

**MINUTES
ZONING BOARD OF APPEALS
JULY 11, 2018**

CALL TO ORDER:

Acting Chairperson Baranski called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, July 11, 2018 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	Absent

A quorum was declared.

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

APPROVAL OF MINUTES

MOTION: Bochniak moved, seconded by Cook to approve the June 20, 2018 minutes.

Motion carried with Jansen abstaining.

UNFINISHED BUSINESS

Cal. No. 18S-06, Applicant: Robin & John Vaughn, 17 Rapids Drive, Galena, IL 61036 and Owner: Richard Burlingame, 128-130 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-138-00, Lot 16, East side of Main Street, Original Lots of Galena, Galena, Jo Daviess County, Illinois. Common Address is 230 South 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 recommendation for Cal. No. 18S-06.

As Roll Call was:

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

Motion carried

Cal. No. 18S-07, Applicant and Owner: Virginia Smirnoff & Jackson Andres Acevedo Valencia, 800 Park Avenue, Galena, IL 61036. Location: Parcel: 22-100-421-00, Part of Lot 20 and North 8 feet of Lot 21, West side of Broadway, Original Lots of Galena, Galena, Jo Daviess County, Illinois. Common Address is 510 Dewey Avenue, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District.

MOTION: Cook moved, seconded by Holman to approve Cal. No. 18S-07 based on the criteria for Cal. No. 18S-06.

As Roll Call was:

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

Motion carried.

NEW BUSINESS

Board member Rosenthal was now in attendance via electronic device. Rosenthal had given proper notice that he would not be in attendance but that he would attend electronically.

Cal. No. 18A-03 & 18S-04, Applicant and Owner: Mary Prioetti, 701 South Bench Street, Galena, IL 61036. Location: Parcel: 22-100-263-00, Lot 8, Lots between Bench and Prospect Streets, Galena, Jo Daviess County, Illinois. Common Address is 701 South Bench Street, Galena, IL 61036. Request for Rezoning from Low Density Residential to Neighborhood Commercial and Special Use Permit to allow small scale dining and Accommodations, Vacation Rental.

City Attorney Nack swore in all those who wished to testify at this Public Hearing.

MOTION: Rosenthal moved, seconded by Bochniak to open the Public Hearing for Cal. No. 18A-03.

Motion carried by voice vote.

Mary Prioetti 701 South Bench Street, Galena said that her plan is to offer her carriage house on the property as a guest house for a couple to visit. She also wishes to provide cultural culinary experiences at her home for no more than eight (8) people. She wants to bring people to Galena that have not been here before so they can experience it. The most important thing to her, though, is to hire people from Galena who are interested in the hospitality business or the culinary business. If she can hire them and train them and mentor them, then she can help them reach their goals. That's what she'd really like to do.

Bochniak asked that she is talking about up to eight (8) people possibly; how many nights per week is she looking at?

Prioetti stated that it would only be on weekends, never during the week; generally during the Summer months as she winters in Florida. She plans to have some of her friends and mentors that are chefs and historians to come and give lectures at the dinners. They will have different types of foods, including food that would have been served in the 1800's here; they could lecture on that as well.

Bochniak asked what is the difference between what she proposes and a restaurant? Will she be charging people to come to her establishment?

Prioetti stated that there would be a donation for the lecturer and food. It will be more private.

Bochniak asked about alcohol?

Prioetti stated that she would serve wine or whatever would be appropriate for the culture of the dinner being served.

Oldenburg stated that she would have to also get permission from the City & State to serve alcoholic beverages with a liquor license.

Bochniak also asked about the parking, that it is proposed to be at the Galena Gazette?

Prioetti stated that she will coordinate with the Gazette to have additional parking there.

Baranski asked if they were amenable to that?

Prioetti stated that they've discussed it. She told them that if this is approved, then she would be back to finalize the agreement. She doesn't believe it will be a problem with them.

Oldenburg stated that the City Staff will require the agreement with the Gazette property in writing before the occupancy permit will be granted.

Prioetti added that it is only up to eight people for the gatherings, so there will be times that it will be less people and her driveway can handle the parking. She has private dinner parties at her house that has way more than that.

Baranski asked how people will find-out about her dinners?

Prioetti said that they will find-out through acquaintances and friends in the industry from the Chicago area. She has friends from Greece, Africa, Italy and Spain that could come and do lectures on their food. The network through those people would get the word around.

Baranski asked if there was a website that would promote it?

