STATE OF ILLINOIS)
)
COUNTY OF OGLE)

In the Matter of the Petition
of
Fasco Holding, Inc c/o Richard Zimmerman and ADM Grain Company c/o Jeff Mauck, Dement Township

Ogle County, Illinois

Testimony of Witnesses
Produced, Sworn and
Examined on this 25th day
of June 2009 before the Ogle County
Zoning Board of Appeals

Present:
Maurice Bronkema
Randall Anderson
Curtis Freeberg
Jason Sword
Bruce McKinney, Chairman
Michael Reibel, Zoning Administrator

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MR. McKINNEY: Next order of business?

MR. REIBEL: The next order of business is to consider the request filed May 22nd, 2009 of Fasco Holding, Incorporated in care of Richard Zimmerman, P.O. Box 170, Mendota, Illinois and ADM Grain Company in care of Jeff Mauck, P.O. Box 350, Mendota, Illinois for a Variation to allow a grain bin to be constructed 43 feet, 4 inches from the right-of-way line of East Illinois Route 38 in lieu of 80 feet as required pursuant to the Ogle County Amendatory Zoning Ordinance on property described as follows, owned by Fasco Holding, Incorporated and being leased by ADM Grain Company:

Part of the SW1/4 of the SE1/4 Section 14 Dement Township 40N, R2E of the 3rd P.M., Ogle County, Illinois, 9.60 acres, more or less. Property Identification Number: 25-14-400-007. Common Location: 19560 East Illinois Route 38.

For the record all adjoining property owners to the petition have been notified by certified mail of the hearing this evening and the specifics of the petition. A sign was posted along the frontage of the premises indicating that a zoning hearing is to be held

and a legal notice was published in the Tuesday, June 2nd edition of the Rochelle News Leader notifying the public of the hearing this evening and the specifics of petition.

Under the staff report, a copy of which is on file and the Board members have received, I will point out under general information the size of the parcel is 9.6 acres, 600 feet by 700 feet. Existing land use of the site is a commercial grain facility. Surrounding Land Use and Zoning: All adjoining land is in agricultural use, cropland. All adjoining land is zoned AG-1 Agricultural District. Zoning History: A Special Use Permit for a commercial grain elevator and storage facilities with goods and services associated with it was granted by the County Board on May 10th, 1977. Applicable Regulations: The required setback from a State Highway is 80 feet as measured from the right-of-way line. Special Information, Public Utilities: None. Transportation: Illinois Route 38 is a State maintained highway. Beck Road is a seal coat surfaced road under the jurisdiction of Dement Township. Physical

Characteristics: The site contains a grain storage shed, equipment storage building, office and scale and several grain bins/silos with associated equipment. The site is located on an upland ridge top in an area of gently rolling terrain with slopes on the site ranging from zero to 2 to 5 to 10 percent. The soils on-site range from well drained to poorly drained. The site is not subject to flooding, but portions of the site may be subject to occasional ponding.

There's no LESA summary sheet to this petition.

I have a letter on file dated June 3rd, 2009 from the Illinois Department of Transportation which reads:

"Thank you for the notification of the public hearing on Thursday, June 25th, regarding the Case No. 7-09VAR for Fasco Holding, Incorporated and ADM Grain Company for the variation of a grain bin to be constructed at the intersection of Illinois Route 38 and South Beck Road. There are no future roadway construction plans for this area in the near future, so as far as the Department of Transportation is concerned, our Department does not have a problem with the variance. Petitioners must apply to this office for an access permit for a new entrance or a modification to an existing entrance on to a State-maintained road. Illinois 38 is a State-maintained road. Sincerely, George F. Ryan, PE, Deputy Director of Highways,

Region 2 engineer by Ross E. Monk, Engineer of Program Development."

And I also have a letter on file from Dement Township Planning Commission received in my office June 16th, 2009 which reads:

"The Dement Planning Commission reviewed the request for variation filed by Fasco Holding Company and ADM Grain Company at its June 11th, 2009 meeting. The Dement Planning Commission recommends denying the petition for a variation for a 90 foot diameter grain bin. The Commission will recommend approval of a variation for a bin similar to size and location of the one damaged and removed. Submitted by Tom Decker, Dement Township Planning Commission."

That's all I have.

MR. McKINNEY: I'll entertain a motion to go into a public hearing.

MR. BRONKEMA: So moved.

MR. FREEBERG: Second.

MR. McKINNEY: Maury moved, Curtis seconded. All in favor signify by saying aye.

(All those simultaneously responded.)

MR. McKINNEY: Any opposed say no. Motion passed. We're in a public hearing. Will the Petitioners or whoever is going to be testifying

please come forward.

JEFF MAUCK,

being first duly sworn, testified as follows:

MR. McKINNEY: Give her your name and address.

MR. MAUCK: Jeff Mauck, 405 South Elm Street, Spring Valley, Illinois.

