



City of Galena, Illinois

AGENDA

ZONING BOARD OF APPEALS

WEDNESDAY, JANUARY 10, 2023
6:30 P.M. – CITY HALL 101 GREEN STREET

The public may also view the meeting live (no public comment) on the
City of Galena YouTube Channel at:

<http://www.youtube.com/@cityofgalena1826>

ITEM	DESCRIPTION
24Z-2001	Call to Order by Presiding Officer
24Z-2002	Roll Call
24Z-2003	Establishment of Quorum
24Z-2004	Public Comments Not to exceed 15 minutes as an agenda item Not more than 3 minutes per speaker

APPROVAL OF MINUTES

ITEM	DESCRIPTION	PAGE
24Z-2005	Approval of the Minutes of the Regular Meeting of December 13, 2023.	1-4

UNFINISHED BUSINESS

ITEM	DESCRIPTION	PAGE
23V-09	Owner and Applicant: William Nybo. Reading of the Finding of Fact for a request for a variance to install a freestanding sign closer than 10' from the Spring St. right of way at 341 Spring St.	5-8
23S-02 & 23S-03	Applicant: Galena Lions Den, 109 S. Main St. Reading of the Finding of Fact for a Special Use Permit to allow Outdoor Dining and Outdoor Entertainment as accessory commercial land uses in the Downtown Commercial Zoning District.	9-18

NEW BUSINESS

ITEM	DESCRIPTION	PAGE
24S-01	Owner and Applicant: Kathryn Baxa. Request for a Special Use Permit to operate an Artisan Studio at 301 S. Dodge St.. This item will be a Public Hearing.	19-29

OTHER BUSINESS

ITEM	DESCRIPTION	PAGE
24Z-2006	Adjournment	

CALENDAR INFORMATION

BOARD/COMMITTEE	DATE	TIME	PLACE
Zoning Board of Appeals	Wednesday, Feb. 14, 2024	6:30 P.M.	City Hall, 101 Green St.

Posted: January 5, 2024 at 4:00 p.m. Posted By: Sue Simmons

**MINUTES OF THE ZONING BOARD OF APPEALS MEETING OF
December 13, 2023**

23Z-2001 – CALL TO ORDER

Chairperson Rosenthal called the regular meeting to order at 6:30 p.m. in the Board Chambers at 101 Green Street on the 13th of December 2023.

23Z-2002 – ROLL CALL

Upon roll call, the following members were present: Jim Baranski, Bill Spivey, Desiree Einsweiler, & John Rosenthal.

Absent: Roger Gates, Steve Monahan & Dave Jansen

Also, present were Jonathan Miller, Zoning Administrator and Haley Wills, Acting City Attorney.

23Z-2003 – ESTABLISHMENT OF QUORUM

Chairperson Rosenthal announced a quorum of board members present to conduct city business.

22Z-2004 – PUBLIC COMMENTS

None.

APPROVAL OF MINUTES

23Z-2005 – APPROVAL OF THE MINUTES OF THE REGULAR ZONING BOARD OF APPEALS MEETING OF NOVEMBER 8, 2023

Discussion:

Motion: Spivey moved, seconded by Einsweiler to approve the minutes of the regular Zoning Board of Appeals meeting of November 8, 2023.

The motion carried by voice vote.

UNFINISHED BUSINESS

Cal. No. 23V-08 - Owner: Wolff Washes, LLC, and Applicant: Ridge Investment Group, LLC. Reading of the Finding of Fact for a request for a variance to reduce the NE and NW setbacks at 11313 US Hwy 20 W.

Rosenthal read the conclusions, determination, and decision to approve from the finding of fact in the agenda.

Motion: Spivey moved, seconded by Einsweiler to approve the finding of fact to approve the request for a variance to reduce the NE and NW setbacks at 11313 US Hwy 20 W., Cal No. 23V-08.

Discussion: None

Roll Call: AYES: Einsweiler, Spivey, Rosenthal
NAYS: Baranski
ABSENT: Gates, Monahan, Jansen

Cal. No. 23S-02 Applicant: Galena Lion's Den, 109 S. Main St. Reading of the Finding of Fact for a Special Use Permit to allow Outdoor Dining and Outdoor Entertainment as accessory commercial land uses in the Downtown Commercial Zoning District.

23S-03 Applicant: Galena Lion's Den, 109 S. Main St. Reading of the Finding of Fact for a Special Use Permit to allow Outdoor Dining as accessory commercial land uses in the Downtown Commercial Zoning District.

Chair Rosenthal tabled Cal. No. 23S-02 and 23S-03 due to lack of a quorum to vote on these issues.

NEW BUSINESS

Rosenthal swore in those wishing to testify.

Cal. No. 23V-09 Owner and Applicant: William Nybo. Request for a Variance to install a freestanding sign closer than 10' from the Spring St. right-of-way at 341 Spring St.

Motion: Einsweiler moved, seconded by Spivey, to open the public hearing for item 23V-09, a request for a variance to install a freestanding sign closer than 10' from the Spring St. right-of-way at 341 Spring St.

Motion carried by voice vote.

Speaking in favor of the application

William Nybo, 345 Spring Street - Nybo stated he was asking for a variance to install a freestanding sign closer than 10' from the Spring Street right-of-way at 341 Spring Street. The original sign was located at High and Spring Streets. He has since sold two of the four properties and needs a new sign location. The street in front of 349 was moved over causing a hardship. Nybo advised if he were to follow the existing guidelines the new sign would be behind the buildings with no visibility in either direction. Nybo noted other businesses have their signs right on the property line. He is asking for the same. The new sign would be located at the 345 Spring Street location.

