



City of Galena, Illinois

AGENDA

ZONING BOARD OF APPEALS

WEDNESDAY, APRIL 10, 2019
6:30 P.M. – CITY HALL 101 GREEN STREET

ITEM	DESCRIPTION
19Z-2001	Call to Order by Presiding Officer
19Z-2002	Roll Call
19Z-2003	Establishment of Quorum

APPROVAL OF MINUTES

ITEM	DESCRIPTION	PAGE
19Z-2004	Approval of the Minutes of the Regular Meeting of March 13, 2019.	3-14

UNFINISHED BUSINESS

ITEM	DESCRIPTION	PAGE
19S-02	Michael & Kathleen Hart – Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District at 116 S. Main Street. Ratification of Findings of Fact.	15-18
19S-03	Magnum Recoil – Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District at 240 N. Main Street. Ratification of Findings of Fact.	19-22
19S-04 & 19V-02	Bruce & Joyce Hanson – Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District and Variance for off-street parking requirement at 618 S. Prospect Street. Ratification of Findings of Fact.	23-27
19V-03	T&C Wiene Enterprises – Request for Variance to allow a 30' front yard setback in new subdivision. Ratification of Findings of Fact.	28-31

NEW BUSINESS

ITEM	DESCRIPTION	PAGE
19S-05	Michael & Kathleen Hart – Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District at 122 N. Main Street.	32-36

OTHER BUSINESS

ITEM	DESCRIPTION	PAGE
19Z-2005	Public Comments Not to exceed 15 minutes as an agenda item Not more than 3 minutes per speaker	
19Z-2006	Adjournment	

CALENDAR INFORMATION

BOARD/COMMITTEE	DATE	TIME	PLACE
Zoning Board of Appeals	Wednesday, May 8, 2019	6:30 P.M.	City Hall, 101 Green Street

Posted: April 5, 2019 at 10:00 p.m. Posted By: Matt Oldenburg

**MINUTES
ZONING BOARD OF APPEALS
MARCH 13, 2019**

CALL TO ORDER:

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, March 13, 2019 at City Hall, 101 Green Street, Galena, IL.

ROLL CALL AND DECLARATION OF QUORUM:

As Roll Call was:

Baranski	Absent
Bochniak	Present
Calvert	Present
Cook	Present
Jansen	Present
Nybo	Present
Rosenthal	Present

A quorum was declared.

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

APPROVAL OF MINUTES

MOTION: Calvert moved, seconded by Cook to approve the February 13, 2019 minutes.

Motion carried with Jansen abstaining

UNFINISHED BUSINESS

Cal. No. 19S-01, Applicants & Owners: Dino & Sotiri Rigopoulos, 209 North Main Street, Galena, IL 61036. Location: Parcel: 22-100-163-00, N 19' of Lot 35 & SW 8.5' of Lot 36, E Side of Main Street, Original City of Galena, Jo Daviess County, Illinois. Common Address: 209 North Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

MOTION: Bochniak moved, seconded by Cook to approve the Finding of Fact for Cal. No. 19S-01.

As Roll Call was:

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

Motion carried.

NEW BUSINESS

Cal. No. 19S-02, Applicants: Michael & Kathleen Hart, 4532 N Flansburg, Lena, IL 61048 and Owner: Larry Wiedenheft, 116 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-142-00, S 13 ft. of Lot 20 & N 3 ½ ft. of Lot 19, East Side of Main Street, Galena, Jo Daviess County, Illinois. Common Address is 116 South Main 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 open the Public Hearing for Cal. No. 19S-02.

Motion carried on voice vote.

City Attorney Nack swore in all those who wished to testify at tonight's Public Hearings.

Michael Hart, 307 South Main Street Galena said he would like to have a third-floor vacation rental at 116 South Main Street. The first and second floors have retail space. The third floor already has a kitchen and bathroom area that will be remodeled. Access would be from Commerce Street where there is an off-street parking space. You then enter through a gate into the courtyard and walk up the iron stairs. He and his wife would be managing the unit.

