

Notice of Land Use Appeal
(Ashland Municipal Code §18.5.1.060.I)

A. Name(s) of Person Filing Appeal:	B. Address(es):
1. <i>Ken Eisenberg</i>	<i>223 Granite St Ashland</i>
2. <i>Kent & Pamela McLaughlin</i>	<i>strawberry lane, Ashland</i>

Attach additional pages of names and addresses if other persons are joining the appeal.

C. Planning Commission Decision Being Appealed

Date of Decision:	Planning Action #:	Title of planning action:
<i>April 22, 2025</i>	<i>PA-T2 2024-60053</i>	<i>PeE Constraints at Type 2 variance</i>

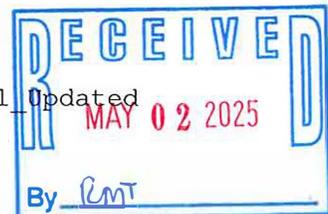
D. How Person(s) Filing Appeal Qualifies as a Party
(For each person listed above in Box A, check the appropriate box below.)

The person named in Box A.1. above qualifies as a party because:	<input checked="" type="checkbox"/> I am the applicant. <input checked="" type="checkbox"/> I participated in the public hearing before the planning commission, either orally or in writing. <input checked="" type="checkbox"/> I was entitled to receive notice of the action but did not receive notice due to error.
The person named in Box A.2. above qualifies as a party because:	<input checked="" type="checkbox"/> I am the applicant. <input checked="" type="checkbox"/> I participated in the public hearing before the planning commission, either orally or in writing. <input checked="" type="checkbox"/> I was entitled to receive notice of the action but did not receive notice due to error.

Attach additional pages if others have joined in the appeal and describe how each qualifies as a party.

E. Specific Grounds for Appeal

- The first specific ground for which the decision should be reversed or modified is (attach additional pages if necessary):
see attached
This is an error because the applicable criteria or procedure in the Ashland Municipal Code § _____ or other law in _____ § _____ requires that (attach additional pages if necessary):
- The second specific ground for which the decision should be reversed or modified is (attach additional pages if necessary):
see attached
This is an error because the applicable criteria or procedure in the Ashland Municipal Code § _____ or other law in _____ § _____ requires that (attach additional pages if necessary):



3. The third specific ground for which the decision should be reversed or modified is (attach additional pages if necessary):

see attached

This is an error because the applicable criteria or procedure in the Ashland Municipal Code § _____ or other law in § _____ requires that (attach additional pages if necessary):

4. (On attached pages, list other grounds, in a manner similar to the above, that exist. For each ground list the applicable criteria or procedures in the Ashland Municipal Code or other law that were violated.)

Appeal Fee

With this notice of appeal I(we) submit the sum of **\$325.00** which is the appeal fee required by §18.5.1.060.1 of the Ashland Municipal Code.

Date: *May 2, 2025*

Signature(s) of person(s) filing appeal (attach additional pages if necessary):

Len Gisenkey

Len Gisenkey for Kent & Pamela McLaughlin

Note: This completed Notice of Land Use Appeal together with the appeal fee must be filed with the City Administrator, City Hall, 20 East Main Street, Ashland, OR 97520, telephone 541-488-6002, prior to the effective date of the decision sought to be reviewed. Effective dates of decisions are set forth in Ashland Municipal Code Section 18.5.1.060.



Hutchinson Cox

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May 2, 2025

Ashland City Manager
20 E Main St.
Ashland, OR 97520

RE: Notice of Appeal of PA-T2-2024-00053/DeBoer/231 Granite Street
Our Clients: Leonard Eisenberg and Kent and Pamela McLaughlin

Dear City Administrator Cotta:

On behalf of Leonard (Len) Eisenberg, and Kent and Pamela McLaughlin, we provide the enclosed appeal of City File No. PA-T2-2024-00053, the DeBoer Physical & Environmental Constraints permit and Type 2 variance for 231 Granite Street. Please include this letter in the record of these proceedings and provide copies of all future notices associated with this appeal to our firm.

