

CITY OF APPLETON MEMO

To: Board of Zoning Appeals

From: Kurt W. Craanen, Inspections Supervisor



Date: January 13, 2020

RE: Variance Application for 611 W. Northland Ave. (31-6-7704-00) Lot 1

Description of Proposal

The applicant is proposing to split this property with a Certified Survey Map (CSM). Once this is done, a sign that was used for a business on this parcel will be used for a business on a new different parcel. Section 23-505(d) prohibits off-premise signs.

Impact on the Neighborhood

In the application, the applicant states that since the sign has existed for many years, there would be no impact on neighborhood. Just one of the names on the sign would change.

Unique Condition

In the application, the applicant states that the Reciprocal Easement Agreement (REA) between all parties in the Northgate Square development does not cover signs.

Hardship

In the application, the applicants asks that the Board approve the variance request based upon: 1) the sign will be unchanged, 2) the continued operation of all parcels within the REA will be the same as today and 3) the development will greatly improve the appearance of the center and the immediate neighborhood surrounding it.

Staff Analysis

Once the CSM is completed, Lot 1 will be 2.53 acres, or 1110,357 sq. ft. The minimum allowed size of a lot in the C2 zoning district is 14,000 sq. ft.

Lot 1, which will be created with the CSM, will only have frontage off Richmond St. and the address will be changed. The applicant does have the option of placing a ground sign on the property along Richmond St.

The current sign is not changing. It may be considered a hardship to lose something you once had, due to a change in the lot line. Conversely, this change is self-created. Which may not be considered a reason for a variance.

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 30, 2019

Meeting Date

January 16, 2019 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) 611 W. Northland Ave.	Parcel Number 31-6-7704-00
Zoning District PDC2	Use of Property Residential <input type="checkbox"/> <input checked="" type="checkbox"/> Commercial

Applicant Information	
Owner Name R. Lewis & R. Lewis LLC	Owner Address PO Box 22190 Green Bay, WI 54305
Owner Phone Number	Owner E Mail address (optional)
Agent Name Garritt R. Bader	Agent Address 300 N. Van Buren Street Green Bay, WI 54301
Agent Phone Number 813-500-029	Agent E Mail address (optional) <u>GB@gb-re.com</u>

Variance Information
Municipal Code Section(s) Project Does not Comply Section 23-505(d) – Off Premise Signs
Brief Description of Proposed Project It is proposed that this parcel be split by certified survey map. Once this is done, a sign that was used for a business on this parcel would then be on a different parcel. Section 23-505(d) prohibits off premise signs.

Owner's Signature (Required): _____ Date: _____

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:

Our proposed development of a new Aldi grocery store will occur on property presently identified as Parcel #31-6-7704. As of today, the property's configuration includes a "panhandle" piece of property that extends to Northland Avenue, on which is installed a pylon sign that advertises the current tenants of the property. A separate pylon sign along Richmond Street also advertises the tenants along that street. See Exhibit A. This current configuration of the property includes both the former Merlin Oil Change building and the current Play It Again Sports building.

To satisfy the needs of the Aldi development, a larger parcel is being created through assemblage of adjacent parcels and also reconfigured in a way that will have the "panhandle" remain on the Play It Again Sports property, and the Richmond sign on the Aldi property. See Exhibit B.

Our request to the committee is to allow current and future tenants of (what will become) both parcels to continue to advertise on the current signs after the parcel reconfiguration via CSM occurs that will result in the signs becoming off-premises signs to the respective parcel owner. See Exhibit C for a before-and-after image of the Northland Avenue pylon sign.

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

The variance will not have an adverse impact on surrounding properties because it's only allowing a present condition to continue that only legal technicalities invalidate. Post-split, both properties continue to be a part of the "Northgate Square" shopping center, and the spirit of the original pylon signs installation that occurred when the shopping center was constructed is that tenants of the center needed visibility from both streets in order to help ensure they can attract customers and be most successful. This is no different for Aldi or any other commercial business that would operate within the shopping center now or in the future.

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

All parcels that comprise "Northgate Square" are covered by a master Reciprocal Easement Agreement (REA) that grants maintenance, repair, and operations rights of the parcel owners within the shopping center to ensure an attractive appearance of the overall shopping center continues. Oddly, one of the only rights the REA inexplicably fails to grant is signage. In my opinion, this likely was either an oversight, or was excluded as the original drafters couldn't conceive of a scenario where a property would be reconfigured in a way that would prevent the pylon signs in question from displaying tenants within the shopping center.

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

Admittedly this is perhaps one of the most unique variance requests I've ever made, as I acknowledge that the "hardship" is one that we're technically creating by reconfiguring the parcels in a way (through CSM, vs. condo plat) that creates an illegality to use of the sign in question.

However, in acknowledging this, I'm asking the committee to approve the request based upon (1) the spirit of the current conditions and largely-unchanged proposed future conditions; (2) the continued operation of all parcels within the REA as an uninterrupted shopping center using the same access drives and driveways as today; and (3) the hopeful belief that this development will greatly improve the appearance of the center and the immediate neighborhood that surrounds it.

