



Meeting Agenda

Zoning Board of Adjustment

Wednesday, September 6, 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 August 22, 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.

#23-14

Dilpreet and Puja Singh

for property located at

1701 NE Lowell Court

LOT 20, BARCLAY PLAT 8

RE: Variance - Rear Yard Setback

#23-15

Prestige Fencing, LLC

for property located at

841 SE Wanda Drive

LOT 10, RICHLAND ESTS PLAT NO 9

RE: Variance - Front Yard Setback

F. OLD BUSINESS:

G. NEW BUSINESS

H. REPORTS

Renewed Special Use Permits

#19-10 Cancun Grill and Cantina 2, 2785 N Ankeny Blvd., Suites 11 & 12

I. ADJOURNMENT



ZONING BOARD OF ADJUSTMENT

September 6, 2023

5 : 00 PM



ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

ACTION REQUESTED:

Motion

LEGAL:

SUBJECT:

Minutes of the August 22, 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 2023-08-22](#)

Meeting Minutes
Zoning Board of Adjustment
Tuesday, August 22, 2023
Ankeny City Council Chambers
1250 SW District Drive, Second Floor, Ankeny, Iowa

CALL TO ORDER

Chair Matt Ott called the August 22, 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, and Brett Walker. Staff: E.Jensen, E.Carstens, R.Kirschman, D.Silverthorn, J.Heil, B.Morrissey, B.Fuglsang.

AMENDMENTS TO THE AGENDA

There were no amendments to the agenda.

MINUTES OF THE JULY 18, 2023 REGULAR MEETING

Motion by N.Sungren to approve the July 18, 2023 meeting minutes as submitted. Second by B.Walker. All voted aye. Motion carried 3 – 0 – 2 (Abstain: M.Ott and K.Tomlinson)

COMMUNICATIONS / CORRESPONDENCE

There were no communications.

BUSINESS ITEMS

PUBLIC HEARINGS:

#17-02 (2023)

Brandon Wheelock

Wheelock & Family, Inc.

dba Luddy's Tavern

for property located at

106 SW State Street, Ste. 100

Lot 1, Frontier Village Plat 1

RE: Special Use Permit

Chair M.Ott opened the public hearing.

The applicant, Brandon Wheelock, was not in attendance due to flight delays related to Hurricane Hilary in Los Angeles.

R.Kirschman reported Luddy's Tavern at 106 SW State Street, Suite 100 is requesting a Special Use Permit to allow an outdoor service area. He said the proximity of the outdoor service area to a residential zoning district is the condition, which requires the establishment to obtain a Special Use Permit. The existing outdoor service area is currently located on the east side of the building. He stated the subject property is zoned C-1, Neighborhood Retail Commercial District. The properties located directly to the east and west are zoned R-2, One-Family and Two-Family Residence District. R.Kirschman said that the space was previously owned by Crankie's Inc. dba Wheel House Pizzeria & Pub, and was approved for a Special Use Permit in 2017. The new owner is not proposing any changes to the patio except the hours of operation. He noted that the previous hours approved were 3:00 p.m. to 11:00 p.m. Monday – Thursday; 11:00 a.m. – 12:00 a.m. Friday – Saturday; 9:00 a.m. – 11:00 p.m. Sunday. He stated the applicant is proposing to align the outdoor service hours with their hours of operation, which is 10:00 a.m. - 12:00 a.m. Monday – Sunday. Public Notices were mailed and staff has not received any correspondence for or against the request. The staff position is that the Zoning Board of Adjustment grant a Special Use Permit in accordance with Sections 130.07 and 196.02(1)(I) to Brandon J. Wheelock, Wheelock & Family, Inc., dba Luddy's Tavern at 106 SW State Street, Suite 100 for an outdoor service area to run concurrently and terminate with the liquor license for said establishment provided the following conditions are met:

1. The permittee must comply with, and noise enforcement will be in accordance with, Municipal Code Chapter 44, Noise Control. If a Noise Permit is issued in accordance with Chapter 44, hours of operation for the event shall be consistent with the hours set out in this Special Permit and those hours shall be specifically set out in the Noise Permit.
2. All appropriate building permits and building code regulations need to be reviewed and met.
3. Seating on the patio for 29 persons.
4. Hours of operation are 10:00 a.m. - 12:00 a.m. Monday – Sunday.
5. This Special Use Permit may be reviewed annually by staff for approval.

K.Tomlinson asked whether the Board has approved other establishments with patio hours that operate until midnight Monday – Thursday, that are not in an entertainment district? E.Jensen responded yes. He commented that he would find the names/hours of other establishments and forward them to the Board.

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 5 – 0.

The Board's discussion included the extension is one hour on weekdays, closest residential is to the west, no concerns raised by residents who were notified, Luddy's will need to comply with the noise ordinance, and if there are complaints, it would come back to the Board for further review.