No other testimony was heard for this request.

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing for Cal. No. 19S-02.

Motion carried on voice vote.

MOTION: Calvert moved, seconded by Jansen to approve Cal. No. 19S-02 as presented.

Discussion: Calvert 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 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:

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

Motion carried.

Cal. No. 19S-03, Applicant and Owner: Magnum Recoil, 240 North Main Street, Galena, IL 61036. Location: Parcel: 22-100-117-00, Part of Lot 5, Block C, Lots in Wedge, Galena, Jo Daviess County, Illinois. Common Address is 240 North Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

MOTION: Bochniak moved, seconded by Cook to open the Public Hearing for Cal. No. 19S-03.

Motion carried on voice vote.

Tim Bloom, 605 South High Street Galena said he was representing building owner Larry Wiedenheft. The building at 240 North Main Street has a retail space on the first floor, an attorney's office on the second floor and a long-term rental unit on the third floor that they are proposing be converted to a vacation rental. Access is from Diagonal Street where there is off street parking.

No other testimony was heard for this request.

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing for Cal. No. 19S-03.

Motion carried on voice vote.

MOTION: Bochniak moved, seconded by Jansen to approve Cal. No. 19S-03 as presented.

Discussion: Bochniak said the same review criteria were applicable as those presented for Cal. No. 19S-02.

As Roll Call was:

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

Motion carried.

Cal. No. 19S-04 & 19V-02, Applicants and Owners: Bruce & Joyce Hanson, 616 & 618 South Prospect Street, Galena, IL 61036. Location: Parcel: 22-100-266-00, W ½ of Lot 10 and W 67.09' of N ½ of Lot 11, Between Bench & Prospect Streets, Galena, Jo Daviess County, Illinois. Common Address is 618 South Prospect Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District and Variance for off-street parking requirement.

MOTION: Bochniak moved, seconded by Calvert to open the Public Hearing for Cal. No. 19S-04.

Motion carried on voice vote.

Joyce Hanson, 124 North Main Street Burlington Illinois said they are requesting a permit to allow a vacation rental at 616-618 South Prospect. They will be retiring in June and are planning on living full time in Galena at 616 South Prospect Street. The other unit, 618, is where they would like the vacation rental. They have a small garage that they would like to keep for their personal use. These two units have always parked in front of the building and south towards Gear Street. The properties on Bench Street run all the way back to Prospect Street but none of them have any access off Prospect. Their duplex is the last building on the east side of the street.

Cook asked how many cars would be using the street.

Hanson said typically it has been their two and up to two for the long-term renters.

Oldenburg said the code states they need two parking spaces for each unit – this is based on square footage. There is a vacation rental at 611 South Prospect, but all their parking is off street. The Steamboat House and Avery on Prospect Street are closer to Spring Street. He has received no complaints about parking or anything else in this area.

No other testimony was heard for this request.

MOTION: Jansen moved, seconded by Bochniak to close the Public Hearing for Cal. No. 19S-04.

Motion carried on voice vote.

MOTION: Bochniak moved, seconded by Calvert to approve Cal. No. 19S-04 contingent upon approval of the parking variance, Cal. No. 19V-02.

Discussion: Jansen said the same review criteria were applicable as those presented for Cal. No. 19S-02.

As Roll Call was:

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

Motion carried.

MOTION: Bochniak moved, seconded by Cook to open the Public Hearing for Cal. No. 19V-02.

Motion carried on voice vote.

Joyce Hanson, 124 North Main Street Burlington Illinois reiterated her statements from the previous public hearing.

No other testimony was heard for this request.

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing for Cal. No. 19V-02.

Motion carried on voice vote.

MOTION: Jansen moved, seconded by Bochniak to approve Cal. No. 19V-02 as presented.

Discussion: Jansen reviewed the approval criteria:

Variance Approval Criteria & Recommendation:

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.

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	Abstained
Baranski	Absent
Bochniak	Yes
Calvert	Yes
Cook	Yes
Jansen	Yes
Rosenthal	Yes

Motion carried.

