

**MINUTES
ZONING BOARD OF APPEALS
JULY 10, 2019**

CALL TO ORDER:

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, July 10, 2019 at City Hall, 101 Green Street, Galena, IL.

ROLL CALL AND DECLARATION OF QUORUM:

As Roll Call was:

Baranski	Present
Bochniak	Absent
Calvert	Present
Cook	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 present.

APPROVAL OF MINUTES

MOTION: Calvert moved, seconded by Cook to approve the June 12, 2019 minutes.

Motion carried.

UNFINISHED BUSINESS

Cal. No. 19S-06, Applicant and Owner: RAL Realty Management, 105 North Main Street, Galena, IL 61036. Location: Parcel: 22-100-150-00, 19' 3" of Lot 26, East Side of Main Street, Galena, Jo Daviess County, Illinois. Common Address is 105 North 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 Cook to approve the Finding of Fact for Cal. No. 19S-06.

As Roll Call was:

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

Motion carried.

Cal. No. 19S-07, 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: Baranski moved, seconded by Cook to approve the Finding of Fact for Cal. No. 19S-07.

As Roll Call was:

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

Motion carried.

NEW BUSINESS

Cal. No. 19S-08, Applicant: Adam Johnson, 211 Fourth Street, Galena, IL 61036 and Owner: Michael Garbo, 229 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-037-00, S 44' of N 52' of Lot 28, Lots Between Main & Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 229 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 Jansen to open the Public Hearing for Cal. No. 19S-08.

Motion carried on voice vote.

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

Michael Garbo, 229 South Main Street Galena said he is requesting a permit for vacation rentals at 229 South Main Street. He will start with the empty units and convert the others as they vacate. He will manage the properties and he also owns Chocolat 229.

Adam Johnson, 211 Fourth Street Galena said the plan meets the building standards.

No other persons spoke in favor of or in opposition to the request.

MOTION: Baranski moved, seconded by Calvert to close the Public Hearing for Cal. No. 19S-08.

Motion carried on voice vote.

MOTION: Jansen moved, seconded by Baranski to approve the request for Cal. No. 19S-08.

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 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:

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

Motion carried.

Cal. No. 19S-09, Applicant and Owner: Diane Checchin, 421 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-022-10, Part of Lot 18, West Side of Main Street, Galena, Jo Daviess County, Illinois. Common Address is 421 South Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

MOTION: Calvert moved, seconded by Jansen to open the Public Hearing for Cal. No. 19S-09.

Motion carried on voice vote.

Diane Checchin, 421 South Main Galena said she is looking to operate a vacation rental on the second floor of the building she owns at 421 South Main Street. She lives on the third floor and has a business on the Main Street level. She will manage the property when they are here during the late spring, summer and early fall. When they are away she will have someone local to assist her.

Calvert asked about fire egress from the second floor.

Checchin said there is a deck on the second floor.

Oldenburg said the life safety requirements would have to be satisfied before a license would be issued.

Adam Johnson, 211 Fourth Street Galena said the request does meet the building code standards.

No other persons spoke in favor of or in opposition to the request.

MOTION: Baranski moved, seconded by Cook to close the Public Hearing for Cal. No. 19S-09.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Calvert to approve the request for Cal. No. 19S-09 as written using the same approval criteria as Cal. No. 19S-08.

As Roll Call was:

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

Motion carried.

Cal. No. 19S-10 & 19V-04, Applicant: Adam Johnson, 211 Fourth Street, Galena, IL 61036 and Owners: Kate & Doug Freeman, 603 South Bench Street, Galena, IL 61036. Location: Parcel: 22-100-179-00, Part of Lot 2, West Side of Bench Street, Galena, Jo Daviess County, Illinois. Common Address is 603 South Bench Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Bed & Breakfast with two guest rooms in the Low Density Residential District; Variance request to allow smaller minimum lot size.

MOTION: Calvert moved, seconded by Cook to open the Public Hearing for Cal. No. 19S-10.

Motion carried on voice vote.

Kate Freeman, 5377 South Tower Road Elizabeth said the building has been vacant for at least five years and has greatly deteriorated. It was built in 1842 and is an example of federal style architecture. She wants to return it to its original condition. She has been in the lodging business for about 30 years and decided if she could have two really nice suites on the second floor and a manager-owner suite on the third floor they could afford to bring the house back to what it should be.

Baranski asked about the partner- owner.

Freeman said they are still interviewing potential candidates. They are at least six months away from opening so there is time to find the right person.

Baranski asked about off street parking.

Oldenburg said the parking spaces are not on the neighboring property but some of the parking is on the city right of way.

Adam Johnson, 211 Fourth Street Galena said the condition of the house is a good example of why we have the bed and breakfast ordinance. It definitely needs some helping getting back on its feet. The request would benefit the community by bringing the home back to use.

Jim Anderson, 611 South Bench Street Galena lives two homes south of 603 South Bench. It has been six years since anyone has lived there and the exterior of the home is certainly in need of repair. When he moved here all the homes in the neighborhood were occupied full time, but now the neighborhood has several properties that are secondary homes. Having a permanent occupant here is very welcome.

No other persons spoke in favor of or in opposition to the request.

MOTION: Jansen moved, seconded by Cook to close the Public Hearing for Cal. No. 19S-10.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Jansen to approve the request for Cal. No. 19S-10 as presented.

Baranski said this would be a good use for the property which is wonderful example of federal style architecture. From the testimony given it seems it would be good for the city and the neighborhood to have the home renovated and to have a full time occupant.

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.
- (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.

As Roll Call was:

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

Motion carried.

MOTION: Cook moved, seconded by Baranski to open the Public Hearing for Cal. No. 19V-04.

Motion carried on voice vote.

Adam Johnson, 211 Fourth Street Galena said the variance they are requesting is due to a hardship that was not created by the owner but by the lot size and how the home was located on it. The way the street is paved and how it has been used over the years this should not cause any future problems.

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

MOTION: Calvert moved, seconded by Baranski to close the Public Hearing for Cal. No. 19V-04.

Motion carried on voice vote.

MOTION: Jansen moved, seconded by Baranski to approve the request for Cal. No. 19V-04 as presented.

Discussion: Jansen 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;
- (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	Absent
Calvert	Yes
Cook	Yes
Jansen	Yes
Nybo	Abstain
Rosenthal	Yes

Motion carried.

Cal. No. 19A-03, 19S-11 & 19S-12, Applicant: Alan Trebian, 3379 S. Girot Road, Hanover, IL 61041 and Owner: Larry Aschebrook, 624 Spring Street, Galena, IL 61036. Location: Parcel: 22-101-016-00, N Part of E ½ of Lot 1, N Part of W 180' of Lot 2, Lots 1, 2 and N 17' of Lot 3 in the Subdivision of the West ½ of Lot 1, Block 59, Original Lots of Galena, Galena, Jo Daviess County,

07-10-2019

Illinois. Common Address is 624 Spring Street, Galena, IL 61036. Request for Rezoning from Low Density Residential District to Neighborhood Commercial District; Special Use Permit for Accommodations, Vacation Rental in Neighborhood Commercial District; Special Use Permit for Removable Outdoor Display in Neighborhood Commercial District.

Rosenthal said this agenda item was being postponed to a later date.

OTHER BUSINESS

None

PUBLIC COMMENTS

None

MOTION: Jansen moved, seconded by Calvert to adjourn the meeting at 7:05 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price
Zoning Board Secretary