

**MINUTES  
ZONING BOARD OF APPEALS  
FEBRUARY 13, 2013**

**CALL TO ORDER:**

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, February 13, 2013 at City Hall, 312 ½ N. Main Street, Galena, IL.

**ROLL CALL AND DECLARATION OF QUORUM:**

As Roll Call was:

Baranski	Present
Bochniak	Present
Carlisle	Present
Holman	Present
Nybo	Present
O'Keefe	Present
Rosenthal	Present

A quorum was declared.

Nate Kieffer, Zoning Administrator, Joe Nack, City Attorney, and Deb Price, Secretary, were also present.

**APPROVAL OF MINUTES**

**MOTION:** O'Keefe moved, seconded by Holman to approve the January 9, 2013 minutes.

Motion carried on voice vote.

**OLD BUSINESS**

Cal. No. 13S-01, Applicant: Matthew Blaum for Blaum Bros. Distilling Co. – 13414 Gig Drive, Galena, IL 61036. Owner: Jo Daviess Workshop Inc. – 706 South West Street, Galena, IL 61036. Location: Lot 1 of the Jackson Family Subdivision, Sect. 21, T28N, R1E, City of Galena, common address 9380 US Route 20 West, Galena, IL. Request for a Special Use Permit for a light industrial activity incidental to indoor sales. The applicant is proposing to establish a micro-distillery as an accessory use to a retail shop, tasting room, and tour business within the existing

Baranski asked to be recused from this agenda item.

Rosenthal granted the request and Baranski left the table.

**MOTION:** Holman moved seconded by Bochniak to approve the Special Use Permit request as written.

As Roll Call was:

Bochniak	Yes
Carlisle	No
Holman	Yes
Nybo	Yes
O’Keefe	Abstain
Baranski	Recused
Rosenthal	Yes

Motion carried.

Baranski returned to the table.

### **NEW BUSINESS**

Cal. No. 13S-02, Applicant & Owner – Rosean & John Wilson, 1570 Seippel Road, Dubuque, IA 52002. Request for a Special Use Permit for Removable Outdoor Display use as an accessory use to the primary use of a retail shop on 0.91 acres being Lots 11 thru 19 in Turney’s Addition to the City of Galena, commonly known as 700 Spring Street, Galena.

**MOTION:** Baranski moved, seconded by O’Keefe to open the Public Hearing on Cal. No. 13S-02.

Motion carried on voice vote.

Nack swore those in who wished to testify at tonight’s Public Hearing.

John Wilson, 1570 Seippel Road, Dubuque Iowa said they are asking to be allowed to have an outdoor display area. In the fall off 2012 the business owner put up a tent for outdoor sales without a permit.

Nybo said with a Special Use Permit they would be able to display merchandise every day.

Baranski said all display materials would have to be taken down at the end of each business day.

O’Keefe asked if there would be tent. He’s not sure a tent is appropriate.

Kieffer said there would be racks or tables and, if they had a tent, it too would need to be taken down each day.

Baranski said they could have 500 square feet of display area.

Rosenthal said if they had a wagon with pumpkins would this have to be removed each day.

Kieffer said yes it would have to go back inside.

O'Keefe said this is a Neighborhood Commercial District. He doesn't see where a tent would be allowed.

Nybo said would they even be allowed to have a pumpkin display?

Kieffer said his understanding is that they are looking to display merchandise similar to that which is sold on a day to day basis. This is not meant to be a mini country fair. It is simply a way to display items that are normally sold inside the store.

Baranski said a tent wouldn't bother him as long as it is taken down each day.

O'Keefe said the impression is that if there is a tent there must be something special going on.

Kieffer said if they want to have a pumpkin display or a tent they can get a temporary use permit similar to what In the Woods does when they have their tent sale. Nothing could be set up during country fair.

Nybo said the Board would be setting a precedent.

Kieffer said not necessarily as there are many parameters. Each SUP is unique to its location and is its own request.

