



City of Appleton

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

Meeting Agenda - Final Board of Zoning Appeals

Monday, February 20, 2023

7:30 PM

6th Floor Council Chambers

1. Call meeting to order
2. Roll call of membership
3. Approval of minutes from previous meeting
[23-0143](#) Minutes from November 21, 2022

Attachments: [Minutes from 11-21-22.pdf](#)

4. Public Hearings/Apearances

5. Action Items

- [23-0144](#) **516 E. Pacific St. (31-1-0150-00)** The applicant proposes to build a detached accessory dwelling unit that is seven (7) feet six (6) inches from the rear property line. Section 23-55(h)(2)(d) of the Zoning Ordinance requires detached accessory dwelling units to meet the rear setback of the principal building. Section 23-94(g)(5) of the Zoning Ordinance requires a rear yard setback of twenty-five (25) feet.

Attachments: [516 E. Pacific St.pdf](#)

- [23-0145](#) **314 S. Badger Ave (31-3-0797-00)** The applicant proposes construction of a two (2) story accessory building. Section 23-43(f)(1)(h) of the Zoning Ordinance limits accessory buildings to one (1) story.

Attachments: [314 S. Badger Ave.docx](#)

[23-0146](#)

1410 E. Pershing St. (31-1-4507-00) The applicant proposes to build a detached accessory dwelling unit that is six (6) feet from the rear property line. Section 23-55(h)(2)(d) of the Zoning Ordinance requires detached accessory dwelling units to meet the rear setback of the principal building. Section 23-94(g)(5) of the Zoning Ordinance requires a rear yard setback of twenty-five (25) feet.

Attachments: [1410 E. Pershing St.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.



City of Appleton

100 North Appleton Street
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Meeting Minutes - Final Board of Zoning Appeals

Monday, November 21, 2022

7:30 PM

6th Floor Council Chambers

1. Call meeting to order

Meeting called to order at 7:30 pm by McCann

2. Roll call of membership

Present: 4 - McCann, Engstrom, Loosen and Babbitts

Excused: 2 - Sperl and Cain

3. Approval of minutes from previous meeting

[22-1439](#)

Minutes from October 17, 2022

Attachments: [10.17.22 Meeting Minutes.pdf](#)

Engstrom moved, seconded by Loosen, that the Report Action Item be approved. Roll Call. Motion failed by the following vote:

Aye: 4 - McCann, Engstrom, Loosen and Babbitts

Excused: 2 - Sperl and Cain

4. **Public Hearings/Appealances**

None

5. **Action Items**

[22-1438](#)

110 N. Kensington Dr. (31-4-5565-00) The applicant proposes to construct a second ground sign on a parcel. Section 23-522(a) of the Zoning Ordinance limits ground signs to one (1) per parcel.

Attachments: [110 N. Kensington Dr.pdf](#)

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

Aye: 4 - McCann, Engstrom, Loosen and Babbitts

Excused: 2 - Sperl and Cain

6. Information Items

7. Adjournment

A motion was made by Kevin Loosen, seconded by Michael Babbitts, that the meeting be adjourned at 8:00 pm. The motion carried by the following vote:

Aye: 4 - McCann, Engstrom, Loosen and Babbitts

Excused: 2 - Sperl and Cain

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 December 26, 2022 Meeting Date January 16, 2023 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) 516 E Pacific St.	Parcel Number 31-1-0150-00
Zoning District RIC	Use of Property <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial
Applicant Information	
Owner Name Andrew Dane	Owner Address 516 E. Pacific St. Appleton, WI 54911
Owner Phone Number 920-585-3593	Owner E Mail address (optional) daneandrew@gmail.com
Variance Information	
Municipal Code Section(s) Project Does not Comply Section 23-55(h)(2)(d) Required minimum setback.	
Brief Description of Proposed Project Build a detached accessory dwelling unit that is seven (7) feet six (6) inches from the rear property line. Section 23-55(h)(2)(d) of the Zoning Ordinance requires detached accessory dwelling units to meet the rear setback of the principal building. Section 23-94(g)(5) of the Zoning Ordinance requires a rear yard setback of twenty-five (25) feet.	

