



City of Appleton

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

Meeting Agenda - Final-revised Board of Zoning Appeals

Monday, December 16, 2024

7:00 PM

Council Chambers, 6th Floor

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

[24-1516](#) Minutes from October 21, 2024

Attachments: [Meeting Minutes October 21, 2024.pdf](#)

5. Public Hearing/Appealances

6. Action Items

[24-1576](#) **126 E. Pacific St (31-2-0742-00)** The applicant proposes to change the use of the property to a restaurant use and not provide off street parking. Section 23-172(m) of the Zoning Ordinance requires restaurants to provide one (1) parking space for each three (3) persons allowed based on maximum capacity. The capacity of this property is fifteen (15) occupants, which would require the business to provide five (5) parking spaces.

Attachments: [126 E. Pacific St.pdf](#)

[24-1577](#) **3115 N. Ballard Rd (31-1-6708-00)** The applicant proposes to extend the existing driveway ten (10) feet. Section 23-43(f)(3)(f) of the Zoning Ordinance limits driveway extensions to four (4) feet into the front yard.

Attachments: [3115 N. Ballard Rd.pdf](#)

[24-1578](#)

3115 N. Ballard Rd (31-1-6708-00) The applicant proposes to keep the concrete installed adjacent to the sidewalk that is not tapered from the sidewalk. Section 23-43(f)(3)(j) of the Zoning Ordinance requires driveway payment leading from the apron to taper onto the driveway to prevent vehicles from driving over the right of way terrace.

Attachments: [3115 N. Ballard Rd.pdf](#)

7. Information Items

8. 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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100 North Appleton Street
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Meeting Minutes - Final Board of Zoning Appeals

Monday, October 21, 2024

7:30 PM

Council Chambers, 6th Floor

1. Call meeting to order

Meeting called to order by Engstrom at 7:30 p.m.

2. Pledge of Allegiance

3. Roll call of membership

Present: 5 - Engstrom, Sperl, Cain , Loosen and Babbitts

Excused: 1 - McCann

4. Approval of minutes from previous meeting

[24-1263](#)

Minutes from June 17, 2024

Attachments: [Meeting Minutes June 17, 2024.pdf](#)

Cain moved, seconded by Sperl, that the Minutes be approved. Roll Call.

Motion carried by the following vote:

Aye: 5 - Engstrom, Sperl, Cain , Loosen and Babbitts

Excused: 1 - McCann

5. **Public Hearing/Appearances**

6. **Action Items**

[24-1264](#)

232 E. Stratford La (31-6-5801-72) The applicant proposes to erect a six (6) foot fence one (1) foot from the front property line along N. Haymeadow Ave. Section 23-44(a)(1)(a) of the Zoning Ordinance limits the height of fences in the front yard setback to three (3) feet.

Attachments: [232 E. Stratford Ln.pdf](#)

Cain moved, seconded by Sperl, that the Variance be approved. Roll Call.

Motion failed by the following vote:

Nay: 4 - Sperl, Cain , Loosen and Babbitts

Excused: 1 - McCann

Abstained: 1 - Engstrom

Amend variance request by allowing six (6) feet fence starting fifty-seven (57) feet from the south property line to the north property line.

Cain moved, seconded by Babbitts, that the Variance be approved as amended. Roll Call. Motion carried by the following vote:

Aye: 4 - Sperl, Cain , Loosen and Babbitts

Excused: 1 - McCann

Abstained: 1 - Engstrom

7. Information Items

8. Adjournment

Cain moved, seconded by Loosen, that the meeting be adjourned at 8:10 p.m. Roll Call. Motion carried by the following vote:

Aye: 5 - Engstrom, Sperl, Cain , Loosen and Babbitts

Absent: 1 - McCann

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 11/25/2024 Meeting Date 12/16/2024 7:00pm

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 \$350.00 fee for each variance application. The non-refundable fee is payable to the City of Appleton and due at the time the application is submitted.

Property Information	
Address of Property (Variance Requested) 126 E Pacific St Appleton WI 54911	Parcel Number 31-2-0742-00
Zoning District C2	Use of Property <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial

Applicant Information	
Owner Name Tim Ceman	Owner Address 2520 Crestview Dr Appleton, WI 54915
Owner Phone Number 920-205-0515	Owner E Mail address (optional) tim@driekgroup.com
Agent Name Patrick Frawley	Agent Address 803 W Winnebago St. Appleton WI 54914
Agent Phone Number (920)858-9352	Agent E Mail address (optional) pfrawley1000@gmail.com

Variance Information
Municipal Code Section(s) Project Does not Comply 23-172 (m)
Brief Description of Proposed Project 5 street parking spaces for small lounge like restaurant/bar

Owner's Signature (Required)
DocuSigned by:

D6632FCBC37C4AB...
 Date: 11/12/2024

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:

The 15-person capacity for our restaurant would require 5 parking spaces. There is no parking lot on the property so we need a variance for 5 street parking spaces.

