



Meeting Agenda

Zoning Board of Adjustment

Tuesday, October 3, 2023

5:00 PM

Ankeny City Council Chambers

1250 SW District Drive, Second Floor, Ankeny, Iowa

Matt Ott, Chair

Jeffrey Baxter, Vice Chair

Nichole Sungren

Kristi Tomlinson

Brett Walker

Zoning Board of Adjustment regular meetings are the first and third Tuesday of each month at 5:00 p.m. 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 September 19, 2023 regular meeting.

D. COMMUNICATIONS/CORRESPONDENCE

E. BUSINESS ITEMS

PUBLIC HEARINGS Public Hearings are held during the Zoning Board of Adjustment's regular meetings. Those who wish to speak will be requested to provide their name and address for the record when called upon. The order of proceedings for each application will be as follows: 1). The applicant will present testimony and evidence regarding their request; 2). City staff will summarize the project and present their findings; 3). Testimony may be heard from any members of the audience who wish to speak in support of or in opposition to the appeal; 4). The Board will give the applicant and the city staff an opportunity to present concluding summaries and arguments. At the conclusion of all public testimony, the Board will close the public hearing. The Board will discuss the issues and evidence and come to a decision. The applicant or appellant may withdraw their application or appeal at any time prior to the decision by the Zoning Board of Adjustment.

#23-17
Casey's Retail Company
for property located at
1602 W 1st Street
Lot 1, Handimart Plat No. 1
RE: Variance - Open Space

F. OLD BUSINESS:

G. NEW BUSINESS

H. REPORTS

Renewed Special Use Permits
#08-23 Buffalo Wild Wings Grill & Bar, 1690 SE Delaware Avenue
#15-14 Benchwarmers Ankeny Inc., 705 S Ankeny Boulevard

I. ADJOURNMENT



ZONING BOARD OF ADJUSTMENT

October 3, 2023

5 : 00 PM



ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

ACTION REQUESTED:

Motion

LEGAL:

SUBJECT:

Minutes of the September 19, 2023 regular meeting.

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

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 [ZBOA Minutes 2023-09-19](#)

Meeting Minutes
Zoning Board of Adjustment
Tuesday, September 19, 2023
Ankeny City Council Chambers
1250 SW District Drive, Second Floor, Ankeny, Iowa

CALL TO ORDER

Chair Matt Ott called the September 19, 2023 regular meeting of the Zoning Board of Adjustment to order at 5:00 p.m.

ROLL CALL

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

AMENDMENTS TO THE AGENDA

There were no amendments to the agenda.

MINUTES OF THE SEPTEMBER 6, 2023 REGULAR MEETING

Motion by N.Sungren to approve the September 6, 2023 meeting minutes as submitted. Second by J.Baxter.
All voted aye. Motion carried 3 – 0.

COMMUNICATIONS / CORRESPONDENCE

There were no communications.

BUSINESS ITEMS

PUBLIC HEARINGS:

#23-16

Connor Milligan, Halcyon Fencing

for property located at

3902 NW 14th Court

Lot 8, Rock Creek Crossing Plat 6

RE: Variance - Front Yard Setback

Chair M.Ott opened the public hearing.

Connor Milligan, Halcyon Fencing, 2914 Oxford Street, Des Moines said he is requesting to leave the fence that they built at 3902 NW 14th Court where it is currently located, which is not at the appropriate setback. He stated that the fence does not impact the visibility of the corner of NW 14th Court. He commented that from the very back of the lot on NW Seasons Drive; you are able to see the stop sign at NW 14th Court. Connor Milligan said they are asking to allow the fence to remain, as it is not impeding the visibility of the corner.

R.Kirschman reported that the subject property is located at 3902 NW 14th Court, south of NW 18th Street, west of NW Irvinedale Drive, and east of NW Weigel Drive. The property is zoned R-2 with restrictions, One-Family and Two-Family Residence District restricted to single-family homes. He said the property is approximately .387 acres in size and is considered a corner lot with two front yards. R.Kirschman stated that the applicant is requesting a variance to allow for a 6-foot tall privacy fence to remain approximately 16.5 feet into the 30-foot front yard setback adjacent to the eastern property line. He noted that per Code, privacy fences located within front yards on corner lots that exceed 42 inches in height must conform to the building setback requirements of the Code. He stated the fence was installed when the home was built, which permit records indicate the fall of 2021, and that the fence was not installed at the appropriate setback. Staff does not believe the existing fence poses any safety concerns to the public, as the fence is not inhibiting visibility at the intersection of NW Seasons Drive and NW 14th Court and does not obstruct the required 30-foot vision clearance triangle at that specific intersection. Staff recommends that the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 191.14(2), to allow a 6-foot tall privacy fence to encroach approximately 16.5 feet into the 30-foot front yard setback along the east property line adjacent to NW Seasons Drive at 3902 NW 14th Court, subject to additional landscaping between the fence and NW Seasons Drive. 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.

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

Motion by M.Ott to close the public hearing, and receive and file documents. Second by J.Baxter. All voted aye. Motion carried 3 – 0.

J.Baxter commented that he does not like that the request came to the Board after the fence has been built, but in this case, he would have recommended approval if the request came first. He does believe there should be landscaping. M.Ott and N.Sungren agreed. There was discussion on the requirement for the amount and type of landscaping amongst the Board and staff.

Board Action on Filing #23-16 property located at 3902 NW 14th Court

Motion by J.Baxter that the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 191.14(2), to allow a 6-foot tall privacy fence to encroach approximately 16.5 feet into the 30-foot front yard setback along the east property line adjacent to NW Seasons Drive at 3902 NW 14th Court, subject to additional landscaping between the fence and NW Seasons Drive intended to soften the fence, to be approved by City staff. The Board'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. Second by M.Ott. All voted aye. Motion carried 3 – 0.

NEW BUSINESS

There was no new business.

REPORTS

Renewed Special Use Permits

#16-13 Cabaret - 2785 N Ankeny Blvd.

#16-18 The Whiskey House - 2510 SW White Birch Drive, Suite 8 & 9

There being no further business, meeting adjourned at 5:12 p.m.