Prioetti said that there would be a website that will post the dinners and allow reservations.

Baranski asked if she is doing this only on the weekends; does she mean Friday night and Saturday night?

Prioetti said most likely Saturday night and Sunday afternoon.

Baranski asked if that was a self-imposed restriction? Would it be a problem for you if it was restricted to only the weekends? If it was on a Wednesday, you wouldn't be able to do it.

Prioetti said yes, she understands that. She will be working with people to work in the food industry that have to work during the week, so they will usually only be able to work on the weekends.

Baranski added that with the Gazette, because parking is an issue on her site, if you were talking about number of parking spaces with eight guests and staff, would it be able to accommodate everyone.

Cook also added that she had a concern about that, especially if you consider the staff vehicles as well.

Prioetti said she plans to have about 5 people help as staff. She also has two spaces off-street on Prospect Street. Her driveway on Bench can accommodate 3-4 cars.

Bochniak asked that she was planning to accommodate cars so that it doesn't disturb the neighbors?

Baranski spoke through a typical scenario for the proposal: eight people, a lecturer, a cook, employees, etc. Thirteen or fourteen people. So, parking requirements are one per three guests.

Oldenburg stated that it is expected that there will be about 10 vehicles total at maximum capacity for the event. The driveway in front is counted for the vacation rental, which requires one vehicle space. She could also be parked there with her personal vehicle. There are two spaces up on Prospect Street for her staff and the remainder would require spaces available in the Gazette lot.

Rosenthal stated that it sounds like this all revolves around the Gazette lot – is there a guarantee on those spaces? What about busy tourist weekends when that is filled-up?

Proietti stated that those weekends when parking are tied-up, then she would not have dinners or reduce patrons to four guests. She would most likely not have events on those weekends because she would have personal guests there for Country Fair and Halloween, etc.

Baranski asked about the front driveway and whether it was shared with the next door neighbor; is there an easement for that?

Oldenburg stated that the shared portion is on State R.O.W.

Proietti concluded that these dinners are very casual, she is not a restaurant. So, it doesn't have to happen every weekend. It's very casual, and when dinners are scheduled, her guests will be notified that they are going to happen.

Baranski said he assumes she will have to meet Health Department standards.

Oldenburg stated she'll need to meet Health, Fire, Building, ADA, Plumbing, etc. An architect will have to be involved with final construction plans.

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

MOTION: Rosenthal moved, seconded by Bochniak to close the Public Hearing for Cal. No. 18A-03.

Motion carried by voice vote.

MOTION: Bochniak moved, seconded by Jansen to recommend the City Council approve the request for Cal. No. 18A-03 with the conditions that they will only operate on weekends and that they have a parking agreement with the Galena Gazette.

Discussion: Bochniak said is it obvious that the applicant has thought this through and has a good plan. Her home is very close to others and yet no one came to the meeting with concerns.

Baranski said his general feeling is that this is just the type of use for general commercial. The Board can impose restrictions to protect the neighborhood. This property is an area with an eclectic mix of uses.

Bochniak review the approval criteria:

Zoning Map Amendment - In determining whether the proposed zoning map amendment shall be approved, the following factors shall be considered:

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.; *There has been a change over the years in the character of that neighborhood.*

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; *The proposed uses are compatible with the characteristics of that area.*

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; *This proposal is consistent with the Comprehensive Plan, especially as it supports the tourism industry.*

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; *N/A*

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 *There is an adequate supply of land available for this request.*

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 business will provide additional inventory and revenues to support the tourism industry and will provide more jobs.*

As Roll Call was:

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

Motion carried.

Cal. No. 18S-04; A request for a Special Use Permit to allow small scale dining and Accommodations, Vacation Rental.

MOTION: Bochniak moved, seconded by Holman to open the Public Hearing for Cal. No. 18S-04.

City Attorney Nack swore in all those who wished to testify at this Public Hearing.

Mary Prioetti 701 South Bench Street, Galena said all testimony given for the previous request would apply to this request.

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

MOTION: Rosenthal moved, seconded by Jansen to close the Public Hearing for Cal. No. 18S-04.

Motion carried on voice vote.

MOTION: Jansen moved, seconded by Bochniak to draft a positive Finding of Fact approve the request for Cal. No. 18S-04.

Discussion: Jansen 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 § 154.406;
- (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.

As Roll Call was:

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

Motion carried.

Rosenthal ended his participation.

