



**BOARD OF ADJUSTMENT**  
**March 28, 2024**  
**7:00pm**

**REGULAR MEETING**

**WILSON LEEPER CENTER – 3800 Wilson Ave.**

Individuals wishing to make public comments must attend the meeting in person or may submit comments by sending an email to [lundypa@wellingtoncolorado.gov](mailto:lundypa@wellingtoncolorado.gov). The email must be received by 4:00 p.m. Wednesday, March 27, 2024. The comments will be provided to the Board and added as a supplement to the packet. Emailed comments will not be read during the meeting.

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The Zoom information below is for online viewing and listening only.

Please click the link below to join the webinar:

[https://us06web.zoom.us/j/83464071283?pwd=y\\_-6Nppb9RXL6TbmBXoFTITLEwrHTQ.u-lea4An2WnE\\_MLv](https://us06web.zoom.us/j/83464071283?pwd=y_-6Nppb9RXL6TbmBXoFTITLEwrHTQ.u-lea4An2WnE_MLv)

Passcode: 669328

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1. **CALL TO ORDER**
2. **ROLL CALL**
3. **ADDITIONS TO OR DELETIONS FROM THE AGENDA**
4. **PUBLIC FORUM**

Public is invited to be heard on non-agenda items (time limit of 3 minutes per person)

5. **CONSIDERATION OF MINUTES**

**5.A. Meeting Minutes**

- Regular meeting minutes of May 25, 2023.

6. **NEW BUSINESS**

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

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

**6.C. Election of Officers**

7. **COMMUNICATIONS**

8. **ADJOURNMENT**



**TOWN OF WELLINGTON  
BOARD OF ADJUSTMENTS**

**Agenda Item #5A**

**REGULAR MEETING MINUTES  
May 25, 2023**

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**1. CALL TO ORDER**

The Board of Adjustments for the Town of Wellington, Colorado, met on May 25, 2023, at the Wilson Leeper Center at 7:02 p.m.

**2. ROLL CALL**

Members Present: Eric Stahl – Vice Chairman  
Kathy Wydallis  
Meghan Molin  
Sherman Stringer  
Stephen Carman – 1<sup>st</sup> Alternate

Members Absent: Wyatt Knutson

Town Staff Present: Cody Bird, Planning Director  
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 April 27, 2023

**Member Wydallis moved to approve the regular meeting minutes of April 27, 2023. Member Molin seconded the motion.**

**Yeas – Wydallis, Stringer, Stahl, Molin, Carman**

**Nays – None**

**Motion carried.**

**6. NEW BUSINESS**

A. Variance Request – Seeking Relief from Section 4.03.3 (A) of the Land Use Code to reduce the minimum setback requirement of a bar/tavern from a residential district or use from 500 feet to 158 feet (8121 First Street).

Cody Bird, Planning Director presented the staff report. The variance is proposed by applicant Twila Soles, the owner and operator of Grouse Malting and Roasting. The existing roasting business was approved in 2013. The variance requested would allow the expansion of that business to include a bar/tavern with production and serving of alcoholic beverages onsite. This is a variance request to reduce the setback between a bar/tavern located in the LI – Light Industrial District. The

separation distance from a bar/tavern is 500 feet from a residential use and in this instance the existing site conditions are in an area that is close to existing residential properties. The existing site does not comply with the 500-foot setback that was established in the Land Use Code 2022 adoption. Therefore, the variance request is to reduce that setback from 500 feet to 158 feet to allow redevelopment of the site, including the addition of the bar/tavern use. The 158 feet is shown as measured from the front door of the business to the closest residential property to the east. There was also 263-foot distance from existing residential property to the west on the other side of the railroad tracks.

A taproom was previously operated at this location from 2015-2019. The applicant states that a hardship was created when the Town's Land Use Code was updated in 2022 and the amended Official Zoning Map adopted in 2023 reclassified the adjacent residential uses from "Transitional District" (a commercial zoning district) to R-2 Residential District.

The light industrial manufacturing type uses were changed from a conditional use to an allowed use in the light industrial district as were bars and taverns. The conditional use process that Ms. Soles went through before is no longer a requirement because the uses are now a use-by-right. The tradeoff, though, was instead of the conditional approval, the variance process is a tool to consider unique requests where that buffer setback distance was required to mitigate potential adverse impacts from those uses that were allowed as by-right.

Bird asked if there were any conflicts of interest or any *ex parte* communications. Commissioner Carman just wanted to make it known that he also sits on the Planning Commission. Commissioner Molin said she had sent an email to the group but that it was not answered.

Twila Soles, owner of the property, is very excited to make a more walkable event space. She said that all the information was provided in the packet.

Commissioner Stringer wanted to know more about the events proposed to take place on the site. Soles explained that it would mostly be live music initially. She also wants the space to be a place where people can come to gather as a community for graduation parties, retirement parties, and those types of events.

Vice Chairman Stahl asked if they were seeking a full liquor license or just a beer and wine license. Soles is looking to get a full liquor license.

Commissioner Molin wanted to learn more about the limited hours that were mentioned in the packet. Would they be open past midnight.

Soles said they are willing to limit the hours to help with the noise and have a barrier to help. They want to be good neighbors and work with everyone. They won't be open past midnight.

Commissioner Stringer asked if the music would be inside or out.

Soles replied that it could depend on the weather. The preference was to be outside.

Commissioner Carman asked if there are plans to do screening on the west side to help with noise reduction for the neighbors to the west.

Soles said the property does not allow for landscaping as the lot and space availability is different on that side, but the plan is to put up an 8-foot privacy fence to help on that side.

Commissioner Molin wanted to know more about the music location.

Soles said the performers would be facing the building when they played.

Commissioner Molin wanted to know if the previous tenant played music outdoors. Bird replied yes, there was live music outdoors. To his knowledge, there were not any complaints filed with the Town.

Commissioner Carman wanted to know if there would be any fencing on the north side of the property, or the south side as well.

Soles said she hopes to put an 8-foot fence along the property line as well on the north side. The south has a vacant lot, but there is already a 7-foot fence there.

Public hearing opened at 7:37pm.

Josiah Burk introduced himself as the closest homeowner to the proposed site asking for a variance. He is 100% in favor of the project. He liked being close to the prior tenant. He is not concerned about property values decreasing. He likes to be able to walk over to entertainment. He thinks this proposal will make the property look nicer. He does not see this proposed use as being any different for outdoor noise when comparing it to the other restaurants and their music that he can currently hear.

Public hearing closed at 7:44pm.

The Board identified the following findings:

A. The relief requested is consistent with the Comprehensive Plan and the intent stated in this Land Use Code. (YES – 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 an 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. (YES – 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. (YES – 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 under 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. (YES – 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. (YES – 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. (YES – Substantial justice to the applicant is accomplished; NO – 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 site development plan).

G. The relief requested is the minimum necessary to alleviate the hardship and practical difficulties; (YES – The applicant originally requested a setback variance of 158-ft; however, upon consideration, the Board of Adjustment recommended reducing the setback to 140-ft 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.). (YES – 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).

**Board Member Molin moved to grant a variance to vary Section 4.03.3-A, Use Specific Standards to reduce the minimum separation setback requirements of the LI-Light Industrial zoning for 8121 First Street from 500 feet to 140 feet, subject to conditions included in the staff report A through H, change condition C to be the site plan shall provide and maintain significant buffering and screening, landscaping and fencing along the eastern and western property lines to mitigate impacts of outdoor activities, and removal of conditions A and D. Member Wydallis seconded the motion.**

**Yeas – Wydallis, Stringer, Stahl, Molin, Carman**

**Nays – None**

**Motion carried.**

## **7. ANNOUNCEMENTS**

Bird announced there will not be a meeting in June as there have not been any applications submitted.

## **8. ADJOURNMENT**

Acting Chairman Stahl closed the meeting at 9:00pm.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2024.

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Recording Secretary

# Board of Adjustment Meeting

# Agenda Item #6A

Meeting Date: March 28, 2024

Submitted By: Paul Whalen, Planner III

Agenda Category: New Business

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Subject:

**Variance Request – Reduce Side Yard Setback (East) from 20 ft. to 10 ft. on Lot 4, Wellington West Subdivision (3496 Timber Wolf Cir.)**

Background:

- Applicant, Debra Waters, has submitted a request seeking relief from section 15-3-20(g) of the Wellington Municipal Code to allow a reduction of the side yard setback on Lot 4, Wellington West Subdivision (3496 Timber Wolf Cir.).
- Section 15-3-20(g) of the Wellington Municipal Code establishes a required 20 ft. side yard setback on properties zoned R1 Rural Residential.
- The applicant has requested a variance to reduce the side yard setback (east property line) to 10 ft. for the placement of a detached shop (28 ft. x 40 ft.) in the back yard.
- A request for variance is a quasi-judicial proceeding and requires a public hearing. The Board will need to hear and weigh testimony presented at the public hearing.

Staff Comments:

- When considering a request for a variance, the Board of Adjustments evaluates the Findings for Approval identified in the Land Use Code, Section 15-2-220(d). The findings that are to be considered are listed below, and staff's opinion of each finding follows (*in italics*).

**1. The relief requested is consistent with the Comprehensive Plan and the intent stated in this Land Use Code.**

- *The property is zoned Rural Residential - The district is a very low-density large-lot residential area intended for detached single-family development in locations more characteristically rural, and on the outskirts of planning areas that are supported by neighborhood amenities and public facilities.*
- *The relief requested is consistent with the Comprehensive Plan and intent stated in the Land Use to allow the R1 zone district to serve as a separation between the more developed parts of the community and unincorporated county areas or neighboring towns.*
- *Within the Rural Residential District, accessory detached structures common to the rural lifestyle are permitted uses and structures.*

**2. Strict application of the regulation will result in an 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.**

- *Strict interpretation of the code does not allow accessory buildings or detached garages within the R1 Rural Residential zoning district to be located within 20 ft. of a side property line.*
- *Strict application of the 20 ft. side yard setback does not prevent use of the property for permitted uses within the district and does not prevent the construction of an accessory building or detached garage on the property.*
- *Strict application of the code would result in the applicant having to reduce the size of the detached garage that is desired or alter/demolish existing site features which may be considered a hardship.*

**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.**

- *Wellington West Subdivision was platted in 1994 as a large-lot, suburban subdivision. Lots range from approximately 0.4 acre to 2.9 acres in size.*
- *All properties within Wellington West Subdivision were designed to be served by private septic systems. The larger lot sizes allow the placement of private septic systems and laterals/leach fields, (including replacement leach fields).*
- *The applicant's property is 1.05 acres in size. There is a 15 ft. drainage and utility easement across the rear of the lot and a 25-ft drainage and utility easement across the front of the lot.*
- *The applicant suggests that the constraints of the existing home location, leach field locations (see attached septic permit record), mature trees and landscaping, and the wider setback requirements of the R1 Rural Residential zoning district restricts the remaining buildable area on the property. A referral was forwarded to the Larimer County Health Department. A minimum 10 ft. setback from the existing septic leach field is required.*
- *Staff concurs that the above factors constrain the buildable area of the site; however, staff does not determine that this circumstance is exceptional since all properties within the subdivision have similar constraints.*

**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.**

- *Strict application of the 20-ft side yard setback requirement renders one-fourth of the 1.05-acre site sterile of any building activity. As an existing developed large lot, there remains very limited open space to locate the proposed garage/workshop while remaining in close proximity to the driveway which serves as the primary access point.*
- *Shifting and/or demolishing existing structures or reducing desired building size minimizes the rational for the additional storage and work space.*

**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 constraints on the buildable area of the property are not conditions created by an action or actions of the applicant.*
- *The applicant inquired staff about the setback requirements and building requirements before applying for a building permit and has not begun any construction.*
- *The applicant has demonstrated good faith in pursuing a variance to achieve the desired building placement, and therefore, it can be determined that the circumstance was not the result of an action by the applicant.*
- *Staff has recommended and discussed alternatives such as reducing the size of the detached garage to meet the setback requirement. The applicant has expressed that reducing the size of the building does not meet the applicant's needs, and demolishing existing site features would be costly.*

**6. Granting the variance will not harm the public health, safety and welfare or the purposes and intent of these regulations.**

- *Granting the requested variance is not expected to adversely affect the public health, safety and welfare.*
- *In fairness to the applicant, the proposed detached garage is a permitted use within the district and the requested variance is generally consistent with the large-lot, rural character of the R1 Rural Residential zoning district.*
- *The Board may also consider that some other properties within the Wellington West Subdivision also have detached buildings that are less than 20 ft. from the property line that were constructed before the current regulations were adopted*
- *Neighbors' consent letters voicing no opposition to the variance request is attached for Board reference.*

**7. The relief requested is the minimum necessary to alleviate the hardship and practical difficulties; and**

- *The applicant is seeking the minimum variance necessary for the construction of 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 (e.g., The Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).**

- *The provisions of Section 15-3-20(g) establishing minimum setbacks is intended to provide adequate open space and separation between neighbors and between buildings. The increased setbacks required in the R1 Rural Residential district is intended to provide for large-lot, single-family development in areas that are more characteristically rural (low-density residential for no more than 2 single-family dwellings per acre and 1 or more accessory buildings).*

- *The property currently has a single-family dwelling on 1.05 acres. There is a pump house in the northeast corner of the property.*
  - *The proposed reduction of the side yard setback does not eliminate open space between neighboring properties and does not reduce any setbacks to less than the 10 ft. required for fire separation requirements.*
  - *For these reasons, staff suggests that the requested variance to reduce the side yard setback to 10 ft. does not violate the spirit and intent of the code.*
- Based upon the preceding findings, staff recommends approval of the variance, subject to the following conditions:
  1. The side yard setback (east property line only) is not reduced to less than 10 ft;
  2. Obtain locates to update site plan with location of septic system components prior to 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 revised site plan; and
  6. Compliance with all other applicable zoning and building codes.

