

**Jo Daviess County Planning Commission/Zoning Board of Appeals
Minutes for Meeting
At the Courthouse-7:00 PM
June 25, 2008**

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
- ✓ Matt Calvert, 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 Nick Tranel to accept the May 28, 2008 minutes. Seconded by Susie Davis Voice Vote: All Ayes

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

New Business

Gary & Lenora Rand, owners, requesting a variance from the required fifteen (15) foot Guest Accommodations setback from the side lot line to eight and one-half (8.5). Current Zoning: RP Planned Residential District. Common Location: 22 Augusta Drive, Galena (ER 3 Lot 26)

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: The existing septic system was installed in 1980 and consists of a 1000 gallon septic tank and 930 square feet of subsurface drain field. Soil borings have been performed, for this property, in April of 2005. The current septic layout is sized for a three bedroom house without a garbage disposal. The house is served by The Galena Territory's municipal water supply.
- Access Considerations: The existing access will not change.
- Other Considerations: This structure is existing and sits just southeast of the Poplar Ridge Townhomes. The petitioner is requesting a variance from the west side lot line. There is an empty lot to the west and an existing house on the lot to the east. The following are existing rentals in the area:

Augusta Drive

9 Augusta Drive, ER 3, Lot 14
19 Augusta Drive, ER 3, Lot 19
27 Augusta Drive, ER 3, Lot 23

Bob-O-Link Court

4 Bob-O-Link Court, ER 3, Lot 33
6 Bob-O-Link Court, ER 3, Lot 32

Ron Leinen, Attorney at Law for Petitioner

- This house was built in the early 1980's. This would support tourism in the County. The lot next door is large and I don't believe would impede the placement of a house on that lot. Would be willing to do screening if need to. States that the standards for variance have been met.

Public Testimony

Joe Mattingly, General Manager Galena Territory Association

- Galena Territory has no objection to the request

Public Testimony Closed

A motion was made by Bill Tonne to recommend approval stating the following:

1. Outdoor activity area to the requested side is minimal
2. Green screening to that side currently

Seconded by Nick Tranel

Discussion:

- Review of the standards for variance has been met.

Roll Call: Susie Davis – Aye
Nick Tranel – Aye
Bill Tonne – Aye
Dave Jansen – Aye
Mel Gratton – Aye

Kimberly Schleicher-Flack, owner, requesting rezoning from Ag-1 General Agriculture District to R-1 Rural Residential District to allow for a non-agriculture residence. Common Location: 2773 South Georgetown Road, Elizabeth

Staff Report

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in the Agricultural area; this is an area with less prime and important soils than Preservation areas 1 & 2, but is shown to have some areas of important farmland soils. This request is approximately 1 mile northwest of Elizabeth. The Comprehensive Plan would encourage development adjacent to or within a mile and a half of a municipality.
- Waste Treatment: Soil borings were performed for this property in October of

2007. Borings indicated that soils are suitable for a conventional septic system on this lot. An abandoned well is present on the southeast part of this lot, and will need to be properly sealed in accordance with the Illinois Water Well Construction Code. If there are any other abandoned wells on this property, they too will have to be properly sealed.

- Access Considerations: There is an existing entrance along the property frontage with adequate sight distance in both directions.
- Other Considerations: A LESA has been completed and scored at 149. There is a mix of agriculturally and residentially zoned property in the adjacent area. Adjacent to this request is a parcel that was rezoned to residential in 2005 and parcels to the northwest 1995 & 1997. This area has seen development in the past few years. This parcel is in the immediate vicinity of the proposed new highway.

Kimberly Schleicher-Flack, owner

- Own the adjoining property to the northwest. Would like to build and access off of Georgetown Road. Would like to build in the lower east side of property.

Discussion:

- Tonne asks if you are aware that you would be close to the new road for the bypass. Asks what the setback requirements would be.
 - Kimberly states that I am aware of the new road
 - Delvaux states that IDOT does have the right of way recorded and would not be able to build in that corridor, not sure how far from the actual corridor that you would have to build.
 - Kimberly asks the difference between an easement and the corridor.
 - Delvaux states that an easement is property that you still own, but yet someone else has the right to use it. The corridor is the area where IDOT will purchase for the new road.
- Tonne asks what the setbacks will be from the right of way. Setback from rear lot line is 40 feet.
 - Keeffer states that it would be 50 feet from the property line. The right of way shown is about 150 feet and seems like a lot, maybe they are allowing extra area to work in for topography and other issues.

