

**MINUTES
ZONING BOARD OF APPEALS
May 11, 2016**

CALL TO ORDER:

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, May 11, 2016 at City Hall, 101 Green Street, Galena, IL.

ROLL CALL AND DECLARATION OF QUORUM:

As Roll Call was:

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

A quorum was declared.

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

APPROVAL OF MINUTES

Minutes were not available for approval.

OLD BUSINESS

None

NEW BUSINESS

Cal. No. 16S-02, Applicant: Adam Johnson – 211 Fourth Street, Galena, IL 61036 and Owner: Daniel Balocca, 125 South Prospect Street, Galena, IL 61036. Location: Parcel: 22-100-565-00, Lots Fifteen (15) and Sixteen (16) in Block Number Three (3) in the City of Galena on the West side of the Galena River in the County of Jo Daviess in the State of Illinois. Common address is 125 South Prospect Street, Galena, IL. Request for Special Use Permit to allow an eighth, room for the Small Inn. The property currently operates with a Special Use Permit as a seven-room Small Inn. *****A PUBLIC HEARING WILL BE HELD FOR THIS ITEM*****

Nybo asked Chairperson Rosenthal to allow him to recuse himself from the agenda item as he is a guest house owner.

Rosenthal granted the request.

MOTION: Cook moved, seconded by Baranski to open the Public Hearing on Cal. No. 16S-02.

Motion carried on voice vote.

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

Rosenthal asked the applicant or any one in favor of the request to come forward and testify.

Adam Johnson, 211 Fourth Street Galena architect for the project said this request is similar to the request for an increase to seven guest rooms. There were some construction changes and state park preservation requirements that resulted in the relocating the ADA accessible unit to the lower level. City staff does recommend approval of the request. Johnson said the request meets the approval criteria. He feels the guest house ordinance was written for large residential properties like this one.

Baranski asked about the site plan and the required parking. Who would use the tandem parking on High Street?

Johnson said that would be for the owner.

Baranski asked if the ADA parking would be on the east side of the carriage house. Is this under the first/main floor deck.

Johnson said yes. There are no needed supports is that area.

Baranski said there would be no encumbrances.

Johnson said correct.

Baranski asked where the ADA unit was previously going to be located as well as the parking for said unit.

Johnson said the unit itself was going to be on the main/first floor of the carriage house. Parking and access would have been via the double parking area on High Street. Nothing has changed for the double parking spot – it is a gathered parking space. The curb cut is to the south and it is the same size as previously proposed.

Baranski asked about the state's involvement.

Johnson said the State Parks were involved in making sure preservation occurred. There was a floor trough that resulted in varying floor and ceiling levels. Their regulations made it difficult to have an accessible suite.

Rosenthal said the plans look like there are three parking spaces by the Felt Manor, four near the carriage house and an additional one or two on High Street.

Johnson said the drop off area could also be used for parking.

Johnson said the basement (lower level) unit will have the ADA compliant accessible unit. The main floor will be a general gathering area as well as a housekeeping area. The upper level will have the previously approved two guest suites.

Dan Balocca, 125 S Prospect Street Galena said he is the owner of the Felt Manor. When they started working on the Carriage House for the additional two units they knew they needed to preserve the building's foundation. It was during this time that they began thinking about relocating the ADA suite. They were very concerned about being sensitive to the building's rehabilitation and preservation. As for parking they have room for a total of 10 parking spots including the tandem parking area. During excavation they discovered that the area behind the carriage house was originally a barnyard or livestock corral. This was when they decided to think about using the lower level for an accessible unit. Being able to offer a truly ADA compliant unit is very unique to Galena. It was becoming very difficult to figure out how to configure the bathroom while complying with ADA regulations State Parks demands. The open space needed to be preserved but usually that's not a desirable option when designing bathroom space. Reclaimed materials were used from the original site or from compatible salvage such as that found from

Loras College in Dubuque. Landscaping and a fence between the parking areas and the property owned by Jon and Janet Checker will provide a visual buffer.

Baranski said currently they are only able to rent five guest rooms.

Balocca said yes. They need to finish up the renovation project before they can rent the two additional units in the carriage house.

Baranski commented on the parking. He asked if a majority of the guests use the parking at the Felt Manor.

Balocca said yes – and they are instructed to use onsite parking. He thought from a guest's perspective the parking lot is a feature of staying at the Felt Manor. Parking on High Street and then walking down to the inn or parking on Prospect and walking up the steep steps just doesn't seem desirable.

Baranski asked if there are times when multiple cars are in the drop off area waiting to check in creating a type of traffic jam. Do guests typically all show up at the same time resulting in multiple cars needing to get in and out.

Balocca said check in is from 3PM – 10PM. Occasionally there are two guest rooms requiring check in at the same time but usually one room at a time. Most often guests for one room show up in the same car.

Rosenthal asked if most people drive down into the inn when arriving.

Balocca said yes. Rarely is it that someone parks on High Street but frequently they park on Prospect and walk up the steps.

Bochniak asked if Balocca would consider assigning parking spaces.

Balocca said if that's what he needs to do he would do it.

