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Zoning Coordinator

**Planning Commission of Galena**

101 S. Main Street, Galena, Maryland 21635

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**IN THE MATTER OF THE APPLICATION OF:**

(Name and Address of Applicant)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR OFFICE ONLY: CASE NO.

DATE FILED:

FILED BY:

Planning Commission

Applicant

TO THE **GALENA** BOARD OF APPEALS: In accordance with  
ARTICLE \_\_\_\_\_ SECTION \_\_\_\_\_

Of the **GALENA Zoning Ordinance**, as amended, a request is hereby made for:

APPEALING DECISION OF **GALENA** Zoning Coordinator \_\_\_\_\_ Special Exception \_\_\_\_\_

Variance \_\_\_\_\_ Conditional Use \_\_\_\_\_ Interpretation \_\_\_\_\_

**DESCRIPTION OF PROPERTY INVOLVED:**

Location: \_\_\_\_\_

Size of Lot or Parcel of Land: \_\_\_\_\_

List Building(s) currently on Property: \_\_\_\_\_

If Subdivision, list Lot and Subdivision number: \_\_\_\_\_

PRESENT ZONING OF PROPERTY: (circle one) R1 R2 C1 C2 INS

DESCRIPTION OF RELIEF REQUESTED: (List in detail your request in making a change on your property that requires an Appeal Hearing).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If appealing decision of the Zoning Coordinator, list date of decision here: \_\_\_\_\_

Present owner(s) of Property: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

If Applicant is not the owner, indicate your interest in the property: \_\_\_\_\_

Has the property involved ever been subject of previous application? \_\_\_\_\_

If yes, give Case Number and Date: \_\_\_\_\_

**PLEASE FILL IN BELOW AND ATTACHED HERETO A SKETCH OF THIS PROPERTY**

- List all property measurements and dimensions of any buildings currently on the property.
- Add the distance between buildings or proposed buildings and property lines.

**NAMES OF ADJOINING PROPERTY OWNERS with LETTERS OF CONSENT**

(These must be listed or the application cannot be processed)

**Owner(s) of the North:** \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Owner(s) of the East:** \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Owner(s) of the West:** \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Owner(s) of the South:** \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant or agent or Attorney

\_\_\_\_\_  
Date

Please file this form with the Zoning Coordinator, accompanied by the filing fee and a sketch of the subject property. The sketch should show the shape of the property, property dimensions, existing and proposed buildings, and setbacks from all property lines.

If Applicant is not the owner, indicate your interest in the property: \_\_\_\_\_

Has the property involved ever been subject of previous application? \_\_\_\_\_

If yes, give Case Number and Date: \_\_\_\_\_

**PLEASE FILL IN BELOW AND ATTACHED HERETO A SKETCH OF THIS PROPERTY**

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Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Owner(s) of the West:** \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Owner(s) of the South:** \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant or agent or Attorney

\_\_\_\_\_  
Date

Please file this form with the Zoning Coordinator, accompanied by the filing fee and a sketch of the subject property. The sketch should show the shape of the property, property dimensions, existing and proposed buildings, and setbacks from all property lines.

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\_\_\_\_\_

Has the property involved ever been subject of previous application? \_\_\_\_\_

If yes, give Case Number and Date: \_\_\_\_\_

**PLEASE FILL IN BELOW AND ATTACHED HERETO A SKETCH OF THIS PROPERTY**

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Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Owner(s) of the West:** \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Owner(s) of the South:** \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant or agent or Attorney

\_\_\_\_\_  
Date

Please file this form with the Zoning Coordinator, accompanied by the filing fee and a sketch of the subject property. The sketch should show the shape of the property, property dimensions, existing and proposed buildings, and setbacks from all property lines.

**ARTICLE IVX. BOARDS & COMMISSIONS**  
**PART II. BOARD OF APPEALS**

The Planning Commission may recommend, and the Board of Appeals may impose such reasonable conditions, restrictions, and limitations on any applications approved under this ordinance as may be necessary for the protection of surrounding or neighboring properties and to ensure the peaceful enjoyment of people in their homes.

**SECTION 96. STATEMENT OF INTENT**

It is the intent of this section to identify the duties of the Board of Appeals.

