

JO DAVIESS COUNTY
PLANNING COMMISSION/ZONING BOARD OF APPEALS
MEETING MINUTES
FEBRUARY 25, 2026

I. Call to Order

Chair Huschitt called the meeting to order at 7:00 PM on Wednesday, February 25, 2026 at the Jo Daviess County Highway Department Conference Room, 1 Commercial Drive, Hanover, Illinois.

II. Roll Call

Roll Call was answered as follows: Present Gary Diedrick, Don Hill, Steve McIntyre, and Peter Huschitt. Present: 4. Present electronically – 0. Present electronically: 0. Absent Ron Mapes . Absent: 1.

Also in attendance: William Meeker, Planning and Development Administrator.

III. Establishment of a Quorum

IV. Approval of Minutes

A. January 28, 2026 Planning Commission/Zoning Board of Appeals Minutes (DRAFT)

A motion to approve January 28, 2026 Planning Commission/Zoning Board of Appeals Minutes (DRAFT) was made by Steve McIntyre and seconded by Don Hill.

The motion carried by roll call vote. Ayes – Peter Huschitt, Steve McIntyre, Don Hill, Gary Diedrick. Ayes: 4. Nays – None. Nays: 0. Absent – Ron Mapes. Absent: 1.

V. Unfinished Business

There was no unfinished business.

VI. New Business

- A. CASE NO 26-04: Petition of Terry P & Wendy M Hopper (102 Thomas AVE, East Dubuque, IL 61025), owners/petitioners for a Variance to allow a three-foot side-yard setback where a 10-foot setback would normally be required (Jo Daviess County Zoning Regulations, Section 8-3H-7 A 2b) to permit an addition to an existing garage. Property is situated within a Planned Residential (RP) District. Site Location: 102 Thomas AVE, East Dubuque, IL 61025.**

ZONING DISTRICT: Planned Residential (RP)

ACRES: 0.16-Acre

PARCEL NO: 05-002-440-00

Wastewater Treatment: The property is connected to the public sewage system for the City of East Dubuque.

Access Considerations: The County Highway Engineer has no concerns regarding the existing access

to the property.

Other Considerations: The subject property is situated on the east side of N Thomas Avenue, roughly 180-feet south of the intersection of Thomas Avenue and IL Route 35. The single-story home and attached garage on the property were constructed in the 1960s – 1970s (actual date unknown). There is an existing covered patio (approximately 18' x 15') in the area where the garage extension is to be placed, though the garage extension will be somewhat longer than this patio area, therefore, the Variance request has been submitted for consideration. The extension to the rear of the garage is to accommodate the needs of Mrs. Hopper, who is disabled, and will permit her to enter a vehicle from within the interior of the garage for privacy and safety purposes.



Standards for Variations: The Zoning Board of Appeals shall make findings of fact based upon the evidence presented to it specifying the reason for making such variation including findings with respect to the following standards:

1. The physical surroundings shape, or topographical conditions of the specific property will cause practical difficulties or a particular hardship to the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
2. The conditions upon which a petition for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property within the same zoning classification.
3. The purpose of the variation is not based exclusively upon a desire to make more money out of the property.
4. The alleged difficulty or hardship is caused by this ordinance and has not been created by persons presently having an interest in the property.

5. The granting of the variation will not alter the essential character of the locality, and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public street, or increase the danger of fire or flooding, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
7. The variation requested is the minimum variation that will make possible the reasonable use of the land or structure.

Variance Findings of Fact/Explanation of Criteria:

1. What is there about the physical nature of this particular site that creates a necessity for a variance?
2. What is there about the request in general that distinguishes itself from other properties in this same zoning classification?
3. Is the purpose of this request to solve a problem for the property owner or strictly to increase the value of the property for purposes of selling it?
4. From the testimony, who was responsible for creating the situation which now requires that a variance be granted on this property?
5. Will this request be out of character with the neighborhood (such as allowing a forty-foot structure in a high-density residential area)? Will it be detrimental to the public, such as creating a blind spot at an intersection?
6. What affect will this variation have on the public's safety or on the value of other property or improvements to property in the area?
7. Can reasonable use be made of this property without the variance and is the variance requested the least amount needed? (Have they asked for a 20-foot variance, when only a 10-foot variance is needed?)

Chair Huschitt opened the public hearing.