Rosenthal said the Board could put conditions on the permit.

O'Keefe said he did not think that a tent was allowed. He also thinks no matter what the Board may believe in essence they are setting a precedent. He does think the location is conducive to this type of retail use.

No one was present to testify either in favor of or in opposition to the request.

**MOTION:** Baranski moved, seconded by Bochniak to close the Public Hearing on Cal. No. 13S-02.

Motion carried on voice vote.

**MOTION:** Baranski moved, seconded by O'Keefe to approve the request for a Special Use Permit for Removable Outdoor Display use as an accessory use to the primary use of a retail shop on 0.91 acres being Lots 11 thru 19 in Turney's Addition to the City of Galena, commonly known as 700 Spring Street, Galena for Roseann and John Wilson.

Discussion: O'Keefe asked if the Board felt they should specify what fixtures meant.

Rosenthal said yes.

Baranski asked if they wanted to put racks out in either inclement weather or sweltering heat it may be very functional for them to be able to have a tent. They are not allowed a very large display space and it has to be out of the front yard setbacks.

Nybo said the tent would have to come down each night.

O'Keefe said he felt a tent was not permitted. He feels it is not a fixture – listed are portable or semi portable racks, displays and merchandise. It says nothing about coverings or tents.

Rosenthal said it says all items including display racks and other fixtures.

Baranski said other fixtures could include a tent.

Nack said it is open to interpretation. Whatever is put on display has to come down at the end of the day.

Nybo said the Board could review this in a year to see if there were problems that needed to be addressed.

Carlisle said if they were displaying craft type merchandise he would think a tent would be desired in case of rain.

O'Keefe still thinks that if they are allowed to put up a tent everyone else is going to want to utilize one also.

Kieffer said the land use chart shows there are four districts spread out over the city that allow outdoor display – removable.

Rosenthal asked if the Board could specify where the display area is located.

Kieffer said if the Board feels visibility is a concern they can regulate where the display is. There is about 10 feet in front of the Spring Street façade where potentially a table could be located.

Baranski said the uncovered displays could be anywhere as regulations states, but if it is covered we could put conditions on this.

Kieffer said including conditions is always an option for the Board when looking at these.

Baranski asked O'Keefe what his concerns were toward a tent.

O'Keefe said he does not feel it is permitted, it will be a distraction and other people are going to want it.

Kieffer said his concern, based on the applicant's testimony, is that he is not sure they know what it is they are asking for. He would want to make sure that they are not getting a permit for tent sales for say produce or seasonal items. The request is for a display area for items they already sell inside the retail space.

O'Keefe said the request is very specific as to what they are asking for. He feels what they are asking for is to only take merchandise that is for sale inside their building and put it on a table that has been set up outside. And then you move it back inside at night.

Baranski said he would be okay with voting on the request as it is. If a tent is not allowed then so be it.

O'Keefe said this issue started because they put up a tent.

Kieffer said they wanted to have a mini country fair last fall. He explained the process where they pay a fee and have a set number of days - but not during country fair. He then explained the SUP for outdoor display and that was the option they chose.

O'Keefe said he thought the matter should be tabled so the Board could clearly understand what the applicant was asking for and then the Board could determine if they needed to be more specific.

**MOTION:** Baranski moved, seconded by O'Keefe to withdraw the motion to approve the Special Use Permit request for Cal. No. 13S-02.

Motion carried on voice vote.

**MOTION:** O'Keefe moved seconded by Baranski to table Cal. No. 13S-02.

Motion carried on voice vote.

### **COUNTY ZONING**

None

### **WORKSESSION/OTHER**

None

### **PUBLIC COMMENTS**

None

**MOTION:** Bochniak moved, seconded by Carlisle to adjourn the meeting.

Motion carried on voice vote.

Rosenthal adjourned the meeting at 7:05 PM.

Respectfully submitted by

Deb Price  
Zoning Board Secretary