Speaking against the application

No one.

Motion: Einsweiler moved, seconded by Baranski, to close the Public Hearing.

Motion carried by voice vote.

Motion: Baranski moved, seconded by Einsweiler, to approve the request for a Variance to install a freestanding sign closer than 10' from the Spring St. right-of-way at 341 Spring St. Item 23V-09.

Baranski read the 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 is 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;

Baranski agrees there is a hardship that is not self-inflicted and causes a hardship that is unique to 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.

This approval will not confer a special privilege on this landowner.

(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.

The literal interpretation of the provisions would deny the applicant the rights commonly enjoyed by other properties.

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

It is a reasonable request. In order to derive reasonable use of his property, the request should be granted.

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

It is the minimum necessity.

(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 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.

It is compatible with adjacent properties because the sign would be consistent with the others.

(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

This is in compliance with the conformances of this code.

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

It is consistent with the Comprehensive Plan.

Discussion: None.

Roll Call: AYES: Baranski, Spivey, Einsweiler, Rosenthal
NAYS: None
ABSENT: Gates, Monahan, Jansen

OTHER BUSINESS

None

22Z-2006 – ADJOURNMENT

Motion: Einsweiler moved, seconded by Baranski to adjourn.

The motion carried by voice vote.

The meeting was adjourned at 6:43 p.m.

Respectfully submitted,

Mary Beth Hyde
City Clerk

CITY OF GALENA, ILLINOIS

101 Green Street, Galena, Illinois 61036



DECISION

ZONING BOARD OF APPEALS OF THE CITY OF GALENA

REGARDING

CALENDAR NUMBERS: 23V-09

APPLICATION BY: William Nybo, 345 Spring St., Galena, IL 61036.

FOR: A Variance to install a freestanding sign closer than 10' from the Spring St. right of way at 341 Spring St., Galena, IL 61036

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on December 13, 2023. The hearing was advertised in an edition of the Galena Gazette that was available to the general public between 15 and 30 days prior to the hearing. Letters were sent out to notify property owners within 250 feet of subject property of the request and public hearing date. They were invited to testify if they so desired. A quorum of the Board was present at the hearing in which the subject application and materials were reviewed and all persons were heard who desired to testify.

NATURE OF APPLICATION

The applicant is requesting a Variance to allow the installation of a freestanding sign within 10 feet of the Spring St. right of way at 341 Spring St. Per ordinance, freestanding signs are to be situated at least ten feet from the public right of way.

The applicant is requesting the variance at 341 Spring St. due to the limited space between the Greenbriar Suites structure and the right of way. Ten feet from the Spring St. right of way is approximately the location of the SW side of the applicants Bed and Breakfast. If the sign were required to be placed at least ten feet from the right of way, it would be located behind the sides of the structure and far less visible from the highway.

The sign location for the Galena Inn across the highway is in a very similar location as to what the applicant is requesting and within the required 10 foot right of way buffer.

Staff recommends approval of this variance due to the limited space the applicant has for their proposed freestanding sign.

PUBLIC SUPPORT AND/OR OBJECTIONS

In accordance with Article 9, Table 154.918.1 of the City of Galena Zoning Ordinance, a public hearing was held for the Special Use Request and Variance. The Zoning Board of Appeals heard testimony regarding the application from the applicant and the public.

Since the Zoning Board of Appeals is not bound by the strict rules of evidence, substantial latitude is procedurally given in all cases to the kind of evidence that may be made a part of the record. In this case, all testimony and exhibits entered into the record were evaluated and given weight by Board members on the basis of credibility and factuality.

The following persons presented testimony during the public hearings. Their testimony was recorded in the official minutes of the hearing, which are hereby made a part of the findings.

Testimony Presented on Behalf of the Applicant and in Support of the Proposal:

William Nybo, 345 Spring Street - Nybo stated he was asking for a variance to install a freestanding sign closer than 10' from the Spring Street right-of-way at 341 Spring Street. The original sign was located at High and Spring Streets. He has since sold two of the four properties and needs a new sign location. The street in front of 349 was moved over causing a hardship. Nybo advised if he were to follow the existing guidelines the new sign would be behind the buildings with no visibility in either direction. Nybo noted other businesses have their signs right on the property line. He is asking for the same. The new sign would be located at the 345 Spring Street location.

No further testimony was presented in support of, or opposition to, the proposal.

APPLICABLE SECTIONS OF THE ZONING ORDINANCE

- Section 154.005 sets forth the Intent and Purpose of the Zoning Ordinance.
- Section 154.201 (C) (6) provides a definition and description of the Downtown Commercial District.
- Section 154.800 sets forth the Intent, Purpose, and Requirements of the Signage Regulations.
- Section 154.914 lists the criteria for Site Plan Review.
- Section 154.925 sets forth the Purpose, Applicability, Review Criteria, Decision Maker, Application and Review Procedures, and Validity for Variances.

CONCLUSIONS

In applying the regulations and pertinent performance standards of the Zoning Ordinance to this particular case, the following conclusions are reached:

1. The subject property is located in the Downtown Commercial Zoning District on Spring St.
2. The applicant seeks a Variance to allow a freestanding sign to be placed within the required 10' setback from the Spring St. right of way for freestanding signs.
3. The proposed freestanding sign will be located between the Greenbriar Suites structure and the property line/Spring St. right of way.

