City of Galena, Illinois

AGENDA

ZONING BOARD OF APPEALS

WEDNESDAY, OCTOBER 11, 2017
6:30 P.M. – CITY HALL 101 GREEN STREET

ITEM	DESCRIPTION
17Z-2001	Call to Order by Presiding Officer
17Z-2002	Roll Call
17Z-2003	Establishment of Quorum

APPROVAL OF MINUTES

ITEM	DESCRIPTION	PAGE
17Z-2004	Approval of the Minutes of the Regular Meeting of September 13, 2017	3-19

UNFINISHED BUSINESS

ITEM	DESCRIPTION	PAGE
17V-04	Xochi LLC – Request for Variance to allow covered porch roof in front setback area at 216 South Commerce Street. Ratification of Findings of Fact.	20-25
17S-34	Christine Marshall & Cynthia Purnell – Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District at 419 Franklin Street. Ratification of Findings of Fact.	26-29
17S-35	Joanne Jones – Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District at 307 South Main Street. Ratification of Findings of Fact	30-33
17S-36	Raymond Pace, LLC – Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District at 213-217 South Main Street. Ratification of Findings of Fact.	34-38
17V-05	Donald & Kathryn Gereau – Request for Variance to allow construction of a garage at 219 South High Street. Ratification of Findings of Fact.	39-43

NEW BUSINESS

ITEM	DESCRIPTION	PAGE
	No New Business	

OTHER BUSINESS

ITEM	DESCRIPTION	PAGE
17Z-2005	Public Comments • Not to exceed 15 minutes as an agenda item • Not more than 3 minutes per speaker	
17Z-2006	Adjournment	

CALENDAR INFORMATION

BOARD/COMMITTEE	DATE	TIME	PLACE
Zoning Board of Appeals	Wed. November 8, 2017	6:30 P.M.	City Hall, 101 Green Street

Posted: October 6, 2017 at 8:30 a.m. Posted By: Matt Oldenburg

MINUTES
ZONING BOARD OF APPEALS
SEPTEMBER 13, 2017

CALL TO ORDER:

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, September 13, 2017 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	Absent
Jansen	Present
Nybo	Present
Rosenthal	Present

A quorum was declared.

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

APPROVAL OF MINUTES

MOTION: Cook moved, seconded by Bochniak to approve the August 9, 2017 minutes.

Motion carried on voice vote.

UNFINISHED BUSINESS

Cal. No. 17S-29, Applicant and Owner: Roger Gates, 112 South Bench Street, Galena, IL 61036. Location: Parcel: 22-100-066-00, North 151 SF of Lot 39 and South 32.74' of Lot 40, Lots between Main and Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 112 South Bench Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

MOTION: Jansen moved, seconded by Bochniak to ratify the Findings of Fact as written for Cal. No. 17S-29.

As Roll Call was:

Bochniak	Yes
Cook	Yes
Holman	Absent
Jansen	Yes
Nybo	Abstain
Baranski	Yes
Rosenthal	Yes

Motion carried.

Cal. No. 17S-32, Applicant: William Dieter, 314 Third Street, Galena, IL 61036 and Owner: WK Development LLC, 301 North Main Street, Galena, IL 61036. Location: Parcel: 22-100-382-00, North 83' 7" of Lot 43, Northwest part of Lot 42, Center Addition, Galena, Jo Daviess County, Illinois. Common Address is 301-303 North Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

MOTION: Cook moved, seconded by Baranski to ratify the Findings of Fact as written for Cal. No. 17S-32.

As Roll Call was:

Cook	Yes
Holman	Absent
Jansen	Yes
Nybo	Abstain
Baranski	Yes
Bochniak	Yes
Rosenthal	Yes

Motion carried.

Cal. No. 17S-30, Applicant and Owner: Kouz Properties, LLC, 242-246 North Main Street, Galena, IL 61036. Location: Parcel: 22-100-119-00, S ½ of Lot 5 and Lot 7, Block C, Lots in Wedge, Galena, Jo Daviess County, Illinois. Common Address is 242-246 North Main Street, Galena, IL 61036. Request for Special Use Permit to allow Outdoor Commercial Entertainment as an accessory commercial use in the Downtown Commercial District.

MOTION: Bochniak moved, seconded by Jansen to approve the Finding of Facts for Cal. No. 17S-30.

As Roll Call was:

Holman	Absent
Jansen	Yes
Nybo	Abstain
Baranski	Yes
Bochniak	Yes
Cook	Yes
Rosenthal	Yes

Motion carried.

NEW BUSINESS

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

Cal. No. 17A-03 & 17V-04, Applicant and Owner: Xochi LLC, 2616 Lobo Lane, Dubuque, IA 52001. Location: Parcel: 22-100-491-00, Lot 68, S 22' of Lot 67 & S ½ of Lot 76, Lots between Commerce and Water Streets, Galena, Jo Daviess County, Illinois. Common Address is 216 South Commerce Street, Galena, IL 61036. Request for Rezoning from Planned Commercial to Downtown Commercial and Variance to allow covered porch roof in front setback area and building expansion in rear. PUBLIC HEARING

Damian Baumhover, 4155 Pennsylvania Avenue Dubuque, spoke on behalf of the applicant as their architect. Their client is here for two requests: one is for a variance to build a covered patio on the front of the building; the other is a rezoning request to add-on approximately 1600 SF to the rear of the building. This will accommodate an expanded kitchen and walk-in freezer/refrigerator as well as dry-storage and office space. The existing patio has outdoor dining, but their clients would like to cover it to extend the useful life of the area further into winter and earlier in spring. This will be heated by a space heater and down-lit from the ceiling.

Bockniak asked what the patio roof would be made of.

Baumhover said they would use vintage timbers from the underside that would be exposed on the eaves. The roof will have tongue-and-groove decking, stained on the underside. The top will have clay tile like their other locations.