Board Action on Filing #17-02 (2023) property located at 106 SW State Street, Ste. 100

Motion by J.Baxter that the Zoning Board of Adjustment grant a Special Use Permit in accordance with Sections 130.07 and 196.02(1)(l) to Brandon J. Wheelock, Wheelock & Family, Inc., dba Luddy's Tavern at 106 SW State Street, Suite 100 for an outdoor service area to run concurrently and terminate with the liquor license for said establishment provided the following conditions are met:

1. The permittee must comply with, and noise enforcement will be in accordance with, Municipal Code Chapter 44, Noise Control. If a Noise Permit is issued in accordance with Chapter 44, hours of operation for the event shall be consistent with the hours set out in this Special Permit and those hours shall be specifically set out in the Noise Permit.
2. All appropriate building permits and building code regulations need to be reviewed and met.
3. Seating on the patio for 29 persons.
4. Hours of operation are 10:00 a.m. - 12:00 a.m. Monday – Sunday.
5. This Special Use Permit may be reviewed annually by staff for approval.

Second by N.Sungren. All voted aye. Motion carried 5 – 0.

NEW BUSINESS

There was no new business.

REPORTS

Renewed Special Use Permits

#16-02 Filet Steakhouse, LLC, 1802 N Ankeny Blvd., Suite 100

There being no further business, meeting adjourned at 5:10 p.m.



Submitted by Brenda Fuglsang, Board Secretary
Zoning Board of Adjustment



ZONING BOARD OF ADJUSTMENT

September 6, 2023

5 : 00 PM

 [Print](#)

ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

Ensure Economic Vitality

ACTION REQUESTED:

Public Hearing

LEGAL:

SUBJECT:

#23-14

Dilpreet and Puja Singh

for property located at

1701 NE Lowell Court

LOT 20, BARCLAY PLAT 8

RE: Variance - Rear Yard Setback

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

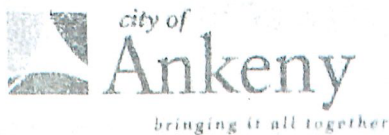
PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

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 Applicant Submittal
 Staff Report



APPLICATION FOR APPEAL ZONING BOARD OF ADJUSTMENT

#23-14

Applicant is: ☒ Property Owner ☐ Tenant ☐ Other _____

Applicant Dilpreet & Puja Singh

Address / Phone # 1701 NE Lowell CT Ankeny IA 50021 /

E-mail mr.dilsingh@gmail.com

Property Owner Dilpreet & Puja Singh

Address / Phone # 1701 NE Lowell CT Ankeny IA 50021 /

E-mail mr.dilsingh@gmail.com

(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 12 day of June, 2023

Location (address) of the proposed variance 1701 NE Lowell CT Ankeny IA 50021

Legal description (Plat & Lot #) LT 20 BARCLAY PLAT 8

Zoning R-1 Principal Use of property Residential | owner occupied

I request a variation from the current zoning requirement for:

☐ Front Yard ☐ Side Yard ☒ Rear Yard ☐ Fence ☐ Sign ☐ Parking ☐ Height
☐ Other _____

Ankeny Zoning code Section # 192.03(3)(E) which state(s) iowa

Rear Yard: 35 feet

I would propose the following in lieu of that required: we would like to build a gazebo (just a roof to cover our deck)
in our backyard to cover our deck and an extra 1-2'. This would put just at around 20-25' rear yard instead of 35'.

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

- A statement indicating the reasons for my appeal.
- A drawing showing proposed variance requested.
- 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.

PM Singh

(Signature of Applicant)



Signed and sworn to before me, this

26th day of June, 2023

[Signature]

(Notary Public)

RECEIVED

AUG 18 2023

Date received

Paid ☐ Cash

☒ Check # 1298 \$ 130.00

Office Use Only

CITY OF ANKENY

#23-14

Scheduled Meeting Date

9-6-2023

Brenda Fuglsang

Subject: 1701 - Request for Rear Yard Variance - Covered Deck Installation

From: Dil Singh <mr.dilsingh@gmail.com>

Sent: Friday, August 18, 2023 2:11 PM

To: Brenda Fuglsang <BFuglsang@AnkenyIowa.gov>; Ryan Kirschman <RKirschman@AnkenyIowa.gov>

Cc: A 🌸 My Boogers 🙌❤️❤️❤️❤️🙌😄 <PujaModhaSingh@gmail.com>

Subject: [External] 1701 - Request for Rear Yard Variance - Covered Deck Installation

Dear Board Members,

We kindly request a rear yard variance for the installation of a covered deck aimed at providing weather protection. The proposed extension would span 12 feet 2 inches. Your thoughtful consideration of this matter is greatly appreciated.

Our property is situated adjacent to Delaware Avenue, with no residences positioned behind ours. The existing trees we have planted and nurtured effectively shield views to and from the traffic. This endeavor will further enhance our property's functionality and aesthetic. Thank you for your time and consideration.

