



City of Appleton

100 North Appleton Street
Appleton, WI 54911-4799
www.appleton.org

Meeting Agenda - Final Board of Zoning Appeals

Monday, May 16, 2022

7:00 PM

6th Floor Council Chambers

1. Call meeting to order
2. Roll call of membership
3. Approval of minutes from previous meeting

[22-0659](#) Minutes April 18, 2022

Attachments: [04-18-22 Meeting_Minutes.pdf](#)

4. Public Hearings/Apearances

5. Action Items

[22-0660](#) **1731 N. Edgewood Ave. (31-5-3980-00)** The applicant proposes to build an attached deck to the rear of the property that would be twelve (12) feet from the rear property line. Section 23-96(g)(5) of the Zoning Ordinance requires a twenty-five (25) foot rear yard setback.

Attachments: [1731 N. Edgewood Ave.pdf](#)

[22-0661](#) **1523 N. Charlotte St. (31-1-2184-00)** The applicant proposes to use this property as light manufacturing. The property is zoned R2. Light manufacturing is not a permitted use in the R2 zoning district.

Attachments: [1523 N. Charlotte St.pdf](#)

[22-0662](#) **1103 W. College Ave. (31-3-1064-00)** The applicant proposes to provide thirteen (13) parking spaces for a restaurant/bar use with an occupancy limit of ninety-nine (99). Section 23-172(m) of the Zoning Ordinance requires thirty- three (33) parking spaces when the occupancy is ninety-nine (99).

Attachments: [1103 W.College Ave.pdf](#)

6. Information Items

7. Adjournment

Notice is hereby given that a quorum of the Common Council may be present during this meeting, although no Council action will be taken.

Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible.



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Meeting Minutes - Final Board of Zoning Appeals

Monday, April 18, 2022

7:00 PM

6th Floor Council Chambers

1. Call meeting to order

Meeting called to order by Engstrom at 7:00pm.

2. Roll call of membership

Present: 4 - Engstrom, Sperl, Cain and Loosen

Excused: 3 - McCann, Croatt and Joosten

3. Approval of minutes from previous meeting

[22-0444](#)

Minutes March 21, 2022

Attachments: [Meeting Minutes for 3-21-22.pdf](#)

**Cain moved, seconded by Loosen, that the Minutes be approved. Roll Call.
Motion carried by the following vote:**

Aye: 4 - Engstrom, Sperl, Cain and Loosen

Excused: 3 - McCann, Croatt and Joosten

4. Public Hearings/Appearances

5. Action Items

[22-0307](#)

115 E. Washington St. (31-2-0281-01) The applicant proposes to place a dumpster enclosure on the south property line. Section 23-43(f) (2) of the Zoning Ordinance requires dumpster enclosures to be five (5) feet from the side and rear property line.

Attachments: [115 E. Washington St.pdf](#)

**Cain moved, seconded by Loosen, that the Report Action Item be approved.
Roll Call. Motion carried by the following vote:**

Aye: 4 - Engstrom, Sperl, Cain and Loosen

Excused: 3 - McCann, Croatt and Joosten

6. Information Items

7. Adjournment

A motion was made by Sperl, seconded by Loosen, that this meeting be adjourned at 7:43pm. The motion carried by the following vote:

Aye: 4 - Engstrom, Sperl, Cain and Loosen

Excused: 3 - McCann, Croatt and Joosten

22-0660

Return to: Department of Public Works
 Inspection Division
 100 North Appleton Street
 Appleton, Wisconsin 54911
 (920) 832-6411

City of Appleton Application for Variance

Application Deadline April, 26th 2022 Meeting Date May 17th, 2022

Please write legibly and also submit a complete reproducible site plan (maximum size 11" x 17"). A complete site plan includes, but is not limited to, all structures, lot lines and streets with distances to each. There is a non-refundable \$125.00 fee for each variance application. The nonrefundable fee is payable to the City of Appleton and due at the time the application is submitted.