Terry Hopper (102 Thomas AVE, East Dubuque, IL 60125) was present representing the petitioner. He indicated that he has little to add to the staff presentation. As stated, the extension of the garage is intended to permit his wife (who is disabled) to have a more private area to enter and exit a vehicle. In the future they will likely have a different vehicle with a ramp that will fit within the expanded garage.

Chair Huschitt closed the public hearing.

Variance standards were reviewed and all were met.

A motion to approve **CASE NO 26-04:** Petition of Terry P & Wendy M Hopper (102 Thomas AVE, East Dubuque, IL 61025), owners/petitioners for a **Variance** to allow a three-foot side-yard setback where a 10-foot setback would normally be required (Jo Daviess County Zoning Regulations, Section 8-3H-7 A 2b) to permit an addition to an existing garage. Property is situated within a Planned Residential (RP) District. Site Location: **102 Thomas AVE, East Dubuque, IL 61025.** was made by Peter Huschitt and seconded by Don Hill.

The motion carried by roll call vote. Ayes – Peter Huschitt, Steve McIntyre, Don Hill, Gary Diedrick. Ayes: 4. Nays – None. Nays: 0. Absent – . Absent: 0.

- B. CASE NO 26-05:** Petition of Luxury on the Green LLC/Austin Kapustka & Jennifer Kapustka (709 S McKinley AVE, Arlington Heights, IL 60005), owners/petitioners for a **Variance** to allow an outdoor activity area (fire pit) for a five-bedroom home licensed for Guest Accommodations to be situated 15-feet from a side property line and 10-feet from a rear property line, where a 25-foot side setback and 30-foot rear setback are normally required (Jo Daviess County Zoning Regulations, Section 8-5B-46 B 5). Property is situated within a Planned Residential (RP) District. Site location: 14 Timberline DR, Galena, IL 61036.

ZONING DISTRICT: Planned Residential (RP)

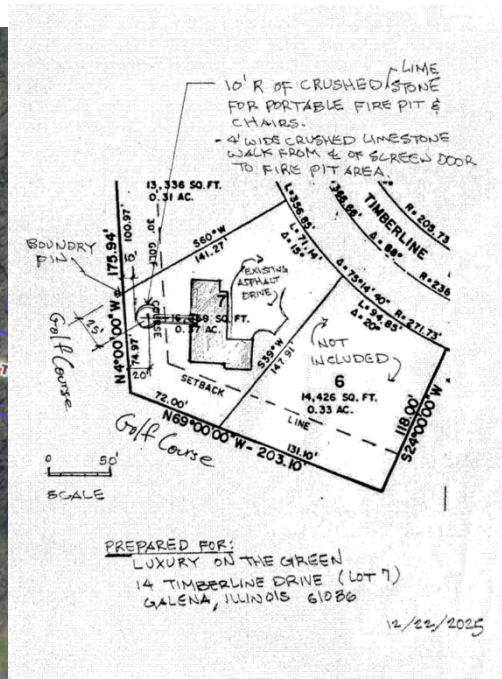
ACRES: 0.37-Acre

PARCEL NO: 06-426-007-00

Wastewater Treatment: The property is connected to the public sewage system for The Galena Territory.

Access Considerations: The County Highway Engineer has no concerns regarding the existing access to the property.

Other Considerations: The subject property is situated within The Galena Territory. The existing residence with attached garage was built in 1994. The owners/petitioners currently possess a Guest Accommodation License (License No 161). At this time the property owner wishes to install a portable fire-pit within the rear portion of the lot, adjacent to the golf course behind the property. The fire-pit is proposed to be placed 15-feet from a side property line and 10-feet from a rear property line, where a 25-foot side setback and 30-foot rear setback, respectively, are normally required. Eagle Ridge Resort has approved the location of the fire-pit (letter on file).



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of the land or structure.

Variance Findings of Fact/Explanation of Criteria:

1. What is there about the physical nature of this particular site that creates a necessity for a variance?
2. What is there about the request in general that distinguishes itself from other properties in this same zoning classification?
3. Is the purpose of this request to solve a problem for the property owner or strictly to increase the value of the property for purposes of selling it?
4. From the testimony, who was responsible for creating the situation which now requires that a variance be granted on this property?
5. Will this request be out of character with the neighborhood (such as allowing a forty-foot structure in a high-density residential area)? Will it be detrimental to the public, such as creating a blind spot at an intersection?
6. What affect will this variation have on the public's safety or on the value of other property or improvements to property in the area?
7. Can reasonable use be made of this property without the variance and is the variance requested the least amount needed? (Have they asked for a 20-foot variance, when only a 10-foot variance is needed?)

