

**MINUTES
ZONING BOARD OF APPEALS
JANUARY 11, 2017**

CALL TO ORDER:

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday January 11, 2017 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	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

Cook noted there was an error on page 14 in the motion to adjourn. She was absent and therefore could not have made a motion.

The correction will be made and the minutes brought back to the February 8, 2017 meeting for approval.

OLD BUSINESS

Cal. No. 16S-06, Applicant and Owner: Dennis Miller, 611 South Prospect Street, Galena, IL 61036. Location: Parcel: 22-100-674-03, Lot 23 and 50' x 169' of Lot 21 in Block 11 of the Original City of Galena, Jo Daviess County, Illinois. Common Address is 611 South Prospect Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in a Medium Density Residential District.

MOTION: Jansen moved, seconded by Baranski to ratify the Findings of Fact as presented.

As Roll Call was:

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

Motion carried.

Cal. No. 16S-07, Applicant: Ryan Dies, 112 North Main Street, Galena, IL 61036, and Owner: Mordechai Saban, 800 Clinton Street, Galena, IL 61036. Location: Parcel: 22-100-082-00, N ½ of Lot 46, Original Lots between Main and Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 112 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 ratify the Findings of Fact as presented.

As Roll Call was:

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

Motion carried.

Cal. No. 16S-08, Applicant and Owner: Warren Bell and Kathleen Cameron, 404 South Dodge Street, Galena, IL 61036. Location: Parcel: 22-100-644-00, Lot 2 and N ½ of Lot 3, Block 10 in the Original Lots of Galena, Jo Daviess County, Illinois. Common Address is 404 South Dodge Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District.

MOTION: Bochniak moved, seconded by Jansen to ratify the Findings of Fact as presented.

As Roll Call was:

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

Motion carried.

Cal. No. 16S-09, Applicant: David and Sarah Sandler, 407 Wight Street, Galena, IL 61036, and Owner: John and Andrea Kenna, 223 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-040-00, S 21' of Lot 30, Original Lots between Main and Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 223 South 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 Holman to ratify the Findings of Fact as presented.

As Roll Call was:

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

Motion carried

Cal. No. 16S-10, Applicant and Owner: James and Beverly Jones, 307 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-032-00, S 1/2 of Lot 26, Original Lots between Main and Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 307 South 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 Baranski to ratify the Findings of Fact as presented.

As Roll Call was:

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

Motion carried.

NEW BUSINESS

Cal. No. 17S-01, Applicant and Owner: Nadrien Markowski, 421 Franklin Street, Galena, IL 61036. Location: Parcel: 22-100-343-00, Lots 55 and 56 of Franklin Street Addition, Galena, Jo Daviess County, Illinois. Common Address is 421 Franklin Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in a Low Density Residential District. *** PUBLIC HEARING ***

MOTION: Bochniak moved, seconded by Baranski to open the Public Hearing on Cal. No. 17S-01.

Motion carried on voice vote.

Nack swore in those wishing to testify at this public hearing.

Oldenburg presented as both the applicant and her representative were unable to attend due to logistics and an unexpected health issue. This is a single family two story miner cottage set back from Franklin Street with one off street parking space. The owner lives in Chicago and would like to offer this as a vacation rental when she is not using it. There is a limit of two bedrooms and four guests because there is only one off street parking space.

Baranski asked if the home owner would be there or an agent.

Oldenburg said the owner's agent lives in Scales Mound and she will meet the guests and manage the property when the owner is not here.

No one else presented testimony either in favor of or against the request.

MOTION: Jansen moved, seconded by Baranski to close the Public Hearing on Cal. No. 17S-01.

MOTION: Jansen moved, seconded by Bochniak to draft a positive Finding of Fact to approve the request for Special Use Permit to allow Accommodations, Vacation Rental in a Low Density Residential District for Cal. No. 17S-01.