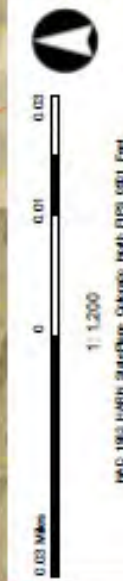
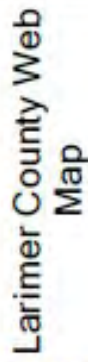
Recommendation:

- Move to grant a variance to vary Section 15-3-20(g) of the Wellington Municipal Code to reduce the minimum side yard setback requirement of the R-1 Rural Residential zoning district on Lot 4, Wellington West Subdivision to 10 ft., subject to conditions and based on the Findings for Approval.
- Move to grant a variance to vary Section 15-3-20(g) of the Wellington Municipal Code to reduce the minimum side yard setback requirement of the R-1 Rural Residential zoning district on Lot 4, Wellington West Subdivision to 10 ft., with no conditions and based on the Findings for Approval.
- Move to deny the request for a variance of minimum side yard setback requirement of the R-1 Rural Residential zoning district.
- Move to continue consideration of the variance request to a regular/special meeting of the Board of Adjustments to be held \_\_\_\_\_ (month) \_\_\_\_ (day), 2024 at \_\_\_\_\_ (time) at the Wilson Leeper Center, 3800 Wilson Ave., Wellington, Colorado.

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Attachments

- Location Map
- Applicant Request Letter
- Neighbor Consent Letters
- Applicant's Site Plan
- Site Plan showing requested 20 & 10 ft. setbacks
- Building Elevations
- Larimer County Health Dept. Correspondence
- Septic Permit Record



**Location Map:**

- [illegible]

February 22, 2024

Town of Wellington

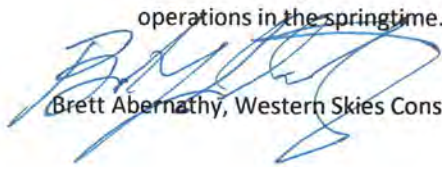
Subject Property: 3496 Timberwolf Ct.

Proposed Request: Setback Variance for Shop Construction

Applicant: Debra Waters, Owner    Agent: Western Skies Construction, LLC

We are requesting a 10' setback reduction for a distance of 40' along the east lot line for the construction of a 28' wide x 40' long Shop. The proposed location for the shop on site plan is the only location feasible for the following hardship reasons:

1. The absorption bed for the septic system is detailed on the "as-built" plans from the Larimer County Health Dept. is constructed beneath, most other areas on the lot that does not have mature trees, vegetation and sub-soil irrigation systems. Although the "as-built" drawing has system component separation distances, no distances from lot lines are provided. For due diligence, in order to protect the integrity of the absorption bed, an additional 20' buffer zone should be maintained to insure absorption bed protection and performance
2. The property has large mature trees (10"-16" diameter). These trees provide a site and noise buffer from the traffic on U.S. Highway 1 that borders the north 147' of the property. This buffer is also a substantial benefit to all the neighbors adjoining and across the road from this address. A engineered sub-soil irrigation system for the entire property travels through and services the entire lot excluding the proposed location. The attached plot plan shows that the proposed location for construction is devoid of this system as well as containing no mature trees.
3. The proposed location will provide for the connection of the new concrete approach for the shop to the existing driveway for aesthetic continuity in the neighborhood.
4. The existing garage does not have the capacity to allow for inside storage for riding lawnmowers, utility trailers or RVs. Construction will eliminate "clutter" of vehicles and trailers parked in view of the street.
5. The family is growing and the shop is needed for additional vehicles and item storage currently using a portion of the attached garage forcing vehicles to driveway when parked on the lot.
6. The door requirements for the shop are 10' width. The proposed garage is 28' wide. It will be divided down the middle providing 14' outside edge to center for each bay. We cannot reduce the width as each bay must have a counter along one side wall. This is the breakdown requiring the 28' width:  
4" wall thickness, 26" counter, 26" vehicle door swing, 84" vehicle width, 26" vehicle door swing, 2" wall thickness (1/2 shared width adjoining bay) equals 168" or 14' feet per bay.
7. The relocation of the shop anywhere further away from the 10' variance requested, would create an economic hardship for the family through substantial construction cost increases to remove the mature trees, additional driveway subsoil construction, additional concrete driveway materials and labor, trenching and repair of damaged irrigation system, and the potential damage to the remaining landscaping due to irrigation disruption during construction operations in the springtime.



Brett Abernathy, Western Skies Construction, LLC 970-218-6317

## Neighbor's Consent Letters:

February 26, 2024

Town of Wellington  
Building Department

Gentlemen:

My name is Scott M. Davis and my address is 3504  
Timberwolf Circle, Wellington CO 80549. I own the property.

My home is next door to Debra Waters and Pamela Brown who live at 3496 Timber Wolf Circle. My property is directly to the east of their property. Debra and Pamela have asked me if I would have any objections should the Town of Wellington decide to grant their request for an exception to the 20' setback rule for a workshop/garage they would like to build.

Debra asked me several months ago if I would be agreeable to having only a 10 ft setback on their side of the fence and I told her at that time, it would not be a problem for me. I understand that the wall of the workshop/garage would only be 10 feet from our common fence/property line. I confirm I have no issue with their request and would not object if the Town of Wellington should approve their exception request.

Thank you in advance for soliciting my opinion. It is very much appreciated.

Sincerely,

Scott M. Davis

March 14, 2024

To: Cody Bird, Planning Director

Re: Notice of Public Hearing – 3496 Timbe Wolf Circle

Dear Mr. Bird,

As property owners of 3499 Timber Wolf Circle within 500 feet of 3496 Timber Wolf Circle, we have no objections to the variance Ms. Waters is requesting.

Sincerely,

John P. Klingaman

A handwritten signature in black ink, appearing to read 'JPK', with a long horizontal stroke extending to the right.

Lee A. Haisch

A handwritten signature in black ink, appearing to read 'Lee A. Haisch', written in a cursive style.

# SITE PLAN

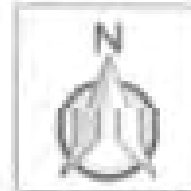
3496 Timber Wolf Cir

144.11' x 117.11' = 16,865.42 sq. ft.

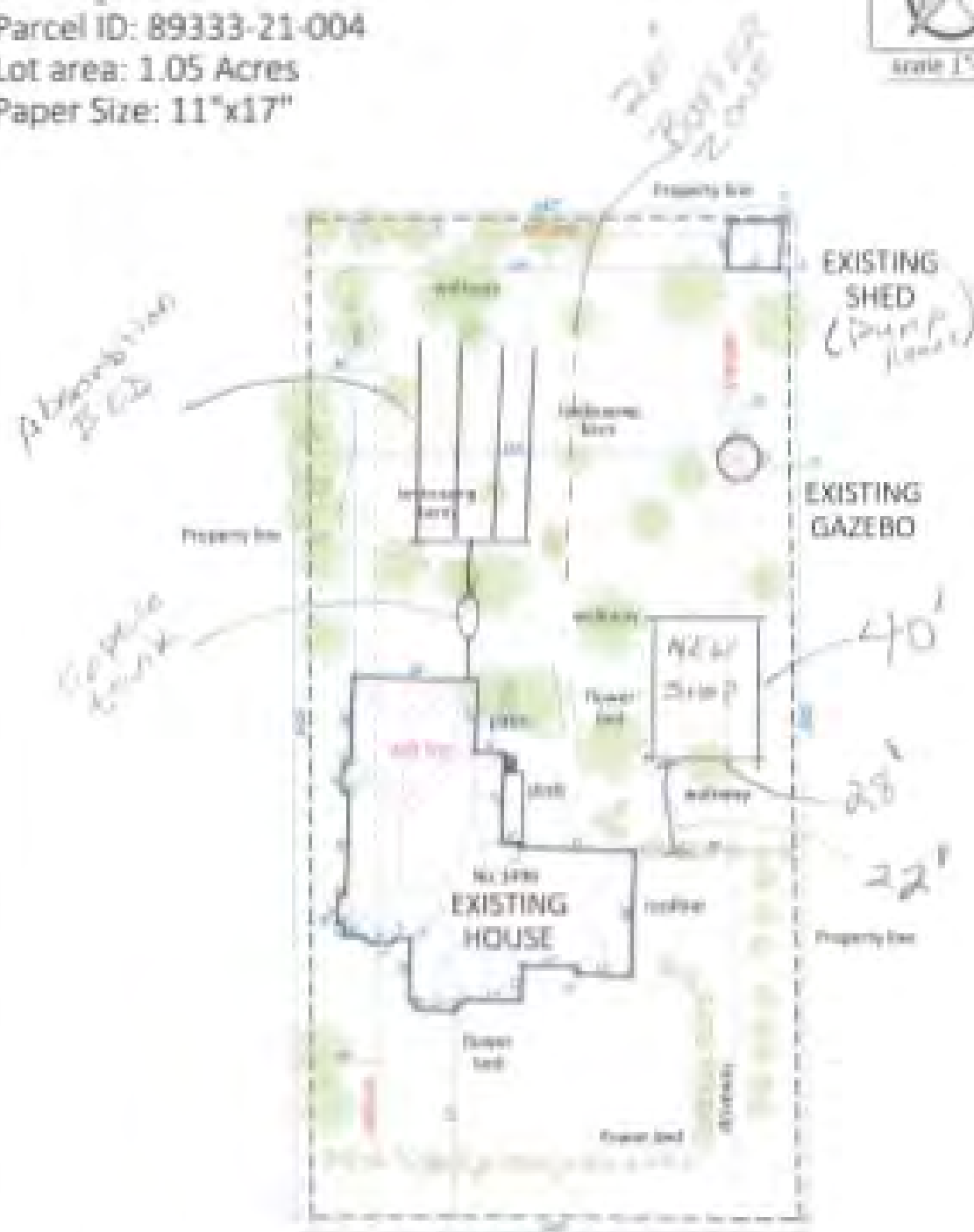
Parcel ID: 89333-21-004

Lot area: 1.05 Acres

Paper Size: 11"x17"



scale 1"=30'



