AGENDA
ZONING BOARD OF APPEALS
March 11, 2015
6:30 PM
CITY HALL, 101 GREEN STREET, GALENA, IL

1. Call to Order

2. Roll Call and Declaration of Quorum

3. Approval of February 17, 2015 ZBA Meeting Minutes.

OLD BUSINESS

4. Cal. No. 15V-01, Applicant: Adam Johnson – 211 Fourth Street, Galena, IL 61036 and Owner: Matthew Carroll, 319 Meeker Street, Galena, IL 61036. Location: Parcel: 22-100-896-00, Located on Lots 17 and the East part of Lot 16 in Block 24 of the original town of Galena, situated on the West side of the Galena River, City of Galena, Jo Daviess County, Illinois. Common address 319 Meeker Street, Galena, IL 61036. Request for a variance to allow 5 parking spaces to be off-site, contingent upon approval of a Special Use Permit request for a 6-room Small Inn.

5. Cal. No. 15S-01, Applicant: Adam Johnson – 211 Fourth Street, Galena, IL 61036 and Owner: Matthew Carroll, 319 Meeker Street, Galena, IL 61036. Location: Parcel: 22-100-896-00, Located on Lots 17 and the East part of Lot 16 in Block 24 of the original town of Galena, situated on the West side of the Galena River, City of Galena, Jo Daviess County, Illinois. Common address 319 Meeker Street, Galena, IL 61036. Request for Special Use Permit to allow a 6-room, owner-occupied, Small Inn in a Low Density Residential District.

NEW BUSINESS

6. Cal. No. 15S-02, Owner & Applicant: Dino F. & Sotiri F. Rigopoulos - 219 North Main Street Galena, IL 61036. Parcel: 22-100-169-00, Located on the East side of North Main Street, West 33 feet of Lot 40 and South 11 feet of Lot 41 of the original part of Galena. Common address: 219-221 North Main Street, Galena IL. Request for Special Use Permit for Outdoor Entertainment accessory to the primary use of a restaurant in the existing outdoor dining area at the site.

COUNTY ZONING

7. None

WORKSESSION & OTHER

8. None

PUBLIC COMMENTS

9. Public Comments

10. Adjourn

Anyone who may require special assistance or special accommodation should contact City staff during office hours at 777-1050, prior to the meeting.

Posted March 6, 2015
By Matt Oldenburg

MINUTES
ZONING BOARD OF APPEALS
FEBRUARY 17, 2015

CALL TO ORDER:

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Tuesday, February 17, 2015 at City Hall, 101 Green Street, Galena, IL.

ROLL CALL AND DECLARATION OF QUORUM:

As Roll Call was:

Baranski	Present
Bochniak	Present
Cook	Present
Holman	Present
Nybo	Present
O'Keefe	Present
Rosenthal	Present

A quorum was declared.

Zoning Administrator Matt Oldenburg, Acting City Attorney Tom Nack and Zoning Secretary Deb Price were also present.

APPROVAL OF MINUTES

MOTION: O'Keefe moved, seconded by Bochniak to approve the minutes for the January 14, 2015 meeting.

Motion to approve the corrected minutes carried on voice vote.

OLD BUSINESS

None

NEW BUSINESS

Board member Bill Nybo asked to be recused as he is a Galena guest house owner.

Rosenthal granted the request.

Cal. No. 15V-01, Applicant: Adam Johnson – 211 Fourth Street, Galena, IL 61036 and Owner: Matthew Carroll, 319 Meeker Street, Galena, IL 61036. Location: Parcel: 22-100-896-00, Located on Lots 17 and the East part of Lot 16 in Block 24 of the original town of Galena, situated on the West side of the Galena River, City of Galena, Jo Daviess County, Illinois. Common address 319 Meeker Street, Galena, IL 61036. Request for a variance to allow 5 parking spaces to be off-site, contingent upon approval of a Special Use Permit request for a 6-room Small Inn.

MOTION: Bochniak moved, seconded by Cook to open the Public Hearing on Cal. No. 15V-01.

Motion carried on voice vote.

Attorney Nack swore all those persons in who wished to testify at either of tonight's public hearings.

Adam Johnson, 211 Fourth Street, Galena spoke on behalf of the applicant requesting a variance to allow 5 off-site parking spaces. Johnson said there is a hardship with how the historic building is situated on the site. There is no room for parking in front or on the sides of the building. At the rear of the building there is a chasm on the third floor level. If required to have parking here it would mean guests would drive up Meeker(Jail Hill) around the bend on High Street to Jackson take that to Harrison Street and then navigate down into a parking area. This would be difficult for visitors and would be a hardship for business. If they create parking on the lot it would eliminate green space and impervious areas. That too would require a variance. Harrison Street is currently an active walkway to the stairs that lead downtown. Creating parking would disturb or eliminate the walkway. When looking at the approval criteria the limitations of the site are not self-inflicted, the building already exists and this would not be a special privilege – anyone can ask for the parking variance. Approving of the variance would allow a reasonable use of the property – several others have tried unsuccessfully to revitalize the property. Parking has always been an issue in this area. They are requesting the minimum necessary to operate the desired business. They do not want to be forced to have parking on Harrison Street. The desired use is compatible with adjacent neighbors and requiring parking at the rear of the property may impact those property owners.

O'Keefe asked about the extra traffic for Meeker Street. This street is very narrow and quite congested with Courthouse business and weekend visitors. If the variance is granted the guests would be parking on Meeker Street adding to the congestion.

Johnson said the use periods for the inn would be opposite that of the Courthouse.

Rosenthal asked if there would be additional cars for people visiting the guests at the small inn. Where are these people going to park?

Johnson said they would need to park on the street.