Discussion: Jansen 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 impact of the number of guests is congruent with a residential use at the site.*

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:

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

Motion carried.

Cal. No. 17S-02 & 17V-01, Applicant and Owner: Dave & Bernadine Anderson, 410 Broadway, Galena, IL 61036. Location: Parcel: 22-100-433-00, Lot 33, West side of Broadway, Galena, Jo Daviess County, Illinois. Common Address is 410 Broadway, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District and Variance request for off-street parking requirement. *** PUBLIC HEARING ***

MOTION: Baranski moved, seconded by Bochniak to open the Public Hearing on Cal. No. 17S-02.

Motion carried on voice vote.

Nack swore in those wishing to testify at this public hearing.

Dave Anderson, 410 Broadway Galena said they are looking to convert the two story left unit into a vacation rental. There are two units on the right side of the building – the first floor unit is occupied by his wife’s mother who will be the representative – greeting guests, monitoring the guests and assisting with any of their needs.

No one else presented testimony either in favor of or against the request.

MOTION: Baranski moved, seconded by Bochniak to close the Public Hearing on Cal. No. 17S-02.

MOTION: Baranski moved, seconded by Bochniak to draft a positive Finding of Fact to approve the request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District for Cal. No. 17S-02 subject to approval of an off street parking variance.

Discussion: Baranski 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 impact of the number of guests is congruent with a residential use at the site.*

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:

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

Motion carried.

MOTION: Baranski moved, seconded by Bochniak to open the Public Hearing on Cal. No. 17V-01.

Motion carried on voice vote.

Nack swore in those wishing to testify at this public hearing.

Dave Anderson said the building extends lot line to lot line. The driveway that runs along the right side of the building is not theirs. This unit has previously been used as a long term rental. Most recently the family that lived in the unit had three cars that were parked somewhere on Broadway. With the vacation rental there will be one car on the street about 25% of the time so this reduces the parking needs of the area.

No one else presented testimony either in favor of or against the request.

MOTION: Baranski moved, seconded by Bochniak to close the Public Hearing on Cal. No. 17V-01.

MOTION: Jansen moved, seconded by Baranski to draft a positive Finding of Fact to approve the Variance request for the off-street parking requirement, Cal. No. 17V-01.

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.

Baranski said there are no requirements for Single Family Residential properties so there could be an unlimited number of vehicles. With the short term vacation rental SUP we restrict the number of allowed vehicles so this is a benefit to the neighborhood.

As Roll Call was:

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

Motion carried.

Cal. No. 17S-03, Applicant and Owner: Michael Campbell and Robert Campbell (Bros.), 209 South Prospect Street, Galena, IL 61036. Location: Parcel: 22-100-586-00, E ½ of Lot 5, Block 5 in the Original Lots of Galena, Jo Daviess County, Illinois. Common Address is 209 South Prospect Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District for one-dwelling unit in a duplex. *** PUBLIC HEARING ***

MOTION: Bochniak moved, seconded by Baranski to open the Public Hearing on Cal. No. 17S-03.

Motion carried on voice vote.

Nack swore in those wishing to testify at this public hearing.

Robert Campbell 209 S Prospect Street Galena said the duplex was built in 1856; around 1970 his parents purchased the property. His brother Mike lives in one unit and his Mother has lived in the other unit until her recent death. They would like to give people the opportunity to stay in an historic property on Quality Hill.

Rosenthal asked if the garage would be used for parking.

Campbell said it would.

No one else presented testimony either in favor of or against the request.

MOTION: Baranski moved, seconded by Bochniak to close the Public Hearing on Cal. No. 17S-03.

MOTION: Bochniak moved, seconded by Jansen to draft a positive Finding of Fact to approve the request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District for one-dwelling unit in a duplex, Cal. No. 17S-03.

Discussion: Bochniak 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 impact of the number of guests is congruent with a residential use at the site.*

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:

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

Motion carried.

