

Noise Variance Request from Alderperson Coenen 3-14-18

My name is Ronna Swift and I live at 230 West Seymour Street. Thank you for allowing me to speak on the issue of the noise variance requested by my alderperson, Patti Coenen, for the Fox River House for the upcoming outdoor season. I am a retired school counselor and public school music teacher who still plays bass in Fox Valley Symphony. My husband is Ron Wahl of Wahl Organbuilders. He was brought to Lawrence many years ago to teach the acoustics of organs. He is also an electrical engineer. Last night we looked at the site and Ron's comment was that a wall, even with acoustic tile, would not solve the loud music problem because the bass guitar and drum sounds would go up and around the wall and penetrate the neighborhood and homes because they produce a sound that goes everywhere. The throbbing bass coming out of cars is another example.

The local music scene is exciting and needs to be supported including outdoor events that affect surrounding neighborhoods, I do have concerns about certain neighborhoods which are repeatedly exposed to loud music and whether the neighbors have a say with the business owners and the city.

Thank you to Alderman Ed Baranowski for submitting the resolution regarding the issue and the Board of Health for respectfully postponing a decision, allowing the discussion of what a "reasonable" person can expect according to city code. I read everything possible about this issue from the city and spoke with the neighbors presently affected by the outdoor music from the Fox River House. I learned that both Stone Arch and Pullmans shut down their music at 9 PM and spoke with a bar owner in the neighborhood.

I am disappointed that so many music lovers, some of whom are friends of mine, have been visible, particularly on social media, without doing their homework and having the facts. The neighbors love music, and are willing to have it continue. The Laux family goes to outdoor music events regularly. I want the citizens of the area who are spreading rumors on Facebook about the neighbors wanting the music to stop totally, just stop.

Mural artist Chad Brady created a Facebook page several days ago recruiting folks to support Patti's request. It is called Support FRH's Music Variance. This is part of the organized effort to save the loud music and late hours. Talking about going to the bar for drinks after the meeting was a little over the top for me.

Alderperson Vared posts upcoming events at City Hall and that is appreciated. Vared did monitor the remarks regarding this issue. Other individuals have blocked people from Facebook pages.

Please know that the Laux family have lived in their home for 70 years and worked hard to preserve and maintain the 1875 historic home directly to the south of the bar. The east/west street on that corner is the "buffer" street for the Historic 3rd Ward to the south. Homes on State Street across from the Court House are being upgraded and brought back to life. I hope that we all want to see the continued preservation of that historic area.

We need to insure that the citizens of Appleton have a process of reporting noises that affect their families while in their homes, being reassured that they are listened to, and a process to work toward compromise on an issue. Then there is follow thru and possible consequences from the city. One of the issues here is that the city said they had not received hardly any complaints. The bar neighbors were not aware that in order for a complaint to be registered with the city thru a call to the non emergency number at APD, according to Chief Thomas, the individual placing the call must ask the operator to bring up a computer screen and contact an officer on duty in that area to speak on the phone with the person placing the call. The officer is then monitored as spending time on the situation. On weekends there can be a long wait time because the officers are needed on College Avenue.

As recently as this week I have again been told by some residents in the bar neighborhood that they will not call, speak up or come forward because they feel like they have no one to represent them and there might be repercussions. I also feel like that because Patti has not gotten back to me at times. It is also a well known fact that many City Council members and staff from inside City Hall hang out at the bar. This is a complex situation. Not only does Patti have a probable conflict of interest but anyone working for the city and going to the bar might have an issue as well.

For constituents, there is the expectation that an area business owner is willing to reach out and listen to neighbors who have an issue in a respectful and timely manner, as well as educating employees how to handle complaints. Patti created the beer garden in 2011 and has chosen to not work with the neighbors in a friendly respectful way. They feel rebuffed. They have made repeated efforts to talk to her. She finally sent a letter to several neighbors yesterday mid afternoon offering ideas for compromise. While this opens the door, it was too late to actually have a meeting to discuss things. I know the neighbors are ready to sit down with her in a neutral setting and have a civil conversation that works toward compromise.