Baranski asked Johnson how narrow Harrison Street is behind the building.

Johnson said it narrows down to a single lane road.

Holman asked if the neighbors who opposed the creation of parking off Harrison Street were in attendance.

Johnson said they were.

Baranski said the use patterns of this area are different. The Courthouse and other offices would be open during the week. The small inn would see most of its traffic after those businesses close and on weekends and holidays.

Johnson agreed. Most of the inn's business would be on the weekends and holidays.

O'Keefe asked about the costs for creating parking off of Harrison Street.

Johnson said it would be costly. There would be a lot of work necessary to get the area developed for proper parking. There are grade requirements and they would be creating a large impervious area that would require mitigation and create additional problems.

Baranski asked if the road could be widened.

Johnson said it would be very difficult.

Rosenthal asked all those in favor of the request to come forward.

Matt Carroll, 319 Meeker Street, Galena is the new owner of the building and he is very excited to get started on this endeavor. If they were required to develop parking off of Harrison Street his clients would need to come into the building at the rear of the building on the third floor

which would be very awkward. The natural check in point would be on the main floor through the double front doors. Expecting guests to travel the narrow road to the back of the building and then down through the building somehow to check in would be very difficult and inconvenient. He has spoken with both Dan Reimer, County Administrator, and Mark Newcomer, adjacent property owner about his plans. They are both excited to see this development and neither have concerns. Busy weekends he will be looking into alternative parking plans such as valeting his guests' cars. Many other uses for the building would have a bigger negative impact on the area.

Bochniak said there are two parking spots right next to the building – there really is no extra room here. Would someone be blocked in?

Carroll said the driveway could be used when guests are checking in or out or he could use this.

Rosenthal asked where the property line was.

Carroll said the stone wall; he does not own to the sidewalk. He said the courthouse is agreeable to letting his guests use the parking lot next to the old jail. This building is very close to the downtown commercial district which does not require off street parking.

Bill Grosshans, 418 Harrison Street, Galena said he and his wife Krista Ginger live directly behind the old jail – formerly owned by Dr. Hinde. They are both in support of Carroll's project. Harrison Street turns into basically a walking path down to the stairs above Meeker Street. It is a very steep dirt path that is slippery when the leaves fall and is not maintained by the City. Children and adults in the neighborhood use this and the stairs to get downtown and to catch the school bus. It could be widened some but there is a cliff on one side and their property on the other. Small inns or bed and breakfast guests usually do not get visitors so there should be no additional cars. On very, very busy weekends they would be happy to work with Carroll and have his guests park on their property. The Meeker/Bench street area is the last area people park when visiting Galena. They are very excited about this project!

O'Keefe asked Grosshans how they access their property.

Grosshans said off of Soldiers Monument Road

Holman asked about the grade.

Baranski said it is about 20%.

Kathy Farlow, 411 Meeker Street, Galena said she and her husband Jess have one house between them and the old jail. She too said the B and B gusts do not have visitors. Insurance

does not cover a guest's visitors. When they owned Farmer's Guest House they did not have their own parking - guests used the municipal lot across from them on Spring Street. They never had a problem even on the busiest weekends. This is the best use for this property. Other uses such as apartments, retail space or a restaurant would be much more intense and have a more negative impact on the area. After they moved into their home a few years ago they installed a parking pad off Meeker Street near the stairs to their home. They would be very glad to let Carroll use this for his guests on busy weekends. It will be great to have this historic property preserved and put back to good use.

Rosenthal asked all those opposed to the request to come forward and testify.

No one did.

MOTION: Cook moved, seconded by Holman to close the Public Hearing on Cal. No. 15V-01.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Bochniak to draft a positive Finding of Fact to approve a Variance request to allow 5 parking spaces to be off-site based on the Variance Approval Criteria and contingent upon approval of a Special Use Permit for a 6- room Small Inn.

Baranski reviewed the Variance Approval Criteria:

> (1) *Hardship unique to property, not self-inflicted.* There are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the other land areas or uses within the same zone district, and such exceptional conditions or undue hardship was not created by the action or inaction of the applicant or owner of the property;
> (2) *Special privilege.* The variance will not confer on the applicant any special privilege that is denied to other lands or structures in the same zoning district;
> (3) *Literal interpretation.* The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant;
> (4) *Reasonable use.* The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance;
> (5) *Minimum necessary.* The variance is the minimum necessary to make possible the reasonable use of land or structures;
> (6) *Compatible with adjacent properties.* The variance will not be injurious to, or reduce the

value of, the adjacent properties or improvements or be detrimental to the public health, safety or welfare. In granting a variance, the decision-maker may impose conditions deemed necessary to protect affected property owners and to protect the intent of this code;
(7) *Conformance with the purposes of this code.* The granting of a variance will not conflict with the purposes and intents expressed or implied in this Code; and
(8) *Conformance with the Comprehensive Plan.* The granting of a variance will not conflict with the goals and principles in the adopted Comprehensive Plan.

Baranski felt the request met all the approval criteria.

Discussion: Baranski said this is a great use for a great building. It has been in a bad transition state for quite some time. A unique aspect of the Zoning Ordinance is that it does not look at topography. This building is 60-70 feet below the residential neighborhood buildings. This building is more associated with downtown rather than the neighborhood area. The peak use pattern would be opposite that of Jo Daviess County. Baranski said he went behind the building where Harrison Street would evolve into the access for the inn. It is bad – no way can two cars meet and pass each other. Visitors who are unfamiliar would have difficulty locating this access point.

O'Keefe said he is opposed to this. We might as well eliminate the Bed and Breakfast ordinance. Parking was a major condition for allowing these in a residential district. He is not opposed to the use just to the Variance. Almost everything heard by the Board has something to do with parking. It's not a right – you need to determine if it is detrimental to public health safety or welfare.