MR. McKINNEY: Tell us about your petition.

MR. MAUCK: This petition started -- I think you guys mentioned it -- because we had a bin blow down. But since we've been there the last two years we've seen our customer base, you know, shrinking some and partly because of our unload capacity. So we decided to put this project together by putting a bigger bin. We're going to increase our leg -- unload capacity with the whole project. The bin is a 90. The existing bin that blew down was a 60. It does put it closer to the road, but we feel that in order to, you know, supply good service to our customers, farmers in the area -- we're there to stay, we want to -- you know, we want to be there and in order to grow to try to keep up

with -- let's face it, there's a lot of farmers that are pretty large right now and in order to keep up with them we feel like we have to increase, you know, dumping capacities, storage capacities, etcetera and if this particular bin fits in with the project with the legs that we have and etcetera -- if we put it in a different spot, it changes everything and adds a lot of dollars to the project. The project that we're trying to do is -- it's already, you know, pretty large. You know, it's a 1.6 million -- almost a 1.7 million dollar project that we're trying to, you know, do there to help improve the -- like I said, the local community to the farmers -- the service to the farmer. You know, we want to increase business, not lose business and that's -- that's part of this project that we put together. You know, I think -- I think we're probably -- you know, we've got this bin -- this particular bin is engineered -- we have -- the person putting the bin up has an engineer, we have engineers that look at our projects, solid foundations. We have projects that we just did that I was involved with down

at the rail terminal in Mendota, it's a -- we don't put up, you know, bins that aren't commercial grade. They're all solid type structures and I don't think that will be a problem. So I want to mention that, it's -- it's not a -- you can tell by the size of the dollars it's not a cheap thing to do on a bin. It's pretty substantial money nowadays, so --

MR. McKINNEY: Okay. How much of a hardship would it be on your company if we denied this and you had to put it in another place?

MR. MAUCK: Well, I have a hard time thinking we're going to get it done by harvest, you know, if we change our project here, we're not going to get it done. The whole intention was to try to get something in there by harvest. We didn't realize, I'll be honest, until it was probably later in the game that we needed to -- you know, didn't know where the right-of-way was versus where we were putting that in, so I mean, I can't see it going in this year, you know --

MR. McKINNEY: But if it was put where you're wanting it you think you'd be able to get

it in by this year or harvest time?

MR. MAUCK: Well, our contractors are saying they can still get it in. Basically we have a -- you know, they haven't shipped it because we're coming here. The only reason it's not on-site is because we're trying to figure out if we're going to get to build it or not. Otherwise it would be sitting there probably. We -- you know, the grounds are ready to go, but we're just, you know, kind of waiting for the green flag or green light.

MR. McKINNEY: Did your company originally build these bins or did you buy these from some other company.

MR. MAUCK: The new bin that's going in or --

MR. McKINNEY: No, the current --

MR. MAUCK: No, we did not build the current --

MR. McKINNEY: So the -- one of our questions that we have to establish is were you the cause of --

MR. MAUCK: Yeah, we did not -- as far as the bin -- the structure the first time, is that

what your concern is?

MR. McKINNEY: Yeah.

MR. MAUCK: We weren't involved, you know, in building that bin on that site or any of those bins on that site, but I know that because of the bins that we built -- the four that we just put in down by Mendota, I mean, our cost per bushel is higher than most because we add things to the structure, we beef things up on the foundation, we -- safety-wise we always -- you know, we're adding handrails and we're adding whatever it takes to -- you know, we put stiffeners on the outside, not -- you can put them on the inside or outside, but we put them there, you know, to help our projects -- or our guys inside the bins when they're in there, but we did not put any of those in. We did not build.

MR. McKINNEY: That's what I figured. I just wanted to get everything on the record. You're not looking to build this to get a higher value so that you can sell it to another company here in the near future?

MR. MAUCK: No. That's -- I can tell you

that -- I'm a farm kid, so we're there to -- we like the spot, we like the location. It's on 38, it's not that far from 39. We have access to the container yard that's 5 miles away. That's -- there's a lot of pros to that location. We want to put a spout on the side of this new tank just in case the container market comes back into play, which it's been kind of soft this year, but you know, we're there because of, you know, the container yard, the rail yard, the -- or the loop track we got south, the river terminals we got. It's there and it kind of fits into our game plan. You know, it's a good location.

MR. McKINNEY: To your knowledge has there been any complaints filed either with your company or with the County because of the loud noise, the dryers when they're operating --

MR. MAUCK: Not to my knowledge.

MR. McKINNEY: -- from the people living in Creston?

MR. MAUCK: Not to my knowledge.