Property Information	
Address of Property (Variance Requested) 1731 N. Edgewood Ave	Parcel Number 31-5-3980-00
Zoning District R1B	Use of Property X Residential <input type="checkbox"/> Commercial

Applicant Information	
Owner Name Kyle and Paige Thompson	Owner Address 1731 N. Edgewood Ave Appleton, WI 54914
Owner Phone Number 404-933-2743	Owner E Mail address (optional) Paigethompson404@gmail.com
Agent Name Kirstin Aebie	Agent Address N2277 W. Frontage Road Kaukauna, WI 54130
Agent Phone Number 920-462-5724	Agent E Mail address (optional) kirstina@tundraland.com

Variance Information
Municipal Code Section(s) Project Does not Comply Section 23-93(g)(5) – Rear yard setback is twenty-five (25) feet.
Brief Description of Proposed Project Proposed project is the build an attached deck to the rear of the property that would be twelve (12) feet from the rear property line. Section 23-96(g)(5) of the Zoning Ordinance requires a twenty-five (25) foot rear yard setback.

Owner's Signature (Required): DocuSigned by:

D2692A27DECB4B3... Date: 3/24/2022

Recp 3565.0008

Return to: Department of Public Works
Inspection Division
100 North Appleton Street
Appleton, Wisconsin 54911
(920) 832-6411

Questionnaire

In order to be granted a variance each applicant must be able to prove that an unnecessary hardship would be created if the variance were not granted. The burden of proving an unnecessary hardship rests upon the applicant. The attached sheet provides information on what constitutes a hardship. (Attach additional sheets, if necessary, to provide the information requested. Additional information may be requested as needed.

1. Explain your proposed plans and why you are requesting a variance:

Our proposed plan is to build a 12'x16' deck in the back yard, replacing the existing deck within the same footprint.

Since the existing deck was not a legal structure (permit not pulled), and is built within the setback, we are requesting a variance to replace the deck as a legal, non-conforming structure.

2. Describe how the variance would not have an adverse impact on the surrounding properties:

Since there is already a deck of the same size and shape, the surrounding properties would experience minimal impact by the installation of a new deck.

Furthermore, the new deck would be ensured to be up to code, and will be brand new, enhancing the curb appeal and resale value of the home.

3. Describe the special conditions that apply to your lot or structure that do not apply to surrounding lots or structures:

Due to the lot's small size, adhering to setbacks on any side of the property would be difficult.

In addition, a deck built on a different side of the house would not line up with the egress from the house as the back deck does.

4. Describe the hardship that would result if your variance were not granted:

If a variance is not granted, the homeowner would not be able to beautify the space the existing deck occupies, to upgrade the deck, or bring the current deck up to code.

CITY OF APPLETON MEMO

To: Board of Zoning Appeals

From: Kurt W. Craanen, Inspections Supervisor *all*

Date: May 5, 2022

RE: Variance Application for 1731 N. Edgewood Ave. (31-5-3980-00)

Description of Proposal

The applicant proposes to build an attached deck to the rear of the property that would be twelve (12) feet from the rear property line. Section 23-96(g)(5) of the Zoning Ordinance requires a twenty-five (25) foot rear yard setback.

Impact on the Neighborhood

In the application, the applicant states that since there is already a deck of the same size and shape at this location, there will be no impact on the neighborhood.

Unique Condition

In the application, the applicant states that due to the lot's small size, adhering to setbacks on any side of the property would be difficult.