Holman said it may be difficult to use the property behind the building, but that is an alternative- it is feasible.

Bochniak said he understands what O'Keefe is saying. Normally the neighbors are opposed – these neighbors are all in favor of the request.

O'Keefe said he is afraid of what will come before the Board if we approve this. If we are going to approve these we should change the Ordinance.

Baranski said if the building was one block over it would be zoned Downtown Commercial. Currently this is Medium Density Residential. It should be zoned similarly to the Courthouse and Bench Street. It will never be a private residence – it has to have another use. He understands Holman support of parking behind the building off Harrison Street but it is just a bad idea. Getting in and out of there is very difficult – Harrison Street is only 10-12 feet wide.

Holman said there are lots of narrow steep streets in Galena – we all use them. These would be comparable to the grade behind the building.

Rosenthal asked who owned the gravel lot below the building. The County? He would feel better if there was an agreement on where the guests could park. It's great that the neighbors want to help out, but what happens when people move and new owners don't feel the same way. He is worried that we might be headed down a slippery slope. He is really glad to see something happen with the building. If we don't follow the ordinance maybe we should change it.

Baranski said the Zoning Board looks at these requests on a case by case basis. We look at each one on its own merit.

O'Keefe said all these parking situations are not consistent with what our Ordinance says.

Baranski said he respects the viewpoint of the other Board members. We are deliberating based on evidence presented. The Ordinance is not perfect.

Holman asked Bochniak why he was in favor of the request. Other than the neighbors supporting this why should it be approved?

Bochniak said Harrison Street is dangerous. If it was twice as wide and regularly maintained he might be able to say parking should be located there.

Rosenthal agreed it was dangerous especially this time of year. There are reasons it is not a street. The City will not maintain this - it is just not set to be a road.

O'Keefe said he felt #2 and #7 of the approval criteria do not apply. If approved this will create a special privilege upon this property. When others come asking for a parking variance we need to grant it. Approving this is not in compliance and violates the code by not requiring them to have the 7 on-site parking spaces.

Baranski said reading it that way you would never grant a variance. Others can ask for the same thing and we will look at its merits before approving or denying a request.

Rosenthal said the ordinance is not black and white - a variance gives us leeway.

O'Keefe said in theory a variance should be harder to get than a Special Use Permit.

As Roll Call was:

Bochniak	Yes
Cook	Yes
Holman	No
Nybo	Recused
O'Keefe	No
Baranski	Yes
Rosenthal	Yes

Motion carried.

Cal. No. 15S-01, Applicant: Adam Johnson – 211 Fourth Street, Galena, IL 61036 and Owner: Matthew Carroll, 319 Meeker Street, Galena, IL 61036. Location: Parcel: 22-100-896-00, Located on Lots 17 and the East part of Lot 16 in Block 24 of the original town of Galena, situated on the West side of the Galena River, City of Galena, Jo Daviess County, Illinois. Common address 319 Meeker Street, Galena, IL 61036. Request for Special Use Permit to allow a 6-room, owner-occupied, Small Inn in a Low Density Residential District.

MOTION: Bochniak moved, seconded by Baranski to open the Public Hearing on Cal. No. 15S-01.

Motion carried on voice vote.

Adam Johnson spoke as an applicant for the request for the Special Use Permit. The first floor of the four story building would be used to check in guests and as the living quarters for the owner. The second, third and fourth floors would be converted to two guest suites per floor. The building is situated on more of a commercial level rather than a residential property. The residential properties are all located above the old jail – there is a natural separation and privacy due to the elevation and landscaping.

Rosenthal asked all those in favor of the request to come forward and testify.

Matt Carroll addressed in more detail the plans for the building. He was born and raised in Galena and his family still lives here. He has been running the Inn at Irish Hollow for the last fifteen years. The inn will provide high end accommodations – something unique to Galena. This is a new product for the area and Galena is ready for this type of establishment. It's a win/win situation as the inn will contribute hotel/motel taxes for Galena and attract a new clientele to the area who will also shop and dine here adding to the sales tax revenue. He is very motivated to get started and breathe some life back into the historic building. The views are incredible from the upper floors – vistas that are not usually seen. It's a whole different

look onto downtown and Galena River. Galena has added the bike trail and better river access recently which helps attract a more diversified visitor base. The inn will do that too. Property values in the area will increase also as the decline of the jail property has gone on for many years.

Bochniak asked about the rear deck.

Carroll said they will provide a small amount of seating there for the guests to relax and enjoy the quiet garden spaces that are planned.

Bill Grosshans said he is very excited about the proposal. The building and grounds have been deteriorating since they moved to their home. They will appreciate the eyesore being converted into a beautiful unique area. Having guests on the back deck will be like having neighbors. People are always looking for different places to stay and will be drawn here. It will be a wonderful addition to the city.

Kathy Farlow said the property was not going to be purchased for use as a single family home. Carroll purchasing the building will allow it to be preserved and restored.

Rosenthal asked all those opposed to the request to come forward and testify.

No one did.

MOTION: Cook moved, seconded by Bochniak to close the Public Hearing on Cal. No. 15S-01.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Bochniak to draft a positive Finding of Fact to approve the Special Use Permit to allow a 6-room, owner occupied, Small Inn in a Low Density Residential District based on the Special Use Permit Approval Criteria.

Baranski reviewed the approval criteria:

> 1) *Site plan review standards.* All applicable site plan review criteria in § 154.914.
> (2) *District standards.* The underlying zoning district standards established in § 154.201 through § 154.209 including the defining characteristics of the district;
> (3) *Specific standards.* The land use regulations established in § 154.406;
> (4) *Availability of complementary uses.* Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to: schools, parks, hospitals, business and commercial facilities, and transportation facilities.

