



ZONING BOARD OF ADJUSTMENT

**Meeting Agenda
Tuesday, June 3, 2025
5:00 PM**

**City Council Chambers
1250 SW District Drive, Second Floor, Ankeny, Iowa**

Matt Ott, Chair
Jeffrey Baxter, Vice Chair

Nichole Sungren

Eric Strom

Brett Walker

Zoning Board of Adjustment regular meetings are held at 5:00 p.m. on the first and third Tuesday of each month, following the Monday City Council meetings. All Board of Adjustment meetings are open to the public. Assistive Listening Devices (ALD) are available for persons with impaired hearing.

CALL TO ORDER

A. ROLL CALL:

B. AMENDMENTS TO AGENDA:

C. MINUTES:

Minutes of the May 20, 2025 regular meeting.

D. COMMUNICATIONS:

E. PUBLIC HEARINGS:

#25-03
Robert Weir
for property located at
501 NW Westwood Street
LOT 59, WESTWOOD-ANKENY PLAT 1
RE: Variance - Front Yard Setback - Fence

F. REPORTS:

Renewed Special Use Permits

#21-06 El Molcajete, 301 E. 1st Street

G. ADJOURNMENT:

Motion to adjourn the meeting.



ZONING BOARD OF ADJUSTMENT

Zoning Board of Adjustment Agenda

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ITEM NAME

Minutes of the May 20, 2025 regular meeting.

ORIGINATING DEPARTMENT

Community Development

COUNCIL GOAL

ACTION REQUESTED

LEGAL

EXECUTIVE SUMMARY

CITY MANAGER/STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S)

FISCAL IMPACT

PUBLIC OUTREACH EFFORTS

ACTION REQUESTED

ATTACHMENTS

1. ZBOA Minutes 2025-05-20

Meeting Minutes
Zoning Board of Adjustment
Tuesday, May 20, 2025
Ankeny City Council Chambers
1250 SW District Drive, Second Floor, Ankeny, Iowa

CALL TO ORDER

Chair Matt Ott called the May 20, 2025 regular meeting of the Zoning Board of Adjustment to order at 5:00 p.m.

Chair Matt Ott read the Zoning Board of Adjustment Opening Statement.

ROLL CALL

Members present: Matt Ott, Jeff Baxter, Nichole Sungren and Eric Strom. Absent: Brett Walker. Staff: E.Jensen, E.Carstens, L.Hutzell, R.Kirschman and B.Fuglsang.

AMENDMENTS TO THE AGENDA

There were no amendments to the agenda.

MINUTES OF THE FEBRUARY 4, 2025 REGULAR MEETING

Motion by N.Sungren to approve the meeting minutes as submitted. Second by J.Baxter. Motion carried 4 – 0.

COMMUNICATIONS / CORRESPONDENCE

There were no communications.

BUSINESS ITEMS

PUBLIC HEARINGS:

#25-02

Stephanie Nguyen & David Xu

for property located at

1802 NE Trilein Drive

Lot 1, Northbrook Plat 1

RE: Variance - Rear Yard Setback

Chair M.Ott opened the public hearing.

M.Ott state that the applicant had not yet arrived and requested that staff move forward in providing their report to the Board.

R.Kirschman reported that the applicant is requesting a variance to Ankeny Municipal Code Section 192.03(3)(E) requiring a 35-foot rear yard setback in R-1. The subject property is located at 1802 NE Trilein Drive, east of N Ankeny Boulevard and north of NE 18th Street in the northeast quadrant of Ankeny and is zoned R-1, One-Family Residence District. He shared that the surrounding properties are similarly zoned R-1 but commented that the property is somewhat shallow when compared to the neighboring properties. He commented that there is a constraint to the literal enforcement of the Ankeny Municipal Code with the setback due to this property not having the depth like the surrounding properties. R.Kirschman stated that the home on the subject property was constructed in 1994 and it is unknown when the deck was originally constructed due to the previous owner building it without a permit. The current home owner has since rectified this and received the approved permit for the deck. R.Kirschman said that the homeowner is requesting to attach a pergola to their existing deck, which would encroach 3 feet into the rear yard setback resulting in a covered deck and the need for a variance. He said their intention was to provide more shade in the area since they lost some of the tree cover that was previously on the property. He stated that all property owners within 250' of the subject property were notified of the proposed Variances by mail, and to date, staff has not received any correspondence in support or against the proposed Variance. Staff recommends the Zoning Board of Adjustment grant a Variance to Ankeny Municipal Code Section 192.03(3)(E) to allow a 32-foot rear yard setback to attach a pergola to an existing deck resulting in a covered deck. The staff position is based on a determination that the decreased rear yard setback from the resulting covered deck would not impair adequate supply of air and light, would not increase public danger of fire, or diminish property values; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code.

