

**MINUTES  
ZONING BOARD OF APPEALS  
JULY 13, 2016**

**CALL TO ORDER:**

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

The June 8, 2016 minutes were not available for approval.

**OLD BUSINESS**

Cal. No. 16S-03, Applicant: Adam Johnson – 211 Fourth Street, Galena, IL 61036 and Owner: Charles Fach, 418 Spring Street, Galena, IL 61036. Location: Parcels: 22-100-687-10 & 22-100-687-00, Lots 3,4 & 5 in Block 12 of the Original City of Galena, Jo Daviess County, Illinois. Common Address is 412 & 414 Spring Street, Galena, IL 61036. Request for Special Use Permit to allow a 6-room Small Inn. The property at 414 Spring Street currently has a permit for a 4-room Bed & Breakfast. Ratification of Findings of Fact for approval.

**MOTION:** Baranski moved, seconded by Bochniak to approve the Findings of Fact for Cal. No. 16S-03.

As Roll Call was:

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

Motion carried.

### **NEW BUSINESS**

Cal. No. 16A-02, Applicant: City of Galena – 101 Green Street Galena, IL 61036. Request for Text Amendment to §154.202 Residential Principal and Major Accessory Structures Bulk Standards, footnote (5), to allow front facing garages in front of the principal façade of the dwelling.

**MOTION:** Jansen moved, seconded by Cook to open the Public Hearing on Cal. No. 16A-02.

Motion carried on voice vote.

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

Oldenburg said this is a City initiated request. The Ordinance was rewritten in 2005 and complied with the Comprehensive Plan's goal of facilitating a traditional neighborhood design with a dominant house façade and recessed or side/rear access garages for those principles. Current ordinance requires a front facing garage (attached or detached) be eight feet behind the front façade or if there is a front porch the garage needs to be two feet behind the front principal wall. This is what is required with development if the garage doors are front facing. Exceptions have been made for continued subdivision development where the character was front facing garages located in front of the house. New construction on an infill lot has required compliance with the setback. A couple years after the ordinance was adopted Zoning Administrator Suzanne Hollingworth began hearing from property owners and contractor's that this regulation may not work in all cases. Several work sessions were held with the Zoning Board. Nate Kieffer succeeded Hollingworth and he continue to work on this to the point that it was ready for the City to apply for a text

amendment, but for some reason it did not proceed and this was never revisited. For the reason that Galena is a unique situation where this type of standard may not be applicable or the most practical application for infill development in a new neighborhood where almost all of the houses have front facing garages that are either in front of the house or in line for ranch style homes it might be a situation where administratively the application could be approved as long as it is compatible with the neighborhood. In speaking with the Mayor and City staff the feeling is in cases of infill development or where it would be appropriate to have a front facing garage or when topography limits that a side or rear entry garage is not possible it would be good to amend the code and have a provision to allow this to be administratively approved if it is compatible with the adjoining surrounding properties. The existing language would remain requiring a new subdivision to comply with the traditional neighborhood design. If someone was proposing new construction on an infill lot in an older historic neighborhood where it would not be appropriate to have a front facing garage it would give administrative authority to have the request come before the Zoning Board.

Rosenthal asked how lot size would impact complying with a front facing garage.

Oldenburg said a text amendment would provide for some flexibility and it could possibly be approved. During review if it seems there is enough room to allow a side or rear entry garage the City may ask that the design be changed. If this would pass it reflects the spirit of the code but would be less onerous for those wishing to develop on an infill lot.

Rosenthal asked those in favor of the request to come forward and testify.

Alicia Buss 2564 N Windy Lane, Galena said she is the applicant for the next agenda item. She is hoping to build a house at 1010 Bridge Street. She started this process with Nate Kieffer and she is working with Spahn and Rose. The lot is narrow and it is bordered on each side by a house and one of those houses has a garage behind it. She chose the ranch style house plan so she would not see that garage. She would have chosen a different plan had she known that this was not allowed. She is hoping that the text amendment is approved so she can build the house as planned. She wants to access the garage as safely as possible and the narrow lot could make this difficult if she had to relocate the garage.

No one spoke in opposition to the request.

**MOTION:** Baranski moved, seconded by Bochniak to close the Public Hearing on Cal. No. 16A-02.

Motion carried on voice vote.

**MOTION:** Nybo moved that the request be denied. The motion died for a lack of a second.

**MOTION:** Jansen moved, seconded by Baranski to approve the request for a text amendment, Cal. No. 16A-02.

Discussion: Rosenthal said he understood the issue as he built a new house on a narrow lot. The only issue he has is if the infill lot is in the historic district. A lot of the new houses built since the ordinance change seem to not comply. He is in favor of the text amendment. These infill lots do have limitations. Just because the garage is not front load the fact is many times the garage is on the front of the house.

Nybo said after all the work that was done years ago he wants to make sure that everyone understands how this would work.