Cal. No. 19A-02, 19SUB-01 & 19V-03, Applicant & Owner: T&C Wiene Enterprises, 2955 Red Gates Drive, Galena, IL 61036. Location: Parcel: 22-200-133-00, Part of the NW ½ of the NW Quarter of Section 24, Township 28 North, Range 1 West of the Fourth Principal Meridian, Galena, Jo Daviess County, Illinois. Common Address: 618 Gear Street. Request for rezoning to Low Density Residential from Limited Agriculture; Preliminary Plan & Plat to subdivide four residential lots from the larger parcel; and Variance to allow a 30' front yard setback.

MOTION: Bochniak moved, seconded by Calvert to open the Public Hearing for Cal. No. 19A-02.

Motion carried on voice vote.

Tom Wiene, 2955 Red Gates Road Galena said he would like to subdivide and change the zoning to Low Density Residential for farm ground on Gear Street to build homes.

Rosenthal asked if water and sewer were there.

Wienen said it was.

Oldenburg said he would need to extend the sewer a bit.

Rosenthal asked about the street being turned over to the city.

Oldenburg said all four lots would have direct access off Gear Street.

Rosenthal asked about the remainder of the property.

Oldenburg said we are looking at the entire acreage so if or when they want to subdivide the zoning is in place. There is a 66-foot easement recorded on the southern property boundary, so a street could be built in the future that would give access to the back lots.

Wienen said the lots would be about 90 feet by 115 feet.

No other testimony was heard for this request.

MOTION: Bochniak moved, seconded by Jansen to close the Public Hearing for Cal. No. 19A-02.

Motion carried on voice vote.

MOTION: Cook moved, seconded by Bochniak to approve Cal. No. 19A-02 as presented

Discussion: Cook reviewed the approval criteria:

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:
 - (1) Whether the existing text or zoning designation was in error at the time of adoption;
 - (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.;
 - (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;
 - (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;

- (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;
- (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; or
- (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.
- **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 filed 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.**

The request met all the approval criteria.

As Roll Call was:

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

Motion carried.

MOTION: Bochniak moved, seconded by Calvert to open the Public Hearing for Cal. No. 19SUB-01.

Motion carried on voice vote.

Tom Wienen, 2955 Red Gates Road Galena said he was requesting the 30-foot setback to mirror the house that is currently there.

Oldenburg said the variance request is for a 30-foot setback and the subdivision portion is to recommend approval to the City Council for preliminary plan and plat. The request met all the preliminary plan and plat review criteria

Oldenburg said everything in the neighborhood has a 25 foot to 30-foot setback and approval would keep the corridor the same. This is an infill development, so it is appropriate to allow a 30-foot setback.

No other testimony was heard for this request.

MOTION: Calvert moved, seconded by Jansen to close the Public Hearing for Cal. No. 19SUB-01.

Motion carried on voice vote.

MOTION: Jansen moved, seconded by Bochniak to approve Cal. No. 19SUB-01 as presented.

Discussion: None

As Roll Call was:

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

Motion carried.

MOTION: Bochniak moved, seconded by Cook to open the Public Hearing for Cal. No. 19V-03.

Motion carried on voice vote.

Tom Wienen, 2955 Red Gates Road Galena said his previous testimony applied to this request.

No other testimony was heard for this request.

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing for Cal. No. 19V-03.

Motion carried on voice vote.

MOTION: Bochniak moved, seconded by Cook to approve Cal. No. 19V-03 as presented.

Discussion: Bochniak reviewed the approval criteria:

Variance Approval Criteria & Recommendation:

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.

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.

The request met all the approval criteria.

As Roll Call was:

Calvert	Yes
Cook	Yes
Jansen	Yes
Nybo	Yes
Baranski	Absent
Bochniak	Yes
Rosenthal	Yes
Motion carried	

OTHER BUSINESS

None

PUBLIC COMMENTS

None

MOTION: Bochniak moved, seconded by Cook to adjourn the meeting at 7:15 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: 19S-02

APPLICATION BY: Michael & Kathleen Hart, 116 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 March 13, 2019. 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 a vacation rental unit in the Downtown Commercial District. This property is located in the 100 block of South Main Street between Main & Commerce Streets.

