

Joe Lombardo
Governor

Richard Whitley,
MS
Director



DEPARTMENT OF
HEALTH AND HUMAN SERVICES

NEVADA DIVISION of PUBLIC
and BEHAVIORAL HEALTH



Cody Phinney,
MPH
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical
Officer

NOTICE OF PUBLIC HEARING

ALL POINTS BAR AND GRILL, LLC IS REQUESTING A VARIANCE, # 778, FROM THE NEVADA STATE BOARD OF HEALTH REGULATIONS.

NOTICE IS HEREBY GIVEN THAT ALL POINTS BAR AND GRILL, LLC located at 790 EAST MAIN STREET FERNLEY NEVADA 89408 has requested a variance from Nevada Administrative Code (NAC) 446.582 (2) "Toilets Rooms, Number and Accessibility"

A public hearing will be conducted on March 7, 2024, at 9:00 am by the Nevada State Board of Health to consider this request. This meeting will be held in person and online.

In person meeting locations:

- Southern Nevada Health District (SNHD)
Red Rock Trail Rooms A and B
280 S. Decatur Boulevard; Las Vegas, Nevada 89107
- Nevada Division of Public and Behavioral Health (DPBH)
Hearing Room No. 303, 3rd Floor
4150 Technology Way; Carson City, Nevada 89706

Join from a computer using the Microsoft Teams meeting link:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZWE1NGZjMDAtM2JmZi00NjVjLWExMzYtNTRjZDFkZGRmY2Iz%40thread.v2/0?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%22768e443d-3be6-48f0-9bb0-7e72f1276b8d%22%7d

Join by Phone:

(775) 321-6111

Phone Conference ID: 679 573 018#

ALL POINTS BAR AND GRILL, LLC 790 EAST MAIN STREET FERNLEY NEVADA 89408, is requesting a variance from NAC 446.582 (2) which states:

"A minimum of one employee restroom is required. Men's and women's restrooms are required and must include at least one urinal in the men's restroom for facilities that allow the on-site consumption of alcohol."

The authority of the State Board of Health to consider and grant a variance from the requirements of a regulation is set forth at NRS 439.200 and NAC 439.200 – 439.280.

Persons wishing to comment upon the proposed variance may appear at the scheduled public hearing or may submit written testimony at least five days before the scheduled hearing to:

Secretary, State Board of Health
Division of Public and Behavioral Health
4150 Technology Way, Suite 300
Carson City, NV 89706

Anyone wishing to testify for more than five minutes on the proposed variance must petition the Board of Health at the above address. Petitions shall contain the following: 1) a concise statement of the subject(s) on which the petitioner will present testimony; 2) the estimated time for the petitioner's presentation.

This notice has also been posted at the following locations:

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH), 4150 TECHNOLOGY WAY, CARSON CITY, NV

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH WEBSITE:

<https://dpbh.nv.gov/Boards/BOH/Meetings/Meetings/>



MEMORANDUM

DATE: 12/11/2024

TO: Dr. Jon Pennell, Chairman
State Board of Health

FROM: Cody Phinney, Administrator
Nevada State Board of Health

RE: Variance Request #778, All Points Grill Request for Variance of NAC 446.582(2) "Toilet Rooms: Number and Accessibility."

REGULATIONS

Nevada Administrative Code (NAC) 446.582 (2) states as follows: "A minimum of one employee restroom is required. Men's and women's restrooms are required and must include at least one urinal in the men's restroom for facilities that allow the on-site consumption of alcohol."

STAFF REVIEW

On November 25, 2024, All Points Grill (Applicant) submitted a request for variance from the requirements of NAC 446.582(2) for the installation of a urinal in the men's restroom because the restroom is undersized for a urinal and the bathroom still maintains Americans with Disabilities Act (ADA) compliance.

