

**Jo Daviess County Planning Commission/Zoning Board of Appeals  
Minutes for Meeting  
At the Courthouse-7:00 PM  
February 27, 2019**

**Call to Order:** Meeting to order at 7:00 p.m.

**Roll Call Present:**

**Planning Commission:**

- ✓ Melvin Gratton
- ✓ Nick Tranel  
    Laura Winter  
    Ron Mapes
- ✓ Gary Diedrick
- ✓ Jody Carroll, Alternate
- ✓ Peter Huschitt, Alternate

**Staff & County Board Members:**

- ✓ Steve Keeffer, Highway Engineer  
    Sandra Schleicher, JDC Health Dept.  
    John Hay, State's Attorney
- ✓ Eric Tison, Planning & Development
- ✓ Robert Heurman, JDC Board Member
- ✓ Melissa Soppe, Planning & Development

**Approval of Minutes:** A motion was made by Tranel to approve the minutes of December 19, 2018. Seconded by Diedrick. Voice Vote: All Ayes

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

**New Business**

**Schmidt Family Trust (Alex J Schmidt, 229 Briar Court, Island Lake, IL 60042, Steve Schmidt, 2305 Mills Pond Rd, Crystal Lake, IL 60014; Lori Lavinio, 19515 Settlers Ridge Ct, New Berlin, WI 53146; Lisa Regner, 5010 Hickory Way, McHenry, IL 60050) owners,** have petitioned for a Variance from the required side lot line setback as established in Title 8, Chapter 5, Article B-46, B. 4; Building Siting and Orientation. Requesting to vary from the required twenty (20) feet on the southeast side to seventeen point eight one (17.81) feet, a two point one nine (2.19) foot variation to allow for Guest Accommodations use. Also requested is a variation on the northwest side from the required twenty (20) feet to fourteen point five nine (14.59) feet, a five point four one (5.41) foot variation. Further requested is a variation from the required grade as established in Title 8, Chapter 5, Article B-46, B. 2; Ingress/Egress. Requesting to vary from the required fifteen (15) percent to fifteen point three percent (15.3) a zero point three (0.3) percent variation to allow for Guest Accommodations use. Property is located in the RP Planned Residential District. Commonly known as 18 Gleneagle Dr, Galena, IL 61036

**Staff**

- Comprehensive Plan: The Comprehensive Plan does not address Variances, but does recognize the importance of tourism and the use of the homes for rental is a direct result of tourism.
- Wastewater Treatment: This property is served by central sewer and central water.
- Access Considerations: The access for this property is located on Guilford

Township maintained Glen Eagle Drive. Glen Eagle drive appears to be a one way loop where this entrance is located and has adequate sight distance for this low speed facility.

- Other Considerations: The property is located in the Galena Territory and was constructed, by permit, in 1995. The variance request applies to side yard setback requirements, as shown on the survey. Because this is a four (4) bedroom home, GA zoning requires a twenty (20) foot setback.
- Additionally requested is a driveway grade variance. GA zoning allows for no more than a 15% grade on ingress/egress driveways. The applicant's survey, as measured, indicated a slight deviation from this requirement along a portion of the driveway. While subject to field verification prior to issuing a zoning certificate, it was recommended the applicant seek the grade variation along with the side setback request.
- Subsequent field investigation during the site visit indicated a driveway grade, measured at various points along the N corner between 16.8% - 19.4%, well above GA zoning. Acceptable grade measurements occurred consistently below a line extended between the bush (N side) and tree (S side) toward the house. Additional site investigation and analysis is being conducted by the property owner, with the help of the surveyor, in an effort to determine any additional compliance concerns related to ingress/egress requirements for the driveway. It is anticipated that this exhibit/analysis will be submitted with a GA zoning application for review.
- Application materials for GA have not been received but will be subject to action on this application. Following a site visit, it was determined that, pending receipt of a GA zoning application, acceptable screening will likely be required along the NW property line from the rear of the house to the garden in order to comply with standards.
- The parcel abuts the golf course to the rear (SW). Adjacent residential parcels to either side (NW and SE) are zoned RP in accordance with their location in the Territory. The township owns the parcel opposite the road (NE).

Correspondence received from an adjoining landowner who is a full time resident at 16 Gleneagle Drive was read into the record. (Attached)

Gratton asked about the other side of the request.

- Eric indicated the other side currently has a Guest Accommodations License.