For ease of reference, we include a reference to the appeal criteria set out at 18.5.1.060.I in bold italics herein followed by a brief response demonstrating compliance with the Ashland Land Use Ordinance.

1. Appeal of Type II Decision. The City Council may call up a Type II decision pursuant to section 18.5.1.060.J. A Type II decision may also be appealed to the Council as follows:

1. Who May Appeal. Appeals may only be file by parties to the planning action. "Parties" shall be defined as the following.

**** * * ****

b. Persons who participated in the public hearing, either orally or in writing. Failure to participate in the public hearing, either orally or in writing, precludes the right of appeal to the Council.

Len Eisenberg and Kent and Pamela McLaughlin participated in the public hearing both orally and in writing and are the parties to the proceeding who can appeal the same to the City Council. This criterion is satisfied.

2. Appeal Filing Procedure.

a. Notice of Appeal. Any person with standing to appeal, as provided in subsection 18.15.1.060.I.1, above, may appeal a Type II decision by filing a notice of appeal and paying the appeal fee according to the procedures of this subsection.



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This Notice of Appeal is filed by and on behalf of Len Eisenberg and Kent and Pamela McLaughlin, all persons with standing to appeal as set forth above and below. The Notice is accompanied by the payment of an appeal fee of \$325.00 in accordance with the procedures of this subsection. This criterion is satisfied.

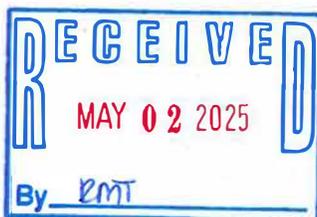
b. Time for Filing. The notice of appeal shall be filed with the City Manager within ten days of the date the notice of decision is mailed.

The notice of decision in this case was mailed on April 23, 2025. This appeal is being filed within ten days of that date. This criterion is satisfied.

c. Content of Notice of Appeal. The notice shall include the appellant's name, address, a reference to the decision sought to be reviewed, a statement as to how the appellant qualifies as a party, the date of the decision being appealed, and a clear and distinct identification of the specific grounds for which the decision should be reversed or modified, based on identified applicable criteria or procedural irregularity.

The appellants' names are Len Eisenberg who resides at 223 Granite, Ashland, OR, 97520, and Kent and Pamela McLaughlin, who reside at 234 Strawberry Lane, Ashland, OR 97520. All are parties under 18.5.1.060.I.1 as they participated in the public hearing before the Planning Commission that gave rise to the decision, both orally and in writing. The decision being appealed is the Planning Commission approval of the Physical and Environmental Constraints Review and variance to the Flag Drive Standards and Tree Removal Permit and exception to Hillside Development Standards for 231 Granite Street (City Planning Action #PA-T2-2024-00053). The date of the decision being appealed is April 22, 2025. The decision should be reversed or modified because:

- a. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence in approving a Physical Constraints Review Permit without addressing or demonstrating compliance with the requirements of 18.3.10.050.A.
- b. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence in approving a Physical Constraints Review Permit without addressing or demonstrating compliance with the requirements of 18.3.10.050.B.
- c. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence in approving a Physical Constraints Review Permit without addressing or demonstrating compliance with the requirements of 18.3.10.050.C.



- d. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence by approving development of unbuildable slopes greater than 35% in violation of 18.3.10.090.A.1 and 2.
- e. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence in concluding that the parcel has inadequate buildable area less than or equal to 35% under 18.3.10.090.A.1.a when much of the property is comprised of 25% to 30% slopes.
- f. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence by approving the proposed development within a partition without the geotechnical study required by 18.3.10.090.A.4.
- g. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence by allowing terracing for purposes other than developing a building pad and vehicular access including landscaping, a pool and spa, and an outdoor kitchen and lounge contrary to 18.3.10.090.B.8.a.
- h. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence by allowing the applicant to develop a pad for a swimming pool and spa contrary to 18.3.10.090.A.8.c.
- i. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence by approving a building envelope which is not located and sized to preserve the maximum number of trees on site as required by 18.3.10.090.D.3.b.
- j. The Planning Commission improperly construes applicable law and makes a decision that is not supported by adequate findings or substantial evidence by approving an exception to the wall height requirements at 18.3.10.090.E.2.c without addressing or demonstrating compliance with the requirements of 18.3.10.090.H.



