

**MINUTES  
ZONING BOARD OF APPEALS  
DECEMBER 12, 2018**

**CALL TO ORDER:**

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, December 12, 2018 at City Hall, 101 Green Street, Galena, IL.

**ROLL CALL AND DECLARATION OF QUORUM:**

As Roll Call was:

Baranski	Present
Bochniak	Present
Calvert	Present
Cook	Present
Jansen	Present
Nybo	Present
Rosenthal	Present

A quorum was declared.

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

**APPROVAL OF MINUTES**

**MOTION:** Bochniak moved, seconded by Cook to approve the November 14, 2018 minutes.

Motion carried.

**UNFINISHED BUSINESS**

Cal. No. 18S-15, Applicant and Owner: Tanya Billmeyer-Finn, 104 North Dodge Street, Galena, IL 61036. Location: Parcel: 22-100-850-00, Lot 3 of Temple's Subdivision of Lot 8 in Block 21 of the Original City of Galena, Jo Daviess County, Illinois. Common Address is 104 North Dodge Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Low Density Residential District.

**MOTION:** Jansen moved, seconded by Baranski to approve the Special Use Permit for Cal. No. 18S-15.

As Roll Call was:

Bochniak	Yes
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Calvert	Yes
Cook	Yes
Jansen	Yes
Nybo	Abstain
Baranski	Yes
Rosenthal	Yes

Motion carried.

Cal. No. 18PD-02, Applicant: Adam Johnson, 211 Fourth Street, Galena, IL 61036 and Owner: Galena Art & Recreation Center, 413 South Bench Street, Galena, IL 61036. Location: Parcel: 22-100-191-00, Lots 13, 14, 15 & 3-3/4' of Lot 16, West Side of Bench Street, D.O.R. Docket No. 85-43-20 Community Center, Original City of Galena, Jo Daviess County, Illinois. Common Address is 413 South Bench Street, Galena, IL 61036. Request for approval of Preliminary Plan to rezone to Planned Unit Development for a site, with an underlying default district of Low Density Residential, to allow proposed uses.

**MOTION:** Baranski moved, seconded by Bochniak to re-open the Public Hearing for Cal. No. 18PD-02.

Motion carried on voice vote.

City Attorney Nack swore in all those who wished to testify at any of tonight's Public Hearings.

Adam Johnson, 211 Fourth Street Galena said after last month's meeting they focused on four areas of concern:

1. The dipping pool. This aspect is important to the proposal. For the owner to have the ability to install the dipping pool means having something that is currently not available in Galena. If the pool is not approved he will still want to have an exterior patio and lounge area on the north side. There are no plans to install additional parking here.
2. On site manager. During overnight use staff from Schlenker's other business, Victorian Mansion, will be available. An overall video surveillance system will be installed that can be viewed at the Mansion. The applicant definitely doesn't want the guests to get out of hand nor does he want damage done to his property.
3. Event use. They have five proposed uses for the building – one of these being the dipping pool which would only be used by those staying overnight. The other four uses are: Gym use without accommodations; large gathering for tournaments, festivals, concerts; accommodations with use of entire building and accommodations with out use of building.
4. Parking was discussed in #1.

Rosenthal asked if the pool where approved what would the six-foot fence be constructed of.

Mark Schlenker, 348 Snipe Hollow Road Elizabeth said he is looking to offer high-end rentals. The dipping pool is unique – it would be about the size of the city council table. It is not a swimming pool and is more of a water feature. It would not be noisy like a hot tub and the area would be a tranquil garden area to relax in. It is an elevated area and you cannot see it from ground level. He wants to get rid of the rusty chain link fence as well as the large concrete slab. If he needs a fence he will comply with historic preservation.

Johnson said there would be a hedge in front and the fence would be on the south side.

Baranski asked if they had been before the historic preservation board.

Johnson said yes.

Baranski asked what they said about screening the pool.

Johnson said they would like to provide a solid fence and landscape buffering on the north side. They would like to install a hedge along the sidewalk and a metal fence around the pool for security. Preservation indicated they wanted a fence that would still allow the building to be seen from the sidewalk.