Steve Schmidt, owner

- To give some history my parents built the house in 1995-1996, about 10 years ago my mom passed away, my dad is not in great health where he is not coming out to the house anymore, but we are trying to find a way to make this be a viable family gathering spot. My mom decorated it from antiques from this area. The grandkids and my siblings all want to use it, however without having another income we can't afford to have a second home without some other kind of other income. We chose a rental company, once we get through these details they only have 10 properties they maintain, they go after higher end clientele so that there isn't a big party scene, more would be professionals. We do have a lot of nice antiques in there and all of my mom and dad's fingerprints in the home. We want to keep it nice and well established. We are willing to work with the group to make it a successful venture for everyone involved. As far as the driveway, I just got the detail survey yesterday so I will forward on to you tomorrow to go over that. I am not sure how

to read it so not sure what it stated, I could forward to Eric now so he could take a look at it.

Gratton asks that if you are able to make adjustments to the driveway or will you still need variances.

- Steve Schmidt states that I would think we would still need a variance.

### **Public Testimony**

Letter from adjoining landowner read by Eric Tison

### **Public Testimony Closed**

Gratton states that we do have golf course to the rear, however it is a little tighter on the side lot lines than others that we have looked at. Have we given variations for driveway grade?

- Diedrick indicates we did approve one in ACL. We have had a request, but not grant, which was like 18% grade.

Gratton states that the distance to the roadway is better, because it is not a long driveway.

Diedrick states with the driveway grade and the proximity to the township roadway in reference to emergency vehicles, this is close enough if they were not able to get down the driveway with the vehicle it would not cause a serious issue. Proximity to the neighbor to the south is a larger residence and not a lot of distance between the two properties, I don't know if it would be appropriate to do a 3 bedroom instead of a 4 bedroom.

- Gratton states that we tried that years ago and it is hard to enforce and wasn't practical. So if you have a four bedroom house, you can't close a door and say you are a three bedroom. You need to meet requirements for what the home is.

Steve Schmidt states that the room that is close to them is a three season's room; there is a line of trees and bushes between them.

Huschitt asks what the land is like between the two houses.

- Steve Schmidt indicates that it is a drainage ditch with slope.

Eric indicates that the additional screening I would require would be needed on the opposite property line or what is the northwest property line to the neighbor. The southeast side does have trees and bushes between, so I am likely not to require more, unless when summer comes around with leaves something changes.

Eric states the driveway grade map is consistent with what I had reported; chief concern is the northwest corner of the driveway. The area within the black line is going to be removed or landscaped in order to not be able to use it. There is more than sufficient room to work with if this is removed. The request appears to not be sufficient to allow for the grade of the driveway. That leads to concerns as to what to do. Granting the variance request is certainly an option, but the applicant will not meet the requirements based on this survey. The applicant could seek to amend this portion of the application and come back at a future hearing or he could withdraw this petition and we could touch base on additional options administratively.

Gratton says that 15.3 is not an issue, but when you get into 16-18 that is problematic.

- Eric indicates that we have issues on the northwest corner of the driveway. 16.3 is the high point on the area of the driveway that is still being used. It is entirely possible that the applicant could carve out this section of driveway yielding the 15.9% grade as a reasonable request. The area that does not meet is the section between the road and the front property line. States that there is an administrative variance procedure that you may recall allowing me to authorize up to 16.5% grade, however that requires notification to

adjoining landowners and if any objection is received, I cannot approve, and would likely be here in front of you.

Tranel asks what the total length of the driveway is.

- Eric indicates it is about 55-60 feet long

Carroll asks about the distance of area of the total driveway and the section that is over 15%

- Eric indicates the top section is only about 7 feet drop. No parking would be allowed in this area anyways.

Huschitt states that with the side being screened and a ravine made me more comfortable with this request. The area with the ravine would be impassable, I understand the concern of the neighbor, but if it doesn't seem very passable people are not going to be in that area. The left side is already in the rental program and the additional screening requirement satisfies me.

Carroll agrees

Gratton states that there is a differentiation between the two properties.

Tranel states it is a natural buffer with the ravine.

Standards for variance reviewed 1 - ok; 2 – uniqueness is throughout; 3 – not exclusively; 4 – true; 5 – ok; 6 – ok; 7- true

A motion was made by Huschitt to approve the setback variance request as presented stating the following:

1. Standards for variance are met

Seconded by Tranel

Roll Call:	Nick Tranel – Aye	Gary Diedrick – Aye
	Peter Huschitt – Aye	Mel Gratton – Aye
	Jody Carroll – Aye	

Standards for variance reviewed and met

Eric states the original grade was taken from a centerline in the driveway, but found that other areas did not meet. There are areas outside of the area surrounded in black as well as areas on the other side, although minimal.