Hardship

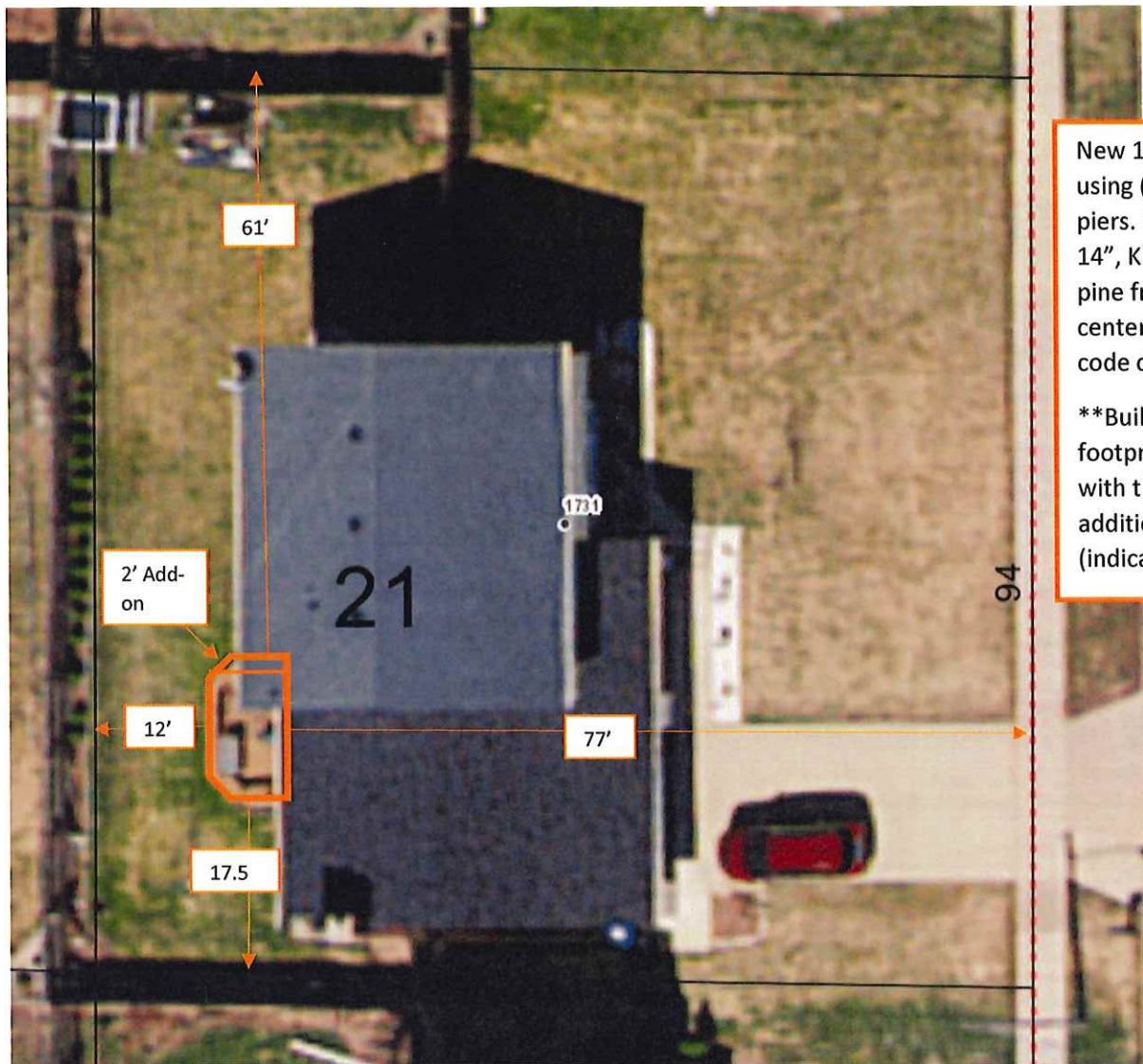
In the application, the applicant states that if a variance is not granted, the homeowner would not be able to beautify the space the existing deck occupies, to upgrade the deck or bring the current deck up to code.

Staff Analysis

The size of this lot is 9,212 sq. ft. The minimum size lot in the R1B zoning district is 6,000 sq. ft.

This property appears to have a legal nonconforming rear yard setback. The house is approximately twenty (20) feet from the rear property line. A deck was built years ago, without a permit. Any addition to the back of the house would be in the twenty-five (25) foot rear yard setback.

The property is unique because of the legal nonconforming rear yard. Because of this, the owner is not able to build a deck, like other similar properties in the area.



New 12'x16' deck build, using (5) 50/50 diamond piers. Height off grade is 14", KDAT treated southern pine frame (2x10, 16" on center). Includes 1 stair and code compliant railing.

**Build will be within same footprint as existing deck with the exception of an additional 2' on the side (indicated on drawing)

Return to: Department of Public Works
 Inspection Division
 100 North Appleton Street
 Appleton, Wisconsin 54911
 (920) 832-6411

City of Appleton Application for Variance

Application Deadline April 25, 2022 Meeting Date May 16, 2022 7pm

Please write legibly and also submit a complete reproducible site plan (maximum size 11" x 17"). A complete site plan includes, but is not limited to, all structures, lot lines and streets with distances to each. There is a non-refundable \$125.00 fee for each variance application. The nonrefundable fee is payable to the City of Appleton and due at the time the application is submitted.

