

**MINUTES  
ZONING BOARD OF APPEALS  
AUGUST 9, 2017**

**CALL TO ORDER:**

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, August 9, 2017 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
Jansen	Present
Nybo	Absent
Rosenthal	Present

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 Holman to approve the July 12, 2017 minutes.

Motion carried on voice vote.

**UNFINISHED BUSINESS**

17S-25 & 17V-03, Applicant: Todd & Candy Walburg, 614 South Prospect Street, Galena, IL 61036 and Owners: Craig & Leslie Jean DuBois, 606 South Prospect Street, Galena, IL 61036. Location: Parcels: 22-100-262-00, S Part of Lot 6 & N Part of Lot 7, between Bench & Prospect Streets, Galena, Jo Daviess County, Illinois. Common Addresses is 606 South Prospect Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Small Inn as a principal commercial land use in the Neighborhood Commercial District at 606 South Prospect Street and for Variance for off-street parking requirement.

**MOTION:** Bochniak moved, seconded by Cook to approve the Findings of Fact as written for Cal. No. 17S-25 & Cal. No. 17V-03.

As Roll Call was:

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

Motion carried.

Cal. No. 17S-26, Applicant and Owner: Debra Malone, 525 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-012-00, N 5' of Lot 7 in the Subdivision of Lot 8, Lot 9, Lots between Main & Bench Streets of the Original City of Galena, Galena, Jo Daviess County, Illinois. Common Address is 525 South Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental with two dwelling units in the Downtown Commercial District.

**MOTION:** Jansen moved, seconded by Cook to approve the Findings of Fact as written for Cal. No. 17S-26.

As Roll Call was:

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

Motion carried.

Cal. No. 17S-27, Applicant and Owner: Kathleen Cameron & Warren Bell, 22135 92<sup>nd</sup> Street, Maquoketa, IA 52060. Location: Parcel: 22-100-171-00, Lot 42 & North 22' of Lot 41, East Side of Main Street of the Original City of Galena, Galena, Jo Daviess County, Illinois. Common Address is 227 North Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

**MOTION:** Cook moved, seconded by Bochniak to approve the Finding of Facts for Cal. No. 17S-27 based on the conclusion and determination for Cal. No. 17S-26.

As Roll Call was:

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

Motion carried.

Cal. No. 17S-28, Applicant and Owner: Terrance & Victoria Cole, 330 Spring Street, Galena, IL 61036. Location: Parcel: 22-100-663-10, Lot 7, Block 11 of the Original Lots of Galena, Galena, Jo Daviess County, Illinois. Common Address is 330 Spring Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

**MOTION:** Bochniak moved, seconded by Jansen to approve the Finding of Facts for Cal. No. 17S-28 based on the conclusion and determination for Cal. No. 17S-26.

As Roll Call was:

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

Motion carried.

Cal. No. 17HCO-03, Applicant and Owner: Robert Foley, 11110 US Route 20 West, Galena, IL 61036. Location: Parcel: 13-001-084-18, Part of the SE Quarter of Section 11, Township 28 North, Range 1 West of the Fourth Principal Meridian, Galena, Jo Daviess County, Illinois. Common Addresses is 11110 US Route 20 West, Galena, IL 61036. Request for Highway 20 Development Permit to construct a new building and site improvements. PUBLIC HEARING

Nack swore all those in who would be testifying at any of tonight's Public Hearings.

**MOTION:** Bochniak moved, seconded by Cook to open the Public Hearing on Cal. No. 17HCO-03.

Motion carried on voice vote.

Adam Johnson 211 Fourth Street, Galena is representing applicant Robert “Red” Foley. Johnson said he and Foley have worked with Oldenburg to follow as many of the guidelines as possible. The building will be small and for merchandise storage. Foley will set out merchandise each day like they did a few weeks ago, when they were operating with a temporary permit. The building is of a simple design with a front hip roof and brick masonry veneer on the front and side. The structure sits on metal building road – it’s the nature of these businesses to have this type of structure. What they are proposing is appropriate for the location and use. There will be a fence which will contain the merchandise and customers, chain link in back but wrought iron front and sides. Existing landscaping will be enhanced and an appropriate monument sign will be added in the future.

Baranski asked about the metal siding. It has been allowed as a secondary material but it is a discouraged building material in the Highway 20 corridor; we are trying to steer people away from using this. Different kinds of metal can be used for a new building. We have not allowed metal panels to be used on a new building.

Johnson said there are other options but they have not talked about anything specific. He understands wanting to evolve to a different look but that location is between two metal buildings with metal roofs. The Board may be inclined to allow metal for additions only but it seems appropriate for this new structure. The brick veneer on the front with the metal sides and back is compatible.

Baranski asked if there were durability issues that would be better suited towards the metal.

Johnson said the applicant’s business has a pretty tight margin and using metal would keep the costs down.