Submitted by Brenda Fuglsang, Board Secretary
Zoning Board of Adjustment



ZONING BOARD OF ADJUSTMENT

October 3, 2023

5 : 00 PM

 [Print](#)

ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

Ensure Economic Vitality

ACTION REQUESTED:

Public Hearing

LEGAL:

SUBJECT:

#23-17

Casey's Retail Company

for property located at

1602 W 1st Street

Lot 1, Handimart Plat No. 1

RE: Variance - Open Space

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Click to download
 23-17 Applicant Submittal
 23-17 Staff Report

#23-17

Applicant is: ☒ Property Owner ☐ Tenant ☐ Other _____

Applicant Casey's Retail Company

Address / Phone # 3305 SE Delaware Avenue; Ankeny, IA 50021

E-mail Aaron.Wolfe@caseys.com

Property Owner Same as above

Address / Phone # --

E-mail --

(Owner must sign the application or submit a letter of authorization)

To the Members of the Board of Adjustment:

I hereby appeal from the decision of the Zoning Administrator rendered on _____ day of _____, 20____

Location (address) of the proposed variance 1602 West First Street

Legal description (Plat & Lot #) LT 1 HANDIMART PLAT NO. 1

Zoning C-1 Principal Use of property Convenience Store/Gas Station

I request a variation from the current zoning requirement for:

☐ Front Yard ☐ Side Yard ☐ Rear Yard ☐ Fence ☐ Sign ☐ Parking ☐ Height
☒ Other Open space requirements

Ankeny Zoning Code Section # 191.15 which state(s) The total land area devoted to open space.....

shall not be less than twenty percent of the gross land area included in the building lot.

I would propose the following in lieu of that required: Total land area devoted to open space shall not be less than 12 percent of the gross land area included in the building lot.

Attached hereto and made a part of this appeal, I submit the following:

- a) A statement indicating the reasons for my appeal.
- b) A drawing showing proposed variance requested.
- c) A letter of authorization from the owner or lessee, if applicable.

Complete submittals are required for review.

AFFIDAVIT

State of Iowa)ss
County of Polk)

I hereby deposit and say that all of the above statements and the statements contained in the papers submitted herewith are true.

Aaron Wolfe

Print Name (Signature of Applicant)

Signed and sworn to before me, this
15th day of September, 2023.

Above is authorized agent of owner

Print Name (Signature of Property Owner)

Brenda Fuglsang
(Notary Public)

Office Use Only

--Notary seal --

Paid ☒ CC ☐ Cash ☐ Check # <u>260.00</u>	RECEIVED SEP 14 2023 CITY OF ANKENY
Date received <u>9-15-23</u>	
Scheduled Meeting Date _____	





September 15, 2023

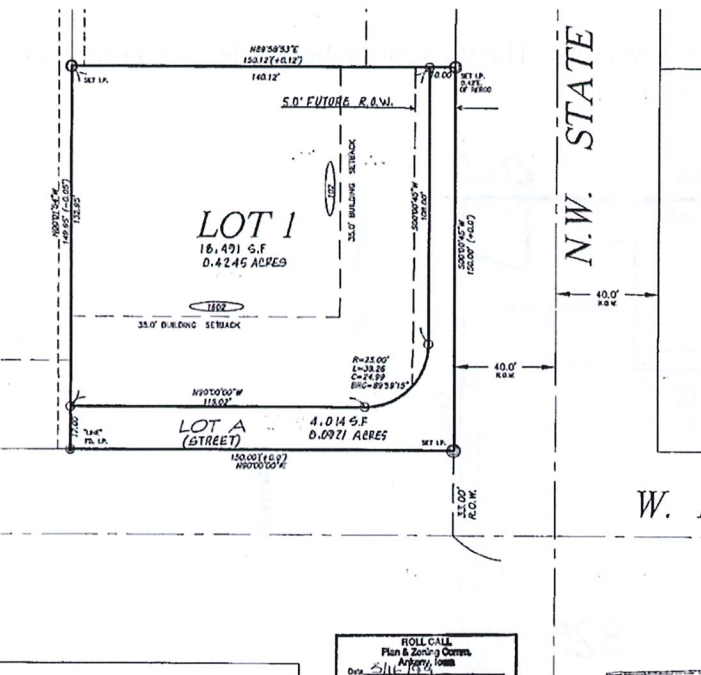
To: City Staff and Board of Adjustment

From: Aaron Wolfe, AICP, Sr. Site Development Manager Casey's General Stores

Re: Request for Variance to Chapter 191.15 of the City of Ankeny Code of Ordinances to allow 12% open space in lieu of 20% as required by code for property at 1602 West First Street in Ankeny.

History:

Prior to 1999 (and going back at least to 1971) the Phillips Petroleum Company operated a gas station at what is now the northwest corner of NW State Street and 1st Street. The facility appears to have been constructed on



what later became a remnant parcel after the surrounding property was replatted with Frontier Village Plat 8 in 1971. The Phillips station was demolished in/around 1999 to facilitate construction of a Handimart convenience store. It is presumed the City of Ankeny mandated the remnant parcel be platted as a lot per condition of redevelopment. When said plat was submitted (Handimart Plat 1 see illustration left) the City of Ankeny also mandated dedication of right-of-way adjacent to both street frontages, 10' adjacent to NW State Street and 17' adjacent to West 1st Street. The dedication of 4,014 s.f. of ROW to the city reduced the total lot size by nearly 20% and made an already small lot, smaller, especially when encumbered by two front yard setbacks as a corner lot. The original developer struggled to accommodate the reduced building envelope and was successful in obtaining three variances

to facilitate development of the lot: 1) a variance to allow a 10' rear yard setback (west property line) in lieu of 40'; 2) a variance to allow a 17' front yard setback in lieu 35' along the W. 1st Street frontage and also a 24' front yard setback in lieu of 35' along the N.W. State Street frontage; and, 3) a variance to allow 18% open space in lieu of 20% (applicant's request and staff report reference 16% but BOA Resolution grants 18%). See attached original variance request, minutes from Board of Adjustment Meeting and Board of Adjustment Resolution.

Request:

Casey's Retail Company acquired the property in 2010 and rebranded the former Handimart to a Casey's gas station and convenience store. Casey's desires to construct a building addition to the east end of the store that will increase the gross floor area of the store from the original 2,632 s.f. to 2,952 s.f.. An originally approved site plan and proposed layout are included as attachments. The addition will accommodate a kitchen to allow for on-site preparation of Casey's full food menu and is accompanied by a refresh and remodel of the existing store.