DETERMINATION

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by William Nybo for a variance to allow a freestanding sign to be placed closer than 10' from the Spring St. right of way be approved for the following reasons.

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; *The hardship is not self-inflicted and is unique to 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; *It will not.*
3. *Literal interpretation.* The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant; *Yes.*
4. *Reasonable use.* The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance; *Yes.*
5. *Minimum necessary.* The variance is the minimum necessary to make possible the reasonable use of land or structures; *Yes.*
6. *Compatible with adjacent properties.* The variance will not be injurious to, or reduce the value of, the adjacent properties or improvements or be detrimental to the public health, safety or welfare. In granting a variance, the decision-maker may impose conditions deemed necessary to protect affected property owners and to protect the intent of this code; *Yes.*
7. *Conformance with the purposes of this code.* The granting of a variance will not conflict with the purposes and intents expressed or implied in this Code; and, *Yes.*
8. *Conformance with the Comprehensive Plan.* The granting of a variance will not conflict with the goals and principles in the adopted Comprehensive Plan. *Yes.*

DECISIONS

Cal. No. 23V-09

NOW, THEREFORE BE IT RESOLVED, that this Zoning Board of Appeals has determined that this request by William Nybo for a Variance to allow a freestanding sign to be placed within 10' of the Spring St. right of way should be approved.

PASSED AND APPROVED this 13th day of December, A.D. 2023, by the Galena Zoning Board of Appeals by a vote of 4 ayes, 0 nays, 3 absent, 0 abstain, 0 recused.

John Rosenthal, Chairperson

CITY OF GALENA, ILLINOIS

101 Green Street, Galena, Illinois 61036



DECISION

ZONING BOARD OF APPEALS OF THE CITY OF GALENA

REGARDING

CALENDAR NUMBERS: 23S-02 & 23S-03

APPLICATION BY: Galena Lions Den, 109 S. Main St., Galena, IL 61036.

FOR: A Special Use Permit to allow Outdoor Dining and Outdoor Entertainment as accessory commercial land uses in the Downtown Commercial District.

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on June 14, 2023. The hearing was advertised in an edition of the Galena Gazette that was available to the general public between 15 and 30 days prior to the hearing. Letters were sent out to notify property owners within 250 feet of subject property of the request and public hearing date. They were invited to testify if they so desired. A quorum of the Board was present at the hearing in which the subject application and materials were reviewed and all persons were heard who desired to testify.

NATURE OF APPLICATION

The applicant is requesting a Special Use Permit to allow Outdoor Dining and Entertainment as accessory commercial land uses in the Downtown Commercial District. These land uses are allowed by Special Use Permit only in the Downtown Commercial District.

The applicant proposes to offer the open space behind their building at 109 S. Main St., The Lions Den, for dining and entertainment. The rear of the property, which the patio area is located, faces the rear of parcels that face S. Bench St. The patio is enclosed on SE side by the rear wall of 109 S. Main St., the NE side by the side wall of 107 S. Main St., the NW side by a stone wall, and is open on the SW side to the patio of 111 S. Main St. The applicant would like to accommodate their guests to enjoy the outdoor area in the rear of the building within the parameters of the Special Use Permit regulations. This use serves as an accessory use to the principal commercial land use on the ground floor that is considered to be Indoor Commercial Entertainment (Restaurant).

The area of the proposed outdoor use is less than the 15% required area of the principal use.

Surrounding Zoning Districts are Downtown Commercial on all sides.

Land uses include Commercial, Tourism, Apartments, Single Family, and a Vacation Rental.

PUBLIC SUPPORT AND/OR OBJECTIONS

In accordance with Article 9, Table 154.918.1 of the City of Galena Zoning Ordinance, a public hearing was held for the Special Use Request and Variance. The Zoning Board of Appeals heard testimony regarding the application from the applicant and the public.

Since the Zoning Board of Appeals is not bound by the strict rules of evidence, substantial latitude is procedurally given in all cases to the kind of evidence that may be made a part of the record. In this case, all testimony and exhibits entered into the record were evaluated and given weight by Board members on the basis of credibility and factuality.

The following persons presented testimony during the public hearings. Their testimony was recorded in the official minutes of the hearing, which are hereby made a part of the findings.

The following testimony is from the June 14, 2023 regular meeting of the ZBA.

23S-02, Testimony Presented on Behalf of the Applicant and in Support of the Proposal:

Roger Gates, applicant, 814 Young St., Galena, IL. Thanked the board. Explained he purchased the building about 1 year ago and began a 11-month major renovation. The project still desired a back patio. He cleared a lot of junk out to get an area for a patio. His property is on Main St and the 2 properties to the rear are also his. It is a commercial area with some residences. Asking for the same approval as Gobbies, Fried Green Tomatoes, and what Otto's was approved for last year.

He explained he owns the property behind the building as well as an Airbnb behind it on Bench.

Noemi Medler, 120 S Bench St., spoke from her seat and asked where Roger got information that Bench St was Commercial area?

Roger said from the city.

Christine Stafford, 811 Franklin St., Manager of the Lion's Den, stated many restaurants have access to outdoor dining space. This area is a submerged space with walls 13 ft high. They are trying to be quiet and courteous to the neighbors. She reiterated that the land adjacent to the rear is owned by Roger and that they have an easement on the other neighbor's property for access.

Rosenthal asked If there is a bar outside on the diagram and if there was seating for about 17?