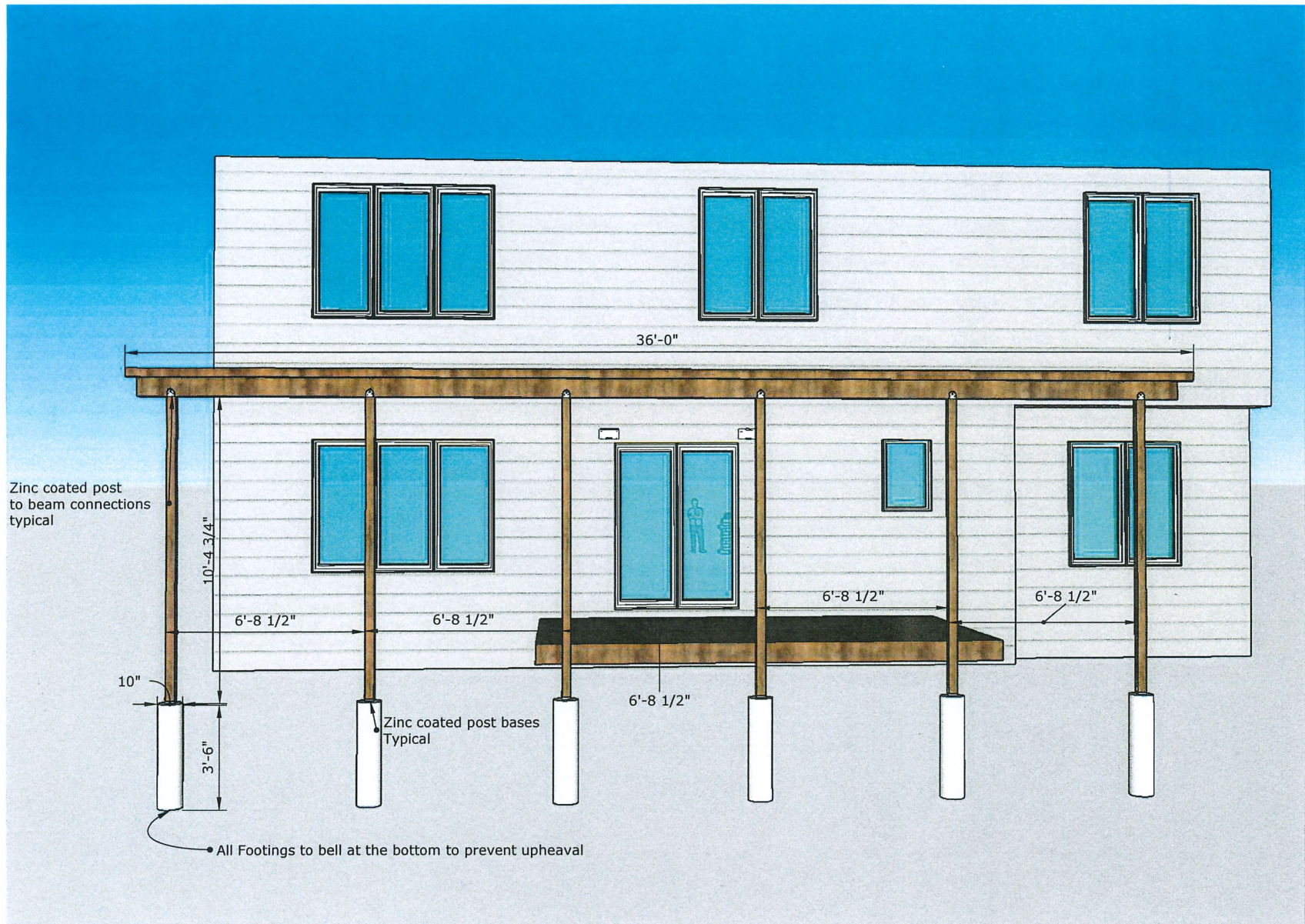
We have submitted the required paperwork and a check for processing today.

