

**Jo Daviess County Planning Commission/Zoning Board of Appeals  
Minutes for Meeting  
At the Courthouse-7:00 PM  
July 29, 2009**

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

**Roll Call Present:**

**Planning Commission:**

- ✓ Melvin Gratton
- ✓ Susie Davis
- ✓ William Tonne
- ✓ Nick Tranel
- Dave Jansen

**Staff & County Board Members:**

- ✓ Steve Keeffer, Highway Engineer
- ✓ Sandra Nolan, JDC Health Dept.  
Terry Kurt, State's Attorney
- ✓ Linda Delvaux, Building & Zoning
- ✓ Ron Mapes, JDC Board Member
- ✓ Marvin Schultz, JDC Board Chair

**Approval of Minutes:** A motion was made by William Tonne to accept the June 24, 2009 minutes. Seconded by Susie Davis Voice Vote: All Ayes Absent – Nick Tranel

Nick Tranel present at 7:05pm

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

**New Business**

**Korey & Serena Pfeiffer, owners, and Carter Newt, petitioner,** requesting a Special Use Permit in the Ag-1 General Agricultural District to allow for an existing non-agricultural residence on a 5.67 acre lot and a variance request for lot frontage. Common Address: 17385 US Route 20 West, East Dubuque, IL

**Staff Report**

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in the Agricultural Area. The Agricultural Area doesn't show any concentrated areas of important or prime farmland soils. This request is approximately ¾ of a mile from both Menominee and East Dubuque's municipal boundary. Menominee does not indicate a desired growth area, but, East Dubuque shows their growth area to be in this general direction. Although their defined area is shown to be north of Highway 20 recent growth trends have shown annexation to the south of Highway 20. This request sits to the south of Highway 20. The Comprehensive Plan would encourage development adjacent to or within a mile and a half of a municipality.
- Waste Treatment: The home has an existing septic system which should not be affected by this request. The system is properly sized for a 4 bedroom house and soil information is on file.
- Access Considerations: The access for this proposal is from an existing access point

on US Route 20, and is under the jurisdiction of the Illinois Department of Transportation.

- Other Considerations: A LESA has been completed and scored at 143. A permit was issued for this house in 2004 on a parcel over forty (40) acres. Applicant is requesting a special use permit for the existing home and intends to build another home on the remaining forty three (43) acres. There is an existing easement serving one home behind this parcel and an extension of this easement is being made to serve the request. The new easement has triggered the State Plat Act and therefore triggered our Subdivision Ordinance. An Eco Cat was done for the requested area. The report indicated this request is in the vicinity of the Dixon Creek North Geological Area INAI (Illinois Natural Area Inventory) Site, and has the following endangered species in the general vicinity; Hairy Woodrush, Meadow Horsetail, Yellow-Headed Blackbird. Should any of these be found site specific, steps to mitigate disturbance would have to be taken.

Carter Newt, petitioner

- The existing home was built on approximately 52 acres under an Ag zoning. Since that time I have purchased the 43 acres outside of the 5.67 acre parcel. This puts the existing home that was built on less than 40 acres and that is why we are asking for this special use. I also have a building permit application in on the 43 acre parcel.

**Public Testimony**

Scott Montgomery, 5608 Dunn Road, ED, adjacent property owner

- My concern is the drainage from the new property that will be built on. How will that affect my property? Just wondering what your plans are.
  - Carter Newt, petitioner, states that the septic system is where they have tested and the house will be to the south of the existing house.
- That is fine, build away.

Korey Pfeiffer, owner of the property

- He has my blessing for building.

**Public Testimony Closed**

**Discussion:**

- Tonne asks about the access, also the easement that is existing and the new easement.
  - Linda states the easement is shown on the plat for the requested parcel.
- Tonne asks when two residences access on an easement, at some point are we going to put a road in here for the next house.
  - Linda states that if they would further subdivide the property they would trigger that at that point, not now.
- Tranel states that they currently have 2 residences using the easement.
  - Linda states that they are asking for the existing house to use the easement. They will have only two, because he will own the remaining 43 acres and will not require an easement.
- Gratton states that this could have potential for further subdivision, but would be problematic with the entrance off Highway 20. It doesn't seem to be a problem right now.

Special Use standards reviewed and have been met

Linda states that I would recommend splitting the motion into two parts – one being the subdivision and the special use because that recommendation goes on to County Board and the second being the variance because that is final disposition at this level.

A motion was made by William Tonne to recommend approval of a special use permit in the Ag-1 General Agricultural District to allow for an existing non-agricultural residence on a 5.67 acre lot with a 1 lot subdivision stating the following:

1. Special Use Standards have been met
2. LESA score 143

Seconded by Susie Davis

Gratton states that the Special Use runs with the property, not with the owner.