Public Testimony

None

Public Testimony Closed

Discussion:

- The abandoned well on the property needs to be sealed
- Tonne states that the septic is laid out and meets the requirements

A motion was made by Susie Davis to recommend approval stating the following:

1. In an area that is developing
2. Septic is defined

3. Frontage requirement is met
4. LESA is 149
5. Abandoned well(s) need to be sealed
6. Structure setbacks from the proposed Georgetown alignment must be adhered to. (Township road setbacks: 50 feet from the property line or 80 feet from the centerline of the road, whichever is greater.) House will need to be outside of the corridor and meet setback requirements

Seconded by Dave Jansen

Roll Call: Nick Tranel – Aye
 Bill Tonne – Aye
 Dave Jansen – Aye
 Mel Gratton – Aye
 Susie Davis – Aye

Donald & Sandra Wiene, owners, requesting rezoning from Ag-1 General Agriculture District to R-1 Rural Residential District to allow for non-agriculture residence on each 6 surveyed parcel. Common Location: at the intersection of Elizabeth Scales Mound Road and Snipe Hollow Road, Elizabeth

Staff Report

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in the Agricultural area; this is an area with less prime and important soils than Preservation areas 1 & 2, but is shown to have some areas of important farmland soils. This request is approximately 4 miles north of Elizabeth and 1.5 miles to the east of the Galena Territory. The Comprehensive Plan would encourage development adjacent to or within a mile and a half of a municipality. This request sits at the very beginning southerly edge of the Elizabeth Scales Mound Ridgeline as indicated by the Prominent Mounds and Ridges of Jo Daviess County map in the Comprehensive Plan, page 54.
- Waste Treatment: General soil investigations were performed in March of 2008, which indicated that 5 of the 6 lots have soils that can support a conventional septic system. The remaining lot would have to utilize an alternative septic system, such as a sand filter. More in-depth, on-site soil borings will have to be completed to locate the best area for the septic systems, due to the many soil transitions found in the proposal area. Lots are large enough to support a septic system and a private well.
- Access Considerations: This proposed development utilizes one existing entrance and three proposed entrances. Two entrances are located on Elizabeth Scales Mound Road and two are located on Snipe Hollow Road. The Assistant County Engineer met with the petitioner to locate the proposed entrances in locations with adequate sight distance. One of the entrances from Elizabeth Scales Mound Road is into a rock bluff, and will be expensive to construct. Two of the proposed entrances are shared entrances. Shared the cost of construction and subsequent maintenance of an entrance can be

potentially problematic.

- Other Considerations: A LESA has been completed and scored at 187. There is a mix of agriculturally and residentially zoned property in the adjacent area. Adjacent to this request are two parcels of land that were rezoned to residential in 2000 and parcels to the northwest and southwest rezoned in 1996. This area has seen development in the past few years.

Nate Kieffer, surveyor representing owner MSA Professional Services

- Requesting 48 acres for rezoning at the intersection of Elizabeth Scales Mound Road and Snipe Hollow Road formally the Jim Neece property. Parcel sizes range from 6 to 9 acres. They are parcels not lots. Adjacent to an existing subdivision Oakwoods Subdivision #2. Intention of this proposal is to be an extension of the existing subdivision and rural residential area. All parcels over 2 acres, over 200 feet of road frontage; R-1 is suitable for low density and less productive areas which this is. When recorded the survey will include the setback requirements. In relation to the Comprehensive Plan this property has very steep slopes with 60% of the property over 25% in slope. The property is heavily wooded, below average soil productivity as a whole for the site. This is within 1.5 miles of Galena Territory, next to an existing two lot subdivision. The houses on Snipe Hollow Road will be about 30 to 40 feet below the road elevation and off Elizabeth Scales Mound Road they will be 80 to 100 feet below the roadway. One to three soil borings have been done on each parcel. Parcels B, C, D, E, and F can support conventional septic systems and A would need to utilize an alternative system. Access points were approved by the Assistant County Engineer in the spring. This is an expansion of the existing rural residential area. Submitted a copy of the neighboring properties, owners and what they own. Sweely – 5 acre parcel, Wienen – 5 acres, Denk – two residences on 5 acres, Christ – residence on 10 acres, Birkel – 20 acres, Kelly – 9 acres, Carlson – 19 acres, Vaupel – 11 acres, larger farm buffered by trees, no mixing with farming and residential uses, Neece main house and guest house, Henker – 6.5 acres, Exstrom – 5 acres, Thommsen – 7.5 acres, Blue Sky acres and Racoon Hollow are subdivisions that have some homes on the properties, along with Branigar’s Longview Subdivision.
- Tonne asks about the shared entrances for parcels AB and EF, if agreed that they will remain that way
 - Donald Wienen states that I will install the driveways for the shared access.
 - Gratton asks if there will be easement language indicating that and maintenance agreements.
 - Donald Wienen states the driveway will be about 20 feet wide.
 - Nate Kieffer would recommend not doing the easements, because they will be able to remain on their own property.
 - Jansen asks if there will be language for the cost of maintaining the shared entrance.
 - Donald Wienen states that we can if you think we need to because they will own part of the entrance.
 - Jansen personally likes the idea of maintenance language for the shared

- entrances.
 - Donald Wienen indicates that language will be included for the shared entrances to share the maintenance of the entrance.
- Gratton asks about the driveways that look like they will be perpendicular across the contours, concerned about erosion. Are the house locations in the best location to utilize the best use for the driveways?
 - Donald Wienen states the only one that may have erosion problems is parcel C, down the existing road, I plan on building that road up so that it comes out more at the grade of Snipe Hollow Road. The driveways will follow the contours
 - Nate Kieffer states that the driveways may have only been shown for information purposes Indicates that there will need to be switchbacks for the driveway because the grades are around 20%. The home sites were sited in the field for purposes for aesthetics and views. The home sites are intended to be in that area shown, but the driveway entrances are set on the plans, and the driveways need to be engineered and planned out.
 - Gratton is concerned with how you get to the house and do the least or minimal amount of damage possible in order to access these points.
- Gratton asks if that farm entrance will ceased to exist except to access this property.
 - Donald Wienen indicates that will be correct.
- Davis asks about parcel E and the location of the home if it is nestled in the woods or not
 - Nate Kieffer states they all are nestled in the trees.