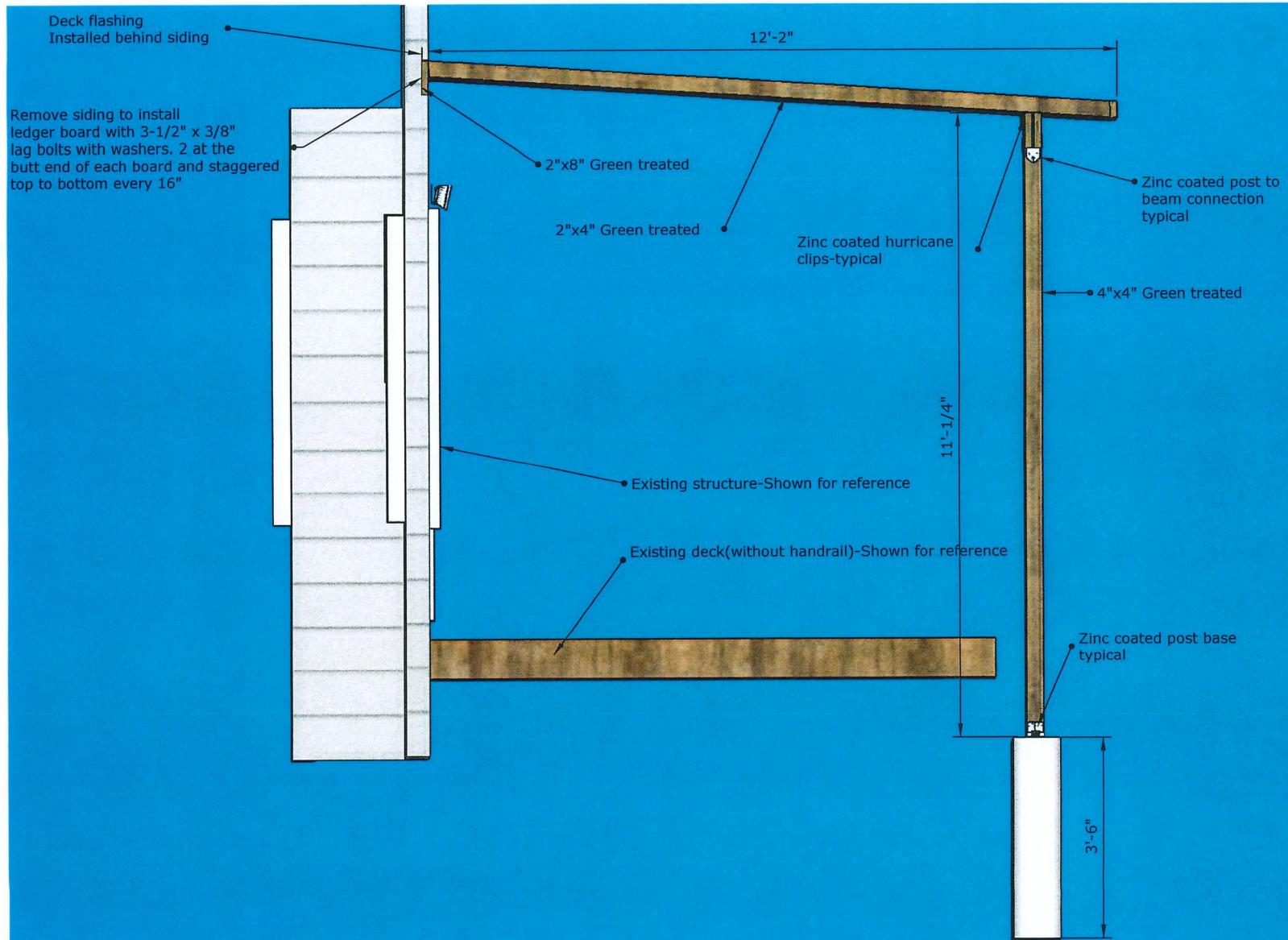
Thank you for your time and consideration.