(5) *Compatibility with adjoining properties.* Compatibility with and protection of neighboring properties through measures such as:
(a) *Protection of privacy.* The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and/or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants;
(b) *Protection of use and enjoyment.* All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property.
(c) *Compatible design and integration.* All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include: buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise, and odors. The plan must ensure that noxious emissions and conditions not typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties.

Baranski felt all criteria were met.

Discussion: Baranski said this is a good use for the property. The building is in disarray and has been sitting in limbo for years as no one has quite known what to do with it. This is an opportunity to preserve and restore the building and give it new life. The building deserves new life and it will be a tremendous addition to the fabric of downtown.

Rosenthal said he was close to voting no for the variance. We don't always follow the ordinance to the letter. The building has basically just been sitting there since it was a jail and really nothing has been done to it for years. He's glad to see someone spend some money to fix it up. Sometimes you bend the rules a little bit to make it work. This happens with the City Council too. If you go strictly by the written word nothing would ever happen.

As Roll Call was:

Nybo	Recused
O'Keefe	Present
Baranski	Yes
Bochniak	Yes
Cook	Yes
Holman	No
Rosenthal	Yes

Motion carried.

COUNTY ZONING

None

WORKSESSION/OTHER

None

PUBLIC COMMENTS

None

MOTION: Bochniak moved, seconded by Baranski to adjourn the meeting at 8:05 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price
Zoning Board Secretary

DECISION

ZONING BOARD OF APPEALS
OF THE CITY OF GALENA

REGARDING

CALENDAR NUMBER: 15V-01

APPLICATION BY: Adam Johnson, 211 Fourth St., Galena, IL 61036 for Owner, Matthew Carroll, 319 Meeker Street, Galena, IL 61036.

FOR: A Variance request to allow 5 parking spaces to be off-site, contingent upon approval of a Special Use Permit for a 6-room Small Inn.

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on February 17, 2014. The hearing was advertised in an edition of the Galena Gazette that was available to the general public between 15 and 30 days prior to the hearing. Letters were sent out to notify property owners within 250 feet of subject property of the request and public hearing date. They were invited to testify if they so desired. A quorum of the Board was present at the hearing in which the subject application and materials were reviewed and all persons were heard who desired to testify.

NATURE OF APPLICATION

The applicant, on behalf of the owner, is requesting a Variance concurrently with a Special Use Permit to operate as a 6-room Small Inn in a Low Density Residential District. 319 Meeker Street, commonly known as the Old Jail, has been sitting vacant for several years. Mr. Carroll has recently purchased the building with the intent of operating as a Small Inn, which is allowed in a Low Density Residential District by Special Use Permit only.

One of the regulations for Small Inns requires that off-street parking be provided for each guest room, plus one for the Innkeeper; in this case, 7 off-street spaces are required. This structure sits on a restrictive property as it is nestled into the hillside with very small margins of landscape on each of its sides. Behind the structure, the remaining landscape is taken up by steep terrain with a small ledged area at an elevation level with the 3rd story. Previous owners made plans to use

this small area as a parking space with access off of the unimproved Harrison Street from above. This access has steep slopes in certain areas and would be difficult to maintain; it is arguably an unsuitable space to get to for utilization as a parking area, and would certainly be impractical for guests to navigate. It is for this reason that the applicant requests a variance to utilize on-street parking in the nearby blocks to fulfill 5 of the 7 requires spaces. There are 3 on-street spaces directly in front of the property, as well as 3 more across the street, and more within walking distance as it is adjacent to downtown. The owner is considering valeting the guests' vehicles as an option in his plan. The applicant has included two alternative site plans that illustrate the impracticality of using off-street spaces above the structure on the hillside. If more spaces were required to be off-street and on the property, then more impervious area would be generated in an already landscape-limited area – thus requiring another possible variation for minimum landscape surface ratio, depending on the configuration.

PUBLIC SUPPORT AND/OR OBJECTIONS

In accordance with Article 9, Table 154.918.1 of the City of Galena Zoning Ordinance, a public hearing was held for the Variance Request. The Zoning Board of Appeals heard testimony regarding the application from the applicant and the public.

Since the Zoning Board of Appeals is not bound by the strict rules of evidence, substantial latitude is procedurally given in all cases to the kind of evidence that may be made a part of the record. In this case, all testimony and exhibits entered into the record were evaluated and given weight by Board members on the basis of credibility and factuality.

The following persons presented testimony during the public hearings. Their testimony was recorded in the official minutes of the hearing, which are hereby made a part of the findings.

Testimony Presented on Behalf of the Applicant and in Support of the Proposal:

- **Adam Johnson, 211 Fourth Street –** spoke on behalf of the applicant requesting a variance to allow 5 off-site parking spaces. Johnson said there is a hardship with how the historic building is situated on the site. There is no room for parking in front or on the sides of the building. At the rear of the building there is a chasm on the third floor level. If required to have parking here it would mean guests would drive up Meeker (Jail Hill) around the bend on High Street to Jackson take that to Harrison Street and then navigate down into a parking area. This would be difficult for visitors and would be a hardship for business. If they create parking on the lot it would eliminate green space and impervious areas. That too would require a variance. Harrison Street is currently an active walkway to the stairs that lead downtown. Creating parking would disturb or eliminate the walkway. When looking at the approval criteria the limitations of the site are not self-inflicted, the building already exists and this would not be a special privilege – anyone can ask for the parking variance. Approving of the variance would allow a reasonable use of the property – several others have tried unsuccessfully to revitalize the property. Parking has always been an issue in this area. They are requesting the minimum necessary to operate the desired business. They do not

want to be forced to have parking on Harrison Street. The desired use is compatible with adjacent neighbors and requiring parking at the rear of the property may impact those property owners.