Cal. No. 18S-08, Applicant and Owner: Craig Martin, 425 Franklin Street, Galena, IL 61036. Location: Parcel: 22-100-342-00, Lot 54, North side of Franklin Street, Original Lots of Galena, Galena, Jo Daviess County, Illinois. Common Address is 425 Franklin Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District.

City Attorney Nack swore in all those who wished to testify at this Public Hearing.

MOTION: Cook moved, seconded by Holman to open the Public Hearing for Cal. No. 18S-08.

Craig Martin, 425 Franklin Street, Galena said he would like to request a special use permit for a vacation rental and he would use the income to further improve and maintain the home. He bought it ten years ago and spent the first four years removing the mid-century modern décor and returning it to Victorian era and one of the big problems for the home is that it is very expensive in terms of square footage because they closed off the two attic bedrooms. One of his goals, to make the property viable after he is gone, is to open up the two other bedrooms and put in a bathroom so that a family could live there. The house sat on the market for about a year before he got it; it's a really special place.

Bochniak asked if it was a one-bedroom now?

Martin stated that there is only one bedroom now; there were two bedrooms in the attic that was closed-off at some point. They're large rooms; Jane closed them off because they didn't have kids and didn't need the room. He's young enough where he can turn it into a 3-bedroom, 2-bath and the revenue from a vacation rental could help him accomplish this.

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

MOTION: Jansen moved, seconded by Bochniak to close the Public Hearing for Cal. No. 18S-08.

Motion carried by voice vote.

MOTION: Bochniak moved, seconded by Cook to draft a positive Finding of Fact to approve the request for Cal. No. 18S-08.

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 § 154.406;
- (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.

As Roll Call was:

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

Motion carried.

WORK SESSION

PV Solar Arrays Discussion – Highway 20 Corridor

Zoning Administrator Oldenburg said that over the years there had been some requests for solar panel use. There are some installations in the City, including City Hall and a large array at the wastewater treatment plant. As they become more popular there is the possibility of panels being used in the highway 20 corridor – he has already had inquiries. The Design 20 manual does require all utilities and mechanical equipment be screened – this was written in 2005 and he is not sure if the use of solar panels had been considered. He would like clarification from the Board as to whether these should be approved administratively through his office or if the Board would like to review the requests for solar panels. Would it depend on the size and placement of the panels as to whether the Board wanted to review or did they think all requests or no requests should be reviewed? Would it matter if the array could or could not be seen from the highway?

Baranski asked if there was some crossover between the Highway 20 corridor and the historic district.

Oldenburg said the Highway 20 focuses on the areas to the east and west of the downtown on the hillsides away from the downtown. He said he had received an inquiry for property near the 1st Community Bank for a ground array that would not be seen from the highway. If they needed to provide screening it would potentially block the southern exposure necessary for effective solar capture. He wanted the Board's opinion on how to handle these requests. Maybe aesthetics don't matter. Solar is green and a good use for the environment and will continue to grow in popularity.

Holman said he would like to see these come before the Board for now – at least for a while since it is new.

Oldenburg said the roof panel arrays integrate quite well with the slope and aren't too intrusive as long as the colors aren't too crazy.

Baranski asked if the Board should look at the ordinance to see if the language can be modified to incorporate the technology changes. Having solar panels visible on historic buildings may not be desired but to have panels visible in the industrial plant where we are encouraging development doesn't seem like a bad thing.

Sometimes you just can't hide it – they have to face south in order to be efficient. Technology keeps changing and it seems we should update the ordinance. It seems a text amendment would be the best way to address the issue.

Oldenburg asked if the Board wanted him to come back with language that would facilitate the use of solar panels in the Highway 20 Corridor District. Outside the district they are already allowed.

Baranski said it does seem to be an ordinance issue that does not allow them.

Bochniak agrees with Baranski.

The Board agreed they would like to have another work session where they can review proposed text amendment language that Oldenburg compiles. After review a Public Hearing could be held at another meeting.

Oldenburg asked about including wind energy.

The Board said yes as well as any other alternative energy sources.

Oldenburg said he would prefer being proactive about the issue.

Jansen agreed that the Board should not put the Zoning Administrator on the hot seat by having interpret what is allowed. Let's work on it and then open it up to public coment.

Oldenburg said he would draft language and bring this back to the board.

OTHER BUSINESS

None

PUBLIC COMMENTS

None

MOTION: Bochniak moved, seconded by Cook to adjourn the meeting at 7:25pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price
Zoning Board Secretary