Laity said the diagram shows 17 and will it stay that way?

Christina Stafford answered high tables can be put out for standing and eating.

Laity asked how people can dine without tables?

Monahan asked what is the max capacity for this area per the Fire Marshall?

Miller stated, by code, the area has a limit of 29 people.

Rosenthal asked if you can access this area from the alley/empty lot?

Christina Stafford replied they are telling patrons not to enter from the back.

Gates replied they have the steps and bridge for evacuation purposes only. The alleyway stops- He has a legal easement with neighbor Hector Warez to use the property as they used it during the construction.

Rosenthal asked if there were any more questions from the board? Would anyone else like to speak in favor of this proposal?

Matthew Knautz, 511 Mars Ave., spoke in favor as owner of Matthews Haunted Ghost Tours. He stated that his tours are there for 1 hour. People/tourists want to be outside if possible. It is very relaxing to be outside. He uses his voice only with no amplification.

Einsweiler asked what time the tours go on here for that hour?

Matthew said Friday and Saturday, 9:30 p.m. to 10:30 p.m. Sunday through Thursday, 8:30 p.m. to 9:30 p.m.

Lenny Hosey, 117 S. Bench St., said he is not in favor nor against this. He lives next to Turner Hall. He stated outdoor dining in the daytime shouldn't be a problem. Later dining is louder, and people are partying more at night. Noise monitoring after dusk needs to be done.

23S-02, Testimony Presented in Opposition of the Proposal:

Dennis Leonard, 102 N Bench St. said he is against this. He does tours for Blaum Brothers, and you have to use a microphone to be heard in a crowd of 20 people. He stated there is nothing back in the alley to stop anyone from walking back there. Also said it is awfully buggy back there, and probably not wise for dining.

Marcus Medler, 120 S Bench St. said he has been unable to use his building on Bench St as commercial for the past 10 years. His concern is what happened when they opened up the city to Airbnb's and then slammed the door on that. To have outdoor dining is silly when we live where there is 5 months of winter. He does not understand why Bench St is a part of this. People exit from the bar and wander that ally drunk. They don't need more chaos! He wants more information on this and doesn't feel it's being properly addressed.

John Tebrugge, 100 S Bench St., read from a letter. He is the owner of Tebrugge Engineering and wants to make sure all compliances meet fire safety and engineering. Example, the parking behind the building on the gravel and grass in Hectors yard. 2nd item was the dumpster in the city easement. Garbage trucks cannot make their turn to get in there so they must stop and pull dumpsters down the alley to the street which blocks traffic. When they are throwing trash out in the dumpster it's loud with the bags of glass and such. Hill St. is now where deliveries are being made. They have had to have the drivers move so they can get out and get to appointments. All these sounds transfer right through that alley way and through units. The drawing shows no tables for normal dining, and only 17 chairs. They did not have a permit to build an outside bar when this is not even approved for outside use. The walls of this space are brick and limestone and that is going to amplify the noise right up Hill St. He can't imagine having another 20-25 loud drunk people behind his house on a ghost tour. It will be detrimental to the property values, along with the peace and quiet of the homeowners.

Mark Douglas, 119 S Bench St. One thing that brought him here to Galena was the magic of the city, Bench St, and Turner Hall next door. He can hear things through the valley as if it's right in his back yard. He has been to the Lion's Den. Great job of renovating it and thinks it's a fabulous place. Doesn't know if outdoor dining or additional noise is crucial to the business succeeding. He thinks closing Main St like they did during the pandemic would be a better fit. He is opposed to the dining in back.

Marilyn Tebrugge, 100 S Bench St., read from a letter. She said this variance will impact the neighborhood negatively, with noise and commotion, as it already has. Last October, specifically Halloween weekend, there was a large party on the bridge of building. Loud noises awakened them at 11:30, 3:30, and 5:30. There are more times that they are loud and then we are awakened. Many times, we have watched people leaving on the bridge and going down the alley. Please don't approve the request.

23S-02, Rebuttal:

Roger Gates, 814 Young St., stated that the seating was drawn by Marty Johnson for the purpose of Matthews ghost tours. There will probably be very little dining. There are signs posted on the doors to not use the bridge or steps for exit or smoking. A dumpster fence was built to be able to put totes out in alley instead of the dumpster. He has been working with Waste Management on this. He said they were really looking at letting people take a beer out on the patio during the tour more than dining.

Christine Stafford, 811 Franklin St., said the police came through when there was a noise complaint and they said there was no noise. How do they differentiate noise from Main St and from the Lion's Den?

Marcus Medler, 120 S Bench St., said he is still confused on why Bench St is included? The outside dining room that looks like a bar. He said they probably cannot have a liquor license without food. It's just a rouse on outdoor dining when it's a bar outside. It effects Bench St residents. Other businesses will follow and ask for outdoor dining, which will cause more negative impact on the residents. Gates bought the vacant lot 2 years ago and is stuck with it, so he decided on a way to connect to his Main St bar. Now you will need to re-access your rule on how to use vacant lots. You're going to open a pandoras box.

Monahan asked if the patio area is on the Main St property or the Bench St property?

Miller replied that it is located on the Main St parcel.

Noemi Medler, 120 S Bench St., asked if the additional patio would become an entrance or exit to the bar? If it is there is no way you can contain people, there. How does this help the community or residents? The World Health Organization and CDC have reports on the noise and the decibels of speaking. Old people go deaf. Parking is already an issue. Just put yourself on Bench St. Consider noise a health hazard.