- **Matthew Carroll, 319 Meeker Street** – spoke as the Owner in favor of the request. He stated that he is the new owner of the building and he is very excited to get started on this endeavor. If they were required to develop parking off of Harrison Street his clients would need to come into the building at the rear of the building on the third floor which would be very awkward. The natural check in point would be on the main floor through the double front doors. Expecting guests to travel the narrow road to the back of the building and then down through the building somehow to check in would be very difficult and inconvenient. He has spoken with both Dan Reimer, County Administrator, and Mark Newcomer, adjacent property owner about his plans. They are both excited to see this development and neither have concerns. On busy weekends he will be looking into alternative parking plans such as valeting his guests' cars. Many other uses for the building would have a bigger negative impact on the area.

- **Bill Grosshans, 418 Harrison Street –** spoke in favor of the request and said he and his wife Krista Ginger live directly behind the old jail – formerly owned by Dr. Hinde. They are both in support of Carroll's project. Harrison Street turns into basically a walking path down to the stairs above Meeker Street. It is a very steep dirt path that is slippery when the leaves fall and is not maintained by the City. Children and adults in the neighborhood use this and the stairs to get downtown and to catch the school bus. It could be widened some but there is a cliff on one side and their property on the other. Small inns or bed and breakfast guests usually do not get visitors so there should be no additional cars. On very, very busy weekends they would be happy to work with Carroll and have their guests park on their property. The Meeker/Bench street area is the last area people park when visiting Galena. They are very excited about this project!

- **Kathy Farlow, 411 Meeker Street –** spoke in favor of the request. She stated that she and her husband Jess have one house between them and the old jail. She too said the B and B guests do not have visitors. Insurance does not cover a guest's visitors. When they owned Farmer's Guest House they did not have their own parking - guests used the municipal lot across from them on Spring Street. This is the best use for this property. Other uses such as apartments, retail space or a restaurant would be much more intense and have a more negative impact on the area. After they moved into their home a few years ago they installed a parking pad off Meeker Street near the stairs to their home. They would be very glad to let Carroll use this for his guests on busy weekends. It will be great to have this historic property preserved and put back to good use.

<u>Testimony Presented in Opposition to the Proposal:</u>

- No one spoke in opposition to the request.

APPLICABLE SECTIONS OF THE ZONING ORDINANCE

- Section 154.005 sets forth the Intent and Purpose of the Zoning Ordinance.
- Section 154.015 defines a Guest Accommodation, Small Inn.
- Section 154.201 (B) (2) provides a definition and description of the Low Density Residential District.
- Table 154.403.1 lists the Permitted Land Uses permitted by right or by Special Use Permit for all Zoning Districts.
- Section 154.406 (D) (8) defines and outlines the regulations for Small Inns, including parking requirements.
- Section 154.601 sets forth the off-street parking and traffic circulation standards.
- Section 154.919 sets forth the non-administrative development review common elements of procedures.
- Section 154.925 sets forth the Purpose, Applicability, Review Criteria, Decision-Maker, Application and Review Procedures for Variances.

CONCLUSIONS

In applying the regulations and pertinent performance standards of the Zoning Ordinance to this particular case, the following conclusions are reached:

1. The subject property is located in the Low Density Residential District.
2. The Small Inn land use is allowed only by Special Use Permit in this Zoning District.
3. A 6-room Small Inn requires 7 off-street parking spaces; one for the owner and one space for each of the guest rooms.
4. Off-street parking is extremely limited due to the topography and the way the structure is situated on the site.
5. The site has enough room for 2 off-street parking spaces from the Meeker Street access, additional off-street parking would need access from Harrison Street to the rear of the structure. A variance is concurrently requested to have the remaining 5 parking spaces to be located on-street.
6. The building is associated more with the Downtown Commercial area than the neighborhood area, which waives parking requirements.

DETERMINATION

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by Adam Johnson for a Variance to allow 5 parking spaces to be off-site should be approved for the following reasons:

A variance is not a right. It may be granted to an applicant only if the applicant establishes that strict adherence to this code will result in practical difficulties or undue hardships because of site characteristics that are not applicable to most properties in the same zoning district. Such variances shall be granted only when the applicant establishes that all of the following criteria, as applicable, are satisfied:

(1) *Hardship unique to property, not self-inflicted.* There are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the other land areas or uses within the same zone district, and such exceptional conditions or undue hardship was not created by the action or inaction of the applicant or owner of the property;

(2) *Special privilege.* The variance will not confer on the applicant any special privilege that is denied to other lands or structures in the same zoning district;

(3) *Literal interpretation.* The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant;

(4) *Reasonable use.* The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance;

(5) *Minimum necessary.* The variance is the minimum necessary to make possible the reasonable use of land or structures;

(6) *Compatible with adjacent properties.* The variance will not be injurious to, or reduce the value of, the adjacent properties or improvements or be detrimental to the public health, safety or welfare. In granting a variance, the decision-maker may impose conditions deemed necessary to protect affected property owners and to protect the intent of this code;

(7) *Conformance with the purposes of this code.* The granting of a variance will not conflict with the purposes and intents expressed or implied in this Code; and

(8) *Conformance with the Comprehensive Plan.* The granting of a variance will not conflict with the goals and principles in the adopted Comprehensive Plan.

DECISION

NOW, THEREFORE, BE IT RESOLVED that this Zoning Board of Appeals has determined that this request by Adam Johnson for a Variance to allow 5 parking spaces off-site should be approved.