The building to the south of the bar and directly across from the historic Laux home is owned by the county. It is coming down soon. The sound from the beer garden will spread further toward the south without the building. On outdoor music nights people presently crowd into the Wells Fargo parking lot which is to the back of the bar, in Patti's lot, and the lot to the south from the county. History shows us that people will keep filling up the surrounding area. This means that when the music stops, the littering, door slamming of vehicles and loud talking will continue directly across from the homes.

In the Appleton city code section 12-16, "noise means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans". According to Section 12-77, "Noise is a serious hazard to the public health, welfare, safety and quality of life".

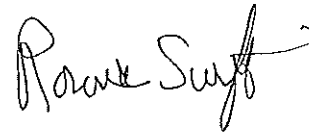
In addition, after the recommendations from the Health Department and the City Attorney's office on page 4 states,, "If, after consideration of all of the above factors, the Common Council grants the final approval of the special variance permit, the Council still has the discretion and authority to impose "all necessary conditions, including a time limit on the permitted activity" pursuant to AC Sec. 12-83(a) (4)".

Please pay attention to how Neenah has resolved this issue. Their code states, "Prohibits unreasonably loud and raucous noise from the premises of a commercial establishment including any outdoor area which /is under the control for the establishment, between the hours of 10 PM and 6 AM which is plainly audible at a distance of 5 feet from any residential property. Sec 11-146 (13). Antigo "has a separate provision for outdoor beer gardens that prohibits amplified sound or music from being played outside of the enclosed "building" premises). As such, amplified sound or music is not permitted in the beer garden. (Sec. 18-100) In Appleton the variance part of the city code states that "reasonable steps are taken to keep such noise at the lowest possible level. 12-83

I am asking the Board of Health, the Department of Health, City Council and APD to help resolve this issue with and for the neighbors who have concerns about the excessive noise, many late nights and amplified music being played at the beer garden. Acoustic music would not present the same problem. I am suggesting the Board of Health recommend a follow up meeting after tonight between the neighbors and Patti and then that everything be written out. Then bring it back to the Board of Health for modifications and approval. Thank you for hearing me.

Ronna Swift
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I'm an Appleton homeowner & taxpayer but my job does not require me to live here. I could probably live anywhere in the country, but my family and I have chosen Appleton.

I've lived in Minneapolis and Milwaukee as well as visited every state and 28 countries. What we have here in Appleton is unique, it's a great mix that I've only found in a few places.

I've been on the north side for five years now, and before that spent 11 years as a homeowner in the Erb Park area. One of the things I miss about living near Erb is the convenience of walking downtown for some of our many community cultural experiences; the farmer's market, yoga in the park and an evening of outdoor live music in an intimate setting like Fox River House, all of these have effects on the neighborhood surrounding them. (While I still do these things, but now I ride my bike or park my car.)

My alderperson made the argument that all taxpayers deserve serenity and while I agree with that to a certain extent I also understand that my decisions as to where I am going to live have ramifications. I don't think that I can demand the peace and quiet of the country when I choose to live in the city.

When I lived 2 miles north of the center of downtown Minneapolis we would hear live music coming into our apartment from downtown outdoor concerts on a weekly basis, it was part of the deal of living in the city.

Now that I'm on the north side of Appleton I hear HWY 41 anytime I open a window or sit outside, it's part of the deal with living in the city:

While I empathize with a downtown resident that would like the neighborhood to be as quiet as Wrightstown, I don't think it will happen mere blocks from the intersection of Richmond and College.

As a side note: When I go downtown to experience the live music at FRH my dollars are not limited to only FRH, in fact FRH's live music has a ripple effect on other businesses. My friends and I will meet for dinner or coffee before, or we'll stop somewhere else for a dessert or slice of pizza on the way home.

Appleton needs more places like FRH. Not less.

Brad Knapp
309 E Evergreen Dr
Appleton, WI 54913

The majority of this message is paraphrasing the conversation I had with my Alderperson before the last City Council meeting on this topic.

bk

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To whom it may concern,

Although I am a Menasha resident, I would like to add my voice to the concerns of how it will affect the community if the variance for Fox River House is not approved. I have spent many a summer night enjoying live music at Fox River House and supporting the music community. Fox River House has provided a stage for many of my favorite groups and is usually well attended because it is outside. This results in a boost to the local economy. It is also a key venue for Mile of Music during which Fox River House auctions off tables for local charity. I think many people would be affected if the music should stop there completely. Could some sort of a compromise be made? I truly hope that we can come together for a resolution for everyone involved.

