

**Jo Daviess County Planning Commission/Zoning Board of Appeals  
Minutes for Meeting  
At the Courthouse-7:00 PM  
December 21, 2006**

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

**Roll Call Present:**

**Planning Commission:**

- ✓ Melvin Gratton
- Susie Davis
- Tom Heidenreich
- ✓ William Tonne
- ✓ Nick Tranel
- ✓ Dave Jansen (Alternate)

**Staff & County Board Members:**

- ✓ Steve Keeffer, Highway Engineer
- ✓ Heather Miller, Environmental Health
- Terry Kurt, State's Attorney
- ✓ Linda Delvaux, Building & Zoning
- ✓ Ron Mapes, Jo Daviess County Board Member

**Approval of Minutes:** A motion was made by Nick Tranel to accept the November 22, 2006 minutes. Seconded by Bill Tonne. Voice Vote: All Ayes. Dave Jansen - Abstain.

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

**New Business**

**DSW Investments, (Donald & Sandra Wienen), owners,** requesting approval for a preliminary/final subdivision. Current Zoning: R-1 Rural Residential Common Location: Clark Lane

Dave Jansen is abstaining from the request

**Staff Report**

- An Endangered Species Report by the Illinois Department of Natural Resources was done. The report indicates the presence of protected resource, Henslow's Sparrow, is in the vicinity of the project location. This information is provided for the local government's consideration at time of the petition. Consultation on the petition is terminated.
- Petitioner is requesting 6 lots on 29.09 acres ranging in size from 2.34 acres up to 5.88 acres. The subdivision Ordinance would allow a thirty (30) foot

front setback from interior subdivision roads, at the same time the County Zoning Ordinance requires fifty (50) foot from the property line or eighty (80) foot from the centerline whichever is greater. The subdivision plat shows a greater setback on lot 1. All but lot #6 will enter off the interior subdivision road. The plat should clearly lay out the required setbacks on all lots. Those lots abutting the Township maintained road would be required to abide by the larger setbacks along that road.

- It should be noted that the rear and side setbacks on these lots are not indicated on the subdivision plat. The rear setback is forty (40) feet from property line and the side setback is twenty (20) feet from the property line.
- Waste Treatment: Soil borings completed for each lot. Soils suitable for conventional systems located on all lots.
- Access Considerations: The developer has already ‘roughed in’ the proposed subdivision road. Grades on the roughed in road leading to the cul-de-sac range from 13% to 20% per the smart level. Sight distance for the proposed lot 6 access was found to be about 350 feet to the north and adequate to the south. Sight distance for the subdivision road is 400 feet to the south and adequate to the north. The subdivision road is located in the best spot for maximum sight distance, and the developer contacted the County and Township and all parties agreed to this location. Sight distance could be substantially improved if a row of large trees were removed from the east side of Clark Lane opposite the proposed subdivision. Permission from the property owner will have to be granted before removing trees. A roadway plan has been submitted that indicates a roadway grade of less than 10% can be built. After talking to the Highway Commissioner, he is requesting that the cul-de-sac have a maximum grade of 3% in any direction. This requirement will most likely require some rock excavation to lower the cul-de-sac from its current roughed in configuration.

Paul Brashaw, surveyor representing owner

- Preliminary & Final plat for the subdivision with 6 lots. One driveway entrance will be off Clark Lane and the other five will be off the cul-de-sac. We made sure that every lot had a build able site. The grade on the road can be achieved. We can get conventional systems on the lots with some limitations on the location of the septic systems.

**Public Testimony**

Chris Larson, JD Conservation Foundation

- When they requested the rezoning at that time suggested five lots in the plan and now they are requesting six lots, what is the difference now.
  - Paul states that after talking with the road commissioner and being on the property they could better determine the number of lots. We wanted to utilize the property as best as we could for the zoning.

**Public Testimony Closed**

**Discussion:**

- Mel asks about the site distance for the entrances.
  - Steve states there is about 400 feet, which it is as good as it is going to get, but one row of trees should be removed and that will gain site distance for all the lots.
- Paul Brashaw states they will have 33 feet of right of way.
- Bill asks about the right of way
  - Paul states that when the Brotzman property across the road was created they used 33 feet of right of way.
- Nick talks about the trees that need to be removed
- Mel asks about the driveway entrances whether off the cul-de-sac or Clark Lane.
  - In the concept plan they requested Lots one & five off Clark Lane and two through four off the cul-de-sac.
- Bill asks about the removal of the trees.
  - Steve states that if there is 33 feet of right of way on each side of the road, the road commissioner can authorize the removal of the trees or if they are on the owners property across the road they would have to approve the removal of the trees.

