

May 12, 2021 Galena Zoning Board of Appeals Meeting

Notice of Meeting by Teleconference

Due to the essential nature of public meetings in conducting official City business and in line with the prohibition of gatherings, the upcoming Wednesday, May 12, 2021 Galena Zoning Board of Appeals meeting will take place via teleconference utilizing Zoom Video Communications. The meeting will be conducted at Zoom meeting <https://us02web.zoom.us/j/85898579883> (ID: 858 9857 9883), with the following opportunities to participate, and reminders:

- **MEETING START TIME** – ZBA meeting will start at 6:30 p.m.
- **PUBLIC COMMENT** – Public Comment will be conducted as usual near the end of the meeting. To ensure the public will be able to participate the city is providing four ways in which the public can submit their comments.
- **PUBLIC HEARING** – The Public Hearing will be conducted at the beginning of the agenda item. To ensure the public will be able to participate the city is providing four ways in which the public can participate in the public hearing.

TELECONFERENCED — Public is invited to participate via Zoom Video Communications, meeting <https://us02web.zoom.us/j/85898579883> (ID: 858 9857 9883). When the presiding officer calls for public comments during the meeting, an attendee wishing to speak by video and/or audio link will be asked to “raise hand”.

- A. If using a PC or Mac:
 1. During a meeting, click on the icon labeled "Reactions" at the bottom center of your PC or Mac screen.
 2. At the bottom of the pop-up window, click the button labeled "Raise Hand." Your digital hand is now raised. The meeting presiding officer will recognize you to speak for not more than three minutes.
 3. After speaking, lower you hand by clicking the same button, now labeled "Lower Hand."
- B. If using a mobile device:
 1. Click on the “More” button. Tap "Raise Hand" on the list of options.
 2. The meeting presiding officer will recognize you to speak for not more than three minutes.
 3. After speaking, lower you hand by clicking the same button, now labeled "Lower Hand."
2. E-MAILED – Public participation can be submitted via email to jmiller@cityofgalena.org with the subject "Public Comment (or Public Hearing) – May 12, 2021". The Zoning Administrator will read emails received out loud into the public record.

3. MAILED – Public participation can be mailed to the Galena Zoning Board of Appeals, 101 Green Street, Galena, IL 61036. Please include "ZBA Public Comment or Public Hearing" on the outside of the envelope. Please know that postage delivery time could cause the mailing to arrive after the meeting time. You may also drop the envelope in the metal dropbox that is mounted near the front door of City Hall.

4. TELEPHONE – Public participation can be by telephone by dialing the following:

Meeting ID: 858 9857 9883

One tap mobile

+13126266799,,85898579883# US (Chicago)

Dial by your location +1 312 626 6799 US (Chicago)

Find your local number: <https://us02web.zoom.us/j/kc95HeVWxi>

SOCIAL DISTANCING – Public meetings will be conducted via teleconference/virtually utilizing Zoom Video Communications to insure recommended social distancing. Join the meeting at <https://us02web.zoom.us/j/85898579883> (ID: 858 9857 9883).

- **AGENDA** — The meeting agenda follows this page and is posted at www.cityofgalena.org and on the exterior of City Hall, 101 Green Street, Galena, Illinois.
- **NOTICE** – Members of the public participating in the meeting via Zoom will be muted unless recognized by the presiding officer to speak. Participants joining the meeting via Zoom agree that video and/or audio from their computer or device may be broadcast to other meeting participants and may be recorded and available to the public. By joining the meeting, participants also agree that their video feed to the meeting may be disabled by the presiding officer and their audio feed may be muted. Members of the public participating via Zoom are encouraged to test their system prior to the meeting start time and become familiar with any changes to the Zoom operating environment that may have been made by Zoom.
- **QUESTIONS** — Questions about the teleconference meeting may be directed to Zoning Administrator, Jonathan Miller at jmiller@cityofgalena.org or 815-777-1050.



City of Galena, Illinois

AGENDA

ZONING BOARD OF APPEALS

WEDNESDAY, May 12, 2021
6:30 P.M. – CITY HALL 101 GREEN STREET

ZOOM TELECONFERENCE MEETING (ID: 858 9857 9883)
<https://us02web.zoom.us/j/85898579883>

ITEM	DESCRIPTION
21Z-2001	Call to Order by Presiding Officer
21Z-2002	Roll Call
21Z-2003	Establishment of Quorum

APPROVAL OF MINUTES

ITEM	DESCRIPTION	PAGE
21Z-2004	Approval of the Minutes of the Regular Meeting of April 14, 2021.	1-3

UNFINISHED BUSINESS

ITEM	DESCRIPTION	PAGE
21S-04	Emma-Jane & Justin Mayer – 420 Elk Street. Request for Special Use Permit to allow Accommodations, Bed & Breakfast land use in the Low Density Residential District.	4-8
21S-05	Adam Johnson – 211 Fourth Street. Request for Special Use Permit to allow Outdoor Dining as an accessory commercial land use in the Downtown Commercial district at 205 - 207 N. Main Street.	9-12
21S-06	Adam Johnson – 211 Fourth Street. Request for Special Use Permit to allow Outdoor Entertainment as an accessory commercial land use in the Downtown Commercial district at 205 – 207 N. Main Street.	“ “

NEW BUSINESS

ITEM	DESCRIPTION	PAGE
	None.	