Planning & Development Administrator Meeker referenced two letters received from neighboring property owners objecting to the request.

Objection Letter

Richard and Betty Pat McCoy
Owners, Parcel 06-426-008-00
The Galena Territory
16 Timberline Drive
Galena, IL 61036
bettypatmccoy55@gmail.com
847-209-0303

February 11, 2026

Jo Daviess County Planning & Development Dept.
Attn: Zoning Board of Appeals
1 Commercial Drive, Ste. 1, Hanover, IL 61041

RE: Formal Objection to Setback Variance Request for Parcel 06-426-007-00

To the Members of the Zoning Board of Appeals:

We are the owners of parcel 06-426-008-00, which directly adjoins parcel 06-426-007-00 in the Galena Territory. We are writing to formally Oppose the variance request submitted by the owner of parcel 06-426-007-00 seeking to reduce the required 25 foot setback for a rental fire pit to 15 feet from our property line.

This request should be denied for the following reasons:

- 1) **The 25 foot Rental Setback Standard Exists for Safety, Nuisance Prevention and Neighbor Protection**
The Galena Territory rental regulations require a minimum 25 foot setback for fire pits due to the increased intensity of use associated with short-term rentals. Reducing this distance by 40% significantly increases:

Fire Risk
Smoke Drift onto our property
Noise from groups gathering late into the evening
Light and activity intrusion
Loss of privacy
Potential Nuisance issues from transient renters

These impacts directly undermine the purpose of the established setback.

- 2) **The Applicant Has Not Demonstrated a Legitimate Hardship**
Under Illinois zoning law and Jo Daviess County variance standards, a variance may only be granted when:

February 15, 2026

Dear Zoning Board of Appeals,

My name is Jenny Sarna, and I am the owner of adjoining property, 12 Timberline Drive. I am writing to formally object to the requested variances to reduce side and rear yard setbacks to install an outdoor fire pit at 14 Timberline Trail. Granting this variance to considerably reduce setbacks to squeeze in an amenity on a rental property will considerably increase the risk of fire and impact character of the neighborhood.

I respectfully ask the Board to deny this application, or at minimum impose strict conditions, for the following reasons:

1. Fire Safety

The proposed wood-burning fire pit would be located less than 10 feet from woods and brush and adjacent to cedar-sided homes. This creates an elevated wildfire risk in a rural setting, which is of even greater concern, given the property's use as a 5 bedroom (12 person) short-term rental where guests may be unfamiliar with fire safety and local conditions. Emergency access in this area is limited, and any fire event would pose serious risk to surrounding homes and woods.

Embers can remain hot enough to reignite after 24 hours, sometimes even after rain or after a fire appears extinguished, creating a real risk of rekindling or igniting nearby vegetation. With rotating guests and no on-site supervision, this significantly increases the potential for a fire event.

The Galena Territory Fire Department provides the following guidance on locations for fire pits: *For maximum safety, a distance of 20-25 feet is recommended, especially for wood-burning pits, which should never be placed under patio covers or near combustible materials.*

2. Direct Impact on Adjoining Property

As an adjacent property neighbor, I would experience negative impacts directly. Smoke would travel toward my residence, and outdoor gatherings would increase noise and disrupt peaceful enjoyment of my property, particularly in evening hours. Accessing the firepit from the front door of the home requires short term renters to walk along my lot line and my neighbor's lot line, feet from our bedrooms, creating an invasion of privacy and noise disturbances.

3. Lack of True Hardship

The requested setback reductions are being sought to add an amenity to a five-bedroom guest rental which is already pushing up against setback on the lot. This is not a hardship unique to the property, which the applicant acknowledges in application. The lot size and configuration were known at purchase, and the fire pit is not necessary for reasonable use, but rather an amenity to increase to generate increased revenue for the applicant. In fact, this rental already has three

A unique physical hardship exists
The hardship is not self created
The property cannot be reasonably used without the variance

No such hardship exists here. The lot is fully usable without placing a fire pit within 15 feet of our property line. A desire for convenience, design preference or rental marketing advantage does not constitute a hardship under the law.