Thank you,

Holly Stigen
813 Arthur St
Menasha, WI 54952

March 13, 2018

Dear Appleton Board of Health and Appleton City Council,

I am writing to support Fox River House's (FRH) Live Music Variance. As a member of the broader Fox Valley community (resident of Menasha) and a teacher in Appleton, I value the live music at FRH tremendously. FRH's music adds to the ambiance of the Appleton community, it builds community and strengthens our mental health. I am sure we can all agree music will naturally do this for a community. Music ties people together to create common experience.

I mostly understand the arguments against the variance, as I watched the City Council meeting. I understand the decibel volume of the music and the lateness of the music are mostly in question. I am a strong proponent of compromise. I hope both the City Council and the Board of Health favor compromise, as well. Ending the music without compromise would be a giant step backwards for Appleton.

I have taken many friends and family from out-of-town to FRH. All commented, "I cannot believe I am in Appleton." The FRH improves our social experience because of the ability to enjoy music, the outdoors, and the downtown environment all at once. The FRH also unites music lovers and the community—giving all a chance to come together through music. Lastly, handfulls of research exists, noting the importance of music for our mental health. Compromising to allow music at FRH will show Appleton values unity, community and mental health.

Thank you for reading my thoughts. Again, a compromise is a must. Many community members across the Valley are thoughtfully watching this decision. Please set a precedent to value music in our community.

Sincerely,

Marni Mahoney

Marni Mahoney

Marnisue123@gmail.com

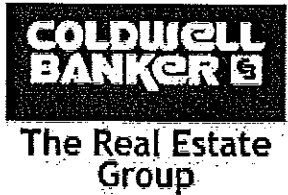
661-993-4753

Hello and good morning,

As top producing Realtors in Appleton, we can tell you that FRH's outdoor live music events are in high demand by our clients in the downtown area. Downtown Appleton has become a large draw for many clients. There are lots reasons why, but a huge part of that draw has been the outdoor activities and live music venues.

FHR's outdoor shows have been a favorite and honestly a great selling feature for buyers looking to relocate. Especially millennial buyers and folks relocating from "the big city". FHR and these outdoor shows are one of the main draws for these clients. It goes without saying that these are also the residents that bring a great deal of revenue into our local economy. We owe it to our great city to allow this to move forward and keep progressing.

Regards,
Daniel and Kelly



Daniel Wessel

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I have been an Appleton resident nearly all my life and one of the things I love most is witnessing a growing art/music scene. I am very disheartened to hear that the Fox River House's variance was denied for the first time this year. The Fox River House is the oldest tavern in Appleton and it's music venue is a wonderful thing for everyone. As a city grows, so does it's opportunities. For a city that likes to use the slogan "Appleton, a great place to be!" How great will we a city be without music as a possibility on weekends? We aren't talking about garage bands being allowed to play next door to you until 2am, just those few businesses that apply for a variance and are located downtown.

I understand that means you will always have a few residents that are close to the downtown area, however in an ever growing city this should come as no surprise that those areas will be a little louder-on scheduled days-only in the summer. As a resident I can also attest that these winters can be long and hard to get through. When spring comes around you cannot wait to just get out of the house! Why would we want to take away such a great venue that is good for the soul, good for Appleton's economic growth, good for musicians from all around?

I have been following this story since the beginning and the word compromise keeps getting tossed around. I see endless suggestion after endless suggestion coming from Appleton residents, but I have failed to see any real compromise being suggestion by the board of health. A compromise is supposed to be BOTH sides offering up a solution, or at least considering it.

I believe there is no reason to withhold Fox River Houses variance. If their variance is denied it will make it easier for other businesses to be denied and I think that is the wrong direction to be moving in. I believe the many outweigh the few in wanting to keep live music at outside venue's a part of Appleton.

Thank you for your consideration,

Laura Schramper Champeau

I am writing to support the noise variance request by Fox River House. I was at the City Council meeting but unable to attend the Health Department meeting scheduled for March 14 because of work.

