

Jo Daviess County Planning Commission/Zoning Board of Appeals
Minutes for Meeting
At the Courthouse-7:00 PM
July 23, 2014

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, Alternate
- ✓ 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
- ✓ Ron Smith, JDC Board Chair

Approval of Minutes: A motion was made by Nick Tranel to accept the June 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

William & Ramona Vincent, owner's, (address: 15 Southridge Drive, Galena, IL 61036), requesting a Variance from the required side property line setback as established for Guest Accommodations use of twenty (20) feet to nineteen (19) feet. Requesting a one (1) foot variation. The common address: 8 Arrowhead Drive, Galena

Staff Report

- **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 house has an existing septic system that was installed in 2014. The system is sized properly for a 5 bedroom house. The variance request should not affect the septic system.
- **Access Considerations:** This home has an entrance onto East Galena Township maintained Arrowhead Drive. The existing drive has adequate sight distance for the low speed subdivision road. In addition, the property will be using a separate access established through their adjacent property to access the Guest Accommodations.
- **Other Considerations:** This house was permitted in 2013 and issued a temporary certificate of occupancy for a single family residence in June of 2014. This home is a 4 bedroom home which would require a twenty (20) foot setback from a side property line. Even though the applicant may not rent out all the bedrooms there is no mechanism in the Ordinance to apply the standards to a portion of a home,

therefore a variance is being requested. Applicant had indicated a setback of twenty (20) feet on the site plan, but, as built drawings show the home to be nineteen (19) feet from the side lot line. Applicant had originally applied for an Administrative Variance, but, since there was a letter of opposition, the applicant will have to present their request to the full Zoning Board of Appeals for approval. This property is zoned RP Planned Residential and Guest Accommodations is a permitted use in this district.

Mike Toepfer, Counselor representing Bill & Ramona Vincent

- Applicant owns adjoining LeFevre Inn.
- Intentions are to live on the upper floor and use the lower level for Guest Accommodations.
- The Guest Accommodation will have three (3) bedrooms.
- Applicant misunderstood the setback regulations and thought they needed only fifteen (15) feet since they were only going to use three (3) bedrooms.
- The lower level will be accessed from the rear of the property through the adjoining property.
- One foot variance will not alter the area.
- The missed setback was not intentional.
- The use is not entirely to make more money.
- If the variance is not granted the applicant cannot use the lower level three (3) bedrooms for Guest Accommodations.

Gratton asks if a construction oversight was made?

Mike Toepfer indicated yes that is the case.

Public Testimony

- Dan Tindell – 13 W. Arrowhead Drive
 - Respectfully request the Zoning Board to deny this request.
 - Contractor should have been aware of the setback requirements.
 - As a neighbor we are concerned with loud music at LeFevre.
 - We have made numerous calls to the Sheriff for noise complaints.
 - Expanding this use into the neighborhood is only going to worsen the problems.
 - The County Comprehensive Plan talks about buffers between uses, please explain buffers.
- Delvaux
 - Buffers can be many different things, such as fencing, green screen, such and trees and even earth berms. They are designed to provide separation between uses and some buffer from noise and visual effects.
- Dan Tindell – 13 W. Arrowhead Drive
 - Taking trees down like the applicant did provides less of a buffer.
 - Because of previous employment I understand the need for economic development, but, not in a residential neighborhood.
- Lehn Duhack – 1228 N. Blackjack Road