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

Street parking is permitted on the 100 block of east Pacific Street already during the hours the restaurant would be open. Four of the five required spaces are in front of the 126 E Pacific St building and would not interfere with any neighboring residents or businesses. The fifth spot could be across the street along side 127 E Pacific St. That business, Albrecht's Auto Machine & Service has their own parking lot and would not be impacted by street parking for the restaurant because our hours of operation will not overlap.

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

126 E Pacific does not have a parking lot. All neighboring businesses have off street parking.

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

Without a variance for the proposed street parking spaces, the building is functionally useless as a commercial space despite being built as one. It would be impossible to operate any business without street parking.

CITY OF APPLETON MEMO

To: Board of Zoning Appeals

From: Kurt W. Craanen, Inspections Supervisor

Date: November 27, 2024

RE: Variance Application for 126 E. Pacific St. (31-2-0742-00)

Description of Proposal

The applicant proposes to change the use of the property to a restaurant use and not provide off street parking. Section 23-172(m) of the Zoning Ordinance requires restaurants to provide one (1) parking space for each three (3) persons allowed based on maximum capacity. The capacity of this property is fifteen (15) occupant, which would require the business to provide five (5) parking spaces.

Impact on the Neighborhood

In the application, the applicant states that there a four (4) on street parking in front of the property and one (1) on street parking spot across the street. The business located across the street has a parking lot.

Unique Condition

In the application, the applicant states that 126 E. Pacific St. does not have a parking lot. All neighboring businesses have off street parking.

Hardship

In the application, the applicant states that without a variance for the proposed street parking spaces, the building is functionally useless as a commercial space despite being built as one. It would be impossible to operate any business without on street parking.

Staff Analysis

This parcel is two thousand four hundred and six (2,456) sq. ft. The minimum allowed size of a parcel in the C2 zoning district is fourteen thousand (14,000) sq. ft. This is a nonconforming lot of record.

The applicant plans to use this property as a restaurant, which is a permitted use in the Zoning Ordinance. Without a variance for parking, this property is not able to be used for it's intended use.

Because of the nonconforming size of the lot and the fact that there is not space for parking spaces, this property has met the review criteria for a variance.

Return to: Department of Public Works
Inspection Division
100 North Appleton Street
Appleton, Wisconsin 54911
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City of Appleton Application for Variance

Application Deadline November 25, 2024 Meeting Date December 16, 2024 7:00PM

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 \$350.00 fee for each variance application. The non-refundable fee is payable to the City of Appleton and due at the time the application is submitted.

Property Information	
Address of Property (Variance Requested) 3115 N Ballard Rd.	Parcel Number 31-1-6708-00
Zoning District R1A	Use of Property <input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial

Applicant Information	
Owner Name Sandra DeLeon	Owner Address 3115 N. Ballard Rd. Appleton, WI 54911
Owner Phone Number 920-450-1291	Owner E Mail address (optional) sdeleon550@gmail.com
Agent Name	Agent Address
Agent Phone Number	Agent E Mail address (optional)

Variance Information
Municipal Code Section(s) Project Does not Comply 23-43(e)(3)(f)
Brief Description of Proposed Project Extended driveway ten (10) feet into the front yard. Section 23-43(e)(3)(f) of the Zoning Ord. limits driveway extensions to four (4) feet.

Owner's Signature (Required): Sandra DeLeon Date: 11/25/2024

1. I am requesting a variance to retain the concrete that has already been installed at the front of my property located at 3115 N Ballard Rd. When I undertook this project, I, as the homeowner, was unaware of the specific zoning or building codes regarding such installations. The contractor I hired assured me that the plans were in compliance and had been approved. Unfortunately, I have since learned that this was not the case.

Additionally, the extension on the north side of the driveway, while not in front of the main dwelling, is critical for safe access and maneuverability for family members with mobility issues, especially given the property's location on a busy road. According to the City of Appleton's code, the extension in the front yard closest to the dwelling should not exceed 4 feet. However, the existing concrete is in front of a non-livable breezeway, which is not considered part of the dwelling.

The bottom portion was intentionally left un-angled to accommodate the entry and exit of heavy trucks that are sometimes parked on the property, which would be severely impacted by this modification. Removing the concrete at this stage would create a significant financial and logistical hardship, as the work has already been completed in good faith.

I respectfully request this variance to rectify the situation and avoid unnecessary waste and expense while ensuring the property complies with local standards to the greatest extent possible.