OTHER BUSINESS

ITEM	DESCRIPTION	PAGE
21Z-2005	Public Comments Not to exceed 15 minutes as an agenda item Not more than 3 minutes per speaker	
21Z-2006	Adjournment	

CALENDAR INFORMATION

BOARD/COMMITTEE	DATE	TIME	PLACE
Zoning Board of Appeals	Wednesday, June 9, 2021	6:30 P.M.	Zoom Teleconference Meeting: Meeting ID information to be announced.

Posted: May 7, 2021 at 4:00 p.m. Posted By: Jonathan Miller

MINUTES
ZONING BOARD OF APPEALS
April 14, 2021

ZOOM TELECONFERENCE MEETING (ID:822 8621 9092)
<https://us02web.zoom.us/j/82286219092>

CALL TO ORDER:

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, April 14, 2021 via Zoom Teleconference Meeting, hosted at City Hall, 101 Green Street, Galena, IL.61036

ROLL CALL AND DECLARATION OF QUORUM:

As Roll Call was:

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

A quorum was declared.

Zoning Administrator Matt Oldenburg, Building Official Jonathan Miller, City Attorney Joe Nack, Secretary Sue Simmons, were also present.

APPROVAL OF MINUTES

MOTION: Cook moved, seconded by Bochniak to approve the March 10, 2021 minutes.

Motion carried on voice vote. Jansen abstained he was not there on March 10, 2021

UNFINISHED BUSINESS

None

NEW BUSINESS

Cal. No. 21S-04, Emma-Jane & Justin Mayer – 420 Elk Street. Request for Special Use Permit to allow Accommodations, Bed & Breakfast land use in the Low Density Residential District. 8 – 13

MOTION: Jansen moved, seconded by Cook to open the public hearing on Cal. No. 21S-04.

Motion carried on voice vote.

Nack swore in all those who wished to testify at tonight's public hearing.

Emma-Jane Mayer 420 Elk Street spoke to open 2 room B&B per her application.

Rosenthal had questions to ask -about 2 parking stalls in back will it be for personal use or customer use?

Emma – Jane stated personal use for her and husband.

Rosenthal then asked Matt if there is adequate parking?

Matt said Yes there is .

Emma had nothing more to add.

Speaking in favor of request

Adam Johnson spoke that he prepared Application and drawings and asked if there were questions as he felt it was an adequate application.

Speaking in opposition

Diana Pitstik 405 Hill lives south of property on other side of alley. Due to short turn- around time of the neighborhood letter she is unsure who else would have had received letter. Commenting on streets being cow paths and where Elk turns to High it is a nail bender, gravelly street falling apart, blind approach. Bad driving conditions for someone that knows area worse for someone who does not. BB are up for sale 2019 homeowners were wanting to rent out homes these people frozen out 80 person waiting limit. Infrastructure and density issue primary concerns for neighborhood.

MOTION: to close the public hearing Bochniak moved, seconded by Cook

MOTION: to approve 21S-04 Baranski moved, seconded by Jansen

Baranski spoke of prior approval. Asked Matt about street width.

Cook asked difference between Air BB and BB?

Jim went through criteria , compliance standards

As Roll Call was:

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

Rosenthal Yes

Motion carried.

Cal. No. 21S-05, Adam Johnson – 211 Fourth Street. Request for Special Use Permit to allow Outdoor Dining as an accessory commercial land use in the Downtown Commercial district at 205 - 207 N. Main Street.

Joe swore in

MOTION to open public meeting: Bochniak moved, seconded by Cook

Motion carried on voice vote

Adam spoke of set up currently there.

Baransi asked about 15% of indoor gross space and asked for interpretation as indoor gross space. Asked if kitchen, bathrooms, backroom space all counted towards total floor area. Since outdoor dining becomes more popular so we are careful with interpretation.

Same use as last year

MOTION to ratify the Finding of Fact for Cal. No. 21S-05 as written.

Bochniak moved, seconded by Cook

Bochniak went through criteria , compliance standards

As Roll Call was:

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

Motion carried.