3) The Proposed Location would negatively affect our property

A fire pit used by short-term renters only 15 feet from our property line would create:

Frequent smoke drift into outdoor living areas
Elevated noise levels, especially during evening hours
Reduced privacy
Increased safety concerns due to open flames near the boundary and the wooded area behind both of our homes in the setback area
Diminished enjoyment and value of our property

These are substantial and unreasonable impacts.

4) The Variance Would Undermine the Character and Intent of the Community

The Galena Territory's design standards and rental rules are intended to preserve:

Open Space
Privacy between neighbors
Safety
Peaceful enjoyment of property

Granting this variance would set a precedent that weakens these protections.

Conclusion

For the reasons outlined above, we respectfully request that the Zoning Board of Appeals deny the variance request for parcel 06-426-007-00 and uphold the required 25 foot setback for rental fire pits.

Thank you for your consideration. We intend to attend the public hearing and speak in opposition.

Sincerely,

Richard and Betty Pat McCoy, Owners of Parcel 06-426-008-00

outdoor spaces including a screened porch, backyard, and deck. This is a design preference tied to rental appeal rather than a hardship.

4. Increased Intensity of Use and Neighborhood Character

Adding a fire pit to a large short-term rental encourages larger gatherings and late-night outdoor activity, materially increasing the intensity of commercial use and altering the residential character of the area, where the remaining homes are owner occupied with fewer than three residents.

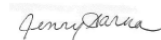
5. Setback Policy Erosion

Reducing rear yard setbacks from 30 feet to 10 feet and side setbacks from 25 feet to 15 feet significantly weakens the buffer intended to protect neighboring properties and undermines the purpose of zoning standards which this committee is entrusted to uphold. This is particularly true for a large rental property located on a quiet, residential cul-de-sac where all adjacent homes are owner occupied. We moved to the Territory to enjoy the peace and quiet of nature and increased setbacks on rental properties help afford us these protections. Appealing these policies when a business owner wants to increase the value of their property completely undermines the purpose for their existence.

For these reasons, I believe the request does not meet the criteria required for granting a variance. I respectfully request that the board upholds the setbacks intended to protect the surrounding homes. The applicant's own application admits there's no loss of reasonable use and that this isn't a unique hardship — it's simply an attempt to add an amenity to a short-term rental. Placing a wood-burning fire pit next to woods and neighboring homes without setbacks creates real fire risk, so I respectfully ask the Board to deny the variance.

Thank you for your consideration and for protecting the safety and livability of our community.

Respectfully,



Jenny Sarna – Owner and Full-time Resident
12 Timberline Drive
Galena, IL 61036

Enclosures: Exhibit A: Adjoining Landowner Summary of Variance Deficiencies, Photos and Scaled Drawing of Site, showing tree cover

Exhibit A – Adjoining Landowner Summary of Variance Deficiencies

Variance Request: 14 Timberline Trail – Outdoor Fire Pit / Setback Reduction

Submitted by: Jennifer Sarna, 12 Timberline Drive

This exhibit summarizes key portions of the applicant's variance application that directly contradict the legal standards required for approval and demonstrate that the request fails to meet hardship, safety, and neighborhood impact criteria.

1. Applicant Admits No Loss of Reasonable Use (Question 3)

The application asks:

“How do the above site conditions prevent any reasonable use of your property under the terms of the Zoning Ordinance?”

The applicant answers:

“They do not impact the reasonable use of the property.”

A variance requires that strict application of the ordinance prevents reasonable use. The applicant explicitly states that reasonable use is not impacted. There is no hardship requirement but rather a desire to add an amenity to enhance rental value.

2. Applicant Admits Hardship Is Not Unique (Question 8)

The application asks whether the hardship is unique to the property.

The applicant answers:

No

They further state:

“All properties with a Guest Accommodation License.”

Variance law requires hardship to be unique to the specific parcel. The applicant admits this condition applies broadly to all guest accommodations, confirming this not a property hardship but rather the setbacks that apply to all guest rentals in the county. A zoning variance is inappropriate for reasons of convenience or increasing profit, such as when a business decides they would like more land for a recreational area to make their property more attractive to rentals.

3. Variance Is for an Amenity, Not Necessity (Questions 2, 6, and 7)

The application repeatedly states the request is for an **“outdoor activity area.”**

They also indicate the variance is tied to:

- Change in setback requirements – YES
- Change in Guest Accommodation Standards – YES

No other zoning deficiencies are claimed.

