



TOWN OF WELLINGTON
BOARD OF ADJUSTMENTS

REGULAR MEETING MINUTES July 28, 2022

1. CALL TO ORDER

The Board of Adjustments for the Town of Wellington, Colorado, met on July 28, 2022, at the Wilson Leeper Center at 7:00 p.m.

2. ROLL CALL

Members Present: Eric Stahl - Chairman
Stephen Carman
Wyatt Knutson
Kathy Wydallis
Levi Killough

Members Absent: None

Town Staff Present: Cody Bird, Planning Director
Patty Lundy, Development Coordinator

3. ADDITIONS TO OR DELETIONS FROM THE AGENDA

Member Knutson asked to have the new business deleted from agenda. The property isn't currently zoned C-3 so they would be reviewing something that doesn't even apply to the property at this point. Cody Bird, Planning Director said that they also submitted their request for rezoning from Light Industrial to C-3 Mixed Use Commercial.

Matt Mullett, property owner said that for this project he knows the zoning needs to be C-3 but that if this doesn't go through then he doesn't plan to change the zoning from Light Industrial.

Member Knutson made a motion to table item 6.A. from tonight's agenda to September 22th meeting. Member Wydallis Seconded.

**Yeas -Wydallis, Knutson
Nays – Stahl, Carman, Killough
Motion failed.**

4. PUBLIC FORUM - None

5. CONSIDERATION OF MINUTES

A. Meeting minutes of February 24, 2022

Member Wydallis moved to approve the regular meeting minutes of February 24, 2022. Member Carman seconded the motion.

**Yeas – Wydallis, Knutson, Stahl, Carman, Killough
Nays – None
Motion carried.**

6. NEW BUSINESS

- A. Variance Request – Seeking relief from Section 2-14-70(a)(2)b. of the Wellington Municipal Code to allow a reduction of the minimum setback requirement of a retail or medical marijuana store license from a parcel zoned P – Public District from 500 feet to 173 ft. on Lot 7, Wellington Business Center.

No conflicts of interest reported. No ex parte communications reported.

Bird presented the staff report. The applicant is also requesting a zone change from Light Industrial to C-3 Mixed-Use Commercial District which is scheduled to be heard by the Planning Commission. The applications were submitted together for concurrent review.

Steve Wynne with Lacoste, LLC said that Bird explained the variance request well. He believes that the stormwater pond south of the proposed development site should be zoned something other than P - Public.

Public hearing opened at 7:40pm.

Angelique McDaniel asked for the variance to not get approved to lessen the setbacks. This would set a precedent, and this goes against what the voters approved. It was the marijuana proponents who put the setbacks in place and now they are asking to have them removed after the voters agreed.

Corinne Brewer asked for the variance to be denied. There are other businesses that could be there instead. The voters who voted to have this distance restrictions should be considered and not approve an exception. This should go back to the voters if the setbacks are to get changed.

Barb Hultgren supported the previous comments. She stated a small group of citizens should not be deciding on a topic the whole town previously voted on.

Mark Muth supported the variance request. The detention pond is not used for public purposes. The town should show we are open for business. He believes the Board of Adjustments role is to consider the variance and let others decide the politics of the marijuana question. This is a bonus to the community and will also have to be presented to other boards.

Public hearing closed at 7:51pm.

Wynne said he still feels the same that the intention of the Code was not for the detention pond to be considered as a protected land use, but rather the intent of the code was to protect public access areas.

Bird said that he found all the public comments to be factual.

Member Carmen asked if other locations were considered. Wynne said there were many locations considered. There were no other properties that met the requirements. This was the best possible location. We believe this is the best location for distancing and traffic considerations.

Member Killough asked to clarify if this was the only location, or if was considered the best location. Wynne replied it was the only location.

Member Knutson asked if they had ever seen the proposed trail system that would be part of the pond.

Wynne said they had not.

Bird said there were some conceptual ideas included in the 2015 Parks Master Plan. In 2003 it was planned to have a soccer field at the bottom. Currently the Parks Board is looking to update the Parks Master Plan. This is one of the areas that was going to be looked at.

The Members continued to discuss the findings. The following are the findings:

- Negative – The relief requested is not consistent with the intent stated in the Land Use Code because the existing zoning is LI – Light Industrial and the variance requested applies to a land use that is not allowed in the LI zone district.
- Negative – Strict application of the regulation will not result in an unnecessary hardship and practical difficulties on all reasonable use of the land intended by the existing LI – Light Industrial zoning.
- Negative – Strict application of the regulation does not result in an unnecessary hardship and practical difficulties on all reasonable use of the land because the variance request is made based on a specific use and other uses are allowed within the zoning district.
- Negative – The relief requested would negatively impact future use of public land adjacent to the property.
- Positive – The existing stormwater detention facility on the public land adjacent to the property provides reasonable open space and separation to meet the intent of the required setbacks.
- Positive – The public land adjacent to the property will not be changed from a stormwater detention facility and can therefore allow reasonable use of the land compared to other similarly situated land in the area.
- Negative – Granting the variance would be detrimental to the public health, safety and welfare considerations that were created by requiring the setback distances between uses.
- Neutral – The relief requested to reduce the setback could be modified to preserve a greater setback from protected uses by changing the location of the proposed building on the site.
- Negative – The relief requested is inconsistent with other prior variance approvals for setback reductions because the reduction requested in this case is a significantly higher proportion of the overall setback distance (65% reduction requested whereas other common setback reductions are closer to 20%).

Member Carmen moved to deny the request for a variance of the minimum setback requirement of a retail or medical marijuana store license from a parcel zoned P – Public District based on the negative findings.

Member Knutson seconded the motion.

Yeas – Wydallis, Knutson, Carman

Nays – Stahl, Killough

Motion carried.

7. ANNOUNCEMENTS

Bird reminded everyone that the previous chair had resigned, and this now creates a vacancy. We will be advertising that there is an opening and see if we get any applications. The Board of Trustees makes the appointments for this board. They may choose to have alternates be full seated members, or they may move things around depending on any applications that are received. Officers would be selected once the Board of Trustees decides who will be on this board.

8. ADJOURNMENT

Chairman Stahl closed the meeting at 9:30pm.

Approved this 27 day of October, 2022

PATTY LUNDY

Recording Secretary