

**MINUTES
ZONING BOARD OF APPEALS
AUGUST 8, 2018**

CALL TO ORDER:

Acting Chairperson Nybo called the regular meeting of the Zoning Board of Appeals to order at 6:37 PM on Wednesday, August 8, 2018 at City Hall, 101 Green Street, Galena, IL.

ROLL CALL AND DECLARATION OF QUORUM:

As Roll Call was:

Baranski	Present
Bochniak	Absent
Cook	Present
Holman	Present
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 Baranski to approve the July 11, 2018 minutes.

Motion carried.

UNFINISHED BUSINESS

Cal. No. 18S-04, Applicant and Owner: Mary Prioetti, 701 South Bench Street, Galena, IL 61036. Location: Parcel: 22-100-263-00, Lot 8, Lots between Bench and Prospect Streets, Galena, Jo Daviess County, Illinois. Common Address is 701 South Bench Street, Galena, IL 61036. Request for Special Use Permit to allow small scale dining and Accommodations, Vacation Rental.

MOTION: Jansen moved, seconded by Cook to approve the recommendation for Cal. No. 18S-04.

As Roll Call was:

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

Motion carried

Cal. No. 18S-08, Applicant and Owner: Craig Martin, 425 Franklin Street, Galena, IL 61036. Location: Parcel: 22-100-342-00, Lot 54, North side of Franklin Street, Original Lots of Galena, Galena, Jo Daviess County, Illinois. Common Address is 425 Franklin 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 Holman to approve the recommendation for Cal. No. 18S-08.

As Roll Call was:

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

Motion carried.

NEW BUSINESS

The Board agreed to move to agenda item 18WS-01 as the applicant for 18S-09 & 18V-01 was running late.

18WS-01 PV Solar Arrays Discussion – Highway 20 Corridor

Oldenburg said at last month’s meeting the Board determined the language in the Highway 20 Corridor Design Manual did need to be modified regarding alternative energy. The current language would seem to prohibit solar due to screening requirements. The Board expressed an interest in promoting green energy sources. Oldenburg devised language to be added to the Highway 20 Corridor Design Manual – Service Areas; Utility Equipment: Preferred - “Alternative energy equipment integrated with building design.” Discouraged – “Alternative energy equipment that is not harmonious or integral to the site and /or building form.” Preferred materials or elements are handled by city staff for approval. Discouraged materials are approved by the Zoning

Board. Things are always changing with alternative energy. Making the language change so it is adaptable would seem wise. You could even add that the element be integrated and in harmony with the site.

Baranski liked the lighter touch but was concerned about interpretation. Generally, the whole thrust of the guidelines is that they are not specific; there is interpretation.

Nybo said a representative had arrived for the Special Use and Variance requests and asked the Board if they should hear those agenda items.

The Board agreed.

Attorney Nack said it should be noted that the Board was stopping discussion on the solar panel worksession to go back to the agenda item for a Special Use Permit and Variance requests.

Cal. No. 18S-09 & 18V-01, Applicant and Owner: Dennis & Ruth Ann Dunton, 407 South Bench Street, Galena, IL 61036. Location: Parcel: 22-100-193-00, North ½ of the North 46 ¼ feet of the East ½ of Lot 16, West side of Bench Street, Galena, Jo Daviess County, Illinois. Common Address is 407 South Bench Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District.

City Attorney Nack swore in all those who wished to testify at this Public Hearing.

MOTION: Cook moved, seconded by Jansen to open the Public Hearing for Cal. No. 18S-09.

Motion carried by voice vote.

Adam Johnson, 211 Fourth Street Galena spoke on behalf of the property owners. Johnson said this is a smaller, historic home that would provide accommodations for no more than five persons. With a half bath on the main level and only one full bath on the second floor it may not be as appealing. Homes that are larger and have multiple baths usually mean multiple cars, so this rental doesn't seem as though it would create a parking issue.

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

MOTION: Cook moved, seconded by Jansen to close the Public Hearing for Cal. No. 18S-09.

Motion carried by voice vote.

MOTION: Baranski moved, seconded by Jansen to draft a positive Finding of Fact to allow a Special Use Permit for Cal. No. 18S-09.

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 consistent 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	Absent
Cook	Yes
Rosenthal	Absent

Motion carried.

Cal. No.18V-01, Applicant and Owner: Dennis & Ruth Ann Dunton, 407 South Bench Street, Galena, IL 61036. Location: Parcel: 22-100-193-00, North ½ of the North 46 ¼ feet of the East ½ of Lot 16, West side of Bench Street, Galena, Jo Daviess County, Illinois. Common Address is 407 South Bench Street, Galena, IL 61036. Variance request for off-street parking requirement.

City Attorney Nack swore in all those who wished to testify at this Public Hearing.

MOTION: Baranski moved, seconded by Cook to open the Public Hearing for Cal. No. 18V-01.

Adam Johnson, 211 Fourth Street Galena said his previous testimony for the special use permit would be applicable for the variance request.

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

MOTION: Jansen moved, seconded by Cook to close the Public Hearing for Cal. No. 18V-01.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Cook to draft a positive Finding of Fact to approve the Variance request for Cal. No. 18V-01.

Discussion: Baranski said this is a unique situation where one side of Bench Street is Medium Density Residential and the other is Downtown Commercial and there is a diverse mix of uses in this area. Conceptually it makes a parking variance okay.

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:

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

Motion carried.

WORK SESSION

PV Solar Arrays Discussion – Highway 20 Corridor

The Board continued their discussion.

Baranski said the criteria is prescriptive – it is telling you what we prefer but it doesn’t specify exactly what is to be used. It is open to interpretation by the designer, the city and the board. Compatible is open to

interpretation. In areas that overlap in the historic district those guidelines will determine what is allowed. The proposed language is consistent with the rest of the ordinance and is ample enough to make decisions.

Cook left at 7:20 due to a family commitment.

Oldenburg said anything in the historic district transitional zone would have to meet the guidelines and have HPC approval.

Nybo does have concerns about the historic integrity of Galena and he does not want this jeopardized by this type of progress.

Baranski said solar is a part of the future and to have a future you must recognize solar. There is a huge demand for solar installation in Illinois right now. The financial pay back on these systems has been reduced from 10, 12 and 15 years to 4 or 5 years. At some point we are going to have to look at people wanting to install these systems. It also doesn't have to be new construction – they can be installed on buildings that are already present. We have to determine how we want things to look.

Nybo asked if Oldenburg was getting requests for solar installation.

Oldenburg said yes. Galena Chrysler and the new wedding venue will both be built this year and have expressed an interest in solar.

Baranski thought it should include language or examples of what would be harmonious. It would be nice if there was an additional check in place to make sure things are done correctly.

Oldenburg said the bulk standards are also limiting. Maybe there is a way for something to be included here.

Nack said it could be limited to a certain size array.

Oldenburg said we could add items, such as windmills, to the discouraged list and as such they would need Zoning Board approval.

Baranski said that might make sense.

Jansen said as the industry changes the laws and guidelines can be changed.

Oldenburg said the type of alternative energy and the density of the area could also be an issue.

Baranski said access to the sun, bulk standards and setbacks should protect the neighbors.

Oldenburg said he could include a limit on the number of panels allowed.

Nybo asked if we should have another worksession so we could get input from Rosenthal and Bochniak.

Oldenburg said he will continue to work on this.

Baranski wondered if graphics would help define what is allowed or discouraged.

OTHER BUSINESS

None

PUBLIC COMMENTS

None

MOTION: Jansen moved, seconded by Baranski to adjourn the meeting at 7:47pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price
Zoning Board Secretary