

## Item 24-1051: Variance Request for Driveway Extension

### Municipal Services Committee

Mon, Aug 12, 2024 4:30PM

**Alderson Denise Fenton (District 6) 01:19**

We have no public hearings or appearances, so we will move into our action items, and with the indulgence of the members of the committee and the city attorney, we're going to go out of order and take item 24-1051, the variance request for the driveway extension at [XXXXX] North Ballard Road. Can we get a motion to get it on the table?

**Alderson William Siebers (District 1) 01:52**

Move for approval.

**Alderson Denise Fenton (District 6) 01:53**

Okay, and I will note that staff recommendation is for denial of the variance.

**Alderson William Siebers (District 1) 02:01**

That's my motion.

**Alderson Denise Fenton (District 6) 02:02**

Okay, okay.

**Alderson Brad Firkus (District 3) 02:04**

Second.

**Alderson Denise Fenton (District 6) 02:04**

All right. All right. We have a motion and a second, and I know we have somebody who wishes to speak on this item. So let me turn on the podium microphone. If you would please give your name and address for the record.

**Michael S. (Variance Applicant) 02:15**

Yeah. My name is [Michael S.], live at [XXXXX] North Ballard Avenue, Appleton.

**Alderson Denise Fenton (District 6) 02:21**

Okay, thank you.

**Michael S. (Variance Applicant) 02:23**

And I'm requesting a variance for the slab that we have in our front yard which we use as a turn around to get on to Ballard Road. It's a very busy road at certain times of the day, early in the morning, late in the evening, when people going to and from work. And basically, we put that up there for my wife and my grandchildren are starting to drive. My wife at one time was in a serious accident where she was T-boned and she was pushed up against a telephone pole, and she was hospitalized. She had neck injury which she still has problems with that today, and turning her head to for any length of time to look a certain way is bothersome to her.

**Michael S. (Variance Applicant) 03:11**

But anyway, when we back into that to that—I'd call it a turnaround. I don't know what you call it, but when we turn—when we back into that, just using our mirror, we can see anyone coming on the sidewalk or anyone or

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any traffic coming down the road, so that we can get into the road and go north or south. It cost a lot of money to put that in. I'd like to be able to keep it and get a variance, and basically, like I said, we have that just for safety purposes. And I also wanted to say that I've noticed, if you go anywhere in the city of Appleton, up and down Ballard Avenue, you'll see a lot of parking, I don't if they're concrete or black top that are straight up to the sidewalk before the road, where people do parking, overnight parking, and parking during the day for businesses and so forth. But I don't see any much difference then. We don't park there during the day. We just use it for a turn around. So, I'm requesting that variance.

**Alderson Denise Fenton (District 6) 04:22**

Okay, thank you. Thank you.

**Michael S. (Variance Applicant) 04:26**

Okay.

**Alderson Denise Fenton (District 6) 04:27**

Inspector Craanen, do you want to have—enlighten us on this? What microphone?

**Supervisor Kurt Craanen (Inspections) 04:37**

So, our office received a complaint of this. I'd call it driveway extension. We received a complaint. Inspector went out there to document it, left a hang tag on the property. The property owner called me. I think the contractor called me. So, this was done—this work was done without a permit. We do have an ordinance that allows driveway extensions no more than four feet into the front yard. And so, this was a violation of that section.

**Alderson Denise Fenton (District 6) 05:03**

Thank you. Any questions from committee members?

**Michael S. (Variance Applicant) 05:07**

Can I respond?

**Alderson Denise Fenton (District 6) 05:11**

I—you—we—normally during public participation, it's not a dialog. So, we, you, we've, you've given—we've given you the opportunity to speak. So, then we'll we come back to the members of council and the committee. Thank you. I saw Alder Meltzer, but I'll go to Alder Hartzheim, and then we'll come back up here. Okay. What your mic?

**Alderson Sheri Hartzheim (District 13) 05:33**

13, please, Chair. Thank you, Chair. I'm wondering if someone on staff could postulate as to why we have the rules that we have as far as no concrete in the front yard.

**Supervisor Kurt Craanen (Inspections) 05:47**

Sure. I was here when this was discussed years ago. There was a lot of discussion about what our community standard should be, and the ultimate determination was to extend a driveway, which—a driveway is defined as what leads from the street up to a garage or rear parking area. And it was determined that four feet should give you enough room to park in your front yard to park two cars, or you can go to the side yard as much as 12 feet right up to the property line, just because there's, you know, more people have cars. Multiple families live together. Kids have cars, and we don't have overnight parking. So, this was a—the standard that was established years ago.