- Applicant is already using the home as Guest Accommodations.
- Comprehensive Plan talks about buffer zones and there is no buffer zone here.
- The intended use will negatively affect the neighborhood.
- Being in the excavation business, the applicant should have been aware of the setbacks and where the property lines were.
- Paul Brashaw
 - Did the survey work for the applicant.
 - The driveway to access the lower level is to the rear of the property.
 - Parking will be on the applicants property.
 - Driveway grades are less than the fifteen (15) percent required.
 - The rooms in the house will be used for sleeping only.
 - Activity will be carried on at the adjoining property, LeFevre Inn.
 - Maybe neighbors and applicant can work together to establish some guidelines that solve some of their concerns.
- Renee Wallack – 4 W. Arrowhead Drive
 - Newest resident in the area.
 - Intent was to retire here with peace and solitude.
 - This is a residential neighborhood, not tourism.
 - Not long ago past 11:00 PM the noise was very bad, music was too loud.
 - With the size of the house, concern is with 20+ people staying there.
 - It's nice to say all the activity will be at LeFevre Inn, but, who is going to monitor that. How do you make that happen.
- Holly Werner – 15 W. Arrowhead Drive
 - I asked for a Bed & Breakfast and was told I couldn't do that.
 - Been living out here for 10 years and since they started weddings at LeFevre Inn it's been very loud.
 - There are Covenants for this subdivision and they indicate the purpose of the lot is for single family homes, not a business.
 - Winchester Trails is a subdivision not a business.
- Amelia Wilson – 20 W. Apache Trail
 - Owner of Amelias Ghost Tours.
 - Understand and am all for tourism in Galena.
 - Signed the covenants and was told we must comply with them.
 - LeFevre has loud music that is disturbing.
 - Currently dealing with a lot line dispute with the Vincents to the rear of my lot.
 - There are no buffers in place.
 - If this is granted we will be taking this to court.
- Christine Burkholz – 6 W. Arrowhead Drive
 - Agrees with the public testimony given.
 - There are issues with noise.
 - Have contacted LeFevre and they have never responded to the issues positively.
 - Are the applicants going to live in the house?
- Mike Toepfer
 - The applicants plan on living on the upper level, this will provide for

- onsite management/supervision.
 - Lower level has three (3) bedroom for Guest Accommodations use.
 - The house was built to the back of the lot and the Guest Accommodations use is facing away from the subdivision.
 - The applicant will use the Arrowhead Drive entrance, guests will use the entrance from the rear through LeFevre.
- Holly Werner – 15 W. Arrowhead Drive
 - The applicant isn't living there now, hard time believing that will happen.
 - Thought they were going to live at LeFevre too, but, that's not the case.
- Mike Toepfer
 - Doesn't believe the last statement is pertinent. Has been told they intend to live on site here.
- Carl Wallack – 4 W. Arrowhead Drive
 - If they are living there and they need more guest space for LeFevre, why not expand on LeFevre property.
- Mike Toepfer
 - Can't answer that question
- Holly Werner – 15 W. Arrowhead Drive
 - If you give a one foot variance, you are turning the subdivision into a business.
- Mel Gratton
 - Explained that the subdivision is zoned RP – Planned Residential, Guest Accommodations is a permitted use in that district. If the applicant had been able to meet the more restrictive setbacks for Guest Accommodations, he would not be here asking for a variance, but, would be able to proceed toward his license for Guest Accommodations.
- Eric Lieberman – Attorney
 - The relevant issue here is the subdivisions covenants.
 - Counsel for the applicant didn't respond to the covenants.
- Holly Werner – 15 W. Arrowhead Drive
 - You are saying you can grant this, do you have the authority to say no.
- Carl Wallack – 4 W. Arrowhead Drive
 - You can deny a variance, under code they shouldn't get it.
 - Against a variance since they don't have the proper setbacks.

Public Testimony Closed

Discussion:

Gratton states that distance can also be considered a buffer. The variance request is for nine (9) inches.

Diedrick states that he has read through the standard and only one is of concern; Number 5, referencing that he is suspect this may alter the character of the neighborhood.

Gratton states that you can't be for sure this will as it is not in place. The concerns here tonight are with LeFevre. LeFevre is not the application we are reviewing.

Winter asks what is the qualifier for a bedroom?

Delvaux indicates it is the egress – secondary means of escape.
 Diedrick states that he understands private subdivision covenants can't be enforced by the County.
 Tranel states that we are looking at nine (9) inches here. We have granted greater variances for similar uses.
 Gratton states that we need to look at the area and the impact. There are a lot of these in the Territory on lots much smaller than this. This lot provides much more separation.
 Tranel states that the vacant lot to the side should not be impacted.
 Gratton states if anything this should be a wakeup call for the neighborhood and LeFevre to work together.
 Winter states that having the owners on site should bring about a positive change. They will need their quiet time and rest too.
 Gratton states he looked at the area and yes a contractor should have been aware, but, it certainly is a possibility a nine (9) inch error can happen.
 Diedrick asks if they are using it without a license is that a violation.
 Delvaux responded yes it is, but a police report would had to of been filed for any action to happen. Typically that is how it is handled.

A motion was made by Tranel for approval of the Variation from the side property line setback as established for Guest Accommodations use of twenty (20) feet to nineteen (19) feet. Requesting a one (1) foot variation stating:

The standards have been thoroughly discussed and met.