A motion was made by Bill Tonne to recommend approval of the preliminary & final subdivision plat stating the following:

1. 6 lots
2. Approval of septic systems
3. Achieve the road grade requirement
4. Site distance on Clark Lane with the tree removal to maximize the site distance

Seconded by Nick Tranel

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

**Forrest J. Behles, owner**, requesting a variance from the required fifteen (15) foot setback for Guest Accommodations to eleven (11) foot from the side lot line. Current Zoning District: R-P Planned Residential. Common Address: 4 Wedgewood Drive

**Staff Report**

- Comprehensive Plan: The Comprehensive Plan does not address Variances.
- Wastewater treatment: House served by central sewer and water.
- Access Considerations: This property has an existing access which will not be affected by this request.
- Other Considerations: This structure has existed prior to 1995, when the County adopted the Zoning Ordinance with the setback regulations, as well as the new Guest Accommodations Ordinance with the required fifteen (15) foot

setback. A screened in porch is on the east side of the home, where the variance is being requested. Screening could be possible if the GTA allows screening in the side setback. There is an existing rental to the west of this request. The home to the east is not on the rental program. The home to the east sits on the eastern part of its lot, creating a separation distance of approximately 30 feet between the two homes.

Jim Oehlstrom, representing owner

- Bought the property about 6 months ago. The house was previously rented and was taken out of the program in 2002. This is more than a hardship than an inconvenience. An objective for the house is a vacation home and long term a retirement house. We have already gained value by upgrading the home on the interior as opposed to getting the rental license. The rental license will share the load of the house while we get ready for retirement. If we will not be able to rent, we would have to sell the house. Other homes if they let the license lap will come across this problem if they ever want to rent again. We did not create this property, the screen porch existed. They are not adding anything new and it already exists. Screening will be allowed per the Galena Territory Architectural Review, but we would prefer not if we do not have to add any. Adding screening would cramp the house.

**Public Testimony**

None

**Public Testimony Closed**

**Discussion:**

- Bill asks how many bedrooms are in the home
  - Jim states this is a three bedroom home.
- Linda states that we did receive a letter from the adjoining landowner to the west and they have no opposition to the request.
- Bill states this is on central water and sewer. This is more of a hardship than an inconvenience.
- Dave states that most rental homes generally don't make money, but it does offset the costs of the home.
- Dave states this is a good location for a rental home.
- Variance standards have been met.

A motion was made by Nick Tranel to approve the request stating the following:

1. Standards for Variance have been met

Seconded by Dave Jansen

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

**Cyril Schulting, owner, & Jon & Lisa Rigdon, petitioners,** requesting rezoning from Ag-1 General Agriculture District to R-1 Rural Residential and a variance on the required lot width at the front property line. Common Location: Main Street, (Menominee), East Dubuque

### **Staff Report**

- Comprehensive Plan: The Comprehensive Plan would indicate this parcel to be in the Agriculture area, and is shown to have some areas of important farmland soils. Menominee has a Subdivision Ordinance, but no comprehensive plan, The Counties contiguous growth area map does not show a growth area for Menominee. The surrounding area is prone to growth.
- Waste Treatment: According to the JDC soil survey, suitable soil for a conventional septic system exists on the 12 acres. No soil borings completed.
- Access Considerations: This proposal will use an existing access to Main Street. Sight distance on the existing access is over 500 feet in both directions.
- Other Considerations: A LESA was done and resulted in a score of 148. This parcel is approximately .3 of a mile from the municipal boundaries of Menominee and has a surrounding mix of uses. Menominee has not commented on this request. There are properties just to the north and south that were rezoned to R-1 Rural Residential. This parcel at one time had an existing homestead on it. It has since been removed and the ground has not been reclaimed to production. There are some existing out-buildings still in the vicinity.

### **Joe Nack, attorney representing owner & petitioner**

- Petitioners would like to build a single family home. Other properties in the area have been rezoned to residential. They need a variance on the road frontage requirement because they have an easement from the road to their property. Schulting owns the easement and would use the easement also. This is a 30 foot easement. This is an old farmstead and they would like to build in this area. There are other buildings on this property. States it meets the variance standards. The easement is attached in the 12 acre legal.

### **Public Testimony**

#### **Cyril Schulting, owner of property**

- Questions taxes for the parcel, whether for 2 acres or 12 acres will make a difference.
  - Linda states that she is not from the assessor's office, but believe's they tax the way the property is being used, not the way it is zoned. If they have a concern they need to contact the assessor's office.

### **Public Testimony Closed**

### **Discussion:**

- From a mapping standpoint it is best to rezone the whole parcel as opposed to creating a smaller piece within to rezone.

- This is a good reuse of the farmstead, would improve the area on the property, and benefit the general welfare.
- Trend of development in the area and the LESA score lend to the request.
- Nick states this is unique because of the variance request with the rezoning.
- Mel states they are utilizing an existing access.
- This is unique request in a sense that they are reusing an old existing farmstead and keeping the tillable land in use. Would be a hardship as opposed to an inconvenience.

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

1. LESA score of 148
2. Trend of development in the area
3. Not suitable for agriculture
4. Was previously a home site

Seconded by Nick Tranel

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

A motion was made by Dave Jansen to approve the request for variance stating the following:

1. Standards for variance have been met

Seconded by Bill Tonne

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

**Reports and Comments:**

Nick Tranel made a motion to adjourn at 8:30 PM. Dave Jansen seconded the motion. Voice Vote: All Ayes