

Meeting Minutes
Zoning Board of Adjustment
Tuesday, December 5, 2023
Ankeny City Council Chambers
1250 SW District Drive, Second Floor, Ankeny, Iowa

CALL TO ORDER

Chair Matt Ott called the December 5, 2023 regular meeting of the Zoning Board of Adjustment to order at 5:00 p.m.

ROLL CALL

Members present: Jeff Baxter, Matt Ott, Nichole Sungren, Kristi Tomlinson. Absent: Brett Walker. Staff: E.Jensen, E.Carstens, B.Morrissey, L.Hutzell and B.Fuglsang.

AMENDMENTS TO THE AGENDA

There were no amendments to the agenda.

MINUTES OF THE NOVEMBER 7, 2023 REGULAR MEETING

Motion by K.Tomlinson to approve the November 7, 2023 meeting minutes as submitted. Second by N.Sungren. Motion carried 4 – 0.

COMMUNICATIONS / CORRESPONDENCE

Correspondence received for Appeal #23-20:

Erik & Mary Gjullin, 4510 SW Sawgrass Parkway, Ankeny

Travis & Traci Trumper, 4529 SW Bluegrass Drive, Ankeny

BUSINESS ITEMS

PUBLIC HEARINGS:

#23-20

Randy & Denise Shoeman

for property located at

4533 SW Sawgrass Parkway

Lot 25, Sawgrass Park Plat 4

RE: Variance - Rear Yard Setback

Chair M.Ott opened the public hearing.

Randy and Denise Shoeman, 4533 SW Sawgrass Parkway said that they are asking for approval of a variance for their pergola that was constructed over their deck. He said they are hardworking people and keep a meticulous property. They are very cautious and respectful of all their neighbors. Randy Shoeman presented current pictures of their home to the Board showing the pergola as it stands today. He commented that the pergola does not intrude on any of the neighbor's view of the Sawgrass property. Randy and Denise Shoeman, respectively, asked the Board to approve their request.

M.Ott questioned Randy Shoeman as to how long they have owned the home, whether they hired a contractor to build the deck and if the deck was existing. Randy Shoeman responded that they have lived in the house three-plus years and hired a contractor to rebuild the existing deck to the same size. M.Ott referencing the staff's findings, said that the contractor requested a permit for the deck and pergola, and only the deck permit was approved by City staff, not the pergola, as it would need a variance before it could be constructed. M.Ott asked for some insight as to when the pergola was built? Randy Shoeman responded saying that the pergola was built at the same time as the deck. Randy Shoeman said that how it fell through the cracks was because he was on the road all the time, and they were dealing with substantial water damage in their master bath, along with cabinetry problems in the kitchen, while the deck was being reconstructed. There was a lot going on at once. M.Ott asked if the contractor told him that it was approved and wondered how the pergola was built without approval. Randy Shoeman said he honestly doesn't remember and does not have a good, honest excuse for how it happened. The people who built the deck are very good builders.

There were no further questions from the Board.

L.Hutzell reported the request is for a variance to allow a 25-foot rear yard setback for an existing pergola. She stated that the subject property is located at 4533 SW Sawgrass Parkway, south of SW Oralabor Road and west of SW State Street within the southwestern quadrant of Ankeny. The subject property is zoned R-3 with restrictions, Multiple Family Residence District restricted to single family homes and is situated on a .387-acre lot. She said that the neighboring properties to the north and east are similarly zoned R-3 with restrictions, neighboring properties to the south are located in the County and zoned Low Density Residential, and Sawgrass Park is immediately west. L.Hutzell explained that in May 2021, City staff received a permit application to allow a deck with pergola to be built at the subject property and informed the contractor applying for the permit that the permit for the pergola could not be issued because a pergola is considered a covering, and per code, covered decks are not allowed to encroach into the rear yard setback. The contractor decided to proceed with just a permit for the deck, which was approved on May 20, 2021. She noted that City Staff noticed the pergola in November 2023 while out inspecting a neighboring property and a letter was then sent to the homeowner informing them that they were in violation of Ankeny Municipal Code because the pergola structure was unpermitted and encroaches 10-feet into the rear yard setback. L.Hutzell stated the homeowner is now seeking a variance to correct the situation. She noted, that as shown on the site plan, at its furthest point the pergola extends approximately 10-feet into the rear yard setback leaving approximately 25' between the structure and the rear property line. Staff is not concerned with the pergola extending into the rear-yard setback as the property backs to Sawgrass Park and does not have any measurable impact on surrounding residences. L.Hutzell stated that given the lot shape coupled with the position of the home at the bulb of the cul-de-sac and the fact that this property backs to Sawgrass Park, staff's position is to grant a variance to Ankeny Municipal Code Section 192.05(3)(E) to allow a 25-foot rear yard setback for a pergola over an existing deck at 4533 SW Sawgrass Parkway, subject to the applicant acquiring all necessary building permits. Staff'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.

M.Ott asked that when notices were sent out regarding the public hearing, were they sent to the unincorporated county properties? L.Hutzell responded, yes.

J.Baxter inquired about the portion of staff's recommendation subjecting them to acquiring all necessary building permits. E.Jensen responded that the applicant needed to obtain a variance before a building permit could be issued for the pergola.

Travis Trumper, 4529 SW Bluegrass Drive, Ankeny said they live to the east of the Shoeman's and have no problems with the pergola. He said it does not obstruct anyone's view, and it is a beautiful addition to the property. He respectively asked the Board to approve the request.

M.Ott shared that the Board received correspondence from two neighboring properties in favor of the request.

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

M.Ott said the consensus of the Board is that they do not appreciate the request being brought before the Board after the fact, especially after they were denied the permit when they applied to have it built.

M.Ott further stated that had this request come before the Board prior to the pergola being built, he would have had zero concern about approving it, and since there was no opposition. All Board members agreed with M.Ott's statement.

Board Action on Filing #23-20 for property located at 4533 SW Sawgrass Parkway

Motion by M.Ott that the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 192.05(3)(E) to allow a 25-foot rear yard setback for a pergola over an existing deck at 4533 SW Sawgrass Parkway, subject to the applicant acquiring all necessary building permits. This 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. Second by K.Tomlinson. All voted aye. Motion carried 4 – 0.

NEW BUSINESS

There was no new business.

REPORTS

Renewed Special Use Permits

#12-02 Sports Page Grill, 1701 N Ankeny Blvd.

#10-06 Lindo Jalisco Mexican, 1810 SW White Birch Cir., Ste. 118

There being no further business, meeting adjourned at 5:20 p.m.



Submitted by Brenda Fuglsang, Board Secretary
Zoning Board of Adjustment