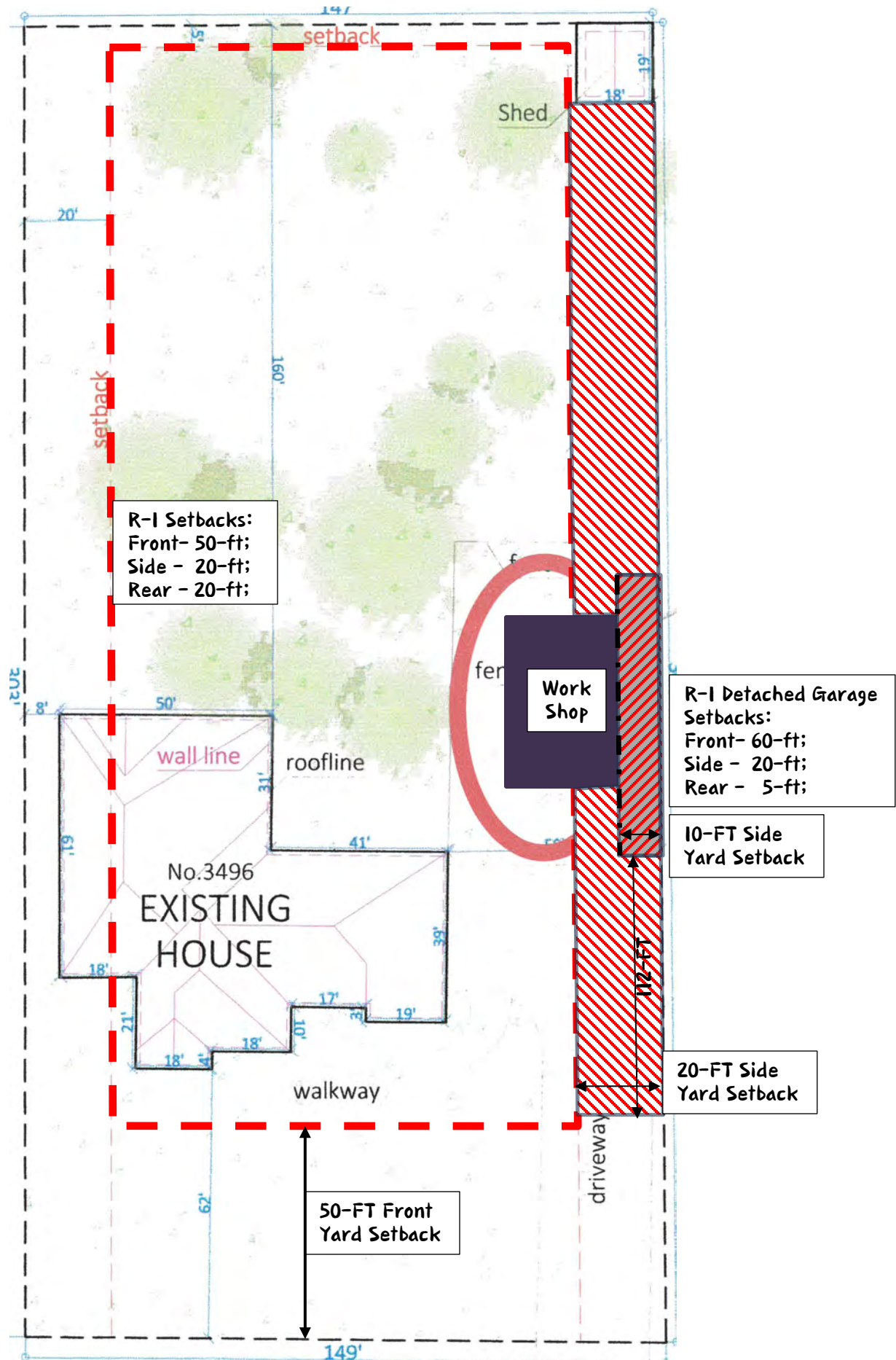
Timber Wolf Cir

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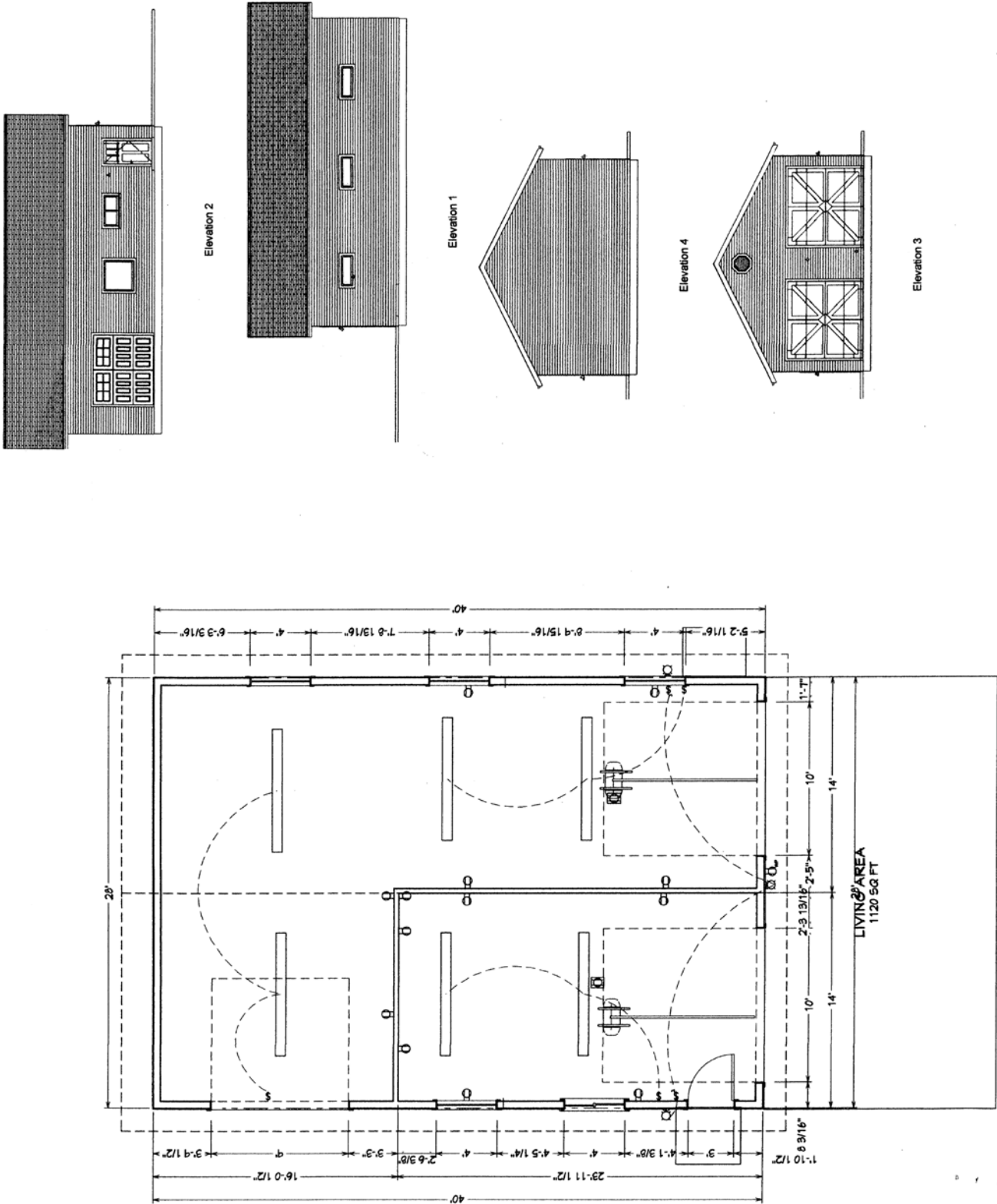
Created by:

GET A SITE PLAN

SITE PLAN:



|                                                                 |  |                                                                                             |  |                                  |  |                         |  |
|-----------------------------------------------------------------|--|---------------------------------------------------------------------------------------------|--|----------------------------------|--|-------------------------|--|
| DRAWINGS PROVIDED BY:<br><b>Western Skies Construction, LLC</b> |  | PROJECT DESCRIPTION:<br><b>Waters Shop<br/>3496 Timberwolf Cr.<br/>Wellington, CO 80549</b> |  | SHEET TITLE:<br><b>RENDERING</b> |  | NO. DESCRIPTION BY DATE |  |
| DATE:<br>2/6/24                                                 |  | SCALE:                                                                                      |  | SHEET:<br><b>A-1</b>             |  |                         |  |



# SHOP ELEVATIONS:

# UPDATED SEPTIC PERMIT:

ENTERED

## APPLICATION AND PERMIT FOR INDIVIDUAL SEWAGE DISPOSAL SYSTEM



LARIMER COUNTY  
DEPARTMENT OF HEALTH & ENVIRONMENT  
1525 BLUE SPRUCE DRIVE  
FORT COLLINS, COLORADO 80524

1. 1/4 S 33 T 09 R 68 Parcel # (970) 498-6775 F.C.  
2. Subdivision WELLINGTON WEST (970) 577-2050 E.P.  
3. Lot 4 Block Filing Tract (970) 498-6772 FAX  
4. New System Repair Remodel X Vault/Privy  
5. Business Name  
6. Addr/Loc 3496 TIMBERWOLF WELLINGTON CO 80549  
7. Owner CLOWES, SUE Phone ( )  
8. Address 3496 TIMBERWOLF WELLINGTON CO 80549  
9. Agent STEVE FRISINGER Phone (970) 568-9096  
10. Address 1539 WCR 70 FT COLLINS CO 80524  
11. Contractor STEVE FRISINGER Phone  
12. Address  
13. Engineer Signature Date  
14. Build type SF Bsm't Bath Y Capacity 4+2=6 Lot Size 1ACRE  
15. Well Water Dist. TOWN OF WELLINGTON Sanit. Dist.  
16. Plot Plan Eng. Report Engineer's Design  
17. Owner/Agent Signature *Steve Frisinger* Date 07/29/2002  
Fee \$150<sup>00</sup> Receipt # *pc FC* BP # *FO Well* Cross Ref # *9063*

Permission is hereby granted to the owner or his agent to perform the work indicated below in accordance with the Larimer County Individual Sewage Disposal Regulations and is conditional upon the final installation approval of the Larimer County Department of Health and Environment. This permit is to remain in full force for the duration of the Larimer County Building Permit, or 120 days after its issuance, where applicable, providing it is not revoked for noncompliance. The issuance of this permit does not constitute assumption by the Department or its employees of liability for the failure or inadequacy of the sewage disposal system.

18. Depth to Water Table \_\_\_\_\_ Perc Rate \_\_\_\_\_ Depth to bedrock \_\_\_\_\_ Slope \_\_\_\_\_  
19. Type and Design of System *For 2 bedroom addition (6 total)*  
*add a 500 gallon tank and 130 ft. of 10" SB2 piping*  
*(35 ft. in each existing run - 4)*  
*Tank replaced with a 2000 gal tank; (2) SB2 lines added*  
*to existing trenches (130 ft.)*  
20. Maintenance Schedule *Pump tank every 3-4 yrs, switch valve annually*  
21. Please notify the department 48 hours in advance of backfilling to obtain final inspection for issuance of "Occupancy Certificate".

| Approval Signature                | Date           | Approval Signature                               | Date           |
|-----------------------------------|----------------|--------------------------------------------------|----------------|
| 22. Preliminary: <i>McCluskey</i> | <i>7/24/02</i> | 24. Construction Inspection                      |                |
| 23. Site Inspection:              |                | 25. Final inspection <i>McCluskey</i>            | <i>8/12/02</i> |
|                                   |                | 26. Occupancy Permit Ok'd <i>Steve Frisinger</i> | <i>8/13/02</i> |

Route: White - Owner; Pink - System Contractor; Tag Copy - File.

L.C.D.H.E. 233 (8/96)

Septic Tank: Gallonage size: 2000 Manufacturer: CPS

**Absorption Area**

- Gravel bed or trench square footage area: \_\_\_\_\_
- Infiltrator or bio-diffuser units number: \_\_\_\_\_
- SB2 Lineal footage: 130'

**Evapotranspiration System (total or partial)**

- Gravel bed square footage area: \_\_\_\_\_
- Infiltrator or bio diffuser unit number: \_\_\_\_\_

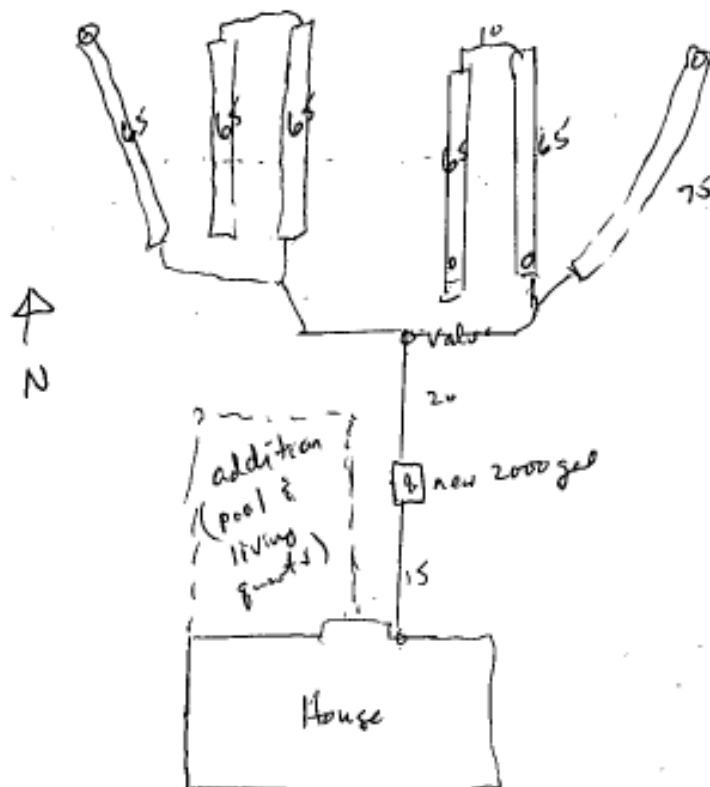
Vault or Privy Vault - Gallonage size: \_\_\_\_\_

Other: \_\_\_\_\_

Address: \_\_\_\_\_

DESIGN CODE RM 9

**DIAGRAM**



# LARIMER COUNTY REFERRAL LETTER:



## LARIMER COUNTY | HEALTH AND ENVIRONMENT

1525 Blue Spruce Drive, Fort Collins, Colorado 80524, 970.498.6700, [www.larimer.gov/health](http://www.larimer.gov/health)

**TO:** Paul Whalen  
Town of Wellington

**FROM:** Lea Schneider

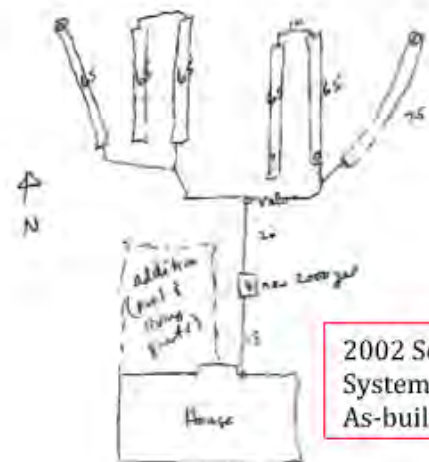
**DATE:** March 24, 2024

**SUBJECT:** Variance Request for 3496 Timberwolf Circle in the Wellington West Subdivision

The applicant is requesting a setback variance to allow 10 feet setback from the east property line for a new shop structure.

One of the reasons for the requested setback is the proposed 20 feet buffer from the septic absorption field. Please note that the submitted Site Plan does not have an accurate representation of the existing septic system that was upgraded in 2002 for the addition to the residence. The septic tank and the septic absorption field with the new 'trenches' that were installed in 2002 are further south and further to the east than depicted in the Site Plan. The sewer line exits from the original house and not the addition as drawn in the Site Plan. The septic absorption field is approximately 40 feet from the original house. The Health Department septic regulations require a minimum of 10 feet between the absorption field trenches and the shop foundation. A minimum of 5 feet is required between the shop foundation and the 2000 gallon septic tank.

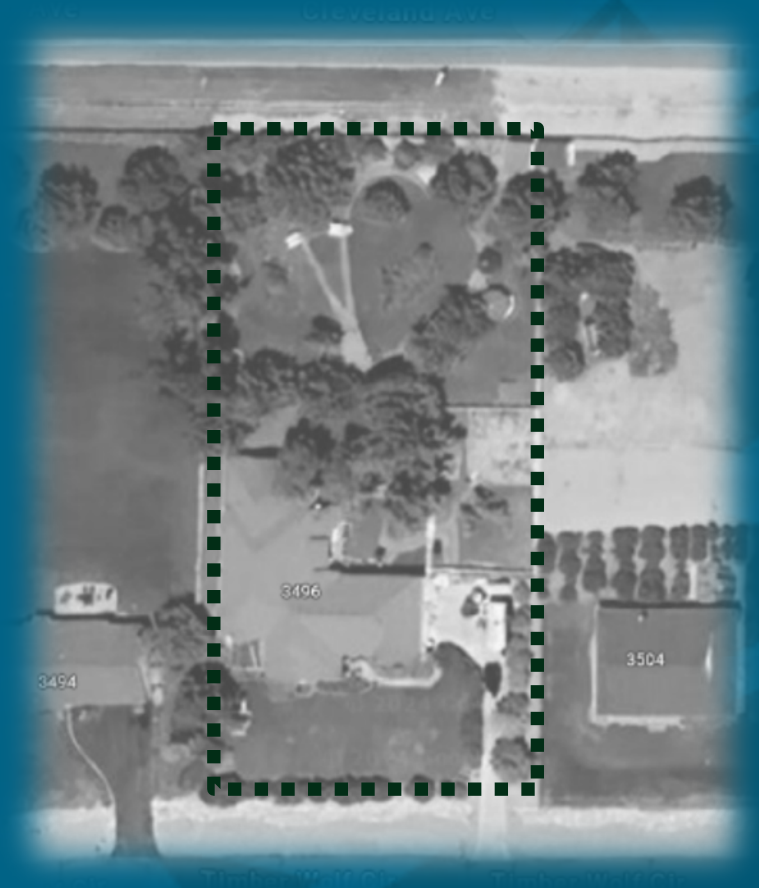
The Health Department would recommend that the applicant have a third party inspector survey the property and identify the location of the septic absorption trenches to ensure that the future shop structure is adequately setback a minimum of 10 feet. The septic system components should be marked once located to prevent construction activity from driving over the field.