Cal. No. 21S-06, Adam Johnson – 211 Fourth Street. Request for Special Use Permit to allow Outdoor Entertainment as an accessory commercial land use in the Downtown Commercial district at 205 – 207 N. Main Street.

Joe swore in

MOTION: to open public hearing Bochniak moved, seconded by Cook

Adam spoke as this was just a compliment to t the outdoor dining and they figured just get them both done at once.

Nybo asked about apartments above Paradise Rosenthal verified requirement for outdoor entertainment. Already set by council

Motion to close public hearing Bochniak moved, seconded by Cook

Motion to ratify the Finding of Fact for Cal. No. 21S-03 as written.

Bochniak moved, seconded by Bochniak

Baranski went through criteria , compliance standards

As Roll Call was:

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

Motion carried.

Jansen discussed if there was a problem with discussing public hearings prior to hearing with board member

Matt said it is in Rules and Procedure that it is Customary that they repute self from vote and disclose they had a discussion.

Good practice is to just say sorry I cannot discuss.

Matt announced that Andy Lewis is retiring, and Matt is moving to City Engineer.

Jonathan taking over Zoning and doing both Building and Zoning.

OTHER BUSINESS

None

PUBLIC COMMENTS

None

MOTION: moved by Bochniak, seconded by Cook to adjourn the meeting at 6:56 P.M.

Motion carried on voice vote.

Respectfully submitted by
Sue Simmons

DECISION

**ZONING BOARD OF APPEALS
OF THE CITY OF GALENA**

REGARDING

CALENDAR NUMBER: 21S-04

APPLICATION BY: Emma-Jane and Justin Mayer, 420 Elk Street,
Galena, IL 61036.

FOR: A Special Use Permit to allow Accommodations, Bed & Breakfast, with 2 guest rooms, 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 April 14, 2021. 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 2-room Bed & Breakfast. The house and the property have the capacity to absorb this land use.

The B&B land use regulation requires three parking spaces: one for each guest room and one for the owner. There are two off-street parking spaces at the rear of the property that take access from the alley that the owners can use. There are three parking spaces on-street in front of the house. The B&B code allows two sleeping guests per room, so there will be a total of four guests on the property at any given time.

A site plan review of the proposed request has been conducted per the criteria listed in §154.914. Aside from the new parking pad at the rear of the property, all exterior development is existing and no further development is needed.

The Building Department and Staff will ensure that the room improvements meet current building, electrical, plumbing and life safety codes.

Staff recommends approval of this request.

Land uses surrounding the property include residences and St. Mary's Church.

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:

- **Emma-Jane Mayer, 420 Elk Street, Galena, IL** spoke to open 2 room B&B per her application.

Rosenthal had questions to ask -about 2 parking stalls in back will it be for personal use or customer use?

Emma – Jane stated personal use for her and husband.

Rosenthal then asked Matt if there is adequate parking?

Matt said Yes there is.

Emma had nothing more to add.

- **Adam Johnson, 211 Fourth St., Galena, IL** spoke that he prepared Application and drawings and asked if there were questions as he felt it was an adequate application.

Testimony Presented in Opposition to the Proposal:

- Diana Pitstik 405 Hill lives south of property on other side of alley. Due to short turn- around time of the neighborhood letter she is unsure who else would have had received letter.

Commenting on streets being cow paths and where Elk turns to High it is a nail bender, gravelly street falling apart, blind approach. Bad driving conditions for someone that knows area worse for someone who does not. BB are up for sale 2019 homeowners were wanting to rent out homes these people frozen out 80 person waiting limit. Infrastructure and density issue primary concerns for neighborhood.

APPLICABLE SECTIONS OF THE ZONING ORDINANCE

- Section 154.005 sets forth the Intent and Purpose of the Zoning Ordinance.
- Section 154.015 defines a Guest Accommodation, Bed & Breakfast.
- 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) (7) defines and outlines the regulations for Bed & Breakfasts.
- 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 Bed & Breakfasts as follows:
 - a. Guest Accommodations, Bed & Breakfast 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 a 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 Bed & Breakfast with 2 guest rooms as a principal commercial land use in a Low Density Residential District.
5. Adequate on and off-street parking is provided for the owner and guests.
6. The property is existing density and character within the block; the proposed use will not impact the character.

DETERMINATION

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by Emma-Jane and Justin Mayer for a Special Use Permit to allow a Bed & Breakfast with 2 guest rooms as a principal commercial land use in a Low Density Residential District should be approved for the following reasons:

1. The site plan review met the applicable criteria for this request.
2. The request meets the district standards for the Low Density Residential District and is consistent with the defining characteristics of the district.
3. The request meets the detailed land use regulations established for a Bed & Breakfast 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 Emma-Jane and Justin Mayer for a Special Use Permit to allow a Bed & Breakfast with 2 guest rooms as a principal commercial land use in a Low Density Residential District should be approved.