**Supervisor Kurt Craanen (Inspections) 06:25**

I think, like most rules, we had to come to some standard, because people would pave their whole front yard, and that has happened, and then that's not the standard like we wanted to see. We didn't want to walk, you know, look down the street and see just parking lots of cars. Our standard was to keep cars in the driveway leading directly to a driveway—er a garage.

**Aldersperson Sheri Hartzheim (District 13) 06:50**

Thank you. May I follow up?

**Aldersperson Denise Fenton (District 6) 06:51**

Yes.

**Aldersperson Sheri Hartzheim (District 13) 06:52**

Thank you. So, with that in mind, and knowing that it, even though it is termed a turnaround, it could still be a parking space, I think it goes against the spirit of the ordinance being there. So, I agree with the motion on the table, even though I empathize with the homeowner's considerations and concerns. One of the things that's talked about in the in other variances that are granted through the Board of Zoning Appeals is, is there another solution? So, I don't know that there is one, but I'd be interested in whether that could be explored as well. Thank you.

**Michael S. (Variance Applicant) 07:30**

All right. Alder Meltzer, I saw you next.

**Aldersperson Vered Meltzer (District 2) 07:33**

Thank you. Yeah. I guess I—to kind of go off of what Alder Hartzheim brought up, it's my understanding also that there was an impervious surface calculation relevant to this, the rules about how big a driveway extension can have, and that part of the—my understanding is that part of the reason for this rule is to minimize the impervious surfaces for storm water purposes.

**Aldersperson Vered Meltzer (District 2) 08:03**

So, I'm curious how it came about that this work was done without a contract. Certainly, would like to know how that happened. And then, I guess, also dovetailing with what Alder Hartzheim brought up, I'm wondering, you know, is, would the same purpose be able to be accomplished with a smaller slab of concrete that is within the specifications? Have different dimensions been considered? You know, if we, if we say "No, we want to deny this," but would something maybe smaller—would it entirely have to be torn out, or would there be a way to keep some of it? I'm just curious to get the lay of the land in that regard.

**Supervisor Kurt Craanen (Inspections) 08:54**

Was the question direct towards staff? Okay, so we did receive a complaint from a neighbor, then we left the hang tag. The contractor called, called me and that that contractor claimed they didn't know you needed a permit. But we, we do require, it's in the ordinance, that permit's required, because we do have these standards.

**Aldersperson Denise Fenton (District 6) 09:13**

All right. Thank you. Anyone else?

**Alderson Vered Meltzer (District 2) 09:15**

Oh, I'm sorry, Director Homan.

**Alderson Vered Meltzer (District 2) 09:15**

I think Director Homan has—

**Director Kara Homan (Community And Economic Development) 09:18**

Would you like us to take a stab at the storm water question? And I might defer some of it to Director Neuberger. It's my understanding that residential parcels have an ERU equivalent residential unit calculation that is attached to their utility bill for storm water, and from a policy perspective if we were to allow entire front yards to be paved or entire backyards to be paved, that does create a greater burden for the storm water utility to then manage that water when it flows into our system. And I would, if you're willing, defer for additional comment to engineering.

**Deputy Director Pete Neuberger (Public Works) 09:55**

Thank you. So, so the storm water utility ordinance set up, as Director Homan said, for if you're if you're a single-family residential property, you're charged as one ERU or equivalent residential unit, regardless of how much actual imperviousness you have on your property. So, it's not so much that we were counting on this particular property having a particular amount of impervious surface. It's just that broadly across the city, many years ago when the utility was set up, we established, for the for the sake of simplicity in administering the ordinance, a way to try to try to consolidate residential properties into a reasonable number, and that reasonable number, I want to say, off my head, is like 2371 square feet of imperviousness, or something like that. So, in the grand scheme of things, this this location is not going to make any significant difference in terms of the calculations behind how the utility is set up, but to Director Homan's point, increased imperviousness does create a more of a burden on the system. But you can, you can kind of figure for yourselves, what a 15 by, I think 15-foot, square foot chunk of concrete is going to do to our system overall. It's a small amount.

**Alderson Denise Fenton (District 6) 11:26**

So, following up on that, because we use a different ERU calculation for residential and commercial—

**Deputy Director Pete Neuberger (Public Works) 11:34**

Yes.

**Alderson Denise Fenton (District 6) 11:34**

—that would explain the homeowner's observation that that about many properties on Ballard having pavement all the way up to the sidewalk, because if they're commercial.

**Deputy Director Pete Neuberger (Public Works) 11:48**

Right. That would be a different, different standard for commercial properties, right?

**Alderson Denise Fenton (District 6) 11:53**

Alder Firkus.