Seconded by Diedrick

Roll Call:	Ron Mapes – Nay Gary Diedrick – Nay Nick Tranel – Aye	Laura Winter - Aye Mel Gratton– Aye
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Donald & Rebecca Reifsteck, owner's, (address: 7689 W. Cemetery Road, Galena), requesting a Variance from the required side yard property line setback of twenty (20) feet to two (2) feet in the Ag Agricultural District. Requesting an eighteen (18) foot variation. The common address: 7689 Cemetery Road, Galena

Staff Report

- **Comprehensive Plan:** The Comprehensive Plan does not address Variances, but does recognize the contribution single family home and the construction industry makes in the County.
- **Wastewater Treatment:** The septic system is located to the southeast of the house, and the well is located 7.5 feet south of the existing shed. The proposed shed will be located approximately 20 feet to the south of the existing shed and will not affect the well or septic system as long as the well head is protected during the construction phase.
- **Access Considerations:** This property has an existing entrance onto Rice Township maintained Cemetery Road. The sight distance for the existing drive meets a 30 mile per hour design speed in both directions. The prevailing speed for this seal coat surfaced road will exceed 30 miles per hour.

Donald & Rebecca Reifsteck , owner

- Realize they are requesting a large variance.
- If there was a chance there would be a home on the lot next door, they would not have considered it.
- The lot next to the variance has a tower on it.
- They did e-mail the tower company about the variance and they replied that they had no objection.
- There entrance is an easement through the adjacent property.
- Purpose of the shed is for their boat.
- Would like to get cars and boat out of the elements to protect them.
- Picked that location because I need 80 ft of back in space.
- There is a hay field on the property that horseshoes my house. Would like to keep as much of that as possible. This location allows that use to continue.
- Topography on the parcel is difficult, which makes it hard to get the 80 feet of access that is needed.
- The area is unique because of that and the horseshoe farming done around the existing structures.
- There will be no financial gain.
- The area will not be altered, the shed will be low profile and the color will match the house.
- The well, septic, utility lines and easements all play a part in the requested variance.

Public Testimony

- None

Public Testimony Closed

Discussion:

Gratton states when you are actually at the property it looks a lot different than when just looking at the Orthophotography. If this request had a residence next to it, it would be viewed differently.

Winter asks if the existing shed is going to stay?

Don Reifsteck replies yes, it will stay.

Mapes states with maintaining the ag use on the property and the placement of the infrastructure that doesn't leave a lot of options.

Diedrick states the applicant did a good job with the application and addressing the standards.

A motion was made by Mapes for approval of the Variation from the side yard property line setback of twenty (20) feet to two (2) feet in the Ag Agricultural District. Requesting an eighteen (18) foot variation, stating:

The standards have been met.

Seconded by Winter

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

Laura Winter - Aye
Mel Gratton– Aye

Mary M. Vincent (Trustee), (address: PO Box 685, Warren IL), and Sarah Newton (Trustee), (address PO Box 319, Galena IL) requesting a Special Use Permit to allow for a single family residence in the Ag Agricultural District on a lot less than forty (40) acres and a one lot subdivision. Common Location: 11765 W. Chetlain Lane, Galena.

Staff Report

- **Comprehensive Plan:** The Comprehensive Plan would indicate this parcel to be in Agricultural, a classification of not prime farmland with a mix of statewide importance farmland. This request is adjacent to the City of Galena and is in their contiguous growth area. Although this is an existing residence, 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. The County plan also encourages development within a community's contiguous growth area.
- **Waste Treatment:** The existing septic system was installed 12/7/96 and meets current code for a four bedroom house. The septic tank and drainfield are located southwest of the house. According to the USDA Soil Survey, soils on the rest of the lot are suitable for a conventional septic system. The well is located on the northeast of the house. All parts of the septic system and well are located within the proposed 4.43 acre lot.
- **Access Considerations:** This property is accessed from an existing entrance onto Rawlins Township maintained Chetlain Lane with adequate sight distance. No changes to the entrance will be done as a result of this request.
- **Other Considerations:** This property is adjacent to the City of Galena and has a mixture of Agricultural uses and residential uses surrounding it. The City has not commented on this request at this time. This home was built in 1996 as a Residence on a parcel over 40 acres. The house is no longer being utilized and applicant would like to sell it off the larger acreage. The Land Evaluation score on this property is 59.5, which is below the County average of 62.2 with an overall LESA score of 146. Some of the contributing scores to the Site Assessment end of the LESA were the percent of Agricultural land adjacent coming in at 25 points, percent of land in agriculture within 1 mile coming in at 9 points, commitment to agriculture adjacent to site at 15 points, availability of public water and sewer came in at 6 points each and the consistency with the County Comprehensive Plan came in at 0 points and the City of Galena's coming in at 0 points.