MR. FREEBERG: There's another facility east of you and I don't know, I just stepped it

1 off, but it seems to me their bins are within
2 about 50 feet of the right-of-ways.
3 MR. MAUCK: It appears that -- I kind of
4 looked at it too. I didn't bring it up because
5 I figured you go case by case and whatever, but
6 I saw it too. I mean, it's pretty close, but --
7 MR. FREEBERG: Were you at the township --
8 well, they have concrete blocks they got stacked
9 up. But were you at the township meeting when
10 they --
11 MR. MAUCK: No.
12 MR. FREEBERG: So you don't know what
13 their objection was?
14 MR. MAUCK: No.
15 MR. McKINNEY: Were you given notice to --
16 MR. MAUCK: They called us on the phone
17 questioning and -- you know, I had a guy that
18 drew up our plans, you know, put a -- two more
19 lanes on the road, if that's a concern because
20 they mentioned that. They mentioned if there's
21 a four-lane highway going in there it's going to
22 go on the north side, that's what they said,
23 so --
24 MR. McKINNEY: IDOT and I don't know how

1 -- to me I think you're pretty lucky because
2 IDOT doesn't have any complaints against --
3 usually they'd object.
4 MR. MAUCK: Right. I mean, we drew it on
5 a -- I mean, I brought a picture of it. We drew
6 it on there to see what it would look like and
7 whatnot and there seems to be still plenty of
8 feet there to play with north of the -- you have
9 two lanes that could go there or if it's one
10 lane or whatever it is it seems to be, you know,
11 reasonable that we could work it in and still be
12 able to put that tank there.
13 MR. FREEBERG: Are you concerned that if
14 they did have to do that then you might have to
15 take the thing down and move it?
16 MR. MAUCK: Driving on roads in Illinois
17 I've seen things a lot closer than that
18 personally, but that's just me. I'm from
19 Illinois, so I guess you get to slam your own
20 state sometimes, but I've seen things a lot
21 closer personally.
22 MR. FREEBERG: I know out here we got to
23 have 30 yards of clearance and then you go into
24 Chicago where there's a lot more traffic and you

1 drive within 4 feet of a concrete wall and no
2 sweat, so --
3 MR. MAUCK: Yeah, and I'm not
4 -- I don't want Chicago to be out here to be
5 honest, but sometimes that happens and you don't
6 have any choice, but I -- I don't -- I mean, the
7 way we're going to build it I don't have a
8 problem. I mean, we've seen things -- worse
9 case scenario people building concrete walls,
10 you know, if they're concerned about certain
11 things. You know, somebody -- if an engineer
12 was worried I guess we'd go to that extreme or
13 you know, down the road if they were putting
14 another two lanes in there or something. I
15 mean, there's other ways to help support it I
16 think, but that's just my opinion, so --
17 MR. ANDERSON: You said you're going to
18 have a load-out from this tank?
19 MR. MAUCK: Yeah.
20 MR. ANDERSON: Are you talking about a
21 side load-out?
22 MR. MAUCK: Yeah.
23 MR. ANDERSON: I assume you're going to
24 put that on the south side?

1 MR. MAUCK: Yeah, we think we could put it
2 on -- kind of like the southwest --
3 MR. ANDERSON: Southwest.
4 MR. MAUCK: -- which is kind of.
5 MR. ANDERSON: This is north.
6 MR. MAUCK: Right, so it would be kind --
7 MR. ANDERSON: So you're thinking over in
8 here, because you have this area where your
9 driveway was?
10 MR. MAUCK: Right.
11 MR. ANDERSON: So you'd put it over here?
12 MR. MAUCK: Yeah, we think we could put it
13 right in that corridor, because you have -- I
14 mean, are you worried about -- I mean, the thing
15 of it is there will be enough room to drive
16 around there, but the width of the truck and a
17 few feet is all we ever need for a side --
18 MR. ANDERSON: You were talking about for
19 containers, so that's why I was concerned
20 because usually --
21 MR. MAUCK: A container, the way we'd do
22 it, is we'd drop the spout into a chute and it
23 would go in this way -- this direction.
24 MR. ANDERSON: Right.

MR. MAUCK: So the container sitting right there.

MR. BRONKEMA: Do you feel you got adequate space -- I mean, they just -- they just send out 20 trucks to X elevator and 20 trucks to X elevator and --

MR. MAUCK: Well, one of the things that we're concerned about is we sold Steward elevator, a small little elevator we had there north of town and we're still trying to grab those customers and bring them to Creston, so that's part of our game plan is to use the trucks we use. We run trucks and to be able to go down there and still supply service to those guys that we had in that area. So that's somewhat -- I didn't put that in any writing, but that's part of the gig that we're a little bit concerned about can we supply those guys because we're going to need to dump grain a little faster in Creston in order to do that. That's part of the project.

MR. BRONKEMA: My question is if you happen to have 20 trucks in the morning coming in there do you have adequate room for them?

MR. MAUCK: Yeah, oh yeah.

MR. BRONKEMA: Which happens. I work for a grain elevator.