**SECTION 97. ORGANIZATION**

1. As members of Boards of Appeals, they hear and decide on appeals of decisions made about the enforcement of land use ordinances, hear and decide on special exceptions to those ordinances and authorize variances.
2. The Board of Appeals is hereby established with three members and two alternates Members shall be appointed under provisions of Land Use Article of the Annotated Code of Maryland. The term of office is three years. They shall be removable for cause, upon written charges, and after a public hearing.
3. The Board of Appeals shall adopt rules of its business, such rules to be made available to the public.
4. Meetings of the Board of Appeals shall be at the call of the chairman and such other times as the Board made determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public.
5. **Recording:**
  - a. The Board of Appeals shall keep written minutes and a recording of all proceedings with a contemporaneous written record showing the vote of each member on each question, or the member's absence or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
  - b. If a recording or a transcript of a recording is not prepared in the normal course of the board's proceedings, the party who requests a copy of the recording or its transcript shall pay the cost of preparing the recording or transcript.

**SECTION 98. POWERS OF BOARD OF APPEALS**

Subject to the limitations, guides, and standards provided in Section 4, the Board of Appeals shall have the following powers:

1. **Administrative Appeals** - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Coordinator in the enforcement and administration of this Ordinance unless clearly specified otherwise in this Ordinance.
2. **Special Exceptions** - Hear and decide special exceptions as set forth in Article XV. Special Exceptions, Variances, and Appeals.
3. **Variances** - to authorize, upon application, variances from the yard (front, side, rear) setbacks, height, bulk, parking, and loading requirements as set forth in Article XV, Special Exceptions, Variances, and Appeals.
4. **Conditions** - In granting of variances, appeals, and special exceptions, the Board may limit the approval by such conditions as the case may require.

5. **Right of Entry** – The Board of Appeals is hereby authorized to enter upon open land in the Town of Galena for the purpose of reviewing applications pending before the Board of Appeals.

In exercising the above-mentioned powers, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order requirement, decision, or determination appealed from and make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the Zoning Coordinator.

#### **SECTION 99. APPEALS TO COURT**

Appeals to courts from a decision of the Board of Appeals may be filed in the manner prescribed by law. See Article XIV, Special Exception, Variance, and Appeals.

### **ARTICLE XV SPECIAL EXCEPTIONS, VARIANCES, APPEALS PART I. SPECIAL EXCEPTIONS**

#### **SECTION 100. STATEMENT OF INTENT**

The purpose of this article is to provide for certain uses, which because of their unique characteristics cannot be distinctly listed as a permitted use in a certain Zoning District. Special exceptions may be approved by the Board of Appeals after consideration in each case of the impact of such uses upon neighboring uses, the surrounding area, and the public need for the particular use at the particular location. Limitations and standards are herein established to ensure the uses consistent with the character, uses, and activities in the Zoning District.

#### **SECTION 101. PROCEDURES SPECIAL EXCEPTION**

1. Special Exceptions (SE) will be listed under Article III. Districts and District Maps. Specific supplementary use regulations are listed in Article V, District Regulations, Part III Supplementary Use Regulations.
2. The Board of Appeals in accordance with the procedures and standards of this Ordinance may authorize buildings, structures, and uses as special exceptions in the specific instances and particular districts set forth provided that the location is appropriate, consistent with the Comprehensive Plan, that the public health, safety, morals, and general welfare will not be adversely affected, and that necessary safeguards will be provided to protect surrounding property, persons, and neighborhood values, and further provided that the additional standards of this Article are specified as a condition of approval. Unless otherwise specified in this Article or as a condition of approval, the height, yard, lot area, design, environmental, and sign requirements shall be the same as other uses in the district in which the special exceptions are located.
3. The application and fee for a special exception shall include a site plan together with such data and information as may be required for a determination of the nature of the proposed use, and its effect on the Comprehensive Plan, the neighborhood, and surrounding properties.
4. Upon receiving a completed application for a special exception, the Zoning Coordinator shall schedule a review by the Planning Commission. The Town shall notify the applicant of the date and time of the meeting. The Planning Commission shall send its recommendation to the Board of Appeals. In its comments, the Planning Commission may recommend that additional expertise is warranted.
5. After receiving comments from the Planning Commission and the Zoning Coordinator shall schedule the special exception application for review by the Board of Appeals.
6. Notice – The Town shall notify the applicant of the date and time of the Board of Appeals meeting. At least fifteen (15) days before the hearing, a public hearing shall be advertised in the local paper. The town shall post the property. Notices shall be sent to adjacent property owners using the most recent address found in the records.

