



**TOWN OF WELLINGTON
BOARD OF ADJUSTMENTS
REGULAR MEETING MINUTES
May 25, 2023**

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 – 1st 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 28th day of March, 2024.

PATTY LUNDY
Recording Secretary