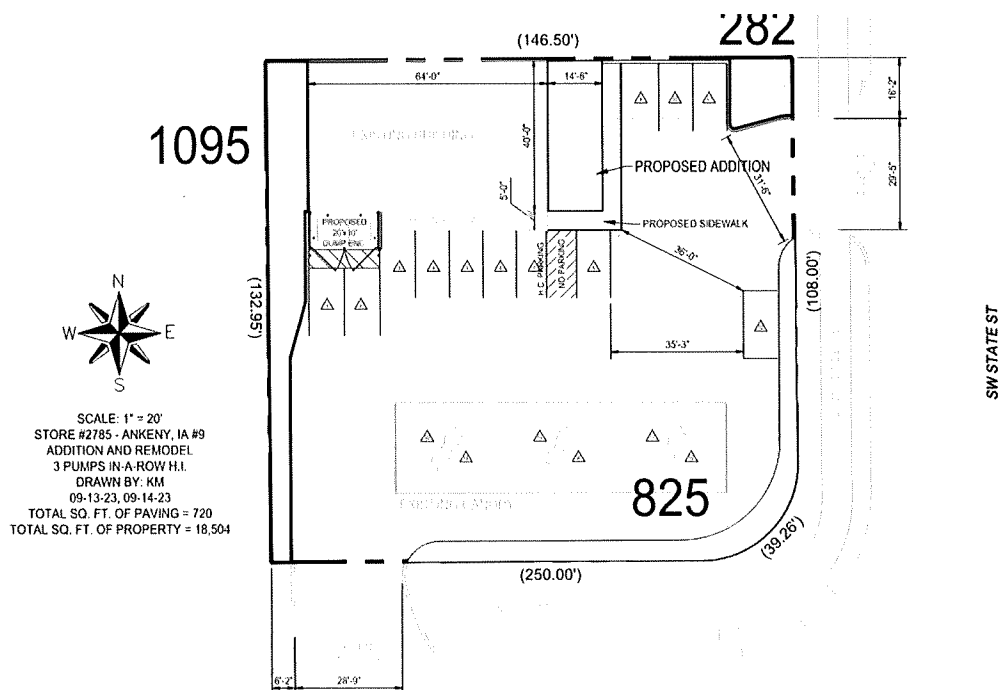
The proposed addition increases the number of code-required parking stalls on site. Chapter 194.01.1.E. of the City of Ankeny's Code of Ordinances requires 1 space per 150 square feet of gross floor area. This requirement translates to 20 stalls after the proposed addition. The proposed addition displaces three existing parking stalls and the very tight nature of the site makes it difficult to accommodate the code requirement.

Casey's intends to seek a reduction to the required number of stalls as allowed by Chapter 194.01.2.A. of Ankeny's Code of Ordinances which states the Community Development Department Director may approve a parking reduction on a case-by-case basis ***without a variance***. Community Development Department staff has stated such a reduction is typically limited to 10% of the required number of stalls (two stall reduction). When said code chapter is applied, Casey's is able to accommodate 18 parking stalls on site but must sacrifice open space area to do so. **The request to be considered by the Board of Adjustment is to grant a variance to reduce the open space requirements for the site from 18% (granted via previous variance) to 12%.**

Casey's has explored and exhausted other options to requesting a variance to include:

- 1) Growing the site by acquiring property from adjoining owners;
- 2) Acquiring an easement to park within the unused ROW previously acquired by the city;
- 3) Purchasing unused ROW for parking or open space purposes.

The total site area is 18,475 s.f. per the Polk County Assessor's website. The illustration below depicts a proposed site plan with 18 parking stalls and 2,202 s.f. open space (12%).



Variance Criteria and justification:

- As stated previously, the original site plan was approved with a variance to the open space requirement to allow 18% open space in lieu of the code-required 20%. This number is appears in the original Handimart request and BOA staff report as 16% but is alternately reported in the minutes and BOA resolution as 18% without explanation. In so granting the previous variance, the board recognized development of the site is hindered by unique site conditions warranting a variance to the code requirement. ***Said unique conditions are the unusual narrowness and shallowness of the site exacerbated by city acquisition of***

right-of-way which reduced the developable area of the lot by nearly 20%. Those same conditions exist on the site to this day and continue to hinder reasonable use of the site. These circumstances are unique to this property as other properties in district are not affected by the same hinderances.

- A strict application of the open space requirements of code prohibits reasonable use of the property. While the existing store has been operating on the site for nearly 25 years, it was only possible through issuance of multiple area and open space variances. Continued viability of the site relies upon a necessary expansion. The services provided by the convenience store industry have expanded much in the last ¼ century. Fresh foods and prepared foods have become a necessary component of success. A gas station/convenience store has resided at this location for at least half a century and Casey's desires to maintain a presence at this intersection in perpetuity. However, remaining successful at this location requires a store expansion to meet market demand for prepared food items. Just as the industry has evolved, the initial variances granted for the property must be amended as well to facilitate continued use of the property.

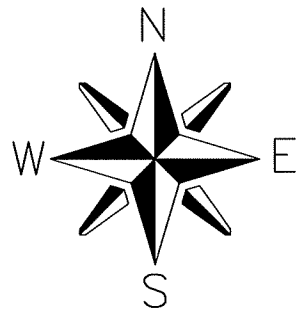
Granting a variance does not only benefit Casey's, it benefits the neighborhood residents and the City. The purpose of the C-1 district is to "provide for the convenience shopping of persons living in neighborhood residential areas and for general uses and activities of a retail and personal service character.". Allowed uses of the district are intended to provide for the convenience needs of the immediate neighborhood. By doing so, local trips stay "local" and area residents can avoid unnecessary cross-town trips which only serve to add traffic and wear to the greater road network. Providing prepared foods for neighborhood residents saves them time, saves trips on the road network, and reduces vehicle emissions. The City of Ankeny benefits from all of the aforementioned factors in addition to the increased tax base.

- A variance to the open space requirement would have no adverse impact on the immediately adjacent uses. In practicality, there is approximately 1,750 s.f. of greenspace behind the sidewalk within city right-of-way that is maintained by Casey's. The aforementioned right-of-way acquired by the city has not been put to use for any functional purpose in the ensuing 25 years since acquisition and city staff has reported there is no plan on the books to put the right-of-way to use. For all intents and purposes it functions as additional greenspace adjacent and attached to the Casey's property that, if it were to be added to the open space provided on the lot in question, would equate to 20% open space total. Casey's is willing to entertain additional landscaping measures that will counterbalance a reduction to the open space requirement.