M.Ott asked if there is any differentiation between attaching the pergola to the main structure and the pergola being free standing. R.Kirschman responded that it is determined by how close the pergola is located to the principal structure on the property, which creates the need for the variance.

J.Baxter confirmed that if it was in the back yard it wouldn't be an issue but because it is on the deck it becomes an issue. E.Jensen responded, yes. He further stated the building division made the determination that due to its proximity to the main structure, it is technically considered attached. It is actually attached to the deck, which is attached to the house. If it were free standing in the backyard it would just be another accessory structure that would only need to be 3-foot from the principal structure.

Stephanie Nguyen, 1802 NE Trilein Drive, apologized for being late. She said she moved into the home about 3 to 4 years ago. She was looking at different sized gazebos and purchased a 10' x 14' gazebo from Sam's Club. When she went to apply for the permit, city staff shared that adding the gazebo to the deck would place the gazebo 2'8" into the rear yard setback. She is asking the Board for the 3-foot variance so they can attach the gazebo to her deck.

There was no one in the audience to speak for or against the request.

Motion by M.Ott to close the public hearing, receive and file documents. Second by J.Baxter. All voted aye. Motion carried 4 – 0.

M.Ott commented that he has no concerns on the request. If the pergola was out further into the yard, free standing, there would be no need for a variance. He also noted that there was no opposition from any surrounding homeowners.

J.Baxter agreed. He does not have any concerns with the request. He additionally noted with the unique nature of the lot being extremely narrow makes this a little more important to the property owner to utilize it the way she wants.

Board Action on Filing #25-02 for property located at 1802 NE Trilein Drive

Motion by M.Ott that the Zoning Board of Adjustment grant a Variance to Ankeny Municipal Code Section 192.03(3)(E) to allow a 32-foot rear yard setback to attach a pergola on an existing deck, resulting in a covered deck. The Board's position is based on a determination that the decreased rear yard setback from the resulting covered deck would not impair adequate supply of air and light, would not increase public danger of fire, or diminish property values; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code due to the exceptional narrowness and shallowness of the lot compared to surrounding properties. Second by N.Sungren. Motion carried 4 – 0.

REPORTS

Renewed Special Use Permits

#15-19 Hy-Vee Market Cafe, 410 N Ankeny Boulevard

#21-13(2022) Fiesta Jalapeno Mexican Restaurant, 1975 N Ankeny Boulevard, Unit 113

ADJOURNMENT

There being no further business, motion was made by M.Ott to adjourn the meeting. Second by J.Baxter. All voted aye. Motion carried 4 – 0. Meeting adjourned at 5:16 p.m.



Submitted by Brenda Fuglsang, Recording Secretary
Zoning Board of Adjustment



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5:00 PM

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ITEM NAME

#25-03
Robert Weir
for property located at
501 NW Westwood Street
LOT 59, WESTWOOD-ANKENY PLAT 1
RE: Variance - Front Yard Setback - Fence

ORIGINATING DEPARTMENT
Community Development

COUNCIL GOAL

ACTION REQUESTED
Motion
LEGAL

EXECUTIVE SUMMARY

See attached staff report.

CITY MANAGER/STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S)

