

**MINUTES  
ZONING BOARD OF APPEALS  
FEBRUARY 10, 2021**

**ZOOM TELECONFERENCE MEETING (ID: 894 1631 2853)**

<https://us02web.zoom.us/j/89416312853>

**CALL TO ORDER:**

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:28 PM on Wednesday, February 10, 2021 via Zoom Teleconference Meeting, hosted 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, Building Official Jonathan Miller and City Attorney Joe Nack were also present.

**APPROVAL OF MINUTES**

**MOTION:** Bochniak moved, seconded by Cook to approve the January 13, 2021 minutes.

Motion carried on voice vote.

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

Cal. No. 21S-01, Applicant: Zeal Brothers Trust, 109 N. Main Street, Galena, IL 61036. Location: Parcel: 22-100-152-00, N ½ of Lot 27, East Side of Main Street, Original Lots of Galena, Galena, Jo Daviess County, Illinois. Common Address is 109 N. Main Street, Galena, IL 61036. Request for Special Use Permit to allow Guest Accommodations, Vacation Rental land use in the Downtown Commercial District.

**MOTION:** Bochniak moved, seconded by Calvert to open the public hearing on Cal. No. 21S-01.

Motion carried on voice vote.

Nack swore in all those who wished to testify at tonight's public hearing.

Jacob Zeal, 109 N Main, Galena, spoke as the applicant and owner, representing the Zeal Brothers Trust. They would like to request a Special Use Permit to put their property up as a vacation rental for the public. It is a convenient location for visitors to spend their time in Galena, they can park their car on Friday and not drive all weekend. It gives them the ability to maximize their time downtown at shops and restaurants and hopefully generate more revenue for the City of Galena.

Rosenthal asked if he was starting the rear apartment first and then working into the front apartment?

Zeal said yes, that is the plan to start in the rear and eventually use the front apartment later.

Fred Bonnet, 213 N Main, Galena spoke in favor of the request. He stated that vacation rentals and other accommodations haven't had any problems. He also said that Jake's property has a garage that the guests can park in, which is an advantage.

No one spoke in opposition to the request.

**MOTION:** Cook moved, seconded by Bochniak to close the public hearing for Cal. No. 21S-01.

**MOTION:** Baranski moved, seconded by Cook to draft a positive Finding of Fact for Cal. No. 21S-01 as written.

Discussion:

Baranski went through the review 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 request met all the approval criteria.

As Roll Call was:

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

Rosenthal

Yes

Motion carried.

Cal. No. 21S-02, Applicant: Adam Johnson, 211 Fourth Street, Galena, IL 61036 and Owner: Fred Bonnet, 213 N. Main Street, Galena, IL 61036. Location: Parcel: 22-100-164-00, 25' Lot 36 & 33' Lot 37, East Side of Main Street, Original Lots of Galena, Galena, Jo Daviess County, Illinois. Common Address is 213 N. Main Street, Galena, IL 61036. Request for Special Use Permit to allow Outdoor Dining as an accessory commercial land use in the Downtown Commercial district.

**MOTION:** Calvert moved, seconded by Bochniak to open the public hearing on Cal. No. 21S-02.

Motion carried on voice vote.

Nack swore in all those who wished to testify at tonight's public hearing.

Fred Bonnet, 213 N Main, Galena spoke as applicant and owner for the request. He stated that it has been a trying year in 2020 and using the parking spaces for dining never seemed like a valid use. However, the overwhelming success and the overwhelming compliments from their guests the tent structure in the back has worked out extremely well during Covid-19. It's been a great addition to their business and gives their guests an opportunity to eat outside on their property. It's been very successful and going forward in a non-Covid situation, they'd like to continue with it.

Bochniak asked if they'd use it year-round?

Bonnet said that they would not. They tried and it cost about \$150 / day in propane and it's not enjoyable for the guests because it's still too cold (in the cold weather). They'd like to get through the Country Fair Weekend and Halloween Parade, then discontinue for the year. May and early September are the best times for outdoor dining.

Rosenthal asked if the back side of the building that faces Commerce, would it be open face or closed?