Roll Call: Susie Davis – Aye  
William Tonne – Aye  
Nick Tranel – Aye  
Mel Gratton - Aye

A motion was made by Susie Davis to approve the variance request on the lot frontage requirement.

1. Variance standards have been met

Seconded by Nick Tranel

Variance standards have been met

Roll Call: William Tonne – Aye  
Nick Tranel – Aye  
Mel Gratton - Aye  
Susie Davis – Aye

**Duane Mitch & Donna France, owners,** requesting a Special Use Permit in the RP Planned Residential District to allow for a rural commercial retail store in an existing historic structure. Common Address: 1009 East Schapville Road, Elizabeth IL

### **Staff Report**

- Comprehensive Plan: On page 42 of the County’s Comprehensive Plan the County recognizes the small unincorporated communities such as Schapville and the challenges they may have particularly with commercial type endeavors. On page 40 it is stated that we recognize the importance of cooperating with municipalities in guiding growth and development to those areas within or near communities where services are most readily available and where growth is desired. Page 44 indicates the need to balance the desire for new commercial uses with the equally important needs of health, safety and welfare of the surrounding area and preserving productive farmland and the scenic beauty of the County. The Comprehensive plan indicates

support of existing business and the retention of those businesses and the importance of saving historic structures, but, at the same time it also discourages commercial development in rural areas that are at a distance from communities that can provide infrastructure and support.

- **Waste Treatment:** There is no septic system on file at the health department for the structure with the store. There is a septic system on file for the 4 bedroom house at 1009 E. Schapville Road. Potable water and wastewater disposal would be required to obtain a County license to sell food products. Soil borings have not been performed on this property. These would be required before a septic system could be installed.
- **Access Considerations:** It appears there may be 5 parking spaces adjacent to the building. In order to use those spaces, it will be necessary to back out onto Schapville Road when leaving. Vehicles will be parked on road right of way, however, that is a common situation in Schapville, and would only be a problem if vehicles were parked on the roadway itself. Sight distance is adequate for the reduced 30 mile per hour speed limit in Schapville.
- **Other Considerations:** The Schapville store had been in existence when Zoning took effect in 1995. This business, according to the County Zoning Ordinance, was classified as a nonconforming use. When a nonconforming use is discontinued or abandoned for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed. The use of the structure in Schapville as a store was abandoned for a period of at least 12 consecutive months, which brings us to the requested Special Use. There are mostly residential uses in the immediate area, with another grandfathered nonconforming business adjacent to this request. The Ordinance requires one parking space per three hundred square feet of floor area for general retail sales and service operations. Any additional lighting and signage will need to conform to Article 8-4e Lighting Regulations and Article 4c, Sign Regulations.

#### Donna France, owner

- Requesting special use permit to run a retail store in a historical building at 1009 East Schapville Road, Elizabeth. Covers the history of the building and property. In 2005, we purchased the property and turned the building back into a general store called A Bushel & a Peck. Intention is to keep the history going. Hours of operation would be May through October, weekends, I am the only employee, offer as many local products as possible – eggs, honey, pickles, and maple syrup along with home goods, and garden goods and anything good. Have had positive responses, ancestors of past owners come to the building to see the renewal of the property. The building and property meet all the necessary standards regarding health, safety, and welfare. Thanks to the Building and Zoning Office for helping me through this process.
- Linda states she spoke with Mr. Simonson from the Illinois Department of Public Health (IDPH), Plumbing Division today regarding any requirements that they would have on the building. Should this building need the wash station as commented on by Sandra Nolan, Health Department, they would need to put a bathroom in here as well. Mr. Simonson indicates that they would have to comply with the IDPH Plumbing Division, and they (IDPH) could determine if any requirements are needed.
  - Gratton confirms with applicant there is no water or plumbing facilities in

the building.

- Donna France states that there is no heat and no water. The only thing added from when the building was built is electricity. Did have concern about the Waste Treatment. I wanted to state that I serve no open or prepared food products. The items I sell are in jars, dry in a bag, or in its shell – egg. I have made sure that I stay within the guidelines to not require a wash station. I am not opposed to putting in a septic system, but only when and if I expand into open or prepared foods or if I am required to in order to get this Special Use Permit.
- Gratton states that we are required to follow all Illinois State Plumbing Codes as is the County, so if this needs further consideration for plumbing that would be part of the request and would need to work that out with the Illinois Department of Public Health, Plumbing Division.