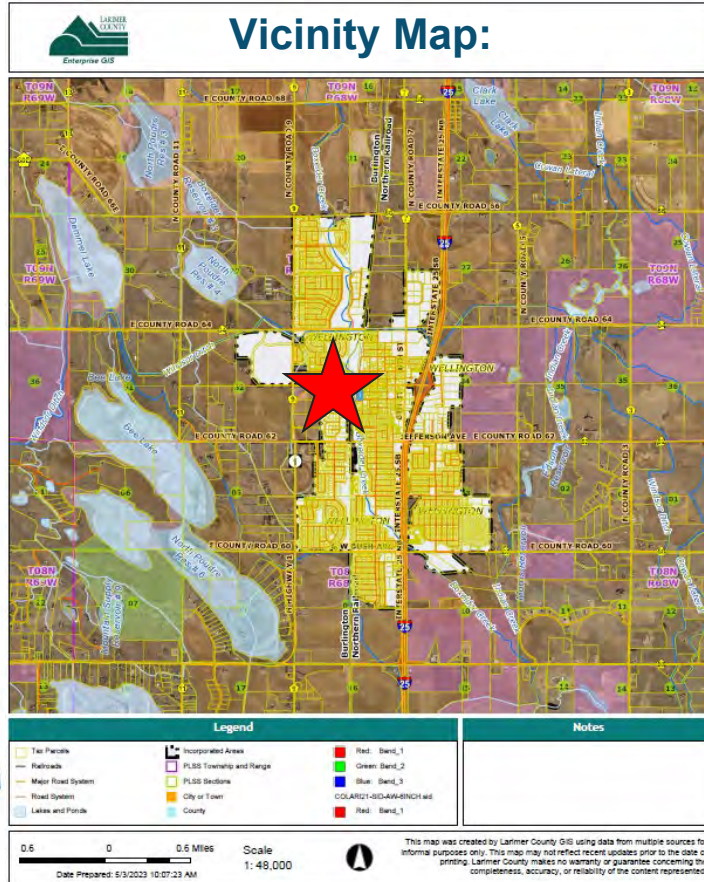
# Board of Adjustments

## Variance Request: 3496 Timber Wolf Circle

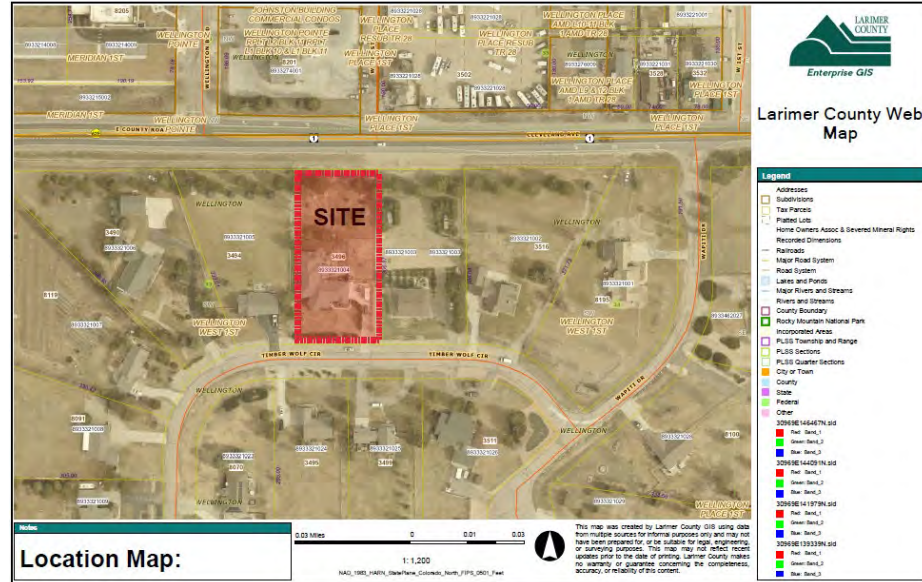
Wellington Land Use Code (Ord. 07-2022)  
Section 15-2-220 Variance  
Subsection 15-2-220(d) Findings for Approval



# Board of Adjustments

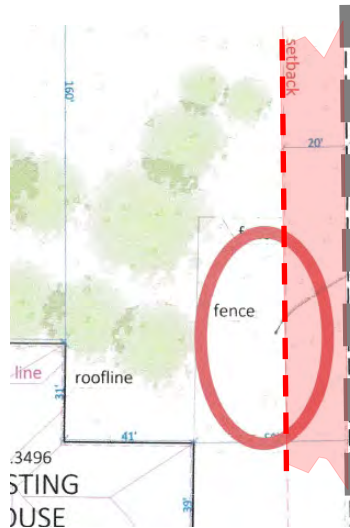


## Site Location:



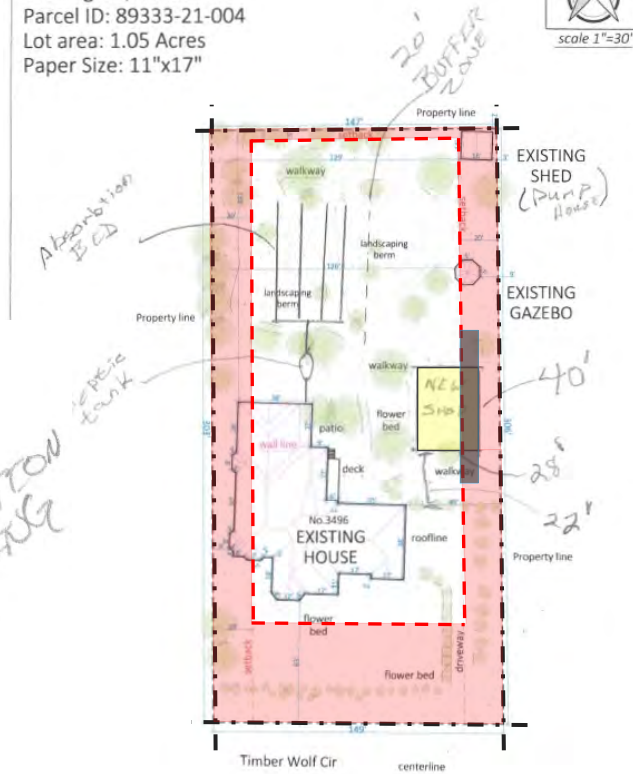
# Site Map:

- ✓ **Section 15-3-20(g) Dimensional Standards Minimum Side Yard Setback for an Accessory Building is 20-ft in the R-1 Rural Residential zone district.**
- ✓ **An accessory building is a permitted land use in the R-1, Rural Residential zone district.**
- ✓ **The applicant is seeking relief from the side yard setback standard.**
- ✓ **The applicant proposes reducing the side yard setback to 10-ft. to allow for a workshop.**
- ✓ **The adjacent property owner has provided a letter of consent.**



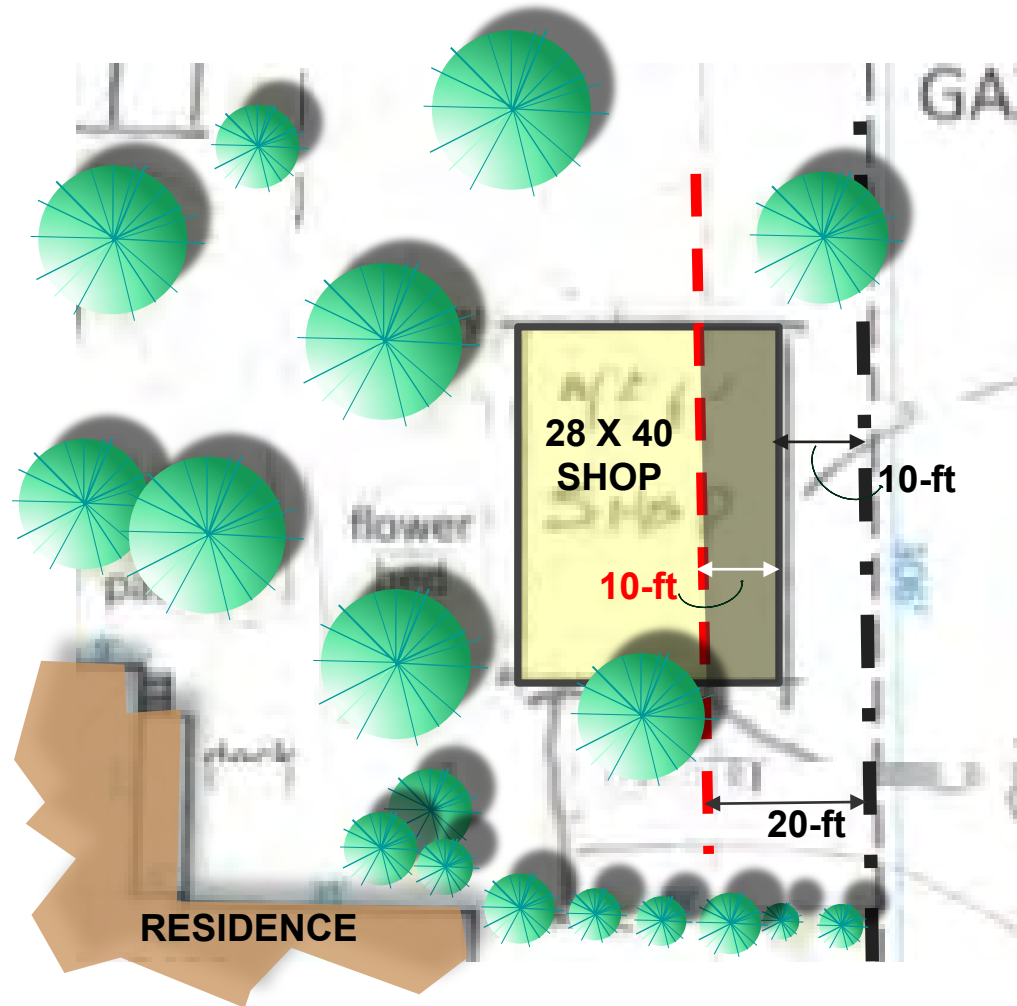
NO INTEGRATION EXISTING

**SITE PLAN**  
3496 Timber Wolf Cir  
Wellington, CO 80549  
Parcel ID: 89333-21-004  
Lot area: 1.05 Acres  
Paper Size: 11"x17"



# Setback Request:

- The site is part of the Wellington West large-lot residential subdivision.
- The development was largely constructed prior to the 20-ft side yard setback standard– (hence the apparent encroachments throughout the subdivision).
- The applicant seeks to add a 28' x 40' shop in a location with minimal impact to the existing site features.
- A workshop/accessory building is not uncommon to this large-lot development or the R-1 Rural Residential zone district.
- The applicant states that a hardship exists due to limited undisturbed space and access to the 1,120 SF building.



# Finding 1:

- The relief requested is consistent with the Comprehensive Plan and the intent of this Land Use Code.
- ✓ *The relief requested is consistent with the Comprehensive Plan and intent stated in the Land Use Code. This location is zoned Rural Residential , and thus, large lots with accessory structures are permitted by right.*

## Finding 2:

- Strict application of the regulation will result in an 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.
- ✓ *Strict application of the regulation will result in an unnecessary hardship and practical difficulties due to existing constraints, and established development trends, (i.e. multiple structures located in the setbacks).*

## Finding 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.
- ✓ *The need for the variance is due to existing structures and site features, and thus suitable alternative locations are very limited on the site.*

## Finding 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.
- ✓ *Wellington West is an established large-lot subdivision with on-site septic fields, strict application of this regulation deprives the applicant of reasonable use of the land (as permitted by right) not common to most other residential properties in the Town. The request is reasonable and common to the neighborhood with limited negative impacts.*

## Finding 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.
- ✓ *This property is part of a large-lot subdivision that was developed with on-site septic leach fields. Active leach fields require a minimum 10-ft perimeter clear zone buffer thus limiting potential surface area for accessory uses or buildings.*

## Finding 6:

- Granting the variance does not adversely affect the public health, safety and welfare, and in fairness to the applicant, substantial justice is done.
- ✓ *Granting the variance will not harm the public health, safety, and welfare of the adjacent residential neighbors. The site design includes existing landscaping and screening to protect the neighbor directly east of the site, and the general public on US Route 1. The architectural character of the proposed workshop shall be consistent with the existing residence.*

## Finding 7:

- The relief requested is the minimum necessary to alleviate the hardship and practical difficulties.
- ✓ *The relief requested to reduce the setback from 20-ft to 10-ft from adjacent property is the minimum necessary to alleviate the hardship, practical and financial difficulties.*

## **Finding 8:**

- The relief requested is consistent with any 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.).