I heard both sides of the discussion and understand the concerns of the citizens who are requesting the noise variance be denied. However, I think granting a variance for outside music raises a broader issue that the city of Appleton needs to address.

Live music has become an integral part of downtown Appleton in the last several years. While I understand this is a change for those that are used to living in a more "peaceful" downtown, the advantages of music in the city are great. It brings business downtown which helps with economic growth, it creates a sense of community that brings with it positive action to keep downtown Appleton healthy, and it allows for citizens to enjoy the short summers we have in Wisconsin.

With the creation of other outdoor spaces to be utilized in the summer consider the new convention center rooftop, the new Jones park pavilion, and other outdoor music patios being created by other business establishments in and around Appleton. These are all venues that have potential for outdoor music much of which is enjoyed by many even if not attending the concerts directly.

As a physician, I understand the health issues of "noise" to our ears. However, I think the benefits to the community's mental and spiritual health is important too. I would like to see the city consider ordinances that allow live music until 11 pm on weekends and 10 pm on occasional weekdays with a noise volume that is set within reasonable limits.

I again, in support of the noise variance for Fox River House but would like to see the a broader approach to noise control to include more summer outdoor music be considered.

Thank you

Michelle Cihla, MD

Good morning,

I'm writing today in support of the approval of Fox River House's noise variance request.

In 2016, I left a job in Los Angeles to return home to Appleton for a new job (I lived in Little Chute and Oshkosh from 1987-2009). My wife, who grew up minutes outside of New York City, was hesitant and a bit apprehensive about the move. In the 6 months leading up to our move, we visited Appleton twice; once in June when we attended an outdoor concert at Houdini Plaza, and once in August for Mile of Music. The live music scene in Appleton sealed the deal. We moved here in September of 2016.

There are a number of items I urge you to consider when weighing the noise variance request. In 2010, the State of Wisconsin concluded a two year economic impact study and announced that Wisconsin residents spent \$195 million in arts event-related spending, reflecting an average of \$19.06 per person in spending for hotels, restaurants, parking, souvenirs, refreshments, and other similar costs—with non-local attendees spending significantly more than local attendees (\$33.02 compared to \$17.73). In the eight years since the study was released, the state's art scene has grown significantly, as evidenced locally by the success of Mile of Music and its offshoot events.

After Mile 3, the economic impact on the city of Appleton was reported at \$2.5 million dollars over the course of 4 days. Based on attendance estimates for Miles 4 & 5 (which are hovering around 70,000 each year), that impact surely has increased. This must not be ignored or glossed over. It's clear that this community not only enjoys live music, it thrives on it.

In 2016, a study released listed the top cities in the United States for music fans. Not surprising, Appleton made the list at #44. What is surprising, however, and speaks volumes of the growth of Appleton is how close we were to the largest cities in the country: Nashville (#1), New York City metro (#26), and Chicago (#29). You can view the full results, sources, and methodology here:

<https://www.valuepenguin.com/2016/best-cities-music-fans>

I have read the complaints against Fox River House, and I can sympathize with the neighbors. One thing I feel needs to be done is a test with a true decibel reader. No cell phone on the planet has the required technology or power to report an accurate number. Once that is established, the city, Fox River House, and the neighbors can all be on the same page.

In theory, a noise barrier as suggested by neighbors sounds like a good idea. However, the physics behind sound waves show that sound dissipates faster when it has space to travel without being reflected. If a wall / barrier were constructed, it would amplify the sound much like a speaker up against a wall (you can test this yourself by moving your phone speaker closer to a wall). There are sound-absorbing materials available, much like those along highway 441, but the cost of constructing a wall of that magnitude and pinning the price tag on a business owner is unconscionable, and something the city may not even allow.

As we operate in a free market economy (the largest in the world), the suggestion that we dictate what a business owner can and can't do, whether it be the type of music they can offer at their venue or the addition of a costly noise barrier, should be avoided at all costs. If complaints are going to be lodged against a live music venue for being too disruptive, I am left to wonder why no complaints are being filed against the police department across the street, whose vehicles' sirens are much louder than any outdoor concert in Appleton (sirens are rated at around 110-120 decibels and operate 24/7/365).