PASSED AND APPROVED this 17th day of February, A.D. 2015, by the Galena Zoning Board of Appeals by a vote of 4 ayes, 2 nays, 0 absent, 0 abstain, 1 recused.

_____

John Rosenthal, Chairperson

DECISION

ZONING BOARD OF APPEALS
OF THE CITY OF GALENA

REGARDING

CALENDAR NUMBER: 15S-01

APPLICATION BY: Adam Johnson, 211 Fourth St., Galena, IL 61036 for Owner, Matthew Carroll, 319 Meeker Street, Galena, IL 61036.

FOR: A Special Use Permit to allow a 6-room Small Inn.

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on February 17, 2014. The hearing was advertised in an edition of the Galena Gazette that was available to the general public between 15 and 30 days prior to the hearing. Letters were sent out to notify property owners within 250 feet of subject property of the request and public hearing date. They were invited to testify if they so desired. A quorum of the Board was present at the hearing in which the subject application and materials were reviewed and all persons were heard who desired to testify.

NATURE OF APPLICATION

The applicant, on behalf of the owner, is requesting a Variance concurrently with a Special Use Permit to operate as a 6-room Small Inn in a Low Density Residential District. 319 Meeker Street, commonly known as the Old Jail, has been sitting vacant for several years. Mr. Carroll has recently purchased the building with the intent of operating as a Small Inn, which is allowed in a Low Density Residential District by Special Use Permit only.

The Small Inn regulations require floor plans at the time of application to indicate the locations of each of the proposed guest rooms. The applicant has provided these plans, which place two guest rooms on each of the upper three floors (2nd, 3rd and 4th stories). The 1st floor will contain the reception area, owner's quarters, kitchen and dining area for breakfast. A wall sign is planned to be located on the front retaining wall and will require a separate application and review by the Zoning Administrator and HPC for appropriateness. Refer to section §154.406(D)(8) for further detailed land use descriptions for the Small Inn. The Inn will require the Owner to live on-premises as the property is within the Low Density Residential District.

Staff has reviewed the plans and application and determined that the request meets the bulk density, intensity and performance requirements of the Zoning Ordinance. The Staff has visited the site on several occasions and it is my opinion that the impact on the adjoining properties will be miniscule as no exterior structural improvements will be made with the exception of repairing the retaining wall to the West. The City Engineer indicates that there is sufficient water and sanitary sewer for the property and proposed use. The Building Department and Staff will ensure that the renovation meets current building, electrical, ADA and life safety codes. The Fire Inspector is working with the applicant to ensure that life safety and fire codes are met. Staff recommends approval of both requests.

Land uses to the North and West include residential and institutional uses. Land uses to the South include institutional and downtown commercial. Land uses to the east include residential, commercial and industrial.

PUBLIC SUPPORT AND/OR OBJECTIONS

In accordance with Article 9, Table 154.918.1 of the City of Galena Zoning Ordinance, a public hearing was held for the Special Use Request. The Zoning Board of Appeals heard testimony regarding the application from the applicant and the public.

Since the Zoning Board of Appeals is not bound by the strict rules of evidence, substantial latitude is procedurally given in all cases to the kind of evidence that may be made a part of the record. In this case, all testimony and exhibits entered into the record were evaluated and given weight by Board members on the basis of credibility and factuality.

The following persons presented testimony during the public hearings. Their testimony was recorded in the official minutes of the hearing, which are hereby made a part of the findings.

Testimony Presented on Behalf of the Applicant and in Support of the Proposal:

- **Adam Johnson, 211 Fourth Street –** spoke as the Applicant in favor of the request. He stated that the first floor of the four story building would be used to check in guests and as the living quarters for the owner. The second, third and fourth floors would be converted to two guest suites per floor. The building is situated at more of a commercial level rather than a residential property. The residential properties are all above the old jail – there is a natural separation and privacy due to the elevation.

- **Matthew Carroll, 319 Meeker Street** – spoke as the Owner in favor of the request. He addressed the plans in more detail for the building. He was born and raised in Galena and his family still lives here. He has been running the Inn at Irish Hollow for the last fifteen years. This will be high end lodging and accommodations – something unique to Galena. This is a new product for the area and Galena is ready for this type of establishment. It's a win/win situation as the inn will contribute hotel/motel taxes for Galena and attract a new clientele to the area who will also shop and dine here adding to the sales tax revenue. He is very motivated to get started and breathe some life back into the historic building. The views are incredible from the upper floors – vistas that are not usually seen. It's a whole different look

onto the downtown and Galena River. Galena has added the bike trail and better river access recently which helps attract a more diversified visitor base. The inn will do that too. Property values in the area will increase also as the decline of the jail property has been an eyesore for several years.

- **Bill Grosshans, 418 Harrison Street –** spoke in favor of the request and said he is very excited about the proposal. The building and grounds have been deteriorating since they moved to their home. They will appreciate the eyesore being converted into a beautiful unique area. Having guests on the back deck will be like having neighbors. People are always looking for different places to stay and will be drawn here.

- **Kathy Farlow, 411 Meeker Street –** spoke in favor of the request and said the property was not going to be purchased for use as a single family home. Carroll purchasing the building will allow it to be restored.

Testimony Presented in Opposition to the Proposal:

- No one spoke in opposition to the request.

APPLICABLE SECTIONS OF THE ZONING ORDINANCE

- Section 154.005 sets forth the Intent and Purpose of the Zoning Ordinance.
- Section 154.015 defines a Guest Accommodation, Small Inn.
- Section 154.201 (B) (2) provides a definition and description of the Low Density Residential District.
- Table 154.403.1 lists the Permitted Land Uses permitted by right or by Special Use Permit for all Zoning Districts.
- Section 154.406 (D) (8) defines and outlines the regulations for Small Inns.
- Section 154.914 lists the criteria for Site Plan Review.
- Section 154.924 sets forth the Purpose, Applicability, Review Criteria, Decision-Maker, Application and Review Procedures, and Validity for Special Use Permits.

