

**MINUTES
ZONING BOARD OF APPEALS
NOVEMBER 14, 2012**

CALL TO ORDER:

Acting Chairperson Nybo called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, November 14, 2012 at City Hall, 312 ½ N. Main Street, Galena, IL.

ROLL CALL AND DECLARATION OF QUORUM:

As Roll Call was:

Baranski	Present
Bochniak	Present
Carlisle	Present
Holman	Present
Nybo	Present
O'Keefe	Absent
Rosenthal	Absent

A quorum was declared.

Nate Kieffer, Zoning Administrator, Joe Nack, City Attorney, and Deb Price, Secretary, were also present.

APPROVAL OF MINUTES:

MOTION: Bochniak moved, seconded by Carlisle to approve the October 10, 2012 minutes.

Motion carried.

OLD BUSINESS

Cal. No. 12V-01, Applicant: Adam Johnson – 211 Fourth Street Galena, IL 61036. Owner: John & Lucy Mattinen – 437 N. High Street Galena, IL 61036. Location: Part of Lots 3 & 5 in Block 25 Original City of Galena, common address 437 N. High Street Galena, IL. Request for a Variance to the required front yard setback of 25 feet to 10 feet to construct a detached garage.

MOTION: Bochniak moved, seconded by Carlisle to approve the variance request for Cal. No. 12V-01.

As Roll Call was:

Bochniak	Yes
Carlisle	Yes
Holman	Yes
Nybo	Yes
O'Keefe	Absent
Baranski	Yes
Rosenthal	Absent

Motion carried.

NEW BUSINESS

Cal. No. 12HCO-01, Applicant: John Thies for McDonalds USA LLC – 1650 W. 82nd St. Suite 900, Bloomington, MN 55431. Owner: Franchise Realty Investment Trust – 957 Gear Street, Galena, IL 61036. Location: Part of Tract 1 and Tract 2 of Part of the West ½ of the SW ¼ Section 13, T28N, R1W, City of Galena, common address 957 Gear Street, Galena, IL. Request for a Non-Administrative Highway 20 Development Permit for a proposed building remodel and site improvements project.

Nybo asked Kieffer if this calendar number would be contingent upon the request for a variance request in the next agenda item.

Kieffer said it would and he would recommend the Board hear the variance request first.

Nybo said the Board would hear Cal. No.12V-02 first.

Cal. No. 12V-02, Applicant: John Thies for McDonalds USA LLC – 1650 W. 82nd St. Suite 900, Bloomington, MN 55431. Owner: Franchise Realty Investment Trust – 957 Gear Street, Galena, IL 61036. Location: Part of Tract 1 and Tract 2 of Part of the West ½ of the SW ¼ Section 13, T28N, R1W, City of Galena, common address 957 Gear Street, Galena, IL. Request for a Variance to the required Irvine Street front yard setback of 25 feet to 2 feet to construct a new trash enclosure structure

City Attorney Nack swore in all those wishing to testify at the Public Hearing.

MOTION: Baranski moved, seconded by Bochniak to open the Public Hearing on Cal. No. 12V-02.

Motion carried on voice vote.

Aaron Chupp, Chipman Design Architecture, 2700 S River Road, Des Plaines, Illinois spoke on behalf of the applicant. He said the applicant is requesting a variance from the required front yard setback in order to construct a new, larger trash enclosure. It would be located in the same place it is now. Due to underground utilities and the drive thru location their options are limited. The current structure is non-conforming.

Holman was concerned with the site lines.

Nybo and Barnaski asked about the elevations and grade of the enclosure.

Kieffer said the east side of the enclosure would be at street grade. As you proceed west the retaining wall gradually gets higher – at the west end it is two feet tall.

Baranski said only seven feet of the enclosure would be visible from the west side due to the retaining wall.

Kieffer said the variance request was originally for two feet, but the plans show one foot. He did verify that one foot was what was being requested.

Carlisle is concerned about the traffic coming east off Highway 20.

Baranski asked Kieffer if staff had looked at this.

Kieffer said he had and when looking at the site triangles the existing structure is in the site lines as the ordinance reads. The current plan does not meet the site triangles or the front yard setback. This is another reason they are requesting a variance.

Baranski said when comparing the existing trash enclosure to the proposed new one it does not appear that it will be any closer to the setback than the current one. It already affects the sites lines.

Nybo asked Chupp if their understanding was that the variance would make the intersection better, worse or it would remain the same.

Chupp said they felt it would remain the same.

Nybo asked City Attorney Nack about the City's liability if the Zoning Board approved this.

Nack said liability is always an issue.

Chupp said the site triangle does comply with the AASHTO standards (American Association of State Highway and Transportation Officials.)

Kieffer said AASHTO has different site triangle standards than the city's code. AASHTO's reflect the right of way width.

Baranski said if there is a legitimate guideline this conforms to it seems reasonable.

Nybo said it may be good to incorporate this into the finding.

Nack said liability would be determined through litigation. Any time a municipality deviates from its own standard there's a chance it could end up in litigation.

Bochniak said the sight line now is not good because you look up and back. Even without a building there it would be a problem.

Nybo said he does see the hardship here. His only question was with liability.

No one testified either in favor of or in opposition to the request.

MOTION: Baranski moved, seconded by Bochniak to close the Public Hearing on Cal. No. 12V-02.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Bochniak to draft a positive Finding of Fact on Cal. No. 12V-02 to approve a front yard variance from 25 feet to one foot.

