

**MINUTES  
ZONING BOARD OF APPEALS  
DECEMBER 9, 2015**

**CALL TO ORDER:**

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, December 9, 2015 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	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:** Bochniak moved, seconded by Cook to approve the minutes for the October 14, 2015 meeting.

Motion to approve the minutes carried on voice vote.

**OLD BUSINESS**

None.

## NEW BUSINESS

Cal. No. 15A-02, Applicant: City of Galena, 101 Green Street, for Owner: Casey's Retail Company, 10889 W Red Gates Road, Galena, IL 61036. Location: Parcel: 22-000-067-00, that part of the Southwest Quarter of Section 13 and part of the Southeast Quarter of Section 14 in Township 28 North, Range 1 West of the Fourth Principal Meridian, City of Galena, West Galena Township, Jo Daviess County, Illinois; and Parcel: 22-000-069-10, that part of the Southwest Quarter of Section 13 in Township 28 North, Range 1 West of the Fourth Principal Meridian, City of Galena, West Galena Township, Jo Daviess County, Illinois. Common address 10889 W Red Gates Road, Galena, IL 61036. Request for Map Amendment to rezone approximately 4.08 acres from Limited Agriculture to General Commercial upon annexation into the City of Galena.

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

Motion carried on voice vote.

Nack swore in Oldenburg as he was speaking on behalf of the applicant, the City of Galena.

Oldenburg presented for the City and started with a brief history of the Casey's project. In mid-2014 Casey's began exploring the possibilities of building a convenience store on Red Gates Road and spoke with the County and the City. The discussion included site plans, requirements for the Highway 20 Corridor and connecting to city utilities. They understood they would be billed double the standard rate for water and sewer. Annexation was not discussed at that time. Annexing the property was always at the discretion of the City Council. They were advised of the current laws and regulations. Casey's pursued this further and decided to move forward with the County. When the City learned Casey's was going to build on Red Gates Road the City Council discussed annexation and, if in the future, when commercial properties request hook up to utilities that they be required to annex. The Council then did just that – an ordinance was passed requiring such properties to annex when requiring city service. At that time the City and Casey's needed to figure out if that meant they would need to annex. Casey's had already begun the permitting process thru the County so they were allowed to continue and Casey's corporate asked that formal annexation take place in January 2016. During annexation negotiations Casey's said they wanted to be compliant with the current zoning regulations to the furthest extent possible. That's why this is before the Zoning Board. Rezoning to General Commercial allows in vehicle sales and service land use which is only allowed in GC by right only. They did upgrade the building style to be more compatible – gabled roof and brick façade. City code does not allow digital gas signs and only allows two façade wall signs for auto oriented stations. These two items do not meet City standards so they are nonconforming legally existing when they are annexed into the City and they will be able to continue to use those signs. Their temporary signs will have to comply with

temporary signage code and obtain permits. Oldenburg said he understands concerns that a precedent has been set but he feels this is an anomaly. State statute will now require a property in the specified proximity to tie into city utilities and will require annexation as well as compliance with City Code. The City had to wait 60 days after Casey's opened before they could begin the annexation process.

Nybo asked if they would be removing the digital sign after annexation.

Oldenburg said the sign would be a legally existing nonconforming sign – they will be able to keep the sign. In the future if they change the sign the nonconforming regulations would apply.

Bochniak asked about storm water issues. Have there been adverse effects on the neighbors.

Oldenburg said during construction a storm with heavy rain impacted property below the construction site. The engineers, contractors and Casey's remediated and designed a larger retention pond that has sufficiently handled the storm water.

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

**MOTION:** O'Keefe moved, seconded by Baranski to close the Public Hearing on Cal. No. 15A-02.

Motion carried on voice vote.

**MOTION:** O'Keefe moved, seconded by Holman to approve the request for a map amendment to rezone approximately 4.08 acres from Limited Agriculture to General Commercial upon annexation into the City of Galena, Cal. No. 15S-03 as written.

Discussion: O'Keefe understood the concern about the application process. The City needed to get the tax and utility revenue. It was unusual but it would have been a shame to lose these monies.

Baranski agreed. It is good for the City but the process was circumvented and it could set a precedent. The Zoning Board of Appeals is supposed to review and recommend before something is built in that corridor.

Rosenthal said future development would need to annex to have access to utilities. New development would conform to city code.

O'Keefe said he understood the concerns but the new ordinance should prevent this from happening again.

Rosenthal said the intent may have been to not annex.

O'Keefe said the building does look better than most convenience type stores.

Nybo said he does not like that the ZBA was kept out of the process.

Rosenthal said from here forward this type of situation would have to comply and the Zoning Board would see it from the start.

The Board discussed the Approval Criteria:

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 Board agreed that the request complies with all but #1 and #2.

The Board also noted the applicant did comply with Jo Daviess County Building and Zoning regulations.

As Roll Call was:

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

Motion carried.

### **COUNTY ZONING**

None.

### **WORKSESSION/OTHER**

None

### **PUBLIC COMMENTS**

None.

**MOTION:** Bochniak moved, seconded by Cook to adjourn the meeting at 7:10 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price  
Zoning Board Secretary