Rosenthal asked if the roof on the front patio would extend out to the front of the property?

Baumhover said it would come very close to the edge of the property. They have some play in the shape of the patio. They are giving away some of the hardscape to greenspace that will be landscaped. The size of it is flexible at this point.

Rosenthal asked where the water run-off would go when it rains?

Baumhover said it goes back to the greenspace areas or it ties into the existing drainage on the building.

Nybo asked about the rooftop HVAC.

Baumhover said right now, the existing building has HVAC which is centralized to the rear of the building, but it is very visible. The new design has a parapet around it from the front, so it would be hidden. The compressor and equipment will be on the ground (at grade) and will be enclosed by some type of fence.

Baranski asked if they had been before the Historic Commission?

Baumhover said that happens next week.

Baranski said the design is not really part of the Zoning Board's responsibility – that is up to the HPC.
He asked Oldenburg about the differences between Commercial and Downtown Commercial – they are pretty consistent in terms of what they allow.

Oldenburg said Planned Commercial is limited in outdoor activities, but is very similar to Downtown Commercial in that regard.

Baranski said there are still restrictions on the property if for some reason the space stopped being used as a restaurant. With the zoning change the uses permitted in the Downtown Commercial District would be allowed at this location.

Oldenburg said that is correct. The permitted uses are pretty parallel.

Baranski said he thought so. In terms of bulk standards, would anything change in relation to Floor Area Ratio.

Oldenburg said it goes to a 3.0 in Downtown Commercial instead of 0.5 in Planned Commercial – because Downtown Commercial has multiple levels.

Baranski asked if the 0.5 had already been met at this property.

Oldenburg said it had because before the 2005 change of convention in zoning nomenclature, he thought it was zoned as Historic Business. It was built in the 70's so it was before any bulk / intensity standards were set forth. He believed it must have been designated as Planned Commercial to bring it in line with the current City Hall property in 2005.

Baranski asked Baumhover about the existing shape of the front patio - you're just planning on putting a roof over it?

Baumhover said no that it would be modified. Right now, there is just the flatwork and the wall – but the wall comes out to the property line and follows the property line to the North. They would like to sawtooth it to get in some greenspace. It isn't in the best of shape.

Baranski asked if the roof will come out to the edge?

Baumhover said that is their plan. They would like the roof to extend to the farthest point possible but they have some flexibility.

Rosenthal asked if this is extended will the roof look as it does now.

Baumhover said it would not. They are planning on demolishing the existing mansard roof and building a taller parapet around the front. There's been some discussion about signage and how that's lit on the front elements, but the intent is to hide the mechanical equipment that's on the roof now.

No one spoke in favor of or in opposition to the requests.

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 17A-03 and Cal. No. 17V-04.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Bochniak to recommend the City Council approve a map amendment for Cal. No. 17A-03.

Discussion: Baranski said the distinction between Downtown Commercial and Planned Commercial is very little. The floor area ratio changes and means they can build up to three times the area that is there now. Building up isn't unusual in downtown if that happens. Removing the mansard roof is a good and getting the building back into use is really a good thing.

Baranski reviewed the Approval Criteria for a map amendment:

Approval Criteria & Recommendation for Map Amendment:

In order to maintain internal consistency within this code and on the zoning map, proposed amendments to the text and zoning map must be consistent with the purposes stated herein.

In determining whether the proposed amendment shall be approved, the following factors shall be considered (*including comments from the Zoning Administrator*):

(1) Whether the existing text or zoning designation was in error at the time of adoption; **N/A**

(2) Whether there has been a change of character in the area or throughout the city due to installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.; **N/A**

(3) Whether the proposed rezoning is compatible with the surrounding area and defining characteristics of the proposed zoning district or whether there may be adverse impacts on the capacity or safety of the portion of street network influenced by the rezoning, parking problems, or environmental impacts that the new zone may generate such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances; **Yes**

(4) Whether the proposal is in conformance with and in furtherance of the implementation of the goals and policies of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this code, and other city regulations and guidelines; **Yes**

(5) Whether adequate public facilities and services are available or will be made available concurrent with the projected impacts of development in the proposed zone; **Yes**

(6) Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs; **Yes**

(7) Whether there is a need in the community for the proposal and whether there will be benefits derived by the community or area by the proposed rezoning. **Yes**

The Zoning Administrator and Zoning Board of Appeals shall make recommendations and the City Council shall take final action.

(1) When the Zoning Board of Appeals or City Council deems it necessary or expedient, additional property in the zoning district may be considered for a zoning change provided that this additional property is also addressed in the public hearing notice, in accordance with § 154.919(F).

(2) In the event of a written protest against a proposed amendment signed and acknowledged by the owners of 20% of the frontage proposed to be altered or by the owners of 20% of the frontage immediately adjoining or across the alley or rear line therefrom or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered as to such regulations or zoning district and field with the City Clerk, such amendment shall not be passed except by the favorable vote of two-thirds of all of the selected members of the City Council.

As Roll Call was:

Jansen	Yes
Nybo	Yes
Baranski	Yes
Bochniak	Yes
Cook	Yes
Holman	Absent
Rosenthal	Yes

Motion carried.

MOTION: Baranski moved, seconded by Bochniak to approve the Variance request, Cal. No. 17V-04, subject to City Council approval of the Map Amendment, Cal. No. 17A-03.

Discussion: Baranski reviewed the Approval Criteria:

Approval Criteria & Recommendation for Variance:

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; **N/A**

(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; **No, it will not.**

(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; **Yes, it would**.

(4) *Reasonable use*. The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance; **Not sure if this is applicable**.