Cal. No. 17S-04, Applicant: Alex Ellerbeck, 5670 Clay Ridge Drive, Dubuque, IA 52002, and Owner: Paul Ellerbeck, 205 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-048-00, Part of Lot 33, Original Lots between Main and Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 205 South Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District. *** PUBLIC HEARING ***

MOTION: Bochniak moved, seconded by Cook to open the Public Hearing on Cal. No. 17S-04.

Motion carried on voice vote.

Nack swore in those wishing to testify at this public hearing.

Alex Ellerbach 205 S Main Street, Galena said they are currently looking to renovate the third floor into a four-bedroom suite for a vacation rental; the second floor would remain vacant for now.

Baranski asked who would be meeting and assisting the guests while they were in Galena.

Ellerbeck said he and his wife would be – they are on the first floor every day at their business Chocolaterie Stam.

No one else presented testimony either in favor of or against the request.

MOTION: Bochniak moved, seconded by Baranski to close the Public Hearing on Cal. No. 17S-04.

MOTION: Jansen moved, seconded by Bochniak to draft a positive Finding of Fact to approve the request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District for Cal. No. 17S-04.

Discussion: Jansen 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.

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(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).*

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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 impact of the number of guests is congruent with a residential use at the site.*

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:

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

Motion carried.

Cal. No. 17S-05 & 17V-02, Applicant and Owner: Kenneth, Linda and Charles Pluym, 310 Franklin Street, Galena, IL 61036. Location: Parcel: 22-100-319-00, Lot 27 of Franklin Street Addition, Galena, Jo Daviess County, Illinois. Common Address is 310 Franklin Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District and Variance request for off-street parking requirement. *** PUBLIC HEARING ***

MOTION: Jansen moved, seconded by Baranski to open the Public Hearing on Cal. No. 17S-05.

Motion carried on voice vote.

Nack swore in those wishing to testify at this public hearing.

Linda Pluym, 310 Franklin Street, Galena said she would like to convert one of the three units in the building at 310 – 312 Franklin Street into a vacation rental. The building is within walking distance to downtown and the unit can be accessed from the front or the back of the building. She has a long successful history in the hospitality business: they own The Paradise, and have previously owned/managed Country Inn and Suites, The Ryan Mansion and Bedford House.

Baranski asked if she owns both sides of the building?

Pluym said yes. The other two units are being renovated and will be rented as long term rentals in the near future.

Baranski asked if she was the one that would be meeting the guests.

Pluym said she was.

No one else presented testimony either in favor of or against the request.

MOTION: Bochniak moved, seconded by Baranski to close the Public Hearing on Cal. No. 17S-05.

MOTION: Baranski moved, seconded by Bochniak to draft a positive Finding of Fact to approve the request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District for Cal. No. 17S-05 subject to approval of an off street parking variance

Discussion: Baranski 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.

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(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.*

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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:

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

Motion carried.

MOTION: Baranski moved, seconded by Bochniak to open the Public Hearing on Cal. No. 17V-02.

Motion carried on voice vote.

Nack swore in those wishing to testify at this public hearing.

Linda Pluym said her circumstances were similar to that of Anderson's property on Broadway. The rental will most likely be occupied on the weekends but vacant during the week. The one car allowed for the vacation number is certainly less than the two or three cars previous renters have parked on Franklin Street.

No one else presented testimony either in favor of or against the request.

MOTION: Baranski moved, seconded by Bochniak to close the Public Hearing on Cal. No. 17V-02.

MOTION: Baranski moved, seconded by Bochniak to draft a positive Finding of Fact to approve the Variance request for the off-street parking requirement, Cal. No. 17V-02.

Discussion: Baranski 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:

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

Motion carried.

COUNTY ZONING

None

WORKSESSION/OTHER

None

PUBLIC COMMENTS

None

MOTION: Jansen moved, seconded by Bochniak to adjourn the meeting at 7:15pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price
Zoning Board Secretary