CONCLUSIONS

In applying the regulations and pertinent performance standards of the Zoning Ordinance to this particular case, the following conclusions are reached:

1. The subject property is located in the Low Density Residential District.
2. The Small Inn land use is allowed only by Special Use Permit in this Zoning District.
3. The Low Density Residential District is intended to permit development which has detached, single family community character. Density and intensity standards for this district are designed to ensure that the Low Density Residential District shall serve as a designation which preserves and protects the residential community character of its area.
4. The applicant seeks a Special Use Permit to allow a Small Inn with 6 rooms as a principal commercial land use in a Low Density Residential District.
5. The existing structure has 4 floors and the capacity to accommodate 6 guest rooms easily.

6. A 6-room Small Inn requires 7 off-street parking spaces; one for the owner and one space for each of the guest rooms.
7. Off-street parking is extremely limited due to the topography and the way the structure is situated on the site.
8. The site has enough room for 2 off-street parking spaces from the Meeker Street access, additional off-street parking would need access from Harrison Street to the rear of the structure. A variance is concurrently requested to have the remaining 5 parking spaces to be located on-street.

DETERMINATION

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by Adam Johnson for a Special Use Permit to allow a Small Inn with 6 rooms as a principal commercial land use in a Low Density Residential District should be approved for the following reasons:

1. The site plan review met the applicable criteria for this request.
2. The request meets the district standards for the Low Density Residential District and is congruous to the defining characteristics of the district.
3. The request meets the detailed land use regulations established for a Small Inn use, with the exception of the parking variance request.
4. Complimentary uses are available.
5. The request is compatible with adjoining properties through:
   a. The protection of privacy will be maintained;
   b. The elements of the plan are designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property;
   c. The elements of the plan will coexist in a harmonious manner with nearby existing properties.

DECISION

NOW, THEREFORE, BE IT RESOLVED that this Zoning Board of Appeals has determined that this request by Adam Johnson for a Special Use Permit to allow a Small Inn with 6 rooms as a principal commercial land use in a Low Density Residential District should be approved.

PASSED AND APPROVED this 17th day of February, A.D. 2015, by the Galena Zoning Board of Appeals by a vote of 4 ayes, 2 nays, 0 absent, 0 abstain, 1 recused.

_____

John Rosenthal, Chairperson

MEMO

To: The Zoning Board of Appeals
From: Matt Oldenburg, Zoning Administrator
Date: March 6, 2015

RE: Cal. No. 15S-02, Applicant and Owner: Dino F. & Sotiri F. Rigopoulos - 219 North Main Street Galena, IL 61036. Parcel: 22-100-169-00, Located on the East side of North Main Street, West 33 feet of Lot 40 and South 11 feet of Lot 41 of the original part of Galena. Common address: 219-221 North Main Street, Galena IL. Request for Special Use Permit for Outdoor Entertainment accessory to the primary use of a restaurant in the existing outdoor dining area at the site.

Summary:

The applicant is requesting a Special Use Permit to allow Outdoor Entertainment as an accessory commercial land use in the Downtown Commercial District. This land use is allowed by Special Use Permit only in the Downtown Commercial District. Please see attached Ordinance for your reference.

The applicant proposes to offer live acoustic music in the outdoor patio area at Gobbie's, 221 N. Main Street. Their clientele have repeatedly requested the desire to have live music entertainment in the patio area while they are outside enjoying their dining experience. The applicant would like to accommodate this desire within the parameters of the Special Use Permit regulations. A map with the proposed location for the acoustic entertainment is provided in the packet.

The applicant currently operates a restaurant / sports bar that offers an outdoor dining area to its customers during the warmer seasons. The addition of live music outside will provide visitors with an entertainment venue outside while dining that previously hasn't existed in the downtown area.

No physical alterations are planned on the site or structure to accommodate this use.

Land uses include Commercial / Tourism / Apartments in all directions.

Approval Criteria & Recommendation:

The purpose of a special use review is to provide an opportunity to utilize property for an activity, which under usual circumstances, could be detrimental to other permitted uses and which normally is not permitted within the same district. A special use may be permitted under circumstances particular to the proposed location and subject to conditions that provide protection to adjacent land uses. A special use is not a use by-right and one that is otherwise prohibited without approval of a special use permit.

The application shall demonstrate that the proposed development will comply with the following:

(1) *Site plan review standards.* All applicable site plan review criteria in § 154.914.

(2) *District standards.* The underlying zoning district standards established in §§ 154.201 through 154.209 including the defining characteristics of the district;

(3) *Specific standards.* The land use regulations established in § 154.405;

(4) *Availability of complementary uses.* Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to: schools, parks, hospitals, business and commercial facilities, and transportation facilities.

(5) *Compatibility with adjoining properties.* Compatibility with and protection of neighboring properties through measures such as:

(a) *Protection of privacy.* The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and/or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants;

(b) *Protection of use and enjoyment.* All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property.

(c) *Compatible design and integration.* All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include: buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise, and odors. The plan must ensure that noxious emissions and conditions not typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties.

The Zoning Board of Appeals can grant, conditionally grant, or deny all applications for a Special Use Permit or an amendment thereof. If the Board would like to grant the request, a motion to draft Findings of Fact should be entertained. The Findings of Fact will then be presented for final consideration at the next Board meeting.