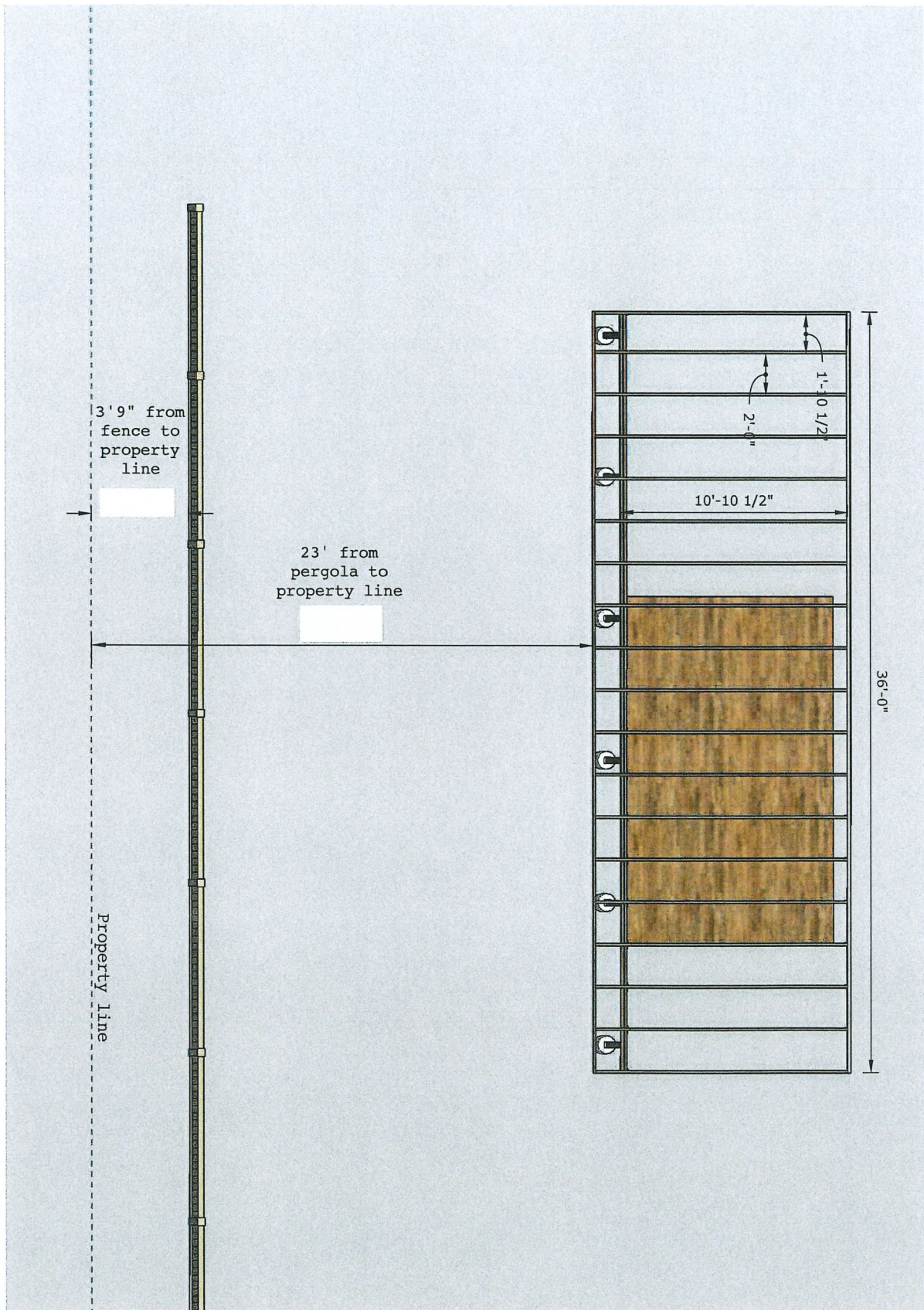
Best regards,

Dil and Puja
(515) 635-5345

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.









N



1 inch = 114 feet

Date: 8/21/2023

**1701 NE Lowell Court
Rear-Yard Setback Variance
Aerial Map**

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

To: Members of the Zoning Board of Adjustment
From: Ryan Kirschman, Planner *Esc*
Filing #: 23-14
Meeting Date: September 6, 2023
Address: 1701 NE Lowell Court

APPELLANT REQUEST

A variance to Ankeny Municipal Code Section 192.03(3)(E) that requires Rear Yard: 35-feet, allowing a 22-foot rear yard setback for a covered deck at 1701 NE Lowell Court.

STAFF POSITION

Staff recommends the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 192.03(3)(E) to allow a 22-foot rear yard setback for the construction of a covered deck at 1701 NE Lowell Court.

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.

PROJECT SUMMARY

The subject property is located at 1701 NE Lowell Court, south of NE 18th Street and west of NE Delaware Avenue within the northeastern quadrant of Ankeny. The subject property is zoned R-1, One Family Residence District and is situated on Lot 20 Barclay Plat 8.

The applicant is requesting a variance to encroach approximately 13-feet into the 35-foot rear yard setback that will allow the owners to convert their deck into a covered deck. The deck is already constructed. Should the variance for the covered deck be approved, a 22-foot rear yard setback will be the resulting setback on the east side of the property.

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 subject property is located at 1701 NE Lowell Court, south of NE 18th Street and west of NE Delaware Avenue within the northeastern quadrant of Ankeny. The subject property is zoned R-1, One Family Residence District and contains a single-family home with an attached deck on the east side of the .299-acre lot. Neighboring properties to the north, south and west are zoned R-1, One-Family Residence District, containing single family residences on similarly sized lots. Properties to the east are zoned R-3A, Planned Multiple-Family Residence District, containing attached homes. Permit records show the house was constructed in 1999. Per Ankeny Municipal Code Section 196.03(2)(B) unenclosed decks are allowed to extend up to twelve feet into the rear yard setbacks, while covered decks are not permitted in rear yard setbacks.

As indicated by the applicant on their submitted site plan, at its furthest point the proposed covered deck extends approximately 13' into the rear yard setback leaving approximately 22' between the deck and the rear property line. Staff is not concerned with the covered deck extending into the rear-yard setback as the property backs to a tree line that screens the property from NE Delaware Avenue. Additionally, the covered deck should not have any measurable impact on surrounding residences.

Furthermore, similar variance requests have been approved by the Zoning Board of Adjustment in the past. The most recent being in June of 2023, which allowed a covered deck to extend 6-feet into the rear yard setback. As is standard procedure for these kinds of requests, all property owners within 250' of the subject property were notified of the proposed variance by mail, and to date, staff has not received any correspondence either for or against the variance.

The staff position is to grant a variance to Ankeny Municipal Code Section 192.03(3)(E) to allow a 22-foot rear yard setback for the construction of a covered deck at 1701 NE Lowell Court. 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.

192.03(3)(E) Size and Area Regulations.

C. Rear Yard: 35 feet

196.03(2)(B) Yard Setback Exceptions

(2) Rear Yard. Unenclosed, above and below, decks which project not more than 12-feet into the required rear yard.



