

**MINUTES
ZONING BOARD OF APPEALS
SEPTEMBER 13, 2017**

CALL TO ORDER:

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, September 13, 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	Absent
Jansen	Present
Nybo	Present
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 Bochniak to approve the August 9, 2017 minutes.

Motion carried on voice vote.

UNFINISHED 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: Jansen moved, seconded by Bochniak to ratify the Findings of Fact as written for Cal. No. 17S-29.

As Roll Call was:

Bochniak	Yes
Cook	Yes
Holman	Absent
Jansen	Yes
Nybo	Abstain
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: Cook moved, seconded by Baranski to ratify the Findings of Fact as written for Cal. No. 17S-32.

As Roll Call was:

Cook	Yes
Holman	Absent
Jansen	Yes
Nybo	Abstain
Baranski	Yes
Bochniak	Yes
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: Bochniak moved, seconded by Jansen to approve the Finding of Facts for Cal. No. 17S-30.

As Roll Call was:

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

Motion carried.

NEW BUSINESS

City Attorney Nack swore in all those persons who wished to testify at any of tonight's public hearings

Cal. No. 17A-03 & 17V-04, Applicant and Owner: Xochi LLC, 2616 Lobo Lane, Dubuque, IA 52001. Location: Parcel: 22-100-491-00, Lot 68, S 22' of Lot 67 & S ½ of Lot 76, Lots between Commerce and Water Streets, Galena, Jo Daviess County, Illinois. Common Address is 216 South Commerce Street, Galena, IL 61036. Request for Rezoning from Planned Commercial to Downtown Commercial and Variance to allow covered porch roof in front setback area and building expansion in rear. PUBLIC HEARING

Damian Baumhover, 4155 Pennsylvania Avenue Dubuque, spoke on behalf of the applicant as their architect. Their client is here for two requests: one is for a variance to build a covered patio on the front of the building; the other is a rezoning request to add-on approximately 1600 SF to the rear of the building. This will accommodate an expanded kitchen and walk-in freezer/refrigerator as well as dry-storage and office space. The existing patio has outdoor dining, but their clients would like to cover it to extend the useful life of the area further into winter and earlier in spring. This will be heated by a space heater and down-lit from the ceiling.

Bockniak asked what the patio roof would be made of.

Baumhover said they would use vintage timbers from the underside that would be exposed on the eaves. The roof will have tongue-and-groove decking, stained on the underside. The top will have clay tile like their other locations.

Rosenthal asked if the roof on the front patio would extend out to the front of the property?

Baumhover said it would come very close to the edge of the property. They have some play in the shape of the patio. They are giving away some of the hardscape to greenspace that will be landscaped. The size of it is flexible at this point.

Rosenthal asked where the water run-off would go when it rains?

Baumhover said it goes back to the greenspace areas or it ties into the existing drainage on the building.

Nybo asked about the rooftop HVAC.

Baumhover said right now, the existing building has HVAC which is centralized to the rear of the building, but it is very visible. The new design has a parapet around it from the front, so it would be hidden. The compressor and equipment will be on the ground (at grade) and will be enclosed by some type of fence.

Baranski asked if they had been before the Historic Commission?

Baumhover said that happens next week.

Baranski said the design is not really part of the Zoning Board's responsibility – that is up to the HPC. He asked Oldenburg about the differences between Commercial and Downtown Commercial – they are pretty consistent in terms of what they allow.

Oldenburg said Planned Commercial is limited in outdoor activities, but is very similar to Downtown Commercial in that regard.

Baranski said there are still restrictions on the property if for some reason the space stopped being used as a restaurant. With the zoning change the uses permitted in the Downtown Commercial District would be allowed at this location.

Oldenburg said that is correct. The permitted uses are pretty parallel.

Baranski said he thought so. In terms of bulk standards, would anything change in relation to Floor Area Ratio.