Baranski said the safety bufferzone was his concern. If the hedge and the fence provide that and historic preservation is fine, he is too.

Oldenburg said he believes it does. The ordinance provides for a combination of fencing and landscaping as bufferyard.

Baranski asked about the events per year – three events per year with as many as 100 persons. What is the occupant load of the building? Is this a reasonable number?

Building official Jonathon Miller who was in attendance addressed this. Miller said without running the square footage he thought 100 persons was reasonable.

Rosenthal said in recent use there probably weren't that many people on site at one time.

Oldenburg said in the past pageants and recitals have had that many in attendance.

Schlenker said these types of events are not meant to be money makers but to provide something for the community or offer a philanthropic event. When he referred to three he was thinking three of any event – concerts, plays, tournaments, etc.

Baranski said he is also trying to get an idea about events that would have smaller numbers attending.

Schlenker said he wants to use the building as it was designed and if the use needs to be more defined he is fine. He's not planning on having tournaments every week.

Baranski read the use description as provided by the applicant:

Use of the building for a festival event such as a sports tournament, music event, theater event, or other social gathering or event which may occur over a weekend, up to 3 events a year. These events may gather a large groups of people, as many as 100. These events will be planned and scheduled events such as a recital or a theater performance. Or, an event could be a sporting tournament in which teams gather for a series of games. Or, an event could be a graduation from a group or class, an anniversary party, or other similar large, celebratory party.

Schlenker said he was probably thinking three events outside of sporting events. Sports usage is pretty much the norm right now as the schools are short of space. It's almost like an open gym.

Baranski said it appears the applicant has a clear vision as to what needs to happen for the development to succeed, but he's not exactly sure.

Rosenthal said it is like an open gym - there are sports practices going on all the time as well as other small events.

Bochniak said he thought 100 persons for a single event seems reasonable.

Oldenburg said for assembly occupancy standards temporary seating means seven square feet per person. You would need 700 square feet for 100 people. The gym alone has 3,700 square feet.

Bochniak asked if there was a limit to the number of persons who could use the lounge or gym if they were staying overnight.

Johnson said if a group of people were staying overnight they could use the inside building space all day.

Schlenker said as for on site management he does not want to have someone staffed there all day. He knows what kind of red flags to look for when someone is booking or when they are arriving. He always has someone near address any concerns. He does not want issues.

Baranski read from the proposed uses provided by the applicant:

Proposed pool in Patio will be allowed by Special Use Permit and will be subject to the Special Use review process and may be revoked in the future should use of the pool become a disruption in the neighborhood. Use of the Patio would be limited to use by lodging guests from sunrise to 10 pm weekends, 9 pm weekdays.

Baranski said if the pool and patio area are an issue the use could be revoked.

Schlenker said he was amenable to that.

Bochniak asked how deep the pool would be.

Schlenker said about three feet to four feet.

Cook said lodging with gym use had a maximum capacity of twenty persons. What's the capacity if a group is not using the gym.

Schlenker said the maximum use is twenty persons is pretty much the max regardless of whether they are using the gym or not.

Cook said due to bulk standards pools are not allowed in front yards in residential districts.

Oldenburg said approval would mean a deviation from the typical bulk standard, so you would need to see if there were some benefit to the community in order to allow. Is the dipping pool integral in moving the development forward?

Schlenker said the elevation of the pool area means it really won't be visible.

Baranski said for some neighbors it will be.

Oldenburg said you could also reference historic front yard setbacks along Bench Street are about five to ten feet off the street so technically the pool would be out of the front yard.

Schlenker said this is a unique plan for a peaceful and relaxing area to experience a historic building.

Nybo asked how he would be marketing the basketball tournaments.

Schlenker said he would probably look at junior high/middle school teams from Iowa farm communities and the quad cities as well as inner city schools so he can create an atmosphere where students who normally would not interact would be able to come together. This building has a pre-‘Hoosier’ feeling to it. He wants people to come to Galena, study our community, take historic field trips and be able to participate in sports and recreational activities. This building is an asset to the surrounding area.

No other testimony in favor of the request was presented.

Rosenthal asked those opposed to the request to come forward and testify.

