

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 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.