MR. MAUCK: Yeah. I mean, we're -- you know, right now, you know, the one bay -- well, with the other one you're probably looking at it's going to take us, you know, an hour to dump 20 trucks with this project. We can't do that today, but we could if we do this project.

MR. BRONKEMA: Sometimes before you get up in the morning they line up.

MR. MAUCK: Yeah. We've had 40 or 50 sometimes in the morning .

MR. BRONKEMA: Down at Mendota one morning and I was the fourth one on the off ramp. Three hours later I got dumped.

MR. MAUCK: Yeah, I was involved in that project, buying the ground and building that one because I was with Fasco at that time, so that was -- that's been a tough deal sometimes having lines and we're trying to -- we're trying to get things done within the next year, so you know, it takes us -- in our company with ADM it takes -- takes a while -- feels like the government

sometimes -- I won't say that too loud -- but a lot of forms and a lot of tape we got to go through and a lot of convincing. You know, we've got to do an IRONA (phonetic), an IRR on every project, we have to see what the payback is going to be, we have to, you know, go through the mill, so to speak, to try to get something passed or someone to sign off on it to get the project, so that -- nobody knows that all the time, but that's what we have to do is we have to -- you know, if you have a business you're going to want someone to prove what the payback is, that's what we have to do. That's what part of my job is, what part of Mike's job is. That's why we're there to try to -- where do we need to invest money to improve our business is what we've tried to do since we got going here up in this area, so --

MR. SWORD: How long is ADM's lease for or how does that work?

MR. MAUCK: It's ten years total. We're in -- going on the second year -- end of the second year coming up. It's basically a lease to own you might say. It will be a purchase at

the end, but I mean, we've put a lot of money in certain elevators that we're not going to plan on -- just like this one, we're not -- we're not giving it away. We're not to -- we're going to keep the ones that we feel like we can improve our business and increase the farmer business in certain areas and that's where we're trying to put our money. And the stop this year was Creston. We were trying to get this project going and we didn't. We did some things in Mendota last year. We did some things in -- we got some things planned up north in Steward for the next two years, but we can't do it all in one year, we don't have -- you just can't do it all, so it's one step at a time and hopefully, you know, we're making the right steps. That's all.

MR. BRONKEMA: I guess I'm curious why the commission over there denied this. Is it because somebody is on the board that owns an elevator or --

MR. REIBEL: I don't know.

MR. BRONKEMA: I mean, this kind of throws a curve to me anyhow.

MR. FREEBERG: The letter didn't give any reason for voting against it.

MR. McKINNEY: The only thing I can think of is if Creston looking at annexing or rezoning some area to the west of the elevators for future residential.

MR. BRONKEMA: Well, what would change it even if they put a smaller bin in, it's still the same operation.

MR. MAUCK: The only indication we got on the phone and we talked a couple times, was a four-lane road was mentioned and the right-of-way and being inside that. That was -- you know, they -- I thought it wasn't going to be objectable (sic), but concerning. That's the way I took it, but it didn't come out that way on the paper.

MR. McKINNEY: The reason why they're objecting is because of the state highway. IDOT doesn't seem to have any concern. They don't have any objections to it.

MR. MAUCK: Yeah.

MR. McKINNEY: Anybody else have any other questions?

MR. ANDERSON: Nope.

MR. SWORD: Nope.

MR. McKINNEY: Nobody filed a letter of appearance. Is there anybody here that wishes to testify in favor of the petition? Anybody here that wishes to testify opposing the petition? Seeing none, I'll entertain a motion to go back into open session.

MR. FREEBERG: So moved.

MR. BRONKEMA: So moved.

MR. McKINNEY: Curtis moved, Maury seconded. All those in favor signify by saying aye.

(All those simultaneously responded.)

MR. McKINNEY: Any opposed say nay. Motion passed. We're back into open session. We'll go through the findings of facts.

MR. REIBEL: Variation Standard A) That the particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the

regulations were carried out the.

MR. SWORD: The location and design of the existing structures and facilities on-site create a hardship to the construction of the grain bin that meets the required setback of 80 feet. I feel that standard is met.

(All those simultaneously agreed.)

MR. REIBEL: B) The conditions upon which the petition for a variation are based are unique and would not be applicable generally to other property within the same zoning classification.

MR. ANDERSON: The conditions upon which the petition for a variation are based are unique and are not applicable generally to other property in the AG-1 Agricultural District due to the location and design of the existing facilities on-site. I feel that standard is met

(All those simultaneously agreed.)

MR. REIBEL: C) The purpose of the variation is not based exclusively upon a desire to obtain a higher financial return on the

property.

MR. FREEBERG: Evidence indicates that the purpose of the variation is not based exclusively upon a desire to obtain a higher financial return on the property, but rather to provide additional grain storage capacity for an existing commercial grain facility that serves the agriculture community in the surrounding area and he expressed concerns of being able to better serve the customers they had, so I think the standard is met.

(All those simultaneously agreed.)

