

**MINUTES
ZONING BOARD OF APPEALS
FEBRUARY 14, 2018**

CALL TO ORDER:

Acting Chairperson Nybo called the regular meeting of the Zoning Board of Appeals to order at 6:40 PM on Wednesday, February 14, 2018 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	Absent

A quorum was declared.

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

APPROVAL OF MINUTES

MOTION: Cook moved, seconded by Jansen to approve the January 10, 2018 minutes.

Motion carried on voice vote.

UNFINISHED BUSINESS

Cal. No. 18S-01, Applicant and Owner: Gregory & Dawn Fleege, 509 North Dodge Street, Galena, IL 61036. Location: Parcel: 22-100-910-00, Part of Lots 1,4,5 & 6, Connelly's Subdivision of Lots 7 & 8 of Block 27 of the Original City of Galena, Galena, Jo Daviess County, Illinois. Common Address is 509 North Dodge Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District.

MOTION: Cook moved, seconded by Jansen to approve the Findings of Fact for Cal. No. 18S-01.

As Roll Call was:

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

Motion carried.

NEW BUSINESS

Cal. No. 18S-02, Applicant and Owner: James Wirth, 121 South High Street, Galena, IL 61036. Location: Parcel: 22-100-573-00, Lot 16 in Block 4 of the Original City of Galena, Galena, Jo Daviess County, Illinois. Common Address is 121 South High Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District.

MOTION: Baranski moved, seconded by Cook to open the Public Hearing on Cal. No. 18S-02.

Motion carried by voice vote.

Nack swore all those in who wished to testify at the public hearing.

Testimony Presented on Behalf of the Applicant and in Support of the Proposal:

Marty Johnson, 28 Vista Ridge, Galena stated that Mr. Wirth fell a few times this winter and is somewhat ill and in the care facility right now. He is doing better but asked that Marty sit in for his case. He has been working with Jim on this, it is a unique property and is the pre-war home of U.S. Grant. He lived there for several years and contemplated many of our war issues before he joined forces for the Civil War. There is an original floor plan done by the US Park Service in the 1930's that they worked off-of to put this request together and have outlined the house and site plan. They feel it is in compliance with the intent and regulations of the ordinance and request approval by this Board.

Baranski asked is Mr. Wirth would be living nearby or who would meet the guests.

Johnson stated that it is a bit up in the air now as Mr. Wirth is ill, but there is an area in the back of the house that the caretaker can stay.

No one else spoke in favor.

Testimony Presented in Opposition to the Proposal:

Craig Brown, 757 Dewey Avenue, Galena, stated that it is highly inappropriate for one of our most historic buildings in Galena to have a Special Use Permit granted and it would subject this building to a good deal of risk to accidental, negligent or intentional destruction. It would be a shame if we lost a building this important and he asks the Board to use their discretion and not approve this permit.

Baranski asked what concerns does Craig have specifically?

Brown stated that any time something is a rental, it gets treated differently than when someone owns it. It's why when you rent a car, the insurance is \$12 / day as opposed to \$1 / day when you own it. You don't know who wants to stay in it – it only takes one bachelor party, it only takes one Southern cause person who's off the deep end, it only takes one time not to have arguably the single biggest gem in this town. He just doesn't think it's a good idea to give this type of permit to this property – it's not a Mount Vernon or Monticello, but it's a darn important place to us.

Baranski asked if there was a caretaker living in the back of the house, would that sway his position / concerns?

Brown stated that if that was part of the conditions for approval, that would help a little or go some distance – it wouldn't go all the way. He thinks having visitors stay at the house like that would be an undue risk.

Baranski stated if Jim Wirth wanted to just rent the house long term to someone, he would be entitled to that. Would Brown have the same concerns in that scenario?

Brown said that was right; he would have less concern because you would have someone with a lesser level of risk to the structure – you see it in insurance – vacation rentals is the riskiest option out there.

Baranski asked if it was a matter of degree of risk to Brown?

Brown said yes, it's a matter of risk to the highest degree.

