



DEPARTMENT OF PLANNING AND DEVELOPMENT

---

MEMORANDUM

TO: Planning and Zoning Commission

FROM: Mark Wujtewicz, Planner

DATE: July 11, 2023

TITLE: Staff Report: PL-23-11  
Accessory Outdoor Dining with Music  
Section 3.44

---

EXECUTIVE SUMMARY

The application as submitted is a request by the owner/operator of Fat Tuna Restaurant located at 378 Mago Point Way to review the proposal for adding music to an accessory outdoor dining use that was previously approved as a part of Site Plan approval #92-102 and Zoning Compliance Permit Z-23-35. In accordance with Section 3.44.b.9 music associated with outdoor dining may be permitted by the Planning and Zoning Commission.

BACKGROUND

Pertinent Regulations

CGS  
Section 8-1cc

Waterford Zoning Regulations

Section 3.44 – Accessory Outdoor Dining

Section 3.44.b.9 – Music may be permitted by the Planning and Zoning Commission in association with Accessory Outdoor Dining, provided sound emitted from said music is not in violation of any applicable noise ordinance.

DISCUSSION

The property has been operating with accessory outdoor dining on an existing deck through site plan approval #92-102 issued on April 13, 1992. Recently adopted CT State Statute Section 8-1cc (Effective May 1, 2023) permits the establishment of outdoor dining as an accessory use to an existing restaurant as of right, subject to administrative review for compliance with the Zoning Regulations. The current owner had applied for and received administrative approval from the Zoning Official to establish outdoor dining on a patio consistent with the Zoning Regulations and in conjunction with the Design Review Board's findings of consistency with the Mago Point Design Guidelines. Zoning Compliance Permit Z-23-35 was issued for the patio dining on June 29, 2023. This application currently before the Commission, proposes to add music as an accessory element to the outdoor dining. In accordance with Section 3.44.b.9, the

Commission is charged with determining whether the use of music can be provided in a manner that can be associated as an accessory use to the Outdoor Dining.

### RECOMMENDED ACTION

Based on the information provided, staff recommends the Planning and Zoning Commission find that:

#### Findings:

1. The location of the restaurant facility is an approved dining establishment.
2. The existing Accessory Outdoor Dining was previously permitted through Site Plan Approval #92-102 on April 13, 1992 and Zoning Compliance Permit Z-23-35 on June 29, 2023.
3. Section 3.44.b.9 of the Zoning Regulations permits the Planning and Zoning Commission to review the use of music in association with Accessory Outdoor Dining.
4. Application PL-23-11 meets the provisions of Section 3.44.b of the Waterford Zoning Regulations with the following conditions as listed herein.

#### Conditions:

1. The music and speakers shall be directed toward the seating area.
2. Any modifications or adjustments to the manner of providing music as approved shall be reviewed by the Zoning Official in consultation with other Town agencies as required.
3. All other applicable agency/governing authority approvals shall be the responsibility of the applicant. This approval does not constitute any other required agency or governing authority approvals or conditions.

and that the Commission adopt the findings 1 thru 4 with conditions 1 thru 3.

#### **Proposed Motion**

**To approve application PL-23-11 for music associated with Accessory Outdoor Dining in accordance with Section 3.44.b.9 of the Zoning Regulations at Fat Tuna Restaurant, located at 378 Mago Point Way with conditions 1 thru 3 and to adopt the findings 1 thru 4 of the staff report.**