**Alderson Brad Firkus (District 3) 11:54**

No, I'm sorry. I was just trying to signal that Director Homan—

**Alderson Denise Fenton (District 6) 11:57**

Oh, Director Homan, are you back? You guys are on director one right?

**Director Kara Homan (Community And Economic Development) 12:02**

I was just going to add that commercial properties have different parking regulations per the zoning code.

**Alderson Denise Fenton (District 6) 12:10**

Okay. All right. Alder Firkus now.

**Alderson Brad Firkus (District 3) 12:13**

Thank you. All right. I guess you keep trying to call me so—

**Alderson Denise Fenton (District 6) 12:16**

Okay, no, I'm gonna call on you until you speak.

**Alderson Brad Firkus (District 3) 12:22**

I get, why the homeowner would want to put this in. I mean, based on the street—I actually went past this earlier, yesterday, actually, and why you would want to do this make sense. And the house just to the north of this lot has an extension for a turn around. Now, that extension isn't going in front of the house. It's going towards the side lot. I don't know if your home—this home, has that much room to the side, where, if this was on the other side of the driveway, or even a smaller version of this was on the other side of the driveway, then it wouldn't be running into these restrictions on that type of zoning, that type of property.

**Alderson Brad Firkus (District 3) 13:03**

I mean, I think upholding the denial for this variance is the right thing to do. Personally, if I had hired a contractor and they didn't know the zoning codes and they went forward with this, I'd be very angry at them. I don't think as homeowners we're going to know every single building code and zoning code that applies to anything we may be considering for our homes, but I would hope that the people that we hire to do that work do their homework and understand those things. Thank you.

**Alderson Denise Fenton (District 6) 13:30**

Anyone else? Alder Meltzer.

**Alderson Vered Meltzer (District 2) 13:35**

I guess going back, my question had another part, which was, are there are there any alternatives to explore other than just denying this and tearing the whole thing out? Can we allow part of the slab to remain, or, yeah.

**Supervisor Kurt Craanen (Inspections) 13:52**

When the owner came to the office to see me, we did talk about that. The options were to just have a four-foot extension all the way up the same side of the [...] driveway. However, there is like a planter there and a tree that's unique to this property. I think you could go to the side yard 12 feet. I'm not too sure. I can't remember exactly how much space is there, but that's an option to go on the on the left side, extend the driveway.

**Alderson Vered Meltzer (District 2) 14:21**

Thank you.

**Alderson Denise Fenton (District 6) 14:25**

Anyone else? All right, seeing none, we'll go ahead and take a vote. Oh—

**Attorney Christopher Behrens 14:34**

Just want to clarify, because the motion on the floor is recommendation for approval. Is that an approval of the variance, or are you approving staff's recommendation for denial?

**Alderson Denise Fenton (District 6) 14:45**

And that was what we pointed out when I asked for the motion. The motion on the floor, as I understand it, is approval of staff's recommendation to deny. Am I correct, Alder Siebers?

**Alderson William Siebers (District 1) 14:56**

Right.

**Alderson Brad Firkus (District 3) 14:57**

And that was my understanding as I seconded.

**Attorney Christopher Behrens 14:58**

Aye vote would approve the staff recommendation and would essentially be a denial of the request for variance then.

**Alderson Denise Fenton (District 6) 15:06**

Would—Attorney Behrens, would it work better if we move to deny?

**Attorney Christopher Behrens 15:14**

I, at this point, might just want to clarify that when it gets to Council. Perhaps a notwithstanding vote.

**Alderson Denise Fenton (District 6) 15:21**

Okay.

**Attorney Christopher Behrens 15:22**

But I think for here, as long as we've made that clarification, everybody understands what the votes mean.

**Alderson Denise Fenton (District 6) 15:30**

Okay, thank you.

**Attorney Christopher Behrens 15:31**

We're okay moving forward here.

**Alderson Denise Fenton (District 6) 15:32**

All right. I share my colleague's sympathies for the expense and the situation. I'm very familiar with that intersection. My dentist is across the street, I think. But the—and also the knowledge that the contractor should have been aware that we require a permit for this kind of activity. I hope that something can be worked out as a compromise, but I think that in this situation, we have to enforce the code. So. All right, so are we ready to take a vote on the motion to approve the recommendation for denial? All right, all those in favor? Aye. That passes four zero.

**Alderson William Siebers (District 1) 16:27**

You may want to just let the gentleman know that is a recommendation.

**Aldersperson Denise Fenton (District 6) 16:31**

And that's a recommendation, and it will come before the full Council next week, on Wednesday, seven o'clock. So, and you would have an opportunity to speak again then. All right, thank you.