Owner's Signature (Required):

Andrew Dane

Date: 11-28-2022

Recp 126452713

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:

I would like to build a detached ADU (Cottage home) in my backyard. In order to create a pocket neighborhood effect, with multiple homes fronting a combination of public and private outdoor space, it makes most sense to locate the cottage home toward the rear of my property. The front yard for the cottage also functions as the backyard for the principal home, as well as visual "open space" for my two neighbors to the east. The rear yard and side yard setback requirements result in a cottage home that sits in the middle of my backyard, effectively chopping up a large open green space into several small, unusable open spaces.

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

The proposed variance will not negatively impact my neighbor to the west, as the cottage home meets the side yard setback requirement. My neighbor to the north will not be negatively impacted because they have a detached garage which sits at the property line fronting my backyard. The proposed cottage will also be located to the rear of their lot, at least 10' from their detached garage. The rear yard set-back variance will not impact my neighbors to the east.

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

I have a very deep lot, with a large amount of open space. The neighbors to the east have much shallower lots. If the variance is not granted, I'll be forced to place the cottage home in the middle of my yard, effectively diminishing the visual open space currently afforded to my neighbors.

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

Without the variance I would be forced to locate the cottage home very close to my principal structure, effectively chopping up my backyard into multiple smaller and largely unusable green spaces and diminishing the visual open space currently afforded to my two neighbors to the east. It is unlikely I would proceed with the project.

CITY OF APPLETON MEMO

To: Board of Zoning Appeals

From: Kurt W. Craanen, Inspections Supervisor



Date: December 5, 2023

RE: Variance Application for 516 E. Pacific St. (31-1-0150-00)

Description of Proposal

The applicant proposes to build a detached accessory dwelling unit that is seven (7) feet six (6) inches from the rear property line. Section 23-55(h)(2)(d) of the Zoning Ordinance requires detached accessory dwelling units to meet the rear setback of the principal building. Section 23-94(g)(5) of the Zoning Ordinance requires a rear yard setback of twenty-five (25) feet.

Impact on the Neighborhood

In the application, the applicant states that the proposed variance will not negatively impact the neighbor to the north because they have a detached garage which sits at the property line and the proposed cottage will also be located to the rear of the lot, at least 10' from their detached garage. The applicant also stated that the rear yard set-back variance will not impact the neighbors to the east.

Unique Condition

In the application, the applicant states that the lot is very deep, with a large amount of open space and if the variance is not granted the applicant would be forced to place the cottage home in the middle of the yard, diminishing the visual open space currently afforded to the neighbors.

Hardship

In the application, the applicant states that without the variance he would be forced to locate the cottage home very close to the principal structure, effectively chopping the backyard up into multiple smaller and unusable green spaces and diminishing the visual open space afforded to the neighboring properties.

Staff Analysis

This parcel is 9,216 sq. ft. The minimum size lot in the R1C zoning district is 4,000 sq. ft.

The property may be used for its intended purpose without a variance, or this proposed project. Any hardship the owner asserts is self-created.

The applicant has not identified any dimensional limitations of the parcel that would prevent this project. Rather, the applicant points to personal preference. If the applicant believes the current regulations on accessory dwelling units does not provide enough open space in the rear yard and the proposed building would be too close to the principal building, the appropriate action would be to petition the City Council to change the Zoning Ordinance, not ask the Board to provide a variance based on personal preference.