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

(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; **Yes**

(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; **Yes**

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

The Zoning Board of Appeals can approve, approve with conditions, or deny requests for variances. If the Board would like to approve the request, a motion to draft Finding of Facts should be entertained. The Findings of Facts will then be presented for final consideration at the next Board Meeting.

As Roll Call was:

Nybo	Yes
Baranski	Yes
Bochniak	Yes
Cook	Yes
Holman	Absent
Jansen	Yes
Rosenthal	Yes

Motion carried on voice vote.

Cal. No. 17S-34, Applicants and Owners: Christine Marshall and Cynthia Purnell, 419 Franklin Street, Galena, IL 61036. Location: Parcel: 22-100-344-00, Lot 57 of Franklin Street, Galena, Jo Daviess County, Illinois. Common Address is 419 Franklin Street. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District. PUBLIC HEARING

MOTION: Bochniak moved, seconded by Cook to open the Public Hearing on Cal. No. 17S-34.

Motion carried on voice vote.

Cyndi Purnell, 419 Franklin Street Galena said she and the other owner live in Wisconsin. They just recently purchased the house and are mostly planning to use it themselves. They will manage it themselves and are only planning on renting to family and friends – they want to know the people that are staying in the home. For the most part they, the owners, will be the ones staying there.

Rosenthal asked about off street parking.

Oldenburg said they do have off street parking and they are planning to widen the area.

Baranski said it looks like they have two stalls.

Purnell said they are planning to improve the stairs and walkway this year with additional work on the parking area after that.

No one spoke in favor of or in opposition to the request.

MOTION: Bochniak moved, seconded by Jansen to close the Public Hearing on Cal. No. 17S-34.

Motion carried on voice vote.

MOTION: Bochniak moved, seconded by Jansen to draft a positive Finding of Fact for Cal. No. 17S-34.

Discussion: Bochniak reviewed the Approval Criteria:

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. **The proposed plan meets the site plan review standards.**

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

(3) *Specific standards.* The land use regulations established in § 154.406; **The proposed use meets the specific standards established in §154.015, §154.403.1 and §154.406(D)(18).**

(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**. Complimentary uses are available to the project.**

(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. **The proposed use will protect the privacy of adjacent properties.**

(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. **There is no change to the physical aspect of the existing development and therefore should have a minimal impact on the use and enjoyment of adjacent properties.**

(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 design and integration of the proposed use has no projected impact on adjacent properties regarding nuisances. The impact of the number of guests is congruent with a residential use at the site.**

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.

As Roll Call was:

Baranski	Yes
Bochniak	Yes
Cook	Yes
Holman	Absent
Jansen	Yes
Nybo	Abstain
Rosenthal	Yes

Motion carried.

Cal. No. 17S-35, Applicant: Joann Jones, 307 South Main Street, Galena, IL 61036 and Owner: James & Beverly Jones, 307 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-032-00, S ½ of Lot 26, Original Lots between Main and Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 307 South Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District. PUBLIC HEARING

MOTION: Cook moved, seconded by Bochniak to open the Public Hearing on Cal. No. 17S-35.

Motion carried on voice vote.

Joann Jones, 307 ½ S Main Street Galena said she would like to have approval for a 2-bedroom short term vacation rental. Her parents own the building and they are already approved for one vacation rental in the building.

Oldenburg said the fire and building inspections would determine how many can stay in the rental.

No one else spoke in favor of or in opposition to the request.

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 17S-35.

Motion carried on voice vote.

MOTION: Bochniak moved, seconded by Cook to draft a positive Finding of Fact for Cal. No. 17S-35.

Discussion: Bochniak reviewed the Approval Criteria:

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. **The proposed plan meets the site plan review standards.**

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

(3) *Specific standards.* The land use regulations established in § 154.406; **The proposed use meets the specific standards established in §154.015, §154.403.1 and §154.406(D)(18).**

(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. **Complimentary uses are available to the project.**

(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. **The proposed use will protect the privacy of adjacent properties.**

(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. **There is no change to the physical aspect of the existing development and therefore should have a minimal impact on the use and enjoyment of adjacent properties.**

(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 design and integration of the proposed use has no projected impact on adjacent properties regarding nuisances. The impact of the number of guests is congruent with a residential use at the site.**

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.

As Roll Call was:

Bochniak	Yes
Cook	Yes
Holman	Absent
Jansen	Yes
Nybo	Abstain
Baranski	Yes
Rosenthal	Yes

Motion carried.

Cal. No. 17S-36, Applicant and Owner: Raymond Pace, LLC, 213-217 South Main Street, Galena, IL 61036. Location: Parcels: 22-100-042-00 and 22-100-045-00, N 23' of Lot 31 and S 30' of Lot 32, Original Lots between Main and Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 213-217 South Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District. PUBLIC HEARING

MOTION: Bochniak moved, seconded by Cook to open the Public Hearing on Cal. No. 17S-36.

Motion carried on voice vote.

Joan Raymond, 213-217 South Main Street Galena said she had recently purchased 213-215-217 South Main Street. There are three retail spaces at street level. She would like to have approval for short term vacation rentals for 5 units on the second floor and four units on the third floor.

Rosenthal asked what differentiates a hotel from a building with a large number of short term vacation rentals.

Oldenburg said this was discussed during the creation of the ordinance. There is nothing that prevents the applicant from having nine long term traditional rentals. The applicant will need to meet all the requirements for building and fire inspections. The reason this would not be classified as a hotel is that there are no other services being provided - these are smaller rooms and it really is a different product. It is an accommodation but it is just a dwelling unit. It is a big building - a few years ago the upper floors were condemned meaning no one could live on those floors above the Main Street retail space. It is really in bad shape and most units no longer have heat or electricity.

Nybo asked how many bedrooms were planned.

Raymond said the plan is for 2 – two bedroom units, 5 – one bedroom units and 2 – studios.