Carroll asks if it is a concrete driveway up to the property line.

- Eric indicates correct.

Eric indicates the driveway is concrete all the way from the edge of Gleneagle Drive to the front of the house.

Carroll asks from the road to the property line how much of a drop are we talking. What would have trouble getting in and out of there?

- Eric states that I suppose that is difficult to answer, this is a generally applicable safety requirement for any vehicle that comes in there. A small car may not make it out in the middle of winter if the drive is not clear. This could pose a serious hazard if we are dealing with a fire or emergency. The fire access is within 100 feet so they don't even need to pull into the driveway. It becomes a concern of getting into and out of the driveway on a regular basis from January to the end of December.

- Steve Keeffer states that this is close to the grade, you are not off by much.
- Heuerman indicates that if something is going to happen you would end up in the house not the road.
- Gratton states that if it is an ambulance they may not be able to get back out. Hopefully none of this ever happens.
- Heuerman asks if this is regularly plowed
  - Steve Schmidt indicates we have a regular service plow this. Between us using it and if we get the license it would be well maintained.
- Carroll asks where they push the snow.
  - Steve Schmidt states they push it to the right of the parking area.

Carroll asks how wide the driveway is at that area.

- Tison indicates that it is about 20 feet wide

Carroll asks about the drop in the driveway.

- Tison indicates that standing in the driveway I can see the top of the driveway and I am about 5'11". So it is probably not more than a 6 foot drop from the top of the road to the garage.

A motion was made by Carroll to approve the variance request as presented with updated survey information stating the following:

1. Standards for variance are met

Seconded by Huschitt

Roll Call:	Peter Huschitt – Aye	Mel Gratton – Aye
	Jody Carroll – Aye	Nick Tranel – Aye
	Gary Diedrick – Aye	

**Wayne J. Wand (6014 S. Derinda Road, Elizabeth, IL 61028), owner and William & Dena Boehm (4502 S. Derinda Road, Elizabeth IL 61028), contract purchasers** are requesting a three year time extension to Special Use #16-10 to allow for a residence on a lot less than forty (40) acres in the AG Agricultural District. Common Location: 4840 S Derinda Road, Elizabeth, IL 61028

### Staff

- On April 11, 2016 the Jo Daviess County Board approved Special Use Permit #16-10 to allow for a residence on a parcel less than forty (40) acres, with a three year extension to begin use, stating that the applicant needs to work with the neighbor on screening of the driveway and that Standard 33 of the Zoning Ordinance shall be adhered to at time of construction. The LESA score was 153 with the property being within 1.5 miles of Elizabeth, but not identified as a contiguous growth area.
- The staff report indicated an access with adequate sight distance could be located within the frontage and that the soils on the parcel are not suitable for a conventional septic system; the property will be served by private well. The Health Department would add that there are no changes from the previous report. On site soil borings have not been completed and will be needed before a septic permit can be issued. This extension should not have any effect on future systems.

- This property is on the north side of Derinda Road, south of US Highway 20 and east of the Village of Elizabeth. The Special Use is set to expire with no structure currently under permit.

Eric states I did receive a couple phone calls about this, but was not specifically related to the time extension request.

Daisha Boehm, daughter of contract purchaser 4502 S Derinda, Elizabeth

- I am here to request an extension of 3 years to the already approved Special Use permit. Circumstances have changed where those that are requesting have had to relocate for their job and they are making progress to the property just at a slower rate, this is a young family that is trying to not throw all of their money into this at one time they are just taking it as slow as they can and to follow all of the regulations that are needed to build their property.

Gratton asks if there has been any construction or site prep work.

- Daisha indicates that there has been a roadway where they have taken rock and built a driveway to the property where they intend to build the house. No structure built. They put rather large rock down and letting that settle to build a better road. They want to do as much as they can by themselves but with the relocation they are not able to be onsite as much as they would if they were living here full time.

Gratton asks if the intent is to still build. Will another three years make it work?

- Daisha states they intend to continue and move back here to raise a family. They are hoping so.

Diedrick states the house was kind of centrally located on the lot, correct?

- Daisha indicates yes, the house should not be seen from the road or anybody around there. They want to live in the woods, and keeping the woods as in tact as possible and not taking an excess amount of trees away from the property.