Baranski said it seems the proposed text amendment is a good place to land. Oldenburg, or any Zoning Administrator the City hired, would have to have a good grasp of traditional neighborhood design. These are entrenched in today's world of zoning. Allowing the zoning administrator to review and allow administratively on a case by case basis while still keeping the principles of the Ordinance seems a good fit. The principles matter and will determine how Galena looks in years to come.

Rosenthal asked how this would work in the historic district.

Oldenburg said the historic commission can approve the design but any zoning matters would be reviewed by him and would potentially come before the Board. The historic commission can deny an application based on design or even conditionally approve only if certain parameters are met. Standing code right now is that you can use historic setback averaging in that district which could allow a garage to be built right up to the street in some cases. This text amendment seems to be best suited for outside the historic district.

Jansen asked how many homes are in violation? How many homes built since the ordinance change have this type of front facing garage.

Oldenburg said he and the building official drove through town looking at the newer homes in each neighborhood. Almost all of the new homes had a garage that violated the code. When reviewing the building files, it seemed a lot of them were built about the time of the ordinance change and there seemed that there was a grace period to allow these garages for those who were already in the building process. He didn't find evidence that homes were built in direct defiance of the ordinance. Anything built after the 1950's, if there was an attached garage, it was on the same plane as the house.

Baranski said the new principles came about in the late 1980's and early 1990's because of the Chicago suburbs where massive housing developments were built.

Rosenthal and Nybo said they liked that the Zoning Administrator would approve on a case by case basis. If needed it would come before the Board.

The Board agreed that the request met all the approval criteria.

**Approval Criteria & Recommendation:**

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

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

(1) Whether the existing text or zoning designation was in error at the time of adoption; *This regulation is very restrictive and does not give flexibility for existing developments where certain garage designs would be compatible with surrounding properties.*

(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.; *The City is experiencing more infill development requests recently and this request would give flexibility in design to accommodate topography, lot size and compatibility with existing neighborhoods.*

(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; *Negative impacts are not expected from this amendment; new residential subdivision requests will still need to adhere to the current requirement to meet the main intent of the standing ordinance.*

(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; *This amendment is in conformance with the goals of the*

*Comprehensive Plan as outlined in Chapter 10. Traditional Neighborhood Design will be protected while providing flexibility for infill.*

(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; *Not applicable*

(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 *There is adequate land available to accommodate this proposed practice, including new development or redevelopment.*

(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 community will benefit by flexibility in the code to accommodate the best fit for infill development.*

As Roll Call was:

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

Motion carried.

Cal. No. 16V-01, Applicant and Owner: Alicia Buss, 2564 N. Windy Lane, Galena, IL 61036. Location: Parcel: 22-101-185-10, Located on Tract 2, Lot 9 and parts of Lots 6, 7 & 8 in Block 5 of the North Galena Addition, City of Galena, Jo Daviess County, Illinois. Request for a variance to allow a front facing garage to be located in front of the furthest projecting portion of the front façade of the dwelling.

**MOTION:** Baranski moved, seconded by Cook to open the Public Hearing for Cal. No. 16V-01.

Motion carried on voice vote.

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

Alicia Buss, 2564 N. Windy Lane, Galena said her previous testimony applied to her variance request. She asked that the board consider the fact that the lot is quite narrow. If she had known about this she would have considered other options.

Nybo asked Buss if she knew what the distance was between the street and the garage doors.

Oldenburg said it was about 40 feet.

Nybo said he wanted to make sure it was at least 19 feet.

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

**MOTION:** Baranski moved, seconded by Jansen to close the Public Hearing on Cal. No. 16V-01.

Motion carried on voice vote.

**MOTION:** Bararanski moved, seconded by Nybo to draft a positive Findings of Fact for Cal. No. 16V-01.

Discussion: The Board reviewed and agreed that the request met 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.

As Roll Call was:

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

Motion carried

## **COUNTY ZONING**

Request by Janet Einsweiler, 1170 Ferry Landing Road, Galena, IL 61036 for approval of Plat of Subdivision for Lot 1 of “Leon and Janet Einsweiler’s Second Addition to Rawlins Township”, part of the NE ¼ of Section 14, Township 28 North, Range 1 West of the Fourth Principal Meridian, Rawlins Township. Request for subdivision to create a separate parcel for an existing house.

Oldenburg said the City needs to give their opinion on the request. The Zoning Board sends a recommendation to the City Council who will send their decision to the County Zoning Board.

**MOTION:** Baranski moved, seconded by Nybo to send a positive recommendation to the City Council for a request for a subdivision to create a separate parcel for an existing house.

As Roll Call was:

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

Motion carried

### **WORKSESSION/OTHER**

None

### **PUBLIC COMMENTS**

None.

**MOTION:** Cook moved, seconded by Bochniak to adjourn the meeting at 7:10 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price  
Zoning Board Secretary