Rosenthal asked if they wanted to rent space as a traditional rental after approval they could – correct?

Oldenburg said they could.

Bochniak asked if she was going to manage the space.

Raymond said she would manage the rentals but as more spaces are approved she may need help.

Adam Johnson, 211 Fourth Street Galena said he is working with Raymond on plans for the two floors. The building is a lot like 223 South Main. It will need total historic rehabilitation including a sprinkler system. They are looking to apply for historic preservation tax credits.

No one spoke in opposition to the request.

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 17S-36.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Bochniak to draft a positive Finding of Fact for a Special Use Permit for Cal. No. 17S-36.

Discussion: Baranski reviewed the Approval Criteria:

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. **The proposed plan meets the site plan review standards.**

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

(3) *Specific standards.* The land use regulations established in § 154.406; ***The proposed use meets the specific standards established in §154.015, §154.403.1 and §154.406(D)(18).***

(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. **Complimentary uses are available to the project.**

(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. **The proposed use will protect the privacy of adjacent properties.**

(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. **There is no change to the physical aspect of the existing development and therefore should have a minimal impact on the use and enjoyment of adjacent properties.**

(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 design and integration of the proposed use has no projected impact on adjacent properties regarding nuisances. The impact of the number of guests is congruent with a residential use at the site.**

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.

As Roll Call was:

Cook	Yes
Holman	Absent
Jansen	Yes
Nybo	Abstain
Baranski	Yes
Bochniak	Yes
Rosenthal	Yes

Motion carried.

Cal. No. 17V-05, Applicant and Owner: Donald & Kathryn Gereau, 219 South High Street, Galena, IL 61036. Location: Parcel: 22-100-615-00, E ½ of Lot 10, Block 6, Original Lots of Galena, Galena, Jo Daviess County, Illinois. Common Address is 219 South High Street. Request for Variance to allow construction of a garage.

MOTION: Jansen moved, seconded by Bochniak to open the Public Hearing on Cal. No. 17V-05.

Motion carried on voice vote.

Adam Johnson. 211 Fourth Street Galena said that since the August Concept Plan meeting they have been working with Terry Leifker on identifying the lot lines. It seems the thought about this is if you asked ten people where the lot lines are you are going to get ten answers. They discussed what would be acceptable for the property lines since you may never really know what the original ones were. Leifker suggested a line of occupation to describe where Gereau's property starts – using the retaining wall behind the house that lines up

with the sidewalk and follows thru with the stones in the grass. The lines are pretty much where they thought they were and as such the proposed garage location is about where they originally planned. They have been before the historic commission. The requested variance from average on Wight Street would mean going from 6-7 feet to basically nothing. They would also be building in the 50-foot visibility triangle which is already affected by the house.

Baranski asked what the average Wight Street setback was.

Johnson said it is anywhere from zero to six feet, but when you factor Gereau's house and 'front yard' into the equation it ups the number. When you do the averaging you only include the block face that the property is on. Looking at the other side of Wight Street - those homes are all almost right on the sidewalk or street.

Rosenthal said the house's front porch is on the High Street side of the home – that's not going to change. Adding the garage really isn't going to change the visibility.

Baranski said with respect to the visibility triangle it usually relates to certain types of streets with certain amounts of traffic, but this is Wight Street which is a narrow street that rarely is driven on. Is the visibility triangle the same across the city at every intersection?

Oldenburg said the visibility triangle is based on right of way widths.

Baranski asked if it made sense to have the same visibility triangle at this location and at the intersection of High and Spring Streets. It is the nature of the area and Wight Street.

Johnson agreed - people driving in the area are locals and know the street and intersection. The stop sign is already in the pavement on the corner.

Rosenthal said he doesn't really see the new garage affecting the visibility any more than the house does right now.

No one spoke in favor of or in opposition to the request.

MOTION: Jansen moved, seconded by Bochniak to close the Public Hearing on Cal. No. 17V-05.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Jansen to draft a positive Finding of Fact to allow the variance as requested for Cal. No. 17V-05.

Discussion: Rosenthal said based on the location and the layout of the property he felt comfortable allowing this. He didn't feel that there would be a negative impact on the visibility at the location. The Historic Board will make sure that the garage addition is historically appropriate.

Baranski said he struggled at first when looking at the request. The proposed garage is very small and will fit into the bulk standards. Wight Street is very narrow and tight with the houses almost right up to the street. The

garage will fit with the area and character. In 50 years, it will be just as though it had always been a part of Galena and the neighborhood.

Variance Criteria

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; **It does not**

(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; **Yes**

(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; **Yes**

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

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

(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; **Yes**

(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; **Yes**

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

The Zoning Board of Appeals can approve, approve with conditions, or deny requests for variances. If the Board would like to approve the request, a motion to draft Finding of Facts should be entertained. The Findings of Facts will then be presented for final consideration at the next Board Meeting.

As Roll Call was:

Holman	Absent
Jansen	Yes
Nybo	Yes
Baranski	Yes
Bochniak	Yes
Cook	Yes
Rosenthal	Yes

Motion carried.

COUNTY ZONING

None

WORKSESSION/OTHER

None

PUBLIC COMMENTS

None

MOTION: Bochniak moved, seconded by Baranski to adjourn the meeting at 7:30 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: 17V-04

APPLICATION BY: Xochi, LLC, 216 South Commerce Street, Galena, IL 61036.

FOR: A Variance request to construct a porch roof into the front yard setbacks.

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on September 13, 2017. 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 has purchased 216 S. Commerce Street to open a Los Aztecas restaurant and wishes to make alterations to the building to facilitate their operations. Upon review with their architect, we discovered that the bulk, intensity, parking and landscaping standards would be impossible to meet as the property is currently zoned as Planned Commercial. We considered the possibility of rezoning to Downtown Commercial and it worked-out that it would alleviate almost all of the restrictions to accomplish their plans.