I also think it's dangerous to start pinning hypothetical property crimes on live music fans in Appleton, especially when based entirely on unfair suspicion, rather than on literally no proof to back the premise up.

I can understand and sympathize with the nearby neighbors, especially when they're looking for rest. The unfortunate reality for them is that cities grow, and as they grow their downtown districts become more vibrant and exciting. This is a necessary growth, and one that can't be avoided if local businesses wish to continue to attract "millennials" who are either new to the area, or returning home.

I urge you to approve the noise variance for Fox River House. If it's denied, I believe there will be an unfortunate descent along an already slippery slope that will undoubtedly negatively affect the growth of our city, the influx of millennials like myself who've left the "big city" and will continue to drive this local economy, and the vibrancy of our beautiful downtown district.

Thank you for your time and consideration.

Ryan Romenesko
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Appleton, WI 54915

Executive Director
Refuge Foundation for the Arts

From: Mike Luepke (Appleton resident, E. Glendale Ave.)

I attended the Common Council meeting on Feb. 21st, where the variance requested by Patti Coenen for Fox River House was discussed. This meeting was my first exposure to Appleton city government. I was thankful for the multiple extensions of time for public comments; and I was impressed by the turn out of local citizens who came to support the business and activities they care about. I think it was a fine example of local government in action. The supporters remained civil and respectful for the duration of the public comments on that night. Since then, I've been following the situation through social media and the Post-Crescent, and I've seen and heard a plethora of stories about how events like the outdoor music hosted at Fox River House have had a positive impact on people's lives.

I share those sentiments. I've lived in Appleton, off and on, for 7 years now. Like many others I've heard from, I chose to live here, in large part, because the city is culturally progressive and supportive of the arts. We have a healthy, vibrant downtown filled with activities (day and night) which sets Appleton apart from other cities in the area. When a person goes to an event, like outdoor music, people are friendly, the atmosphere is lively, and you can meet people and truly feel a sense of community. Appleton is not just where I ended up, it's my chosen home. So unlike other places I've lived around the world, I've chosen to get involved with my community, and help to create a society where we can come together, be social, celebrate, and express ourselves...within reason.

I believe that music until 11 pm on Friday and Saturdays, only during the summer, when the weather is nice, is a reasonable request for an outdoor venue in the downtown entertainment district of a city. The compromises that have led to this schedule seem appropriate, if not too restrictive. In similar cities where I've lived downtown, I've known music to go until at least midnight, 3 or more nights per week. I made the compromise when living in those cities. My tradeoff was to accept a little extra noise for the convenience of living near a center of activity. I understand that you can't have the experience of living downtown in a city if you take away the sights and sounds of the city, like outdoor music. I understand that might not fit the preferences of all our neighbors. So as a citizen of Appleton, I support the reasonable accommodation of 2 nights per week, terminating at 11 pm. Anything less is a restriction, no matter how it is labeled.

I've also interacted with people who oppose having music at Fox River House. They've proposed building a wall around their neighborhood, restricting any noise unless it's what they want to hear when they want to hear it, and there are some more moderate views as well that ask for a compromise. I believe everyone is entitled to have a voice in the community where they live, and I respect the courage it takes to speak up. However, I feel like a compromise has already been met, and further restrictions on what is allowed, or failing to renew this variance, is not compromise. That seems more like a one-sided decision, and I am concerned about how that decision was made and may be made again in the future.

If the Board of Health and City of Appleton want to deny a variance that has been approved for 8 years running, I propose that they provide objective reasons for the sudden change in policy. We don't want this to set a precedent for reigning in positive events that bring the community together. And we don't want there to be a future question of what it takes for a citizen to influence decisions like this one way or another.

I sincerely hope that Appleton continues to support events in the downtown entertainment district, and that we don't end up taking a step backwards in making this city an inclusive center for arts and entertainment. I'm proud of my city and its inhabitants, and of the people who come from all over the

area, country, and world, to make Appleton their home for one night or for years to come. Please don't go down the path of curtailing the growth and sense of community that outdoor music provides to the city.

Thank you,

Mike Luepke