Roger Gates, 814 Young St., stated the back area is emergency exits and they will enforce them as best they can. They have bouncers there on Friday and Saturday nights. Employees may go through them. He feels this is the most code compliant building downtown. Covid started the great reviews of outdoor dining. The air conditioner units will mute the noise.

Rosenthal – stated the diagram shows seating but if you did tables, it would accommodate less?

Roger Gates, 814 Young St., said the footprint of the structure is 15x20 and is really for Matthews smaller groups.

Monahan asked if they thought about adding a crash bar and alarm to stop patrons from going out the 2nd story back door.

Laity asked how far out the lot goes.

Roger Gates, 814 Young St., said it goes all the way back to Bench St. He bought it 2 years earlier about 1 ½ years prior to buying the building. He bought it so no one built next to his Airbnb.

Laity asked if they could build a separation wall to solve the problem of people walking there.

Roger Gates, 814 Young St., said Employees can be asked to not use that exit. The ally way has utilities there and the fire department needs to be able to get back there.

23S-03, Testimony Presented on Behalf of the Applicant and in Support of the Proposal:

Roger Gates, 814 Young St., said testimony is the same reason -applying for Matthews Haunted Tour.

Christine Stafford, 811 Franklin St., said she filled out the application. They will not do any acoustic on Sundays so the only use would be Matthews Haunted Tours.

Lenny Hosey, 117 S. Bench St., said Matthew's ghost tours are really nice and not loud. He doesn't use amplification. Other things outside could still cause issues if it's a bar situation. He is still on the fence, but he can see it working if it is governed right.

Matthew Knautz, 511 Mars Ave. Trip advisor shows he is #1 activity at night for the past 3 years. He hates microphones. Groups listen so they can hear what he is saying. They are quiet as they pay for the tour, so they want to hear.

23S-03, Testimony Presented in Opposition of the Proposal:

Dennis Leonard, 102 N Bench. I do tours at Blaum Brothers for 35 people, and I have to use a microphone. He must raise his voice to be heard and it will project up those walls to Bench St. I don't believe the fact of what they say will happen. Trip advisor reviews for Lion's Den say "It's a great place to see. "I think employees are putting reviews on there. One was from an employee acting like a tourist. It was from the one that just died. He doesn't think the board can decide based on tonight.

Suzanne Sproule, 116A S Bench St. Four years ago, we moved home to Galena. We live across from Turner Hall we knew we would have some noise. Turner hall stops at 10 p.m. Since Lion's Den opened, they have been awakened 3 weekends in a row with screaming and loud noise. The bedroom is in the front of the house and the noise is still loud. It is affecting their health and causing a lot of stress.

Marcus Medler, 120 S Bench St., wanted clarification is this a Pub Crawl Ghost Tour with music?

Miller stated outdoor entertainment. Whatever Matthew does on his tour.

Marcus Medler, 120 S Bench St. So, it is just storytelling and drinking.

John Tebrugge, 100 S Bench St., asked what the city is going to do when 20-30 people are down there drinking and it reaches a high decibel? How will you take it back so residents can have peace?

Noemi Medler, 120 S Bench St. In the application it said all complying with things in zoning rules. Went to the City of Galena web site. It talks about how commercial is separate from the residential areas. We have no parking because everyone uses Bench St to park when they visit. We can't park by our homes. Have a heart. I'm getting old.

There was no further testimony.

The decision of the ZBA at the June 14, 2023 regular meeting to approve 23S-02 and 23S-03 was appealed by a neighboring property owner. At the August 14, 2023, regular meeting of the City Council, the council reviewed the minutes of the June 14, 2023 ZBA meeting and chose to remand the original decisions back to the ZBA.

The following testimony is from the regular meeting of the City Council on August 14, 2023.

23C-0305 – DISCUSSION AND POSSIBLE ACTION ON AN APPEAL BY JOHN TEBRUGGE OF DECISION BY THE ZONING BOARD OF APPEALS ON SPECIAL USE PERMITS 23S-02 AND 23S-03 FOR THE LION’S DEN, 109 S. MAIN STREET

Motion: Westemeier moved, seconded by Johnson, to remand the decisions back to the Zoning Board for further clarification, 23C-0305.

Discussion: Westemeier was in favor of sending it back to the Zoning Board to see if things could be worked out. Johnson agreed, stating she felt the Zoning Board could make the language easily understandable to the citizens as to exactly what is allowed and the times.

Kieffer noted the restrictions are all laid out on page 60 of the packet. He was opposed to sending it back to the Zoning Board.

Tegtmeyer noted there are two special use permits. She was in favor of upholding the appeal on the outdoor dining, 23S-02. Tegtmeyer noted, according to the meeting notes, owner, Roger Gates, said there would be very little dining. It would mostly be letting people take beer out during the tour. In the original application, it showed seventeen chairs and no tables for dining. She feels the appeal has some validity due to the inconsistencies in the language of the approval and the fact that they are not actually using it for dining.

Tegtmeyer stated the second part was for outdoor entertainment. Tegtmeyer noted a number of people at the Zoning Board meeting expressed concern about the noise level and what it would mean for them. Tegtmeyer recommended allowing them to continue on to the end of the season. At that time, it could be reviewed, and a determination could be made as to whether or not they met all of the requirements that the Zoning Board said they had to meet. If all things were met, they could then be given the long-term permit in 2024.