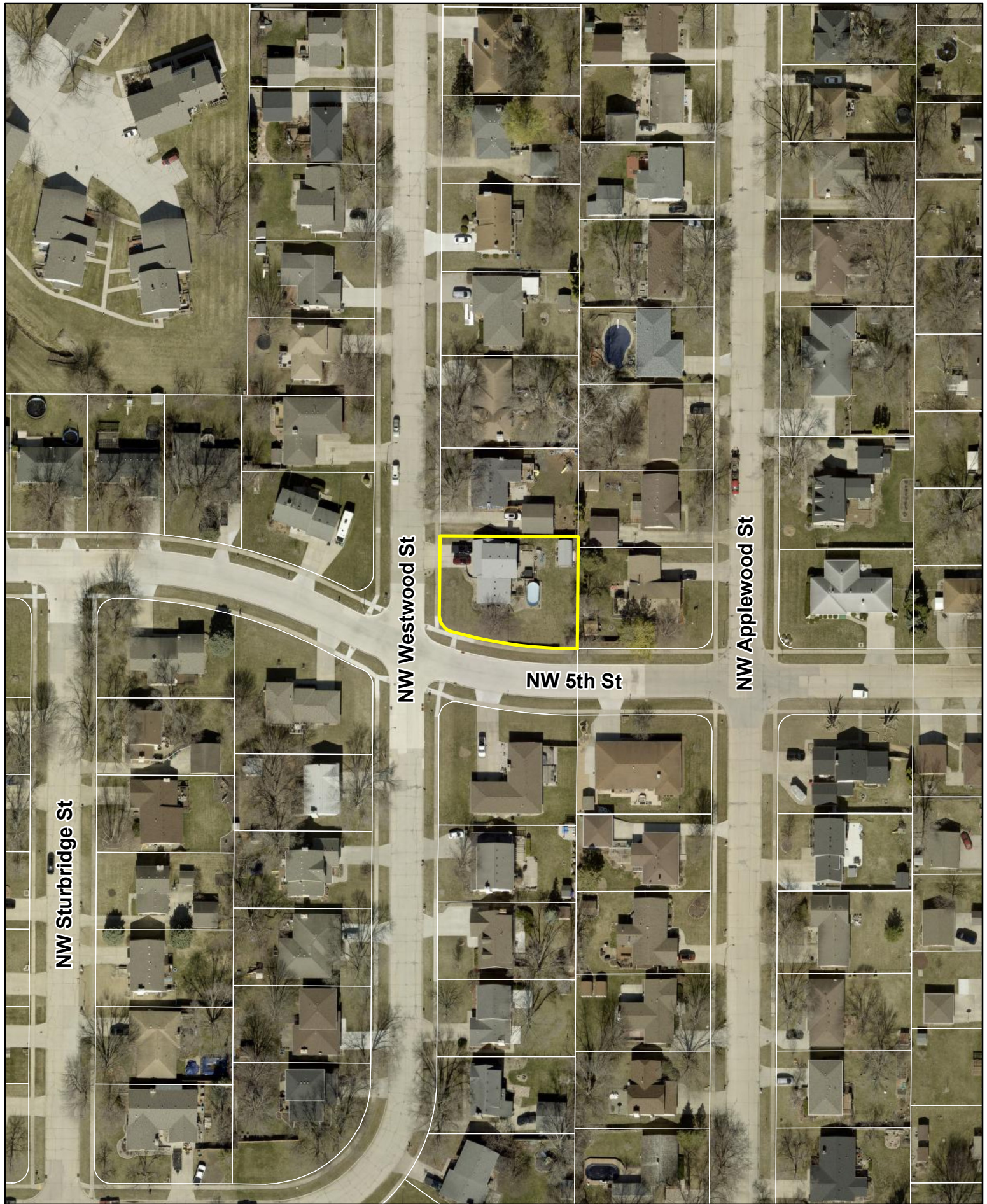
FISCAL IMPACT

PUBLIC OUTREACH EFFORTS

ACTION REQUESTED

ATTACHMENTS

1. #25-03 Applicant Submittal
2. Aerial Map
3. #25-03 Staff Report



**CITY OF ANKENY
ZONING BOARD OF ADJUSTMENT
COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT**

To: Members of the Zoning Board of Adjustment
From: Laura Hutzell, Associate Planner
Filing #: 25-03
Meeting Date: June 3, 2025
Address: 501 NW Westwood St.

EJC

APPELLANT REQUEST

A Variance to Ankeny Municipal Code Section 191.14(2), that limits the height of fences located within front yard setbacks on corner lots to 42 inches, allowing a 6-foot tall, wood, privacy fence to encroach approximately 25 feet into the required 30-foot front yard setback along the south property line adjacent to NW 5th Street at 501 NW Westwood Street.

STAFF POSITION

Staff recommends the Zoning Board of Adjustment grant a Variance to Ankeny Municipal Code Section 191.14(2), to allow a 6-foot tall wood privacy fence to encroach approximately 25 feet into the required 30-foot front yard setback along the south property line adjacent to NW 5th Street at 501 NW Westwood Street, subject to additional landscaping at a scale of three shrubs or one overstory tree every 20 lineal feet be installed between the fence and sidewalk along NW 5th Street.

