



**TOWN OF WELLINGTON
BOARD OF ADJUSTMENTS**

**REGULAR MEETING MINUTES
April 22, 2021**

1. CALL TO ORDER

The Board of Adjustments Meeting for the Town of Wellington, Colorado, met on April 22, 2021, in an online web conference at 7:00 p.m.

2. ROLL CALL

Members Present: Don Irwin, Chairman
Christine Gaiter, Vice-Chair
Kathy Wydallis
Eric Stahl
Stephen Carman

Members Absent: John Jerome
Wyatt Knutson

Town Staff Present: Cody Bird, Planning Director
Liz Young Winne, Planner II
Dan Sapienza, Town Attorney
Patti Garcia, Town Administrator

3. ADDITIONS TO OR DELETIONS FROM THE AGENDA

4. PUBLIC FORUM

Carlene Luoma 3812 Lincoln Avenue: longtime resident (39 years), lives a few blocks from Cleveland Ave. Is concerned about the Comprehensive Plan and the “Downtown Neighborhoods” designation that would reduce historic neighborhoods and overly support high occupancy homes. She would prefer to see gathering places and options similar to what is being seen in Timnath to restore historic places and managing growth.

Chairman Irwin encouraged people to attend the Board of Trustees meetings and Planning Commission meetings to learn more and hear discussions on the Comprehensive Plan.

5. CONSIDERATION OF MINUTES

A. Meeting minutes of February 25, 2021

Moved by Chairman Irwin, seconded by Member Gaiter to approve the minutes as presented. Motion passed 5-0.

6. NEW BUSINESS

- A. Variance Request – Reduce Front Yard Setback for a Town Office Building to 2ft. on Lot 1, Block 6, Wellington (3749 Harrison Ave.)

Bird: Reminded the Board of the public hearing procedures for a quasi-judicial hearing.

Bird: Asked if any Board members had a conflict of interest to disclose? There were no conflicts disclosed.

Bird: Asked if there were any ex-parte communications to disclose?

Irwin: Replied that the Town Attorney had sent a memo outlining some basic definitions.

Gaiter: Stated she did not receive the memo.

Sapienza: Commented that the memo went out this afternoon and he may need to confirm the email address for Member Gaiter. He summarized the content of the memo, that it provided information for procedures and board role in decision making. It also describes the Board's standard for decision making.

Bird: Presented the staff report. He identified that the Town had obtained Conditional Use approval to use the site for a Town office use. The Town is now considering expanding the office space by constructing an addition to the rear of the existing building. The variance request is being made to reduce the setback along 3rd Street from a 15 ft. setback to a 2 ft. setback to accommodate a covered entryway. The remainder of the building is proposed to be setback 10 ft. as proposed on site plan.

Houghteling: Described the need for a new office building for Town staff to better focus on customer service. She described the variance request for a setback and explained that a variance for parking is not needed at this time because the off-street parking is satisfied within 700 ft. of the site in accordance with the zoning code.

Irwin: Asked why the property owned by the Town on 6th Street was not included within the options described?

Houghteling: The Town is doing a site selection process on 8 properties, including the property mentioned by Chairman Irwin, to determine what is viable for a future Town Hall site. The Town is currently not financially prepared to build a Town Hall.

Irwin: If the Town already has a property, then that expense is removed. The money that will be spent on an addition, if approved, could be used toward a new Town Hall. We need water and wastewater operations even more than we need space for employees. This is a big concern as this may be additional costs in the long run for residents of Wellington.

Carman: It appears that the building feature creating the need for the variance is the awning structure? Is it the awning structure or the actual building requiring a variance?

Bird: The request is needed for the structure – the setback requirement is 15 ft. and the structure wall is proposed at 10 ft. The awning is proposed at a 2 ft. setback. Without the covered entryway, the building project would still need to request a variance.

Carman: Asked if the awning was necessary from an architectural perspective?

Arthur: No, it is not necessary. The awning provides purposes like protection for entering the building, a waiting space if being picked up by someone. It also helps to provide a clear entryway that is visible, and creates a more welcoming approach to the building. If we needed to amend it, we could do a different feature that would create a similar feel.

Carman: Is the setback from the end of that part of the structure in the street or sidewalk?

Bird: Responded that the setback is from the property line. The sidewalk and street are not impacted by the proposed building.

Wydallis: Asked if the 2 ft variance is approved, can the whole building be moved 2 more feet toward the street too?

Houghtelling: Replied that the site plan would not be changed that significantly at this point in the design process.

Wydallis: The planning commission has not yet reviewed this, correct?

Bird: Replied that is correct. The same site plan will also be presented to the Planning Commission for a site plan review request. The site plan review is required before any building can begin. The Planning Commission will be hearing this request at their regular May 3rd meeting. In the staff report, we recommend if the variance is approved, then the site plan still also needs to be approved.