Nick Hyde, 1429 Elm Street Galena said he was representing some adjacent property owners and specifically John Carey. They are not opposed outright to the development but to certain aspects of it. The main concern is the pool as allowing it would be a deviation from the standards. It is not an integral part of the request nor is there a benefit to the community and there are historical and safety issues associated with the pool. If the water structure was not built this area could be used for parking. Seven guest rooms mean seven parking spaces, an ADA space and an employee/manager space - four spaces aren't enough. Using the pool area for parking allows the property to be used appropriately and eases parking demands. This facility is different than a vacation rental. With the ability to rent to twenty people it is more for party groups than family rentals and should have an onsite manager. The idea of using this for festivals and other events still needs clarification. School type events and sporting tournaments are amenable to the neighbors, but other events would be questionable and could become an issue.

Baranski asked if opposition to the pool would lessen if they knew there would be a one-year review to address any issues.

Hyde said the pool will be expensive to install - maybe the developer should reserve an area for the pool in the lounge and garden space and then any issues with that area can be addressed before the pool goes in.

Baranski said the pool will be expensive and it appears the owner would be very diligent in making sure things go well.

Hyde said the neighbors would welcome the one-year review, but they want the zoning board to realize that this is a substantial deviation.

Ilisa Farrell, 505 South Bench Street Galena said some of her questions had been answered by the applicant. She still is concerned about overnight parking for twenty guests and three spots plus an ADA space just doesn't seem like enough. Many residents in this area do not have off street parking and rely on street parking. She questioned how many rooms the Victorian Mansion has that warrants an on-site manager but the potential for twenty guests does not. This large seven room facility should require on site supervision. When activities are happening at ARC there are personnel on site. Looking at the property and the buffers to the south there is only about three feet – a sidewalk - between the building and the neighbor's property. It is pretty much the same on the north side. Where is the buffering going to go?

John Carey, 501 South Bench Street Galena has concerns with the buffering. The criteria indicate that all negative impacts on neighboring property would be mitigated to the greatest extent. There have been no problems with the ARC but with the proposed commercial use they would like to see some buffering, screening and landscaping. He is concerned about self-management of a 14,000 square foot building doesn't seem reasonable.

Rosenthal asked the applicant if they would like to address any of the objector's concerns.

Schlenker said the noise created by a few people sitting by the dipping pool will be far less than that created by a group playing basketball as it is now as well as children playing all day. There are events all over town that create parking issues so providing four off street parking spaces will certainly help the area. While as many as twenty people can rent at once he anticipates that typically it will be ten or twelve persons and who could all be together but may not be. If he has a large group he will certainly be monitoring them and there are times when he knows he will have to have someone on site, but it's not financially feasible to always have someone there.

Baranski asked about supervision for daily events like gym activities. During tournaments it would seem you would need the organizer or someone in charge of the event to be present.

Schlenker said during tournaments and other large events someone would be there.

Rosenthal said someone would need to be present to lock up the gym and pool area.

Schlenker said the pool and patio would be an outside area where people can relax and use the grill. People cannot splash around and jump in the dipping pool. He's not sure how including the pool will add more noise to the area than if it was only the patio and garden area. How different is his proposal than having people in a front yard or on a porch at your home?

Baranski said the addition of alcohol can always influence these situations.

Johnson said to the north there would be buffering. The HPC wanted the driveway throat to be narrow but they could install more buffering and landscaping.

Schlenker said parking on the south side will eliminate areas to lounge and visit.

**MOTION:** Jansen moved, seconded by Bochniak to close the Public Hearing for Cal. No. 18PD-02.

Motion carried on voice vote.

Rosenthal said he isn't as concerned about the noise created by people sitting around the pool as he is for the buffering for those who must look at the pool especially to the north. The pool itself doesn't make people get loud. Parking on the south does provide some buffer. The surveillance camera is a good idea to protect both the guests and the owner.

Baranski said his motion made at the last meeting was still on the table. That motion read, "Baranski moved, seconded by Jansen to approve the request with conditions for Cal. No. 18PD-02."