Public Testimony

Dr. Christ, 1046 N. Elizabeth Scales Mound Road, Elizabeth

- Part time doctor, full time farmer on about 400 acres of direct market beef and lamb
- Adjoining landowner to the west of the request. If this property is developed there is another 110 acres that are remaining and I am concerned that the access that I use will become an access for the remaining 110 acres. If this is approved would that reflect on any other development on the remaining acreage?
 - Gratton states that at this point I don't think so. Asks about the entrance and if you own that or have an easement.
 - Dr. Christ states that I have an easement to access my property.
 - Gratton states that what you are talking about is not requested tonight. We would need further information if that were to be requested in the future.
- Question about Elizabeth Scales Mound becoming IL Route 84 when the new highway comes through.
 - Gratton states from the current 20/84 intersection it will go across the land and approximately at Georgetown and Elizabeth Scales Mound Road the new road will cross there. At this location of the request it will not affect it
- I have no objection to the request

Public Testimony Closed

A motion was made by Nick Tranel to recommend approval stating the following:

1. Existing Surrounding development

2. Access – There are two shared accesses with deed restrictions outlining the process of shared maintenance and other cost related issues.
3. There are tree lines separating the residential use from the adjoining agricultural uses.
4. LESA 187
5. The property is sloped, with suitable soils for septic.

Seconded by Bill Tonne

Discussion:

- Tonne states that this is very sloped property with a LESA of 187, septic suitable on five parcels with one parcel being an alternative system.

Roll Call: Bill Tonne – Aye
 Dave Jansen – Aye
 Mel Gratton – Aye
 Susie Davis – Aye
 Nick Tranel – Aye

Jo Daviess County, by the County Zoning Administrator requesting text amendments as presented to the Jo Daviess County Zoning Ordinance

Linda Delvaux, Zoning Administrator presented the text amendments info on Article III: Section 3.1

- Removing Article III, Section 3.1 will provide cohesiveness with the other changes in this section
- Article III, Section 3.2, C. Special Uses, #38– allows the opportunity to build a house on a lot smaller than the required lot size of 80 acres if the conditions were favorable instead of rezoning the property and changing the zoning map.
- Article III, Section 3.3 Lot Size Regulations – striking out current sections A and B and replacing with a new A, B, and C. C is a minimum permitted lot size for a non-ag and ag residence is 80 acres in the Ag District, A and B are exceptions to the rules – if a lot was recorded prior to March 1, 1995 and remains the same today and can meet all applicable setbacks, building code, septic and waste disposal requirements a home can be built on that property. B states parcels that are in acreage from 40 to 80 and have been recorded prior to an anticipated adoption date of July 8, 2008 will be buildable provided that said residential use conforms with all applicable setback, building code, septic and waste disposal requirements.
- Article III, Section 3.7 Existing Agricultural Residences, allows a single family residence that was in place prior to March 1, 1995 to split off of the farm with at least 2 acres, 150 feet at the road way and the new section that they must meet all Illinois Law including but not limited to the Plat Act (765 ILCS 205/). Additional item added states that if the existing ag residence has been separated under this section and is removed, damaged, destroyed or etc. that it may be remodeled, reconstructed or replaced so long as a building permit is applied for within twelve months of the demolition or removal of the

structure. If you wanted to currently tear the house down that is under this section you currently could not do that under the current ordinance.

Discussion:

- Gratton talks about how these changes came about and in relation to the Comprehensive Plan and other documents. Keep the scenic beauty and agriculture in the county.
- Tonne talks about the uniqueness of the county and what we have in the county. Talks about agricultural uses and would not be restricted on smaller acreages.
- Gratton states that a zoning map should be green and not have other colors all over the zoning map, we need to keep the integrity of the map
- Delvaux states that we are creating a zoning lot size for the home, it does not limit the agricultural uses such as row cropping, grazing your animals, or vineyards etc...