2. The concrete installation does not detract from the aesthetics or functionality of the neighborhood. In fact, it enhances the property's appearance and usability without adversely affecting surrounding properties.

3. The property at 3115 N Ballard Rd is situated on a highly trafficked road, which creates unique safety concerns that are not shared by surrounding properties on quieter streets. Due to the volume and speed of traffic, a wider driveway is necessary to safely enter and exit the property. This additional width provides more maneuverability, reducing the risk of accidents or obstructions caused by vehicles attempting to access the property in high-traffic conditions.

Additionally, the concrete addition in front of the non-livable breezeway (please see definition of dwelling on the second page) is essential to accommodate medical needs of family members that frequently visit. This area enhances accessibility, allowing for safer and more efficient movement, particularly when utilizing mobility aids or specialized equipment. The addition was designed to address these unique personal circumstances while maintaining the overall functionality and aesthetics of the property.

These special conditions—high traffic volume and the need for accessibility—make the requested variance essential for the safety and well-being of the property's occupants.

4. If the variance is not granted, it will result in a significant hardship, both financially and personally. The concrete installation project has already caused unexpected financial losses due to issues with two contractors. One abandoned the project entirely, leaving the property in disarray, and both misrepresented that the necessary approvals and permits had been obtained. This mismanagement caused delays, additional costs, and undue stress, all while I was dealing with critical health issues, long-term disability, and major medical expenses.

We were unaware of the code violation for several years, as the situation only came to light after a resident passed by and reported it along with other concerns in the neighborhood. During the construction, which took place on a highly visible and busy road, no city officials raised concerns, even when the project was left incomplete by the first contractor.

If I am now required to remove the concrete, it will place further financial strain on my family, as we have already exceeded our initial budget due to contractor issues and the fees that were paid with surveying our property and filing for a variance request. Beyond the financial impact, tearing out the concrete will diminish the property's aesthetics, reduce its value, and waste functional materials that serve a necessary purpose.

The current layout of the concrete is critical for meeting specific needs. For example, the un-angled bottom portion accommodates heavy trucks that are sometimes parked on the property. The extended section on the north side provides safe maneuverability, especially given the property's location on a busy road. Additionally, the concrete in front of the breezeway addresses medical accessibility needs, which are essential.

As a new homeowner at the time, I relied on the assurances of the contractor, believing the project was being completed in compliance with all requirements. While I acknowledge my responsibility in this matter, the circumstances were beyond my control. The current setup was designed with safety, functionality, and accessibility in mind, and requiring its removal would create an undue and unnecessary hardship without offering any substantial benefit to the neighborhood or community.

The definition of a dwelling can vary depending on the context, such as legal codes, zoning ordinances, or common usage. Here is a general definition as well as specifics related to zoning:

General Definition

A dwelling typically refers to a building or structure designed or used as a place for people to live. It generally includes living spaces such as bedrooms, kitchens, and bathrooms.

Legal or Zoning Definition

In legal or zoning contexts, a dwelling is often defined as:

A structure or portion of a structure that is designed, intended, or used for human habitation.

It typically includes primary living areas such as kitchens, bathrooms, and sleeping areas, and it may be further classified as single-family, multi-family, or accessory dwellings depending on its purpose and use.

Exclusions

Non-livable spaces, such as garages, breezeways, sheds, or other accessory structures, are generally not considered part of the dwelling unless specifically designed and approved for habitation.

In the City of Appleton's municipal code, the term "dwelling" typically refers to a structure or part of a structure designed and used exclusively as a residence, where people live. It excludes non-livable spaces such as garages, breezeways, or accessory buildings. The key distinction here is that the concrete extension in front of your breezeway, which is not part of the actual living space of the dwelling, would not be subject to the same zoning restrictions as parts directly associated with the residential structure

CITY OF APPLETON MEMO

To: Board of Zoning Appeals

From: Kurt W. Craanen, Inspections Supervisor



Date: November 27, 2024

RE: Variance Application for 3115 N. Ballard Road (31-1-6708-00)

Description of Proposal

The applicant proposes to extend the existing driveway ten (10) feet. Section 23-43(e)(3)(f) of the Zoning Ordinance limits driveway extensions to four (4) feet into the front yard.

Impact on the Neighborhood

In the application, the applicant states that the concrete that was installed several years ago does not detract from the aesthetics or functionality of the neighborhood. In fact, it enhances the property's appearance and usability without adversely affecting surrounding properties.

Unique Condition

In the application, the applicant states that this property has unique conditions because of the high traffic volume along Ballard Road and because of the accessibility needs of the current occupants.

Hardship

In the application, the applicant states that if the variance is not granted it would result in a financial and personal hardship. The application further states that issues with contractors caused unexpected financial losses, they were unaware that adding pavement was a violation and no city official informed them of this, the current layout meets their needs for maneuvering heavy trucks, provides accessibility needs for a current occupant and taking out the concrete would diminish the properties aesthetics and value.

