

**MINUTES  
ZONING BOARD OF APPEALS  
JUNE 27, 2017**

**CALL TO ORDER:**

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Tuesday June 27, 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 Secretary Deb Price were also present.

**APPROVAL OF MINUTES**

**MOTION:** Bochiak moved, seconded by Cook to approve the May 10, 2017 minutes.

Motion carried on voice vote.

**UNFINISHED BUSINESS**

Cal. No. 17S-21, Applicant and Owner: Raechelle & Ikhlas Ahmed, 219 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-043-00, 23' of Lot 31, Lots between Main & Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 219 South Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

**MOTION:** Jansen moved, seconded by Bochniak 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. 17S-22, Applicant and Owner: Andresen Family Trust, 221 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-041-00, North 15.5' of Lot 30 and South 6' of Lot 31, Lots between Main & Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 221 South Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

**MOTION:** Baranski moved, seconded by Cook to ratify the Findings of Fact for Cal. No. 17S-22 as presented based on the criteria, conclusions and determination of those set forth in Cal. No.17S-21.

As Roll Call was:

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

Motion carried.

Cal. No. 17S-23, Applicant and Owner: Sean & Amy Loberg, 304 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-124-00, North 19.5' of Lot 4, East Side of Main Street, Galena, Jo Daviess County, Illinois. Common Address is 304 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 Cook to ratify the Findings of Fact for Cal. No. 17S-23 as presented based on the criteria, conclusions and determination of those set forth in Cal. No.17S-21.

As Roll Call was:

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

Motion carried.

### **NEW BUSINESS**

Cal. No. 17A-02, Applicant: Todd & Candy Walburg, 614 South Prospect Street, Galena, IL 61036 and Owners: Craig & Leslie Jean DuBois 606 South Prospect Street Galena, IL 61036 Location: Parcels: 22-100-262-00, S Part of Lot 6 & N Part of Lot 7, between Bench & Prospect Streets, Galena, Jo Daviess County, Illinois. Common Addresses is 606 South Prospect Street, Galena, IL 61036. Request for Rezoning from Low Density Residential to Neighborhood Commercial District at 606 South Prospect Street. **PUBLIC HEARING**

**MOTION:** Baranski moved, seconded by Bochniak to open the Public Hearing for Cal. No.17A-02.

Motion carried on voice vote.

Nack swore in those wishing to testify at any of tonight's public hearings.

Todd Walburg, 614 South Prospect Street Galena said last time they were before the zoning board they had anticipated purchasing a portion of adjacent land, but that agreement had fallen through. They would like approval for a zoning change to Neighborhood Commercial to allow a small inn. Parking would be on the street – there are three on street spots in front of the existing B & B at 606 South Prospect. They will continue to park their personal vehicles at their 614 South Prospect residence. The area is essentially neighborhood commercial with the variety of vacation rentals, B & B's, small inns, art gallery, and mixed use at Renaissance on Spring Street.

Baranski asked if there would be an office in the Small Inn.

Walburg said there would be an office.

Rosenthal asked if 606 South Prospect would be the only property changed to Neighborhood Commercial.

Oldenburg said yes. Neighborhood Commercial is a transitional zoning district between residential and commercial. Essentially this is the exact same request as they previously sought.

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

**MOTION:** Jansen moved, seconded by Cook to close the Public Hearing on Cal. No.17A-02  
Motion carried on voice vote.

**MOTION:** Baranski moved, seconded by Bochniak to forward a positive Finding of Fact to the City Council to recommend a zoning change from Low Density Residential to Neighborhood Commercial District.

Discussion: Baranski said this change would be in keeping with the use pattern of the neighborhood – there are small inns, bed and breakfasts, short term vacation rentals, Highway 20/stop light. Neighborhood Commercial gives the city good control. The property itself has been a commercial property for a very long time.

Baranski reviewed the approval criteria:

**Approval Criteria & Recommendation for Map Amendment:**

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; **does not apply**

(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.; **does comply – there has been an increase in tourism**

(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; **does comply**

(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; **does comply - again there has been an increase in tourism.**

(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; **does comply – they are in walking distance to downtown businesses and service**

(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; **does comply**

(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 – does comply – the increase in tourism drives the demand and need for accommodations.

**The Zoning Administrator and Zoning Board of Appeals shall make recommendations and the City Council shall take final action.**

**(1) When the Zoning Board of Appeals or City Council deems it necessary or expedient, additional property in the zoning district may be considered for a zoning change provided that this additional property is also addressed in the public hearing notice, in accordance with § [154.919\(F\)](#).**

**(2) In the event of a written protest against a proposed amendment signed and acknowledged by the owners of 20% of the frontage proposed to be altered or by the owners of 20% of the frontage immediately adjoining or across the alley or rear line therefrom or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered as to such regulations or zoning district and field with the City Clerk, such amendment shall not be passed except by the favorable vote of two-thirds of all of the selected members of the City Council.**

Rosenthal said we have already basically approved this. If a wrench hadn't been thrown into the property sale they wouldn't be before the Board again.