The applicant wishes to push-out the rear of the building 25 feet towards Water Street to facilitate more room for the kitchen and a new walk-in cooler. The applicant also wishes to extend a porch roof over the outdoor dining area in the front. In the Downtown Commercial District, the front yard setbacks are based on the average of front setbacks for other buildings on the same block face. In this case, the front setback is half-way between 216's façade and City Hall's façade. Therefore, a variance is needed for front-yard setback to construct a porch roof over the outdoor dining area.

Therefore, a variance is needed for front-yard setback to construct a porch roof over the outdoor dining area.

A site plan review of the proposed request has been conducted per the criteria listed in §154.914.

Staff recommends approval of this request.

Land uses in all directions include downtown commercial.

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:

- Damian Baumhover, 4155 Pennsylvania Avenue Dubuque, spoke on behalf of the applicant as their architect. Their client is here for two requests: one is for a variance to build a covered patio on the front of the building; the other is a rezoning request to add-on approximately 1600 SF to the rear of the building. This will accommodate an expanded kitchen and walk-in freezer/refrigerator as well as dry-storage and office space. The existing patio has outdoor dining, but their clients would like to cover it to extend the useful life of the area further into winter and earlier in spring. This will be heated by a space heater and down-lit from the ceiling.

  Bockniak asked what the patio roof would be made of.

  Baumhover said they would use vintage timbers from the underside that would be exposed on the eaves. The roof will have tongue-and-groove decking, stained on the underside. The top will have clay tile like their other locations.

  Rosenthal asked if the roof on the front patio would extend out to the front of the property?

  Baumhover said it would come very close to the edge of the property. They have some play in the shape of the patio. They are giving away some of the hardscape to greenspace that will be landscaped. The size of it is flexible at this point.

  Rosenthal asked where the water run-off would go when it rains?

Baumhover said it goes back to the greenspace areas or it ties into the existing drainage on the building.

Nybo asked about the rooftop HVAC.

Baumhover said right now, the existing building has HVAC which is centralized to the rear of the building, but it is very visible. The new design has a parapet around it from the front, so it would be hidden. The compressor and equipment will be on the ground (at grade) and will be enclosed by some type of fence.

Baranski asked if they had been before the Historic Commission?

Baumhover said that happens next week.

Baranski said the design is not really part of the Zoning Board's responsibility – that is up to the HPC.

He asked Oldenburg about the differences between Commercial and Downtown Commercial – they are pretty consistent in terms of what they allow.

Oldenburg said Planned Commercial is limited in outdoor activities, but is very similar to Downtown Commercial in that regard.

Baranski said there are still restrictions on the property if for some reason the space stopped being used as a restaurant. With the zoning change the uses permitted in the Downtown Commercial District would be allowed at this location.

Oldenburg said that is correct. The permitted uses are pretty parallel.

Baranski said he thought so. In terms of bulk standards, would anything change in relation to Floor Area Ratio.

Oldenburg said it goes to a 3.0 in Downtown Commercial instead of 0.5 in Planned Commercial – because Downtown Commercial has multiple levels.

Baranski asked if the 0.5 had already been met at this property.

Oldenburg said it had because before the 2005 change of convention in zoning nomenclature, he thought it was zoned as Historic Business. It was built in the 70's so it was before any bulk / intensity standards were set forth. He believed it must have been designated as Planned Commercial to bring it in line with the current City Hall property in 2005.

<u>Baranski</u> asked Baumhover about the existing shape of the front patio - you're just planning on putting a roof over it?

Baumhover said no that it would be modified. Right now, there is just the flatwork and the wall – but the wall comes out to the property line and follows the property line to the North. They would like to sawtooth it to get in some greenspace. It isn't in the best of shape.

Baranski asked if the roof will come out to the edge?

Baumhover said that is their plan. They would like the roof to extend to the farthest point possible but they have some flexibility.

Rosenthal asked if this is extended will the roof look as it does now.

Baumhover said it would not. They are planning on demolishing the existing mansard roof and building a taller parapet around the front. There's been some discussion about signage and how that's lit on the front elements, but the intent is to hide the mechanical equipment that's on the roof now.

No one spoke in favor of or in opposition to the requests.

APPLICABLE SECTIONS OF THE ZONING ORDINANCE

- Section 154.005 sets forth the Intent and Purpose of the Zoning Ordinance.
- Section 154.201 (C) (6) provides a definition and description of the Downtown Commercial District.
- Table 154.403.1 lists the Permitted Land Uses permitted by right or by Special Use Permit for all Zoning Districts.
- Section 154.914 lists the criteria for Site Plan Review.
- Section 154.925 sets forth the Purpose, Applicability, Approval Criteria, Decision-Maker and 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 Planned Commercial District and this request is concurrent with a rezoning request to Downtown Commercial.
2. The Downtown Commercial district is intended to permit both large- and small-scale downtown commercial development at an intensity which provides significant incentives for infill development, redevelopment, and the continued economic viability of existing development. Accordingly, the district standards are crafted to work in conjunction with the requirements of the Historic District set forth in Chapter 151. A wide range of office, retail, and lodging land uses are permitted within this district. Consistent with existing development patterns, no requirements for on-site landscaping or parking are required in this district for permitted uses. This district is strictly limited to the central city.
3. The applicant seeks a Variance to allow a porch roof to be constructed into the front yard setbacks.