This confirms the property already functions as intended and the variance is sought solely to add an optional amenity to a five-bedroom short-term rental, not to enable reasonable residential use.

4. Hardship Is Self-Created

The application asserts the hardship is not self-created, yet:

- The fire pit is proposed after construction of the home, deck, and porch
- The owners voluntarily operate a large short-term rental
- Multiple outdoor spaces already exist and there is space within existing setbacks to for recreation.

The need for reduced setbacks arises from design choices and commercial use, not unavoidable property conditions.

5. Safety and Neighbor Impact Are Not Addressed

The application minimizes impacts by stating there is “no rear neighbor,” despite wooded land directly adjacent to the proposed fire pit and neighboring cedar-sided homes nearby.

The applicant's own site drawing shows the fire pit located approximately 10–15 feet from lot lines, immediately adjacent to wooded areas. This raises significant wildfire risk in a rural setting with rotating short-term rental guests and no on-site supervision.

Smoke, embers, and noise do not respect property boundaries, and adjoining properties—including mine—would be directly affected.

Summary

The applicant's own responses confirm:

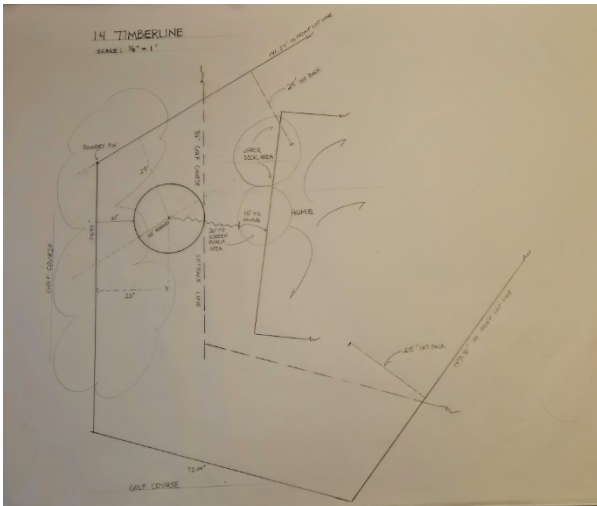
- No loss of reasonable use
- No unique hardship
- A self-created condition tied to rental operations
- The variance is for convenience, not necessity
- Safety and neighbor impacts are inadequately addressed

Because multiple required findings are not met, this variance does not satisfy legal standards for approval.

I respectfully request denial of the application.

Submitted by:

Jennifer Sarna
12 Timberline Drive
Galena, IL 61036



Chair Huschitt opened the public hearing.

In response to a Commissioner's inquiry, Planning & Development Administrator Meeker indicated that the property was "grandfathered" as a short-term rental since 2000; the County Board would have approved its use for that purpose at that time.

Austin Kapustka (709 S McKinley AVE, Arlington Heights, IL 60005) owner/petitioner represented the petitioner. He noted that the fire-pit is to be portable and fueled by propane. He further indicated a willingness to move the location of the fire-pit away from the northern neighbor at a location that would meet the side setback requirement.

Chair Huschitt asked the petitioner how frequently the property would be used for short-term rental. The petitioner indicated the property would be rented out the majority of the time, but also used by he and his family.

Chair Huschitt closed the public hearing,

Richard & Betty Pat McCoy, 16 Timberline DR, expressed their opposition to the proposal as outlined in their letter attached to the staff report.

Jenny Sarna, 12 Timberline DR, summarized her opposition to the proposal as outlined in her letter attached to the staff report.

Kris Trierweiler, 1 Bittersweet CT, expressed her opposition to the proposal. The neighborhood is accessed via cul-de-sacs with only one way in and out. If there is a fire, this could be hazardous to others in the neighborhood due to the limited access. She noted that she moved to the area from Colorado where wildfires are common; she is concerned that the proposed fire pit being placed in an area amongst a thick tree cover creates a fire hazard. Property values are negatively impacted by the number of rentals in the area.

Jane Steinbrecher, 4 Bittersweet CT, expressed her concerns regarding the proposal, supporting comments made by other neighbors.

Chair Huschitt closed the public hearing.

Standards for Variations (Side-Yard Variance) - The Planning Commission/Zoning Board of Appeals shall make findings of fact based upon the evidence presented to it specifying the reason for making such variation including findings with respect to the following standards:

The physical surroundings, shape, or topographical conditions of the specific property will cause practical difficulties or a particular hardship to the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

True: (Why)

False: (Why) X

The conditions upon which a petition for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property within the same zoning classification.

