

#4776831

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, 2017 Meeting Date January 15, 2018 at 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 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)<br><b>4647 – 4817 CHERRYVALE AVE.</b>  | Parcel Number<br><b>31- 1-7509-3</b>                                    |
| Zoning District<br><b>RIA</b>   | Use of Property<br><b>Residential</b>                                   |
| Applicant Information   |   |
| Owner Name<br><b>EMERALD VALLEY ESTATES LLC</b>   | Owner Address<br><b>1718 VANZEELAND CT<br/>LITTLE CHUTE WI 54140</b>    |
| Owner Phone Number  | Owner E Mail address (optional)   |
| Agent Name<br><b>Jason Mroz</b>   | Agent Address<br><b>3410 Indigo Bluff Drive<br/>GREEN BAY, WI 54311</b> |
| Agent Phone Number<br><b>(920) 858-3029</b>   | Agent E Mail address (optional)<br><b>jason@appletree-homes.com</b>     |
| Variance Information  |   |
| Municipal Code Section(s) Project Does not Comply<br><b>Section 23-50(b)(5) – Height of berm cannot exceed three (3) feet.</b>                          |   |
| Brief Description of Proposed Project<br><b>The proposal is to construct up to a six (6) foot high berm in the rear yard along the trail and creek.</b> |   |

Owner's Signature (Required): Robert G. Breen Date: 12/13/17

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## 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:*

Apple Tree is proposing to build 13 single family homes along Cherryvale Avenue with a Home Owner's Association to take care of the landscaping, lawns and snow removal. The back of the homes would be facing Appleton's Apple Creek Drainage Corridor and the asphalt paved nature trail. With the trail being immediately adjacent to the west property line of these homes, we would like to construct a continuous earthen berm with physical variations in **height up to 6 feet** above the surrounding elevation. The berm would be constructed to have alignment throughout the entire length of 12 of the lots and have the required side slope of 3 horizontal to 1 vertical. We intend to landscape the berm with wildflowers, shrubs and trees by utilizing the berm as a natural buffer and reducing the direct visibility to the back patios and the large windows in the back of the homes. The Home Owner's Association will maintain the natural landscape area on the berm once a year for nuisance and noxious weeds and fire prevention.

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

Only portions of the proposed berm are 4' or 5' high (shaded green and blue on the attached Proposed Final Drainage Plan), with only a small portion behind Lot 3 that would be 6' high (shaded orange on the attached Proposed Final Drainage Plan). This varied height would not have an adverse effect on the adjacent nature trail, the homes on the other side of the drainage corridor, or any future neighboring homes because the berm would not be excessively high or steeply sloped. The topography on the 13 lots is relatively flat and the proposed berm would blend well with the other side of the nature trail where it slopes down to Apple Creek. The natural colorful vegetation and the trees that we plan to plant on the proposed berm will blend very well with the vegetation between the asphalt nature trail and the drainage corridor.

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

These 13 homes have the asphalt nature trail about 10 feet off their back property line, on our side of Apple Creek, which puts walkers and bikers much closer to our homes than others. According to Appleton's GIS mapping system, a majority of the other properties that are immediately adjacent to this trail are either undeveloped lands or multi-family developments. We would like an exception to the maximum 3' high berm requirement in Sec. 23-50 (b) (5) as follows:

- **For single-family residential lots with a nature trail immediately adjacent to the property line, the berm may be up to 6' high to allow for additional buffering or topographical character.**

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

The unique topographical and dimensional limitations of the lots make a substantial burden on the home owners because they cannot be adequately buffered from Appleton's nature trail, especially when the leaves and tall grasses have fallen in late fall, winter and early spring. We have proposed these homes be placed all the way to the east building setback line to maximize the back yards. Even though we intend to utilize deciduous and evergreen trees to screen portions of the trail, our experience has shown that a majority of home owners insist on having additional buffers to the trail when it is not summer. We are requesting an "area" variance to relax a dimensional standard in the zoning ordinance because these lots are not excessively deep and poses a real hardship to these home owners that are close to Appleton's nature trail.