Delvaux states that she did receive a letter from the City of Galena indicating the following:

1. According to the City's Contiguous Growth Area map, the subject property is located in an identified contiguous growth area.

2. According to the City's Plan Area Proposed Land Use Map, the subject property is located in an area identified as "City Proposed Land Use – Single Family and Open/Pasture (around pond area)". This request is consistent with our planned area land use.

Paul Brashaw, presenter on behalf of owner

- Family would like to split off the home from the farm, they no longer use it.
- This is not a first time split, so it is being presented as a 1 lot subdivision.
- The LESA score was 146 and it is in the City of Galena's growth area.
- This request meets all the criteria.
- The remainder of the ground will be kept as farm ground for the next few years.

Public Testimony

- None

Public Testimony Closed

Discussion:

Gratton states we see this a lot as farms consolidate. This fits into the Ordinance as a Special Use Non Ag Residence.

A motion was made by Diedrick to recommend approval of a Special Use Permit to allow for a single family residence in the Ag Agricultural District on a lot less than forty (40) acres and a one lot subdivision, stating the following:

Standards have been met

Seconded by Mapes

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

Mel Gratton– Aye
Ron Mapes – Aye

James Sullivan, (address: 11875 US Route 20 East, Stockton IL), requesting a Special Use Permit to allow for a single family residence in the Ag Agricultural District on a lot less than forty (40) acres and a one lot subdivision. Common Location: 5956 E. Piroke Road, Stockton.

Staff Report

- **Comprehensive Plan:** The Comprehensive Plan would indicate this parcel to be in Agricultural, a classification of not prime farmland surrounded by farmland of statewide importance. This request is approximately 3.7 miles south of the Village of Stockton. Although this is an existing residence, 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:** The existing septic system was installed 7/5/02 and meets current code for a three bedroom house. The septic tank and drainfield are located southwest of the house. According to the USDA Soil Survey, soils on the rest of the lot are shallow to bedrock and would require an alternative septic system as a replacement such as a sand filter. The well is located north of the house. The division of this parcel would place the house and the septic drainfield on two different parcels. A recorded easement will be needed for the septic drainfield if the proposed parcel lines are not moved further west.
- **Access Considerations:** This property is accessed with an existing entrance onto Stockton Township maintained Piroke Road. The sight distance to the east is adequate. The sight distance to the west is 300 feet which meets a 25 mile per hour design speed. The speed of traffic approaching from this direction will be slowed by a sharp curve west of the subject property.
- **Other Considerations:** This property is surrounded mostly by Agricultural uses and some timbered area. This home was built in 2003 as a Residence on a parcel over 40 acres. Applicant owns adjacent farmland and has purchased the 40 acres, but, would like to sell off the home. The Land Evaluation score on this property is 58, which is below the County average of 62.2 with an overall LESA score of 220. 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 25 points, commitment to agriculture adjacent to site at 15 points, availability of public water and sewer came in at 10 points each, soil suitability came in at 25 points and the consistency with the County Comprehensive Plan came in at 20 points.

Paul Brashaw, presenter on behalf of owner

- In 2001 this property was surveyed for the client to build a home.
- The property has now been sold to Jim Sullivan as an adjacent landowner.
- Mr. Sullivans land is being farmed and he has no need for the residence.
- Applicant would like to sell the home off. The prospective buyer may want to purchase additional land in the future. If that is the case the septic would no longer be an issue.
- Mr. Sullivan did not build this home.
- Feel the standards have been met.
- We do recognize the sight distance to the west isn't the best, but, this is a very low traffic area.

Gratton states that an easement needs to be added to the subdivision plat for the septic system. There is no guarantee that the intended buyer will purchase more land. This needs to be addressed now.

Paul Brashaw states that he will add the language to the Subdivision Plat.