The staff position is based on a determination that the decreased front yard setback from the resulting fence would not impair adequate supply of air and light, would not increase public danger of fire, or diminish property values; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code.

PROJECT SUMMARY

The subject property is located at 501 NW Westwood Street, north of W 1st Street, south of NW 9th Street, east of NW Greenwood Street, and west of NW Linden Street. The property is zoned R-3A, Planned Multiple-Family Residence District and follows R-3 bulk regulations. The site is a total of .274 acres and is a corner lot with two front yards facing to the west and the south. The applicant has requested a variance to allow a 6-foot tall, wood, privacy fence to be installed approximately 25 feet into the 30-foot front yard setback along NW 5th Street, in line with the neighboring fence to the east. An existing, 42" chain link fence with mesh covering currently sits on the south property line adjacent to NW 5th Street. The applicant has requested a variance to replace the existing fence with a 6-foot, wood, privacy fence that would be located approximately 5-foot off the property line and in line with the neighbor's fence to the east. The neighbors have agreed to allow the property owners to connect to their fence via a letter of support included in the ZBA packet.

It's important to note, the new fence would extend off the middle of the house, just west of the egress window on the south side. The current fence extends off the southeast corner of the home. Extending the fence to be in line with the middle of the home will not restrict visibility or violate the required 30-foot vision triangle.

PROJECT REPORT

Criteria for Variance

197.01(4) Powers and Duties.

B. To grant a variation in the regulations when a property owner can show ...that by reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of the terms of this title actually prohibits the use of this property in the district; and that the board is satisfied under the evidence before it that a literal enforcement of the provisions of this title would result in unnecessary hardship; provided, however, that all variations granted under this clause shall be in harmony with the intended spirit and purpose of this title.

FINDINGS OF FACT

The address for the subject property is 501 NW Westwood Street and is legally described as Lot 59 Westwood-Ankeny Plat 1. The subject property is on a corner lot and is subject to two front yards. The two front yards are located along the south property line adjacent to NW 5th Street and along the west property line adjacent to NW Westwood Street. The subject property is zoned R-3A, Planned Multiple-Family Residence District and follows R-3 bulk regulations. Properties to the north, south and west are also zoned R-3A, but the property to the east is zoned R-2, One-Family and Two-Family Residence District.

The subject property is a .274-acre lot that contains a single-family, detached home, built in 1978 that is setback approximately 34 feet off the property line. Surrounding properties in all directions are also single-family, detached homes. The Polk County Assessor's records show an above ground pool and a shed in the rear yard, both of which have appropriate permits.

In May 2025, the subject property owners inquired about replacing their current 42" chain link fence. The request was to install a 6-foot tall, wood, privacy fence approximately 5-feet off the south property line, adjacent to NW 5th Street and in line with the neighboring fence. The fence permit application was denied based on its height and proposed location within the front yard setback.

Ankeny Municipal Code Section 191.14(2) states, "Residential fences shall be permitted in any yard in residential zoning districts or residential use areas. Front and side yards adjacent to a street in residential zone districts shall be considered front yards and fences in front yards shall not exceed 48 inches in height if chain link and 42 inches in height for all other fence materials. On corner lots fences that exceed 48 inches in height if open chain link and 42 inches in height for all other fence materials shall conform to principal building setback requirements."

The applicant wishes to connect the proposed fence to the neighbor's fence directly to the east, which is also a 6-ft tall, wooden privacy fence on a corner lot. This neighboring property at 504 NW Applewood was granted a variance via docket #20-18 for a 6-foot-tall, privacy fence to encroach 25-feet into the required 30-foot front yard setback, subject to additional landscaping between the fence and the street on September 9, 2020.

The proposed fence would extend off the middle of the house, just west of the egress window on the south side. The current fence extends off the southeast corner of the home. Extending the fence to be in line with the middle of the home will not restrict visibility or violate the required 30-foot vision triangle.

STAFF ANALYSIS

The following is City staff's analysis of the proposed Variance with the adopted criteria necessary for approving any Variance request.