The third story of the building contains a 990 square feet apartment space. The ground and second levels have a mercantile occupancy. The owners wish to convert the apartment space into one vacation rental unit.

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 is five (5) guests total. 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 2,045 square feet, or 0.05 acres. 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. However, this property does have one off-street parking space from a Commerce Street access.

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 apartments, commercial and downtown 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:

- **Michael Hart, 307 South Main Street, Galena,** said he would like to have a third-floor vacation rental at 116 South Main Street. The first and second floors have retail space. The third floor already has a kitchen and bathroom area that will be remodeled. Access would be from Commerce Street where there is an off-street parking space. You then enter through a gate into the courtyard and walk up the iron stairs. He and his wife would be managing the unit.

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, with one unit, 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 Michael & Kathleen Hart 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 compatible 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 Michael & Kathleen Hart 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 March, A.D. 2019, 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: 19S-03

APPLICATION BY: Magnum Recoil, 240 North 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 March 13, 2019. 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 a vacation rental unit in the Downtown Commercial District. This property is located in the 200 block of North Main Street between Main & Bench Streets.

The third story of the building contains a 1,202 square feet apartment space. The ground level has a mercantile occupancy and the second level has a business occupancy. The owners wish to convert the apartment space into one vacation rental unit.

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 is six (6) guests total. 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 2,396 square feet, or 0.055 acres. 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. However, this property does have four off-street parking spaces from a Diagonal / Bench Street access.

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 apartments, commercial and downtown 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:

- **Tim Bloom, 605 South High Street, Galena,** said he was representing building owner Larry Wiedenheft. The building at 240 North Main Street has a retail space on the first floor, an attorney's office on the second floor and a long-term rental unit on the third floor that they are proposing be converted to a vacation rental. Access is from Diagonal Street where there is off street parking.

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, with one unit, 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 Magnum Recoil 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 compatible 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 Magnum Recoil 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 March, A.D. 2019, 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: 19S-04 & 19V-02

APPLICATION BY: Bruce & Joyce Hanson, 618 South Prospect Street,
Galena, IL 61036.

FOR: A Special Use Permit to allow Accommodations, Vacation
Rental in a Low Density Residential District and Variance
request for off-street parking requirement.

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on March 13, 2019. 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. This dwelling unit is part of a duplex along South Prospect Street near Gear Street. The Owners live in the other dwelling unit in the duplex.

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). In this case, the four bedrooms can each sleep two guests. The limiting factor for guests is the availability of off-

street parking, which will require a variance for one on-street parking space, the second vehicle has one off-street parking space.

Lot Capacity: The lot size is 3,054 square feet, or 0.07 acres. The structure is situated along South Prospect 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 parking regulations require one (1) off-street space per four (4) guests. There a one garage for one off-street parking space; the rest of the yard is lower than the grade of the street, therefore there is a physical hardship. If a variance is granted for one vehicle to be parked on-street, the maximum guest occupancy of the unit is eight (8) guests. Potentially, this variance of one on-street parking space could reduce the impact of parking for the property as regular tenants could have multiple vehicles per unit.

Emergency measures: Staff will ensure that 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 as the site has adequate landscaping and lighting already.

Staff recommends approval of this request.

Land uses surrounding the property include residences and guest accommodations.

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:

SPECIAL USE PERMIT

- **Joyce Hanson, 124 North Main Street, Burlington, IL**, said they are requesting a permit to allow a vacation rental at 616-618 South Prospect. They will be retiring in June and are planning on living full time in Galena at 616 South Prospect Street. The other unit, 618, is

where they would like the vacation rental. They have a small garage that they would like to keep for their personal use. These two units have always parked in front of the building and south towards Gear Street. The properties on Bench Street run all the way back to Prospect Street but none of them have any access off Prospect. Their duplex is the last building on the east side of the street.