Oldenburg said it goes to a 3.0 in Downtown Commercial instead of 0.5 in Planned Commercial – because Downtown Commercial has multiple levels.

Baranski asked if the 0.5 had already been met at this property.

Oldenburg said it had because before the 2005 change of convention in zoning nomenclature, he thought it was zoned as Historic Business. It was built in the 70's so it was before any bulk / intensity standards were set forth. He believed it must have been designated as Planned Commercial to bring it in line with the current City Hall property in 2005.

Baranski asked Baumhover about the existing shape of the front patio - you're just planning on putting a roof over it?

Baumhover said no that it would be modified. Right now, there is just the flatwork and the wall – but the wall comes out to the property line and follows the property line to the North. They would like to sawtooth it to get in some greenspace. It isn't in the best of shape.

Baranski asked if the roof will come out to the edge?

Baumhover said that is their plan. They would like the roof to extend to the farthest point possible but they have some flexibility.

Rosenthal asked if this is extended will the roof look as it does now.

Baumhover said it would not. They are planning on demolishing the existing mansard roof and building a taller parapet around the front. There's been some discussion about signage and how that's lit on the front elements, but the intent is to hide the mechanical equipment that's on the roof now.

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

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 17A-03 and Cal. No. 17V-04.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Bochniak to recommend the City Council approve a map amendment for Cal. No. 17A-03.

Discussion: Baranski said the distinction between Downtown Commercial and Planned Commercial is very little. The floor area ratio changes and means they can build up to three times the area that is there now. Building up isn't unusual in downtown if that happens. Removing the mansard roof is a good and getting the building back into use is really a good thing.

Baranski reviewed the Approval Criteria for a map amendment:

Approval Criteria & Recommendation for Map Amendment:

In order to maintain internal consistency within this code and on the zoning map, proposed amendments to the text and zoning map must be consistent with the purposes stated herein.

In determining whether the proposed amendment shall be approved, the following factors shall be considered (*including comments from the Zoning Administrator*):

- (1) Whether the existing text or zoning designation was in error at the time of adoption; **N/A**
- (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.; **N/A**
- (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; **Yes**

(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; **Yes**

(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; **Yes**

(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; **Yes**

(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. **Yes**

The Zoning Administrator and Zoning Board of Appeals shall make recommendations and the City Council shall take final action.

(1) When the Zoning Board of Appeals or City Council deems it necessary or expedient, additional property in the zoning district may be considered for a zoning change provided that this additional property is also addressed in the public hearing notice, in accordance with § [154.919\(F\)](#).

(2) In the event of a written protest against a proposed amendment signed and acknowledged by the owners of 20% of the frontage proposed to be altered or by the owners of 20% of the frontage immediately adjoining or across the alley or rear line therefrom or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered as to such regulations or zoning district and filed with the City Clerk, such amendment shall not be passed except by the favorable vote of two-thirds of all of the selected members of the City Council.

As Roll Call was:

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

Motion carried.

MOTION: Baranski moved, seconded by Bochniak to approve the Variance request, Cal. No. 17V-04, subject to City Council approval of the Map Amendment, Cal. No. 17A-03.

Discussion: Baranski 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; **N/A**
- (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; **No, it will not.**
- (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; **Yes, it would.**
- (4) *Reasonable use.* The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance; **Not sure if this is applicable.**
- (5) *Minimum necessary.* The variance is the minimum necessary to make possible the reasonable use of land or structures; **Yes**
- (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; **Yes**
- (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; **Yes**
- (8) *Conformance with the Comprehensive Plan.* The granting of a variance will not conflict with the goals and principles in the adopted Comprehensive Plan; **Yes.**

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:

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

Motion carried on voice vote.

Cal. No. 17S-34, Applicants and Owners: Christine Marshall and Cynthia Purnell, 419 Franklin Street, Galena, IL 61036. Location: Parcel: 22-100-344-00, Lot 57 of Franklin Street, Galena, Jo Daviess County, Illinois. Common Address is 419 Franklin Street. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District. PUBLIC HEARING

MOTION: Bochniak moved, seconded by Cook to open the Public Hearing on Cal. No. 17S-34.