Public Testimony

Ron Lawfer, Stockton

- Questions the acreage and was originally 5 acres, then 40 acres and now requesting 80 acres. Why do you feel the 40 acres is not sufficient? I have seen 40 acre parcels in my area created and taken out of production, and used for conservation. Would the 80 acres require a LESA to be done?
 - Gratton states that if it is over 80 acres it would be a permitted use to build on. Anything from 2 acres to 80 acres would have to request a special use and a LESA would be done.
- Does a special use stay with the land or the owner?
 - Gratton states it remains with the land.
- Asks questions about conservation and the ag district
 - Gratton states that we have seen the creation of 40 acre tract and the remaining 35 acres of the 40 are not being utilized for farm, we want to afford the option to ask for lesser parcels and not take the acreage out of production.
- Questions if 80 acres is good why not 120 or 160 acres.
 - Gratton states that we have had extensive discussion on the number and some of us would have like to see a bigger number or even take out the lot size and make any request a special use.
- Another option would be to allow agricultural residences to be exempt from the lot size requirement.
 - Gratton states the difficulty is determining if each one is truly an agricultural residence with a bona fide agricultural use.
- Asks if additional residences for members of the family.
 - Delvaux states that you would need the 80 acres in order to build additional residences; if they do not have that acreage then you would have to ask for the special use or rezoning. If you have 100 acres you will only be allowed one house unless you request a special use for an additional house.
- Asks if I had 320 acres and 3 hired men would the houses need to be at three different locations.
 - Delvaux states that if you placed them on smaller tracts you would have to

get a special use for them, or if they could get the 80 acre parcel they would be allowed.

- Asks about the mobile homes and if you can put a mobile home up next to the residence for a member of the family or a hired man.
 - Gratton states that the current ordinance would not allow that.
- If there are recreational vehicles set up and they live in the recreational vehicles. Who would enforce the rules?
 - Gratton states they can not be used as a principal residence, language is being proposed to clarify that.
 - Delvaux states that we are a complaint driven office, we are small staffed and if a complaint comes into our office we investigate the complaint.
- Make a public complaint on the Savanna Army Depot where it was changed from Industrial to Conservation without the Zoning Board being involved.
 - Delvaux states that they did come through and rezone to Industrial and some of the property the federal government took and might be out of our jurisdiction.

Steve McIntyre

- Asks question about the change from rezoning to a special use and the option for an adjoining owner that owns 20% or more to force the $\frac{3}{4}$ majority on a rezoning and will not be able to do that on the special use or will they be able to do that still
 - Delvaux states that you cannot force a $\frac{3}{4}$ majority vote with a special use. This is in state statute and the only way to change that would be legislatively.
 - Steve McIntyre states that if that goes away that would be taking away some of the vetoing power of adjacent property owners.
 - Gratton states that it may seem that way, but the special use process allows for conditions and fine tuning for the request that is not available under a rezoning.
- Under the special use asks about non-conformity and if the conditions are not met then what happens.
 - Delvaux states that it would go through the process of enforcement, ultimately citations and fines can be imposed.
- Questions the difference between Ag residence and a non-Ag residence and also if small parcels are ideal to alternative farming, questions the definition between Ag and non-ag and possibly deter small Ag farming and alternative farming because you have to have it up and running prior to having the home on the property. We actually went to Greene County Wisconsin because they were more acceptable to alternative farming than in Jo Daviess County. The acreage that we have is Ag land, and we are pulling substantial revenue on that property. Why can't I build my house there?
 - Gratton states that you want to have the alternative farming on smaller acreage and have a house, then anything under the 80 acres you would need to get a special use for the home. We are not discouraging what you just described, we are promoting it.
 - Tonne states that you would need to get a special use for the house either way if the alternative farming was there or not. The special use is for the

- residence not the use of the property – alternative farming.
 - Delvaux explains a scenario with the farming and if you are under the 80 acres you would have to come in get a special use. It is the hope that if a home is built on the 80 acres the remainder of the property would remain productive farming and not taken out of production
- Comments on the creation of 40 acre tracts out of the 160 acres and the 40 acres tracts being more valuable than the 160 acres as a whole. I believe that now instead of having 39 acres out of production you will have 79 acres out of production.
 - Gratton states that maybe 160 acres is a better number than the 80 acres.
 - Steve McIntyre states that the average farm in the county is 267 acres.
 - Tonne states that Jo Daviess County is unique, and if you purchase 80 acres and is productive you will probably rent out the remainder rather than the 40 acres previously.

Catherine Knuckey, 6785 Jewell Lane, Scales Mound

- Live within 1.5 miles of Scales Mound and own approximately a 200 acre farm, my husband runs a construction company, son runs an excavation company, and I am a real estate agent.
- No one has discussed property values.
 - Tonne states that it will be a gradual change if any. The farmer’s farm is his 401k plan. Continuing farmers don’t want to see farms sold off for uses other than farming. This threatens the continuing farmer from growing. A Productive farm should be kept in production. A special use would be in place to allow for a house on the property that is less productive. If we don’t allow development on productive land, it should then make that land more affordable for the farmer to purchase and continue farming. This should be better because we are allowing less productive ground to be easier developed.
- How flexible will the board be with the process of acquiring a special use on parcels less than 80 acres, because now people are just buying the 40 acres to avoid the process?
 - Tonne states that to purchase more land and spend more money just to avoid the process may not be the best decision.
- How do you see the supply and demand working with the change from 40 to 80 acres?
 - Jansen states that with the current market this is a hard question to answer. Will that turn around, I don’t know. If the 40 acre parcel gets \$5,000 an acre, is that what the 80 acre parcel will get – probably somewhat less.
 - Gratton states that we are here to protect and save property values, not to enhance them. We do not want to diminish property values. The less property the more it is worth and even if you sell it by the square foot it is worth more.
- Why have you taken away the ability for the farmer to sell off to a son or hired man, acreage to build without going to 80 acres?
 - Tonne states that would have to go through the special use process on a parcel smaller than the 80 acres.
- If a property is given a special use permit for a home, does that stay with the owner or the property? Would they have to request each time the property sells to update the special

use?