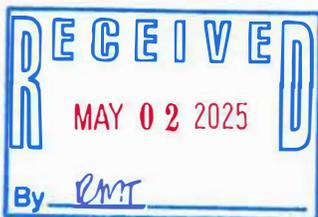
- k. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence by allowing the driveway grade for the new driveway to exceed 20% contrary to 18.4.3.080.D.8.
- l. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence by approving a variance to allow an average flag drive grade over 20% when 18% is the maximum grade allowed for flag drive variances by 18.5.3.060.F.
- m. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence by approving a variance that allows the applicant to exceed the 15% maximum grade for a flag drive where the cumulative length of such variances exceeds 200 feet contrary to 18.5.3.060.F.
- n. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence by allowing an overlength flag drive without the turnaround required by 18.5.3.060.J.
- o. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence in approving a variance to 18.5.3.060.F without addressing or demonstrating compliance with the requirements of 18.5.5.050.
- p. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence in determining that the lot configuration, site topography and existing natural features are unique circumstances warranting a variance under 18.5.5.050.A.1.
- q. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence in holding that the proposed variance is the minimum necessary variance under 18.5.5.050.A.2.
- r. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence by relying on determinations made by a former Ashland planning director in place of the required findings under the variance provisions in section 18.5.5.050.



- s. The Planning Commission improperly construes 18.5.5.050.A.3 and makes a decision that is not supported by adequate findings or substantial evidence in holding that the proposal's benefits are greater than the negative impacts and will further the purpose and intent of the Ashland Land Use Ordinance and the Comprehensive Plan of the City when in fact the opposite is true.
- t. The Planning Commission improperly construes the applicable law and make a decision that is not supported by adequate findings or substantial evidence by holding that the proposed variance under 18.5.5.050.A.4 was not the result of a self-imposed hardship.
- u. The Planning Commission improperly construes applicable law and makes a decision that is not supported by adequate findings or substantial evidence by approving a tree removal permit without addressing or demonstrating compliance with each of the criteria set forth in 18.5.7.040.
- v. The Planning Commission improperly construes applicable law and makes a decision that is not supported by adequate findings or substantial evidence by failing to analyze the impact of tree removal within 200 feet of the property as required by 18.5.7.040.B.2.c.
- w. The Planning Commission improperly construes applicable law and makes a decision that is not supported by adequate findings or substantial evidence by failing to consider required tree protection measures as set forth under 18.4.5.030.C.1 and 18.4.5.030.C.6.
- x. The Planning Commission errs by adopting conclusory findings that do not address the relevant criteria or explain how the facts found demonstrate compliance with those criteria, and which improperly incorporates by reference materials which do not support the decision of approval and are internally inconsistent.
- y. The Planning Commission improperly construes the applicable law and makes a decision that is not supported by adequate findings or substantial evidence by imposing a condition requiring future development to conform to the requirements of the Ashland Fire Department where the applicant has not demonstrated such a condition to be feasible.

This criterion is satisfied.

d. The appeal requirements of this section must be fully met or the appeal will be considered by the City as a jurisdictional defect and will not be heard or considered.



As the appeal requirements of this section are fully met, we hereby respectfully request that the Council hear and consider this appeal and reverse the Planning Commission's approval of the variance and physical constraints review.

Very truly yours,

HUTCHINSON COX



Zack P. Mittge

ZPM/df
Enclosure: Check
cc: Clients
Liam Sherlock