True: (Why)

False: (Why) X

The purpose of the variation is not based exclusively upon a desire to make more money out of the property.

True: (Why) X

False: (Why)

The alleged difficulty or hardship is caused by this ordinance and has not been created by persons presently having an interest in the property.

True: (Why) Huschitt, McIntyre

False: (Why) Diedrick, Hill

The granting of the variation will not alter the essential character of the locality, and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

True: (Why)

False: (Why) X

The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public street, or increase the danger of fire or flooding, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

True: (Why)

False: (Why) X

The variation requested is the minimum variation that will make possible the reasonable use of the land or structure.

True: (Why)

False: (Why) X

The review by Commissioners found that the standards for approval could not be unanimously met. Planning & Development Administrator Meeker noted that in this instance, since the standards could not all be met, then a motion for denial would be appropriate.

A motion to deny **CASE NO 26-05**: Petition of Luxury on the Green LLC/Austin Kapustka & Jennifer Kapustka (709 S McKinley AVE, Arlington Heights, IL 60005), owners/petitioners for a **Variance** to allow an outdoor activity area (fire pit) for a five-bedroom home licensed for Guest Accommodations to be situated 15-feet from a side property line where a 25-foot side setback is normally required (Jo Daviess County Zoning Regulations, Section 8-5B-46 B 5). Property is situated within a Planned Residential (RP) District. Site location: **14 Timberline DR, Galena, IL 61036**. was made by Steve McIntyre and seconded by Gary Diedrick.

The motion carried by roll call vote. Ayes – Peter Huschitt, Steve McIntyre, Don Hill, Gary Diedrick. Ayes: 4. Nays – None. Nays: 0. Absent – Ron Mapes. Absent: 1.

Standards for Variations (Rear-Yard Variance) - The Planning Commission/Zoning Board of Appeals shall make findings of fact based upon the evidence presented to it specifying the reason for making such variation including findings with respect to the following standards:

The physical surroundings, shape, or topographical conditions of the specific property will cause practical difficulties or a particular hardship to the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

True: (Why)
False: (Why) X

The conditions upon which a petition for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property within the same zoning classification.

True: (Why)
False: (Why) X

The purpose of the variation is not based exclusively upon a desire to make more money out of the property.

True: (Why) X
False: (Why)

The alleged difficulty or hardship is caused by this ordinance and has not been created by persons presently having an interest in the property.

True: (Why) X
False: (Why)

The granting of the variation will not alter the essential character of the locality, and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

True: (Why)
False: (Why) X

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True: (Why)
False: (Why) X

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True: (Why)
False: (Why) X

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The motion carried by roll call vote. Ayes – Peter Huschitt, Steve McIntyre, Don Hill, Gary Diedrick. Ayes: 4. Nays – None. Nays: 0. Absent – Ron Mapes. Absent: 1.

VII. Citizens' Comments (Matters not Otherwise on the Agenda)

Sue Henricksen, 234 Blackhawk Trace (member of the Galena Territory Board) spoke. She commented that the development has kept track of the number of short-term rentals within its boundaries; in 2018 there were 400 rentals; today that number is greater than 500. Full-time residents have changed their attitudes regarding short-term rentals due to the increase in numbers. It is claimed that the increase in the number of rentals impacts the quality of life of permanent residents.

VIII. Reports and Comments (Commission Members and Staff)

Planning & Development Administrator Meeker noted that he is in the process of scheduling a study session with the Commission and the Ad Hoc Zoning Subcommittee to review its recommendations for amendments to the County's Zoning Ordinance. The Subcommittee's white paper (prepared by Chair Corey Cassens) was presented to the County Board at its January 13, 2026 meeting and is available on-line. It appears that the study session may be scheduled for late-March. The public hearing for the amendments will be scheduled thereafter.

IX. Adjourn

A motion to adjourn was made by Peter Huschitt and seconded by Steve McIntyre.

The motion carried by roll call vote. Ayes – Peter Huschitt, Steve McIntyre, Don Hill, Gary Diedrick. Ayes: 4. Nays – None. Nays: 0. Absent – Ron Mapes. Absent: 1.

Meeting adjourned at 8:14 p.m.

The next meeting of the Planning Commission/Zoning Board of Appeals will be held on Wednesday, March 25, 2026