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

Current ADU Code Requirements

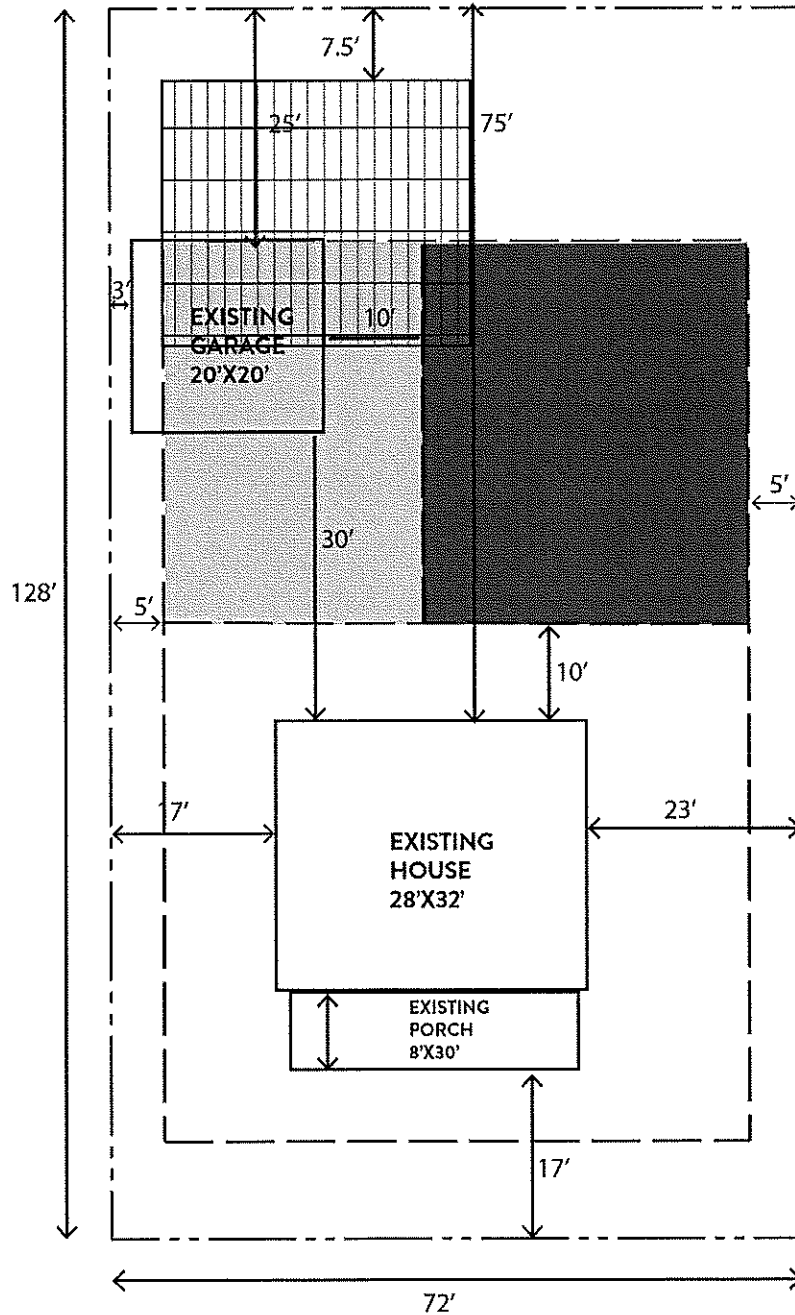
If the existing garage were demolished, an ADU could be built within an envelope defined as the sum total area of the light grey and dark grey rectangles shown in the site plan below.

If the garage were to remain, the dark grey rectangle (right) represents the allowable building footprint envelope per the existing code. An ADU could only be built within this portion of the yard.

Variance Request

I would like to locate the ADU within the hashed rectangle, which is the same building footprint (28' x 32') as the primary residence. The proposed layout will preserve existing site lines into the backyard from adjacent properties, while also providing open space between the two structures, maintaining a pocket park "feel"

Neighbors to north (615) and east (522 & 611) have views to our open yard, which will be retained if ADU is located in northwest corner of lot.



Neighbor to west (510) to remove old garage. Neighbor recently built 3-car garage in northeast corner of lot. I am proposing a very similar building footprint.

1 inch = 20'

EAST PACIFIC STREET

February 6, 2023
February 13, 2023
Acct. 17035

City of Appleton

NOTICE OF HEARING FOR VARIANCE

NOTICE IS HEREBY GIVEN that a meeting of the Board of Appeals, established under the provisions of Chapter 23 of the Ordinance, and known as the Zoning Ordinance, to be held on the 20th day of February 2022, at 7:30 P.M., in Committee Room “6A/B”, 6th Floor, City Hall, 100 North Appleton Street, of the City of Appleton, Wisconsin, will be heard to consider the Appeal of:

from the ruling of the City Building Inspector in granting a permit for the construction, alteration, rebuilding, or occupancy of a nonconforming building on, or for the use of the property known and described as follows:

314 S. Badger Ave.

Tax Key Number: 31-3-0797-00

The applicant proposes construction of a two (2) story accessory building. Section 23-43(f)(1)(h) of the Zoning Ordinance limits accessory buildings to one (1) story.