Diedrick thought there was concern about the house right in front with the access and dust and traffic on this driveway.

- Daisha indicates from the amount of traffic you have on Derinda Road, the amount of traffic on the on the lane is insignificant, I would say, but I have not seen any dust. You have thousands of motorcycles a weekend going past there that would contribute a lot more dust than a single lane driveway for a single family home.

Diedrick asks if we received any written responses.

- Eric indicates no.

Gratton states that the special use has already been granted and we have to look at the time extension and if it is reasonable to extend another three years.

Huschitt states hypothetically if another three years goes by if I was still on the board at that time I may be skeptical to keep extending the special use, because when someone asks for a special use they have a plan to do something with the property within a certain time frame and that was my biggest question.

- Daisha indicates at the time they were both living here full time and had all intentions to build immediately, and then their jobs took them away, but they are still wanting to come back here and live as soon as they can.

Gratton states Special Uses Permit have an initial year to use, but they initially asked for the 3 year time extension. We have had a few ask for time extension, but this I think is one of the longest. The Eagle Ridge Inn was another one and they asked for shorter extensions. This is not the norm, but keeps property in a time of limbo when you expect something to happen.



in 1984 and sized for a 2 bedroom house in optimal soil conditions. A separate system was installed north of 8048 N. Gabel Ln. in 1999 and sized for a 3 bedroom house. A permit was issued in January 2019 for the installation of an additional system to serve the reception building. This system will be sized to accommodate 250 guests per day and no food preparation. The general area of these three drainfields appears to be at least partly outside of the area of use in the request; an aerial photo exhibit is included for review. The usage of the venue also qualifies them as a transient, non-community water supply, which is one that serves at least 25 people more than 60 days per year. Annual water sampling is required through this program.

**8044 and 8048 N. Gabel Ln., Apple River, IL**



- Access Considerations: Although addressed off of Stagecoach the petitioner’s property is accessed off of Gable Lane. Gable Lane is a graveled, township maintained road. This venue has been operating for over 15 years without any known access issues. The bridge was there when the original request came through. IIW Engineers looked at the bridge originally and everything is ok with weight limit of like 14 Tons.
- Other Considerations: This property is located south of Stagecoach Trail on Gabel Lane. Previous special use requests were granted in 2002, specific to the church and for a bed and breakfast; the B&B operation was discontinued. Recently, the business operator and applicant reached out to the department regarding adding a more permanent structure to the site to replace the temporary tent used to host receptions. It was determined that the business operations on the property appear to have moved beyond the scope of the initial special use request previously approved. The revised application submitted consists of an amended special use to bring a portion of the property (10.5 acres) into compliance with the zoning ordinance and expand beyond the limited scope of the previous special use. Additionally, per the application, the petitioner is seeking a variance in accessory square footage to accommodate the proposed structure. Per the application, business operations (Oak Hill Weddings) are

seasonal, Friday through Sunday between May and October. Applicant is seeking to amend permit to include wedding receptions and gatherings on property, within the surveyed area of use (exhibit included, 10.5 acres). Parking is available onsite and the applicant is requesting to preserve the natural aesthetics of the venue with a variance in the hard surface parking requirement. Buildings outside the area of use are not available to guests.

- All surrounding parcels are zoned AG.
- Potential conditions to consider may include:
  - Provided sufficient parking to meet ordinance requirements upon submission of building permit for new structure
  - Ability to host business operations on non-weekend holidays
  - Compliance with all State and County laws and regulations
- LESA: The Land Evaluation score on this property is 57.01 (below the County average), with an overall LESA score of 215.01. Some of the Site Assessment factors contributing to the overall score were the size of the parent parcel (max pts, 15), the percent of land in AG and percent of AG land adjacent (both max pts), the average slope of the site (0/10 pts) and the commitment to AG adjacent (max pts, 25). Additionally contributing factors were distance from community services (12/15 pts), availability of water/sewer utilities (both 8/10 pts) and the parcel is within 1.5 miles of Apple River, but not in the CGA (10/20 pts)

#### Becky Riedl, owner

- Eric summarized everything of what we are looking to do, what we have been doing, we did grow a little bit more than what we were permitted to do. Over the years it just kind of happened, we just kept looking forward and not back. We do host receptions on site and weddings in a couple various locations. Our reception site is a tent on a concrete pad. The concrete pad is 60x80, 4,800 square feet. We are looking at putting a pavilion over that concrete pad, a more permanent structure. We have enjoyed bringing people to the county and letting people enjoy our property.