Rosenthal said the structure would not be obvious because the surrounding buildings are metal. Would the frame be steel or wood?

Johnson wasn’t sure.

No one testified in favor of nor in opposition to the request.

Robby Robinson 8338 Hayes Road Apple River Illinois came forward to ask a question. He wanted to know what colors would be used on this building.

Cook said she also wanted to know.

Oldenburg said they were planning to use beige and earth tones that will be compatible with the brick colored masonry veneer.

Robinson said he thought the plan looked good.

**MOTION:** Jansen moved, seconded by Cook to close the Public Hearing on Cal. No. 17HCO-03.

Motion carried on voice vote.

Cook asked about outdoor display. Are they putting the merchandise inside at night? Can some items be permanently displayed?

Oldenburg said they would be putting the items away at night. Anything permanent would have to comply with the regulations for outdoor display, which is allowed by right in the commercial district.

**MOTION:** Jansen moved, seconded by Holman to approve the application for a Highway 20 development permit for Cal. No. 17-HCO-03.

Discussion: Jansen reviewed the Approval Criteria:

Approval Criteria & Decision:

Highway 20 Development Permit - The application shall demonstrate that the proposed development will comply with the following:

- (1) All applicable site plan review criteria in § 154.914; ***Proposal meets all site plan review criteria.***
- (2) The overall context of the corridor and the goals for new development as described in Chapter III of the Design Manual; ***The addition and site improvements support the goals of: Promote residential and business diversity and vitality; Create a quality image of development; Enhance the onsite experience of occupants and visitors of development; and Coordinate access and traffic between properties.***
- (3) The corridor development concepts described in Chapter IV of the Design Manual; ***This improvement supports the encouragement of denser and more highway-oriented development adjacent to limited highway access points. Regarding the Galena “Edge Corridor” Design Character, “the design character outside of the historic district should be unique, unified and high-quality and create the image of a stable edge corridor for the historic community of Galena. This supports the encouraged design character that respects the historic character of Galena, yet does not confuse or detract from the authentic qualities of the original structures and urban fabric of the Galena National Register Historic District”.***
- (4) The proposed character of the applicable design districts as described in Chapter V of the Design Manual; ***This request supports the character of the Hilltop Commercial/Industrial District by: Visually unifying through coordinated and shared access and parking, higher density development and controlled access points, high quality site design and amenities; and high quality materials.***
- (5) The proposed pattern of development for the Highway 20 Corridor as described in Chapter VI of the Design Manual; ***n/a, site is under 10 acres in size.***
- (6) The standards for building orientation, design and materials as described in Chapter VII of the Design Manual; and ***Building siting meets setback criteria. Wall materials are high-quality with secondary material materials compatible with adjacent structures.***
- (7) The standards for site features and elements as described in Chapter VII of the Design Manual. ***Site signage has proposed wall and freestanding sign. Landscaping points are met and placement is adequate. Storm water BMP improvements and capacity will be verified at Building permit level.***

The Zoning Board of Appeals can approve, conditionally approve, or deny all applications for a Highway 20 development permit.

Baranski said he understands the applicants approach to the building materials, but he is still uncomfortable allowing this type of metal siding – there are other options. We don't know what is going to happen with other properties in this area and possible changes is their use. Prefabricated concrete and metal panels and Metal is a discouraged material; at one time, it was a prohibited material. He understands that sometimes a metal building will undergo renovation or an addition and metal may need to be used. The ordinance was designed to get away from the steel building look. Just because everything else looks like that really is not an argument to build a new structure with a discouraged material.

Rosenthal said he remembers when he was on the City Council and they would hear appeals for something that was denied but that everyone else had. It's certainly an improvement over the old metal car wash that sat there for 20 years.

Baranski said he is simply going by the guidelines.

Rosenthal understands that but the brick veneer will improve the look of the building.

Baranski agreed that the veneer would help.

As Roll Call was:

Nybo	Absent
Baranski	No
Bochniak	Yes
Cook	Yes
Holman	Yes
Jansen	Yes
Rosenthal	Yes

Motion carried on voice vote.

### **NEW BUSINESS**

Cal. No. 17S-29, Applicant and Owner: Roger Gates, 112 South Bench Street, Galena, IL 61036. Location: Parcel: 22-100-066-00, North 151 SF of Lot 39 and South 32.74' of Lot 40, Lots between Main and Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 112 South Bench Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

**MOTION:** Bochniak moved, seconded by Cook to open the Public Hearing on Cal. No. 17S-29.

Motion carried on voice vote.