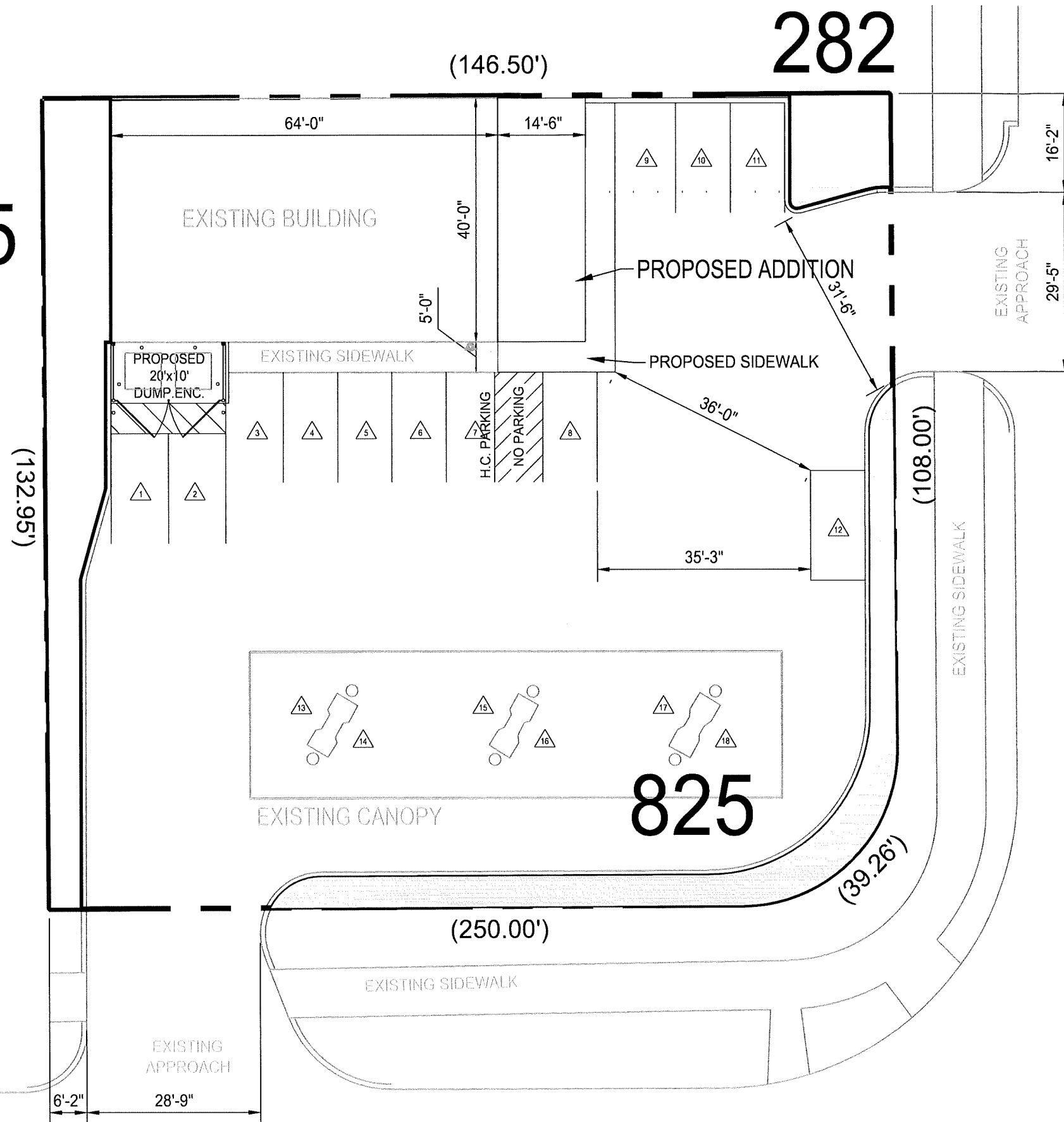
Thank you for your consideration. I look forward to presenting our case to the Board of Adjustment at the October 3rd meeting.

AW

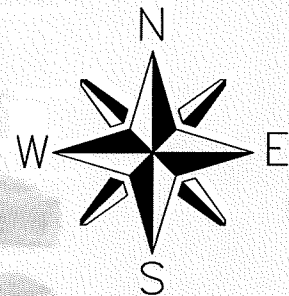
Encl.



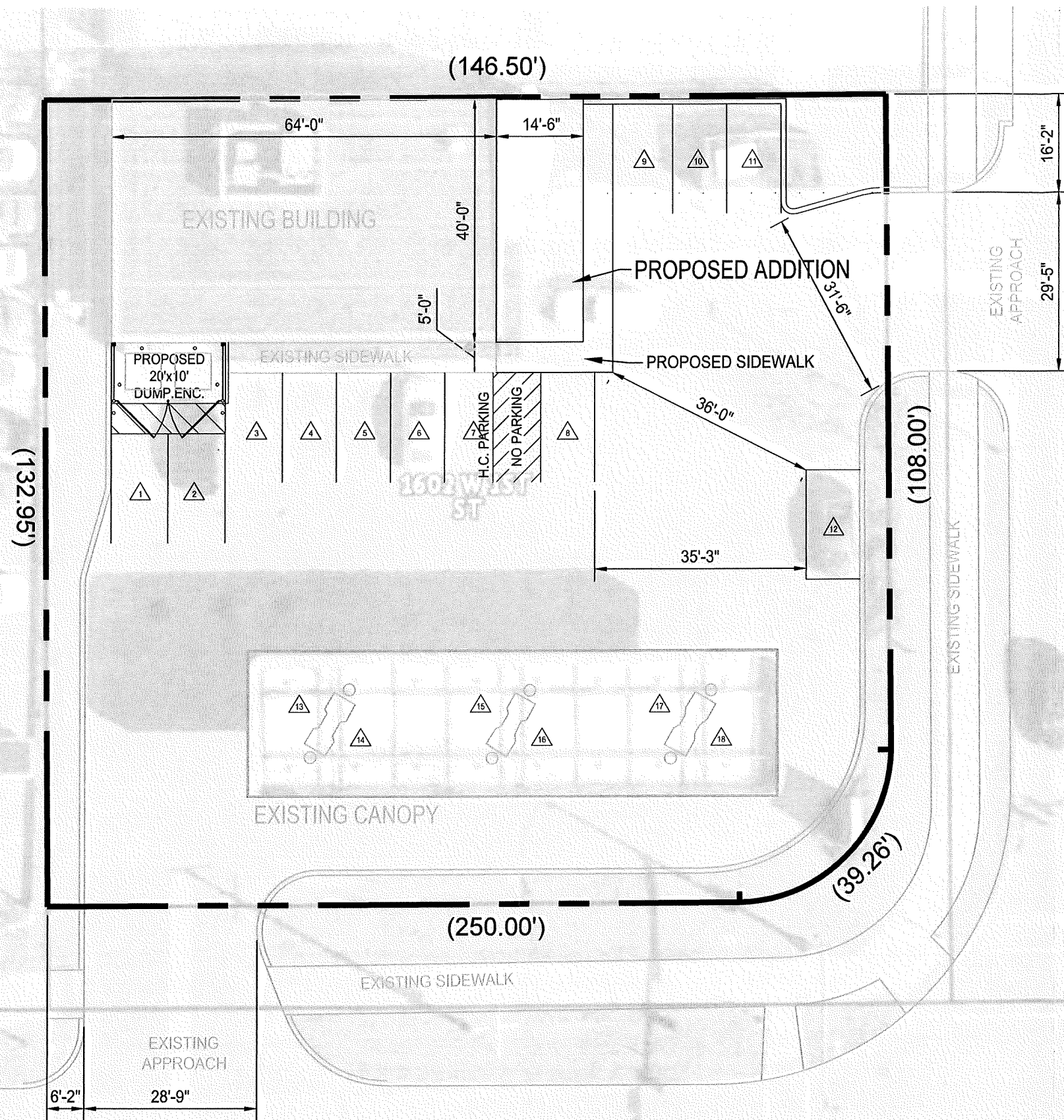
SCALE: 1" = 20'
STORE #2785 - ANKENY, IA #9
ADDITION AND REMODEL
3 PUMPS IN-A-ROW H.I.
DRAWN BY: KM
09-13-23, 09-14-23
TOTAL SQ. FT. OF PAVING = 720
TOTAL SQ. FT. OF PROPERTY = 18,504