Westemeier noted amplification was not allowed and doors must be closed when there is music inside. He recommended changing the hours to 8 p.m. on weekdays and 9 p.m. on weekends and taking a look at the walking tour to see what type of noise they make.

Wienen does not feel the area is suitable for outdoor dining as it is a highly residential area. She was in favor of sending it back to the Zoning Board to see if they could come up with something more palatable for everyone.

Tegtmeyer noted they have already been approved on the condition that it is acoustic sound only and it must end at 9 p.m. on the weekdays and 10 p.m. on the weekends.

Bernstein voiced concern, since the owner stated they would not do much in the way of outdoor dining, she feels they are asking for an outdoor bar. Bernstein was opposed to an outdoor bar.

Westemeier noted the original approval states no music permitted outdoors. Kieffer feels the Zoning Board has already spelled it out clearly.

Renner noted they are zoned downtown commercial, and this is allowed. He noted the homes abutting the property are also in downtown commercial. Renner questions why they would want to do this behind the Lion's Den. Renner agreed it appears they want an outside bar to which he is opposed. Renner stated he agrees the owner does not want to have outdoor dining at this time. He agreed that something could be worked out for the ghost tours a couple of nights per week. Renner was in favor of sending it back for clarification.

Westemeier stated he would like the Zoning Board to review the following:

1. Outdoor Entertainment Operation Times
2. No Amplified Sound
3. Enter and Exit through the Main Street Side
4. No Music Permitted
5. Occupant Load

Tegtmeyer questioned if the Council wanted to keep in the 6-month review for both of the special use permits. Renner recommended keeping the review at a year.

Wienen stated she feels outdoor dining is a moot point. It is what happens after outdoor dining that is loud and busy. She feels both permits need to be dealt with together. Wienen was in favor of reviewing after a year.

Tegtmeyer stated the reason she considered 6 months is because of the season. It would be better to review prior to the next season starting.

Roll Call: AYES: Johnson, Tegtmeyer, Westemeier, Wienen, Bernstein, Renner
NAYS: Kieffer

The motion carried.

The City Council would like clarification to the approved Special Use Permits Conditions and recommended that a 12-month time limit be placed on the Special Use Permits, and they are to be reviewed again in 12 months by the ZBA.

At the regular meeting of the ZBA on November 8, 2023, the following decisions were made.

Cal. No. 23S-02 & 23S-03 Remand of the Special Use Permits previously granted to the Galena Lion's Den, 109 S. Main St., to allow Outdoor Dining and Outdoor Entertainment as accessory commercial land uses in the Downtown Commercial Zoning District.

Baranski and Gates recused themselves and left the room.

Discussion:

Monahan asked if what we need to do was just clarify the specific days?

Rosenthal said nothing prohibits the use of alley, it's city property.

Monahan said it's correct, it's public property.

Miller clarified that behind the Lion's Den is not alley, it is the back of the building.

Rosenthal wondered why it even had to be clarified. He said they need to say no restrictions or go with it the way the originally stated.

Einsweiler said she felt they were very clear on it and it should pass as is.

Miller said to maybe clarify the days only.

Monahan said if they met intent only specifications on dates. Jansen concurred. There was discussion on whether it goes back to council with clarification.

APPLICABLE SECTIONS OF THE ZONING ORDINANCE

- Section 154.005 sets forth the Intent and Purpose of the Zoning Ordinance.
- Section 154.201(C)(6) provides a definition and description of the Downtown Commercial District.
- Table 154.204.1 lists the Bulk Standards for Non-Residential Structures.
- Table 154.208.1 lists the Density Standards for Non-Residential uses.
- Table 154.403.1 lists the permitted land uses in each zoning district.
- Section 154.406 (K) provides the detailed land uses regulations for Accessory Commercial Land Uses.
- Section 154.914 lists the criteria for Site Plan Review.
- Section 154.924 sets forth the Purpose, Applicability, Review Criteria, Decision-Maker, Application and Review Procedures, and Validity for Special Use Permits.

CONCLUSIONS

In applying the regulations and pertinent performance standards of the Zoning Ordinance to this particular case, the following conclusions are reached:

1. The subject property is located in the Downtown Commercial Zoning District.
2. The applicant seeks a Special Use Permit to allow Outdoor Dining and Outdoor Entertainment as accessory commercial land uses in the Downtown Commercial District.
3. Outdoor Dining and Outdoor Entertainment as accessory commercial land uses are only allowed by Special Use Permit in the Downtown Commercial District.

DETERMINATION 23S-02

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the requests by the Galena Lions Den, for a Special Use Permit to allow Outdoor Dining as an accessory commercial land use in the Downtown Commercial District should be approved for the following reasons:

1. The site plan review met the criteria for this request.
2. The request is compatible with the district standards for the Downtown Commercial District and is consistent with the defining characteristics of the district.
3. The specific standards for the Downtown Commercial District are met.

4. Complimentary uses are available as the subject property is located in the Downtown Commercial District.
5. The requests compatibility with adjoining properties through:
 - a. The protection of privacy is met;
 - b. The elements of the plan to have a minimal negative impact on the use and enjoyment of adjoining property is met; and
 - c. The elements of the plan will coexist in a harmonious manner with nearby existing properties.