On September 12, 2024, the Division of Public and Behavioral Health (DPBH), Environmental Health Section (DPBH-EHS) consulted with the owners of Applicant to determine code compliance. DPBH-EHS informed the owners of the requirements in NAC 446.582 (2). Applicant informed DPBH-EHS that it inquired with contractors into the possibility of installing a urinal in the men's room to meet the code; however, upon consultation with multiple plumbers, they were told that due the ADA requirements and local building codes, there was not enough space in the existing bathroom to install a urinal, and that walls would have to be moved out to accommodate the size requirements. Applicant cannot reconstruct the structural outside wall to perform the work without creating a financial hardship.

This facility is a restaurant and bar with maximum capacity of 88 persons and 52 total seats. The Uniform Plumbing Code, Table 422.1, adopted by reference allows one men's water closet and one women's water closet as acceptable for an establishment of this type and size. The Lyon County Building Department approved the plans for construction under equivalent to these local regulations.

EXCEPTIONAL AND UNDUE HARDSHIP

Applicant states strict application of NAC 446.583 (2) would cause an exceptional financial hardship. Denial of the variance application would require Applicant to either demolish and replace the current bathrooms or

install an ancillary bathroom just for a urinal. The Applicant has already gone to the expense of ensuring the rest of the building is up to code.

DEGREE OF RISK TO PUBLIC HEALTH

There is little to no risk to the public health in allowing Applicant to serve alcohol for on-site consumption without the addition of a urinal. They have standard operating procedures in place to ensure that the water closets and restrooms will be sanitized on a regular basis.

INTENT OF THE REGULATIONS

The intent of NAC 446.582 is to provide adequate, sanitary toilet facilities which are necessary for the proper disposal of human waste, which carries pathogenic microorganisms, and for preventing the spread of disease by flies and other insects.

PUBLIC COMMENT RECEIVED

Notice of the hearing was posted on the DPBH website at <http://dpbh.nv.gov/Boards/BOH/Meetings/Meetings/> and at the 4150 Technology Way office in Carson City, NV on February 5, 2025. The DPBH is not aware of any objections to this variance by any local authorities, and no public comments have been received to date.

STAFF RECOMMENDATION

DPBH-EHS staff recommends the State Board of Health Variance Request #778, as it does find strict application of NAC 446.582 (2) would result in exceptional or undue hardship on Applicant. With approval of the Variance Request #778, Applicant agrees to the following:

1. If at any time, the water closets in the restrooms fail or become inoperable that Applicant will cease operation, close for business, and notify the Division.
2. If Applicant closes due to failure or inoperability of the toilet facilities, it must remain closed until the Division approves the restaurant to reopen.

PRESENTER

Mark Ports, Public Health Rating and Survey Officer, DPBH-EHS



NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please check the appropriate box that pertains to the NAC for which you are requesting a variance.

Division Administration
(NAC 439, 441A, 452, 453A, & 629)

Health Care Quality & Compliance
(NAC 449, 457, 459 & 652)

Child, Family & Community Wellness
(NAC 392, 394, 432A, 439, 441A, & 442)

Office of State Epidemiology
(NAC 440, 450B, 452, 453, 453A, & 695C)

Public Health & Clinical Services
(NAC 211, 444, 446, 447, 583, & 585)

Date: 11/25/24

Name of Applicant: Michelle Wilson

Phone: 775-217-0860

Mailing Address: 2012 Rawles Dr.

City: Fernley

State: NV

Zip: 89408

We do hereby apply for a variance to
chapter/section Ch. 446 Sec. 446.582 of the Nevada Administrative
Code (NAC). (For example: NAC 449.204)

Title of section in
question: Toilet rooms: Number and Accessibility

Statement of existing or proposed conditions in violation of the NAC:

Pre-existing restaurant and bar is changing ownership and existing men's
restroom does not have a wall mounted urinal. Current business wishes
to sell alcohol for consumption.