- Gratton states that the special use goes with the property.
- Catherine Knuckey asks how I will know if something needs to come forward or not.
- Gratton states that it will be on the county zoning map.
- Delvaux states that the tax information will not indicate zoning information. As you do now you will want to contact the Zoning Office to check on the parcel. You can not assume anything on a parcel. There are properties out there that are non-conformities and you may want to know that because certain questions may arise. We do have the zoning map on the county website for ease of use to look at the parcel in question, but if you would have further in depth questions we ask that you contact the office
- If you have a special use for a house on a property and it burns down do you have 12 months to rebuild?
 - Delvaux states that the section you were referring to was under an existing agricultural residence that has been split off a farm if that house was destroyed or removed then it could be rebuilt within 12 months because currently it can not be replaced without having to go through the zoning process.
- Asks if a property has a special use permit for a house, do they have the 12 month clause?
 - Delvaux states currently under the special use permit any special use has 12 months to either start the business or the erection of a building. The ordinance does allow an applicant to request a longer time frame for the special use, but there is a time limitation in which to begin the special use.
 - Catherine Knuckey asks if a property has sat empty for longer than 12 months can it still be built on?
 - Delvaux states that if I am given a special use to build a home and ask for an additional 2 years on the special use to build a home, the clock starts ticking in order to get a building permit to build the structure. If the construction is started within the 3 year time limit the special use will remain valid, if I sell 10 years from now that special use is still valid. If I do not build the house within 3 years and sell the property and in 4 years someone else wants to build a house they will need to get a special use in order to build, because the special use will have expired.
 - Delvaux states that if you have 4 acres that was split off in 1982 and the acreage has remained in that same description and was recorded then that parcel can be built on at any time because it would be grandfathered.
- Asks about the July 8, 2008 date in the proposal.
 - Delvaux states that if the Zoning Board makes a recommendation on this tonight, the recommendation will go to County Board on July 8th and that is an anticipated date of approval and will be adjusted to the date they approve it.
- I don't believe the general public is aware of this proposal. Does this have to be published in the paper?
 - Delvaux states that it was published in the Galena Gazette, Flash and the

East Dubuque Register.

- Gratton states that the information is out there.
- Davis states that you are here and knew about the request, the public can do the same by reading the newspapers.
- Asks about the Farm Bureau and how they view this request
 - Tranel states that I do not give recommendations on zoning issues.
- Gratton states that we do have the Zoning office if you have any questions and do not assume anything.

Geneva Montgomery 112 Country View Court, Galena

- Own a small farm near Schapville. Trying to know all the rules because I am trying to sell my farm. Concerned about the changing from the 40 acres to the 80 because are we not taking away the right of the people and what they want to do with there property.
 - Tonne states that the rules are set up by majority rule and are legal we are not saying you have to sell more than or less than 80 acres, but it is limited by laws what you do on that land, because the majority of the county want that.
- You say you are promoting the well being of Jo Daviess County, should it not come to a public vote.
 - Gratton states that we live in a representative democracy and the people we elect vote on the issues. We are not taking rights away from the people even though it may seem that way. State Statutes state we can impose setbacks and the lot size for a residence.
- Farmers can not live on 40 acres, but even 80 acres with the cost of machinery
 - Tonne states that we are requesting the larger acreage because we see the farms being split up and taken out of production, we want to see the larger tracts remain together so that they can remain being farmed.

Roger Redington, 8881 North Birkbeck Road

- Being a farmer, I believe that you are hurting my back pocket with restricting me what I can sell. On the smaller areas that are non-productive we should be putting homes, but if you have deep enough pockets you can buy the 40 or 80 acres to avoid the zoning. Keep in mind to increase our tax base to help the townships. Would like to see Article III, Section 3.1, D. Permit the construction of additional agricultural residences on a farmstead remain in the ordinance. The requirement of the 15 percent grade, if someone has 80 acres let them build with that slope or greater.
 - Tonne states they can on 80 acres because it is not a special use and that requirement is only for a request on a special use.
 - Delvaux states that a special use costs \$500, but if the gentleman owns the 45 acre farm with no home on the property now and is grandfathered in he can get a permit without going through the process.
- Would like to see the part under the existing agricultural residence if that were to be destroyed or damaged, I believe that we should give more than 12 months to rebuild.
- Questions the standards of the exterior building colors because one color may be seen different to another.
- What happens when someone is turned down, you have to think of the farmer in the back

trying to sell the property.

- Gratton states that it seems you are on board with what we are trying to do, enhance property values and keep the productive farms in production, and direct the placement of the homes and utilize the resources we have.
- I believe farming is going to drastically change in years in the county because cattle are starting to disappear.
 - Tonne states that Ag and tourism are the two biggest economic engines in the county and they complement each other.
- I have had three different people look at my property, but did not go through with it because fear of the zoning board and what would happen.

