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Aidan Checkett
Planner I

TOWN OF WELLINGTON

Agenda Item #5A

BOARD OF ADJUSTMENTS

REGULAR MEETING MINUTES

March 28, 2024

1. CALL TO ORDER

The Board of Adjustments for the Town of Wellington, Colorado, met on March 28, 2024, at the Wilson Leeper Center at 7:00 p.m.

2. ROLL CALL

Members Present:

Wyatt Knutson - Chairman
Eric Stahl – Vice Chairman
Kathy Wydallis
Meghan Molin
Sherman Stringer

Members Absent:

Town Staff Present:

Cody Bird, Planning Director
Paul Whalen, Planner III
Patty Lundy, Planning Analyst

3. ADDITIONS TO OR DELETIONS FROM THE AGENDA

None

4. PUBLIC FORUM

None

5. CONSIDERATION OF MINUTES

A. Regular meeting minutes of May 25, 2023

Member Molin moved to approve the regular meeting minutes of May 25, 2023. Member Stahl seconded the motion.

Yeas – Wydallis, Stahl, Knutson, Molin, Stringer

Nays – None

Motion carried.

6. NEW BUSINESS

A. Variance Request – Reduce East Side Yard Setback from 20 ft. to 10 ft., 3496 Timber Wolf Circle

Cody Bird, Planning Director gave a brief reminder of procedures for public hearings. The members were asked if there were any conflicts of interest, or any ex parte communications and there were none.

Paul Whalen, Planner III presented the staff report. The applicant is seeking a sideyard setback variance to place an accessory building on the property. There is a septic tank with a leach field on this property as well as mature trees. There was a similar variance request a few years back that was just down the street for a side yard setback. The properties in the subdivision were built before the current setbacks were adopted so some houses are even closer to the side yard setbacks than what is currently allowed.

Brett Abernathy, with Western Skies Construction was selected as the contractor for this project. He said they had done substantial research of the property to find the best location before bringing it to the Town. Allowing the building will help with the noise from the highway. Keeping the trees was a big concern, as they are beautiful trees, and didn't want to take any of them out.

Chairman Knutson opened the public hearing for comments.

Clifford Scott identified that there was some confusion about the property addresses that expressed letters of support. Property addresses were clarified on the Larimer County Assessors online address map.

Floyd Stearns said he supported the property owners to be able to build their structures. Many neighbors have them and it doesn't bother him. He lives directly next door.

Chairman Knutson seeing no more public comments, closed the public comment section of the meeting.

Board of Adjustments Conditions for Approval:

1. The side yard setback (east property line only) is not reduced to less than 10 ft;
2. Obtain locates to update the site plan with the location of On-site Wastewater Treatment System (OWTS) septic system components before Building Permit application, (Larimer County Public Health and Environment referral letter).
3. The proposed workshop/garage location is restricted to the rear yard.
4. The 10-ft setback variance is limited to a 10' X 70' zone adjacent to the east property line, 112 feet from the front yard (south) property line.
5. Obtain a valid Town of Wellington building permit in substantial compliance with the revised site plan; and
6. Compliance with all other applicable zoning and building codes.

The members having had a discussion made the following findings:

1. The relief requested is consistent with the Comprehensive Plan and the intent stated in this Land Use Code. There was an attempt to meet the intent of the Land Use Code.
2. Strict application of the regulation will result in unnecessary hardship and practical difficulties on all reasonable use of the land intended by the existing zoning, as opposed to convenience or benefit of the Applicant or a specific application. This site was developed with limited space for an accessory structure to be built without demolishing/relocating existing site features.

(Septic system and setbacks consume 30% of the site).

3. The need for the variance is due to specific and unique physical conditions on the site that do not exist on similarly situated land in the area. Septic system and replacement leach fields limit possible pad sites in the backyard.
4. The manner in which the strict application of the regulation deprives the applicant of reasonable use of the land compared to other similarly situated land in the area. Large lots with large homes mature landscaping and septic systems deprive the owner of reasonable use of the land.
5. The circumstances warranting the variance are not the result of actions by the applicant or could not be reasonably avoided by actions of the applicant. The applicant is the second owner and must seek resolution for the prior lack of planning, and available space for the addition of a workshop/garage.
6. Granting the variance does not adversely affect the public health, safety, and welfare, and in fairness to the applicant, substantial justice is done. There will be minimal if any impacts to the neighborhood. Accessory structures are common to this subdivision.
7. The relief requested is the minimum necessary to alleviate the hardship and practical difficulties. 10 ft is the minimum necessary to accommodate the workshop/garage.
8. The relief requested is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas. Similar variances have been granted previously for workshops/garages in the subdivision.

Member Wydallis moved to grant the variance request for a reduced side yard setback subject to the conditions and based on the findings for approval. Member Molin seconded the motion.

Yeas – Wydallis, Stringer, Stahl, Molin, Knutson

Nays – None

Motion carried.

- B. Request to Modify Conditions of Approval for Variance Case No. BOA2023VAR01 for 8121 First Street approved on May 25, 2023, to reduce the setback from a Bar/Tavern to a Residential District

Bird reminded everyone that is just like the previous case and the procedures for public hearings will be the same. The members were asked if there were any conflicts of interest, or any ex parte communications.

Chairman Knutson said he had worked with the client in the past and would recuse himself for this agenda item.