Bill Fawell, 617 Ridge Street Galena asked if the federal government requires an ADA compliant room when renovating historic properties.

Oldenburg said he was not sure. City code does not require one.

Fawell said this type of accommodation is sorely lacking in Galena. This may be the first guest house to provide a truly accessible guest room. Zoning allows large homes to become B and B's

and Small Inns. It is expensive to operate these larger homes as single family dwellings. Not approving what is already allowed in the Ordinance may jeopardize future development in Galena. During excavation and renovation, it was discovered that originally there was a Dutch door that opened onto the corral. The stone and other components are as they were when originally constructed. They worked closely with the State to preserve the integrity of the structure. He agrees that more people park on Prospect Street than High Street. There is certainly less traffic generated by the addition of two or three guest rooms than that of the multiple trolley tours on High Street.

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

James Wirth, 121 S High Street Galena said the purpose for zoning is to protect property owners. Zoning districts have uniformity and conformity; similar uses throughout the zoning district. Originally this was a single family home. Then zoning allowed for guest accommodations of five rooms, then seven rooms and now possible an eighth room. As an owner occupied guest house this means there are nine rooms. This is a huge increase in density and is different than the other single family homes in the district. With such large guest rooms – 1100 square feet per floor - is there a limit as to how many people can stay at the Small Inn? Previously two additional guest rooms were approved but the renovations have not been completed so they have not even been available for rent. We don't know what types of problems have been created with that density increase. Shouldn't the Board wait to approve this request until we know what the problems are with the change from five to seven rooms. Is this even in compliance with floor area ratios? The neighbors have been living with the construction and destruction of the parking and landscaping for months. It does not seem a very historic appearance to allow this type of parking area and lack of landscaping. Should the two parking spaces at the Carriage House even be allowed. This was permitted because the building was an accessory use. With the modifications the parking spaces should not be allowed. The applicant says the building has been preserved but it seems it was gutted – how could it have been historically preserved. Nothing is original – it is replicated. Was a survey done to determine where the property line is on High Street. Utilities have been located in what would seem to be the City easement or right of way. Does he own the property or is this an illegal encroachment?

Baranski asked had the property been surveyed.

Balocca said there was an easement to the building.

Rick Pariser, 113 S High Street Galena said there are four households in the audience tonight that are opposed to the room increase. On behalf of the neighbors he asks that the request be rejected. This is a commercial money making project which is different than the other full time residential property owners in the Low Density Residential District (LDR.) High Street has eight homes in

the 100 block plus a church. This additional room will result in an increase in traffic, noise and parking. The cart is before the horse if you approve this additional room without seeing what the results are of the previously approved two rooms which are not yet complete. Parking is exacerbating. Eight homes, thirteen residents, 20 rental rooms on the block. Whether it was right or wrong the City approved the addition of two guest rooms several months ago. We don't know how these two additional rooms are going to impact the area. The renovation project has been very irritating. It seems we will have to put up with these issues until we can get the license revoked. He does not feel that everyone has testified truthfully about the guests and where they park. With the 3000 square foot addition how many people will actually be staying in the space and how many cars will they have. The people that live here desperately want to maintain their neighborhood.

Jon Checker, 115 S High Street Galena asked how many rooms are allowed in a small inn and how many guests can stay overnight.

Oldenburg said up to eight guest rooms; nine or more rooms would have to comply with hotel regulations. Guest rooms are allowed two persons per room. That means a maximum of 16 people would be allowed to stay at the inn – two per guest room.

Rosenthal asked if the applicant would like to rebut any of the testimony

Balocca said the projects are ongoing. The parking area will have improved drainage and will be paved when the renovation is complete. There will be 165 points of landscaping that will be installed including between properties and around utility boxes. Jo Carroll will be removing a utility pole in the near future. The park service oversaw the 'deconstruction' and subsequent rebuilding of the carriage house. The structural steel that could be seen was installed during the gut process for support. They reused as much brick as possible and they have salvaged 11 pallets for other uses. The colors of the brick look different because part of the building has been tuck-pointed; the rest of the building will be tuck-pointed also. Much of the interior brick was misshapen and damaged – those were removed. The landscaping will buffer the parking areas. The State continues to monitor the project. They have received approval for Phase 2.

Baranski asked about the easement that runs to the face of the building. If the City wanted to make improvements to High Street, it would seem two parking spots could be lost and consequently a room.

Balocca said they were aware of that possibility. He as well as others on High Street would have issues: Checker's garage, Jo Carroll's utility poles and Wirth's parking.

Rosenthal asked about the survey Wirth referred to. It would seem that both sides, East and West, of High Street could be impacted if improvements were made by the City.

Johnson said that zoning is in place to protect everyone's rights in all districts – including the applicant. The Comprehensive Plan and Zoning recognize allowing these large properties to be preserved. They are not trying to take anyone's rights away they are just trying to protect and preserve their own. They are receiving historic tax credits so the National Parks service has approved what they are doing and the rebuilding of the walls was part of the rehabilitation process.

Baranski asked Pariser for clarifications on the parking violations.

Pariser said he had photographs documenting the parking violations.

Baranski asked how long this had been going on – since construction or before.