DETERMINATION

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by Xochi, LLC for a Variance to allow construction of a porch roof into the front yard setbacks, 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; *N/A*
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; *No, it will not.*
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; *Yes, it would.*
4. *Reasonable use.* The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance; *N/A.*
5. *Minimum necessary.* The variance is the minimum necessary to make possible the reasonable use of land or structures; *Yes.*
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; *Yes.*
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 *Yes.*
8. *Conformance with the Comprehensive Plan.* The granting of a variance will not conflict with the goals and principles in the adopted Comprehensive Plan. *Yes.*

DECISION

NOW, THEREFORE, BE IT RESOLVED that this Zoning Board of Appeals has determined that this request by Xochi, LLC for a Variance to allow construct a porch roof into the front yard setbacks should be approved with the following condition:

1. This request is approved with the condition that the City Council approves the request for rezoning of 216 South Commerce Street from Planned Commercial to Downtown Commercial.

PASSED AND APPROVED this 13th day of September, A.D. 2017, by the Galena Zoning Board of Appeals by a vote of 6 ayes, 0 nays, 1 absent, 0 abstain, 0 recused.

_____

John Rosenthal, Chairperson

DECISION

ZONING BOARD OF APPEALS
OF THE CITY OF GALENA

REGARDING

CALENDAR NUMBER: 17S-34

APPLICATION BY: Christine Marshall & Cynthia Purnell, 419 Franklin Street, Galena, IL 61036.

FOR: A Special Use Permit to allow Accommodations, Vacation Rental in a Low Density Residential District.

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on September 13, 2017. 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 is requesting a Special Use Permit to operate as a one-dwelling vacation rental in a Low Density Residential District.

A site plan review of the proposed request has been conducted per the criteria listed in §154.914. All exterior development is existing and no further development is needed.

Number of Guests: Maximum occupancy load for this dwelling unit is eight (8) guests. This is determined by the International Fire Code, International Building Code and NFPA on the basis of minimum 200 square feet per person gross (IFC Table 1004.1.2), with an additional requirement for two means of fire-protected egress for each sleeping area (NFPA 24.2.2.1.1).

Lot Capacity: The lot size is 10,686 square feet, or 0.245 acres. The structure is situated along Franklin Street downhill from the intersection of Dodge Street and will take driveway access from Franklin Street. The site is already properly landscaped with well-established vegetation and lighting. The lot can easily absorb the impact of this land use with minimal impact on surrounding properties.

Availability and impact of parking: The driveway can accommodate up to two vehicles off-street. The parking regulations require one (1) off-street space per four (4) guests. The Staff determined a maximum occupancy of eight (8) guests, therefore two off-street parking spaces are required.

Emergency measures: Staff will ensure that emergency lighting, exits, posted floor plans and emergency telephone are in place before license is issued.

Staff recommends approval of this request. Land uses surrounding the property include residences.

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:

- **Cyndi Purnell, 419 Franklin Street, Galena** said she and the other owner live in Wisconsin. They just recently purchased the house and are mostly planning to use it themselves. They will manage it themselves and are only planning on renting to family and friends – they want to know the people that are staying in the home. For the most part they, the owners, will be the ones staying there.

  Rosenthal asked about off street parking.

  Oldenburg said they do have off street parking and they are planning to widen the area.

  Baranski said it looks like they have two stalls.

  Purnell said they are planning to improve the stairs and walkway this year with additional work on the parking area after that.

Testimony Presented in Opposition to the Proposal:

- There was no testimony 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 Accommodations, Vacation Rental.
- 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) (18) defines and outlines the regulations for Accommodations, Vacation Rental.
- 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 Zoning Ordinance provides for Accommodations, Vacation Rental as follows:

    a. Accommodations, Vacation Rental is permitted only by Special Use Permit as a principal commercial land use in a Low Density Residential District.

3. The Low Density Residential District is intended to permit development which primarily 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 one-unit Vacation Rental as a principal commercial land use in a Low Density Residential District.

5. The property meets the detailed regulations for a vacation rental.

DETERMINATION

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by Christine Marshall & Cynthia Purnell for a Special Use Permit to allow Accommodations, Vacation Rental 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 appropriate to the defining characteristics of the district.

3. The request meets the detailed land use regulations established for Accommodations, Vacation Rental land use.

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 Christine Marshall & Cynthia Purnell for a Special Use Permit to allow Accommodations, Vacation Rental as a principal commercial land use in a Low Density Residential District should be approved.

PASSED AND APPROVED this 13th day of September, A.D. 2017, by the Galena Zoning Board of Appeals by a vote of 5 ayes, 0 nays, 1 absent, 1 abstain, 0 recused.

_____

John Rosenthal, Chairperson

DECISION

ZONING BOARD OF APPEALS
OF THE CITY OF GALENA

REGARDING

CALENDAR NUMBER: 17S-35

APPLICATION BY: Joanne Jones, 307 South Main Street,
Galena, IL 61036.

FOR: A Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on September 13, 2017. 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 is requesting a Special Use Permit to operate as a one-dwelling vacation rental in the Downtown Commercial District. There is currently another vacation rental unit on the third floor of this building. This request is for the second floor apartment.

A site plan review of the proposed request has been conducted per the criteria listed in §154.914. All exterior development is existing and no further development is needed.

Number of Guests: Maximum occupancy load for this vacation rental is four (4) guests. This is determined by the International Fire Code, International Building Code and NFPA on the basis of minimum 200 square feet per person gross (IFC Table 1004.1.2), with an additional requirement for two means of fire-protected egress for each sleeping area (NFPA 24.2.2.1.1).

Lot Capacity: The lot size is 1,551 square feet, or 0.04 acres. The structure is set in the downtown commercial area with access to Main Street and Bench Street. The lot can easily absorb the impact of this land use with minimal impact on surrounding properties.

Availability and impact of parking: Parking is exempt in the Downtown Commercial District.

Emergency measures: Staff will ensure that emergency lighting, exits, posted floor plans and emergency telephone are in place before license is issued.

No other alterations will be done on the outside and no further site improvements are required.