Steve Repp, 227 S Dodge Street, Galena stated that he is opposed to giving a permit for a vacation rental to 121 S High Street. His wife and he moved to Galena in 1979. Gladys Ehrler had the house then, although she lived on the East side. He got to know her – she had some health issues and he offered to take care of the house, yardwork, etc. Dr. Benson owned it in the 80's and Mr. Wirth has owned it for the last 20 years. He knows this house quite well. He understands there have been some revisions to the original proposal for the vacation rental plans that he reviewed – that Mr. Wirth will be in the back or the front of the house. The plan that he had a few days ago had the vacation rental in the front of the house and Mr. Wirth staying in the back of the house which is a very small area. The knowledge he has of the house is that there is a melodeon there that dates to the mid-1800's and furniture that is from the same period as when US Grant was there. The furnishings there are all period furnishings that have been there for many years. He sees a problem with the vacation rental having a bad impact on the very antique furnishings and ruining them. That house has been on tours for many years since the 1950's, and it's a tour home. Mrs. Ehrler would have him give tours of the home when she owned it. Mr. Wirth was given permission to use it as a tour home some time ago. He'd be more than willing to give him help operating it as a tour home.

Baranski asked Johnson to clarify the plans on how the layout of the vacation rental will be.

Oldenburg stated that he could offer some clarity to the confusion. The original proposal had the back part would be where the caretaker is and the rest would be for the vacation rental. We later found out that Mr. Wirth's intentions were also to flip the arrangement around, depending on who the guests were. If he was comfortable with the guests, they could stay in the main part of the house, or if he didn't know them well, they would stay in the back part of the house. The second revision offered would be for the alternate scenario. Oldenburg asked the architect to present the floorplan and site plan as the entire property being a vacation rental with the understanding that if it is owner-occupied, which is not prohibited, that it would impact the parking situation and Mr. Wirth would need to provide an additional parking space off-street. If he is there, he will work that out with the building, life safety and health codes.

Baranski asked whether the new configuration is a second application?

Oldenburg stated that he's really making one application for the whole site to be a single vacation rental. The configurations are to display that he can meet building and safety codes.

Baranski asked Repp how he would feel if he was renting the vacation rental and Mr. Wirth was staying in the rest of the house.

Repp asked Branski if he's seen the back of the house? It is very small. He would feel more comfortable if he only used it as a tour home.

Nybo asked if the applicant has any rebuttal to the opposition?

Johnson spoke again on behalf of the owner. Mr. Wirth is a very honorable man and understands and appreciates this valuable asset. One of the things that he would never want to do is to harm this structure and its contents. In his reading of the ordinance is that there is nothing too historic for this use. One of the goals is to try to enjoy all of our gems in this City at all levels. There is some confusion relative to the configurations – Mr. Wirth wanted him to address that if there was a room in the back with its own private use and entrance. As they moved forward with the plan – they found that if he wants to stay there with the guests then they will have to add another parking space.

Baranski asked if his original intent was to rent just the one room and somehow the parking situation could be resolved, would that still be his intent?

Oldenburg added that you can request a single-room vacation rental as an accessory use to the principal residence, but you still have to have two off-street parking spaces. He also doesn't meet the criteria for a variance to reduce the parking requirement due to availability of land. Oldenburg's guidance to the applicant was to request the whole property as a full vacation rental and then if they reduced the intensity, then it would still be acceptable / compatible.

Baranski stated that the more important concept is that he really just wants to rent the back room?

Johnson said yes, his understanding is that Mr. Wirth wants to be a good steward to the main part of the house while augmenting his income to keep the place going. When he talked to Mr. Wirth two days ago, he is open to adding the parking stall.

Baranski asked if we added the parking stall, then all they have to do is choose between two plan options?

Oldenburg stated that he also talked to Mr. Wirth two days ago and he discussed the scenario that he would also let people stay in the front / upper part if he was comfortable with them. So it would be best to not limit it to one side or the other. Whatever configuration – as long as it meets the fire & life safety codes, it doesn't detract from the intensity of the use if he gets approval for both configurations. There is a limit of four guests total anyway.

Nybo stated that the objectors now have a chance to ask questions of the applicant.