Cook asked how many cars would be using the street.

Hanson said typically it has been their two and up to two for the long-term renters.

Oldenburg said the code states they need two parking spaces for each unit – this is based on square footage. There is a vacation rental at 611 South Prospect, but all their parking is off street. The Steamboat House and Avery on Prospect Street are closer to Spring Street. He has received no complaints about parking or anything else in this area.

VARIANCE

- **Joyce Hanson, 124 North Main Street Burlington, IL**, reiterated her statements from the previous public hearing.

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.
- 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 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, except for the off-street parking requirement.
6. There is no physical room on the property for an off-street parking space other than the garage. Therefore, there is a physical hardship that was not created by the owner.

DETERMINATION

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by Bruce & Joyce Hanson 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.

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by Bruce & Joyce Hanson for a Variance to exempt one of the spaces for the off-street parking requirement, for Accommodations, Vacation Rental in residential districts, 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 Bruce & Joyce Hanson for a Special Use Permit to allow Accommodations, Vacation Rental as a principal commercial land use in a Low Density Residential District and Variance request for off-street parking requirement should be approved.

SPECIAL USE PERMIT: PASSED AND APPROVED this 13th day of March, A.D. 2019, by the Galena Zoning Board of Appeals by a vote of 5 ayes, 0 nays, 1 absent, 1 abstain, 0 recused.

VARIANCE: PASSED AND APPROVED this 13th day of March, A.D. 2019, 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: 19V-03

APPLICATION BY: T&C Wiene Enterprises, 2955 Red Gates Drive, Galena, IL 61036.

FOR: Request for a variance to allow a 30' front yard setback in the Grandview Subdivision.

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on March 13, 2019. 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 proposes to subdivide four, single-family residential lots from the larger 13.08 acre parcel to construct new homes. The lots will take access from Gear Street.

A site plan and preliminary plan / plat were reviewed, and all proposed lots comply with the bulk and density standards for residential development, with the exception of the proposed 30' front yard setback. Code requires a 40' front yard setback for lots wider than 80'. In this case, the 30' setback is more suitable and also matches the existing character of the corridor. I recommend approval of the variance for the setback.

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:

- **Tom Wiene, 2955 Red Gates Road, Galena,** said he was requesting the 30-foot setback to mirror the house that is currently there.

Oldenburg said the variance request is for a 30-foot setback and the subdivision portion is to recommend approval to the City Council for preliminary plan and plat. The request met all the preliminary plan and plat review criteria

Oldenburg said everything in the neighborhood has a 25 foot to 30-foot setback and approval would keep the corridor the same. This is an infill development, so it is appropriate to allow a 30-foot setback.

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 154.919 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. 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 T&C Wiene Enterprises for a Variance to allow a decreased front yard setback 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 T&C Wienen Enterprises for a Variance to allow a decreased front yard setback should be approved.

PASSED AND APPROVED this 13th day of March, A.D. 2019, by the Galena Zoning Board of Appeals by a vote of 6 ayes, 0 nays, 1 absent, 0 abstain, 0 recused.

John Rosenthal, Chairperson

MEMO

To: The Zoning Board of Appeals

From: Matt Oldenburg, Zoning Administrator

Date: April 5, 2019

RE: Cal. No. 19S-05, Applicants: Michael & Kathleen Hart, 4532 N Flansburg, Lena, IL 61048 and Owner: Mary Jane Vincent Family Trust, 122 North Main Street, Galena, IL 61036. Location: Parcel: 22-100-092-00, Lot 51 & N 5 ft. of Lot 50, West Side, Lots Between Main & Bench Street, Galena, Jo Daviess County, Illinois. Common Address is 122 & 124 North Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

Summary:

The applicant is requesting a Special Use Permit for three vacation rental units in the Downtown Commercial District. This property is located in the 100 block of North Main Street between Main & Bench Streets at the intersection of Perry Street.

The first floor has a merchantile occupancy, the second and third floors have a business occupancy. The owners wish to convert the upper two floors into a total of three vacation rental units.