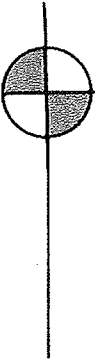
SW STATE ST



SCALE: 1" = 20'
STORE #2785 - ANKENY, IA #9
ADDITION AND REMODEL
3 PUMPS IN-A-ROW H.I.
DRAWN BY: KM
09-13-23, 09-14-23
TOTAL SQ. FT. OF PAVING = 720
TOTAL SQ. FT. OF PROPERTY = 18,504



Northwest State Street
SW STATE ST



Bishop Engineering Company, Inc.



3501 • 104th Street • Des Moines, Iowa 50322-3825
(515) 276-0467 • FAX (515) 276-0217

April 15, 1999

Board Of Adjustments
City of Ankeny
410 W. First Street
Ankeny, Iowa 50021

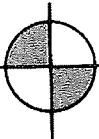
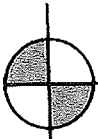
Re: Handimart @ 1602 W. First Street

Dear Commissioners:

We have submitted a proposed site plan for a Handimart Convenience store located on the Northwest corner of W. First Street and N. W. State Street. There was an old gas station that was previously on this site which has been removed. Since the original site was never platted before we have submitted and received approval on platting this ground into a one lot plat. During that platting process the City of Ankeny indicated that they would require dedication of additional right of way on both streets. We had to give up 17.0 feet off of W. First Street and 10.0 feet on N. W. State Street. This therefore took a site that originally 150 feet by 150 feet and reduced it to 133 feet by 140 feet. When you further complicate this site with 35.0 foot front yard building setback and 40 foot rear yard setback you virtually have no building area left. We are proposing the construction of a 2,620 s.f. convenience store with 3 pump islands and a 24.67' by 87.0' canopy. The enclosed site plan shows how we would like this site to layout. With the small size of the remaining lot we are requesting a 30 foot variance from the required 40 rear yard setback. The site plan shows that the building will be 10.39 feet East of the West property line. The west property line by definition is considered the rear lot and therefore requires a 40 foot setback. If this was a side yard no setback would be required. There is an existing strip center and parking lot to the West of this site and an apartment building to the north. All surrounding properties are zoned C-1 the same as this site. We are also requesting that we be allowed to install the gas island canopy within the 35.0' front yard building setback area. The canopy is proposed to be 17.0 foot north of the south property line and 24.0 feet west of the East property line.

With the development of this site we are closing the 2 existing drives nearest the intersection and moving the proposed drives as far as we can from the intersection. In doing this this help eliminate the traffic congestion trying to enter and exist from the site. We feel this is a far better situation than was previously existing on the old gas station. The new facility will be a quality building and aesthetically pleasing for the neighborhood. We feel this will be a great addition for the area and help dress up this major intersection in Ankeny. In addition to the two request mentioned above we also need a small variance from the required 20% open space requirement for this site. Again, because of the small size of this site and the need to have good traffic circulation within the site we are unable to meet this requirement. We are required to have 3,698 s.f of open space and we are only able to provide 2,977 s.f. (16%). We are 721 s.f. shy of the required 20% figure. We

Civil Engineers & Surveyors of Land
Established 1959



Bishop Engineering Company, Inc.

3501 • 104th Street • Des Moines, Iowa 50322-3825
(515) 276-0467 • FAX (515) 276-0217

page 2

can not get any more open space without losing parking spaces . We are proving a 5 foot green space are between the drive and the street frontages. We are installing shrubs within this area to help screen the headlights from the site. We feel that we have made every effort possible to make this a workable site for both the owner and the City of Ankeny.

We would appreciate you review and approval of these requests so this development can move ahead at your earliest meeting schedule.

If you have any questions please feel free to give me a call.

Respectfully Submitted,



Charles J. Bishop, P.E.

Civil Engineers & Surveyors of Land
Established 1959

ITEM # 99-09
RECEIPT # _____

**APPLICATION FOR APPEAL
TO THE
ZONING BOARD OF ADJUSTMENT**

Appellant BISHOP ENGINEERING COMPANY, INC.
Address 3501 104TH ST. Phone: 276-0467
Owner(if different from appellant) IOWA STORES, LLC.
Address (if different from appellant's) _____
Lessee (if different from appellant) _____
Address (if different from appellant's) _____

To the Chairman of the Board of Adjustment:

I hereby appeal from the decision of the Zoning Administrator rendered on / /
The premises affected is located at: 1602 W 1st Street
Legal Description LOT 1 HANDIMART PLAT No 1.
Zoning C-1 Principal Use CONVENIENCE STORE

I request a variation from the current zoning requirement for:

Front Yard _____, Side Yard _____, Rear Yard 30', Fence _____, Sign _____, Plantings _____,
Screening _____, Open Space X, Parking Spaces _____, Paved Parking _____, Other _____
CANOPY WITHIN BUILDING SETBACK
specifically listed in Ankeny City Code Section # _____
which state(s) _____

I would propose the following in lieu of that required:

NOTICE - This appeal must be accompanied by an accurate site drawing and a written description of the request. The drawing and a written notice explaining your request will be sent to the surrounding property owners. Show your proposal and indicate the existing code requirement. Your plan should show property lines, buildings, plantings, fences, signs, and any other information important to the Board's decision. A photo is helpful but not required.