Bonnet said they left fresh air come in from the sides to keep it safer – three sides are closed when its colder to keep the heat in.

Baranski asked about the drawing and if the dining area is separated by 10 feet from the dining area to the street?

Bonnet said yes, the sidewalk plus a vehicle width lane before the traffic lane is between the enclosure and the traffic / parking. The sidewalk will not be impeded.

Baranski agreed that it appeared to be at least 10 feet at a glance.

Cook asked if that's where there will be curbside pickup as well?

Bonnet said yes, it was, but they do not plan to do curbside pickup during non-Covid times. He would much rather seat guests than have it to-go orders.

No one spoke in opposition to the request.

**MOTION:** Bochniak moved, seconded by Cook to close the public hearing for Cal. No. 21S-02.

Motion carried on voice vote.

**MOTION:** Bochniak moved, seconded by Nybo to draft a positive Finding of Fact for Cal. No. 21S-02 as written.

Discussion:

Bochniak read 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.*

(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.

(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 request met all the approval criteria.

As Roll Call was:

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

Motion carried.

Cal. No. 21S-03, Applicant: Adam Johnson, 211 Fourth Street, Galena, IL 61036 and Owner: Fred Bonnet, 213 N. Main Street, Galena, IL 61036. Location: Parcel: 22-100-164-00, 25' Lot 36 & 33' Lot 37, East Side of Main Street, Original Lots of Galena, Galena, Jo Daviess County, Illinois. Common Address is 213 N. Main Street, Galena, IL 61036. Request for Special Use Permit to allow Outdoor Entertainment as an accessory commercial land use in the Downtown Commercial district.

**MOTION:** Cook moved, seconded by Baranski to open the public hearing on Cal. No. 21S-03.

Motion carried on voice vote.

Fred Bonnet, 213 N Main, Galena, spoke as applicant and owner for the request. He stated the outdoor space lends itself to non-amplified acoustic music. They've had several of the entertainers in the area ask to perform in the tent and this would allow them to do so. In addition to dinner music, this allows guests to enjoy live music.

Cook asked what the hours of entertainment would be?

Bonnet said 1-3 on a Sunday. Normally, in the evening, they do 6-9PM. He does not want it to be open late.

Baranski asked if there's a specific ordinance for this regarding time and if it's within the range of time and decibels it should be okay?

Oldenburg said that is correct.

No one spoke in opposition to the request.

**MOTION:** Bochniak moved, seconded by Cook to close the public hearing for Cal. No. 21S-03.

Motion carried on voice vote.

**MOTION:** Baranski moved, seconded by Bochniak to draft a positive Finding of Fact for Cal. No. 21S-03 as written.

Discussion:

Baranski said he thinks it's a great idea and he knows we have ordinances that control these things. He read 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.*

(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.*

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The request met all the approval criteria.

As Roll Call was:

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

Motion carried.

### **OTHER BUSINESS**

Jansen asked the City Attorney about whether the Chair can make or second a motion?

Nack said it has been our policy that they haven't done that. There isn't a specific law that prohibits it, but it has been our practice.

Rosenthal added that when he was on the Council, the Mayor never made motions or voted in opposition to the majority. He has seen in recent years where that has happened, but he was always under the impression that the Chair does not make motions or vote with the minority.

Jansen said he was aware that the Mayor, when voting, would only break a tie. He doesn't know if that changed or what the source of it was. But, he didn't know if that went for the Chair as well?

Rosenthal said that was his understanding that committee chairs have to follow the Robert's Rules of Order.

Jansen said it doesn't say it in there either.

Rosenthal said everything he's ever been on, the Chair didn't make motions and acted as a tie-breaker.

Jansen asked if we're uncertain, that Joe could confirm for us.

Nack agreed to get that information for him.

### **PUBLIC COMMENTS**

None

**MOTION:** Bochniak moved, seconded by Calvert to adjourn the meeting at 6:51 pm.

Motion carried on voice vote.

Respectfully submitted by

Matthew Oldenburg  
Zoning Administrator