Steve McIntyre

- Questions accessory buildings on property. What if I have a special use permit on five acres or even twenty acres, do I also have to come back to the board to get a permit for the accessory buildings.
 - Delvaux states that currently we have an accessory building as a permitted use in the Ag district. If you got a special use for the home and needed an accessory building for the Ag use on the property it would be a permitted use and a permit would be required.

Ron Lawfer

- Questions the issue of Ag residence or non Ag residence in regards to setbacks for a livestock facility. Would like them to consider under the special use adding in that all residences in the Ag district be considered agricultural residences.
 - Gratton questions what he is suggesting.
 - Ron Lawfer states that for setbacks from a livestock facility
 - Gratton states that currently the livestock farm coming in has setbacks to abide by, but for a residence being built to have a setback from the livestock facility.

George Knuckey, 6785 Jewell Lane, Scales Mound

- Own a construction business.
- If someone owns 35 acres and 30 acres of it is corn and will you allow on the remaining 5 acres building a house on the property.
 - Tonne states with the special use, they will have to go through the process to see if a house can be built.
- I think that we should find some areas where the homes can be built on smaller parcels.
 - Davis states that we are not against building houses, but we need to build them where they belong, not in the middle of a corn field

Steve McIntyre

- Asks if a property has a special use for a home and an act of god takes the home down, can they rebuild or do they have to come back for a special use.
 - They would have to get a building permit to construct.

Catherine Knuckey, 6785 Jewell Lane, Scales Mound

- States that I am looking at the census and we are not growing by leaps and bounds as a county. I am trying to work with young local people trying to find a home and if you can't put them in a subdivision close to a community where do you put them.
 - Gratton states that the 40 acres is not affordable and we would hope to see some developments that are affordable.
 - Delvaux states that the communities are losing people and not growing. The Comprehensive Plan states that zoning is to help retain the vitality of the community and if we can direct growth in or adjacent to communities then we are two fold in directing growth in a responsible manner and maintaining the vitality of the community.
 - Catherine Knuckey states that we are telling people where they can buy because of the limited income.
 - Tonne states that they are telling themselves that with the income they have.
 - Davis states that Scales Mound is up to 401 and that is the biggest we have ever been.

Discussion:

- Calvert asks if they would consider putting in the special use requiring putting the septic area on the site plan. The septic area would be taken off the Natural Resource Inventory Report.
 - Adding in (f) an appropriate septic area as provided by Natural Resource Inventory Report
- Gratton asks if we want to extend the time for an existing agricultural residence to rebuild if the house were removed, damaged, or destroyed to 24 months instead of 12 months.

A motion was made by Nick Tranel to recommend approval of the following to Article III:

RED – New Language

BLACK – Existing Language

~~STRIKE THROUGH~~ – Language being taken out

Blue – Changes made at time of Hearing

Article III
Section 3.1

~~D. Permit the construction of additional agricultural residences on a farmstead.
(Amended 6/12/2007)~~

Article III
Section 3.2
C. Special Uses

Agricultural and Non-Agricultural Residences on lots less than eighty (80) acres. The Special Use Review will be subject to the following criteria in addition to the standards listed in Article XIII, Section 13.9:

- (i) Site Plan Requirements: A site plan which showing 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 impervious surface coverage of the lot, which includes the building footprint, paved roads and compacted gravel surfaces, etc. shall not exceed one-half (1/2) acre.
 - (d) The grade of the driveway which shall not exceed fifteen (15) percent at any one (1) point.
 - (e) The area to be cleared if the lot is wooded.
 - (f) An appropriate septic area as provided by the Natural Resource Inventory (NRI) Report
- (ii) Criteria:
 - (a) 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 for retention as agricultural purpose. A score of less than two hundred (200) points would indicate the site may be suitable for non-agricultural uses
 - (b) The minimum zoning lot area shall be two (2) acres.
 - (c) On-site waste water facilities shall conform to all Illinois statutes and regulations and those established by the Jo Daviess County Health Department.
 - (d) All lighting shall be at least partial cut off and be installed and maintained in such a manner as to be horizontal to the ground so that the cutoff characteristics of the fixture are maintained and shall be located, aimed or shielded so as to minimize light trespass across property boundaries.
 - (e) 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 groundwater protection. Development located in these areas will be subject to a higher level of scrutiny. 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. Sites within these Silurian areas as determined by the Jo Daviess County Soil & Water Conservation District will also be subject to the following standards:
 - 1. Buildings and roads located on sloping sites shall be built to blend with the existing topography.
 - 2. Exterior building colors shall be selected to blend with the natural background.
 - 3. 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.

4. In no case shall the roofline be higher than the existing mature tree height or ridge top.
5. Adequate erosion control is required.