Property Information	
Address of Property (Variance Requested) 1523 N CHARLOTTE ST	Parcel Number 31-1-2184-00
Zoning District R2	Use of Property <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial

Applicant information	
Owner Name GEROLD CURTIS	Owner Address 2820 N PARK DRIVE LA APPLETON WI 54911
Owner Phone Number 920-740-9127	Owner E Mail address (optional)
Agent Name	Agent Address
Agent Phone Number 608-445-1520	Agent E Mail address (optional) <u>alykstevens@gmail.com</u>

Variance Information
Municipal Code Section(s) Project Does not Comply Section 23-95. R-2 two-family district.
Brief Description of Proposed Project Request for a use variance to use the property for light manufacturing in the R2 zoning district. Light manufacturing is not a permitted use in the R2 zoning district.

Owner's Signature (Required): *Gerold Curtis* Date: 4-27-22

Rec 113450830

Return to: Department of Public Works
Inspection Division
100 North Appleton Street
Appleton, Wisconsin 54911
(920) 832-6411

Questionnaire

In order to be granted a variance each applicant must be able to prove that an unnecessary hardship would be created if the variance were not granted. The burden of proving an unnecessary hardship rests upon the applicant. The attached sheet provides information on what constitutes a hardship. (Attach additional sheets, if necessary, to provide the information requested. Additional information may be requested as needed.

1. Explain your proposed plans and why you are requesting a variance:

We are requesting a variance to be able to use the building located on the property for a small business. The business would be to create and print sticker/decals and do computer-based design and programming for machining/3D printing with small table-top machines.

2. Describe how the variance would not have an adverse impact on the surrounding properties:

We are looking to clean up the property, we would create little to no traffic, and would not create any excessive or disturbing noise. This will primarily be an online based business, using the building to complete work.

3. Describe the special conditions that apply to your lot or structure that do not apply to surrounding lots or structures:

This lot does not and has never had a residential structure on the lot, it only has a garage-like building.

4. Describe the hardship that would result if your variance were not granted:

The building on the property is not capable of being used as a residence. If this variance is not granted, the property is not able to be used as-is and would create undue financial hardship.

CITY OF APPLETON MEMO

To: Board of Zoning Appeals

From: Kurt W. Craanen, Inspections Supervisor 

Date: May 5, 2022

RE: Variance Application for 1523 N. Charlotte St. (31-1-2184-00)

Description of Proposal

The applicant proposes to use this property as light manufacturing. The property is zoned R2. Light manufacturing is not a permitted use in the R2 zoning district.

Impact on the Neighborhood

In the application, the applicant states that they are looking to clean up the property, would create little noise and traffic and the business would primarily be online based.

Unique Condition

In the application, the applicant states that this lot does not, and has never had, a residential structure on the lot, it only has a garage-like building.

Hardship

In the application, the applicant states that the building on the property is not capable of being used as a residence and if this variance is not granted, the property is not able to be used as-is and would create an undue financial hardship.

Staff Analysis

The size of this lot is 10,500 sq. ft. The minimum size lot in the R2 zoning district is as follows:

Sec. 23-95. R-2 two-family district.

g) *Development standards.*

(1) *Two-family dwellings (duplex) and other uses.*

- a. *Minimum lot area, Single-family dwelling (detached): Six thousand (6,000) square feet.*
- b. *Minimum lot area, Two-family dwellings (two-story duplex): Seven thousand (7,000) square feet.*
- c. *Minimum lot area, Two-family dwellings (single story duplex): Nine thousand (9,000) square feet.*
- d. *Minimum lot area, All other uses: Seven thousand (7,000) square feet.*

The width of this property is 53.13 feet. Below is the minimum width allowed for lots in the R2 zoning district:

(g) *Development standards.*

(1) *Two-family dwellings (duplex) and other uses.*

e. *Minimum lot width, Single-family dwelling: Fifty (50) feet.*

f. *Minimum lot width, All other uses: (70 feet).*

Background History

2017 Wisconsin Act 67 amended the zoning enabling law for counties, cities, villages, and towns zoning under village powers to provide a statutory definition for “use variances.” Act 67 defines a “use variance” as “an authorization by the board of appeals under this subsection for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.” Act 67 then specifies that the property owner bears the burden of proving “unnecessary hardship” for a use variance, by demonstrating that strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. The current Appleton Zoning Ordinance regulations for a use variance are consistent with Act 67 and the current Wisconsin State Statute regulations.

Section 23-67 of the zoning ordinance specifies standards for review by the Board of Zoning Appeals. Section 23-67(f)(6) states that the applicants for use variances must demonstrate that there is no reasonable use of the property in absence of a variance.