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APPLICATION FOR VARIANCE

Date of initial operation (if existing): n/a

ATTENTION: Please read this section closely. Your request for variance will be examined against these criteria:

Any person who, because of unique circumstances, is unduly burdened by a regulation of the State Board of Health and thereby suffers a hardship and the abridgement of a substantial property right may apply for a variance from a regulation. (NAC 439.200(1))

1. The State Board of Health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:
 - (a) There are circumstances or conditions which:
 - (1) Are unique to the applicant;
 - (2) Do not generally affect other persons subject to the regulation;
 - (3) Make compliance with the regulation unduly burdensome; and
 - (4) Cause a hardship to and abridge a substantial property right of the applicant; and
 - (b) Granting the variance:
 - (1) Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property; and
 - (2) Will not be detrimental or pose a danger to public health and safety.

2. Whenever an applicant for a variance alleges that he/she/they suffers or will suffer economic hardship by complying with the regulation, they must submit evidence demonstrating the costs of compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable. (NAC 439.240)

Therefore, it is important for your variance request to be as complete as possible. It is your responsibility to attach documentation supporting your variance request.

Statement of degree of risk of health _____



NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

Please state in detail the circumstances or conditions which demonstrate that:

1. An exceptional and undue hardship results from a strict application of the Regulation:

The restrooms in this establishment are not large enough to stay within the
ADA requirements and install a wall mounted urinal. The wall on the north
side of restrooms is an exterior wall that cannot be extended. Also, to
install a urinal would require extensive renovations which would include
structural changes. These structural changes would nullify any grandfather
clauses that are currently in effect. This urinal requirement would domino
into an expense our company cannot meet.

2. The variance, if granted, would not:
 - A. Cause substantial detriment to the public welfare.

Following strict adherence to frequent restroom cleaning, sanitization,
maintenance, and stocking of schedules will help maintain a sanitary restroom
for the public.

- B. Impair substantially the purpose of the regulation from which the application seeks a variance.

Proper sanitization, following a mandatory cleaning schedule, and keeping a
full stock of sanitizer, soap, and paper towels for the public to use will mitigate
any possible contact with biological hazards.

The bureau may require the following supporting documents to be submitted with and as a part of this
application:

Specific Request:

Building floor plans/blue prints, Quote from contractor for work needed to bring restroom into
compliance.



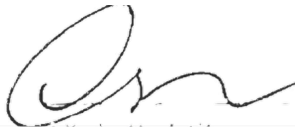
NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

- 1. Legal description of property concerned
- _ 2. General area identification map
- _ 3. Plot map showing locations of all pertinent items and appurtenances
- _ 4. Well log (if applicable)
- _ 5. Applicable lab reports
- _ 6. Applicable engineering or construction/remodeling information
- _ 7. Other items (see following pages)

This application must be accompanied by evidence demonstrating the costs of your compliance with regulations or specific statutory standards. Your request will be placed on the Board of Health agenda 40 days or more after receipt in this office if accompanied by the required fee (NAC 439.210). The application and supporting documentation will form the basis for the Division of Public and Behavioral Health staff report and recommendation(s) to the Board. Failure to respond to the above statements may cause the Board to deny consideration of the application at the requested Board meeting.

I am/we are requesting this variance request be placed on the next regularly scheduled Board of Health agenda. It is understood that I/we can attend in person at either physical location in Carson City or Las Vegas or we may attend virtual.

Signature: 

Printed Name: _____

Title: _____

Date: _____



NEVADA DIVISION of PUBLIC
and BEHAVIORAL HEALTH



NEVADA STATE BOARD OF HEALTH
4150 Technology Way, Suite 300 CARSON CITY, NV 89706

APPLICATION FOR VARIANCE

**PLEASE SUBMIT YOUR APPLICATION FOR VARIANCE BY USING
ANY OF THE FOLLOWING METHODS:**

MAIL TO:

Secretary, Nevada State Board of Health

Division of Public and Behavioral Health

4150 Technology Way, Suite 300

Carson City, NV 89706

FAX:

775-687-7570

EMAIL:

DPBH@health.nv.gov

StateBOH@health.nv.gov