Gratton states that we have multiple layers a special use, variance on size of building and the variance in the parking surface requirement be grass.

- Becky indicates it has worked at the site. The area is just not typical grass, it is like field grass and harder. There is really no damage and is a solid space for the parking.

Tranel asks about the building and if it will be enclosed.

- Becky indicates no, it will have open sides where you could have the sides closed with vinyl sides.

Gratton asks if you normally have music at your receptions and what kind. Is that loud for neighbors?

- Becky indicates we do have music and typically DJ's. Our closest neighbor is ½ mile away. We are in great terms with them and have never had a complaint from neighbors. When the certified letter was sent out to the neighbors, one did call the office and was mentioning to him if there was going to be additional noise. I should have called him, but I talked to him and he thought that we were increasing our receptions like two at a time, but I stated nothing is changing except we want to put the pavilion. I assured him that we would not be holding two receptions at once.

#### **Public Testimony**

None

#### **Public Testimony Closed**

Gratton states that something that has been successful and has grown. I don't think there have been complaints.

Eric states this would be bringing the property into compliance. I do see more of these coming forward in the next few years.

Huschitt asks about the potential conditions in the staff.

- Eric states that the size of the structure will dictate the parking requirements; I will need to verify that she has enough parking on site. That can be subject to issuing a permit. If additional area is needed for parking they should be able to find it. What is the size of a typical event?
- Becky indicates we average 125, but we didn't want to limit it to less than 250, which is why we did the septic for that, but that is uncommon that we would have that many people. Church capacity has 200 and it is cozy.

Gratton states that the ordinance allows 3,600 square feet and that starts at 3 acres and we are looking at 10.5 acres so in keeping things to scale, I don't think 4,800 is out of the realm of reality.

- Eric states that parent parcel is over 90 acres

Gratton asks about events on other days of the week.

- Becky states that it is uncommon to have a wedding on a long weekend on the Monday, but I would like to extend that to non-weekend holidays. We average about 65-70 events and some are just ceremonies and not receptions, so I can have 2 ceremonies and a reception in one day.

Gratton asks about business activities during the week.

- Becky indicates right now we don't, but if we don't have to state certain days of the week that would be better and not have to restrict myself.

Huschitt states wouldn't we just be amending the Special Use Permit to allow for a portion of the property (10.5 acres) to be used as a wedding venue and to host receptions and gatherings.

- Eric states that I listed potential conditions, but if the application as presented is sufficient that is what the county board would get then. The applicant states specifically the Friday-Sunday and that is why I added the non-weekend holidays, which would not be consistent with what she stated in her application.

Gratton states that the business has been operating for 17 years and has been successful and no issues, I don't think we need to change anything.

Standards for special use – 1- met, 2 - met, 3 – met, 4 – met, 5 – met, 6 - Additional Compliance – met

A motion was made by Huschitt to recommend approval to amend the existing Special Use Permit (#02-02) to allow for a portion of the property (10.5 acres) to be used as a wedding venue and to host receptions and gatherings stating the following:

1. Standards for special use are met

Seconded by Tranel

Roll Call:	Gary Diedrick – Aye	Peter Huschitt – Aye
	Mel Gratton – Aye	Jody Carroll – Aye
	Nick Tranel – Aye	

Standards for variance reviewed on size of structure request.

A motion was made by Diedrick to approve the variance request from the allowed 3,600 square feet to 4,800 square foot pavilion stating the following:

1. Standards for variance were reviewed and met

Seconded by Tranel

Roll Call:        Mel Gratton – Aye                                Jody Carroll – Aye  
                      Nick Tranel – Aye                                    Gary Diedrick – Aye  
                      Peter Huschitt – Aye

Standards for variance reviewed on parking surface request.

A motion was made by Carroll to approve the variance request from the required hard surface parking area to allow the grass area stating the following:

1. Standards for variance are met

Seconded by Huschitt

Roll Call:        Nick Tranel – Aye    Gary Diedrick – Aye  
                      Peter Huschitt – Aye    Mel Gratton – Aye  
                      Jody Carroll – Aye

**Reports and Comments:**

Diedrick asked if we heard anything about the solar farms.

State did call today and asked about zoning verification for One Energy projects.

Gratton made a motion to adjourn at 8:37 PM. Tranel seconded. Voice Vote: All Ayes