DETERMINATION 23S-03

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the requests by the Galena Lions Den, for a Special Use Permit to allow Outdoor Entertainment as an accessory commercial land use in the Downtown Commercial District should be approved for the following reasons:

1. The site plan review met the criteria for this request.
2. The request is compatible with the district standards for the Downtown Commercial District and is consistent with the defining characteristics of the district.
3. The specific standards for the Downtown Commercial District are met.
4. Complimentary uses are available as the subject property is located in the Downtown Commercial District.
5. The requests compatibility with adjoining properties through:
 - a. The protection of privacy is met;
 - b. The elements of the plan to have a minimal negative impact on the use and enjoyment of adjoining property through the given contingencies; and
 - c. The elements of the plan will coexist in a harmonious manner with nearby existing properties.

DECISIONS

Cal. No. 23S-02

NOW, THEREFORE BE IT RESOLVED, that this Zoning Board of Appeals has determined that this request by the Galena Lions Den for a Special Use Permit to allow Outdoor Dining as an accessory commercial land use in the Downtown Commercial District should be approved.

PASSED this 8th day of November, A.D. 2023, by the Galena Zoning Board of Appeals by a vote of 5 ayes, 0 nays, 0 absent, 0 abstain, 2 recused.

John Rosenthal, Chairperson

Cal. No. 23S-03

NOW, THEREFORE BE IT RESOLVED, that this Zoning Board of Appeals has determined that this request by the Galena Lions Den for a Special Use Permit to allow Outdoor Entertainment as an accessory commercial land use in the Downtown Commercial District should be approved with the following conditions.

1. Outdoor Entertainment shall not operate past 9:00 p.m. Sunday to Thursday and 10:00 p.m. on Friday and Saturday.
2. There shall be no sound amplification, and the outdoor entertainment shall be limited to walking tours.
3. All patrons shall enter and exit through the Main St. side of the building except for in the case of an emergency.
4. No music shall be permitted.
5. The occupant load of the permitted space shall be limited by City of Galena adopted building codes.

PASSED this 8th day of November, A.D. 2023, by the Galena Zoning Board of Appeals by a vote of 5 ayes, 0 nays, 0 absent, 0 abstain, 2 recused.

John Rosenthal, Chairperson

CITY OF GALENA, ILLINOIS

101 Green Street • P.O. Box 310 • Galena, Illinois 61036



MEMORANDUM

TO: The Zoning Board of Appeals

FROM: Jonathan Miller, Zoning Administrator

DATE: January 2, 2023

RE: Cal. No. 24S-01, Owner and Applicant: Kathryn Baxa, 301 S. Dodge St., Galena, IL 61036. Location: Parcel: 22-100-783-00, Original Lots Block 18 Pt Lot 2, Galena, Jo Daviess County, Illinois. Common Address is 301 S. Dodge St., Galena, IL 61036. Request for a Special Use Permit to operate an Artisan Studio in the Low-Density Residential Zoning District.

Summary:

The applicant is requesting a Special Use Permit to operate an Artisan Studio in the Low-Density Residential District. This commercial land use is allowed by Special Use Permit only in the Low-Density Residential District.

The applicant would like to use approximately 200 square foot of space in her home at 301 S. Dodge St. as an artisan studio. The space will include a worktable, pottery wheels, other pottery equipment, and items for sale. While working in the studio, people would be able to see how a piece of pottery is made, take instruction, and have the opportunity to purchase a finished piece.

The Artisan Studio is approximately 200 square feet in size and would require 1 off-street parking spaces per ordinance. The driveway accessed from Green St. has enough room for the 2 parking spaces off the street.

Surrounding Zoning Districts are Low Density Residential on all sides.

The request meets the criteria for an Artison Studio in the Low-Density Residential District. Staff feels that this will have a very minimal impact, if any, on the surrounding neighborhood and recommends approval of this request.

Special Use Permit 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.

CITY OF GALENA, ILLINOIS



Request for Special Use Permit

Name: Kathryn Baxa

Address of Applicant: 301 S. Dodge St. Galena, IL 61036

City State Zip

Phone #: 815 592-4698 Email: baxakat@gmail.com

Name of Property Owner (if different from applicant): _____

Address of Interest: 301 S. Dodge St. Galena, IL 61036

Present Use of Property: residence Proposed Use: residence/artisan studio

Zoning District: _____ Within Historic District?: Yes No

Reason for Special Use

Please Note: The following questions must be answered completely. If additional space is needed, place attach extra pages to the application.

Please provide a written statement explaining the nature of the proposed special use: _____

See attached

Explain how the propose use or expansion is necessary or desirable to provide a service or facility which is in

the interest of the public convenience: see attached

Explain how the proposed use or expansion will contribute to the general welfare of the neighborhood or community: see attached

Will the proposed use or expansion create noise, glare, vibration, odor, or in any other way be detrimental to the health, safety, morals, or general welfare of persons working or residing in the vicinity?

Yes No If yes, please explain: _____

Supplemental Data

1. Provide photographs showing various pertinent views of the existing site and buildings.
2. Provide a map that shows the location of the property in the broad context of the City or neighborhood.
3. Provide building, structure, and sign plans to such a scale that all pertinent features are legible, if applicable.
4. Identify the general land use, zoning, and any special characteristics of the adjacent properties to the north, south, east, and west.

North: LDR

South: LDR

East: LDR

West: LDR

Reasons for special use Permit.

1. I plan to use a portion of my residence as a pottery studio. In this studio I produce functional and sculptural ceramics. It is my intention to offer personal instruction to 1 or 2 interested individuals, at a time, much like a music teacher would give lessons. Additionally, I have an area for display of my work that can be purchased, although, I primarily market my work through art shows, fairs and the Galena Farmers Market.