### **Public Testimony**

Dean Williams, 967 East Schapville Road, adjoining property owner

- Resident of Schapville
- Whatever happens with her business does not bother me a bit, but I am with the Township, this is a County road, and I am concerned with parking and traffic. There have been situations there now, and she has put up a privacy fence to the east and is blocking the road view. The traffic count on that road is about 400 cars per day. My concern is the public safety. I have been by there before and she has had more than 5 cars and they do park on the right-of-way.

Esther Lieberman, 815 Clinton Street, Galena, use to live in Schapville for over 20 years

- The business and the husbandry from the two owners has been the best thing that has happened to Schapville since I have been there. Her building and shop is immaculate. The Sunshine Center is across the road and traffic goes in and out of there all the time.

Chrissy Socash, 1023 East Schapville, Elizabeth, live in Schapville

- Store is important to the community, friends and relatives when they visit they go to the store and they walk away happy and with extra pennies in their pockets because prices are good. Things are clean, antique, and old and bring you back to someplace that does not exist anymore. This is the definition of Jo Daviess County.

Carol Pouzar, 2303 Cording Road, Galena – 3 miles from request

- Watched how the property has been improved. Schapville is a mish mosh of zoning. There are farms to the north, south, east and west, homes within the community, couple churches, sunshine center, and couple business right there on Schapville Road. Donna has been a great ambassador for Jo Daviess County and Schapville. Place for people to stop and ask directions. Schapville is a unique place.

Liz Bulasko, 4458 N Cruiser, Galena and Director of Marketing for the Galena Jo Daviess County CVB

- Speak in favor of the request. The visitors guide featured a picture of the store. This is a neat addition to tourism. I shop there myself and would hate to lose it.

Sue Meusel, 627 East Schapville Road, lives in Schapville and owns adjoining property

- Lived in Schapville for over 30 years. Personally we have no problem with the store. We are concerned with the parking and traffic. Signage has been placed on the road, and we have farmers go through there, and swerving to avoid cars because they are parking on the road and right-of-way. We are concerned with the increase in traffic. Our shop is right next to her building and we pull in and park on the other side of the road, but we are used to doing that the other people are not. Afraid that an accident is going to happen. She is not only open on weekends, she is open 7 days a week.

Carolyn Fisher, 1525 North Hoppe Road, Elizabeth, adjoining property owner

- My understanding is that anyone who handles a retail food establishment must have a food sanitation license.
  - Sandra Nolan, Health Dept., states that if you are selling home grown produce or eggs that are hatched on your property you do not need a license. Any other food that would be sold would require a food license. Anything canned or prepackaged would require a food license.
- The business would need to be licensed and would also need to pay sales tax. If the business has been operating since 2005, without legal compliance, they are asking us to say that is okay.

Mike Meusel, 627 East Schapville Road, lives in Schapville and owns adjoining property

- What about that sales tax that the township and county has lost since 2005? If this does go through does the building have to comply with all Illinois State Laws.
  - Gratton states that it would have to meet all Illinois State Laws.
- Then there would be no smoking in the building.
- Does the building need to be inspected for being safe and the electrical for the coolers that they are putting in.
  - Linda Delvaux states that we would inspect the new construction, if taking out any load bearing walls or similar then you would need to get a permit. Existing structures do not get inspected
- What if the building is leaning to one side? What if something happens to the building is the County liable.
  - Linda Delvaux states the County is not liable
- She is letting them go into the hen house and collect their own eggs and wash them in her house. I don't think that is legal.
  - Sandra Nolan states that the eggs are to be candled.

Roberta Ware, 1003 East Schapville Road, adjoining property owner

- I moved to Schapville 27 years ago, I wasn't going to have to put up with commercial uses and fighting and ever since Donna & Duane have moved in, there has been fighting. We spend 85% of our time outside of our home. We only spend 15% of our time at home. We are surrounded by bushes, flowers and trees and there will be more traffic traveling into Schapville and I don't like it. We have children and grand-children and the more traffic she brings in the more doors that have to be locked and watch each other's property. I am opposed to this request because I am adjoining to her property.

Deb Bussan, 1519 North Hoppe Road, Elizabeth & previous owner of requested property

- There was electricity in the building when I owned the property. The store has been wonderful improvement to the community because it did bring back the history and what is behind Schapville. The traffic, I don't see a problem with that, it has been high traffic area anyways because the neighbors have a shop next door and they have parked on both sides of the road before. The property has a long driveway where cars can pull in and be off the road. When I owned the property this building was storage, she has made this building immaculate and beautiful. As far as crime I don't see that, this all came about because there were a few requests for people to clean up their property. This is all an unfortunate situation because there are county rules. I had problems myself when I lived there and I tried to address them personally, but it didn't always work.