Article III
Section 3.3
Lot Size Regulations

3.3 LOT SIZE REGULATIONS

- ~~A. Minimum Lot Area, Principal Residence—Two (2) acres.
For non-agricultural residences, forty (40) acres, however, except that residences may be constructed on a lot less than forty (40) acres if the lot was recorded as a lawful lot prior to March 1, 1995 and provided further that said residential use conforms with all septic and waste disposal requirements for said use. (Amended 6/12/2007)~~
- ~~B. Minimum Lot Area, Additional Agricultural Residence—Not less than two (2) acres, having a minimum width of one hundred fifty feet (150) as measured along the front property line.~~
- ~~(1) Additional residences constructed on a farm shall be subject only to building code, yard, lot size, setback regulations and approval of septic systems by the County Health Department.~~
- ~~(2) Resale of such residences to outside parties, however, shall make them subject to all requirements of zoning, building, septic and other applicable ordinances, including the County's Subdivision Regulations. (Amended 6/12/2007)~~
- A. Agricultural Residences and Non -Agricultural residences on lots lawfully recorded prior to March 1, 1995, provided that said residential use conforms with all applicable setback, building code, septic and waste disposal requirements
- B. Agricultural Residences and Non-Agricultural Residences on lots forty (40) to eighty (80) acres lawfully recorded prior to July 8, 2008, provided that said residential use conforms with all applicable setback, building code, septic and waste disposal requirements
- C. Agricultural and Non-Agricultural Residences provided that the minimum zoning lot size shall be at least 80 acres, provided that said residential use conforms with all applicable setback, building code, septic and waste disposal requirements.

Section 3.7

3.7 EXISTING AGRICULTURAL RESIDENCES -- Single-family agricultural residences existing at the time of the effective date of this Ordinance, may be separated from the farm lot provided: (Amended 6/12/2007)

A. Minimum Area—The parcel created shall not be less than two (2) acres in size.

B. Minimum Width—A minimum width of one hundred and fifty (150) feet shall be maintained at the road right-of-way front property line.

C. All separation under this section shall comply with Illinois Law including but not limited to the Plat Act (765 ILCS 205/)

If for any reason an existing agricultural residence that has been separated from the farm lot is removed, damaged, destroyed, etc. it may be remodeled, reconstructed or replaced, so long as a building permit is applied for within ~~twelve~~ twenty-four months of the demolition or removal of the structure.

Seconded by Bill Tonne

- Jansen states that some people may not be happy with the change from 40 to 80 acres, and the issue of more bureaucracy. I didn't hear this from many.
- Gratton states that this is trying to get what we want to accomplish in directing growth.
- Jansen states that the safety aspect of having a driveway in the wrong spot or having a driveway with a 20 percent slope and I die I will be angry at someone. I am a realtor and I have to look at the greater good for the county.
- Davis asks that everything we heard tonight that we didn't struggle with when creating it in the new draft ordinance.
- Gratton states that if younger farmers want to grow then we need to keep agriculture viable with keeping the values reasonable to allow them to farm what should be farmed.

Roll Call: Dave Jansen – Aye
Mel Gratton – Aye
Susie Davis – Aye
Nick Tranel – Aye
Bill Tonne – Aye

Linda Delvaux, Zoning Administrator presented the text amendments info on Article XII:

- This is some updating to the ordinance. Mostly I am addressing recreational vehicles, but it also covers mobile homes. This section really states that recreational vehicles are not to be lived in as full time occupancy, but only used in an established campground. The other part covering the mobile home is housekeeping because it was previously taken out of the ordinance in another section, but was not taken out in this section.

RED – New Language

BLACK – Existing Language
~~STRIKE THROUGH~~ – Language being taken out
Blue – Changes made at time of Hearing

Article XII

12.14 MOBILE HOMES AND RECREATIONAL VEHICLES -- Recreational vehicles, as defined herein, shall not be occupied for dwelling purposes used either full time or occasionally, except when occasional use is allowed in lawfully established campgrounds, ~~as a permanent dwelling~~. Mobile homes may be occupied for dwelling purposes within the ~~AG-1 Agricultural District and the MH Planned Mobile Home Park District~~, all in accord with the respective district requirements contained in this Ordinance. (~~Amended 6/11/1996~~)

Discussion:

- Jansen asks how long is occasionally, because it can get very technical with the time issue.
 - Delvaux states that the intention is to allow for the weekend or week at a time, but utilize the facilities in the home and not use the recreational facilities. The intention is to not use the recreational vehicle for the summer to live in. Also having the camper sit there every weekend and utilizing it is not the intent of this section.
 - Gratton recommends having a time such as no more than 30 days in a 12 month period.
 - Mapes asks can I use my motor home on a property while I am building my home. Should allow an area for temporary housing or permitting for cases like that.
 - Delvaux states that we do not have the option for temporary permitting right now, but it may be something to address.
- Delvaux states that it may take longer to get that together and make it work.

Steve McIntyre

- Temporary housing is needed in light of all the disasters, such as the flooding in Iowa and New Orleans.

Article XII will be continued for further review and consideration.

Linda Delvaux, Zoning Administrator presented the text amendments info on Article XIII:

- This was brought up with the attorney on staff and that we do not have a time limitation for taking appeals through the appeals process.

Discussion:

- Jansen asks if there is a process now.
 - Delvaux states there is an appeals process now, but it is open ended.