Motion carried on voice vote.

Cyndi Purnell, 419 Franklin Street Galena said she and the other owner live in Wisconsin. They just recently purchased the house and are mostly planning to use it themselves. They will manage it themselves and are only planning on renting to family and friends – they want to know the people that are staying in the home. For the most part they, the owners, will be the ones staying there.

Rosenthal asked about off street parking.

Oldenburg said they do have off street parking and they are planning to widen the area.

Baranski said it looks like they have two stalls.

Purnell said they are planning to improve the stairs and walkway this year with additional work on the parking area after that.

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

MOTION: Bochniak moved, seconded by Jansen to close the Public Hearing on Cal. No. 17S-34.

Motion carried on voice vote.

MOTION: Bochniak moved, seconded by Jansen to draft a positive Finding of Fact for Cal. No. 17S-34.

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. **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	Absent
Jansen	Yes
Nybo	Abstain
Rosenthal	Yes

Motion carried.

Cal. No. 17S-35, Applicant: Joann Jones, 307 South Main Street, Galena, IL 61036 and Owner: James & Beverly Jones, 307 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-032-00, S ½ of Lot 26, Original Lots between Main and Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 307 South Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District. PUBLIC HEARING

MOTION: Cook moved, seconded by Bochniak to open the Public Hearing on Cal. No. 17S-35.

Motion carried on voice vote.

Joann Jones, 307 ½ S Main Street Galena said she would like to have approval for a 2-bedroom short term vacation rental. Her parents own the building and they are already approved for one vacation rental in the building.

Oldenburg said the fire and building inspections would determine how many can stay in the rental.

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-35.

Motion carried on voice vote.

MOTION: Bochniak moved, seconded by Cook to draft a positive Finding of Fact for Cal. No. 17S-35.

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. **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:

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

Motion carried.

Cal. No. 17S-36, Applicant and Owner: Raymond Pace, LLC, 213-217 South Main Street, Galena, IL 61036. Location: Parcels: 22-100-042-00 and 22-100-045-00, N 23' of Lot 31 and S 30' of Lot 32, Original Lots between Main and Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 213-217 South Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District. PUBLIC HEARING

MOTION: Bochniak moved, seconded by Cook to open the Public Hearing on Cal. No. 17S-36.

Motion carried on voice vote.

Joan Raymond, 213-217 South Main Street Galena said she had recently purchased 213-215-217 South Main Street. There are three retail spaces at street level. She would like to have approval for short term vacation rentals for 5 units on the second floor and four units on the third floor.

Rosenthal asked what differentiates a hotel from a building with a large number of short term vacation rentals.

Oldenburg said this was discussed during the creation of the ordinance. There is nothing that prevents the applicant from having nine long term traditional rentals. The applicant will need to meet all the requirements for building and fire inspections. The reason this would not be classified as a hotel is that there are no other services being provided - these are smaller rooms and it really is a different product. It is an accommodation but it is just a dwelling unit. It is a big building - a few years ago the upper floors were condemned meaning no one could live on those floors above the Main Street retail space. It is really in bad shape and most units no longer have heat or electricity.

Nybo asked how many bedrooms were planned.

Raymond said the plan is for 2 – two bedroom units, 5 – one bedroom units and 2 – studios.

Rosenthal asked if they wanted to rent space as a traditional rental after approval they could – correct?

Oldenburg said they could.

Bochniak asked if she was going to manage the space.

Raymond said she would manage the rentals but as more spaces are approved she may need help.

Adam Johnson, 211 Fourth Street Galena said he is working with Raymond on plans for the two floors. The building is a lot like 223 South Main. It will need total historic rehabilitation including a sprinkler system. They are looking to apply for historic preservation tax credits.

No one spoke in opposition to the request.