Joan Murray, 706 Park Avenue, Galena

- The store is adorable and charming. The County Comprehensive Plan is to bring people to other parts of the county other than Galena. This sounds like Galena 20 years ago stating we don't want new people coming in or tourism. This is a wonderful thing and this is what the county is trying to promote. Regarding inspections of existing buildings Main Street Galena is in trouble because everything leans.

Janet Williams, 967 East Schapville Road, Elizabeth, adjoining property owner

- I am anti-store because everybody says this is a good thing for Schapville, but all those people do not live in Schapville. I like a nice quiet town and that's when people don't know where Schapville is. We have about 40 people that live there. She stated that she has no employees, but she had a neighbor girl work for her at least last summer.

Roberta Ware presents a petition.

Donna France, owner

- What do I say, I am sorry that I uprooted or upset Schapville that is the last thing I wanted to do. I just wanted to live and let live. I wanted to do what I do, which is restore old buildings and run retail store, I am not open 7 days a week, and Tina Hurlburt the neighbor girl does not work for me anymore. If I can do anything to the store to make it better, I am with you, I live here too. I don't want strangers or robbers coming to town.

Carmen Panico, 309 North Main Street, Stockton

- I owned the property in question previously. Does the board consider vendettas when making a decision? All the negative testimony is based on one thing; she had the county check out the properties to see if they can be cleaned up. I can understand that because when I owned the property I asked the Meusels to clean up their property and the Wares, and since then the Fishers have moved into a little house and compounded the whole situation and put it in site of the requested property view. If they are worried about traffic, then Ware will have to move his truck off the road that he has had there for a long time.

Kurt Meusel, 1521 North Hoppe Road, Elizabeth and adjoining property owner

- We had to clean up our stuff, but they didn't have to clean up their stuff. They had shingles and things in their back yard.

### **Public Testimony Closed**

### **Discussion:**

- Gratton states we can cover the parking and traffic issue and does it meet the requirements.
  - Linda Delvaux states that the Ordinance requires one parking space per three hundred square feet of floor area for general retail sales and service operations. Additional lighting would need to conform to the ordinance as well as signage would need to conform to on-premise signage requirements. A curser review of her signage would indicate that it would comply, but would review again to make sure it is in compliance.
- Tonne states that in the report it states there is room for five parking spaces does that meet the requirement of the square footage of the building.
  - Linda Delvaux states that the square footage of the building has not been review yet, but once that is done we would need to conform to the ordinance. The parking would need to be back off the right-of-way and eliminate the parking in front of the building to minimize safety issues.
  - Gratton states that is seems as though we can get the parking requirement on the property.
  - Linda Delvaux states I believe it can, but Steve Keeffer, County Highway Engineer is here for input.
  - Steve Keeffer states that it appears they would have room. It is hard because people in Schapville park on the right-of-way. I do have a problem with people parking in front of the store and then backing out onto Schapville Road.
- Gratton asks about the site distance and if that is a problem.
  - Steve Keeffer states that it is posted at 30 MPH so I don't see it being a problem.
- Tonne asks about the state food license, smoking, taxes, building codes. What is our jurisdiction to cover?
  - Linda Delvaux states that is another entity as well as Health Department can fine for the smoking issue, if it is a public building they would have to abide by those rules. The plumbing is the State Plumbing Code, they are willing to meet and review the site and let the owner know what is needed. The food license is taken care of through the Health Department. The only inspections we would do is new construction.
  - Tonne asks if the wash room is not required then no inspection would be required unless she would do new construction.
  - Linda Delvaux states that any construction that would require a permit would require inspections.
- Tonne asks the owner if the IDPH requires a bathroom then septic would have to be installed and that would trigger soil borings being done. You have agreed to that if required. Food license would be required and would get that. We may attach hours of operation for a special use request. Do you want to continue May through October and weekends only.
  - Donna France has agreed. I will do the necessary parking, the square footage is 1700. That would require 6 parking spaces. I would obtain the food license. I will only have from May through October because there is no heat in the building. I will not heat it or run a wood stove all winter long.
- Gratton asks what your hours of operation are.
  - Donna France states May through October, weekends only, sometimes by chance, and always by appointment. I say it like that because if someone is at the

Sunshine Center on a Wednesday and someone wants eggs or honey then they can get those items if I am there. I am only tied to the store on the weekends.