Staff Analysis

This parcel is twenty-three thousand (23,000) sq. ft. The minimum size lot permitted in the R1B zoning district is six thousand (6,000) sq. ft.

Front Yard Parking Standards

On November 6, 2024, the City Council passed an ordinance adding residential yard parking standards to Chapter 23 of the Municipal Code. These standards had previously been in Chapter 19 of the Municipal Code. The reason for moving the standards is because parking on private property in a residential district is land use regulation, not street parking. Chapter 19 of the Municipal Code regulates on street parking standards.

Now that the residential parking standards are in the Zoning Ordinance, appeals must be approved by the Zoning Board of Appeals. Previously, variance requests for driveway extensions were heard by the City Council.

The standards regarding how wide a driveway extension may extend into the front yard have not changed with the new language in Chapter 23. A driveway, which is defined as the paved area leading from the street to a garage or rear parking area, may be extended twelve (12) feet toward a side yard and four (4) feet into the front yard. Driveway extensions still require a permit.

The applicant extended their existing driveway ten (10) feet towards the south property line and ten (10) feet into the front yard. They also paved straight from the sidewalk. Section 23-43(f)(3)(j) of the Zoning Ordinance requires driveway payment leading from the apron to taper onto the driveway to prevent vehicles from driving over the right of way terrace.

The applicant has not met the hardship criteria outlined in Section 23-67(f) of the Zoning Ordinance. Below are each of the standards for a variance:

23-67(f)(1) Unique Physical Limitations. The application makes no reference to unique physical limitations of the parcel, such as irregular shape, topography or anything that would prevent them from meeting the code standards. The applicant does mention the high traffic volume along Ballard Road. However, this is not a unique condition for this property. Many properties are on busy streets.

23-67(f)(2) Harm to Public Interest. The applicant has not indicated any reason that denying the variance would cause any harm to the public.

23-67(f)(3) Self Created Hardship. The applicant created this problem by installing the driveway without a permit and in a manner that does not meet the code standards. The applicant stated in the application that removing the driveway would be a hardship. A self-created hardship should not be considered a hardship that warrants a variance.

23-67(f)(4) Unnecessary Hardship. The applicant may utilize their property for its intended use without this variance. Taking out the portions of the driveway that do not meet code could be accomplished and the applicant would still have a functional, legal driveway. The accessibility needs of the current occupants and the types of vehicles they have should not be considered in determining a hardship.

The applicant has not met any of the area variance criteria.

Return to: Department of Public Works
 Inspection Division
 100 North Appleton Street
 Appleton, Wisconsin 54911
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City of Appleton Application for Variance

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Owner's Signature (Required): Sandra DeLeon Date: 11/25/2024

See attached page with answers to questions 1-4.

Return to: Department of Public Works
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Questionnaire

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1. Explain your proposed plans and why you are requesting a variance:
2. Describe how the variance would not have an adverse impact on the surrounding properties:
3. Describe the special conditions that apply to your lot or structure that do not apply to surrounding lots or structures:
4. Describe the hardship that would result if your variance were not granted:

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Additionally, the extension on the north side of the driveway, while not in front of the main dwelling, is critical for safe access and maneuverability for family members with mobility issues, especially given the property's location on a busy road. According to the City of Appleton's code, the extension in the front yard closest to the dwelling should not exceed 4 feet. However, the existing concrete is in front of a non-livable breezeway, which is not considered part of the dwelling.

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CITY OF APPLETON MEMO

To: Board of Zoning Appeals

From: Kurt W. Craanen, Inspections Supervisor



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Unique Condition

In the application, the applicant states that this property has unique conditions because of the high traffic volume along Ballard Road and because of the accessibility needs of the current occupants.

Hardship

In the application, the applicant states that if the variance is not granted it would result in a financial and personal hardship. The application further states that issues with contractors caused unexpected financial losses, they were unaware that adding pavement was a violation and no city official informed them of this, the current layout meets their needs for maneuvering heavy trucks, provides accessibility needs for a current occupant and taking out the concrete would diminish the properties aesthetics and value.

Staff Analysis

This parcel is twenty-three thousand (23,000) sq. ft. The minimum size lot permitted in the R1B zoning district is six thousand (6,000) sq. ft.

Front Yard Parking Standards

On November 6, 2024, the City Council passed an ordinance adding residential yard parking standards to Chapter 23 of the Municipal Code. These standards had previously been in Chapter 19 of the Municipal Code. The reason for moving the standards is because parking on private property in a residential district is land use regulation, not street parking. Chapter 19 of the Municipal Code regulates on street parking standards.

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