MOTION: Bochniak moved, seconded by Cook to close the Public Hearing on Cal. No. 17S-36.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Bochniak to draft a positive Finding of Fact for a Special Use Permit for Cal. No. 17S-36.

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:

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

Motion carried.

Cal. No. 17V-05, Applicant and Owner: Donald & Kathryn Gereau, 219 South High Street, Galena, IL 61036. Location: Parcel: 22-100-615-00, E ½ of Lot 10, Block 6, Original Lots of Galena, Galena, Jo Daviess County, Illinois. Common Address is 219 South High Street. Request for Variance to allow construction of a garage.

MOTION: Jansen moved, seconded by Bochniak to open the Public Hearing on Cal. No. 17V-05.

Motion carried on voice vote.

Adam Johnson, 211 Fourth Street Galena said that since the August Concept Plan meeting they have been working with Terry Leifker on identifying the lot lines. It seems the thought about this is if you asked ten people where the lot lines are you are going to get ten answers. They discussed what would be acceptable for the property lines since you may never really know what the original ones were. Leifker suggested a line of occupation to describe where Gereau's property starts – using the retaining wall behind the house that lines up

with the sidewalk and follows thru with the stones in the grass. The lines are pretty much where they thought they were and as such the proposed garage location is about where they originally planned. They have been before the historic commission. The requested variance from average on Wight Street would mean going from 6-7 feet to basically nothing. They would also be building in the 50-foot visibility triangle which is already affected by the house.

Baranski asked what the average Wight Street setback was.

Johnson said it is anywhere from zero to six feet, but when you factor Gereau's house and 'front yard' into the equation it ups the number. When you do the averaging you only include the block face that the property is on. Looking at the other side of Wight Street - those homes are all almost right on the sidewalk or street.

Rosenthal said the house's front porch is on the High Street side of the home – that's not going to change. Adding the garage really isn't going to change the visibility.

Baranski said with respect to the visibility triangle it usually relates to certain types of streets with certain amounts of traffic, but this is Wight Street which is a narrow street that rarely is driven on. Is the visibility triangle the same across the city at every intersection?

Oldenburg said the visibility triangle is based on right of way widths.

Baranski asked if it made sense to have the same visibility triangle at this location and at the intersection of High and Spring Streets. It is the nature of the area and Wight Street.

Johnson agreed - people driving in the area are locals and know the street and intersection. The stop sign is already in the pavement on the corner.

Rosenthal said he doesn't really see the new garage affecting the visibility any more than the house does right now.

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

MOTION: Jansen moved, seconded by Bochniak to close the Public Hearing on Cal. No. 17V-05.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Jansen to draft a positive Finding of Fact to allow the variance as requested for Cal. No. 17V-05.

Discussion: Rosenthal said based on the location and the layout of the property he felt comfortable allowing this. He didn't feel that there would be a negative impact on the visibility at the location. The Historic Board will make sure that the garage addition is historically appropriate.

Baranski said he struggled at first when looking at the request. The proposed garage is very small and will fit into the bulk standards. Wight Street is very narrow and tight with the houses almost right up to the street. The

garage will fit with the area and character. In 50 years, it will be just as though it had always been a part of Galena and the neighborhood.

Variance Criteria

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; **It does not**

(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; **Yes**

(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; **Yes**

(4) *Reasonable use.* The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance; **Yes**

(5) *Minimum necessary.* The variance is the minimum necessary to make possible the reasonable use of land or structures; **Yes**

(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; **Yes**

(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; **Yes**

(8) *Conformance with the Comprehensive Plan.* The granting of a variance will not conflict with the goals and principles in the adopted Comprehensive Plan; **Yes**

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:

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

Motion carried.

COUNTY ZONING

None

WORKSESSION/OTHER

None

PUBLIC COMMENTS

None

MOTION: Bochniak moved, seconded by Baranski to adjourn the meeting at 7:30 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price
Zoning Board Secretary