**MOTION:** Baranski moved, seconded by Jansen to amend his original motion to specifically include the conditions that are spelled out in items #1-5 under the proposed uses for the building for Cal. No. 18PD-02:

Proposed Uses for the building will include:

1. Use of the gymnasium for all typical gym sports, including basketball, volleyball, dodge ball, etc. and for active training or exercise classes or groups, such as martial arts or aerobics classes. Use of gymnasium may also include use of the stage for rehearsals for plays or similar activities. This may be use by renters, local groups using the gym for practices, open gym periods for public use. The ARC intends to continue some gym use. Use of music or amplifiers will be limited to levels that are not distracting from the exterior. Hours for use

will be 6 am to 10 pm all year. This use may include up to 30 or 40 people depending on the size of teams for the sport. Separate lodging use would not occur during this use, the building would be otherwise empty.

2. Use of the building for a festival event such as a sports tournament, music event, theater event, or other social gathering or event which may occur over a weekend, up to 3 events a year. These events may gather large groups of people, as many as 100. These events will be planned and scheduled events such as a recital or a theater performance. Or, an event could be a sporting tournament in which teams gather for a series of games. Or, an event could be a graduation from a group or class, an anniversary party, or other similar large, celebratory party.

3. Use of whole building by groups which will stay in the lodging and use the building facilities during that stay. This would include the use of the Gym and Lounge. There would be no day of time limit to the use of the Gym or Lounge and guests may use the facilities all night if desired as long as no outside noise disruption occurs. Use of the Patio would be limited to sunrise to 10 pm weekends, 9 pm weekdays. Lodging is limited to All year use when building is not otherwise in use

4. Lodging without use of gym limited to 20 guests. Rooms may be rented in groups or individually to separate parties. All year use when building is not otherwise in use.

5. Proposed pool in Patio will be allowed by Special Use Permit and will be subject to the Special Use review process and may be revoked in the future should use of the pool become a disruption in the neighborhood. Use of the Patio would be limited to use by lodging guests from sunrise to 10 pm weekends, 9 pm weekdays.

Discussion: Baranski said buffering to the north and east has been resolved if the HPC agrees. He also wants to keep the provision for a review of the special use permit in one year to address any issues the neighbors may be having. We've had these concerns before and it's hard to know how this is going to play out.

Rosenthal asked one year from when.

Oldenburg said he would say one year from the day this has been established as a use – the day the pool opens.

Cook asked if the review would only be for the pool.

Baranski said he is not as concerned about the noise. Over the years this area has had a lot of noise and with the proposed use after 10PM everyone would be inside. If the noise becomes excessive there is a city noise ordinance and the police would deal with these complaints just as they would anywhere else in Galena. The lodging maximum of twenty persons does involve overnight parking but for gym activities and events those cars would likely be coming and going all day and most likely clear out overnight. He realizes this is not a vacation rental but if you were to figure parking on that basis they would need five spaces - they are only two spaces short.

Jansen said currently there are three reserved ARC spaces on Bench Street and those will revert to public parking. He's comfortable with the amount of parking that will be provided. He said the listed proposed activities in #1 are consistent with the current use. He is not sure how the board regulates the three times per year 100 plus attendees for Use #2. If there are no problems and they want to come back to request more, they can do so.

Rosenthal said he thought the applicant was asking for events other than sports – that tournaments and such would be a part of #1.

Baranski said the proposed uses show tournaments as part of the requested three events to be held each year.

Bochniak asked what is meant by large group. One hundred isn't necessarily a large group. Is someone going to count?

Baranski said he thinks this is a good provision and this is what was provided by the applicant. He thinks this is a good limit to start with and let's see how it plays out.

Oldenburg said three would be allowed by right if he wants more he can come back before the board.

Jansen said the three events per year with more than 100 people attending would include sporting events. The applicant is indicating that he thought the sporting events would not be included in this count.

Baranski said we can take out the language relating to sporting events in #2:

2. Use of the building for a festival event such as a **(sports tournament,)** music event, theater event, or other social gathering or event which may occur over a weekend, up to 3 events a year. These events may gather large groups of people, as many as 100. These events will be planned and scheduled events such as a recital or a theater performance. Or, an event could be a sporting tournament in which teams gather for a series of games. Or, an event could be a graduation from a group or class, an anniversary party, or other similar large, celebratory party.