Bird presented the staff report. He mentioned that this originally came before the members in May of 2023 and the minutes from that meeting are in this packet. He talked about the amendment for the outside area. The updated site plan is only for a fence to provide outdoor screening. The proposal to modify the conditions of approval to reflect a reduced scope of work and remove requirements for a site plan review by the Planning Commission.

Jeff Cullers, attorney representing the applicant, explained why they are scaling down the site. It was more burdensome than what was realized. He agreed that

there needed to be a variance, but without the condition to go to the Planning Commission. He also wanted to make sure that there would not be anything triggered here tonight that would keep the site plan review process as a condition. Cullers said that he did not agree with the site plan as being a condition on any variance process as it should be tailored to the property. He provided a handout depicting the property and showing trees across from the railroad tracks.

Twila Soles, the applicant explained where the fence was proposed to be located and that it would be steel posts with wooden planks. It would be 8 feet at the back of the property and 4 feet along the front.

Bird explained that the site plan was made a condition previously because the applicant also had an application for site plan review being considered concurrently with the variance application. The applicant has since withdrawn the site plan application.

Vice Chairman Stahl opened the public hearing. Seeing there were no public comments, he closed the public comment section of the meeting.

Board members asked about the patio on the west side and if the parking lot would be paved. Ms. Soles said that there would not be a patio area on the west side, and she was not paving the parking lot. She is just looking to put up a fence so people can sit outside with liquor. There were comments about if there would be lighting changes and Ms. Soles said it would just be the string lights hanging from the fence.

Board of Adjustments Conditions for Approval:

- a. The separation setback is reduced to no less than 140-FT.
- b. Site development shall proceed in substantial compliance with the site layout exhibit attached herein and incorporated by reference.
- c. Solid visual screening shall be installed around the outdoor patio area as illustrated on the site exhibit and shall be a minimum of 6 ft. in height along the western side and a minimum of 4 ft. in height along the eastern side to mitigate potential impacts to the existing residences.
- d. Application for and approval of building permits with the Town of Wellington.
- e. Satisfaction of all applicable State of Colorado, Larimer County and Town of Wellington permits and certifications.
- f. Applicant shall obtain all required licenses and permits to operate a bar/tavern business.

Board of Adjustments Findings:

- A. The relief requested is consistent with the Comprehensive Plan and the intent stated in this Land Use Code. The proposal repurposes an existing historic structure allowing a local business to grow in place in accordance with the intent of the Comprehensive Plan and Land Use Code.
- B. Strict application of the regulation will result in unnecessary hardship and practical difficulties on all reasonable use of the land intended by the existing zoning, as opposed to convenience or benefit of the Applicant or a specific application. Existing site conditions and constraints from an already developed site in the Downtown Core District does not have adequate space to allow for addition of a permitted complimentary use while still complying with the 500-ft setback.

- C. The need for the variance is due to specific and unique physical conditions on the site that do not exist on similarly situated land in the area. The site was platted and developed over 100 years ago, and existing lot dimensions are less than what would typically be required under the current code. The Land Use Code was updated in 2022 and now requires a 500-ft setback between a bar/tavern use and residential property that did not exist for the site previously. The existing physical conditions and lot size restrict an otherwise permitted and comparable land use allowed within the LI District.
- D. The manner in which the strict application of the regulation deprives the applicant of reasonable use of the land compared to other similarly situated land in the area. Strict application of the regulations deprives reasonable use of the land for Light Industrial purposes otherwise allowed.
- E. The circumstances warranting the variance are not the result of actions by the applicant or could not be reasonably avoided by actions of the applicant. The hardship is attributable to the existing lot and site conditions and the updated land use code provisions created a new separation setback that affects uses allowed on the property.
- F. Granting the variance does not adversely affect the public health, safety, and welfare, and in fairness to the applicant, substantial justice is done. Substantial justice to the applicant is accomplished; The setback variance allowing for the complimentary use will not adversely impact the well-being of the local residents when the site is developed substantially as illustrated on the revised and updated site development plan with scope limited to outdoor seating area and fence enclosure.
- G. The relief requested is the minimum necessary to alleviate the hardship and practical difficulties; The Board of Adjustment confirmed that the 140-ft setback was appropriate to ensure site activities that may include outdoor activities are also included within the varied setback.
- H. The relief requested is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for these areas (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.). The addition of complimentary use on site is consistent with the Comprehensive Plan and the use is a permitted use within the LI – Light Industrial District in accordance with the Land Use Code. The adjacency of the site to the Downtown Core District supports the goals of visions of revitalizing the vibrant and historic Downtown Core and establishing a diversity of business and employment opportunities within a walkable downtown.

Member Molin moved to modify the conditions of approval for Variance Case No. BOA2023VAR01 approved for 8121 First Street including conditions A through F and based on the findings of approval. Member Stringer seconded the motion.

**Yeas – Wydallis, Stahl, Molin, Stringer
Nays – None
Motion carried.**

C. Election of Officers

Board Member Wydallis nominated Chairman Knutson for Chair, seconded by

Member Stahl.

Yeas – Wydallis, Stahl, Knutson, Molin, Stringer

Nays – None

Motion carried.

Member Wydallis nominated Vice Chairman Stahl for Vice Chair, seconded by Member Knutson.

Yeas – Wydallis, Stahl, Knutson, Molin, Stringer

Nays – None

Motion carried.

7. COMMUNICATIONS

No Communications

8. ADJOURNMENT

Chairman Knutson closed the meeting at 8:40 pm.

Approved this 30 day of October, 2024.

Aidan Checkett

Recording Secretary