- Tranel asks what specific hours you are open.
  - Donna France states I do not have hours posted. Typically it is from 10 am till I get tired or until people stop coming.
- Gratton states that we have a section in the Ordinance on signage that will need to comply.
- Gratton asks if you have employees.
  - Donna France states that I don't make enough money to have employees.
- Davis asks when the Sunshine Center is open. I am trying to figure out where the 400 cars per day came from.
  - It was stated that they are open Wednesdays and the last Saturday of the month, but people can drop things off any time.
  - Steve Keeffer states that he gave that number to Dean Williams. IDOT has an average daily traffic map, which was last done in 2005, by using either a hose or the cards. They do this every 5 years. It is posted 30 MPH and the sign has been up for a long time. This would probably qualify for an urban zone for speed.

Special Use standards have been met

A motion was made by William Tonne to recommend approval of a special use permit in the RP Planned Residential District to allow for a rural commercial retail store in an existing historic structure with the following conditions:

1. Must comply with all IDPH and JDC Health Dept. and all other local and state requirements
2. Parking off of Road right of way must comply with the County Zoning Ordinance.
3. Signage and lighting must comply with the County Zoning Ordinance.

Tonne recognizes principally that this fits the Comprehensive Plan and a special use in the RP District is appropriate.

Seconded by Nick Tranel

Davis states that I hope this prospers and is good for the area.

Gratton states that this is a historic building and the Comprehensive Plan indicates to preserve those in Jo Daviess County and it is good that people are willing to do this.

Special Use standards were reviewed and have been met.

Roll Call:     Nick Tranel – Aye  
                  Mel Gratton - Aye  
                  Susie Davis – Aye  
                  William Tonne – Aye

**Diane Runde, owner**, requesting a Special Use Permit in the Ag-1 General Agricultural District to allow for a rural retail store in an existing historic structure. Common Address: 6521 Hill Road, Scales Mound, IL

### **Staff Report**

- Comprehensive Plan: On page 42 of the County's Comprehensive Plan the County recognizes the small unincorporated communities such as Council Hill Station and the challenges they may have particularly with commercial type endeavors. On page 40 it is stated that we recognize the importance of cooperating with municipalities in guiding growth and development to those areas within or near communities where services are most readily available and where growth is desired. Page 44 indicates the need to balance the desire for new commercial uses with the equally important needs of health, safety and welfare of the surrounding area and preserving productive farmland and the scenic beauty of the County. The Comprehensive plan indicates support of existing business and the retention of those businesses and the importance of saving historic structures, but, at the same time it also discourages commercial development in rural areas that are at a distance from communities that can provide infrastructure and support.
- Waste Treatment: A new septic system was installed 6/26/09 on this property. The system was sized and permitted to accommodate a 2 bedroom apartment and 20 customers per day at a bar. Soil borings are on file for this property.
- Access Considerations: Access is from Hill Road just south of an at grade rail road crossing. Traffic speed will be low due to the adjacent rail road crossing and geometrics of Hill Road. Sight distance for southbound traffic turning into the site is impaired by trees and brush growing between Hill Road and the rail road tracks; it should be removed. If the vegetation is controlled, sight distance should be adequate.
- Other Considerations: The Council Hill Station was in existence when Zoning took effect in 1995. This business, according to the County Zoning Ordinance, was classified as a nonconforming use in the Ag-1 General Agricultural District. When a nonconforming use is discontinued or abandoned for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed. The use of Council Hill Station as a store was abandoned for a period of at least 12 consecutive months, which brings us to the requested Special Use. There is a mixture of residential and agricultural uses in the immediate area. The Railroad owns the Right of Way in front of the requested parcel.  
The Ordinance requires one parking space per three hundred square feet of floor area for general retail sales and service operations. Any additional lighting and signage will need to conform to Article 8-4e Lighting Regulations and Article 4c, Sign Regulations.

### **Adam Johnson, Architect representing owner**

- Working with owner for several months on the rehabilitation of the Council Hill Station. Respond to items on the staff report regarding the septic system sized for two bedroom apartments and 20 customers per day at a bar. This was a misunderstanding with Tom Golden when the soil borings were done. We have no intention of having a bar in this building. There will not be liquor consumed on the premises. The septic I believe is sized for the commercial use of the building. This is not new development; this has been in place since the 1850's, railroad station, post office, and store at this location. Covers the necessity to meet standards in packet information and the Comprehensive Plan. The

owner is intending and has started the process on putting this building on the National Register of Historical Places with the State of Illinois. Applicant is very interested in restoring this building and making it publicly available as an example of the history of the county and the area. The vision plan supports this with its first three statements – preserve, enhance the agricultural history of the county, stewards of the heritage. This would provide another location for tourist attraction and the owner wants to emphasize using new sustainable methods of farming, provide access to markets, local agricultural community, help diversify the local agricultural community by providing diversified products from her property and the local area there. By placing the building on the National Register of Historical Places and using the historic tax credits that are available, show a pathway for further development for the county. People have been coming to see what they are doing and a lot of support from the local community to see the history preserved on the site. The history of the old railroad station is important. This could be possible to make this again a train station or whistle stop or gain access to the train.