Staff recommends approval of this request.

Land uses surrounding the property include business, residential, and apartments.

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:

- **Joann Jones, 307 ½ S Main Street, Galena,** said she would like to have approval for a 2-bedroom short term vacation rental. Her parents own the building and they are already approved for one vacation rental in the building.

  Oldenburg said the fire and building inspections would determine how many can stay in the rental.

Testimony Presented in Opposition to the Proposal:

- There was no testimony 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 Accommodations, Vacation Rental.

- Section 154.201 (C) (6) provides a definition and description of the Downtown Commercial 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) (18) defines and outlines the regulations for Accommodations, Vacation Rental.
- 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 Downtown Commercial District.
2. The Zoning Ordinance provides for Accommodations, Vacation Rental as follows:
   a. Accommodations, Vacation Rental is permitted only by Special Use Permit as a principal commercial land use in a Downtown Commercial District.
3. The Downtown Commercial District is intended to permit both large-and small-scale downtown commercial development at an intensity which provides significant incentives for infill development, redevelopment and the continued economic viability of existing development. Accordingly, the district standards are crafted to work in conjunction with the requirements of the Historic District. A wide range of office, retail and lodging land uses are permitted within the district. Consistent with existing development patterns, no requirements for on-site landscaping or parking or required in this district for Permitted Uses. This district is strictly limited to central city.
4. The applicant seeks a Special Use Permit to allow a one-dwelling unit Vacation Rental as a principal commercial land use in a Downtown Commercial District.
5. The property meets the detailed regulations for a vacation rental.

DETERMINATION

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by Joanne Jones for a Special Use Permit to allow Accommodations, Vacation Rental as a principal commercial land use in a Downtown Commercial 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 Downtown Commercial District and is congruous to the defining characteristics of the district.
3. The request meets the detailed land use regulations established for Accommodations, Vacation Rental land use.
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 Joanne Jones for a Special Use Permit to allow Accommodations, Vacation Rental as a principal commercial land use in a Downtown Commercial District should be approved.

PASSED AND APPROVED this 13th day of September, A.D. 2017, by the Galena Zoning Board of Appeals by a vote of 5 ayes, 0 nays, 1 absent, 1 abstain, 0 recused.

_____
John Rosenthal, Chairperson

DECISION

ZONING BOARD OF APPEALS
OF THE CITY OF GALENA

REGARDING

CALENDAR NUMBER: 17S-36

APPLICATION BY: Raymond Pace, LLC, 213-217 South Main Street, Galena, IL 61036.

FOR: A Special Use Permit to allow Accommodations, Vacation Rental in a Downtown Commercial District.

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on September 13, 2017. 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 is requesting a Special Use Permit for additional vacation rental units in the Downtown Commercial District. This property is commonly known as the Schmol building and has retail shops on Main Street with apartments above the ground level. The apartments have been condemned / vacant for several years. The new owner wishes to renovate the building and create nine vacation rental units total amongst the second and third floors.

A site plan review of the proposed request has been conducted per the criteria listed in §154.914. All exterior development is existing and no further development is needed, however, it is expected that the new owner will freshen-up the paint & maintenance that has been neglected.

Number of Guests: Maximum occupancy load for the nine units is 22 guests. This is determined by the International Fire Code, International Building Code and NFPA on the basis of minimum 200 square feet per person gross (IFC Table 1004.1.2), with an additional requirement for two means of fire-protected egress for each sleeping area (NFPA 24.2.2.1.1).

Lot Capacity: The lot size is 3,746 square feet, or 0.085 acres. The structure is situated between Main and Bench Streets and currently houses seven apartments above three retail shops. The lot can easily absorb the impact of this land use with minimal impact on surrounding properties.

Availability and impact of parking: There is no off-street parking requirement in the Downtown Commercial District.

Emergency measures: Staff will ensure that emergency lighting, exits, posted floor plans and emergency telephone are in place before license is issued.

Staff recommends approval of this request. Land uses surrounding the property include residences, commercial and tourist attractions.

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:

- **Joan Raymond, 213-217 South Main Street, Galena,** said she had recently purchased 213-215-217 South Main Street. There are three retail spaces at street level. She would like to have approval for short term vacation rentals for 5 units on the second floor and four units on the third floor.

  Rosenthal asked what differentiates a hotel from a building with a large number of short term vacation rentals.

  Oldenburg said this was discussed during the creation of the ordinance. There is nothing that prevents the applicant from having nine long term traditional rentals. The applicant will need to meet all the requirements for building and fire inspections. The reason this would not be classified as a hotel is that there are no other services being provided - these are smaller rooms and it really is a different product. It is an accommodation but it is just a dwelling unit. It is a big building - a few years ago the upper floors were condemned meaning no one could live on those floors above the Main Street retail space. It is really in bad shape and most units no longer have heat or electricity.

  Nybo asked how many bedrooms were planned.

Raymond said the plan is for 2 – two bedroom units, 5 – one bedroom units and 2 – studios.

Rosenthal asked if they wanted to rent space as a traditional rental after approval they could – correct?

Oldenburg said they could.

Bochniak asked if she was going to manage the space.

Raymond said she would manage the rentals but as more spaces are approved she may need help.

Adam Johnson, 211 Fourth Street, Galena, said he is working with Raymond on plans for the two floors. The building is a lot like 223 South Main. It will need total historic rehabilitation including a sprinkler system. They are looking to apply for historic preservation tax credits.

Testimony Presented in Opposition to the Proposal:

- There was no testimony 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 Accommodations, Vacation Rental.
- Section 154.201 (C) (6) provides a definition and description of the Downtown Commercial 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) (18) defines and outlines the regulations for Accommodations, Vacation Rental.
- 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 Downtown Commercial District.