## Summary & Staff Recommendation:

- *The request to reduce the setback to allow a workshop is not unreasonable. A similar variance was approved for 3493 Timber Wolf Circle.*
- *The adjacent neighbors at 3499 & 3504 Timber Wolf Circle have no objections to the variance request.*
- *Granting the variance would have minimal impacts to the neighborhood, and specifically the next door neighbor.*
- *Staff supports the granting of the variance, provided the garage/workshop is consistent with the architectural theme and character of the residence.*

## Board of Adjustments Meeting

## Agenda Item #6B

Meeting Date: March 28, 2024

Submitted By: Cody Bird, Planning Director

Agenda Category: New Business

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Subject:

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

Background:

- The applicant, Twila Soles on behalf of Soles^2 LLC previously submitted and was approved for a variance request to reduce the separation setback from a bar/tavern in the LI – Light Industrial zone district from a residential district (reduced from 500 ft. to no less than 140 ft.).
- The original variance request was heard by the Board of Adjustments on May 25, 2023, and following a hearing and deliberations, the Board of Adjustments voted to grant the variance request subject to conditions (decision record attached).
- The applicant now desires to modify the conditions of approval attached to the variance granted. The request is to modify the conditions based on the updated site exhibits provided with the new request.
  - The original variance application request was submitted concurrently with an application for site plan review by the Planning Commission. The original site plan proposal included improvements such as new sidewalks, fencing, parking lot, and landscaping to comply with current town development standards.
  - The site plan was considered by the Planning Commission and was subsequently continued to later dates to allow revisions to the site plans.
  - During the revision/review process, the applicant determined that the redevelopment plans were not feasible at this time and the applicant has withdrawn the application for site plan review (withdraw letter attached).
  - The applicant has also provided an updated narrative in the attached application describing that the scope of the site development plans has been substantially reduced (attached updated applicant narrative).
- The applicant has submitted a new plan for the site that includes only an outdoor patio and fence to achieve the screening/buffering described in the narrative to limit impacts of the outdoor patio and outdoor activities from adjacent residential properties.
  - The applicant has followed provisions of the Land Use Code and submitted a new request and application seeking to modify the conditions of approval of the variance granted [Section 15-2-40(c)(8)(a) - Modification or Amendment of Approval. *Unless otherwise permitted in this Land Use Code, any modification of approved plans, permits, or conditions of approval shall require a new application to be submitted and reviewed in accordance with the full procedure and fee requirements applicable to the application type.*]
- When a variance is requested from the Land Use Code, the Board of Adjustments considers the reasonableness or appropriateness of the request relative to the Findings

for Approval identified in the Land Use Code, Section 15-2-220(d).

- The staff report and considerations originally considered by the Board of Adjustments for the variance approved May 25, 2023 is attached for reference.
- A request for variance is a quasi-judicial proceeding and requires a public hearing. The Board will need to hear and weigh testimony presented at the public hearing.

#### Staff Comments:

- The variance granted by the Board of Adjustments on May 25, 2023 remains in effect, including the conditions of approval.
- In consideration of the request to modify conditions of approval based on updated site exhibits, the Board of Adjustments should again consider the Findings for Approval.
  - The decision record and Findings of Approval adopted by the Board of Adjustment is attached for reference.
- Modifications to the conditions of approval based on the updated site plans could include the following:
  - remove the condition requiring site plan review by the Planning Commission;
  - update the condition to construct the site in substantial compliance with the updated site exhibits; and
  - update the condition to provide significant buffering and screening (landscaping and fencing) along the eastern and western property lines based on the updated site exhibits.
- The condition of approval to require Site Plan Review by the Planning Commission was originally recommended by staff based on the plans for redevelopment of the site and significant changes to the site.
  - The Land Use Code states that site plan review is applicable to, among other applicability requirements – [...] *site plans submitted for any re-development, substantial changes to an existing site, changes that affect site circulation or access, and for any exterior modifications to an existing building within the C-2, Downtown Commercial District to show compliance with the Cleveland Avenue Architectural Standards [Section 15-2-120(a)]*
  - The applicant is stating that the new proposed site plans no longer meet the applicability requirement for site plan review.
- In consideration of the applicant's statement that they desire to advance their project and that the site plan originally considered is not feasible at this time, staff recommends modifying the conditions of approval for BOA2023VAR01 approved for 8121 First St. in accordance with the Town's Land Use Code.
- Modifications to conditions which may be considered are identified in the "Recommendations" section.

#### Recommendation:

- In considering a request to modify the conditions of approval for a variance already granted, the Board of Adjustments has the authority to modify the original conditions of approval, remove conditions of approval, add new conditions of approval, or ratify the existing conditions of approval.

- If the Board desires to modify the conditions of approval, the Board may want to consider requiring the below conditions of 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 layout 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.
  
- Below are possible motion options for the Board of Adjustments to consider. Staff will also be available to assist in crafting alternative motions if desired by the Board.
  1. Move to modify the conditions of approval for variance Case No. BOA2023VAR01 approved for 8121 First St. including (condition a) through (condition f) and based on the Findings of Approval.
  2. Move to modify the conditions of approval for variance Case No. BOA2023VAR01 approved for 8121 First St. including (\_\_\_\_\_), (\_\_\_\_\_), [...], and (\_\_\_\_\_) based on the Findings of Approval.
  3. Move to ratify the existing conditions of approval as stated on the decision record for variance Case No. BOA2023VAR01 approved for 8121 First St. based on the Findings for Approval.
  4. Move to continue consideration of the variance request to a regular/special meeting of the Board of Adjustments to be held \_\_\_\_\_ (month) \_\_\_\_\_ (day), 2024 at \_\_\_\_\_ (time) at the Wilson Leeper Center, 3800 Wilson Ave., Wellington, Colorado.

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#### Attachments

- Decision Record – BOA 2023VAR01
- Site Plan Withdraw Letter
- Updated Variance Application and Narrative
- Updated Site Exhibits
- Past Staff Report – May 25, 2023
- Presentation Slides

## Board of Adjustment Findings

Public Hearing: Variance: Seeking relief from Section 4.03.3-A, Use Specific Standards of the Wellington Municipal Code to reduce the minimum bar/tavern separation setback (500-FT) from a residential district in the LI – Light Industrial Zone District

Date: May 25, 2023

Time: 7:00pm

Place: Wilson Leeper Center  
3800 Wilson Avenue, Wellington, CO, 80549

Applicant: SOLES^2, LLC, Twila Soles

Zoning: LI – Light Industrial District

Property Location: 8121 E. First Street

Legal Description: A parcel located within SE ¼ Section 33, Township 9 North, Range 68 West of the 6<sup>th</sup>, P.M. Town of Wellington, County of Larimer, State of Colorado

### **Board of Adjustments Decision:**

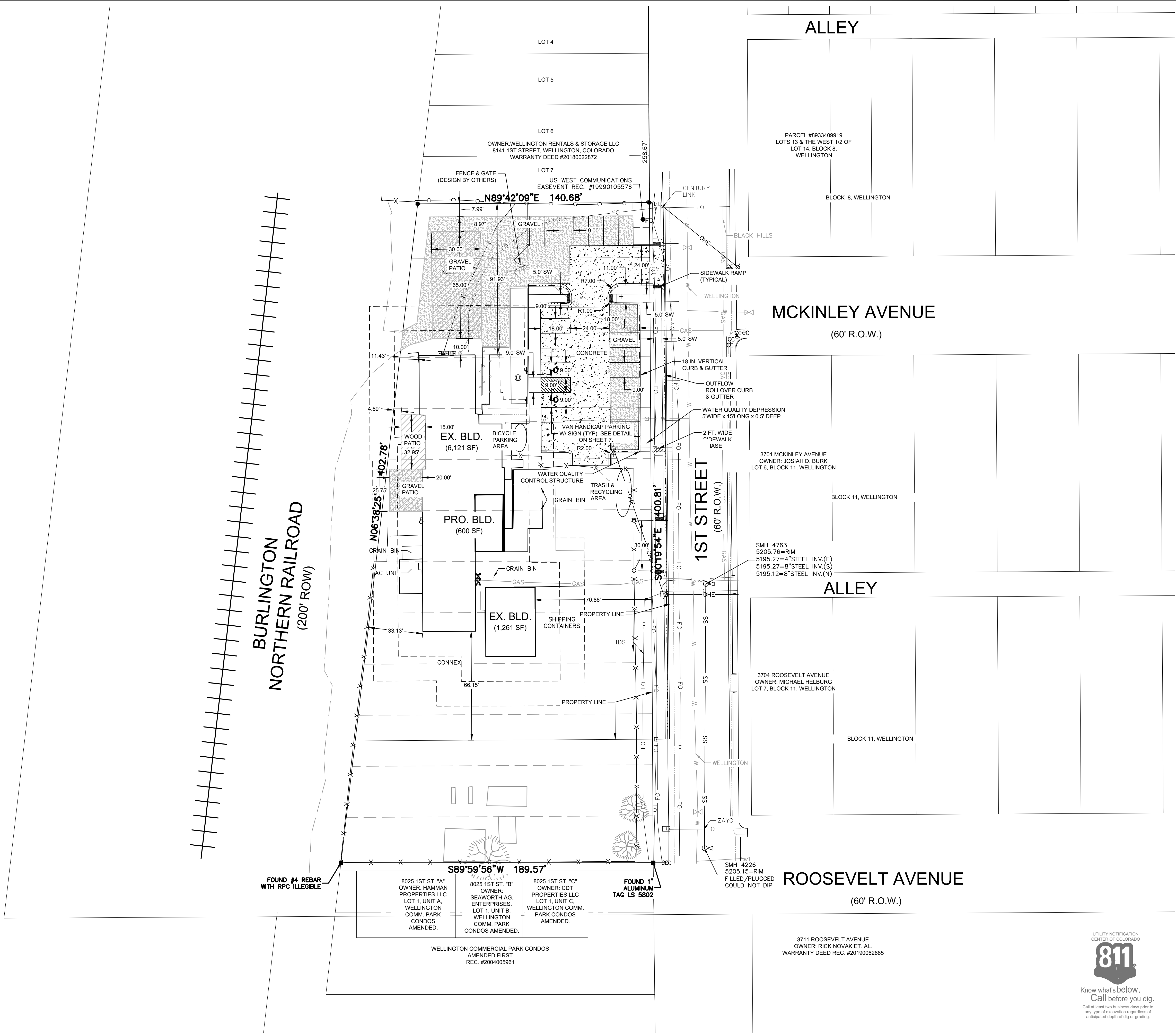
- The applicant requested a setback or separation variance to reduce the required 500-FT setback (Section 4.03.3-A) to 140-FT from the adjacent residence. The applicant considers the required 500-FT setback a hardship as it would prevent an otherwise allowed use in the Light Industrial zone district.
- Motion passed 5:0 on the variance request.

### **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. The site plan shall provide and maintain significant buffering and screening (landscaping and fencing) along the eastern and western property lines to mitigate impacts of outdoor activities.
- d. Application for and approval of Site Plan Review by the Planning Commission in accordance with applicable Land Use Codes and Town standards.
- e. Application for and approval of building permits with the Town of Wellington.
- f. Satisfaction of all applicable State of Colorado, Larimer County and Town of Wellington permits and certifications.
- g. 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. (YES – 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 an 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. (YES – 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. (YES – 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 under 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. (YES – 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. (YES – 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. (YES – Substantial justice to the applicant is accomplished; NO – 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 site development plan).*
- G. *The relief requested is the minimum necessary to alleviate the hardship and practical difficulties; (YES – The applicant originally requested a setback variance of 158-ft; however, upon consideration, the Board of Adjustment recommended reducing the setback to 140-ft 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.). (YES – 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).*



NORTH

1"=30'

0

30

60

Feet

Legend

Proposed Curb & Gutter

Existing Right-of-Way

Property Boundary

Existing Sanitary Sewer w/ Manhole

- Notes
1. The size, type and location of all known underground utilities are approximate when shown on these drawings. It shall be the responsibility of the contractor to verify the existence of all underground utilities in the area of the work. Before commencing new construction, the contractor shall be responsible for locating all underground utilities and shall be responsible for all unknown underground utilities.

2. See soils report and/or geotechnical report for pavement and subgrade preparation, design and recommendations.

3. Manhole rim elevations are to be adjusted to 1/4" below finished grade, if necessary, cone sections shall be rotated to prevent lids being located within vehicle or bicycle wheel paths.

4. Expansion joints shall be provided in all sidewalks at maximum spacing of 50 feet.

5. Crossspans along public streets at the intersection of private drives shall have concrete extended to the right-of-way line.

6. Limits of street cut are approximate. final limits are to be determined in the field by the town engineering inspector. all repairs to be in accordance with town street repair standards.

7. Contractor shall adjust existing sanitary sewer manholes and subdrain cleanouts within the right-of-way per town standards.

8. Refer to the plat for lot areas, tract sizes, easements, lot dimensions, utility easements, other easements, and other survey information.

Land Use Table

| Description | Area (Square Feet) | Area (Acres) | Percent |
|-------------|--------------------|--------------|---------|
| Building    | 20,912             | 0.48         | 30.30%  |
| Concrete    | 34,695             | 0.80         | 50.20%  |
| Open Space  | 13,470             | 0.31         | 19.50%  |
| Total       | 69,077             | 1.59         |         |

Parking Table

| Description           | Area (Square Feet) | Area Parking per 1,000 Square Feet | Parking Spots |
|-----------------------|--------------------|------------------------------------|---------------|
| Patio   The Well      | 6,070              | 4                                  | 24.28         |
| Production   The Well | 627                | 1                                  | 0.63          |
| Production   Grouse   | 4,993              | 1                                  | 4.99          |
| Office   Grouse       | 883                | 2                                  | 1.77          |
| Total                 |                    |                                    | 31.6660       |

| Description         | Provided Parking Spots |
|---------------------|------------------------|
| On Site   Concrete  | 9                      |
| On Site   Gravel    | 17                     |
| Off Site   Concrete | 5                      |
| Total               | 31                     |

UTILITY NOTIFICATION  
CENTER OF COLORADO

811

Know what's below.  
Call before you dig.

Call at least two business days prior to  
any type of excavation regardless of  
anticipated depth of dig or grading.

Tuesday, February 27, 2024

Dear Town of Wellington/Planning Dept.

I would like officially request that the site plan proposal for The Well In Wellington (8121 1<sup>st</sup> St. Wellington) be withdrawn.

We look forward to presenting the scaled back plan for opening The Well In Wellington at the March 28<sup>th</sup> BOA meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Twila Soles". The signature is fluid and cursive, with the first name "Twila" and the last name "Soles" clearly distinguishable.