A \$25.00 filing fee is required to compensate for publication and mailed notices. The Board will meet on the Tuesday following the publication notice in the "Des Moines Register". The appellant or a representative is required to be at the hearing to present the request to the Board. At the hearing, the Board will consider your request and all related information and make a decision on your appeal.

Attached hereto and made a part of this appeal, I submit the following:

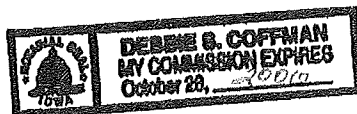
- a) A statement indicating the reasons for my appeal.
- b) A drawing showing proposed variance requested.
- c) A letter of authorization from the owner or lessee, if applicable.

AFFIDAVIT

I hereby deposit and say that all of the above statements and the statements contained in the papers submitted herewith are true.

Sworn to before me, this 19 day
of April, 19 99.

Debbie S. Coffman
Notary Public



Chuck B. Ross
(Applicant sign here)

APR 21 1999

BOARD OF ADJUSTMENT

May 4, 1999 - 5:00 P.M.

Council Chambers

410 W. First Street

The May 4, 1999, meeting of the Zoning Board of Adjustment was called to order at 5:00 pm by Chair D.Weiss.
Members present: L.Crall, B.Kelly, D.King, J.Lundstrom, D.Weiss.

Motion by L.Crall to approve the minutes of the April 20, 1999 meeting. Second by J.Lundstrom. All voted aye.
Motion carried.

There was no correspondence.

Hearing #99-09 **Bishop Engineering Company, Inc.**
 1602 W. 1st Street
RE: Rear yard variance request
 Front yard variance request
 Open space variance request

Chuck Bishop, Bishop Engineering Company, Inc. 3501 - 104th Street, Des Moines stated he is representing Mr. David Nordstrom, Iowa Stores LLC, Inc. with their proposal to construct a 2,620 sf HandiMart convenience store on the northwest corner of W 1st Street and NW State Street. He stated the Phillips gas station previously at the location was demolished. He said that during the recently approved platting, the City indicated they were requiring a dedication of additional right of way (ROW) on both streets; 17' off of W. 1st Street and 10' off of NW State to provide space for future traffic turn lanes and this took a site that originally was 150' x 150' and reduced it to 133' x 140'. He stated the buildable area is further diminished with a 35' front yard building setback on two sides and 40' rear yard set back requirements. Mr.Bishop said the dedication of ROW also changed the rear yard designation; and the west property line by definition is now considered the rear lot and therefore requires the 40' setback. HandiMart is requesting three variances: 1) to construct a gas canopy inside of the 35' building setback line; 2) a 30' variance from the required 40' rear yard setback; and 3) waive the 20% open space requirement - accepting 18% open space.

Mr.Bishop stated the canopy was shortened from the drawing enclosed in the packets distributed to the Board by 3'. Also, the drawing used for the presentation shows the elimination of one parking space and the addition of a landscaped island. He stated the site will be landscaped to the 20% open space requirement.

D.Weiss questioned if the site complies with parking space requirements and how the proposed building compares in size with the previous building on that site. Mr. Bishop stated the site is in compliance with parking requirements. Amy Russell, city staff, stated the proposed building is similar in size to the former Phillips gas station.

B.Kelly asked if the guard rail on the north side and west sides of the lot will remain. Mr.Bishop stated the guard rail on the north side is not on the HandiMart property and he is not sure at this time of plans for the west side guard rail, he stated it may provide a safety feature between the theater parking and this site.

Staff Review: A.Russell, stated that upon demolition of the original gas station, the property owner was required to plat the parcel and receive site plan approval prior to the issuance of a building permit. She stated during the platting process, additional ROW was deeded to the City reducing the lot by 10' along the east property line and 17' along the south and reducing the buildable area to just under 4000 sf. She stated the first variance request is to reduce the rear yard setback from the 40' required in a C-1 zoning district to 10'. The north property lines backup to multi-family units and the west line to commercial units. The second variance involves the front yard setback requirement and on this corner lot, the front yard setback requirement applies to both street frontages. She stated the gas canopy encroaches 18' into the south setback and 15' into the east. In the past, canopy variances have been granted to Kum & Go and Casey's convenience stores for their canopies. The third request is a variance from the open space provision requirement; Code requires 20% of the lot area dedicated solely to open space. Staff recommends the Board approves the 10' rear yard variance, in this case the rear yard abuts commercially zoned property and the area most immediately impacted is a parking lot. The C-1 zoning district allows for a zero sideyard lot line and Staff does not feel that the reduction in the rear yard setback will have any more impact that the zero lot line to the north. Staff does not feel the front yard variance is an unusual request for gas stations and conveniences stores and the impact of this structure into the setback will not be any greater than the previous store located at this site, nor will it impact the

Board of Adjustment

May 4, 1999

Page 2

visibility at the intersection. Staff recommends Board approval of a 18' front yard variance at the south lot line and a 15' front yard variance at the east lot line. Staff also recommends Board approval to provide 18% open space. Due to the reduction in lot size due to the ROW dedication, it is difficult for the appellant to provide 20% open space.

L.Crall requested staff define open space. A.Russell stated that all multi-family, commercial and industrial site plans must dedicate 20% of the lot area solely to open space to be landscaped with 2 trees and 6 shrubs for every 3000 square feet.

Mr. Tavathia (Sam), 212 NW Cedarwood, property owner of the apartment complex located at 114 NW State Street expressed concerns with the zero lot line and the fact the building can be located on the property line. He expressed concern for the safety of pedestrian traffic and vandalism to his property and asked if a fence could be installed between the properties. D.Weiss advised Mr. Tavathia that the Board cannot require installation of a fence. Mr. Bishop offered to discuss the idea of a fence with the property owner. A.Russell reminded them that there are no screening requirements since both properties are C-1 zoning districts. B.Kelly stated the curb and gutter will help prevent bicycle traffic between the properties.

Motion by D.King to close the hearing and receive and file the documents. Second by J.Lundstrom. Roll call vote. All voted aye. Motion carried 5-0.