- Tonne asks about the parking and the railroad right of way and if there is any conflict.
  - Adam Johnson states that they are more than willing to allow them the parking area as they always have. Te owners have contacted the railroad and they are pleased to see this being revitalized.
  - Linda Delvaux states that if the Zoning Board makes recommendation for approval I would request that a letter be submitted of an agreement between the railroad and the owner to have parking on the railroad right of way.
  - Adam Johnson states that it is not typical to enter into an agreement such as that, but we can get a statement of their policy of allowing the use of the right of way. We may be able to negotiate that issue, because this would be a legal matter for the railroad.
- Tranel asks about the site distance.
  - Steve Keeffer states when he looked at the request, the way the road is people are not traveling fast, but when you are coming from the north and turn into the store, you may not see the traffic coming from the south because of brush on the right of way.

### **Public Testimony**

Scott White, 6513 North Hill Road, Scales Mound, adjacent property owner

- Have had problems in the past, I have had people pee on my front yard, park everywhere, on my driveway, lay rubber all the way up the hill, it would be three o'clock in the morning and people would be out drinking or shooting guns. I don't want to see that continue. I don't have a problem with them opening it and selling food, but not the liquor.

Gratton asks if the problems were a part of the business that was there or just people in general

- Stated that it was probably both, but people would stay on the property after hours. This was a place to gather. I have had things stolen out of my backyard. Would be against bands and would want to make sure they are closed early enough.
- I contacted a guy at the railroad by the name of Wyatt Jamison, police officer for the railroad, and I asked about using that area for parking, and he stated that they will not do

any agreement for parking because of the liability. I can probably get that in writing.

Mary Kay Solberg, 6666 North Hill Road, Scales Mound

- I believe live and let live. My husband's family has had our property since 1935. I don't want to have a biker bar there. This is what we did have prior to zoning and they had a class D license to sell packaged liquor, but they consumed it on site after hours and in cars which is illegal. I would have no problem with the retail business if there were no liquor sales. Parking was stated was on the Illinois Central Railroad, which does not even own it anymore. I would want to see that agreement to make sure she would have adequate parking provided. She has also talked about having overnight guests, does that require more parking area then. I moved into the country to a quiet area and I am not thrilled about the National Register of Historical Places. That changes property values and can often negatively impact property values if you want to sell, because historic designation puts limits and mandates on property. We have heard the rumors that it is going to be a biker bar, and it was not that back in the 1890's. Deny the application as long as the liquor part is in there.

Gratton states that the reference to the 2 bedroom apartment was referencing how the septic system size was determined.

- I was talking about in the application where she states about the existing siding which could be used to house overnight guests.

Gratton states that he does not believe that is part of the request tonight.

- Adam Johnson states that people own railroad cars and if they get together they will have a special train event and travel around, but they are like campers. They would not service these people via overnight guests.

Roger Baggett, 6793 Hill Road, Scales Mound – secondary residence

- I own the school house to the north. The peacefulness, tranquility, the innocence, and the people here are just a wonderful thing. We are not enthused about the idea of having the alcohol or clientele that would be attracted. We would pick up the litter on the side of the road up Hill Road and there would be bags of garbage, I am not saying it was all from the people at the bar previously, but it has stopped or down to 90%. I have had tire tracks in my back yard; school bell that was outside the school was stolen. The noise, I don't have a problem against the people that drive them or motorcycles, but they go up and down that hill. I have witnessed the drunkenness where people would go and purchase the beer and then sit in the parking lot in front and drink the liquor, and then drive off, in an area where you have a river and railroad tracks, which have no safety gates.

Hylene Anderson, 1625 Marjorie Circle, Dubuque IA, owns adjoining property

- Thank the committee for time they have given and the tough decisions you have made.
- I have driven by and I am impressed by the way it has been cleaned up. Concerns about the liquor license and what might happen. We have seen motorcycles, sometimes 75-100 and you could barely get through there at times. This is a safety hazard. The litter is a concern. If it was to be just retail with no liquor then I would have no objections. We are starting our 5<sup>th</sup> generation farming that area. As far as the tourism and the historical part of the building, in the application she states that she wants to run it as it was from 1982 to

2005, which included music, liquor, and motorcycles. Who follows up on the special use permit if it is granted?

Gratton states that most often the follow up comes from a complaint or an issue comes to the Zoning Officer and she will investigate to make sure they are complying with the rules.