Repp asked about picking and choosing who stays in the house – that opens a whole can of worms. The option to choose who stays there is odd, can he do that?

Baranski stated that that is not part of our criteria.

Oldenburg stated that whatever interaction he chooses with his guests, whether it is through AirBnB or direct solicitation, is up to the applicant. He assumes there are possibly other laws on whether you can screen guests. There are rating systems with online booking platforms that may allow you to do that, but it is up to the owner and not part of the criteria for zoning.

Repp said that the house is not compatible to the use – he just doesn't see it where the furniture would be compatible for people to stay there.

Baranski asked if it was Grant's original furniture?

Repp said no, it was not.

Baranski asked what was his concern about the furniture?

Repp said the parlor set has condition issues.

Baranski asked if it was because it is antique?

Repp said that the continual use could damage the furniture.

Jansen asked Oldenburg if this went to any other body for decisions, like the HPC? He gets the sense that there is worry about historic value that may need another review by another body.

Oldenburg stated that he is not altering the exterior; if he were it would need review by the HPC, but otherwise it does not need other review.

Nybo stated that Johnson had another opportunity to rebut. Johnson declined.

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 18S-02.

Motion carried by voice vote.

MOTION: Jansen moved, seconded by Baranski to draft a positive Finding of Fact for Cal. No. 18S-02.

Discussion: Jansen stated that he understands where everyone is coming from, but it is not our baileywick to protect the furniture. He doesn't know whether it is something they have to do to protect a historic structure from a certain use. You could make good money by renting out Grant's home. He thinks there is something positive in that light.

Baranski stated that he is sensitive to what Brown said, but he thinks that there really isn't a provision for protection to historic structures by the Zoning Board and moreover, the idea of predicting damage isn't part of our purview. He just doesn't see how that can be part of their criteria for a decision. If the historic society sees an issue perhaps they can do something.

Jansen reviewed the approval criteria:

(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.

Jansen said the application complies with all pertinent approval criteria.

As Roll Call was:

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

Motion carried.

Cal. No. 18A-01 & 18S-03, Applicant: Ann Williams, 417 Franklin Street, Galena, IL 61036 and Owner: Matthew Ware, 1553 Lewis Road, Edwardsville, IL 62025. Location: Parcel: 06-500-145-00, Lot 12, excepting 50 square feet in Block 23, Original Town East of the Galena River, Galena, Jo Daviess County, Illinois. Common Address is 1002 Park Avenue, Galena, IL 61036. Request for rezoning from Low Density Residential to Neighborhood Commercial and Special Use Permit to allow Accommodations, Vacation Rental in the Neighborhood Commercial District.

MOTION: Baranski moved, seconded by Bochniak to open the Public Hearing on Cal. No. 18A-01 and Cal. No. 18S-03.

Motion carried by voice vote.

Nack swore all those in who wished to testify at the public hearing.

Testimony Presented on Behalf of the Applicant and in Support of the Proposal:

Ann Williams, 417 Franklin Street , Galena said she hopes to get rezoning for 1002 so that they can operate two kinds of businesses. One would be a sales and service type use that offers the residents and visitors with an opportunity to purchase reclaimed barn wood, panels and handmade furniture from local artisan craftsman and have samples on site. The second product in that floor would be restored mid-century appliances for purchase as samples. The appliances would be restored in Elizabeth at another site and then delivered directly to the customer's home, so there would not be a large turnover of appliances at the Park Avenue site, only samples. These are very high end products. The upstairs, they hope to turn into a vacation rental. The building didn't have anyone living in it for the past 10 years, so they hope to add to the other two thriving businesses on the cul-de-sac.

Baranski asked if she owned the business next door?

Williams said she did not.

Baranski asked if the guest accommodations portion would have the check-in process done by the staff from the first floor operation.

Williams stated yes.

Baranski also asked if the store hours would be regular hours and accept walk-ins or will it totally be by appointment only?

Williams said that it will mostly be by appointment only, but they may have Friday through Sunday with public hours. They want to focus their attention to potential customers due to the high-end nature of their product, so they do not want to run full-time hours and take away from their focus.