There is a reasonable alternative use for this lot: a single-family house. Although a non-residential building is currently on the property, a residential property could be built at this location. Other houses have recently been constructed in this area. Also, the lot is conforming with the minimum development standards, which are detailed above.

The applicant has not provided any information that shows that the strict criteria for a use variance has been met. The applicant has an alternative solution for the use of the lot: build a compliance building that meets the zoning and development standards. The cost of such a venture cannot be a consideration in determining a hardship.

Parking. The site currently does not provide off street parking for an industrial use. The applicant did not request a variance for parking in the application. Section 23-172(m) of the Zoning Ordinance requires one (1) space for each one (1) employee on the largest shift, plus three (3) visitor spaces, plus space to accommodate all company vehicles in connection therewith.

Consistency with the Appleton Comprehensive Plan 2010-2030: The Comprehensive Plan recommends one/two-family residential land use for the subject property. The subject property’s zoning district classification is consistent with this recommendation. Granting a variance to this request would directly contradict the Council approved Comprehensive Plan.

The applicant has not met the review criteria for a use variance hardship.

Return to: Department of Public Works
 Inspection Division
 100 North Appleton Street
 Appleton, Wisconsin 54911
 (920) 832-6411

City of Appleton Application for Variance

Application Deadline April 25, 2022 Meeting Date May 16, 2022 7pm

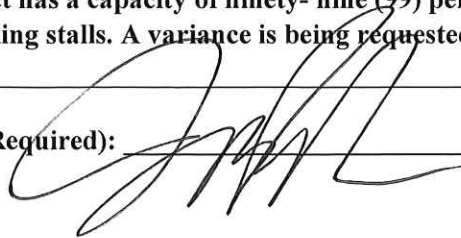
Please write legibly and also submit a complete reproducible site plan (maximum size 11" x 17"). A complete site plan includes, but is not limited to, all structures, lot lines and streets with distances to each. There is a non-refundable \$125.00 fee for each variance application. The nonrefundable fee is payable to the City of Appleton and due at the time the application is submitted.

Property Information	
Address of Property (Variance Requested) 1103 W. College Ave.	Parcel Number 31-3-1064-00
Zoning District C2	Use of Property <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial

Applicant Information	
Owner Name Jordan Banda	Owner Address 1800 W. Rogers Ave Appleton, WI 54914
Owner Phone Number	Owner E Mail address (optional)
Agent Name Rusty Leary	Agent Address 1800 W. Rogers Ave. Appleton, WI 54914
Agent Phone Number 920-740-5573	Agent E Mail address (optional) <u>rustyleary@gmail.com</u>

Variance Information
Municipal Code Section(s) Project Does not Comply Section 23-172(m) – Minimum required parking spaces.
Brief Description of Proposed Project Section 23-172(m) of the Zoning Ordinance requires that one (1) parking space be required for every three (3) persons allow based on maximum capacity. The proposed restaurant/bar project has a capacity of ninety- nine (99) persons, which would require thirty-three (33) parking stalls. A variance is being requested to allow fourteen (14) thirteen (13) parking spaces.

Owner's Signature (Required):



Date:

4/22-22

Rec 3565.0009

Zoning Variance Questionnaire

Submitted by:

Mill City Public House
1103 W College Avenue
Rusty Leary, co-owner / general manager
920-740-5573
rustyleary@gmail.com

1. Explain your proposed plans and why you are requesting a variance.

We propose to operate a restaurant in the renovated building located at 1103 W College Avenue. The property was previously owned by Elk's Lodge #337 and used as a meeting hall. The property is zoned C2 commercial. The current zoning ordinance requires one (1) parking stall for every three (3) occupants when operating as a restaurant or tavern. In accordance with current fire code the building has a maximum allowable capacity of ninety-nine (99) persons in its present configuration, which would in turn trigger a requirement of thirty-three (33) off-street parking stalls. We are requesting a variance to reduce the required number of parking stalls to thirteen (13), which is the number of parking stalls on the property.

2. Describe how the variance would not have an adverse impact on the surrounding properties.

The property has a history of being used as a gathering place for meetings and social events. Under the previous ownership, posted occupancy was 174 persons. There is ample on-street parking available in the immediate surrounding area. Twelve (12) spaces are immediately adjacent to commercially zoned property. The area already has high traffic counts being located on College avenue.

With an approved variance, our business will bring vitality and energy to an underutilized corridor of College Avenue, consistent with the City of Appleton Comprehensive Plan 2010-2030.