CITY OF GALENA, ILLINOIS

Request for Special Use Permit

Name: GOBBIES

Address of Applicant: 221 N. MAIN st | Galena (City) | IL (State) | 61036 (Zip)

Phone #: 815-777-0243 **Email:** GOBBIESGALENA@gmail.com

Name of Property Owner (if different from applicant): _____

Address of Interest: 221 N. MAIN Street

Present Use of Property: INDOOR SALES & SERVICE **Proposed Use:** ACCESSORY - OUTDOOR ENTERTAINMENT

Zoning District: DOWNTOWN COMMERCIAL **Within Historic District?:** ☒ Yes ☐ No

Reason for Special Use

Please Note: The following questions must be answered completely. If additional space is needed, place attach extra pages to the application.

Please provide a written statement explaining the nature of the proposed special use: WE ARE REQUESTING A Special use permit for Live acoustic music located at 221 N MAIN street in our outside patio area.

Explain how the propose use or expansion is necessary or desirable to provide a service or facility which is in the interest of the public convenience: Our Clientele has repeatedly requested the desire to have live music entertainment in our patio while they are outside enjoying their dining experience. We would like to acomodate this desire within the parameters allowed by this Special use permit.

Explain how the proposed use or expansion will contribute to the general welfare of the neighborhood or community: The addition of live music outside will provide the public with another entertainment venue outside while dining that previously hasn't existed in our downtown area.

Will the proposed use or expansion create noise, glare, vibration, odor, or in any other way be detrimental to the health, safety, morals, or general welfare of persons working or residing in the vicinity?

☐ **Yes** ☒ **No** **If yes, please explain:** N/A

Supplemental Data

1. Provide photographs showing various pertinent views of the existing site and buildings.
2. Provide a map that shows the location of the property in the broad context of the City or neighborhood.
3. Provide building, structure, and sign plans to such a scale that all pertinent features are legible, if applicable.
4. Identify the general land use, zoning, and any special characteristics of the adjacent properties to the north, south, east, and west.

North: DC - Commercial / Apartments / Tourism

South: DC

East: DC

West: DC

AN ORDINANCE AMENDING ARTICLE 4, TABLE 154.403.1 – PERMITTED LAND USES AND SECTION §154.406 – DETAILED LAND USE DESCRIPTIONS OF THE CODE OF ORDINANCES OF THE CITY OF GALENA

BE IT ORDAINED by the City Council of the City of Galena, JoDaviess County, Illinois as follows:

SECTION I: **Table 154.403.1** – Permitted Land Uses of the City of Galena Zoning Code, is hereby amended as follows:

- *(Additions are shown as underlined, highlighted and bold)*

Table 154.403.1. Permitted Land Uses

LA	CSR	LDR	MDR	HDR	NO	PO	NC	PC	GC	DC	PI	LI	HI	Type of Land Use Accessory Commercial Land Uses (154.406 (K))
						P		P	P	P	P	P	P	(1) Company-Provided Cafeteria
					S	S	S	S	S	S	S	S	S	(2) Company-Provided Day Care
						S		S	P		S	P	P	(3) Company-Provided On-Site Recreation
					P	S	P	S	S	P				(4) Dwelling Units Above Ground Floor
						S		S	P		P	P	P	(5) Fleet Vehicle Storage
								S	S	S				(6) Light Industrial Incident to Indoor Sales
							S	P	P	S	S			(7) Outdoor Dining
							S	S	P	S				(8) Outdoor Display, Removable
									P					(9) Outdoor Display and Storage, Permanent
								S	P	**S**				(10) Outdoor Entertainment
P = Permitted by Right (See section 154.402(A)) **S** = Permitted by a Special Use (See section 154.402 (B))														

LA Limited Agricultural
CSR Countryside Residential
LDR Low Density Residential
MDR Medium Density Residential
HDR High Density Residential
NO Neighborhood Office
PO Planned Office
NC Neighborhood Commercial
PC Planned Commercial
GC General Commercial
DC Downtown Commercial
PI Planned Industrial
LI Light Industrial
HI Heavy Industrial

SECTION II: **Section §154.406 (K)(10)** – Accessory Commercial Land Uses of the City of Galena Zoning Code, is hereby amended as follows:

- *(Additions are shown as underlined)*

(K) Accessory Commercial Land Uses

(10) ***Outdoor entertainment.*** These accessory land uses include a variety of entertainment uses, such as volleyball courts, horseshoe pits, and music stages, where the area of such uses does not exceed 15% of the floor area of the principal use.

(a) *Regulations:*

1. Activity areas shall not be located closer than 100 feet to a residentially zoned property.
2. Facility shall provide a Type IV bufferyard along all borders of the property abutting residentially zoned property, as specified in § 154.605.
3. Outdoor entertainment uses shall comply with all other city and state regulations regarding such uses, including, but not limited to, those dealing with noise and lighting.
4. Outdoor musical entertainment in Downtown Commercial District shall also be in compliance with the following:
    a. Performing is limited to 10:00 am. to 10:00 p.m.
    b. No performer shall utilize any speaker, microphone or mechanical amplification device.
    c. No performer shall generate any sound by any means so that the sound is louder than 70 decibels (70dB) on the Capital A Scale of an ANSI approved sound level meter measured at a distance of 50 feet or more, either horizontally or vertically from the point of generation.

SECTION III: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV: This ordinance shall be in full force and effect within ten (10) days of its passage and legal publication in pamphlet form.

SECTION VII: Passed on the __th day of_____, A.D., 201__, in open Council.

AYES: **NAYS:**

ATTEST:

_____ _____

TERRY RENNER, MAYOR **MARY BETH HYDE, CITY CLERK**

09/29/2010

09/29/2010

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227 Suite 2
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