Motion by L.Crall to grant a 30' rear yard setback variance at 1602 W 1st Street. Second by J.Lundstrom. Roll call vote. All voted aye. Motion carried 5-0.

Motion by D.King to grant an 18' front yard setback variance at the south property line of 1602 W 1st Street and a 15' front yard variance at the east property line. Second by J.Lundstrom. Roll call vote. All voted aye. Motion carried 5-0.

Motion by L.Crall to approve an 18% open space request in lieu of the required 20% at 1602 W. 1st Street. Second by B.Kelly. Roll call vote. All voted aye. Motion carried 5-0.

Motion by B.Kelly to adjourn. Second by J.Lundstrom. All voted aye. Motion carried.

The meeting was adjourned at 5:43 pm.

Submitted by,

Trish Kuhn, Secretary, Board of Adjustment

PLANT LIST

REQ. SHADING = 2495 S.F. 20%
 PROV. SHADING = 2471 S.F. 20%
 $2495 \text{ REQ. SHADE} \div 706 = 3.54 \text{ TREES}$

3698 REQ. OPEN SPACE $\div$ 3000 = 1.23 UNITS

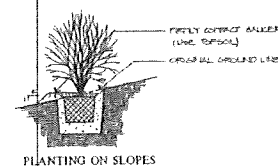
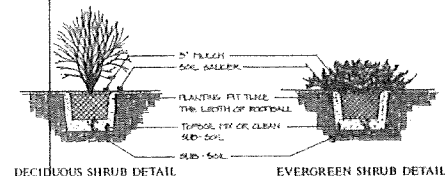
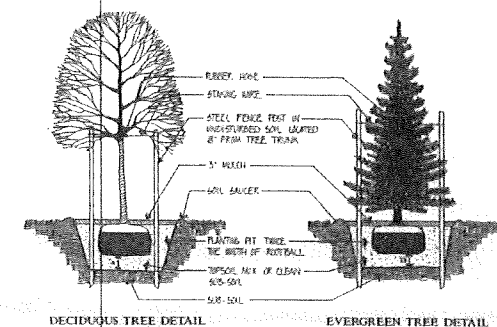
ZONED: R - 2

ZONED: R - 2
LOT 1

PREPARED FOR:
IOWA STORES, LLC
MR. DAVID NORDSTROM
P.O. BOX 66
CEDAR RAPIDS, IOWA 52406
319-365-7594

LANDSCAPE NOTES:

- 1 ALL SEEDING, SOODING AND LANDSCAPING SHALL BE IN
ACCORDANCE WITH THE URBAN STANDARD SPECIFICATIONS
UNLESS SPECIFIED OTHERWISE
- 2 500 ALL DISTURBED AREAS WITHIN CONTRACT LIMITS,
UNLESS NOTED OTHERWISE
- 3 STAKE 500 ON ALL SLOPES 1:1 OR GREATER
- 4 PLANT QUANTITIES ARE FOR CONTRACTORS CONVENIENCE.
THE DRAWING SHALL PREVAIL IF CONFLICT OCCURS
- 5 ALL PLANT MATERIAL SHALL CONFORM TO THE "AMERICAN
STANDARD FOR NURSERY STOCK" (ANSI Z60.1 - 1996)
- 6 CONTRACTOR SHALL GUARANTEE ALL PLANT MATERIAL FOR A
PERIOD OF ONE YEAR FROM DATE OF INSTALLATION
- 7 IT IS THE CONTRACTORS RESPONSIBILITY TO REMOVE
IDENTIFICATION TAGS AND CORDS ON ALL PLANT MATERIAL
PRIOR TO THE COMPLETION OF THE CONTRACT
- 8 CONTRACTOR SHALL PLACE SHREDDED BARK MULCH AROUND
ALL TREES, SHRUBS AND GROUND COVER BEDS TO A DEPTH OF
3 INCHES, UNLESS NOTED
- 9 STAKE AND WRAP ALL DECIDUOUS TREES IMMEDIATELY AFTER
PLANTING. STAKE ALL TREES ACCORDING TO THE STAKING
DETAIL. CONTRACTOR SHALL ADJUST AND MAINTAIN GUYING
TENSION THROUGHOUT THE PLANT ESTABLISHMENT PERIOD
- 10 THE LANDSCAPING CONTRACTOR SHALL HAVE ALL UTILITIES
LOCATED BEFORE STARTING ANY SITE WORK. OR PLANTING
THE CONTRACTOR IS RESPONSIBLE FOR THE PROTECTIONS OF
ALL EXISTING UTILITIES
- 11 NO LANDSCAPE MATERIAL SHALL BE SUBSTITUTED WITHOUT
THE AUTHORIZATION OF THE LANDSCAPE ARCHITECT.
- 12 ALL EDGING SHALL BE BLACK DIAMOND EDGING OR APPROVED
EQUAL, UNLESS SPECIFIED OTHERWISE



CERTIFICATION



I HEREBY CERTIFY THAT THESE PLANS AND SPECIFICATIONS WERE PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY REGISTERED LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF IOWA.

Philip R Jones
PHILIP R. JONES A.S.L.A.
1314 REG. NO. 300

4/19/99

MAY 28 1999

REFERENCE
DRAWING NO.

DATE PROJECT NO. DRAWING NO. DATE PROJECT NO. DRAWING NO.	DATE PROJECT NO. DRAWING NO. DATE PROJECT NO. DRAWING NO.
---	---

'99-
7-P

SHT 3 IF 3

BENCH MARK
ARROW ON THE FIRE HYDRANT AT THE NORTHWEST
CORNER OF KLINE & W. 1ST STREET.

ELEVATION = 996.18

3			
2			
1			
NUMBER	DESCRIPTION	DATE	BY

**SITE PLAN
HANDIMART
ANKENY, IOWA**

UTILITY SYMBOLS

WATER MAINS	_____ W _____
SANITARY SEWERS	_____ S _____
STORM SEWERS	_____ SS _____
TELEPHONE CABLES	_____ T _____
ELECTRICAL CABLES	_____ E _____
FENCE LINES	_____ H _____ H _____ H _____

I HEREBY CERTIFY THAT THIS ENGINEERING DOCUMENT WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF IOWA.
MY LICENSE RENEWAL DATE IS DECEMBER 31, _____.
PAGES COVERED BY THIS SEAL _____.

BY: _____
DATE: APRIL 13, 1999
SCALE: 1" = 20.0'
FOR: IOWA STORES, INC.