Twila Soles

RECEIVED

FEB 28 2024

Wellington, CO



8225 Third Street  
PO Box 127  
Wellington, CO 80549  
Phone 970-568-3554  
[www.wellingtoncolorado.gov](http://www.wellingtoncolorado.gov)

**APPLICATION FOR:  
VARIANCE**

DATE: 12/29/23

The form must be completed in accordance with directions on the accompanying instructions and filed with the Planning and Development Department.

**APPLICANT'S NAME:** Twila Soles

**APPLICANT'S ADDRESS:** 8121 1st St.

Street

Wellington

CO

80549

City

State

Zip Code

**APPLICANT'S PHONE #:** 4196061852 **FAX #:** \_\_\_\_\_ **Email:** twila@grousemalthouse.com

Application is hereby made for a variance to the Town of Wellington Land Use Code to permit  
**(describe request):** To allow a liquor license for a bar/tavern at 8121 1st St Wellington CO 80549,  
which is within 500 ft of residential use, to operate with a 140 ft set back. The applicant previously  
received a variance (May 25th 2023) and this has conditions needing addressing given the updated  
scope of the site plan.

For property located at 8121 1st St. Wellington CO 80549

And legally described as Parcel 1: Lots 1, 2, 3, 4, 5, 6 and 7 and the North ½ of Lot 8, Block 10  
Parcel 2, Lot 8, Block 9 and Parcel 3 The South ½ of Lot 8 and all of lot 9, Block 10

In the Town which is zoned as the LI District.

**The applicant herein or his/her authorized agent acknowledges:**

1. That he/she has received instruction material concerning the filing and hearing of this matter; and
2. That he/she has been advised of the fee requirements established and that the appropriate fee is herewith tendered; and
3. That he/she has been advised of his/her rights to bring action in the District court of the County to appeal the decision of the Wellington Board of Adjustments; and
4. That all documents are attached hereto as noted in the instructions; and
5. That the Wellington Board of Adjustments has the authority to require such conditions as are deemed necessary and reasonable in order to carry out the general purpose and intent of the regulations and to serve the public interest.

Applicant Twila Soles- Soles^2 LLC, Grouse LLC, The Well in Wellington Date 12/29/23

Agent (if applicable) \_\_\_\_\_ Date \_\_\_\_\_

**OFFICIAL USE ONLY**

- ☐ Ownership List  
☐ Sufficient Written Statement  
☐ Sketch of Lot With Dimensions

☐ Applicable Fee: \$ \_\_\_\_\_

This application has been checked and found to be complete and accompanied by the required documents and the appropriate fee.

\_\_\_\_\_  
Planning Staff

<stamp date received>

Dear Board of Adjustments,

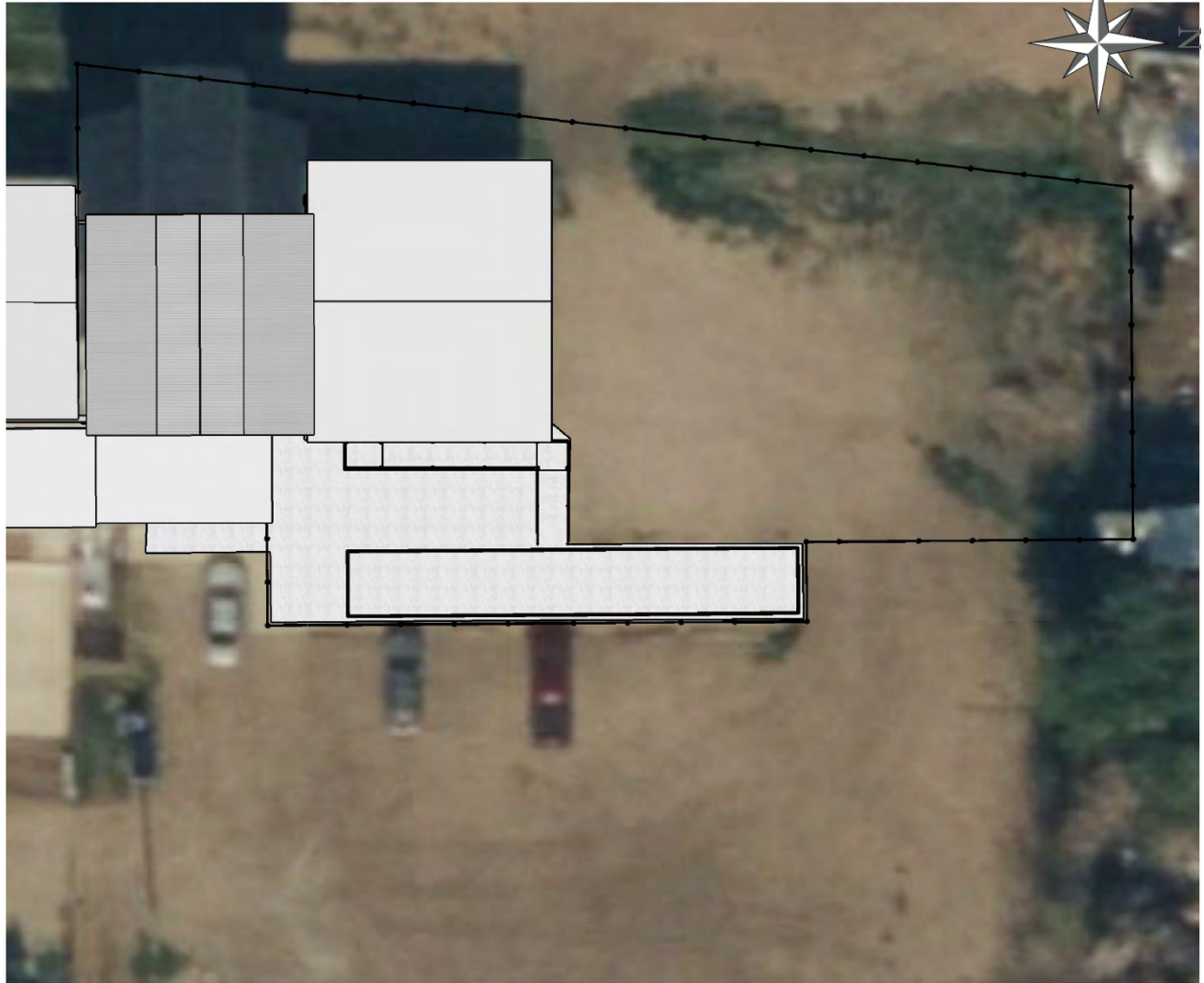
The Board heard the original request for variance on May 25th 2023, and granted a variance for the 500-foot setback in Section 4.03 of the Land Use Code. One of the conditions for the variance was that the applicant complete a site plan review. We are seeking an amendment to the variance to eliminate the site plan as a condition of the variance and to modify other conditions based on the minor changes proposed to the site to achieve the desired effect for business use.

The applicant seeks to add an additional “brew pub” business at 8121 1st St. Wellington, which requires a liquor license. As you can see by the image submitted, our plan is to install a fence to create a liquor license perimeter. The proposed fence is 8 feet to the north and west, and 4 feet facing 1st Street.

Under the Land Use Code, merely opening the “brew pub” business in an existing building does not require a site plan review, because such is a use by right in the light industrial district. Furthermore, there is nothing in the Land Use Code that requires a site plan review as a condition to granting a variance. We believe that the only potential basis to require a site plan review as a condition on the variance is if the proposal constitutes a “re-development” of the site. “Re-development” is not defined in the Land Use Code, and so the Board should use a commonsense understanding of the term in the property development context. As explained above, construction of the fence for purposes of the liquor license represents a very minor change to the site. It is clearly not a “re-development” of the site. For this reason, the Board should not require the applicant to complete site plan review as a condition to granting the variance. Rather, any conditions should be directly related to mitigating the impact of the variance.

- A. *The relief requested is consistent with the Comprehensive Plan and the intent stated in this Land Use Code.* **(YES – 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 an 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.* **(YES – 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.* **(YES – 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 under 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.* **(YES – 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.* **(YES – 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.* **(YES – Substantial justice to the applicant is accomplished; NO – 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 site development plan).**
- G. *The relief requested is the minimum necessary to alleviate the hardship and practical difficulties;* **(YES –a reduction of the setback to 140-ft would 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.).* **(YES – 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).**







## Board of Adjustments Meeting

## Agenda Item #

Meeting Date: May 25, 2023

Submitted By: Cody Bird, Planning Director

Agenda Category: New Business

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Subject:

**Variance Request -- Reduce the 500-FT minimum separation setback from a residential zone district in the LI-Light Industrial Zone District.**

Background:

- The applicant, Twila Soles on behalf of Soles^2 LLC is seeking relief from Section 4.03.3-A, Use Specific Standards of the Wellington Municipal Code to reduce a 500-ft separation setback to 158-ft.
- The applicant is proposing to locate a special event/community center that also serves alcohol (bar/tavern) on a parcel of land situated in the SE ¼ Section 33, Township 9North, Range 68West of the 6<sup>th</sup>, P.M. Town of Wellington, County of Larimer, State of Colorado (8121 First Street – location map attached).
- The applicant is requesting a variance to reduce the required 500-FT setback to 158-FT from the closest adjacent residential property. The applicant considers the required 500-FT setback a hardship because strict application of the setback would restrict a permitted land use (bar/tavern) within the Light Industrial zoning for the property and that is consistent and complimentary to uses allowed in the adjacent Downtown Core Commercial district.
  - The subject property is located within the Town limits and is zoned LI – Light Industrial. The property includes several existing structures including a 100+year old wood grain elevator. The site is partially occupied by Grouse Malting and Roasting Company which operates a Conditional Use Permit approved in 2013, (Ordinance 13-2013).
  - The conditional use process is no longer required since the Land Use Code was updated in 2022 and included breweries, tap rooms and bar/taverns as a permitted land use in the light industrial zone district.
  - The applicant/owner envisioned a complimentary use when first seeking Town approvals in 2013, and a tap room/brew pub use was approved in 2015 (Old Colorado Brewing Company – operated from 2015 to 2019).
  - The applicant/owner wishes to once again complement the existing malting/roasting business with a bar/tavern venue for private events offering alcohol beverages produced on the site.
- The applicant and Town staff have discussed whether the proposed use should be considered a brew pub or a bar/tavern. Staff has determined that a bar/tavern is the most appropriate use associated with the described functions of the site.
  - A bar/tavern is a permitted land use subject to Use Specific Standards within the LI – Light Industrial zone district, Table 4.02 & Section 4.03.3-A.
  - The bar/tavern use would support the community events described by the applicant and would also support the production and dispensing of alcohol beverages.

- The brew pub designation is not appropriate due to the definitions for a brew pub and the state liquor licenses that would allow a brew pub to produce up to one million eight hundred sixty thousand gallons (1,860,000 gals.) of beer annually (approximately 45,000 barrels). The volume production allowed under the brew pub designation is not consistent with the intent described by the applicant and would require additional consideration for site and utility infrastructure needs.
- The applicant is seeking relief from Section 4.03.3-A, Use Specific Standards of the Land Use Code to allow a decrease of the minimum separation setback from a residential district (500-FT).
  - When a variance is requested from the dimensional standards of the Land Use Code, the Board of Adjustments considers the reasonableness or appropriateness of the request relative to the Findings for Approval identified in the Land Use Code, Section 2.22 4. The Findings for Approval are discussed in more detail in the “Staff Comments” portion of this report.
  - The applicant is requesting a variance to reduce the required 500-FT setback to 158-FT from the adjacent residential zone district to the bar/tavern front entry (see attached site plan exhibit).
- The applicant considers the required 500-FT setback a hardship as it would restrict a land use that is otherwise permitted on the Light Industrial zoned site.
- The applicant proposes limiting most activities to internal uses to minimize noise impacts to the adjacent residences to meet the spirit and intent of the regulations.
- The applicant also proposes a landscape buffer along the eastern property line to create an aesthetic environment between the properties, and to screen the parking lot from the adjacent residences.
- A request for variance is a quasi-judicial proceeding and requires a public hearing. The Board will need to hear and weigh testimony presented at the public hearing.
- In addition to the variance request described in this report, the applicant has also submitted a site development plan for review by the Planning Commission. The site plan proposes a variety of improvements including new sidewalks, fencing, parking lot, and landscaping to comply with current town land use code. The applicant is also seeking a liquor license for the premise.

#### Staff Comments:

- When considering a request for a variance, the Board of Adjustments evaluates the Findings for Approval identified in the Land Use Code, Section 2.22.4A-H. The findings that are to be considered are listed below, and the staff’s opinion of each finding follows (*in italics*).