A motion was made by Bill Tonne to recommend approval of the following to Article XIII:

RED – New Language

BLACK – Existing Language

~~STRIKE THROUGH~~ – Language being taken out

Blue – Changes made at time of Hearing

Article XIII

Administration, Processing and Enforcement

13.4 Administrative Appeals

G. **Time for Taking Appeals:** An appeal from a decision of the Zoning Administrator shall be taken within ninety (90) days of receipt of the final decision of the Zoning Administrator, unless, some other time is fixed by the Zoning Board of Appeals pursuant to 55 ILCS 5/5-12011.

Seconded by Dave Jansen

Roll Call: Mel Gratton – Aye
 Susie Davis – Aye
 Nick Tranel – Aye
 Bill Tonne – Aye
 Dave Jansen – Aye

Linda Delvaux, Zoning Administrator presented the text amendments info on Article XV:

- This section is cleaning up the definitions and adding a few new ones. Some of these definitions will coincide with definitions in our Building Ordinance.

Discussion:

- Keffer asks what the difference between mobile home, manufactured, and modular home.
 - Delvaux states that the manufactured housing are built to HUD construction regulations, modular homes are built to the adopted code of the county, mobile home is something that existed prior to a manufactured unit, mobile homes were constructed prior to 1976, anything after that built to HUD regulations would be manufactured.

Public Testimony Closed

A motion was made by Nick Tranel to recommend approval of the following to Article XV:

RED – New Language

BLACK – Existing Language

~~STRIKE THROUGH~~ – Language being taken out

Blue – Changes made at time of Hearing

Article XV

Section 15.2

Definitions

~~Mobile Home: A structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for one or more persons~~

Dwelling: A building or portion thereof designed or used exclusively for residential occupancy, but, does not include recreational vehicles.

~~Lot, Zoning: A designated parcel, tract, or area of land established by plat, subdivision, or otherwise permitted by law to be used, developed, or built upon as a single unit under single ownership or control~~

~~Zoning Lot: A single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control. Therefore, a zoning lot may or may not coincide with a lot of record~~
A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. Said parcel or tract may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.

Manufactured Housing Unit: A transportable, factory-built structure that is manufactured in accordance with the federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401) and that is designed to be used as a single dwelling unit. (Previously referred to as a Mobile Home) A Manufactured housing unit is constructed to be towed on its own chassis (comprised of frame and wheels) from place of construction to location.

Mobile Home: A movable or portable unit, which is 8 body feet or more in width and is 32 body feet or more in length, and constructed to be towed on its own chassis (comprised of frame and wheels) from the place of construction to location or subsequent locations, and designed to be used without a permanent foundation and connected to utilities for year round occupancy with or without a permanent foundation. These homes were constructed prior to June 15, 1976, when the federal preemptive HUD Code became effective. Mobile homes have not been constructed since this date.

Modular Homes: A modular home is a factory fabricated dwelling built in accordance with the requirements of all technical codes adopted in Section 11-6 of Chapter 11, Article II Building Code, Building Regulations, and the requirements of the Illinois Department of Public Health, and shall be subject to the same standards as site built homes. It may consist of two (2) or more components that can be separated when transported but designed to be joined into one (1) integral unit on a permanent foundation ready for occupancy except for assembly operations and finishing. Modular homes are not considered as mobile homes, manufactured homes, or travel trailers.

Recreational Vehicle: Any of the following vehicles which are licensed for travel on the highway; travel trailer (a vehicular, portable structure built on a chassis, designed to be used as a

temporary dwelling for travel, recreation or vacation, or one permanently identified as a travel trailer by the manufacturer of the trailer); pick-up coach (a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation); motor-home (as a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle); and camping trailer (as a canvas, material or metal folding structure, mounted on wheels, and designed for travel, recreation and vacation use); including but not limited to motorcycles and trailers to include motorcycles, utility trailers, and all-terrain vehicles..

Seconded by Susie Davis

Roll Call: Susie Davis – Aye
Nick Tranel – Aye
Bill Tonne – Aye
Dave Jansen – Aye
Mel Gratton – Aye

Jo Daviess County Zoning Board of Appeals, by the County Zoning Administrator requesting to amend the Rules of Procedure on time within which an appeal may be taken from a decision of the Zoning Administrator

Discussion:

- This is to clarify our rules and procedures, which reflects the change for time for taking appeals.

Public Testimony

None

Public Testimony Closed

A motion was made by Dave Jansen to recommend approval of the following:

1. The Rules of the Board shall be amended by adding Article IX: Section 1. The time for authorized persons to file an appeal from the decision of the Zoning Administrator shall be ninety (90) days from the receipt of the decision by the person aggrieved.

Seconded by Bill Tonne

Roll Call: Nick Tranel – Aye
Bill Tonne – Aye
Dave Jansen – Aye
Mel Gratton – Aye
Susie Davis – Aye

Reports and Comments:

Draft Zoning Ordinance Meeting tentatively set for July 2, 2008, 7:00 pm, Galena

Dave Jansen made a motion to adjourn at 10:30 PM. Susie Davis seconded. Voice Vote: All
Ayes