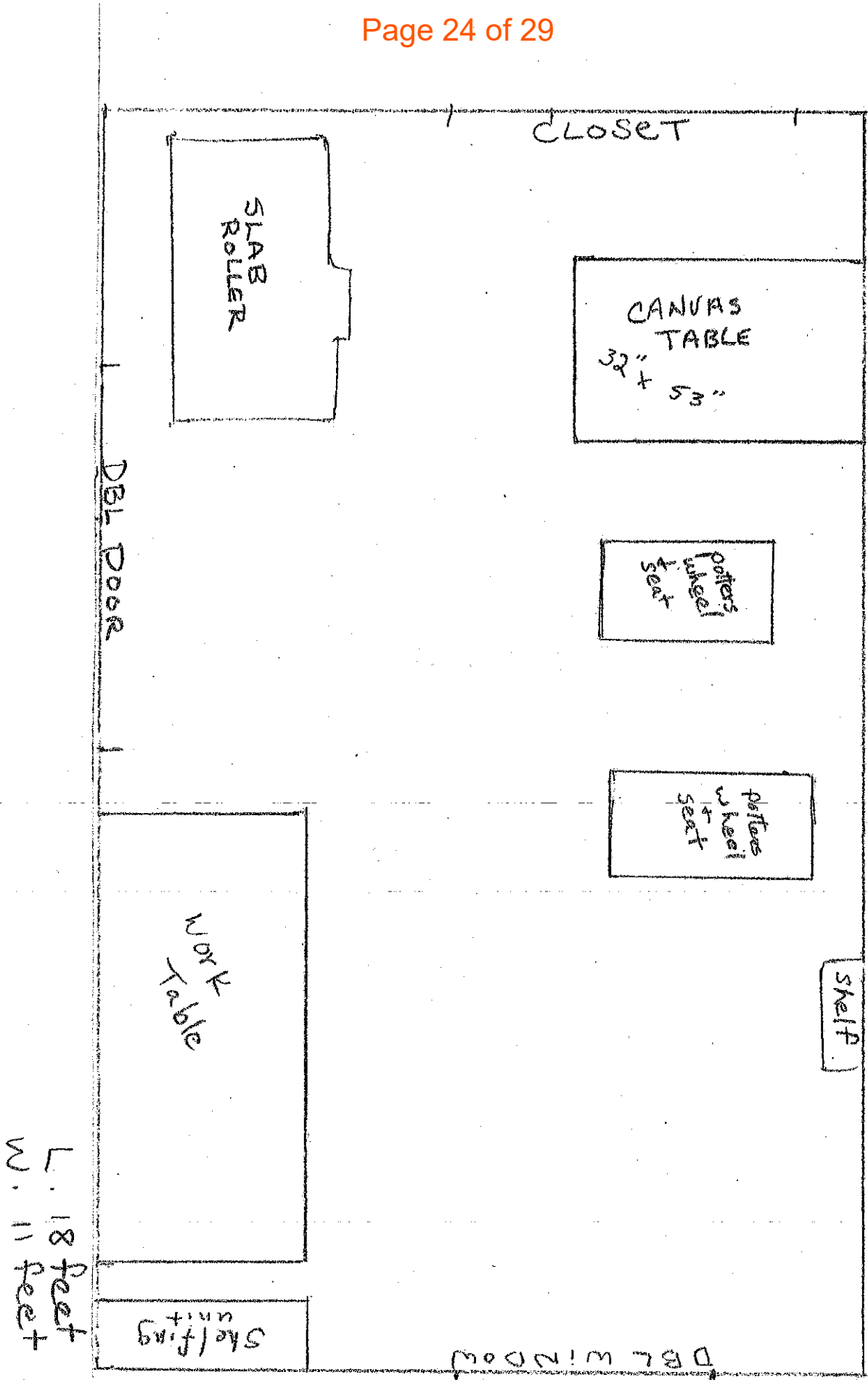
I am a member of the **All River Road Talent/Scenic Art Loop**: This organization promotes artists and artisans and many Galena businesses by website and a map of participants' locations. It is customary for members to post an "Open House" on the first weekend of the month. Sometimes I have guests for these open houses. Sometimes I don't have any visitors to the studio and there has never been an excess of vehicle traffic due to my activity. I have street parking and space for 4 cars in my driveway. My property has an entry sidewalk to the front door for easy access.

2. Galena attracts many visitors with a variety of interests and has been a draw for artists and people who support the arts. Interested individuals can see some of the pottery process and learn about clay work. Having artists working in the community contributes to the appeal of Galena.

3. In my neighborhood I have had a few neighbors stop by at my "open house" and their comments were positive and that my artwork is interesting. They had no concerns that what I was doing posed any negative impact to them.

4. General Welfare of the neighborhood

Some of my neighbors are part time residents. Some of my neighbors work from home. There are neighboring Inns and Bed and Breakfast properties, which are certainly more of a commercial use than my pottery studio. Galena should be a city that welcomes all ages, interests and income levels. Pottery and claywork is varied and unique and an almost limitless media for expression. There are many interpretations, and varied forming techniques that allows for diversity in the type of artwork produced. Having artists mixed into the neighborhood is an enhancement to the community.



CLOSET

SLAB
ROLLER

CANVAS
TABLE
32" x
53"

potter's
wheel
+ seat

potter's
wheel
+ seat

Work
Table

Shelf

Shelving
unit

DBL WINDOW

DBL DOOR

L: 18 feet
W: 11 feet