#### **A. The relief requested is consistent with the Comprehensive Plan and the intent stated in the Land Use Code.**

- *The requested variance is supported by goals and strategies identified in the Comprehensive Plan in the following ways:*
- *Community Cohesion Goal 5: Encourage development projects and the community to embrace and support Agricultural Heritage and Healthy Food Networks:*

- *CP.5.1 Update the Land Use Code to encourage inclusion of agricultural elements and themes (e.g. repurposing agricultural structures) into the design of development.*
  - *The old wood grain elevator originally known as the “Wellington Mill” constructed in 1922, and adjacent to the rail line once stored local product for processing and shipment to distance facilities. The tower and adjacent buildings are testimony of the rich agricultural heritage of the Town. The Town was also recognized for offering alcoholic beverages during the Prohibition days. Wholesome grains from local producers are once again stored and processed in the repurposed facility, and with the addition of the bar/tavern and private event center, alcoholic beverages such as malt beer produced on-site will be available for local patron enjoyment.*
  - *The Grouse Malting and Roasting Company was created to offer an alternative (gluten free) product to the health-conscious market. The proposed limited brewing on-site will offer a gluten free beer alternative in the bar/tavern to Town residents who cannot enjoy conventional beer.*
- *Thriving Economy Goal 2- Balance commercial, industrial, and residential land uses to ensure a variety of convenient amenities and appropriate infrastructure:*
  - *TE 2.3 Promote architecture and design aesthetics that honor the Town’s rural, historic, and agricultural heritage.*
    - *The subject site zoned Light Industrial is adjacent to the railroad and serves as a buffer between the residential uses to the east and the BNSF rail line on the west.*
    - *The proposal repurposes and preserves a hundred-plus year-old landmark that supports a variety of business uses.*
- *Thriving Economy Goal 4- Develop a supportive business environment that aids in creating a thriving local economy.*
  - *TE 4.1 Balance residential with commercial land uses to promote local job opportunities and needed services for residents.*
- *Redevelopment of the property for light industrial uses is consistent with the recommendations of the Future Land Use Map included in the Comprehensive Plan.*
- *The Town’s Land Use Code establishes a variety of zoning district classifications according to the use of land and buildings with varying intensities of uses and standards whose interrelationships of boundary zones form a compatible pattern of land uses and buffer areas which enhance the value of each zone.*
- *The Comprehensive Plan encourages economic growth that promotes diversity of employment and service opportunities in the town.*
- *The Comprehensive Plan recognizes the importance of retaining existing businesses and supports the need to grow and expand. The site zoned as LI-Light Industrial allows for the addition of a bar/tavern/ private event center offering locally produced products (gluten-free beer).*

- *The Land Use Code has established procedures for requesting variances to the code to allow modifications to the requirements when determined appropriate.*

**B. Strict application of the regulation will result in unnecessary hardship and practical difficulties on reasonable use of the land intended by the existing zoning, as opposed to convenience or benefit of the Applicant or a specific application.**

- *The property is zoned for Light Industrial uses. Bar/tavern is a permitted land use within the Light Industrial zone district. offering private events as a permitted use.*
- *Strict interpretation of Use Specific Standards Section 4.03.3-A for a bar/tavern, the 500-FT separation from residential zone districts would limit some uses that are otherwise intended to be allowed within the Light Industrial zone district.*
  - *The property currently serves a malting/roasting operation- Grouse Malting & Roasting Company was allowed by a Conditional Use Permit, Ordinance 13-2013. Amendments to the Land Use Code adopted in 2022 includes bar/tavern as a permitted use, so the Conditional Use is no longer required.*
  - *An associated business for a tap room was also processed as a Conditional Use Permit and was approved in 2015. The tap room (Old Colorado Brewing Company) operated on the site for a period.*
- *The Light Industrial zoning for the property was established prior to the 500-FT separation setback criteria. The nearest adjacent residential zoning was established in 2023 when the “Transitional” zoned properties were reclassified to R-4 – Downtown Neighborhoods.*
  - *The 500-FT separation setback criteria was added with the most recent adoption of the Land Use Code (March 22, 2022) as a means to provide a buffer between higher intensity land uses and residential subdivisions. Prior to the Land Use Code adoption, there was not a separation setback for bars/taverns from residential properties.*
  - *The previously existing zoning districts (Light Industrial and Transitional) had an existing separation distance of zero feet (0-FT).*
  - *(A comparable land use (Old Colorado Brewing Company tap room) previously operated on the site under a Conditional Use Permit.*

**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 property is situated adjacent to the BNSF rail line along its’ western boundary and the Wellington Place 1<sup>st</sup> subdivision is located to the east. The property is approximately 1.59 acres in size.*
- *The site dimensions are approximately 170-FT wide east to west, and 390-FT long north to south.*
- *Based upon the property configuration, the 500-FT separation requirement would render 100 percent (100%) of the site unusable for a bar/tavern and associated uses.*
- *The subject property serves as a buffer zone between the railroad and the*

*residential uses. A bar/tavern land use as described by the applicant is often a less intensive land use than some other land uses allowed in the Light Industrial zone 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 separation regulation would deprive the applicant of reasonable use of the land for light industrial purposes because the 500-FT separation requirement from a residential property encumbers the property for a bar/tavern use.*
- *The applicant is proposing alternatives such as limiting the most intense uses to interior rooms with limited outdoor uses to minimize potential impacts to the neighborhood.*
- *The applicant has expressed that reducing the 500-FT separation to 158-FT would meet their needs to use the site for the permitted use, and is therefore the minimum reduction necessary to support the proposed redevelopment.*

**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 subject property is an existing grain mill facility with multiple existing buildings and structures. The site is relatively narrow and long extending north to south adjacent to the BNSF railroad. The existing structures are unique and specifically constructed for its' initial use with buildings primarily of wood timbers and metal. The property's size, configuration, and existing structures limits the establishment of new uses that may be located on the site. The current business operation with the addition of a bar/tavern is one of several businesses that could make use of the site in its' present condition.*
- *The building constraints on the property are not conditions created by an action or actions of the applicant—the site's land use and appearance has not changed since 2013.*
- *The Town's Land Use Code and Zoning Map have been updated.*
  - *The 500-FT separation setback was created with the adoption of the updated Land Use Code in March 2022. The Land Use Code update created a new separation buffer that was not required before.*
  - *The Zoning Map updates resulted in some properties previously zoned Transitional (a commercial zoning district) were rezoned to be R-4 – Downtown Neighborhoods ( a residential zoning district).*
- *The applicant has demonstrated good faith in pursuing a variance by establishing hours of operation, shifting or limiting outdoor activities within the confines of the existing buildings and building/structure site configuration, and therefore, it can be determined that the circumstance was not the result of an action by the applicant.*

**F. Granting the variance does not adversely affect the public health, safety and**

**welfare, and in fairness to the applicant, substantial justice is done.**

- *The town has typically identified properties near or adjacent to the railroad and I-25 as commercial or industrial zone districts. The subject site adjacent to and abutting the BNSF railroad is zoned LI-Light Industrial and is designated for light industrial land uses.*
- *The subject property is also located in close proximity to the C-2 Downtown Core Commercial. Within the C-2 district, a bar/tavern is a permitted land use without separation setback criteria.*
- *The proposed land use is a permitted use in the Light Industrial zone district, and the Town has regulations and standards identified in the Site Plan Review procedures to mitigate potential impacts.*
- *The granting of the requested variance and/or equal alternatives is not expected to adversely affect the public health, safety and welfare of the immediate neighbors or residents of the Town.*
  - *The proposed bar/tavern is a permitted use by right and is expected to be located within the LI –Light Industrial Zone District.*
  - *Applicable standards for traffic impacts, site design, and use limitations will be evaluated as part of a site plan review.*
- *Perimeter landscape buffering/screening techniques in the form of shrub plantings and fence/barricades are proposed to block vehicle headlights, and to mitigate potential impacts of the operation and are offered to justify the reduction to the setback distance.*
- *The proposed bar/tavern is a permitted use within the light industrial zone district and the requested setback variance would not be inconsistent with the proposed land use.*

**G. The relief requested is the minimum necessary to alleviate the hardship and practical difficulties; and**

- *The existing structures on site have links to the railroad history and the existing uniquely constructed structures reflect to an historic era in Wellington's past. The buildings/structures and platted lot configuration currently allows for limited uses without significantly altering the site and buildings.*
- *The separation setback reduction is requested to allow an associated permitted land use that otherwise could not occur due to the separation requirement.*
- *The highest intensity uses will be located within the building, and outdoor events shall be limited to minimize impacts to the residences.*
- *The applicant has proposed the reduction of the separation setback to be the minimum necessary to allow for the operation of the proposed bar/tavern facility. The minimum reduction may be made a condition of approval.*

**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 variance requested is the minimum needed for bar/tavern facility to*

- adequately function on the site.*
  - *The proposed light industrial land use is consistent with the Town’s intent and vision to revitalize the Vibrant and Historic Downtown Core areas adjacent to the railroad.*
  - *The Comprehensive Plan encourages establishing a diversity of businesses and employment opportunities in the town.*
  - *The Land Use Code and Comprehensive Plan encourages and promotes a “walkable downtown” with services and events available for area residents. Adding sidewalks and a business that complements uses in the existing C-2 Downtown Core Commercial district supports the walkability of downtown.*
  - *The Land Use Code variance procedure (Section 2.22), anticipates and provides flexibility for unique and specific situations.*
  - *Planning staff recognizes that exceptions are needed to the strict application of the land use code provisions and supports variance requests on a case-by-case basis.*
- Based upon the preceding findings, staff recommends approval of the variance requested with conditions. Conditions which may be considered are identified in the “Recommendations” section.

Recommendation:

- In considering a variance, the Board of Adjustments has the authority to grant the variance, grant the variance with conditions, or deny the variance.
- If a variance is approved, the Board may want to consider requiring the below conditions of approval:
  - a. The separation setback is reduced to no less than 158-FT.
  - b. Site development shall proceed in substantial compliance with the site layout exhibit attached herein and incorporated by reference.
  - c. The site plan shall provide significant buffering and screening (landscaping) along the eastern property lines to mitigate potential impacts to the existing residences and public rights-of-way.
  - d. Outdoor events associated with the bar/tavern facility is limited to hours of operation for Sunday through Thursday 11 AM to 8 PM, and Friday through Saturday 10 AM to 11 PM (these hours of operation are consistent with use standards for similar outdoor activities allowed within the Light Industrial zone district).
  - e. Application for and approval of Site Plan Review by the Planning Commission in accordance with applicable Land Use Codes and Town standards.
  - f. Application for and approval of building permits with the Town of Wellington.
  - g. Satisfaction of all applicable State of Colorado, Larimer County and Town of Wellington permits and certifications.
  - h. Applicant shall obtain all required licenses and permits to operate a bar/tavern business.
- Below are possible motion options for the Board of Adjustments to consider. Staff will also be available to assist in crafting alternative motions if desired by the Board.

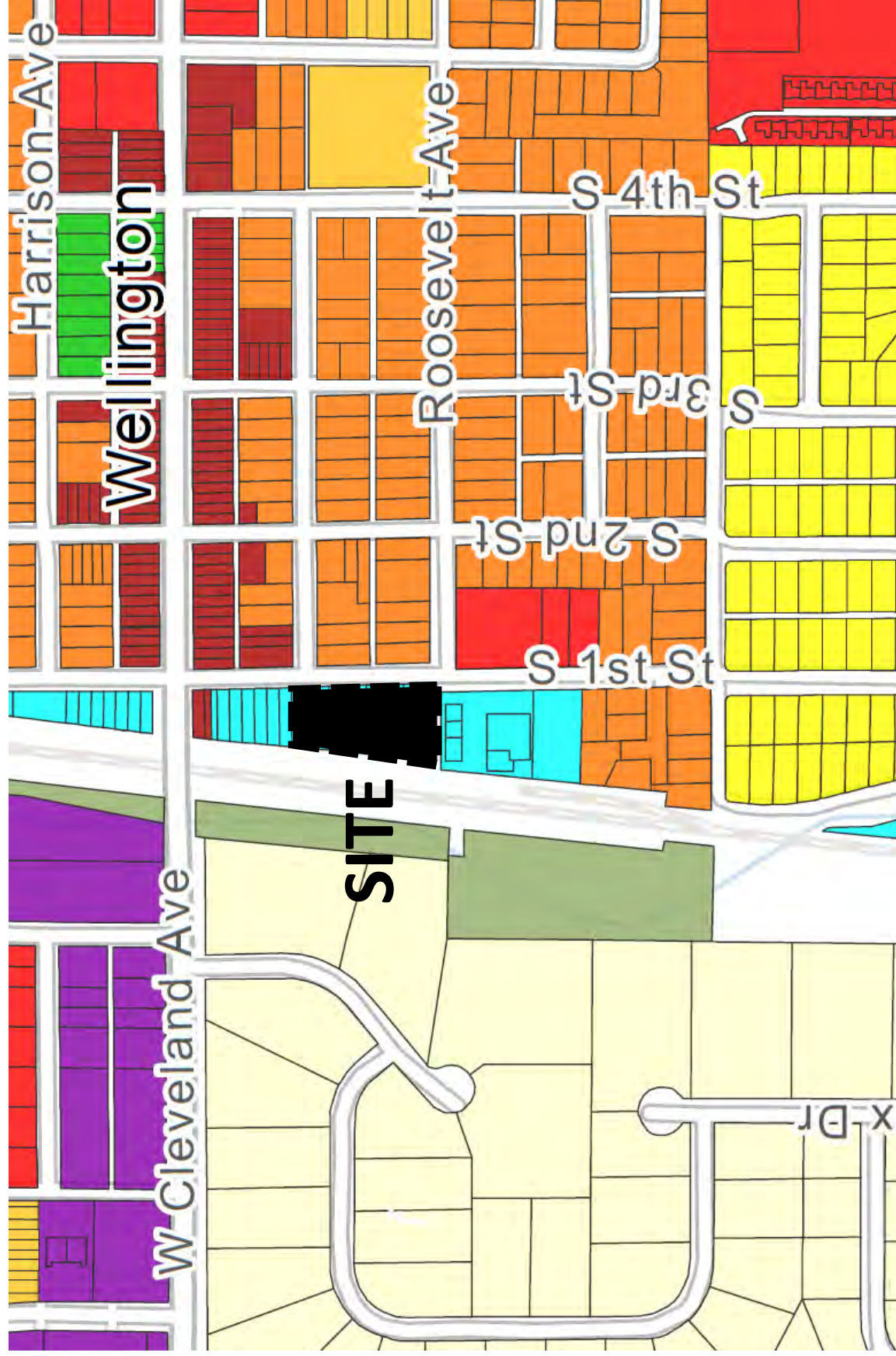
1. Move to grant a variance to vary Section 4.03.3-A, Use Specific Standards to reduce the minimum separation setback requirement of the LI-Light Industrial zoning district for 8121 First Street from 500-FT to 158-FT, subject to conditions, including (condition a) through (condition h) and based on the Findings of Approval.
2. Move to grant a variance to vary Section 4.03.3-A, Use Specific Standards to reduce the minimum separation setback requirement of the LI-Light Industrial zoning district for 8121 First Street from 500-FT to 158-FT with no conditions and based on the Findings for Approval.
3. Move to deny the request for a variance of the minimum separation setback requirement of the LI – Light Industrial District.
4. Move to continue consideration of the variance request to a regular/special meeting of the Board of Adjustments to be held \_\_\_\_\_ (month) \_\_\_\_\_ (day), 2023 at \_\_\_\_\_ (time) at the Wilson Leeper Center, 3800 Wilson Ave., Wellington, Colorado.