Gaiter: Asked if the 2 ft. setback is granted, could the whole building be moved up to the 2 ft?

Bird: In theory, it could be interpreted that way so that the whole building could be set at 2 ft. It would still need to be consistent with the Planning Commission approval that will be reviewed at the upcoming meeting.

Gaiter: Asked if the fence was at the property line now?

Bird: Replied that a survey of the property was being conducted to determine property lines. If the fence line was not exactly on property line, it is likely close to that.

Gaiter: Asked if the trash enclosure is less than the 2 ft. setback.

Bird: Replied yes. The trash enclosure is not considered part of the building and trash enclosures are often located within setbacks for a commercial site.

Gaiter: Asked if there is a reason for why the setback is different on the east side as opposed to the west side of the building.

Bird: Replied yes, the setback on the Third Street side is different because this is a corner lot. The street side yard of a corner lot is a greater setback than the adjacent lot side.

Gaiter: Is there a reason to not request a variance for the parking since the spaces encroach into the right of way?

Bird: Replied that the zoning code states that if parking is provided within 700 ft. of a proposed facility, it can be determined to meet the off-street parking requirement. The proposed site is also showing parking along Third Street to provide ADA parking.

Gaiter: Asked if the sidewalk has to be within 5 ft. of the curb (reference to specific code section in Chapter 11).

Bird: Replied that the Town's construction standards require an attached sidewalk which is our typical standard. Staff can look into the referenced code section and will take appropriate follow-up with the applicant.

Wydallis: Asked if the entrance or building be in the way of fixing utilities undergrounded.

Bird: Replied that utilities are not near the entrance on this site. The proposed variance is not affecting any utilities.

Irwin: Commented that the zoning for this property is "Transitional," which has no specifications for setbacks. Which zone district setbacks are being considered for the application?

Bird: Replied that staff looked at existing uses and considered the existing use for the setbacks. The property was a home, so the setbacks for a home were considered for this request.

Wydallis: Aske if the Transitional zoning could go from commercial to residential?

Bird: Replied the transitional zone district was a mechanism to transition lowest intensity to something higher like commercial, light industrial or industrial as part of a conditional use process.

Wydallis: Asked if the property could be sold to a big family in the future, or does it continue to remain commercial forever?

Bird: Replied that due to the commercial/office layout it would be unlikely to be conducive to a family environment. That is a limiting factor from a practical standpoint. The conditional use for the town office use so the business office use is the allowable use for the site unless a conditional use or zone change was further approved in the future.

Irwin: Opened the public hearing.

Peter Pronko: Owns the commercial property at 3744 Cleveland. Asked about the future of this building. Will it continue to be Town offices in the future or will it be sold?

Bird: Read an email communication from a resident into the record. The email was received today at 4:51 PM from Cilla Bond.

Irwin: Closed the public hearing.

Gaiter: Asked if it is possible to change what we say “yes” to so it is more specific, and the building cannot be built to a 2 ft. setback since that is theoretically possible?

Bird: Responded that it is possible for the Board to make those kinds of proposals when there is a variance request. It is typical to ask the applicant if such an approval would still meet their needs. In the staff report, the proposed motion contemplates that by approving “in accordance with an approved site plan” is intended to mean that what is shown tonight is how it would be constructed. The approval could be subject to the site plan dimensions presented to this Board. Bird asked if that approach reasonably satisfied the Board’s concern.

Gaiter: Replied yes.

Bird: Asked if the requirement to adhere to the site dimensions shown would satisfy the applicant?

Houghteling: Replied yes.

Carman: The differentiation is also noted in the staff report. The motion doesn’t specify well enough that the variance is requesting that the entryway’s awning is the reason to request the 2 ft. setback and that the building wall is at 10 ft. setback. So can we create a motion to capture that?

Irwin: Said the variance should only be regarding the porch facing Third Street and not any part of the rest of the building. Does the 10 ft. setback also need a variance?

Bird: Replied that the reason an applicant pursues an application to the Board of Adjustment first is because the Planning Commission is looking at a different set of criteria. The applicant typically requests the variance first to see if the Board of Adjustments will approve a variance before going to the site plan approval with the Planning Commission. There would not be an approval for two separate variances for a setback request on the same building, the request is made for the farthest amount of adjustment needed to satisfy the request. It would be possible to change the motion to be more specific and representative of the discussion presented tonight.

Member Gaiter moved to approve a variance to vary the minimum side setback from 15 ft to what is shown in the site plan and 2 ft. for the porch only, in accordance with the approved site plan, seconded by member Carman. Motion passed 4-1.

7. ADJOURNMENT

Moved by Chairman Irwin, seconded by Member Gaiter to adjourn the meeting. With all in favor, the meeting was adjourned at 8:37 pm.

Approved this 24 day of June, 2021


Recording Secretary