As Roll Call was:

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

Motion carried.

Cal. No. 17S-25, Applicant: Todd & Candy Walburg, 614 South Prospect Street, Galena, IL 61036 and Owners: Craig & Leslie Jean DuBois, 606 South Prospect Street, Galena, IL 61036. Location: Parcels: 22-100-262-00, S Part of Lot 6 & N Part of Lot 7, between Bench & Prospect Streets, Galena, Jo Daviess County, Illinois. Common Addresses is 606 South Prospect Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Small Inn as a principal commercial land use in the Neighborhood Commercial District at 606 South Prospect Street. **PUBLIC HEARING**

**MOTION:** Bochniak moved, seconded by Jansen to open the Public Hearing for Cal. No. 17S-25.

Motion carried on voice vote.

Todd Walburg, 614 South Prospect Street Galena said his previous testimony for Cal. No. 17A-02 included all the information.

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

**MOTION:** Cook moved, seconded by Holmen to close the Public Hearing on Cal. No. 17S-25.

Motion carried on voice vote.

**MOTION:** Jansen moved, seconded by Cook to approve a Special Use Permit to allow Accommodations, Small Inn as a principal commercial land use in the Neighborhood Commercial District at 606 South Prospect Street, Cal. No. 17S-25, contingent upon the City Council approving a zoning change for Cal. No. 17A-02.

Discussion: Jansen reviewed the approval criteria:

**Approval Criteria & Recommendation for Special Use Permit:**

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 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.**

The application complied with all approval criteria.

As Roll Call was:

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

Motion carried.

17V-03, Applicant: Todd & Candy Walburg, 614 South Prospect Street, Galena, IL 61036 and Owners: Craig & Leslie Jean DuBois, 606 South Prospect Street, Galena, IL 61036. Location: Parcels: 22-100-262-00, S Part of Lot 6 & N Part of Lot 7, between Bench & Prospect Streets, Galena, Jo Daviess County, Illinois. Common Addresses is 606 South Prospect Street, Galena, IL 61036. Request for Variance for Off-Street Parking at 606 South Prospect Street. **PUBLIC HEARING**

**MOTION:** Bochniak moved, seconded by Cook to open the Public Hearing for Cal. No. 17V-03.

Motion carried on voice vote.

Todd Walburg, 614 South Prospect Street Galena said his previous testimony for Cal. No. 17A-02 included all the information.

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

**MOTION:** Jansen moved, seconded by Bochniak to close the Public Hearing on Cal. No. 17V-03.

Motion carried on voice vote.

**MOTION:** Baranski moved, seconded by Cook to approve the variance for Cal. No. 17V-03 contingent upon the City Council approving a zoning change for Cal. No. 17A-02.

Discussion: Baranski reviewed the approval criteria:

**Approval Criteria & Recommendation for Variance:**

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; **does comply – no way to expand**
- (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; **Not applicable**
- (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; **does comply**
- (4) *Reasonable use.* The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance; **does comply**
- (5) *Minimum necessary.* The variance is the minimum necessary to make possible the reasonable use of land or structures; **does comply**
- (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; **does comply**
- (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; **does comply**
- (8) *Conformance with the Comprehensive Plan.* The granting of a variance will not conflict with the goals and principles in the adopted Comprehensive Plan **does comply**

**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	Abstain
Rosenthal	Yes

Motion carried

Cal. No. 17S-26, Applicant and Owner: Debra Malone, 525 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-012-00, N 5' of Lot 7 in the Subdivision of Lot 8, Lot 9, Lots between Main & Bench Streets of the Original City of Galena, Galena, Jo Daviess County, Illinois. Common Address is 525 South Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental with two dwelling units in the Downtown Commercial District.

**MOTION:** Cook moved, seconded by Bochniak to open the Public Hearing on Cal. No. 17S-26.

Motion carried on voice vote.

Deb Malone 525 South Main Street Galena said she would like to have a two-unit vacation rental in a home at 525 South Main Street. The property has been operating as a retail business. The upstairs unit would have accommodations for six persons; downstairs on the main level there would be space for four persons. There is a door between the two levels.

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

**MOTION:** Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 17S-26.

Motion carried on voice vote.

**MOTION:** Bochniak moved, seconded by Cook to approve the request for a Special Use Permit to allow Accommodations, Vacation Rental with two dwelling units in the Downtown Commercial District for Cal. No. 17S-26.

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 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.**

The request complied with all approval criteria.

As Roll Call was:

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

Motion carried.

**COUNTY ZONING**

None

**WORKSESSION/OTHER**

None

**PUBLIC COMMENTS**

None

**MOTION:** Bochniak moved, seconded by Cook to adjourn the meeting at 7:00 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price  
Zoning Board Secretary