SIGNED _____
TELEPHONE 1-515-276-0467

Bishop Engineering Company
3501 104th Street
Des Moines, Iowa 50322





1 inch = 100 feet

Date: 9/21/2023

1602 W 1st Street
#23-17 - Variance - Open Space

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

To: Members of the Zoning Board of Adjustment
From: Jake Heil, Associate Planner
Filing #: 23-17 EJC
Meeting Date: October 3, 2023
Address: 1602 W 1st Street

APPELLANT REQUEST

A variance to Ankeny Municipal Code Section 191.15, that requires sites to have a minimum of 20 percent open space, allowing a minimum of 12 percent open space on the site located at 1602 W 1st Street.

STAFF POSITION

That the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 191.15, to allow a minimum of 12 percent open space at 1602 W 1st Street, subject to landscaping being provided which exceeds the minimum landscaping requirements of the zoning ordinance to be determined by staff.

The staff position is based on a determination that the decreased open space on this site 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 1602 W 1st Street, north of W 1st Street and west of NW State Street. The property is zoned C-1, Neighborhood Retail Commercial District and contains a 2,632 sf convenience store with 3 gas pumps. The property is approximately .424 acres (+/-) in size and is considered a corner lot with two front yards; one to the south adjacent to W 1st Street and the other to the east adjacent to NW State Street. The applicant is requesting a variance to allow for a minimum of 12 percent open space on the site. Per Code, sites are required to have a minimum of 20 percent open space.

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 subject property is located at 1602 W 1st Street and is legally described as Lot 1 Handimart Plat No. 1. The project site is approximately .424 acres (+/-) in size, and is zoned C-1, Neighborhood Retail Commercial District, sites to the north, west and south being similarly zoned, while the property to the east are zoned R-2, One-Family and Two-Family Residence District. Currently there is a 2,632 sf convenience store, with 3 gas pump islands and a total of 18 parking stalls on site.

On May 4, 1999, the Zoning Board of Adjustment granted a 30 foot rear yard setback variance, an 18 foot front yard setback variance at the south property line and a 15 foot variance at the east property line, and an 18 percent open space minimum for the site. The open space reduction was granted due to the hardship caused when the City of Ankeny acquired additional right of way for future turn lanes, 10 feet along NW State Street and 17 feet along W 1st Street. Causing an overall reduction of nearly 20 percent to the developable area of the lot.

Casey's Retail Company, has proposed a building addition, which would increase the current store by 320 sf to accommodate a kitchen to the site. The proposed addition would require the parking to be reconfigured on the already small site. With the proposed addition the site would require 20 parking stalls. The proposed site plan shows 18 parking stalls on the site, at the cost of some of the existing open space. Accompanying the site plan, was a request to the Community Development Director to approve a 10 percent parking reduction for the site, as allowed in Ankeny Municipal Code Section 194.01.1.E. The Community Development Director has stated he would approve the request to allow adequate access drive clearance on the site. Overall, the total site area is 18,475 sf, which would require 3,695 sf of open space at the 20 percent required by City code. Casey's has proposed 2,202 sf of open space on the site, which would be 12 percent open space, requiring the variance request.

Ankeny Municipal Code Section 191.15 states, "The total land area devoted to open space, exclusive of one-family and two-family lots, shall not be less than twenty percent of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped areas, interior or exterior malls, pedestrian walks, and ornamental structures, when part of the landscaping theme. Open space shall not include structures or buildings, off-street parking areas, loading areas and access drives. Trees and shrubbery shall be provided at a minimum of one landscape unit per 3,000 square feet of required open space with one landscape unit consisting of two trees and six shrubs or three trees and three shrubs. There shall be a minimum of one landscape unit per building lot. Landscape units are in addition to screen plantings."

Staff believes that the reduction of developable area on the site due to the City acquiring additional right of way has caused an exceptional narrowness/shallowness hardship for the site to provide the necessary 20 percent open space required by code. The open space on the site is further affected with the site meeting the minimum parking requirements. Additionally, there is approximately 1,700 sf greenspace currently located within the City's right of way and with the 2,202 sf of open space proposed on the site, the site would be able to meet the 20 percent open space required by code. Typically, in the past, the Board has required additional landscaping due to the reduction in open space, staff would recommend that the Board require additional landscaping with the open space variance.

Furthermore, similar variance requests have been approved by the Board in the past. In addition to the open space variance approved in 1999 for this site, the Board in 2012 approved an open space variance for minimum of 15 percent open space for 104 E 1st Street.

Staff notified all property owners within 250' of 1602 W 1st Street of this appeal by mail on September 22, 2023. To date, staff has not received any communication expressing concern or disapproval, nor endorsing the variance request.

The staff position is to grant a variance to Ankeny Municipal Code Section 191.15, to allow a minimum of 12 percent open space at 1602 W 1st Street, subject to landscaping being provided which exceeds the minimum landscaping requirements of the zoning ordinance to be determined by staff. Staff's position is based on a determination that the decreased open space requirement from the resulting building addition 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

October 3, 2023

5 : 00 PM



ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

ACTION REQUESTED:

LEGAL:

SUBJECT:

Renewed Special Use Permits

#08-23 Buffalo Wild Wings Grill & Bar, 1690 SE Delaware Avenue

#15-14 Benchwarmers Ankeny Inc., 705 S Ankeny Boulevard

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Click to download

 [Special Use Permit Renewal](#)



City of Ankeny
Outdoor Service Area Renewal Application

*Special Permit Resolution # 08-23

Originally issued October 7, 2008

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: Blazin Wings, Inc.
(Sole Proprietorship, Partnership, Corporation)

Name of Business (d/b/a): Buffalo Wild Wings Grill & Bar

Address of Premise: 1690 SE Delaware Avenue, Ankeny, Iowa 50021

- 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

Robert Q Jones, Jr.

Name of Applicant (printed)

9.20.2023

Date

ADMINISTRATIVELY
 **APPROVED**
9/21/23 EJC



City of Ankeny

Outdoor Service Area Renewal Application

***Special Permit Resolution # 15-14**

Originally approved May 19, 2015

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: Benchwarmers Ankeny LLC
(Sole Proprietorship, Partnership, Corporation)

Name of Business (d/b/a): Benchwarmers Ankeny Inc.

Address of Premise: 705 S. Ankeny Blvd.

- 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

Thomas Campbell

Name of Applicant (printed)

Date

ADMINISTRATIVELY

☒ **APPROVED**

9/19/23
9/21/23 EJC