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 is the following: Unit 2A – 4 guests; Unit 2B – 5 guests; Unit 3A – 9 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 2,000 square feet, or 0.046 acres. 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 apartments, commercial and downtown tourist attractions.

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 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.



The Market House Restaurant
151 S. 3rd Avenue
St. Louis, MO 63103
313-777-6000

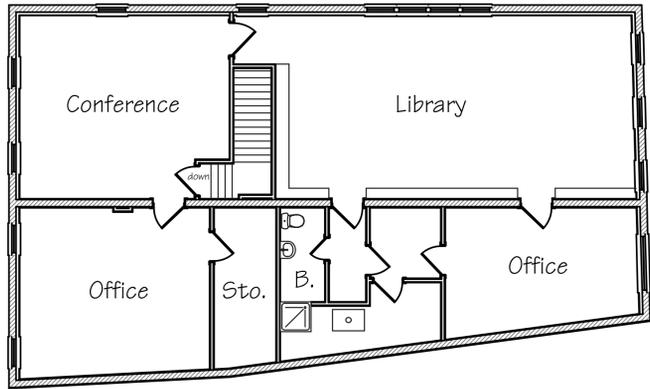
Vincent, Roth & Tompkins P.L.L.C.
ATTORNEYS AT LAW

THE MARKET HOUSE RESTAURANT
151 S. 3RD AVENUE
ST. LOUIS, MO 63103
313-777-6000





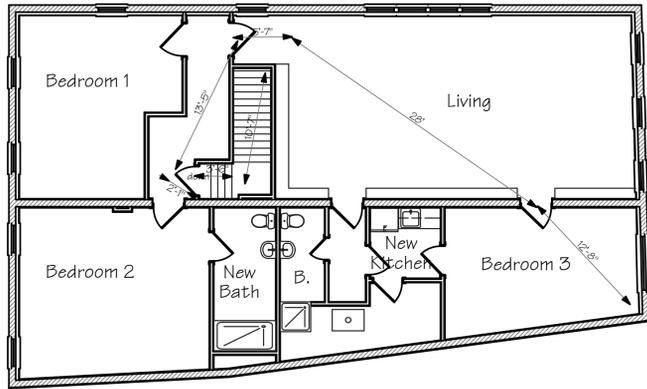
Perry Street
below



Existing Third Floor Plan
1/8" = 1'-0" Gross area +/-2,000 s.f.

Main Street
below

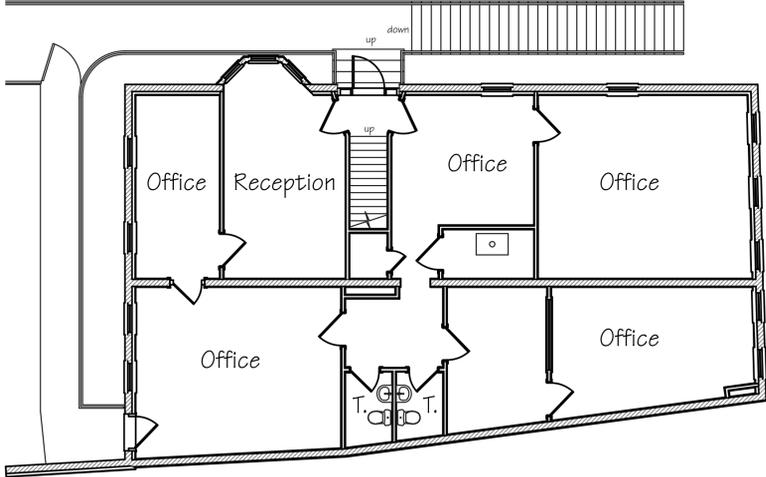
Perry Street
below



Proposed Third Floor Plan
1/8" = 1'-0" Gross area +/-2,000 s.f.