The language in parenthesis will be omitted.

Bochniak asked if the pool could be installed after the facility has been open for a year.

Rosenthal said building plans and logistics would probably make that difficult and costlier if installed later.

Baranski said he doesn't feel the dipping pool is a typically outlandish use especially with the close time. Any issues will be addressed in one year. As to setting precedent anyone wanting a pool in the front yard would have to apply for a special use permit and the merit of the request would determine if the board approved it. Each application stands on its own.

Rosenthal said this property is land locked and is different than most residential properties.

Baranski said let him fulfill his plan and give him a year to see what happens. If the neighbors say it is a disaster, then we will deal with it.

Calvert thought #2 needed to be further amended by removing the second to last sentence which refers to sporting events:

2. Use of the building for a festival event such as a **(sports tournament,)** music event, theater event, or other social gathering or event which may occur over a weekend, up to 3 events a year. These events may gather large groups of people, as many as 100. These events will be planned and scheduled events such as a recital or a theater performance. **(Or, an event could be a sporting tournament in which teams gather for a series of games.)** Or, an event could be a graduation from a group or class, an anniversary party, or other similar large, celebratory party.

The language in parenthesis will be omitted.

The Board agreed.

Baranski reviewed the approval criteria:

Approval Criteria & Recommendation:

**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; **Not relevant.**
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.; **Does not apply.**
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; **This has been addressed.**
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; **It is conformance with.**
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; **This is true.**
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; **It does.**
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. **There is.**

**Preliminary PUD Plan** – A preliminary development plan application shall demonstrate conformance with all of the following:

- a. The ODP review criteria in division (B); **It does.**
- b. The applicable preliminary plat criteria in [Chapter 153](#), Subdivision Regulations; **Not applicable.**
- c. The applicable site plan review criteria in § [154.914](#); **It does meet.**
- d. The approved ODP, if applicable; Not applicable.
- e. An appropriate, specific density/intensity of uses for all areas included in the preliminary plan approval; **It does.**
- f. For a PUD/TND District, the area of the plan is at least five acres in size or as specified in an applicable approved ODP, or as identified in § [154.301](#). **Not applicable.**

As Roll Call was:

Calvert	Yes
Cook	Yes
Jansen	Yes
Nybo	Abstain
Baranski	Yes
Bochniak	Yes
Rosenthal	Yes

Motion carried.

## NEW BUSINESS

Cal. No. 18A-04, 18S-16 & 18V-02, Applicant & Owner: Paul Pendola, 306 South Prospect Street, Galena, IL 61036. Location: Parcel: 22-100-201-00, S 25' x 100' Lot 21, NW 25' x 40' Lot 21, SW 5' x 40' Lot 22, W 50' x 50' Lot 20, West Side of Bench Street, Galena, Jo Daviess County, Illinois. Common Address is 306 South Prospect Street, Galena, IL 61036. Request for Text Amendment to allow Artisan Studio as a land use only by Special Use Permit in Low Density and Medium Density Residential Districts; Special Use Permit to allow Artisan Studio in the Low Density Residential District; and Variance for off-street parking requirement.

**MOTION:** Bochniak moved, seconded by Cook to open the Public Hearing for Cal. No. 18A-04.

Motion carried on voice vote.

Adam Johnson, 211 Fourth Street Galena said the request is for a text amendment to allow an artisan studio by right with a special use permit in MDR and LDR. Johnson said he was surprised this use was not already allowed. This is a significant opportunity for persons with historical homes to operate a studio, after obtaining a special use permit which oversees the application and provide a nice complimentary use for these areas.

Paul Pendola, 306 South Prospect Street Galena said he is often working outside when pedestrians on Prospect Street stop to visit and inquire about his work. Many ask if they can purchase his product, but he is currently not allowed to sell from his home. The home was originally built as a grocery or candy store utilized by those living in the neighborhood or attending the former school. The use is well suited to the location. His studio would not be so much a destination but a discovery for those visiting the area.