MR. REIBEL: D) The alleged difficulty or hardship has not been created by any person presently having an interest in the property.

MR. BRONKEMA: The alleged difficulty or hardship has not been created by Fasco Holding or ADM Grain because the need for a construction of a new bin has been created by the fact that the grain bin was destroyed by the weather. Standard is met.

(All those simultaneously agreed.)

MR. REIBEL: E) The granting of the variation will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

MR. SWORD: No evidence has been submitted that would indicate that the granting of the variation will be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. The Illinois Department of Transportation has submitted a letter of no objection to the granting of the variation. I feel that standard is met.

(All those simultaneously agreed.)

MR. REIBEL: F) That the proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood.

MR. BRONKEMA: No evidence has been submitted that would indicate that the variation would impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood. Standard is met

(All those simultaneously agreed.)

MR. REIBEL: The Zoning Board of Appeals shall not vary the regulations of this ordinance unless it shall make findings based upon the evidence presented to it in each specific case that: A) The plight of the owner is due to unique circumstances.

MR. FREEBERG: The circumstances are unique due to the design and location of the existing commercial grain facility. The standard is met.

(All those simultaneously agreed.)

MR. REIBEL: B) The variation, if granted, will not alter the essential character

of the locality.

MR. ANDERSON: The variation will not alter the essential character of the locality. The site is currently used as a commercial grain facility. The proposed grain bin will be in character with the existing facility. That standard is met.

(All those simultaneously agreed.)

MR. BRONKEMA: And he also testified that there would be adequate room for the trucks to -- in and out and even when they're loading them, so plenty of room.

MR. McKINNEY: Going through the finding of facts we have found that all standards have been met, so I'll entertain a motion.

MR. FREEBERG: My general philosophy is to defer to the local authorities, but in this case the township did not give any reason for recommending that we disapprove this. The only thing mentioned was a concern about the highway, but IDOT said they were not concerned, so therefore I will move that we grant Variation No. 7-09 to Fasco Holding Company and ADM Grain

Company to allow them to put up a 90-foot bin and reduce the setback down to 43 feet.

MR. ANDERSON: I'll second that.

MR. McKINNEY: It's been moved and seconded to approve Variation 07-09 for Fasco Holding and ADM. Roll call.

MR. REIBEL: Bronkema?

MR. BRONKEMA: Yes.

MR. REIBEL: Sword?

MR. SWORD: Yes.

MR. REIBEL: Anderson?

MR. ANDERSON: Yes.

MR. REIBEL: Freeberg?

MR. FREEBERG: Yes.

MR. REIBEL: McKinney?

MR. McKINNEY: Yes.

(By voice vote five ayes.)

MR. REIBEL: Five voted yes.

MR. McKINNEY: Motion passed. Come in and see Mr. Reibel for your next step.

MR. MAUCK: Okay. Thank you.

MR. McKINNEY: Any other business?

MR. REIBEL: No further business.

MR. McKINNEY: I will adjourn the meeting,

but would the Board stay for a few minutes, I want Mr. Reibel to discuss a new survey program.

(The deposition was concluded at 7:47 p.m.)

Now on this 25th day of June 2009, I do signify that the foregoing testimony was given before the Ogle County Zoning Board of Appeals.

Bruce McKinney, Chairman

Michael Reibel,
Zoning Administrator

Julie K. Edeus
Certified Shorthand Reporter
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P.O. Box 381
Dixon, Illinois 61021

STATE OF ILLINOIS)
)
COUNTY OF OGLE)

In the Matter of the Petition
of
Edward & Karen Giese, Oregon-Nashua Township
Ogle County, Illinois

Testimony of Witnesses
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MR. McKINNEY: I call this meeting of the Ogle Zoning Board of Appeals for July 2009 to order. Please stand for the Pledge of Allegiance.

(WHEREUPON the Pledge of Allegiance was recited.)

MR. McKINNEY: Roll call.

(WHEREUPON roll call was taken and all were present.)

MR. McKINNEY: We do have a quorum. The verbatim transcripts serving as minutes from the last meeting is on file and will not be read at this time. I'll entertain a motion to approve the minutes of the June ZBA meeting.

MR. FREEBERG: So moved.

MR. ANDERSON: I'll make a motion.

MR. McKINNEY: Curtis moved, Randy seconded. All those in favor signify by saying aye. Any opposed say no. Motion passed. All testimony will be taken under oath. Please come forward to the center part of the bull pen here and state your name and address to the recording secretary, please spell your last name. You can't hear me?

MR. GIESE: No, I can't.

MR. McKINNEY: Okay. When testifying please speak clearly and loud enough to be heard. This hearing is the only opportunity to place testimony and evidence on the record. There will not be another opportunity beyond tonight's hearing to submit additional evidence or testimony for consideration. Please turn off your cell phones and pagers. The procedure on hearing that will be followed tonight is found in the ZBA Rules of Procedures or the Citizens Guide to Zoning Board of Appeals which are available up here by Mike.