ZONING BOARD OF ADJUSTMENT

September 6, 2023

5 : 00 PM

 [Print](#)

ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

Ensure Economic Vitality

ACTION REQUESTED:

Public Hearing

LEGAL:

SUBJECT:

#23-15

Prestige Fencing, LLC

for property located at

841 SE Wanda Drive

LOT 10, RICHLAND ESTS PLAT NO 9

RE: Variance - Front Yard Setback

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

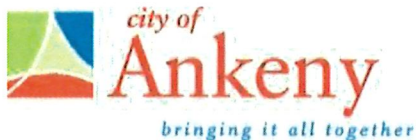
PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Click to download
 Applicant Submittal
 Staff Report



APPLICATION FOR APPEAL
ZONING BOARD OF ADJUSTMENT

#23-15

Applicant is: ☐ Property Owner ☐ Tenant ☐ Other _____

Applicant Dylan Courtney

Address / Phone # _____

E-mail prestigerenciniowa@gmail.com

Property Owner Asnley Swanson

Address / Phone # 841 SE Wanda DR

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 3rd day of August, 2023

Location (address) of the proposed variance 841 SE Wanda DR

Legal description (Plat & Lot #) _____

Zoning _____ Principal Use of property Single Family Home

I request a variation from the current zoning requirement for:

☐ Front Yard ☐ Side Yard ☐ Rear Yard ☒ Fence ☐ Sign ☐ Parking ☐ Height
☐ Other _____

Ankeny Zoning Code Section # _____ which state(s) 6' Fence Having to be 30'

OTT OT THE SIDEWALK.

I would propose the following in lieu of that required: 15' OTT OT SIDEWALK.

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.

Dylan Courtney

Print Name (Signature of Applicant)

Ashley Swanson

Print Name (Signature of Property Owner)

Signed and sworn to before me, this

17th day of August, 2023.

Brenda Fuglsang
(Notary Public)

--Notary seal--

Office Use Only
Paid ☐ CC ☒ Cash Check # <u>0120</u> \$ <u>130.00</u>
Date received <u>9-6-2023</u>
Scheduled Meeting Date <u>AUG 17 2023</u>
Filing # <u>23-15</u>



CITY OF ANKENY

To: City of Ankeny Board

From: Ashley Swanson

841 SE Wanda Drive

Ankeny, IA 50021

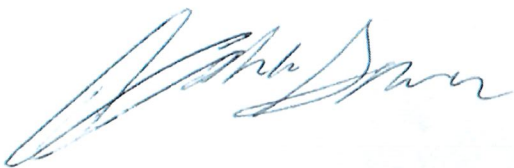
August 11, 2023

Dear Ankeny Board Members,

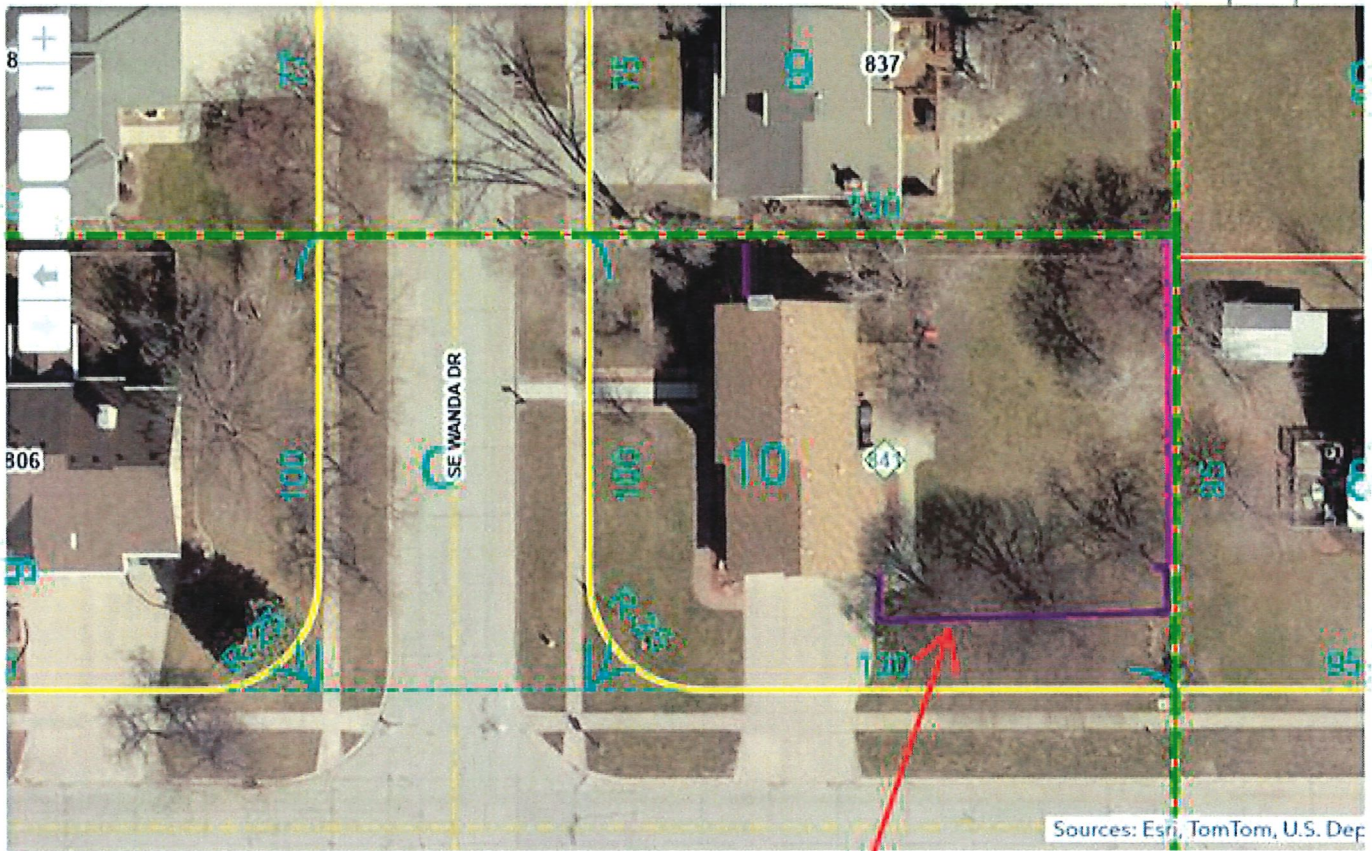
I am writing this letter to state that I allow Dylan Courtney, Owner of Prestige Fence, to submit the application and provide the necessary information regarding our request for a variation from the current fence zoning requirement.