Pariser said he commented about the testimony that no guests park on the street. That is incorrect. They do. How long has this been going on? Over a year - sure. The issue tonight isn't about easements; it is about the addition of one more guest room. Reject the request until we know how the parking is impacted by the two rooms that are still under construction. Based on the observation of the neighbors, guests do park on the street. What happens when the two new rooms are opened? Parking is at a minimum. St. Matthew's has no parking so on Sunday it's pretty crowded with church goers. The neighbors understand, but often they have no place to park. You make allowances but let's reject this application until we see how the current proposal works out. Put it back on the calendar a year from now and if there haven't been any problems we'll say so. There is limited parking – we were told that it wouldn't be a problem but it is a problem.

Rosenthal asked if the parking was a problem before the construction or just since it started. Prior to the start of construction were guests of the Felt Manor parking their cars on the street.

Pariser said High Street. Absolutely.

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 16S-02.

Motion carried on voice vote.

MOTION: Bochniak moved, seconded by Baranski to approve a Positive Finding of Fact to approve Cal. No. 16S-02.

Discussion: Bochniak said it seems approval issues always come back to the High Street neighborhood. No one from Prospect Street seems to oppose these requests. The applicant is

working in the back of his property but it is the front yard of all those living on High Street. It is a delicate issue - a privacy issue, but the applicant has already met the requirements for making the improvements with the previous request. They are locked into this building – they are not constructing a new building they are simply asking for an additional room.

Baranski asked when the ordinance was changed to allow Small Inns in Residential Districts.

Oldenburg said in the fall of 2013 the Board and the City approved allowing Small Inns in Low Density Residential Districts with the provision that they be owner occupied which differed from other Small Inns.

Baranski said the ordinance now reads that by Special Use Permit a Small Inn is allowed in a Low Density Residential District and they are allowed six to eight guest rooms. They are restricted to the number of people that are allowed to stay in each guest room – only two per room so 16 guests if all rooms are rented. He understands Wirth's concerns about 10 college students renting a room and having a party, but the Zoning Board can't make decisions based on what should be enforcement by the City; the City needs to enforce the rules and regulations. The ZBA makes their decision based on the assumption that the City will enforce its Ordinance. To have a truly ADA accessible unit is a real positive for Galena. The parking configuration had already been approved when the request for two additional rooms had been heard. He can't answer to whether the guests use the parking lot or not. It seems odd that guests would not use the parking lot but he guesses that once in a while they do not. The applicant is meeting the requirements for off street parking. It's hard for the Zoning Board to control what exactly the guests are going to do.

Rosenthal said the Zoning Board's job is to look at a request to see if the applicant has followed the rules and meets the approval criteria. The Zoning Board is not here to decide if they like an idea or not – only if it meets the criteria and follows the rules. It seems that this application meets the criteria and follows the rules. Almost everyone would like something different in their neighborhood – he lives by a park and certainly has more traffic than he would like but it is nice park and people use it - it's a good thing. Trolleys travel High Street all day – no one complains. Churchgoers park in your space but that's ok because they are going to church. One car from the small inn parks on High Street and we have a fit. The owner took a dilapidated building and fixed it up. The law allows them to ask for eight guest rooms – they are compliant. It seems like the cart has been put before the horse in trying to find problems before those rooms even open. There is concern about all kinds of parties happening but any neighbor can have a party in their back yard any time.

Approval Criteria & Recommendation:

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

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

- (1) *Site plan review standards.* All applicable site plan review criteria in § 154.914.
- (2) *District standards.* The underlying zoning district standards established in § 154.201 through § 154.209 including the defining characteristics of the district;
- (3) *Specific standards.* The land use regulations established in § 154.406;
- (4) *Availability of complementary uses.* Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to: schools, parks, hospitals, business and commercial facilities, and transportation facilities.
- (5) *Compatibility with adjoining properties.* Compatibility with and protection of neighboring properties through measures such as:
 - (a) *Protection of privacy.* The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and/or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants;
 - (b) *Protection of use and enjoyment.* All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property.
 - (c) *Compatible design and integration.* All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include: buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise,

and odors. The plan must ensure that noxious emissions and conditions not typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties.

The request meets all approval criteria just as they did several months ago when requesting the addition of two guest rooms; the site plan review criteria has been met; the use is already allowed in this zoning district; it is a complimentary use – they have adapted a dilapidated existing building on their property in a mixed use neighborhood where other guest homes are already located; they have not constructed a new building just rehabbed the old carriage house; landscaping will be installed as a buffer for neighboring properties as well as the guests; construction always brings some inconvenience, but once finished those negatives will go away; the historic carriage house has been preserved and the project has been overseen by the State Parks Department.

As Roll Call was:

Holman	No
Jansen	Absent
Nybo	Recused
Baranski	Yes
Bochniak	Yes
Cook	Yes
Rosenthal	Yes

Motion carried.

Nybo returned to the table.

COUNTY ZONING

None.

WORKSESSION/OTHER

None

PUBLIC COMMENTS

None.

MOTION: Jansen moved, seconded by Cook to adjourn the meeting at 7:50 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price
Zoning Board Secretary