Mr. Lloyd Funk is also present representing the Ogle County Planning Commission if any Board member has a question on their action on this petition.

If anyone has trouble hearing please let us know.

Mr. Reibel, the first order of business?

MR. REIBEL: The first order of business is to consider the request filed May 20th, 2009 of Edward and Karen Giese, 1220 South Gale Road, Oregon, Illinois for an Amendment to the Zoning

District to rezone from AG-1 Agricultural District to R-1 Rural Residence District on property described as follows and owned by the Petitioners:

Part of the NE1/4 Section 7 Oregon-Nashua Township 23N, R10E of the 4th P.M., Ogle County, IL, 4.28 acres, more or less. Property Identification Number: 16-07-200-023. Common Location: 1220 South Gale Road.

For the record all adjoining property owners to the petition have been notified by certified mail of the hearing this evening and the specifics of the petition. A sign was posted along the frontage of the premises indicating that a zoning hearing is to be held and a legal notice was published in the May 25th edition of the Ogle County Life, again, notifying the public of the hearing this evening and the specifics of the petition.

Under the staff report, a copy of which is on file and the Board members have received, I will point out under general information the Petitioners, Gieses, are the owners of the property. The size of the parcel is 4.28 acres, approximately 300 feet in depth and 750.42 feet

of road frontage. Existing land use is residential, unlawfully established. Surrounding Land Use and Zoning: The site is located within a predominantly rural residential area. Land to the north, south and west is zoned AG-1; land to the east is zoned I-1 Industrial District. Zoning History: None. The two buildings on-site were permitted as storage buildings. The westerly building has been unlawfully converted to a dwelling. There is a pending Zoning Ordinance violation file regarding the unlawful conversion of a storage building to a dwelling. Under Special Information, Public Utilities: None. Transportation: Gale Road is a seal coat surfaced road under the jurisdiction of Oregon-Nashua Township. Physical Characteristics: The site contains two buildings. The easterly building is a storage building and the westerly building is being utilized as a single-family dwelling. The buildings are served by a conventional septic system and on-site well. The site is well-drained and is in an area of rolling

terrain with slopes on the site ranging from 5 to 10 to 10 to 18 percent.

According to the Ogle County Digital Soil Survey, soil types on the site are 24C2 - Dodge silt loam, 5 to 10 percent slopes, eroded; 280C2 - Fayette silt loam, 5 to 10 percent slopes, eroded; and 618D2 - Senachwine loam, 10 to 18 percent slopes, eroded. All soils on-site are classified as "Farmland of Statewide Importance". The site is not subject to flooding or ponding. The 24C2 and 618D2 soils are rated as being very limited for septic fields due to slow water movement and slope.

Under the LESA program, the LESA score of 162.4 indicates a Low rating for protection. Land Evaluation being 71.4, Site Assessment 91.

In a letter from the Soil and Water Conservation District, the District lists the following facts that are derived from the soils and the land evaluation and any other additional site facts that could be a concern to the protection of our County's natural resources.

The land evaluation score being 71.38 out of 100. The site already has buildings constructed on it and appears to be used as a pasture for livestock and severe limitations for proposed use based on the following characteristics: Severe limitations due to steepness of slope. Signed by Phil Fossler, Chairman and Brian Lindquist, Resource Conservationist.

At the June 18th, 2009 meeting of the Ogle County Regional Planning Commission, Mr. Ocken moved to recommend approval of the petition. Motion was seconded by Mr. Conn and the motion carried unanimously by a roll call vote.

I have a letter on file from the City of Oregon which is dated June 3rd, 2009 and reads:

"The City of Oregon Planning Commission Chairman, Amy Trimbell (phonetic) reviewed the request submitted by Edward and Karen Giese to rezone. She has no objection to the request." Signed by Charlene Ruthie (phonetic), City Clerk.

And according to the Illinois Department of Natural Resources, the natural resource review provided by Ecocat to identify protected resources that may be in the vicinity of the proposed action, the Department has evaluated

this information and concluded that adverse effects are unlikely and therefore consultation with the IDNR is terminated.

That's all I have.

MR. McKINNEY: I'll entertain a motion to go into a public hearing.

MR. SWORD: I so move.

MR. BRONKEMA: Second.

MR. McKINNEY: Jason moved, Maury seconded to go into a public hearing. All those in favor signify by saying aye.

(All those responded simultaneously.)

MR. McKINNEY: Opposed say no. Motion passed. We are in a public hearing.

Would the Petitioners please come forward?

EDWARD GIESE and KAREN GIESE, being first duly sworn, testified as follows:

MR. McKINNEY: Give her -- give Julie your name and addresses.

MR. GIESE: Edward C. Giese, 1220 South Gale Road, Oregon, Illinois, 61061.