Discussion: Baranski said the Board needed to look at the Review Criteria. The hardship is unique to the property and not self inflicted. He couldn't think of another occurrence like this that had been before the Board. Granting the request would not confer a special privilege on the applicant. If the request is not granted it could deprive the applicant of a reasonable use of their property. It appears they are asking for the minimum necessary variance required for the use. The variance would be compatible in the commercial district. The variance does conform with the purpose of the code and it does not conflict with the Comprehensive Plan. The site plan does comply with AASHTO which is used by State Department's of Transportation.

As Roll Call was:

Carlisle	No
Holman	No
Nybo	Yes
O'Keefe	Absent
Baranski	Yes
Bochniak	Yes
Rosenthal	Absent

Motion carried.

Cal. No. 12HCO-01, Applicant: John Thies for McDonalds USA LLC – 1650 W. 82nd St. Suite 900, Bloomington, MN 55431. Owner: Franchise Realty Investment Trust – 957 Gear Street, Galena, IL 61036. Location: Part of Tract 1 and Tract 2 of Part of the West ½ of the SW ¼ Section 13, T28N, R1W, City of Galena, common address 957 Gear Street, Galena, IL. Request for a Non-Administrative Highway 20 Development Permit for a proposed building remodel and site improvements project.

MOTION: Baranski moved, seconded by Bochniak to open the Public Hearing on Cal. No. 12HCO-01.

Motion carried on voice vote.

Chupp said they had been hired by McDonalds to completely remodel the exterior of the building including lighting and signage as well as construct two small building additions. The project includes site improvements including the addition of ADA compliant parking and sidewalks, the addition of a second drive thru lane, replacement of the existing trash enclosure structure and additional landscaping. The exterior remodel includes removing/cut back the mansard roof, remove the existing brick and reface, replacing the existing parapets with new ones, and add the new branded elements - arcade front and side with the trademark logos. Rooftop screens will be added to comply with the code so the equipment will be completely screened.

No one testified either in favor of or in opposition to the request.

Baranski asked about the type of stone to be used. Is it cultured stone?

Chupp said it was. It is very similar to the natural limestone found in our area.

Nybo asked what the height of the illuminated logo would be.

Chupp said 19 feet.

MOTION: Carlisle moved, seconded by Bochniak to close the Public Hearing on Cal. No. 12HCO-01.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Bochniak to approve Cal. No HCO-01, request for a Non Administrative Highway 20 Development Permit.

Discussion: Baranski said in reviewing the guidelines the request meets requirements for the building form, the flat roof has a parapet, the façade has visual interest, there are clearly defined entries, the public entry is visible from the street and parking area, the windows and doors meet the 30%-70% coverage, individual window units are used, window styles are minimal and compatible, wall materials are medium to dark brick, native stone or similar will be used, material changes occur along the wall plane, consistent use of materials and these materials will be of high quality, limited number of trim and accent colors, detailing is appropriate is to the style of building and the mechanical and utility equipment will be screened. The changes to the building will be a great improvement and are compatible to what the Board was trying to achieve when they were writing the guidelines

Nybo read the approval criteria:

- (1) All applicable site plan review criteria in § 154.914;
- (2) The overall context of the corridor and the goals for new development as described in Chapter III of the Design Manual;
- (3) The corridor development concepts described in Chapter IV of the Design Manual;
- (4) The proposed character of the applicable design districts as described in Chapter V of the Design Manual;

- (5) The proposed pattern of development for the Highway 20 Corridor as described in Chapter VI of the Design Manual;
- (6) The standards for building orientation, design and materials as described in Chapter VII of the Design Manual; and
- (7) The standards for site features and elements as described in Chapter VII of the Design Manual.

Baranski said many of the criteria are not applicable as the building already exists.

Kieffer said he thought the Board may want to consider making approval of this contingent on approval of the variance request.

Baranski and Bochniak agreed to include this in their motion.

Nybo asked for roll to be called on the amended motion to approve Cal. No HCO-01, a request for a Non Administrative Highway 20 Development Permit contingent upon the approval of the Variance setback request, Cal. No. 12V-02.

As Roll Call was:

Holman	Yes
Nybo	Yes
O’Keefe	Absent
Baranski	Yes
Bochniak	Yes
Carlisle	Yes
Rosenthal	Absent

Motion carried.

COUNTY ZONING

None.

WORKSESSION/OTHER

Open Meetings Act Training.

Kieffer reminded the Board that this needed to be completed by December 31, 2012.

Discussion on Detailed Land Use Regulations for Small Inns – intent language as it relates to structures originally built as residences.

Kieffer said it appears the current code language does not allow consideration for residential structures – only non residential. In researching the situation, it appears the intent was to consider allowing these residences as small inns. If the Board wished to consider residential

structures as a small inn with a Special Use Permit the language of the ordinance needs to be changed. Kieffer included some recommended changes for the Board to review. In order for anyone to even request a zoning change and subsequent Special Use Permit a text amendment would need to be approved to allow these requests. Kieffer said if a text amendment is approved to allow small inns in residential structures the applicant would apply for a zoning change, to one of the districts where small inns are allowed, and a Special Use Permit to operate a small inn.

Carlisle asked about the phrase larger historic structures. What is historic and what is considered larger.

Baranski said some of the conversation at the time the ordinance was written may have had to do with buildings on Main Street converting upper floors to lodging.

Carlisle said it is somewhat confusing.

The Board directed Kieffer to apply for a text amendment to change the language to include residential structures as small inns.

MOTION: Baranski moved seconded by Carlisle to direct Kieffer to draft a text amendment as suggested in Kieffer's memo.

Motion carried on voice vote.

PUBLIC COMMENTS

None.

MOTION: Carlisle moved, seconded by Bochniak to adjourn the meeting.

Motion carried on voice vote.

Rosenthal adjourned the meeting at 8:20 PM.

Respectfully submitted by

Deb Price
Zoning Board Secretary