Bochniak asked about the garage in the back – it will need approval from HPC to be removed to facilitate 5 parking spaces. If this is not approved, how will it affect their off-street parking plan?

Williams stated that her architect can answer that question.

Marty Johnson, 28 Vista Ridge, Architect, Straka Johnson Architects stated that as Ann mentioned, the Neighborhood Commercial district is related to her type of request where it lends to her transitory type of needs. This property is in a very exposed type of area and attached to an Inn and across from a six-plex with more intense use. The blending of this along with a vacation rental blends with the store for an appropriate parking solution. If the garage removal is denied, then the parking space count goes down to four parking spaces and we reduce the square footage on the second floor for vacation rental space. They'll create an ADA parking stall, walkway in and ADA bathroom to accommodate the first floor. Overall, they feel a vacation rental and store at this site is in furtherance of the Comprehensive Plan and the intent of our ordinances.

Baranski asked whether the house next door is currently a B&B.

Johnson stated that it was one of the first inns in town.

Baranski also asked whether the Belvidere is a tour home?

Johnson stated that it is a daily tourist attraction.

Oldenburg stated that it is.

Michelle Dieter, 314 Third Street, Galena – she stated that this is a win-win for Galena. It fixes an old home that needs restoring. It's by appointment only, so it's not going to be disruptive to the immediate area. The vacation rental is good because we want more people to come to Galena. She approves it.

Glen Gutmann, 609 South Prospect, Galena – he wants to reiterate what Michelle said. They're taking an old building and fix it up. It's going to be minimal hours and minimum disruption to the neighborhood.

Nybo stated that that would be for the store, but not for the vacation rental.

Gutman said, yes, but he works at the Felt Manor and they do not have disruption that he is aware of and they are an inn. There's a lot of B&B's and it's not going to be the end of the world. We have a lot of visitors here.

Tiffany Higgins, 9203 Saturn Lane, Galena – she stated that the property is in very poor condition, so the thought of restoring it and bringing more visitors is a good thing. What Ann is selling meets the values of what we're looking for. The restoration barn wood matches what she's proposing with restoring the house. The cul-de-sac has businesses already and that the proposal would not disrupt the neighborhood.

Testimony Presented in Opposition to the Proposal:

Bill Heiken, 1004 Park Avenue, Galena – they're in the same structure as 1002 Park Avenue. He's lived here with his wife for 20 years, and had a 25 year career as a forestry ecologist with the US Forestry Service and worked with landscape architects on view shed planning. He is not in favor of rezoning for a number of reasons. This proposal appears to circumvent the limit of 20 licenses on vacation rentals in residential districts, which are all taken. This lot is not suited to a retail operation. The parking on Park Ave. will be impacted. A retail operation selling used appliances will require a loading zone. The property does not conform to residential bulk standards and is a nonconforming lot – it cannot be changed to a more intensive use. Minimum dwelling separation is 12 feet, these structures are attached in the rear. Fire safety requires wired smoke detectors – since they are connected, two systems would need to be connected so his house can be notified. Removing the garage and adding parking would make a 7 car parking lot, the largest on the East side in the historic district. This would take away from LDR character. He is not in favor, it would have a negative impact on his guest house. There would no longer be a barrier if the garage was removed.

Wendy Heiken, 1004 Park Avenue, Galena – is opposed to the change of zoning for a number of reasons. To change the zoning forever changes the neighborhood. If she changes her plan or sells, they have very little to say what takes place on that site and how it impacts their guesthouse. She has been in the house – the location and size makes it unsuitable for retail. It does not compliment the stately homes on that site and neighborhood. She has concern for our community – Galena is facing a housing shortage due to vacation rentals. She has recently become aware of four displaced families due to vacation rentals being converted. Galena may soon become a place where residents may no longer have housing. To allow one person's wishes to override the wishes of others in the neighborhood is sad. She asks that we follow our ordinances and deny the request.