Main Street
below

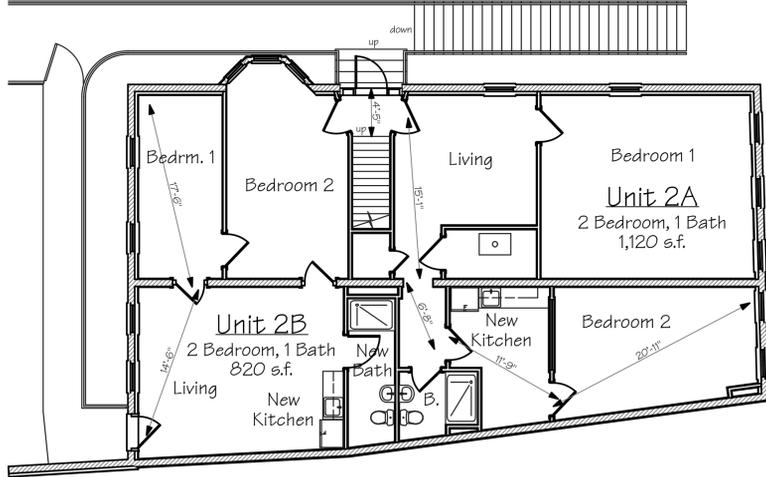
Perry Street
below



Existing Second Floor Plan
1/8" = 1'-0" Gross area +/-2,000 s.f.

Main Street
below

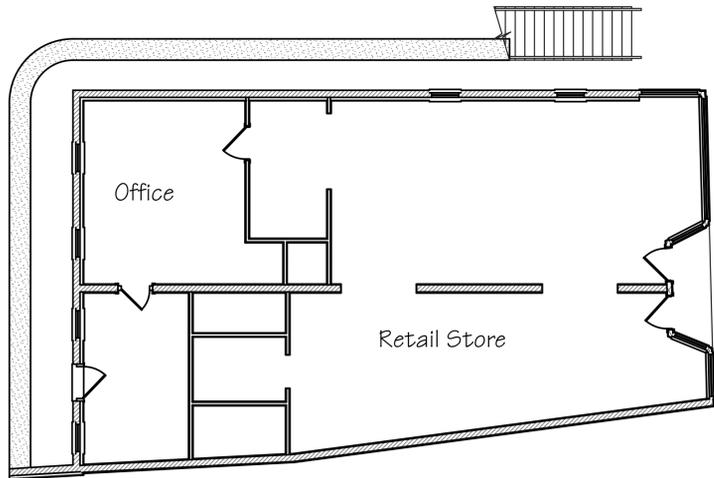
Perry Street
below



Proposed Second Floor Plan
1/8" = 1'-0" Gross area +/-2,000 s.f.

Main Street
below

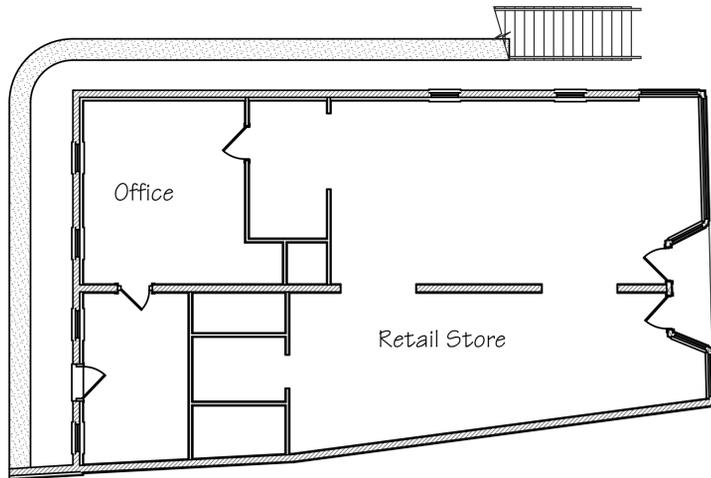
Perry Street



Existing First Floor Plan
1/8" = 1'-0" Gross area +/-2,000 s.f.