7. The Board of Appeals may hire expertise, as shall be needed, to provide advice and assist in its decision-making.
8. **FINDING OF FACTS:** In order to grant a special exception, the Board of Appeals must find all of the following:
  - a. That the special exception will not cause a substantial detriment to adjacent or neighboring property.
  - b. That the special exception will not change the character of the neighborhood or district.
  - c. That the special exception is consistent with the Comprehensive Plan and the general intent of this Ordinance.
  - d. That the practical difficulty or other injustice was caused by the following:
    1. Some unusual characteristics of the size or shape of the property.
    2. Extraordinary topographical or other condition of the property.
    3. The use or development of the property is immediately adjacent to the property.
  - e. That the practical difficulty or other injustice was not caused by the applicants' own actions.
  - f. The Board of Appeals shall consider the reasonable use of the entire parcel or lot for which the variance is requested.
  - g. The Board of Appeals may consider the cause of the variance request and if the variance request is the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed.
9. **DECISION AND ORDER.** Each case shall be decided, and a decision and order issued no later than forty-five (45) days after the hearing is concluded. The decision and order granting or denying the special exception shall be in writing and shall be signed by the Chairman of the Board of Appeals. This decision and order shall contain a summary of the hearing testimony, finding of fact, conclusions of law, and the final order. The Zoning Coordinator shall mail a copy of the decision to the applicant. The decision and order shall be made a part of the public record of the proceedings on file.

**ARTICLE XV. SPECIAL EXCEPTIONS, VARIANCES, APPEALS (cont.)**  
**PART II. VARIANCES**

**SECTION 102. STATEMENT OF INTENT**

The purpose of this section is to set forth the procedures for variances from certain enumerated provisions for this Ordinance.

Granting of a variance shall comply, as nearly as possible, in every respect to the spirit, intent, and purpose of this Ordinance; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable practical difficulties as distinguished from variations sought by applicant for purposes or reasons of convenience, profit, or caprice.

**SECTION 103. PROCEDURES**

1. The Board of Appeals may authorize, upon application, variances from the yard (front, side,

or rear) setbacks, height, bulk, parking, loading and buffer requirements of this Ordinance so as to relieve practical difficulties or other injustices arising out of the strict application of the provision of this Ordinance.

2. The application and fee for a variance shall include a site plan together with such data and information as may be required for a determination of the nature of the proposed use, and its effect on the Comprehensive Plan, the neighborhood, and surrounding properties.
3. Upon receiving a completed application for a variance, the Zoning Coordinator shall schedule a review by the Planning Commission. The Town shall notify the applicant of the date and time of the meeting. The Planning Commission and send their recommendation to the Board of Appeals. In its comments, the Planning Commission may recommend that additional expertise is warranted.
4. After receiving comments from the Planning Commission, the Zoning Coordinator shall schedule the variance application for review by the Board of Appeals.
5. Notice – The Town shall notify the applicant of the date and time of the Board of Appeals meeting. At least fifteen (15) days before the hearing, a public hearing shall be advertised in the local paper. The town shall post the property. Notice shall be sent to adjacent property owners using the most recent address found in the records.
6. The Board of Appeals may hire expertise as shall be needed to provide advice and assist in its decision-making.
7. **FINDING OF FACTS.** In order to grant a variance, the Board of Appeals must find all of the following:
  - a. That the variance will not cause a substantial detriment to adjacent or neighboring property.
  - b. That the variance will not change the character of the neighborhood or district.
  - c. That the variance is consistent with the Comprehensive Plan and the general intent of this Ordinance.
  - d. That the practical difficulty or other injustice was caused by the following:
    1. Some unusual characteristics of the size or shape of the property.
    2. Extraordinary topographical or other condition of the property.
    3. The use or development of the property is immediately adjacent to the property.
  - e. That the practical difficulty or other injustice was not caused by the applicants' own actions.
  - f. The Board of Appeals shall consider the reasonable use of the entire parcel or lot for which the variance is requested.
  - g. The Board of Appeals may consider the cause of the variance request and if the variance request is the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed.
8. **DECISION AND ORDER.** Each case shall be decided, and a decision and order issued no later than forty-five (45) days after the hearing is concluded. The decision and order granting or denying the variance shall be in writing and shall be signed by the Board of Appeals. This decision and order shall contain a summary of the hearing testimony, finding of fact, conclusions of law, and the final order. The Zoning Coordinator shall mail a copy of