We greatly appreciate your consideration and taking the time to review our application.

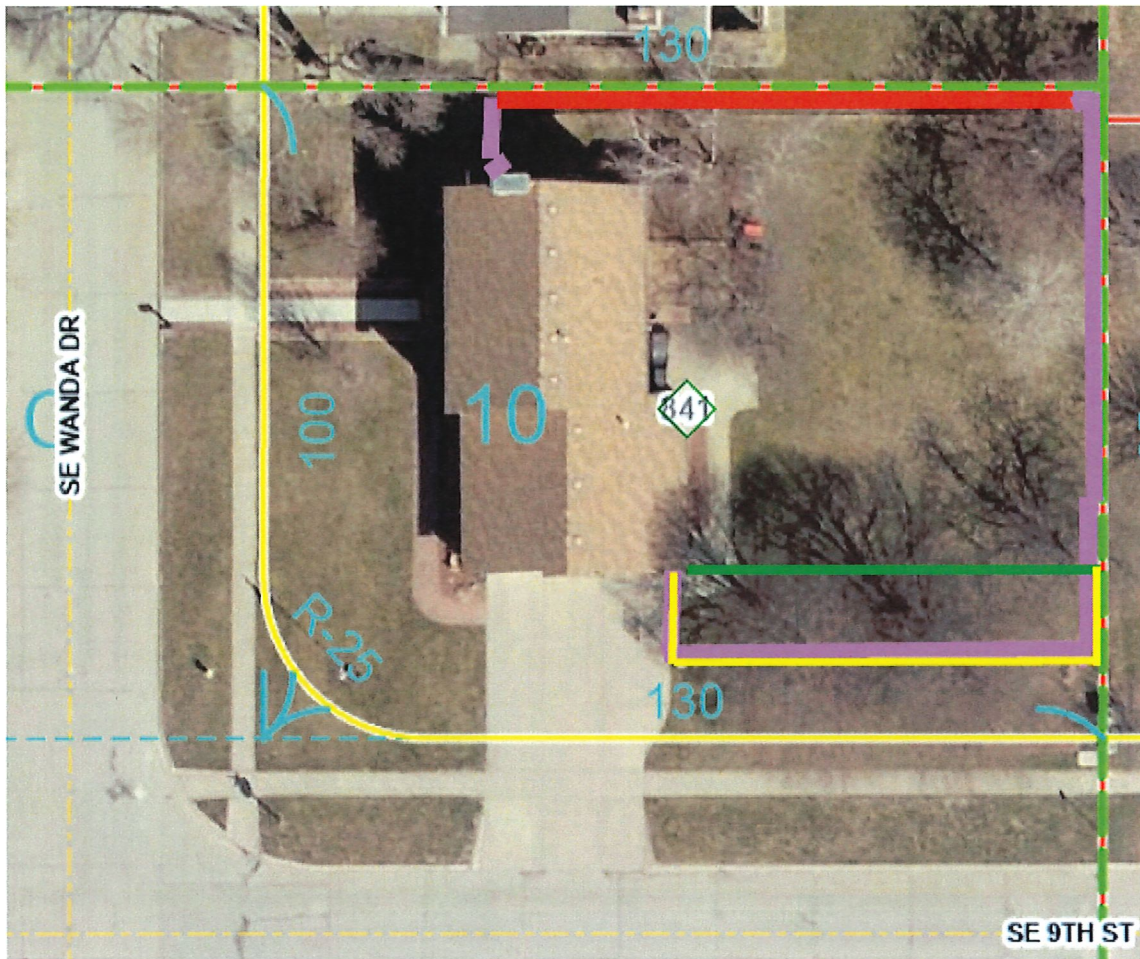
Thank you,

A handwritten signature in dark ink, appearing to read 'Ashley Swanson', written in a cursive style.

Ashley Swanson



Dark purple line adjacent to SE 9th St will be 42" tall wooden fence.





