, however this works out we will need to do permitting for the additional bedrooms with our office.

Winter asks if any adjoining landowners called about this

- Melissa Soppe indicated that the neighbor to the north called and asked questions about the request, but did not indicate one way or another and I talked to the Galena Territory Association.

Gratton asked how the adjacent properties are being utilized.

- Melissa Soppe indicates that you have a couple rental homes two to three lots to the south of this and then a few more rentals a couple lots to the north. We can assume the other homes are used for residential rather than guest accommodations. The properties that are rental units are not over three bedrooms in size.

Gratton states that if we have had greenspace next to the request area for the variance then we have granted, but this does not have that in place.

Deidrick asks what the distance from the habitable part of the house (not garage or deck) to the north to the property line is.

- Linda measures via Geomedia and indicates 46 feet

Gratton states that we look at the size of lot that the requests are on and the useable space on this lot is small and limited. This is one of those areas that are elevated in the county and drops down.

Parking needs to be provided on the property according to the Guest Accommodations Ordinance, this board cannot vary that.

Tranel states it would take a lot of fill to get it off the right of way

Deidrick states for a single family home the parking is okay where it is.

House to front property line is approximately 71 feet

Carroll asks if any other home with a Guest Accommodations has the same parking situation.

- Linda states that in this area, all but three are grandfathered in. One has a special use permit from 2004 and two have come through in 2007 and 2012 and received a Zoning Certificate for Guest Accommodations, in which they would have had to comply.

Carroll asks who maintains the parking areas.

- Linda states she is not aware, maybe owner or GTA would know.

This is a township roadway.

Gratton states that not having occupancy permit they will need to take care of that. Septic is for a seven bedroom, we are looking at this as an eight bedroom.

Deidrick states there are many negatives going for this, parking, setbacks, septic, 8 bedrooms and not permitted for that. It stands difficult to have multiple issues. I don't see a solution with this right now.

Occupancy permit would have to be completed to final out the building permit prior to anything additional being done.

Gratton states that the GTA also has concerns and additional requirements that will need to be addressed by them. Multiple issues with this property.

Winter states that I agree that type of house and number of bedrooms is needed in the rental program, but I don't think this is the right place for this one.

Diedrick asks if we should take care of the variance or do we postpone letting the GTA look at this further.

Gratton says we need to deal with this.

Scott Lombardo would like to withdraw this request to further look at options with Galena Territory Association for review.

A motion was made by Tranel to accept the withdrawal of his request.

Seconded by Winter

Roll Call: Jody Carroll – Aye  
Laura Winter - Aye  
Mel Gratton – Aye

Gary Diedrick – Aye  
Nick Tranel – Aye

**Reports and Comments:**

Nick Tranel made a motion to adjourn at 8:45 PM. Jody Carroll seconded. Voice Vote: All Ayes