Roger Gates 112 South Bench Street, Galena said he grew up in Warren with his Mom's family in Galena. He spent a lot of time during his childhood on the family farm which was located where the new hospital was built. He and his wife are planning to spend a lot of time in Galena in a few years after they retire. Until then they would like to use it as a vacation rental when they are not using it. The home is in a great location and in great shape; it was the 2010 winner of the historic preservation committee's restoration award. He said they plan to continue the high standard of care the home has seen and continue improvements. They have already restored the back yard. They will use a local professional management company that will handle rentals and property maintenance. Gates wanted to thank Matt Oldenburg for his help throughout the zoning process.

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

**MOTION:** Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 17S-29.

Motion carried on voice vote.

**MOTION:** Baranski moved, seconded by Bochniak to draft a positive Finding of Fact for Cal. No. 17S-29.

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 congruent 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:

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

Motion carried.

Cal. No. 17S-30, Applicant and Owner: Kouz Properties, LLC, 242-246 North Main Street, Galena, IL 61036. Location: Parcel: 22-100-119-00, S ½ of Lot 5 and Lot 7, Block C, Lots in Wedge, Galena, Jo Daviess County, Illinois. Common Address is 242-246 North Main Street, Galena, IL 61036. Request for Special Use Permit to allow Outdoor Commercial Entertainment as an accessory commercial use in the Downtown Commercial District.

**MOTION:** Cook moved, seconded by Bochniak to open the Public Hearing on Cal. No. 17S-30.

Motion carried on voice vote.

Catherine Kouzmanoff 219 South Prospect Street, Galena said she would like to be able to use the back patio as part of her bar business rather than just an area for renters. If approved her dram shop insurance would cover

the patio rather than her property insurance. Guests of the Grape Escape as well persons staying at the second-floor vacation rental would be able to utilize this area.

Bochniak asked about the type of entertainment she would have.

Kouzmanoff said she is allowed but she is not planning to have any. She said it really is inconvenient to do business out there; they just want to be able to allow bar patrons to use this area and have it covered by dram shop insurance.

Oldenburg said any entertainment would have to comply with the regulations that were recently approved – acoustic only with limited hours.

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

**MOTION:** Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 17S-30.

Motion carried on voice vote.

**MOTION:** Bochniak moved, seconded by Cook to draft a positive Finding of Fact for Cal. No. 17S-30.

Discussion: Bochniak 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 § [154.405](#);
- (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.

**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.**

The Board agreed that the request complied with the Approval Criteria.

As Roll Call was:

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

Motion carried

Cal. No. 17S-32, Applicant: William Dieter, 314 Third Street, Galena, IL 61036 and Owner: WK Development LLC, 301 North Main Street, Galena, IL 61036. Location: Parcel: 22-100-382-00, North 83' 7" of Lot 43, Northwest part of Lot 42, Center Addition, Galena, Jo Daviess County, Illinois. Common Address is 301-303 North Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

**MOTION:** Bochniak moved, seconded by Jansen to open the Public Hearing on Cal. No. 17S-32.

Motion carried on voice vote.

Jack Dieter 314 Third Street, Galena said the two previously approved units, 201 & 202 have been very popular rentals. They would like to add three more units - 203, 204 and 205.

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

**MOTION:** Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 17S-32.

Motion carried on voice vote.

**MOTION:** Baranski moved, seconded by Cook to draft a positive Finding of Fact based on the criteria and requirements of Cal. No. 17S-29.

As Roll Call was:

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

Motion carried.

17CPR-01, Applicant Don Gereau, 219 South High Street, Galena IL 61036. Request for Concept Plan Review for an attached garage at 219 South High Street.

Don Gereau 219 South High Street Galena said he has lived at the home on the corner of High and Wight for 20 years. His house has no garage and he would like to add a small, one car garage to the right side of the home. This would somewhat mirror the left side addition that was added during the Victorian era. He has been told that because the house is on a corner he has two front yards and as such the accompanying setbacks would require a variance in order to build the garage in the desired location. Currently his Wight Street setback is thirteen feet but the other homes here are almost on the street. Using the average, he would still need a seven-foot setback. If allowed to build the garage as proposed it would be situated similar to the other Wight Street buildings.

Rosenthal said the only level area to build a garage is to the right of the house.

Gereau said it was. He added that the design and materials would be historically appropriate and approved by the City.

Baranski suggested the Board would need to know the lot lines in order to determine an exact variance.

Oldenburg said he is looking at setbacks, the visibility triangle – which is supposed to be 50 feet back from each corner, the driveway access point - it will be right at the corner which should be okay but the stop sign may need to be moved. Due to some of these variables Oldenburg said he didn't want Gereau to apply without having an idea as to what the Board was thinking.

In general, the Board felt they would be fine hearing the application. They can't guarantee approval and want to encourage the applicant to come with all pertinent information so the Board can evaluate the request on its merits.

**COUNTY ZONING**

None

**WORKSESSION/OTHER**

None

**PUBLIC COMMENTS**

None

**MOTION:** Bochniak moved, seconded by Jansen to adjourn the meeting at 7:50 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price  
Zoning Board Secretary