Crystal Mason, 3454 N Ford Road, Galena – she fully agrees with the Heiken's to deny the request. Although she does not live within the City Limits, it is the character of Galena that drew her to move to the area. It is where we shop, play, volunteer, worship and worked. Having a building and zoning code was a big factor in their decision to move here. With a zoning code in place, one could be relatively assured that there is some stability. However, she is seeing more cases where one entity, wanting to open a business through a zoning change or special use permit can compromise the neighbors that are already there. This appears as a way to get around the limitation on vacation rentals. She is sure this limitation was taken into consideration when the rules were made. By changing this to accommodate the vacation rental, it is setting a dangerous precedent.

Susan Steffan, 334 Spring Street, Galena – she wants to emphasize the importance of the parking concept. When you approach the town from the East, you see all of the historic structures and now you will see a parking lot. It

will be disruptive of the view. She doesn't want a parking strip blocking the view. She wasn't aware of the loading requirements and the structure shares a wall with the other structure. To zone them separately is absurd. The fire systems would be difficult to coordinate with a shared wall building. Also, there is a big waitlist for residential properties that are hoping to be designated as a vacation rental. They will all start to try to rezone to work-around the limit. She is purchasing a home for their daughter because there is already a limit of available living space in Galena. When you make this change, it doesn't get undone. She likes the business proposed, but doesn't like it at this location.

Baranski questioned how the buildings were connected.

Heiken stated that they are connected approximately half of the length of the building.

Baranski asked if there was some kind of space between the two for the rest of it.

Heiken stated that it is a paved area about 5 feet wide.

Baranski asked about when he was referring to the view shed, what he meant.

Heiken stated that the view shed is from the highway.

Baranski asked if the issue was specifically about the parking lot, not the building itself?

Heiken said the parking lot is one of the biggest impacts.

Baranski asked about the garage – how many spaces do the Heiken's have behind their property?

Heiken stated that there are two parking spaces behind the garages.

Williams stated that she appreciated hearing the comments and they're committed to being the best neighbors that they can. She can answer that the appliances will be about 4 or 5 total in the home on rollers as samples. What then happens, is that if someone wants to buy an appliance, it will be from a stock in Elizabeth and will be restored and delivered from there. It will never come back to the Galena shop.

Johnson wanted to add that the intensity of use and that Neighborhood Commercial is meant to be a low intensity which has high restrictions on use. We feel it is appropriate zoning as it matches the other intensity of uses nearby.

Bochniak asked whether 7 or 5 parking spaces are proposed.

Johnson stated that there are 5 on the site plan.

Oldenburg clarified that Mr. Heiken was referring to 7 spaces if the 5 proposed were combined with his 2 spaces behind his property if the garage was removed.

Baranski asked Johnson about the type of separation between the two structures.

Johnson stated that he believes it is 2-3 wythes of masonry brick. The building is separated at the front with a 3.5-4 feet strip. In the rear where they are attached, there is a staircase that winds down from the second floor. The wall is plaster coated over the masonry.

MOTION: Jansen moved, seconded by Bochniak to close the Public Hearing on Cal. No. 18A-01 and Cal. No. 18S-03.

Motion carried by voice vote.

MOTION: Baranski moved, seconded by Bochniak to forward a positive Finding of Fact to the City Council for Cal. No. 18A-01.

Discussion: Baranski stated that one of the reasons we use Neighborhood Commercial is that it is pretty restrictive. It's not a quote, unquote commercial use as general commercial along the highway; so when you start looking at the allowable land uses in the code, the uses are low impact. The ones that are considered more impactful are only allowed by special use. So, if the commercial space were to change and do something that is more impactful than the simple retail space on the first floor, they would more than likely have to come back for further review. There would be other issues that would need to be addressed. He feels that they use Neighborhood Commercial to deal with special situations and this is the special situation. The fact that there is a lot of activity on the end of that road, especially with the Belvidere - this is not a quiet neighborhood due to the more intense uses next door and the highway right there. This use will have a relatively low impact. He said he is sensitive to the viewshed.