Notice is further given that the said meeting is open to the public and that the appellant and any other person interested may appear and be heard for or against the granting of aforesaid permit by this Board.

CITY OF APPLETON,
Appleton, Wisconsin
The Board of Appeals

**REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES
WILL BE MADE UPON REQUEST AND IF FEASIBLE.**

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 January 30, 2023, Meeting Date Feb. 20, 2023, 7:30pm →

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) 1410 E. Pershing St	Parcel Number 31-1-4507-00
Zoning District R1B	Use of Property <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial

Applicant Information	
Owner Name DAWN SHIMURA	Owner Address 1410 E. PERSHING ST APPLETON, WI 54911
Owner Phone Number	Owner E Mail address (optional)
Agent Name <u>GREG COPS</u>	Agent Address
Agent Phone Number 920-903-0919	Agent E Mail address (optional) <u>Greg.cops@linkedlivinghomes.com</u>

Variance Information
Municipal Code Section(s) Project Does not Comply Section 23-55(h)(2)(d) Required minimum setback.
Brief Description of Proposed Project Build a detached accessory dwelling unit that is six (6) feet from the rear property line. Section 23-55(h)(2)(d) of the Zoning Ordinance requires detached accessory dwelling units to meet the rear setback of the principal building. Section 23-93(g)(5) of the Zoning Ordinance requires a rear yard setback of twenty-five (25) feet.

Owner's Signature (Required):  Date: 2-1-23

Recp 4592-0002

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:
Planning to remove existing garage & build new garage with second floor ADU for extended family dwelling on the homeowners property.
2. Describe how the variance would not have an adverse impact on the surrounding properties:
~~There~~ There is an existing garage in the same location. By removing the old & building a new garage we would be improving the property & having a positive impact on surrounding properties.
3. Describe the special conditions that apply to your lot or structure that do not apply to surrounding lots or structures:
The rear yard set back is being enforced on both the North & West lot lines.
4. Describe the hardship that would result if your variance were not granted:
Both North and west lot lines are being treated as rear yard & a 2.5' setback is being enforced.

CITY OF APPLETON MEMO

To: Board of Zoning Appeals

From: Kurt W. Craanen, Inspections Supervisor



Date: February 6, 2023

RE: Variance Application for 1410 E. Pershing St. (31-1-4507-00)

Description of Proposal

The applicant proposes to build a detached accessory dwelling unit that is six (6) feet from the rear property line. Section 23-55(h)(2)(d) of the Zoning Ordinance requires detached accessory dwelling units to meet the rear setback of the principal building. Section 23-94(g)(5) of the Zoning Ordinance requires a rear yard setback of twenty-five (25) feet.

Impact on the Neighborhood

In the application, the applicant states there is an existing garage in the same location and by removing the old building, a new garage would improve the property and have a positive impact on surrounding properties.

Unique Condition

In the application, the applicant states that rear yard setback is being enforced on both the north and west lot lines.

Hardship

In the application, the applicant states that both north and west lot lines are being treated as rear yards and a twenty-five (25) foot setback is being enforced.

Staff Analysis

This corner parcel is 8,468 sq. ft. The minimum allowed size of a parcel in the R2 district is 6,000 sq. ft.

The applicant states in the application that the north and west yards are being considered rear yards. The fact is, the west yard is the rear yard, with a twenty-five (25) foot setback and the north yard is the side yard, with a six (6) foot setback.

The applicant has not demonstrated a dimensional limitation of this lot that creates a hardship. Also, proposing to construct a nonconforming location of an Accessory Dwelling Unit (ADU) is based on personal preference and an ADU is not essential for the use of the property. The property may still be used for its intended purpose without this variance. In conclusion, the review criteria for a variance have not been met. The twenty-five (25) foot rear yard setback standard for detached ADUs has been established by the City Council and a variance to this standard requires a legitimate hardship.