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#### Attachments

- Location Map
- Zoning Map
- Buffer Exhibit
- Applicant Narrative
- Site Development Plans
- Presentation Slides

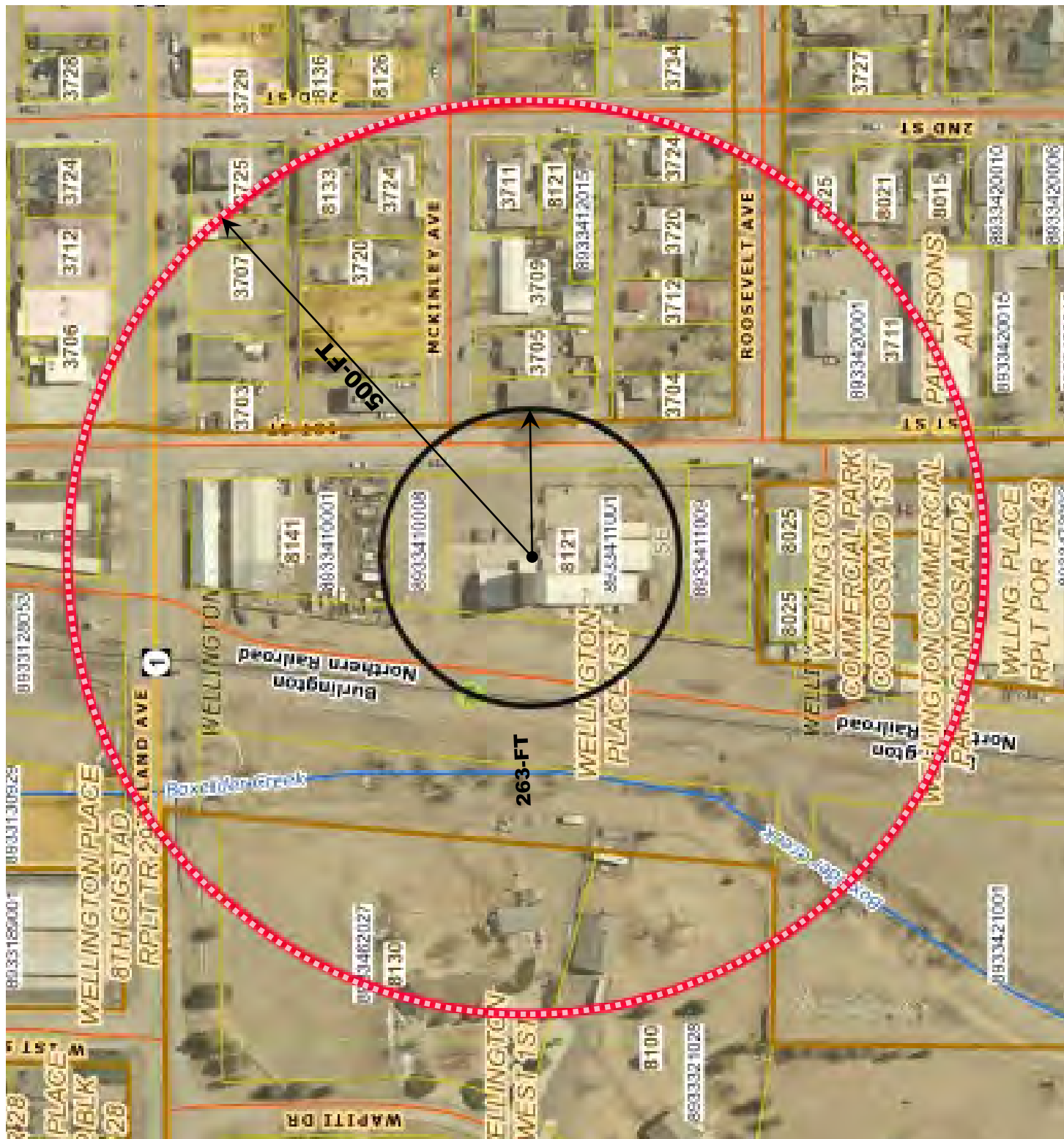




**2023 Official Zoning Map:**

**811** **Call before you dig.**  
 Call before you dig.  
 Call before you dig.  
 Call before you dig.





# Board of Adjustments

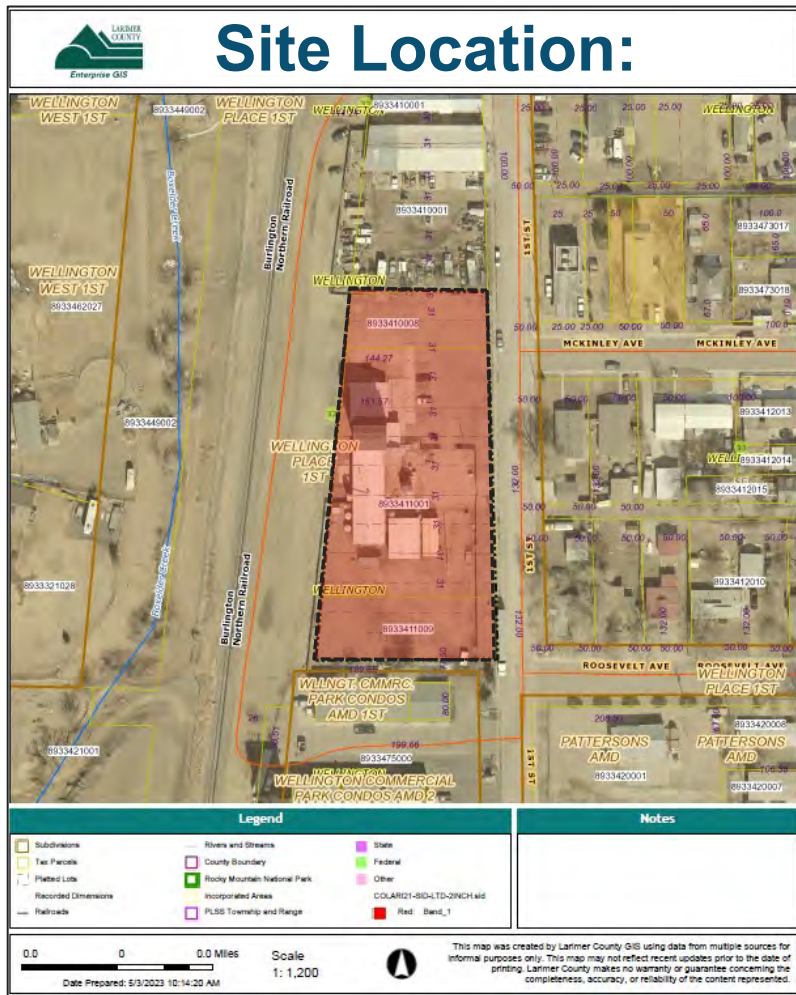
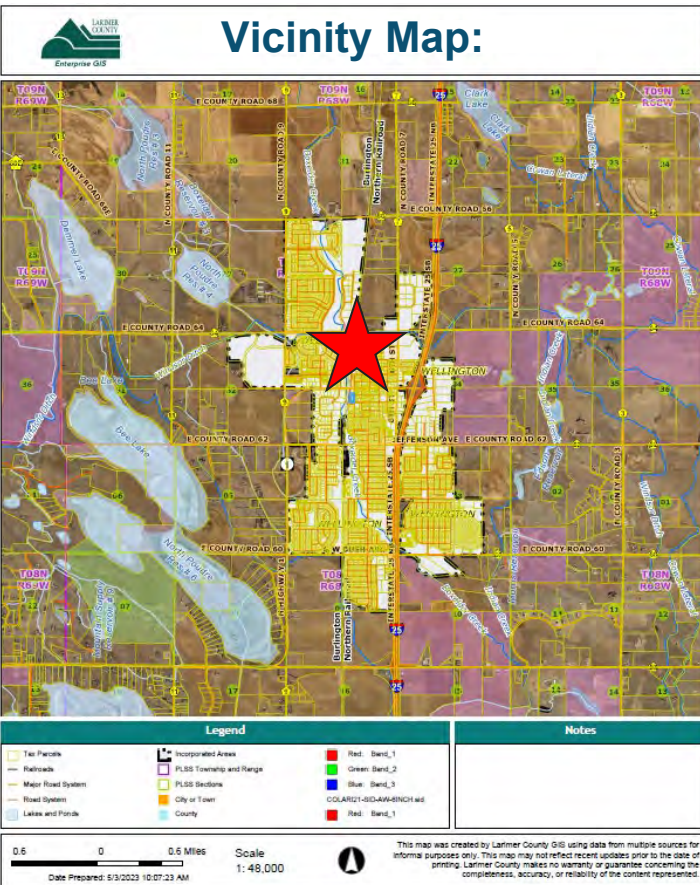
## Modify Conditions of Approval to Variance BOA2023VAR01:

8121 First Street

Wellington Land Use Code (Ord. 07-2022)  
Section 15-2-220 Variance  
Subsection 15-2-220(d) Findings for Approval



# Board of Adjustments



# Previous Plan:

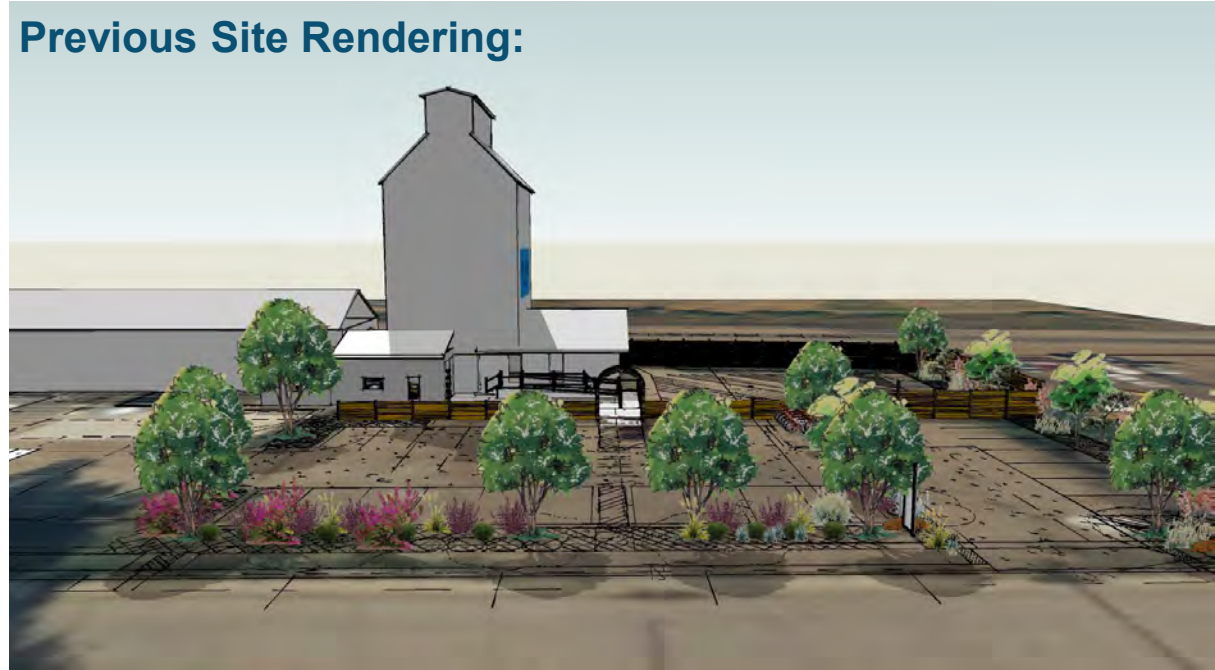
The site development plan originally submitted included substantial site changes and redevelopment.

A variance was granted with conditions of approval requiring site plan review by the Planning Commission and substantial compliance with the site layout exhibit.

The applicant has since withdrawn the application for site plan review.

The applicant is requesting to modify the conditions of approval based on an updated scope of work.

## Previous Site Rendering:



# Updated Plan:

The applicant has proposed an updated site plan that limits site changes to adding an outdoor patio enclosure.

Outdoor seating and outdoor activities are intended to be screened from adjacent residential districts with a solid fence 4 ft. to 8 ft. in height.

## Revised Rendering – Patio Enclosure:





## Summary:

- *A variance has previously been approved and is in effect for the property (BOA2023VAR01). The existing conditions of approval are in effect unless modified by the Board.*
- *The applicant proposes to modify the conditions of approval to reflect a reduced scope of work and remove requirements for site plan review by the Planning Commission.*
- *The Board has authority to attach conditions of approval to further the intent of the Land Use Code and minimize potentially adverse impacts of the proposed land use.*

## Staff Recommendation:

- *The Board should consider the Findings for Approval for the granting of the variance.*
- *The Board can modify the conditions that were previously approved for the variance based on the updated plans.*
- *Staff supports modifying the conditions of approval in accordance with the Town's Land Use Code.*

## Board of Adjustment Meeting

## Agenda Item #6C

Meeting Date: March 28, 2023

Submitted By: Cody Bird, Planning Director

Agenda Category: New Business

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Subject:

### **Election of Officers**

Background:

- The Municipal Code requires the Board of Adjustment to elect a Chair and Vice-Chair during the first regular meeting of each calendar year.
- The Chair and Vice-Chair must be elected from the appointed members of the Board of Adjustments. Members serving as alternates are not eligible to hold office on the Board.
- The Chair presides at all meetings of the Board. The Vice-Chair will preside in the absence of the Chair.
- A member of Town staff is appointed to serve as the Secretary of the Board, and therefore, an election for that office is not required.

Staff Comments:

- The process for election of Chair and Vice-Chair should be as follows:
  - o The floor is opened for nominations. Nominations (with seconds) are received. The floor is closed, and nominees are then voted on publicly.
  - o A majority vote of the Board members present and voting is required to elect the officers.
  - o The term for each office is one year.
  - o Officers shall take office at the next regular meeting.

Recommendation:

- Conduct an election for Chair and Vice-Chair of the Wellington Board of Adjustment.
-