2. The Zoning Ordinance provides for Accommodations, Vacation Rental as follows:

    a. Accommodations, Vacation Rental is permitted only by Special Use Permit as a principal commercial land use in a Downtown Commercial District.

3. The Downtown Commercial District is intended to permit both large-and small-scale downtown commercial development at an intensity which provides significant incentives for infill development, redevelopment and the continued economic viability of existing development. Accordingly, the district standards are crafted to work in conjunction with the requirements of the Historic District. A wide range of office, retail and lodging land uses are permitted within the district. Consistent with existing development patterns, no requirements for on-site landscaping or parking or required in this district for Permitted Uses. This district is strictly limited to central city.

4. The applicant seeks a Special Use Permit to allow Accommodations, Vacation Rental as a principal commercial land use in a Downtown Commercial District.

5. The property meets the detailed regulations for a vacation rental.

DETERMINATION

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by Raymond Pace, LLC for a Special Use Permit to allow Accommodations, Vacation Rental as a principal commercial land use in a Downtown Commercial 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 Downtown Commercial District and is consistent with the defining characteristics of the district.

3. The request meets the detailed land use regulations established for Accommodations, Vacation Rental land use.

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 Raymond Pace, LLC for a Special Use Permit to allow Accommodations, Vacation Rental as a principal commercial land use in a Downtown Commercial District should be approved.

PASSED AND APPROVED this 13th day of September, A.D. 2017, by the Galena Zoning Board of Appeals by a vote of 5 ayes, 0 nays, 1 absent, 1 abstain, 0 recused.

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John Rosenthal, Chairperson

DECISION

ZONING BOARD OF APPEALS
OF THE CITY OF GALENA

REGARDING

CALENDAR NUMBER: 17V-05

APPLICATION BY: Donald & Kathryn Gereau, 219 South High Street, Galena, IL 61036.

FOR: Request for a variance to allow a construction of a garage within front yard setbacks and visibility triangle.

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on September 13, 2017. 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 wishes to construct an attached garage to provide off-street parking at his residence at 219 South High Street. Currently, the household vehicles park adjacent to the house along Wight Street. The house sits along the grade of South High and Wight Streets and the remainder of the property has a grade at or below the basement floor level. The only available space at the street grade is at the corner of South High and Wight Streets.

One issue is that this property has two front yards. The front setbacks for this property are the average of the front setbacks of all buildings along the same block face. Currently, the house sits 13 feet back from the property line and the remaining houses are 2 to 6 feet back from the property line; the average front setback along that block face is approximately 7 feet. The proposed garage will need 13 feet in width to fit a vehicle, making it rest directly on the front property line along Wight Street. This is something that cannot be administratively approved and a Variance would be required.

The other issue is that the garage will encroach upon the visibility triangle requirements per 154.605(I) which states that the vertices of the triangle must be measured back 50 feet from the corner pin on each direction. Then a line is drawn between the two vertices to form a triangle. No structures shall be permitted which materially impedes vision above the height of 2.5 feet.

The only alternatively available land would be the subgrade yard area. There is an existing old earthen ramp from South High Street that was used to access a carriage house in the yard that is no longer there. This would need to be reconstructed to an appropriate width for a vehicle to drive down and then a garage could be constructed elsewhere on the property.

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 Galena said that since the August Concept Plan meeting they have been working with Terry Leifker on identifying the lot lines. It seems the thought about this is if you asked ten people where the lot lines are you are going to get ten answers. They discussed what would be acceptable for the property lines since you may never really know what the original ones were. Leifker suggested a line of occupation to describe where Gereau's property starts – using the retaining wall behind the house that lines up with the sidewalk and follows thru with the stones in the grass. The lines are pretty much where they thought they were and as such the proposed garage location is about where they originally planned. They have been before the historic commission. The requested variance from average on Wight Street would mean going from 6-7 feet to basically nothing. They would also be building in the 50-foot visibility triangle which is already affected by the house.

  Baranski asked what the average Wight Street setback was.

  Johnson said it is anywhere from zero to six feet, but when you factor Gereau's house and 'front yard' into the equation it ups the number. When you do the averaging you only include the block face that the property is on. Looking at the other side of Wight Street - those homes are all almost right on the sidewalk or street.

Rosenthal said the house's front porch is on the High Street side of the home – that's not going to change. Adding the garage really isn't going to change the visibility.

Baranski said with respect to the visibility triangle it usually relates to certain types of streets with certain amounts of traffic, but this is Wight Street which is a narrow street that rarely is driven on. Is the visibility triangle the same across the city at every intersection?

Oldenburg said the visibility triangle is based on right of way widths.

Baranski asked if it made sense to have the same visibility triangle at this location and at the intersection of High and Spring Streets. It is the nature of the area and Wight Street.

Johnson agreed - people driving in the area are locals and know the street and intersection. The stop sign is already in the pavement on the corner.

Rosenthal said he doesn't really see the new garage affecting the visibility any more than the house does right now.

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 154.201 (B) (2) provides a definition and description of the Low Density Residential District.
- Section 154.202 sets forth the Residential Principal and Major Accessory Structures and Bulk Standards.
- 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. Off-street parking is limited due to the topography and the way the existing structure fits on the site.
3. In cases of infill development, it is appropriate to match the character of surrounding properties.

DETERMINATION

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by Donald & Kathryn Gereau for a Variance to allow construction of a garage in the front yard setbacks and visibility triangle 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 Donald & Kathryn Gereau for a Variance to construct a garage in the front yard setbacks and visibility triangle should be approved.

PASSED AND APPROVED this 13th day of September, A.D. 2017, by the Galena Zoning Board of Appeals by a vote of 6 ayes, 0 nays, 1 absent, 0 abstain, 0 recused.

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John Rosenthal, Chairperson