MRS. GIESE: Karen A. Giese, 1220 South Gale Road, Oregon, 61061.

MR. McKINNEY: Okay. Tell us about your petition.

MR. GIESE: Well, on the petition here for the zoning -- the change?

MR. McKINNEY: Right.

MR. GIESE: Well, when I first started this we built the building and I was under the assumption and Mr. Reibel knew that I was going to put a house, which it says in the -- what is that -- my zoning permit when I got it it kind of indicated, but I didn't go to work and pay attention to that. What I done was I did put it in as a storage because we moved our stuff in it at the time we sold our other home. I was kind of in a bind, so we had it up and I used that for storage temporarily. I did not realize when we was going to turn it into a house -- I indicated that, but I did not realize I was in violation of the zoning law until, of course, I got the letter. I had no idea I was in the violation, but then, of course, I had the letter. What happened -- I'm assuming what happened there was when we signed up for the taxes to -- 65, to put your tax freeze on, the

senior tax and then, of course, that opened the can and I didn't realize that either. Then it was like a week after this happened I got the letter indicating that I was in violation which I -- I mean, I wouldn't have went and done that if I knew I was in violation of the ordinance. I mean, I didn't realize I was in that violation because it had went on for February the -- '04, the 14th that it was filed and I just get it now, see, so I mean, I wasn't hiding anything because I went there and told them I'm living here, but I didn't -- I had no indication that I was -- I did not realize I was in violation -- let's put it -- at all.

MR. McKINNEY: When you originally built the storage shed were you figuring that you were just going to convert it to a house?

MR. GIESE: Later on, yes, and it shows that on the permit.

MR. McKINNEY: You do have sewer and water and --

MR. GIESE: Yes, I do, yes. It's in Ogle County.

MR. McKINNEY: How long have you been

living in the house?

MR. GIESE: Well, we just moved in. We just now have done it on March -- March 21st, in fact, yes.

MR. McKINNEY: Okay. Questions anybody?

MR. FREEBERG: Mike, the well and the sewer and all that are within regulations?

MR. REIBEL: Yes.

MR. ANDERSON: How long have you owned the property?

MR. GIESE: Pardon?

MR. ANDERSON: How long have you owned the property?

MR. GIESE: Well, it was my wife's property.

MRS. GIESE: I bought that back like in 1970.

MR. ANDERSON: When did you put the building up?

MR. GIESE: The first one was up in '01. We put the big shop -- just a shop for tractor storage because I do tractor -- we store tractors and stuff.

MR. ANDERSON: So the one closest to the

road was the first one?
MR. GIESE: Yes.
MR. ANDERSON: When did you put up the second one?
MR. GIESE: And that one -- we started that in '04 -- well, I didn't get it up right away, but we got the permit. Am I right? February, I think it was '04, February 14th or something like that I believe I signed for the permit.
MR. ANDERSON: To put up the second building which was for storage?
MR. GIESE: Well, yeah, we did it first for storage so we'd have a place to put our furniture and stuff at that time because the other building wasn't equipped for that. So when we got it up partway -- I didn't have it all done, but just one end of the garage, like an area, we finished it up so we could have storage.
MR. ANDERSON: And when did you put the well in and the sewer?
MR. GIESE: That was in when we put the shop up, the first building in '01.

MR. ANDERSON: So the well --
MR. GIESE: Well, we had to have water at the shop -- what we called the shop and that's where our shop was and we lived down on Ridge -- or right on the Pines Road.
MR. ANDERSON: Okay, so you had water then?
MR. GIESE: And we used that up there for -- we built that for tractor -- when I was doing tractor storage.
MR. ANDERSON: And you had a restroom in that building?
MR. GIESE: Yes, I did.
MR. McKINNEY: Are you planning on putting any more of those ornamental tractors or antique tractors?
MR. GIESE: No.
MR. McKINNEY: And you got some -- I think at the Planning Commission meeting you stated you had some equipment stored at the bottom of the hill by --
MR. GIESE: Yes, by the railroad tracks there. Just -- there's a couple of my, oh, antiques. More like I was keeping a couple of

them for yard ornaments when we get the yard done, but it's just an antique manure spreader and a tractor cab and an old John Deere drill and stuff. Just antiques is what them are, but actually I am -- about everything I got you might call antique, but I -- you know, I guess we store -- I have some tractors that I keep for parts right now. When I disable them and part them they go. I don't keep them. I get rid of them. I ain't going to pile up a bunch of junk or anything like that. I try to keep it clean and neat. You know, I don't try to step on any of my neighbors. I got good neighbors and I take care of them too.
MR. McKINNEY: You're not planning on building any more buildings in the future, are you?
MR. GIESE: No, I'm not, I'm done as far as I can go, so --
MR. McKINNEY: Okay. Any other questions?
MR. SWORD: Nope.
MR. McKINNEY: Okay. Go ahead and have a seat. No one has filed a letter of appearance. Is there anybody here that wishes to testify in