197.01.4.B. To grant a variation in the regulations the Zoning Board of Adjustment shall find that:

- 1. This property was acquired in good faith.**
 - The applicant owns the subject property. The existing conditions of the lot were in place at the time that the applicant acquired the property.
- 2. By reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of the terms of this Zoning Ordinance actually prohibits the use of this property in the district.**
 - The subject property is on a corner lot on the corner of NE Westwood Street and NE 5th Street, which results in two front yards.
- 3. A literal enforcement of the provisions of this Zoning Ordinance would result in unnecessary hardship.**
 - This home being on a corner lot, subjects it to two front yards, meaning a large portion of the backyard is considered a front yard. The homeowners are hoping to connect their new fence to the neighboring fence to the east so to avoid an irregular fence line. The neighboring home at 504 NW Applewood Street is also a corner lot. This property was granted a variance via docket #20-18 for a 6-foot-tall, privacy fence to encroach 25-feet into the required 30-foot front yard setback on September 9, 2020. If the request for 501 NW Westwood is denied, the owners would be required to set their fence back, near the corner of their home, resulting in less usage of their yard and creating a very irregular fence line along NW 5th Street.
- 4. Such Variance shall be in harmony with the intended spirit and purpose of this Zoning Ordinance.**
 - If approved, the homeowner will be required to screen the fence with landscaping so to better separate the fence from the street. The neighboring property owner to the east has provided a letter of support for this fence and agrees to allowing the property owner to connect the new fence to theirs.

SUMMARY AND STAFF POSITION

As is standard procedure for these kinds of requests, all property owners within 250' of the subject property were notified of the proposed Variances by mail, and to date, staff has not received any correspondence in support or against the proposed Variance.

Therefore, staff recommends the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 191.14(2), to allow a 6-foot tall wood privacy fence to encroach approximately 25 feet into the required 30-foot front yard setback along the south property line adjacent to NW 5th Street, subject to additional landscaping at a scale of three shrubs or one overstory tree every 20 lineal feet be installed between the fence and sidewalk at 501 NW Westwood Street.

Staff's position is based on a determination that the decreased front yard setback from the resulting fence would not impair adequate supply of air and light, would not increase public danger of fire, or diminish property values; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code.



ZONING BOARD OF ADJUSTMENT

Zoning Board of Adjustment Agenda

June 3, 2025
5:00 PM

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ITEM NAME

Renewed Special Use Permits

ORIGINATING DEPARTMENT
Community Development

COUNCIL GOAL

ACTION REQUESTED

LEGAL

EXECUTIVE SUMMARY

CITY MANAGER/STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S)

FISCAL IMPACT

PUBLIC OUTREACH EFFORTS

ACTION REQUESTED

#21-06 El Molcajete, 301 E. 1st Street

ATTACHMENTS

1. 2025 Renewal - El Molcajete



City of Ankeny

Outdoor Service Area Renewal Application

***Special Permit Resolution # 21-06**

If the conditions of your approved Special Use Permit do not allow for administrative approval of the Outdoor Service Area, or if you plan to make any changes or would like to alter the conditions of your Outdoor Service Area, please contact the Planning & Building Department (963-3550) regarding the required Board of Adjustment approval.

Name of Applicant: Mi Pueblo 15 LLC
(Sole Proprietorship, Partnership, Corporation)

Name of Business (d/b/a): El Molcajete

Address of Premise: 301 E. 1st St.

- Have there been any changes made to the Outdoor Service Area since last year in location, size, or type of fencing?

☐ Yes ☒ No

If yes, what changes have been made. (Please include a sketch)

- Has any use of sound been added since last year or changed from what was approved by the Zoning Board of Adjustment?

☐ Yes ☒ No

Examples of sound uses requiring a special use permit shall include but not be limited to use of speakers to page patrons, use of a sound system to play music and the playing of live music. (Ord. 1426 Sec 1 Sub-section 5.08.100 G paragraph 5)

I hereby swear and affirm that I have complied and will continue to comply with all the requirements and attached conditions issued for the above identified property and with any subsequent modifications required by the Board of Adjustment.

The applicant hereby swears or affirms that all statements set forth herein are true and correct.

Signature

Abraham Murguía F

Name of Applicant (printed)

05/02/25

Date

ADMINISTRATIVELY
☒ **APPROVED**

5/20/25 EJC



ZONING BOARD OF ADJUSTMENT

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ITEM NAME

Motion to adjourn the meeting.

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ATTACHMENTS

None