SPECIAL USE PERMIT: PASSED AND APPROVED this 14th day of April, A.D. 2021, 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 NUMBERS: 21S-05 & 21S-06

APPLICATION BY: Adam Johnson, 211 Fourth St., Galena, IL 61036.

FOR: A Special Use Permit to allow Outdoor Dining & Outdoor Entertainment as accessory commercial uses in the Downtown Commercial District at 205-207 N. Main St., Galena, IL

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on April 14, 2021. 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 allow Outdoor Dining and Entertainment as accessory commercial land uses in the Downtown Commercial District. These land uses are allowed by Special Use Permit only in the Downtown Commercial District.

The applicant proposes to offer the open space behind their building at 205 - 207 North Main Street for dining and entertainment because it was greatly enjoyed by guests during the Covid-19 downtown modification measures in 2020. The patio area faces North Commerce Street and is enclosed on three sides behind the principal structure. The applicant would like to accommodate their guests to enjoy the outdoor area in the rear of the building within the parameters of the Special Use Permit regulations. This use serves as an accessory use to the principal commercial land use on the ground floor that is considered to be Indoor Commercial Entertainment (Restaurant).

The area of the proposed outdoor use is less than the 15% required area of the principal use.

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

Staff recommends approval of this request.

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:

21S-05: Outdoor Dining

- **Adam Johnson, 211 Fourth St., Galena, IL** spoke of set up currently there.

Baransi asked about 15% of indoor gross space and asked for interpretation as indoor gross space. Asked if kitchen, bathrooms, backroom space all counted towards total floor area. Since outdoor dining becomes more popular so we are careful with interpretation.

Same use as last year

21S-06: Outdoor Entertainment

- **Adam Johnson, 211 Fourth St., Galena, IL** spoke as this was just a compliment to the outdoor dining and they figured just get them both done at once.

Nybo asked about apartments above Paradise

Rosenthal verified requirement for outdoor entertainment. Already set by council

Testimony Presented in Opposition to the Proposal:

- **No one spoke in opposition to either request**

APPLICABLE SECTIONS OF THE ZONING ORDINANCE

- Section 154.005 sets forth the Intent and Purpose of the Zoning Ordinance.
Cal. No. 21S-05 & 21S-06

- 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 (K)(7 & 10) define and outline the regulations for Outdoor Dining and Entertainment, respectively, as accessory commercial uses.
- 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 District.
2. The Zoning Ordinance provides for Outdoor Dining & Entertainment as follows:
 - a. Outdoor Dining & Entertainment are permitted only by Special Use Permit as accessory commercial uses in the 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 area 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 this district.
4. The applicant seeks a Special Use Permit to allow Outdoor Dining & Entertainment as accessory commercial land uses in the Downtown Commercial District.

DETERMINATION

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by Adam Johnson for a Special Use Permit to allow Outdoor Dining & Entertainment as accessory commercial land uses in the Downtown Commercial District should be approved for the following reasons:

1. The site plan review met the criteria for these requests.
2. The requests meet the district standards for the Downtown Commercial District and is consistent with the defining characteristics of the district.
3. The requests meet the detailed land use regulations established for Outdoor Dining & Entertainment uses.
4. Complimentary uses are available.
5. The requests are 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.
6. These uses are allowed only by Special Use Permit in the Downtown Commercial District.

DECISIONS

Cal. No. 21S-05

NOW, THEREFORE BE IT RESOLVED, that this Zoning Board of Appeals has determined that this request by Adam Johnson for a Special Use Permit to allow Outdoor Dining & Entertainment as accessory commercial land uses in the Downtown Commercial District should be approved.

PASSED AND APPROVED this 14th day of April, A.D. 2021, by the Galena Zoning Board of Appeals by a vote of 6 ayes, 0 nays, 1 absent, 0 abstain, 0 recused.

John Rosenthal, Chairperson

Cal. No. 21S-06

NOW, THEREFORE BE IT RESOLVED, that this Zoning Board of Appeals has determined that this request by Adam Johnson for a Special Use Permit to allow Outdoor Dining & Entertainment as accessory commercial land uses in the Downtown Commercial District should be approved.

PASSED AND APPROVED this 14th day of April, A.D. 2021, by the Galena Zoning Board of Appeals by a vote of 6 ayes, 0 nays, 1 absent, 0 abstain, 0 recused.

John Rosenthal, Chairperson