

**MINUTES
ZONING BOARD OF APPEALS
MARCH 11, 2015**

CALL TO ORDER:

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:31 PM on Wednesday, March 11, 2015 at City Hall, 101 Green Street, Galena, IL.

ROLL CALL AND DECLARATION OF QUORUM:

As Roll Call was:

Baranski	Absent
Bochniak	Present
Cook	Present
Holman	Present
Nybo	Present
O'Keefe	Present
Rosenthal	Present

A quorum was declared.

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

APPROVAL OF MINUTES

MOTION: O'Keefe moved, seconded by Bochniak to approve the minutes for the February 17, 2015 meeting.

Price noted that at the bottom of page 10 she omitted that Nybo returned to the table after the Public Hearings. She will insert this into the permanent minutes.

Motion to approve the amended minutes carried on voice vote.

Oldenburg noted that Baranski was now present via electronic attendance.

Rosenthal asked that the minutes reflect that Baranski was present electronically. It was 6:33.

Electronic attendance is allowed by the Zoning Board's Rules of Procedure:

Section 8: Electronic Participation.

A. Rule Statement. Any member may attend any meeting of the Zoning Board of Appeals via electronic means (such as by telephone, video, internet connection or other electronic tools) provided that such attendance is in compliance with this Section 8.

B. Prerequisites. A member may attend a meeting by electronic means if the following conditions are met:

- (1) A quorum is physically present throughout the meeting.
- (2) A majority of the members present throughout the meeting.
- (3) The member has notified the Secretary at least twenty-four (24) hours before the meeting, unless impractical, so that necessary communications equipment can be arranged. Inability to make the necessary technical arrangements will result in denial of a request for electronic attendance at the meeting by the member.
- (4) The member has identified one of the following three (3) reasons why he or she is unable to physically attend the meeting:
 - (a) The member cannot attend because of personal illness or disability; or
 - (b) The member cannot attend because of commitments to his or her employer or the business of the City of Galena do not allow attendance; or
 - (c) The member cannot attend because of a family or other emergency.
- (5) The Secretary, after receiving the electronic attendance request, shall inform the Chairperson and other members of the Board of the request for electronic attendance.

OLD BUSINESS

Cal. No. 15V-01, Applicant: Adam Johnson – 211 Fourth Street, Galena, IL 61036 and Owner: Matthew Carroll, 319 Meeker Street, Galena, IL 61036. Location: Parcel: 22-100-896-00, Located on Lots 17 and the East part of Lot 16 in Block 24 of the original town of Galena, situated on the West side of the Galena River, City of Galena, Jo Daviess County, Illinois. Common address 319 Meeker Street, Galena, IL 61036. Request for a variance to allow 5 parking spaces to be off-site, contingent upon approval of a Special Use Permit request for a 6-room Small Inn.

Nybo asked that he be allowed to recuse himself from the next two agenda items as he is a guest house owner.

Rosenthal asked that the minutes reflect Nybo's recusal.

MOTION: Bochniak moved, seconded by Cook to approve a positive Finding of Fact for a Variance request to allow 5 parking spaces to be off-site based on the Variance Approval Criteria and contingent upon approval of a Special Use Permit for a 6- room Small Inn.

Discussion: O’Keefe said the Finding of Fact included very few facts. This would grant a special privilege to the applicant. That the property is located next to Downtown Commercial and is more associated with that district seems to say that it doesn’t really matter what the zoning – just ask for whatever you like. When have we ever granted a parking variance to this degree – it is a special privilege. If approved this would basically void the Bed and Breakfast Ordinance. Is it in compliance with the Comprehensive Plan – who knows? We use that whenever we want.

As Roll Call was:

Bochniak	Yes
Cook	Yes
Holman	No
Nybo	Recused
O’Keefe	No
Baranski	Yes
Rosenthal	Yes

Motion carried.

Cal. No. 15S-01, Applicant: Adam Johnson – 211 Fourth Street, Galena, IL 61036 and Owner: Matthew Carroll, 319 Meeker Street, Galena, IL 61036. Location: Parcel: 22-100-896-00, Located on Lots 17 and the East part of Lot 16 in Block 24 of the original town of Galena, situated on the West side of the Galena River, City of Galena, Jo Daviess County, Illinois. Common address 319 Meeker Street, Galena, IL 61036. Request for Special Use Permit to allow a 6-room, owner-occupied, Small Inn in a Low Density Residential District

MOTION: Bochniak moved, seconded by Cook to approve a positive Finding of Fact for a Special Use Permit to allow a 6-room, owner-occupied, Small Inn in a Low Density Residential District.

Discussion: O’Keefe said he was voting against this simply because of the variance. He is not opposed to the special use – just the variance.

Rosenthal said this is a unique property. He is glad someone is willing to take on the cleanup and restoration. Parking was and always will be an issue in Galena. Unless we tear down the hills and fill in the river it will continue to be a problem. Sometimes you have to bend the rules in order for things to happen. He is in favor of the project and hopes Carroll is successful.

As Roll Call was:

Cook	Yes
Holman	No
Nybo	Recused
O'Keefe	No
Baranski	Yes
Bochniak	Yes
Rosenthal	Yes

Motion carried.

Nybo returned to the table.

NEW BUSINESS

Cal. No. 15S-02, Owner & Applicant: Dino F. & Sotiri F. Rigopoulos - 219 North Main Street Galena, IL 61036. Parcel: 22-100-169-00, Located on the East side of North Main Street, West 33 feet of Lot 40 and South 11 feet of Lot 41 of the original part of Galena. Common address: 219-221 North Main Street, Galena IL. Request for Special Use Permit for Outdoor Entertainment accessory to the primary use of a restaurant in the existing outdoor dining area at the site.

MOTION: O'Keefe moved, seconded by Cook to open the Public Hearing on Cal. No. 15S-02.

Motion carried on voice vote.

Attorney Nack swore all those persons in who wished to testify at tonight's public hearing.

Dino Rigopoulos, 221 N Main Street, Galena said he would like to provide tasteful acoustic music for his patrons on the outdoor patio. All regulations would be followed and no amplification would be used. Looking from Main Street, the entertainer would be located in the front left corner facing the patio/courtyard. The sound would project towards Commerce Street rather than Main Street. He wants to try it – maybe it works maybe it doesn't.

Rosenthal asked those in favor of the request to come forward. No one did.

Rosenthal asked those opposed to the request to come forward and testify. No one did.

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 15S-02.

Motion carried on voice vote.

MOTION: O'Keefe moved, seconded by Holman to draft a positive Finding of Fact to approve a request for a Special Use Permit for Outdoor Entertainment accessory to the primary use of a restaurant in the existing outdoor dining area at the site pursuant to the Approval Criteria.

Discussion: Nybo said he was in favor of this the first time the Zoning Board reviewed it and he is still in favor of this.

O'Keefe said the request met all 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 § [154.405](#);

(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.

Nybo said we should include that this use is allowed by Special Use Permit only in the Downtown Commercial District.

As Roll Call was:

Holman	Yes
Nybo	Yes
O’Keefe	Yes
Baranski	Yes
Rosenthal	Yes
Bochniak	Yes
Cook	Yes

Motion carried.

COUNTY ZONING

None

WORKSESSION/OTHER

None

PUBLIC COMMENTS

None

MOTION: Bochniak moved, seconded by Cook to adjourn the meeting at 7:05 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price
Zoning Board Secretary