Public Testimony

- None

Public Testimony Closed

Discussion:

A motion was made by Tranel to recommend approval of a Special Use Permit to allow for a single family residence in the Ag Agricultural District on a lot less than forty (40) acres and a one lot subdivision, stating the following:

Standards have been met

Septic Easement must be added to the Plat and allow for replacement area

Seconded by Mapes

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

Mel Gratton– Aye
Ron Mapes – Aye

Stephen Noller, (address: 8064 E. Upmann Road, Stockton), & Robert Noller, (address: 1764 Buena Vista Road, Branson, Missouri 65616) requesting a 2 lot subdivision and a variance from the required 150’ road frontage for each lot. Common Address: 9704 & 9712 E. Townsend Road, Stockton

Staff Report

- **Comprehensive Plan:** The Comprehensive Plan would indicate this parcel to be in Agricultural Preservation Area 1, with a mix of not prime farmland and farmland of statewide importance. The statewide important farmland 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 particular parcel is approximately 2.5 miles north of the Village of Stockton and is close to an area identified as an elevated area of the County. Although these are existing residences, 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:** The existing septic system for 9704 E. Townsend Rd. (lot 1) was installed 8/12/70 and is sized for a three bedroom house. The septic tank and septic drainfield location is unknown. The existing septic system for 9712 E. Townsend Rd. (lot 2) was installed 10/5/1984 and is sized for a two bedroom house. The septic tank and septic drainfield are located southwest of the house. According to the USDA Soil Survey, soils east of the house on lot 1 are suitable for a conventional septic system. Soils on lot 2 are shallow to shale and would require an alternative septic system as a replacement such as a sand filter. Exact locations of the septic systems should be found before the parcels are split, to make sure that none of the components cross the new proposed parcel lines.

- **Access Considerations:** These proposed parcels would be served by an existing entrance onto Rush Township maintained Townsend Road with ample sight distance. No changes to the entrance are being contemplated as part of this request.
- **Other Considerations:** This property is surrounded by mostly agricultural uses with some residential use in the area. Both of these homes were built prior to 1995, when zoning became effective, and qualify for 8-3A-2, C, Existing agricultural and nonagricultural residences on a lot created by the separation of the residence from a larger lot, should the variance and subdivision be approved. Even though the Zoning Ordinance allows for the separation of the home and a special use permit is not being pursued, for informational purposes, a LESA was done. The Land Evaluation score on this property is 67.5, which is just above the County average of 62.2 with an overall LESA score of 228 for lot 1 and 233 for lot 2. Some of the contributing scores to the Site Assessment end of the LESA were the percent of Agricultural land adjacent coming in at 25 points, percent of land in agriculture within 1 mile coming in at 15 points, commitment to agriculture adjacent to site at 10 points, availability of public water and sewer came in at 10 points each, soil suitability came in at 20 points for lot 1 and 25 points for lot 2 and the consistency with the County Comprehensive Plan came in at 20 points.

Paul Brashaw, presenter on behalf of owner

- Would like to split each home into its own parcel, but there is no road frontage.
- This was an active dairy farm at one time.
- Trying to keep as much land in Ag production as possible, that is why these lots are configured the way they are and why there is no road frontage.
- Feel the standards are met.

Public Testimony

- None

Public Testimony Closed

Discussion:

Mapes asks if they intend to sell of these homes by splitting them?

Paul Brashaw indicates they do not intend to sell. The intent here is so each brother will have a home under their name and be able to finance if necessary. The remainder of the property is held under both of their names.

Diedrick asks if the remainder of the property is in a trust?

Paul Brashaw indicates that each brother has ½ ownership.

Diedrick states that both lots one and two could be sold off. If that is the case you have not provided for any kind of utility easement through the property that each brother still has ½ interest in.

Paul Brashaw indicates that he will add the utility easement to the subdivision plat.

A motion was made by Tranel for approval of the Variation from the road frontage requirement in the Ag Agricultural District stating:

The standards have been met.

Seconded by Diedrick

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

Laura Winter - Aye
Mel Gratton– Aye

A motion was made by Winter to recommend approval of the two lot subdivision, stating the following:

Utility Easement must be added to the Subdivision Plat

Seconded by Mapes

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

Mel Gratton– Aye
Ron Mapes – Aye

Reports and Comments:

Tranel made a motion to adjourn at 9:14 PM. Mapes seconded. Voice Vote: All Ayes