

**MINUTES  
ZONING BOARD OF APPEALS  
AUGUST 14, 2019**

**CALL TO ORDER:**

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, August 14, 2019 at City Hall, 101 Green Street, Galena, IL.

**ROLL CALL AND DECLARATION OF QUORUM:**

As Roll Call was:

Baranski	Present
Bochniak	Absent
Calvert	Present
Cook	Present
Jansen	Present
Nybo	Absent
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:** Baranski moved, seconded by Cook to approve the July 10, 2019 minutes.

Motion carried.

**UNFINISHED BUSINESS**

Cal. No. 19S-08, Michael Garbo, 229 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-037-00, S 44' of N 52' of Lot 28, Lots Between Main & Bench Streets, Galena, Jo Daviess County, Illinois. Common Address is 229 South Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

**MOTION:** Jansen moved, seconded by Baranski to approve the Finding of Fact for Cal. No. 19S-08.

As Roll Call was:

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

Motion carried.

Cal. No. 19S-09, Diane Checchin, 421 South Main Street, Galena, IL 61036. Location: Parcel: 22-100-022-10, Part of Lot 18, West Side of Main Street, Galena, Jo Daviess County, Illinois. Common Address is 421 South Main Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Vacation Rental in the Downtown Commercial District.

**MOTION:** Baranski moved, seconded by Cook to approve the Finding of Fact for Cal. No. 19S-09.

As Roll Call was:

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

Motion carried.

Cal. No. 19S-10 & 19V-04, Kate & Doug Freeman, 603 South Bench Street, Galena, IL 61036. Location: Parcel: 22-100-179-00, Part of Lot 2, West Side of Bench Street, Galena, Jo Daviess County, Illinois. Common Address is 603 South Bench Street, Galena, IL 61036. Request for Special Use Permit to allow Accommodations, Bed & Breakfast with two guest rooms in the Low Density Residential District; Variance request to allow smaller minimum lot size.

**MOTION:** Calvert moved, seconded by Baranski to approve the Finding of Fact for Cal. No. 19S-10.

As Roll Call was:

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

Motion carried.

**MOTION:** Jansen moved, seconded by Cook to approve the Finding of Fact for Cal. No. 19V-04.

As Roll Call was:

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

**NEW BUSINESS**

Cal. No. 19A-03, 19S-11 & 19S-12, Applicant: Alan Trebian, 3379 S. Girot Road, Hanover, IL 61041 and Owner: Larry Aschebrook, 624 Spring Street, Galena, IL 61036. Location: Parcel: 22-101-016-00, N Part of E ½ of Lot 1, N Part of W 180’ of Lot 2, Lots 1, 2 and N 17’ of Lot 3 in the Subdivision of the West ½ of Lot 1, Block 59, Original Lots of Galena, Galena, Jo Daviess County, Illinois. Common Address is 624 Spring Street, Galena, IL 61036. Request for Rezoning from Low Density Residential District to Neighborhood Commercial District; Special Use Permit for Accommodations, Vacation Rental in Neighborhood Commercial District; Special Use Permit for Removable Outdoor Display in Neighborhood Commercial District.

**MOTION:** Cook moved, seconded by Baranski to open the Public Hearing for Cal. No. 19A-03.

Motion carried on voice vote.

Nack swore all those in wishing to testify at any of tonight’s public hearings.

Adam Johnson, 211 Fourth Street Galena said the new owners are looking at a commercial use for the property and have an idea to use the barn for farm produce sales with some removable outdoor display. The house would be used for vacation rental and to accomplish all this they would like a zoning change to Neighborhood Commercial. This area is a mix of business and residential so Neighborhood Commercial would be compatible with the surrounding properties. The business would provide new opportunities for businesses and tourism and would be a good development for the city.

Baranski asked about the removable outdoor display.

Alan Trebian, 3379 South Girot Road Hanover said nothing has been decided but they would most likely have a farmer’s market type business and would want something like a produce cart which could be wheeled out of the barn when they were open. At some point they would need some signage.

Oldenburg said any signage would have to approved.

Baranski asked about the parking.

Oldenburg said there were three additional spaces shown.

Johnson said the three spaces on the east side of the barn and would be used for the vacation rental. Parking for the barn would be on the West side of the barn and will come after redevelopment of Highway 20. There will be about twelve spaces for the approximately 1400 square foot building.

Baranski said parking for the barn would have to be developed before they could use the space. How soon are they planning on opening?

Trebian said there really are no immediate plans to open – nothing this year. A lot of this will depend on the Highway 20 work.

Oldenburg said before they are given an occupancy permit for the business use, they would have to satisfy the parking requirements.

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

Nack asked the applicant if the testimony just given would be the same for the next two special use requests.

Johnson and Trebian said it would.

**MOTION:** Cook moved, seconded by Calvert to close the Public Hearing for Cal. No. 19A-03.

Motion carried on voice vote.

Rosenthal asked that the minutes reflect that the public hearing testimony for Cal. No 19S-11 and Cal. No. 19S-12 would be the same as it was for Cal. No. 19A-03.

**MOTION:** Baranski moved, seconded by Jansen to send a positive Finding of Fact to the City Council for Cal. No. 19A-03.

**Discussion:** Baranski said that generally Neighborhood Commercial is a perfect fit for this transitional corridor. This zoning comes with plenty of restrictions. Spot zoning is not necessarily desired in most cases but in this area it works well.

Baranski reviewed the approval criteria:

**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:
  - (1) Whether the existing text or zoning designation was in error at the time of adoption; **Not applicable.**
  - (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. The character of this area has changed and evolved.**

- (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 it is compatible and the rezoning should not have any adverse impacts on the 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; **Yes, it is.**

- (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; **Facilities are available.**

- (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; **There is an adequate supply of land.**

- (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 the community will benefit.**

- **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**

Jansen asked about the timing of the Highway 20 project.

Oldenburg said the earliest project proposals have bids going out November 2020 and the project starting Spring 2021.

As Roll Call was:

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

Motion carried.

**MOTION:** Baranski moved, seconded by Jansen to approve the request for Cal. No. 19S-11.

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.
  - (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.**

The request does meet the approval criteria.

Oldenburg said the motion should include conditional on City Council approval of the map amendment.

**MOTION:** Baranski moved, seconded by Jansen to amend the original motion to include subject to approval of Cal. No. 19A-03 by the City Council.

As Roll Call was:

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

Motion on the amendment carried.

As Roll Call was:

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

Motion on the original motion carried.

**MOTION:** Jansen moved, seconded by Baranski to approve the request for Cal. No. 19S-12 subject to City Council approval of Cal. No. 19A-03 and based on the approval criteria for Cal. No. 19S-11.

As Roll Call was:

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

Motion carried.

### **OTHER BUSINESS**

None

**PUBLIC COMMENTS**

None

**MOTION:** Cook moved, seconded by Jansen to adjourn the meeting at 7:05 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price  
Zoning Board Secretary