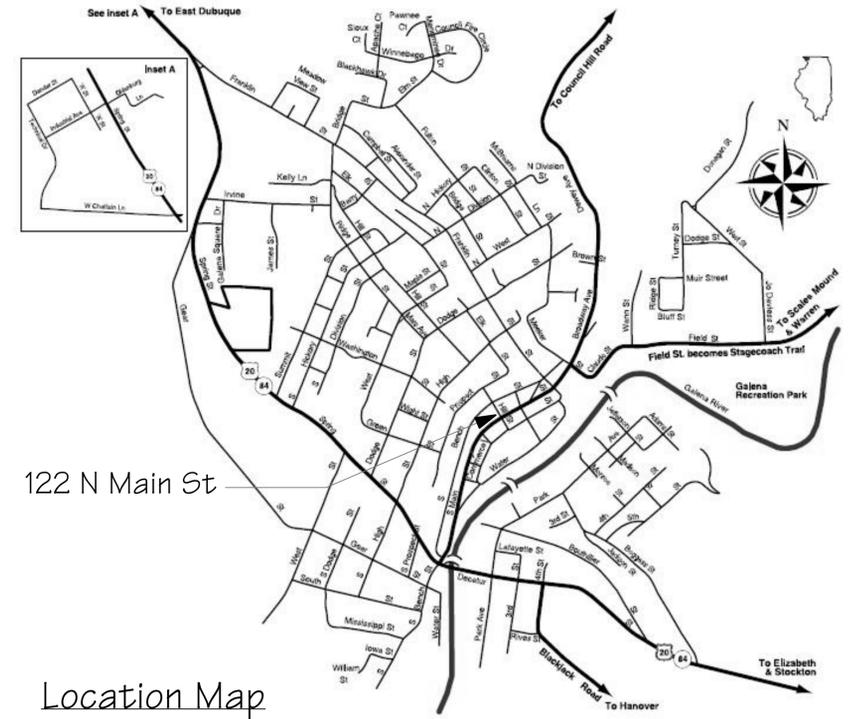
Main Street

Perry Street



Proposed First Floor Plan
1/8" = 1'-0" Gross area +/-2,000 s.f.

Main Street



Vacation Rental Unit

Unit 2A	820 s.f.	2 Bedrooms, 1 Bath	4 guests
Unit 2B	1,120 s.f.	2 Bedrooms, 1 Bath	5 guests
Unit 3A	1,950 s.f.	3 Bedrooms, 2 Baths	9 guests

+/-4,000 sq. ft. with no parking requirements
18 guests allowed

Building Classification
Zoning DC Downtown Commercial, Vacation Rental Special Use permit

Construction Type V A, Historic Building, 3 stories, +/-6,000 sq. ft. gross
Occupancy 1st M, Change 2nd & 3rd from B to R1
Project type: Change of occupancy from M/R3 to R1
Level 2 Alterations

General Notes

- Contractor to verify existing conditions before proceeding with the work.
 - Dimensions are to the face of finish unless noted otherwise.
 - Contractor to provide certificates of insurance for Worker's Compensation and Liability. All work to conform to governing National, State and Local Codes.
 - New Interior Walls to be 5/8" type X firecode over 2x4 studs, painted. Interior millwork to match existing. New interior doors at bedrooms to be solid core or 20 minute rated, style to be as needed.
 - Structural wood to be Doug-fir #2 or better unless noted otherwise. Contractor to provide all miscellaneous blocking, bracing, headers, hangers and anchors as required.
- Mechanical
- Verify existing mechanical system & modify as needed for new plan.
- Electrical
- Verify existing electrical system. All electrical wiring to conform to the National Electrical Code. All wiring to be in conduit. Firecaulk electrical penetrations at 2 hour ceiling.
 - Smoke Detectors are required throughout all areas, provide new smoke detectors within each new bedroom & new carbon monoxide detector within 10' of bedrooms, hardwire all detectors with battery back-up.
 - Fire Alarm System to comply with Section 907 of the IBC.
- Plumbing
- Verify existing plumbing system and modify as needed.
 - Plumbing fixtures to be ADA compliant. Install new kitchen sink as required with 2.0 GPM Kitchen faucets, maximum.