- We have places to get our supplies like Wal-Mart and Piggly Wiggly.

Adam Johnson, Architect representing owner

- They are not intending to have a biker bar. Her intention is to open without liquor and try to run the store as a general store as an outlet for local produce, but have the option to if it is commercially difficult to have packaged liquor, but is not her intention to have it right off the bat. The complaints about the vandalism and so forth, we don't want to see that either. They along with neighbors should contact law enforcement to keep things from happening. The historical limitations have no effect on adjoining properties. If you are listed on the historical register there are no limitations on what you can do to your property, we could bulldoze them tomorrow. It impacts you to get tax credits to do the historical rehabilitation. No overnight guests. The previous owner from 1990's to 2006 ran it as a store then it became a biker bar.

Art Solberg, 6666 North Hill Road, Scales Mound

- This was previously a meeting place, to recreate what the previous owner had; he never sold retail goods out of there. The noise and guns were all hours of the night, police are too far away to do anything and there was no enforcement. I had heard months ago that this was going to be a biker bar again. We as a neighborhood don't want that here.

Tonne asks about the gathering of the bikers happened, but the liquor they consumed was bought on site or off site and brought there. Were the police called?

- The liquor was bought on site and then consumed on the railroad right of way. They were called very infrequently, there was no control. It is isolated.

Mary Kay Solberg, 6666 North Hill Road, Scales Mound

- What are the hours of operation?

Diane Runde, owner

- I am amazed that all of the things that have happened in the past are coming down on me. I have been in Alaska for the last 30 years and I have a thing about septic systems. I lived in a rainforest, I have had a septic system fail, flowed in the streets, septic treatment system, I was in the tank checking it out myself. I don't know where this place is going. It fell in my lap. I am into historical preservation; I live in a house that was built in 1842. My mother is 96 and still maintains that house. I was out at Council Hill when I was little. I have no intention of running a biker bar. There are bikes that go by all day long, they are on a route that is published. We hope to make a go of it without selling the alcohol, I plan on providing some convenience foods for the neighbors, touristy things, and I want the history exposed. We have spent hours cleaning up the property. If I am ever to apply for a liquor license to sell packaged liquor or anything, it will never be a bar as long as I own it. I am working on a lease from the railroad for using that for the parking area and control the use on that property.

Tonne asks about the 41 acres and if willing to put the parking on the property other than the

railroad right of way.

- That would be a destructive thing to do on the property with pavement or gravel area. This area is all grass and has no run off problems, however if I have a problem with the railroad, to the right of the store there is room and we plan on taking down a garage and would probably be sufficient parking.

Tonne asks about the liquor sales. We have heard testimony, but what about liquor sales are you willing to give that up.

- I cannot say what I want a year from now, I want to make money obviously, but I am going to be leasing the farm ground and I have to be able to make it. I can't say that I never want to sell alcohol, but I can say that I never want to have a bar.

Tonne states that she could come back if she wanted to have the liquor.

- Linda Delvaux states that if you were to recommend approval with the condition of no alcohol and three years down the road she wants to, she can request that at that time through this same process.
- I was told that I need to have inventory of my items to the Zoning Office. So do I need a complete list of what I sell? Are you concerned with everything in the store that I sell?
  - Linda Delvaux states that you do not need to provide an inventory; I may have wanted a general idea or type of what you were looking to sell.
- I want to take the liquor off the table, which is not my intention right away to sell liquor.

#### Jamie Jones, partner of owner

- Talk about the property lines, talked with the railroad and there is no pro or con on parking on the railroad right of way. Talks about the parking situation in the area; regarding neighbor's dump truck and camper on railroad right of way. According to the railroad guy he only needs 4 feet from that dead track and that is where Scott White has his trailer. The railroad guys are looking forward to being able to purchase things here and they already use our bathroom. This is a convenience for the railroad. The issue of the site distance with the brush, I have been cutting the grass in the area of the site distance problem and the railroad right of way area. The issue of extra parking, it came into more soil borings and drainage. We could do extra parking on the road going in the back. Not sure how the bar got in on the paperwork. We don't want people drunk out there or guns here at all.

#### Glenda Miller, 6670 North Hill Road, Scales Mound

- From the beginning Tommy Bruin selling from a general store, then applied for packaged liquor sales, and from day one let people drink in the store and outside the store and when had to go to the bathroom, they would go right out front. I reported this to the Sheriff's, but nothing was done. Bullets go over top of my house at 7 o'clock at night and the bikes go by all day long on the weekends and holidays. This was noisy and the music was loud as well. Concern that it will turn back into that.

Gratton asks that music has been brought up, are there plans for this.