Oldenburg said there are screening requirements that will kick in for the parking area because that is where the improvements on the exterior are being made. Based off points per 20 parking stalls or square footage screening would be required within 10 feet of the perimeter of the parking area to break of the linear footage. He said they may be leaning toward keeping the garage which would mean 3 spaces next to the garage allowing more room for landscaping and screening. The request is for a potential 5 spots – if they leave the garage it would reduce the vacation rental to 4 occupants. Leaving the garage would help the viewshed. He said the applicant would not have to buffer the highway side.

MOTION: Baranski moved, seconded by Jansen to amend the original motion to include restricting the parking to four spaces by eliminating the last space nearest the highway in order to reduce the impact on the view shed.

As Roll Call was:

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

Motion carried.

Discussion: 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:

- (1) Whether the existing text or zoning designation was in error at the time of adoption;
- (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.;
- (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;
- (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;
- (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;
- (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
- (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 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 filed 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.**

Baranski said the application meets the pertinent approval criteria.

Nybo called for a vote on the original motion.

As Roll Call was:

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

Motion carried.

Acting Chairperson Nybo asked to be recused for action on agenda item Cal. No. 18S-03.

Baranski took over as acting chairperson.

MOTION: Bochniak moved, seconded by Jansen to draft a positive Finding of Fact for Cal. No. 18S-03 contingent upon City Council approval of Cal. No. 18A-01.

Discussion: Bochniak said the proposed use fits the use of the neighborhood and what is happening next door – after all it is on next to Highway 20.

Jansen agreed.

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.

Bochniak said the request meets the pertinent approval criteria.

As Roll Call was:

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

Motion carried.

Nybo returned to the table

Cal. No. 18A-02 & 18SUB-01, Applicant & Owner: DSW Investments, LLC, 544 West Menzemer Road, Elizabeth, IL 61028. Location: Cobblestone Crossing, Part of the West ½ of Section 12, Township 28 North, Range 1 West, Galena, Jo Daviess County, Illinois. Common Address: Cobblestone Boulevard. Request for rezoning to Medium Density Residential from Limited Agriculture; vacation and re-plat of part of the Cobblestone Crossing Subdivision, concurrent with annexation request.

Nack swore all those in who wished to testify at the public hearing.

MOTION: Jansen moved, seconded by Bochniak to open the Public Hearing on Cal. No. 18A-02 and Cal. No. 18SUB.

Motion carried by voice vote.

Testimony Presented on Behalf of the Applicant and in Support of the Proposal

Steve Schmidt 210 South Dodge Street, Galena said the previous owner had only annexed part of the property and now additional property has been acquired. Some of the property is in the City and some in the County. They are not proposing any increase to the density, in fact the intensity of the development will be reduced by at least 10 residences on Lot 6. The plan was approved for four plex units but instead duplexes will be built. The reason for the request is to annex any remaining County property, get the zoning squared away and add the lots on the third cul de sac.

Baranski said this area is on City water and sewer - with a lift station.

Schmidt said it is and there is a second lift station by the pond. None of these land additions will result in increased intensity to adversely affect the city systems. Even with the additional land the density will be far less than what was originally approved.

Nybo asked about the detention pond.

Schmidt said the pond is actually larger than what was originally required.
No one presented testimony in opposition to the proposal.

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 18A-02 and Cal. No. 18SUB.

Motion carried by voice vote.

MOTION: Baranski moved, seconded by Jansen to draft a positive Finding of Fact for Cal. No. 18A-02.

Discussion: 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:
 - (1) Whether the existing text or zoning designation was in error at the time of adoption;
 - (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.;
 - (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;
 - (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;
 - (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;
 - (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
 - (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 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 filed 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.**

Baranski agreed that the proposal met the pertinent approval criteria.

As Roll Call was:

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

Motion carried.

MOTION: Baranski moved, seconded by Jansen to draft a positive Finding of Fact for Cal. No. 18SUB-01.

Oldenburg said there is no specific approval criteria but the request needs to meet all preliminary and final plat and plan criteria - which this does.

As Roll Call was:

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

Motion carried.

OTHER BUSINESS

Public Comments

None

MOTION: Bochniak moved, seconded by Cook to adjourn the meeting at 8:20 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price
Zoning Board Secretary