Rosenthal asked those in favor of the request to come forward.

Anna Hemm, 226 South High Street Galena said her home is very close to Pendola's. He is a very nice, considerate neighbor and his business will be an asset to the neighborhood.

Dan Krenz, 311 Jackson Street Galena is a friend of Pendola's and sometimes helps him out. He thinks this a good idea and would have little impact on the area.

No one spoke in opposition to the request.

**MOTION:** Bochniak moved, seconded by Jansen to close the Public Hearing for Cal. No. 18A-04.

Motion carried on voice vote.

**MOTION:** Bochniak moved, seconded by Nybo to recommend the City Council approve the Special Use Permit for Cal. No. 18A-04 as presented.

Bochniak said this is a good use for this building.

Baranski said this would only be allowed only thru special use. This use is already found in these areas as some have been grandfathered in.

Discussion: Bochniak reviewed the approval criteria:

### **Approval Criteria & Recommendation for Text 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:

(1) Whether the existing text or zoning designation was in error at the time of adoption; **Bochniak and Baranski agreed that this could have been an oversight when the ordinance was written.**

(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.; **Yes, there has been a change in the whole city.**

(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; **N/A**

(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; **It is in conformance.**

(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; **There is for tourism.**

(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 it does.**

(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. **There is a need and it is a good fit.**

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

As Roll Call was:

Cook	Yes
Jansen	Yes
Nybo	Yes
Baranski	Yes
Bochniak	Yes
Calvert	Yes
Rosenthal	Yes

Motion carried.

**MOTION:** Bochniak moved, seconded by Cook to open the Public Hearing for Cal. No. 18S-16.

Motion carried on voice vote.

The applicant indicated that his previous testimony for Cal. No. 18A-04 was applicable to this request.

No other testimony was heard for this request.

**MOTION:** Bochniak moved, seconded by Cook to close the Public Hearing for Cal. No. 18S-16. Motion carried on voice vote.

**MOTION:** Baranski moved, seconded by Cook to recommend approval for a Special Use Permit for Cal. No. 18S-16 as written contingent upon City Council approval of text amendment Cal. No. 18A-04.

Discussion: Baranski said sup's give property specific uses and he thinks this location would be a perfect spot for this type of use. The foot and car traffic make this ideal.

Baranski reviewed the approval criteria:

**Approval Criteria & Recommendation for Special Use Permit:**

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.**

Baranski said the request complies with all criteria requirements.

As Roll Call was:

Jansen	Yes
Nybo	Yes
Baranski	Yes
Bochniak	Yes
Calvert	Yes
Cook	Yes
Rosenthal	Yes

Motion carried.

**MOTION:** Bochniak moved, seconded by Jansen to open the Public Hearing for Cal. No. 18V-02.

Motion carried on voice vote.

Adam Johnson said they are asking for a parking variance due to the topography of the site as there is no opportunity for off street parking and there is plentiful parking directly in front of the house.

No other testimony was presented.

**MOTION:** Bochniak moved, seconded by Cook to close the Public Hearing for Cal. No. 18V-02.

Motion carried on voice vote.

**MOTION:** Jansen moved, seconded by Cook to approve the variance for Cal. No. 18V-02 as written contingent upon City Council approval of text amendment Cal. No. 18A-04.

Discussion: Jansen 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;
- (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;
- (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;

- (4) *Reasonable use.* The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance;
- (5) *Minimum necessary.* The variance is the minimum necessary to make possible the reasonable use of land or structures;
- (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;
- (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; and
- (8) *Conformance with the Comprehensive Plan.* The granting of a variance will not conflict with the goals and principles in the adopted Comprehensive Plan.

**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.**

Jansen said the request meets all the approval criteria.

As Roll Call was:

Nybo	Yes
Baranski	Yes
Bochniak	Yes
Calvert	Yes
Cook	Yes
Jansen	Yes
Rosenthal	Yes

Motion carried.

### WORK SESSION

None

### OTHER BUSINESS

None

**PUBLIC COMMENTS**

None

MOTION: Bochniak moved, seconded by Calvert to adjourn the meeting at 8:10 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price  
Zoning Board Secretary