- Diane Runde states that music was included in my application. We will be doing music.
- Jamie Jones is a musician and wants to play guitar outside and indoors. We would like to have a founder's day celebration with music. We are not planning any Woodstock.

Gratton asks is if going to be indoor or outdoor.

- Jamie Jones states that indoor would be small and would like to celebrate holidays with music. May have acoustic music outside. We are not planning on being open any later than 9 o'clock. Train echoes more than any amount of motorcycles or music.

Gratton states that Linda has reviewed the application regarding music

- Linda states that I have not seen that in the application,
- Diane Runde states that I may have forgotten that in the application.

### **Public Testimony Closed**

### **Discussion:**

- Davis asks about the special events and get a permit option in the ordinance
  - Linda Delvaux states that if the commercial event is not within a building then they are to get a temporary use permit. If they wanted to do a 4<sup>th</sup> of July special event with a tent up, they would need to get a temporary use permit.
- Tonne states that the opposition was to the liquor and I see this as a problem for this request. We had a lapse in the business and this is a new request.
- Gratton states that we are aware of drinking on rural road and the problems that come of that. I think that there are proper places for the consumption and the sale of alcohol. We need to determine if this is a location for that and if this is a need. The testimony has been quite negative and I concur with that. She may be an excellent person to monitor this, but the issue may be the next owner if we let this special use run with the land. If this request hinges on the need to sell the liquor to be profitable we may be in trouble, the Comprehensive Plan does not lend to that. I am in favor of 98% of this request. I could be in favor 110% without the packaged liquor sales.
- Davis asks about the liquor license and who issues them.
  - Marvin Schultz, County Board Chair, also the Liquor Commissioner, we have a three member Liquor Commission that issues the licenses. There is an application process and then we do background checks and then goes through the application and then if meets then license is issued.
  - Davis is asking if we have authority to say no to the liquor
  - Linda Delvaux states you have the authority to add conditions to a special use.
  - Gratton states that the Liquor License is above and beyond what we do here.
  - Marvin Schultz states that there was a problem with a license being issued improperly. The license was issued prior to me and then I renewed it, it was a bar 1 ½ years before it closed, because they were issued a full liquor license by mistake. We would check with all zoning or if a violation was on file before issuing the liquor license.
  - Davis states that I can envision what she wants to do here, but I think we are all envisioning the six packs, but I see more of the fine wines being here.
- Gratton talks about the parking issue. The railroad parking area is not 100% solved. There is probably not a problem with parking on that right of way, but there needs to be a concurrence with the railroad. I understand there is a liability issue. There has to be some type of agreement with the railroad in order to utilize that area or provide the parking on the property.
- Davis states that from having a business next to the railroad for 45 years, which will not happen regarding the parking issue with the railroad.
- Gratton asks about the noise regarding the music.
- Tonne states that I have had problems with acoustic guitars outdoors, but I think we should not include outdoor music. No firearms or ammunition sales.
- Tranel states that safety is priority. There are special permits for special events/temporary use permits that they could apply for when they want to do the 4<sup>th</sup> of July celebration.
- Hours of operation were talked about.

A motion was made by Mel Gratton to recommend approval of a special use permit in the Ag-1 General Agricultural District to allow for a rural retail store in an existing historic structure with the following conditions:

1. No liquor sales either package or consumed on site.
2. Indoor acoustic music allowed
3. No music outdoors (Outdoor music may be part of special events when a Temporary Use permit is applied for and received as indicated in the Jo Daviess County Zoning Ordinance under Article 8-5b-37.
4. Hours of operation from 6:00 AM to 9:00 PM, 7 days a week
5. Parking agreement between the petitioner and the Railroad, indicating the ability of the petitioner to use the railroads right of way for the store parking. If no agreement is reached, petitioner must provide for parking on their property off of the right of way in accordance with the County Zoning Ordinance.
6. Signage & lighting in accordance with the County Zoning Ordinance
7. Must comply with all IDPH and JDC Health Dept. and all other local and state requirements
8. No firearm/ammunition sales allowed
9. No overnight Guest Accommodations allowed
10. Trees are to be trimmed just south of the railroad intersection to increase road safety

Seconded by Nick Tranel

Special Use standards reviewed and have been met

Roll Call: Mel Gratton - Aye  
Susie Davis – Aye  
William Tonne – Aye  
Nick Tranel – Aye

**Reports and Comments:**

Steve McIntyre asked how the request in Schapville was brought forward.

Linda Delvaux states under the RP District there are commercial uses such as neighborhood centers as special uses.

Nick Tranel made a motion to adjourn at 10:05 PM. William Tonne seconded. Voice Vote: All Ayes