the decision to the applicant. The decision and order shall be made a part of the public record of the proceedings on file.

**ARTICLE XV. SPECIAL EXCEPTIONS, VARIANCES, APPEALS (cont.)**  
**PART III. APPEALS**

**SECTION 104. STATEMENT OF INTENT**

**Administrative** – within thirty days of the decision, any person aggrieved by the Zoning Coordinator’s decision may appeal the decision to the Board of Appeals.

**Board of Appeals** - Within thirty days (30) of the decision, any person aggrieved by a decision of the Board of Appeals may file a notice of appeal with the Circuit Court.

**SECTION 105. PROCEDURES VARIANCE**

1. Appeals to the Board of Appeals may be taken by any person aggrieved, or by an officer, department, board or bureau of the town affected by a decision of the Planning Commission. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Planning Commission and with the Board of Appeals a notice thereof, specifying the grounds thereof. The Zoning Coordinator shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
2. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Coordinator certifies to the Board of Appeals after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Zoning Coordinator and on due cause shown.
3. The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest and adjoining properties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.
4. **DECISION AND ORDER** - Each case shall be decided, and a decision and order issued no later than 45 days after the hearing is concluded. The decision and order granting or denying the variance shall be in writing and shall be signed by the Board of Appeals. This decision and order shall contain a summary of the hearing testimony, finding of fact, conclusions of law, and the final order. The Zoning Coordinator shall mail a copy of the decision to the applicant. The decision and order shall be made a part of the public record of the proceedings on file.

**SECTION 106. ADMINISTRATIVE APPEALS**

To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Coordinator.

**SECTION 107. APPEALS TO THE COURT**

Appeals to courts from a decision of the Board of Appeals may be filed in the manner prescribed by law.

**ARTICLE XV. SPECIAL EXCEPTIONS, VARIANCES, APPEALS (cont.)**  
**PART IV. STANDARDS**

**SECTION 108. STATEMENT OF INTENT**

The purpose of this section is to set forth the standards for special exceptions, variances, and appeals from certain enumerated provisions of this Ordinance.

**SECTION 109. LIMITATIONS, GUIDES, AND STANDARDS**

Where in this Article, the approval of the Board of Appeals is required before the issuance of a permit or where said Board of Appeals is authorized to make a variance to the provisions of this Article, the Board shall examine the property involved and the neighborhood, cause the property to be posted and hold a public hearing, at which any person shall be heard for or against the issuance of the permit. However, no such application for a permit shall be approved where the Board finds the proposed building, extension, addition, or use would constitute a serious fire hazard or would menace the public health, safety, security or morals, or would result in hazardous traffic conditions or would jeopardize the life or property of people living in the community.

In deciding these matters, the Board of Appeals shall give consideration, among other things, to the following information which must be provided by the applicant:

1. The nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures. The most appropriate use of land and structures as determined and indicated by the Comprehensive Plan and other neighboring uses.
2. Consistency with the Comprehensive Plan and Zoning Ordinance.
3. Design, environmental, and other standards of this Ordinance as outlined in Article V. District Regulations.
4. Availability of public services for sewer, water, trash collection and disposal, and the impact of the development or project on community facilities and services.
5. Availability of fire-fighting apparatus and water service for firefighting.
6. Traffic patterns and impacts including facilities for pedestrians, such as sidewalks availability of parking facilities, the impact of ingress and egress, and the level of service of nearby intersections.
7. Nature of the surrounding area and the effect of such use upon the peaceful enjoyment of the homes of people living nearby.
8. Conservation of property values.
9. The contribution, if any, such proposed use, building, or addition would make toward the deterioration or improvement of the neighborhood.
10. The proximity of dwellings, places of assembly, schools, public structure, and other places of public gathering.
11. The probable effect of odors, dust, gas, smoke, vibrations, glare, particulate matter, toxic matter, noise, fire, or explosion hazards, if any, upon the surrounding properties.
12. Proposed development impact on water quality, fish, wildlife, and plant habitat.
13. Preservation of cultural or historic landmarks and significant natural features and trees.

## **SECTION 110. CONDITIONS ATTACHED TO APPROVALS**

In connection with the granting of special exceptions, variances, and appeals, the Board of Appeals may impose such conditions and restrictions upon the establishment, location, construction, maintenance and operation thereof as deemed necessary to reduce or minimize any effect of such use upon other property in the neighborhood.

The Board of Appeals may require the installation of such devices and methods of operation as may in its opinion, be reasonably required to prevent or reduce hazardous or congested traffic conditions, odor, dust, smoke, gas, noise, or similar nuisances, and it may impose such other conditions and requirements as may, in its opinion to protect adjacent properties and neighborhoods and prevent conditions which may become noxious or offensive. In authorizing a special exception or variance, the Board shall require such evidence and guarantee as it may deem necessary, that the conditions stipulated by it are being and will be complied with.

### **These conditions or restrictions may include but are not limited to the following:**

1. Signage in accordance with Article VII. Article VII, General Sign Regulations Ordinance.
2. Hours of Operation.
3. Increased setbacks and screening.
4. Improvements to ingress/egress.
5. Improvements to the street frontage.
6. Location of parking, location of off-street parking, and loading space.
7. Accessory vehicles and storage.
8. Accessory uses.
9. On-premise sales.
10. Permitted expansion and/or prohibition against structural changes.
11. Building a connection or disconnection with other buildings.
12. Location of exits or entrances, doors, and windows.
13. Control or elimination of smoke, dust, gas noise, or vibration caused by operations.
14. Exterior display, lighting, storage, signs, and other items which distract from the general character of the neighborhood.
15. Amount, direction, and location of outdoor lighting.
16. Type and location of paving, shrubbery, landscaping, ornamental or screening fences, walls, or hedges.
17. Cleaning or painting of structure.
18. Roof type.
19. Building construction and materials.
20. Size and type of equipment
21. The number of clients allowed on the premises at one time.
22. Letters of credit, bonds, or other surety.

23. The Board of Appeals may require such evidence and guarantees as it deems necessary as proof that the conditions imposed in connection with a special exception or variance shall be implemented.
24. Requirements for termination of use, based on the lapse of time or such other conditions as the Board may specify. Failure to comply with such conditions or restrictions imposed shall constitute a violation of this Ordinance and the Zoning Coordinator may revoke permits issued under the special exception or variance.

#### **SECTION 111. APPROVAL VALID FOR ONE YEAR**

Approval of a special exception or variance granted under this Article shall be valid for one year after the date of approval or unless the Board of Appeals approves an extension before the expiration of the said one-year period. When provided with sufficient evidence, the Board of Appeals may grant an extension for a longer period.

#### **SECTION 112. LAPSE**

The special exception or variance granted shall lapse after the expiration of one year if no substantial construction has taken place in accordance with the plans for which such approval was granted or if the order does not specify a longer period than one year for good cause shown.

#### **SECTION 113. AMENDMENT**

The procedure for amendment of a special exception or variance already approved, or a request for a change of conditions attached to an approval, shall be the same as for a new application except that where the Zoning Coordinator determines the change to be minor relative to the original approval. He or she may transmit the same to the Board of Appeals with the original record without requiring that a new application be filed.

#### **SECTION 114. RECONSIDERATION, ONE YEAR LIMIT**

Whenever an application for a special exception or variance has been denied by the Board of Appeals, such application, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial. However, the Board of Appeals may at any time consider a new application affecting the same property as an application previously denied if it is substantially different from the one previously considered.