favor of this petition? Anybody here wishes to testify opposing the petition? Seeing none, I'll entertain a motion to go back into open session.
MR. ANDERSON: I'll make that motion.
MR. BRONKEMA: Second.
MR. McKINNEY: I think Randy made the motion, Maury seconded it. All those in favor signify by saying aye.
(All those simultaneously responded.)
MR. McKINNEY: Any opposed say no. Motion passed. We're back into open session. If nobody has any questions right at the moment, let's go through our finding of facts.
MR. REIBEL: Amendment Standard 1) That the proposed amendment will allow development that is compatible with the existing uses and zoning of nearby property.
MR. ANDERSON: Use of the site and immediate area for large lot residential use is compatible with existing uses which are predominantly residential and the zoning of nearby property. I find that standard is met.

(All those simultaneously agreed).

MR. REIBEL: Standard 2) That the County of Ogle and other service providers will be able to provide adequate public facilities and services to the property including, but not necessarily limited to schools, police and fire protection, roads and highways, water supply and sewage disposal while maintaining adequate public facilities and levels of service to existing development.

MR. SWORD: Development of the site for residential use will not create a burden on the County of Ogle and other public service providers due to its location on a seal-coat surfaced road and the low density of development that will be generated on the site. I feel that standard is met.

(All those simultaneously agreed.)

MR. REIBEL: 3) That the proposed amendment will not result in significant adverse impacts on other property in the vicinity of the subject site or on the environment including

air, noise, stormwater management, wildlife and natural resources.

MR. BRONKEMA: No adverse impacts on other properties in the vicinity of the subject site or on the environment including noise, air, stormwater management, wildlife and natural resources are anticipated from the development of the site. I feel that standard is met.

(All those simultaneously agreed.)

MR. REIBEL: Standard 4) That the subject property is suitable for the proposed zoning classification.

MR. FREEBERG: The site is suitable for the R-1 Zoning District as it conforms to the minimum lot size and width requirements, is in a rural area located on a seal-coat road -- surface township road. I believe the standard is met.

(All those simultaneously agreed.)

MR. REIBEL: 5) That the proposed zoning classification is consistent with the trend of development, if any, in the general area of the

subject property including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification.

MR. ANDERSON: There is a trend of development in the vicinity of rural residential uses. The proposed zoning classification of R-1 Rural Residence District is consistent with this trend and the existing zoning surrounding the land. I feel that standard is met.

(All those simultaneously agreed.)

MR. REIBEL: 6) That the proposed amendment is consistent with the public interest and not solely for the interest of the applicant giving due consideration to the stated purpose and intent of the Amendatory Zoning Ordinance as set forth in Division 1 therein, the land evaluation and site assessment findings and the recommendation of the Ogle County Regional Planning Commission with respect to the Ogle County Amendatory Comprehensive Plan.

MR. SWORD: The proposed amendment is consistent with the public interest and not

solely for the interest of the applicant, that the LESA score indicates a Low rating for protection. The proposed amendment is consistent with the purpose and intent of the Amendatory Zoning Ordinance. The site is located within one and a half miles of the City of Oregon. And the Regional Planning Commission has recommended approval. I feel that standard is met.

(All those simultaneously agreed.)

MR. REIBEL: And have the Board members read and considered the LaSalle factors as applied to this petition.

(All those simultaneously responded affirmatively.)

MR. McKINNEY: If nobody has anything further, I'll entertain a motion.

MR. BRONKEMA: I'll make a motion that we recommend to the County Board to rezone Edward and Karen Giese from AG-1 Agricultural to R-1 Rural Residence District with all the standard being met. Petition 3-09.

MR. McKINNEY: Is there a second?

MR. SWORD: I'll second that.
MR. McKINNEY: It's been moved and seconded to recommend to the County Board to approve Amendment 03-09 for Edward and Karen Giese to change from AG-1 to R-1. Roll call.
MR. REIBEL: Anderson?
MR. ANDERSON: Yes.
MR. REIBEL: Freeberg?
MR. FREEBERG: Yes.
MR. REIBEL: Sword?
MR. SWORD: Yes.
MR. REIBEL: Bronkema?
MR. BRONKEMA: Yes.
MR. REIBEL: McKinney?
MR. McKINNEY: Yes.
(By voice vote five ayes.)
MR. REIBEL: Five voted yes.
MR. McKINNEY: Motion passed.
MR. REIBEL: This petition will go to the Planning and Zoning Committee on July 15th at 1 o'clock at the sheriff's training room at the sheriff's office and to the County Board for decision on July 21st. It's at 5:30 p.m. right here.

Now on this 25th day of June 2009, I do signify that the foregoing testimony was given before the Ogle County Zoning Board of Appeals.

Bruce McKinney, Chairman

Michael Reibel,
Zoning Administrator

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