N



1 inch = 125 feet

Date: 8/22/2023

Zoning Board of Adjustment #23-15

841 SE Wanda Drive

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

To: Members of the Zoning Board of Adjustment
From: Bryan Morrissey, Associate Planner
Filing #: 23-15 *ETC*
Meeting Date: September 6, 2023
Address: 841 SE Wanda Drive

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 privacy fence to be constructed within the required 30-foot front yard setback along the south property line at 841 SE Wanda Drive.

STAFF POSITION

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 15 feet into the 30-foot front yard setback along the south property line adjacent to SE 9th Street at 841 SE Wanda Drive, subject to additional landscaping between the fence and SE 9th 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 841 SE Wanda Drive, north of SE Magazine Road and east of SE Delaware Avenue. The property is zoned R-2, One-Family and Two-Family Residence District and contains a single-family house on the lot. The property is approximately .298 acres (+/-) in size and is considered a corner lot with two front yards; one to the south adjacent to SE 9th Street and the other to the west adjacent to SE Wanda Drive. The applicant is requesting a variance to allow for a 6-foot tall privacy fence to be installed approximately 15 feet into the 30-foot front yard setback adjacent to the southern property line. 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.

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 of the subject property is 841 SE Wanda Drive and is legally described as Lot 10 Richland Ests NO 9. The property is situated on a corner lot, which subjects the site to two front yards; one along the south property line adjacent to SE 9th Street and the other along the west property line adjacent to SE Wanda Drive. The project site is approximately .298 acres (+/-) in size, is zoned R-2, One-Family and Two-Family Residence District, and is surrounded by properties in all directions that are zoned R-2 as well.

In July 2023, Prestige Fence, on behalf of the property owners, applied for a 6-foot tall privacy fence that would be located adjacent to the north, east, and south property lines on the site. During the review process, City staff informed the applicant that the portion of the fence adjacent to the south property line would not be permitted, as the yard adjacent to SE 9th Street is considered a front yard, and fences over 42 inches in height in front yards on corner lots need to conform to building setback requirements. As indicated on the contractor's application, the proposed fence would be setback approximately 15 feet from the southern property line. Staff notified the applicant that a variance would be needed for the portion of the fence adjacent to the SE 9th Street, as it does not conform to the setback requirements of the Code; however, staff permitted the other sections of the fence along the north and east property lines since those sections of the fence do meet Code requirements.



Area where the potential fence will be located along the south property line

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."

As mentioned previously, the required front yard setback for properties in the R-2, One-Family and Two-Family Residence District is 30 feet. Because the property is considered a corner lot, the front yard setback requirements apply to the frontages along SE 9th Street and SE Wanda Drive. The maximum height for installing a privacy fence along one of these frontages without conforming to the front yard setback requirements is 42 inches. Since the proposed privacy fence is six feet (72 inches) in height, it must either conform to the 30-foot setback requirement for the frontage along SE 9th Street or the applicant will need to obtain a variance.

Staff does not believe the proposed fence poses any safety concerns to the public, as the fence is not anticipated to inhibit visibility at the intersection of SE 9th Street and SE Wanda Drive. More specifically, the fence would not obstruct the required 30-foot vision clearance triangle at that specific intersection. Additionally, the two other sections of the fence adjacent to the north and east property lines do meet Code requirements and have been permitted by staff. Two mature trees exist near the location of the proposed fence near the southern property line (see aerial map), however, the contractor has indicated that those trees will remain on the inside of the fenced-in area just north of where the proposed fence will be located. Typically, in the past, the Board has required additional landscaping between the fence and the right-of-way as a condition of approval, however, the Board may want to take into account the two existing trees in the area if additional landscaping were to be a required.



View of the potential fence location traveling west on SE 9th Street

Furthermore, similar variance requests have been approved by the Board in the past. The most recent being on July 18, 2023, which allowed a 6-foot privacy fence to encroach approximately 23 feet into the front yard setback at 3410 NW Applewood Street.

The staff position is to grant a variance to Ankeny Municipal Code Section 191.14(2), to allow a 6-foot tall privacy fence to encroach approximately 15 feet into the 30-foot front yard setback along the south property line adjacent to SE 9th Street at 841 SE Wanda Drive, subject to additional landscaping between the fence and SE 9th 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

September 6, 2023

5 : 00 PM



ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

ACTION REQUESTED:

LEGAL:

SUBJECT:

Renewed Special Use Permits

#19-10 Cancun Grill and Cantina 2, 2785 N Ankeny Blvd., Suites 11 & 12

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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 [Special Use Permit Renewal](#)



City of Ankeny

Outdoor Service Area Renewal Application

*Special Permit Resolution # 19-10

Passed September 4, 2019

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: Cancun Grill and Cantina 2 Inc.
(Sole Proprietorship, Partnership, Corporation)

Name of Business (d/b/a): Cancun Grill and Cantina 2

Address of Premise: 2785 N Ankeny Boulevard, Suites 11 & 12

- 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.

Candelario C Leon
Signature
CANDELARIO CEDILLO LEON
Name of Applicant (printed)

8/14/2023

Date

ADMINISTRATIVELY
☒ **APPROVED**

8/17/23 EJC