The lot in question is located just steps outside of the central business district, wherein a business of a similar nature and capacity (or much higher) is not required to provide any off-street parking, and relies solely upon on-street parking.

3. Describe the special conditions that apply to your lot or structure that do not apply to surrounding lots or structures.

The property in question is surrounded by streets, alleys, and adjacent commercial and residential property. It is a unique presentation of a neighborhood social hall which will bring vitality to an underserved area of residential properties. The building is best suited as a gathering space based on its design and access. The opportunity to expand current off-street parking capacity does not exist based on the limited dimensions of the lot.

4. Describe the hardship that would result if your variance were not granted.

Sec. 23-113 (h) of the City of Appleton municipal code outlines development standards for areas zoned C-2 "General Commercial District." Current parking requirements (sec. 23-172) are based on the assumption of compliance with current development standards as set forth in the aforementioned section of ordinance. Item 1 of this section defines the minimum lot size as 14,000 square feet.

The lot in question is historic and non-compliant with current development standards. Specifically, the lot does not meet the development standard for minimum area. The dimensions of the lot are 60' x 163.44', resulting in a total area of 9,806 square feet, over 4,000 square feet below the current development standard. Off-street parking requirements that were created for an area of 14,000 square or more would place an undue burden on our 9,800 square foot lot, and the standard cannot be applied in this case.

The lot is simply too small to provide any reasonable use in compliance with the current parking standard. As the lot was developed before the currening zoning standards were put into effect, special consideration is warranted.

CITY OF APPLETON MEMO

To: Board of Zoning Appeals

From: Kurt W. Craanen, Inspections Supervisor



Date: May 5, 2022

RE: Variance Application for 1103 W. College Ave. (31-3-1064-00)

Description of Proposal

The applicant proposes to provide thirteen (13) parking spaces for a restaurant/bar use with an occupancy limit of ninety-nine (99). Section 23-172(m) of the Zoning Ordinance requires thirty- three (33) parking spaces when the occupancy is ninety-nine (99).

Impact on the Neighborhood

In the application, the applicant states that the property has a long history of being used as a gathering place and previously had an occupancy limit of 174. The applicant also stated that there is ample on street parking on College Ave. and the property is very close to the central business district, which has no minimum parking requirements.

Unique Condition

In the application, the applicant states that the property is surrounded by alleys, streets and commercial and residential properties. The applicant also states that the building is best suited for a gathering space based on its design and access and the opportunity to expand current off-street parking capacity does not exist.

Hardship

In the application, the applicant states that the lot is simply too small to provide any reasonable use in compliance with the current zoning standards. (The lot is 9,806 sq. ft, the minimum size lot in the C2 zoning district is 14,000 sq. ft.).

Staff Analysis

This property is zoned C2. The size of the lot is 9,806 sq. ft. The minimum size lot in the C2 zoning district is 14,000 sq. ft. This is a nonconforming lot of record.

The small size of the lot creates a unique condition and the owner is not able to add additional parking spaces.

Because of the fact that the lot is a legal nonconforming lot of records, the applicant meets the review requirements because of the uniquely small size of the lot.

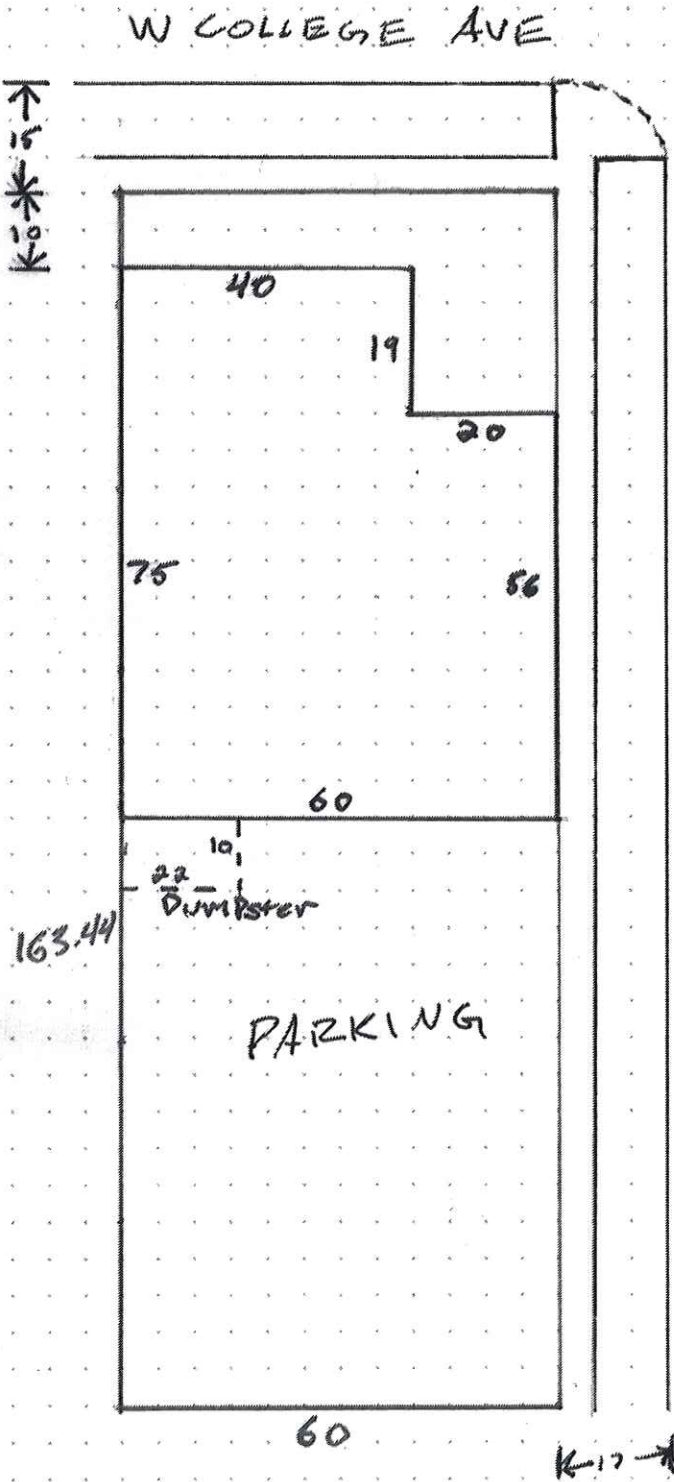
1103 W COLLEGE

3-1064

LOT AREA = 9,806 ft²

BLDG AREA = 4,120 ft²

of parking stalls = 13



ZONING

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		pursuant to §23-66(h)(11) <ul style="list-style-type: none"> • Painting/Craft studio with alcohol sales pursuant to §23-66(11) • Parking garages • Recycling collection points pursuant to §23-66(h)(14) • Recycling and waste recovery centers pursuant to §23-66(h)(13) • Research laboratories or testing facilities • Restaurants with alcohol pursuant to §23-66(h)(6) • Sexually-oriented establishments pursuant to Article XII • Shelter facility • Tasting rooms pursuant to §23-66(H)(19, 20, 21, or 21) • Towers or antennas for wireless telecommunication services, pursuant to Article XIII. • Wholesale facilities • Winery pursuant to §23-66(h)(21)

(f) **Site plan.** Prior to obtaining a building permit on any land in the C-2 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking, loading, and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the C-2 district are as follows:



(1) **Minimum lot area.** Fourteen thousand (14,000) square feet.

(2) **Maximum lot coverage.** Seventy-five percent (75%).

(3) **Minimum lot width.** Sixty (60) feet.

(4) **Minimum front yard.** Ten (10) feet.

(5) **Minimum rear yard.** Twenty (20) feet.

(6) **Minimum side yard.**

a. None.

b. Ten (10) feet if abutting a residentially zoned district.

(7) **Maximum building height.** Thirty-five (35) feet (See §23-113 (e)).

(Ord 121-05, §1, 10-25-05; Ord 100-08, §1, 5-27-08; Ord 139-08, §1, 10-7-08; Ord 156-08, §1, 10-7-08; Ord 206-11, §1, 9-27-11; Ord 207-11, §1, 9-27-11; Ord 58-12, §1, 6-6-12; Ord 72-13, §1, 8-13-13; Ord 41-20, §1, 3-24-20; Ord 42-20, §1, 3-24-20)

Sec. 23-114. CBD central business district.

(a) **Purpose.** This district is intended to provide a centrally located and readily accessible area that offers a wide variety of retail, service, financial, entertainment, governmental, and residential uses. A broad range of uses is permitted to reflect downtown's role as a commercial, cultural and government center. Development is intended to be intense with