



Meeting Agenda

Zoning Board of Adjustment

Tuesday, August 22, 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 July 18, 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.

#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

F. OLD BUSINESS:

G. NEW BUSINESS

H. REPORTS

Renewed Special Use Permits
#16-02 Filet Steakhouse LLC, 1802 N Ankeny Blvd., Suite 100

I. ADJOURNMENT



ZONING BOARD OF ADJUSTMENT

August 22, 2023

5 : 00 PM



ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

ACTION REQUESTED:

Motion

LEGAL:

SUBJECT:

Minutes of the July 18, 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 2023-07-18](#)

Meeting Minutes
Zoning Board of Adjustment
Tuesday, July 18, 2023
Ankeny City Council Chambers
1250 SW District Drive, Second Floor, Ankeny, Iowa

CALL TO ORDER

Vice Chair Jeff Baxter called the July 18, 2023 regular meeting of the Zoning Board of Adjustment to order at 5:00 p.m.

ROLL CALL

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

AMENDMENTS TO THE AGENDA

There were no amendments to the agenda.

MINUTES OF THE JUNE 20, 2023 REGULAR MEETING

Motion by B.Walker to approve the June 20, 2023 meeting minutes as submitted. Second by N.Sungren. All voted aye. Motion carried 3 – 0.

COMMUNICATIONS / CORRESPONDENCE

There were no communications.

BUSINESS ITEMS

PUBLIC HEARINGS:

#23-13

Great Barrier Fence Co.

on behalf of

Winsome Hays

for property located at

3410 SW Applewood Street

Lot 1, Diamond Hills Plat 2

RE: Variance - Front Yard Setback

Vice Chair J.Baxter opened the public hearing.

Winsome Hays, 3410 SW Applewood Street, said that their variance request is to construct a 6-foot wooden privacy fence. She said they would like to get a swimming pool and the privacy fence would make it safe for their family. Winsome Hays stated that they have a lot of people walk past their home since they live on a corner lot. She commented that they love their location, they just would like a little more privacy in their backyard. She said that the Great Barrier Fence Company is the contractor.

There were no questions from the Board.

L.Hutzell reported that the applicant is requesting a variance for a 6-foot tall privacy fence located at 3410 SW Applewood Street. The property is located east of SW State Street and south of SW Polk City Drive. It is a corner lot approximately .241-acres in size and contains a single-family home. She stated the property is zoned PUD, along with the surrounding properties. L.Hutzell said the property is subject to two front yards since it is a corner lot. The front yard setback on both SW 35th Street and SW Applewood Street is 25-feet. She stated the applicant has requested a variance to Ankeny Municipal Code Section 191.14(2), to install a 6-foot, wood, privacy fence to replace the existing 4-foot chain-link fence for the purpose of installing a pool in the backyard and for privacy. The proposed fence would be installed approximately 23-feet into the 25-foot front yard setback along the south property line adjacent to SW 35th Street. The applicant has indicated that they intend to keep the street trees along SW 35th Street intact if the fence is approved. Staff do not believe that the privacy fence poses any safety concerns for the public. The proposed fence is not anticipated to inhibit visibility on the corner of SW Applewood Street and SW 35th Street. More specifically, the fence would not obstruct the required 30-foot vision clearance triangle on that specific corner. Notices were sent to all residents within 250 feet from the

property and to date, there has not been any correspondence received for or against the request. The staff position is to grant a variance to Ankeny Municipal Code Section 191.14(2), allowing a 6-foot tall privacy fence to encroach approximately 23 feet into the 25-foot front yard setback along the south property line adjacent to SW 35th Street at 3410 SW Applewood Street, subject to the property owner agreeing to keep the existing trees along SW 35th 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, inhibit visibility, 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 J.Baxter to close the public hearing, and receive and file documents. Second by B.Walker. All voted aye. Motion carried 3 – 0.

The Board had no concerns with the request.

Board Action on Filing #23-13 property located at 3410 SW Applewood Street

Motion by B.Walker 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 23 feet into the front yard setback along the south property line adjacent to SW 35th Street, at 3410 SW Applewood Street, subject to the property owner agreeing to keep the existing trees along SW 35th Street. The Board's decision 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, inhibit visibility, or diminish property values; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code. Second by N.Sungren. All voted aye. Motion carried 3 – 0.

NEW BUSINESS

There was no new business.

REPORTS

Renewed Special Use Permits

- #17-02 Luddy's Tavern, 106 SW State Street, Suite 100 (formerly Wheelhouse)
- #20-07 Tavern 180, 1975 N Ankeny Blvd., Suite 117

There being no further business, meeting adjourned at 5:11 p.m.



Submitted by Brenda Fuglsang, Board Secretary
Zoning Board of Adjustment



ZONING BOARD OF ADJUSTMENT

August 22, 2023

5 : 00 PM

 [Print](#)

ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

Ensure Economic Vitality

ACTION REQUESTED:

Public Hearing

LEGAL:

SUBJECT:

#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

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

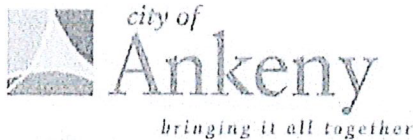
PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Click to download
 #17-02(2023) Applicant Submittal
 #17-02(2023) Staff Report



#17-02(2023)
**APPLICATION FOR
ZONING BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

Applicant is: ☐ Property Owner ☒ Tenant ☐ Other _____
Applicant Brandon J. Wheelock, WHEELLOCK + FAMILY, INC. DBA. LUDDY'S TAVERN
Address / Phone # 106 SW State St/
E-mail BRANDONWHEELLOCK@GMAIL.COM
Property Owner Jordan Elwell
Address / Phone # 2401 S.E. Tones Drive Suite 17 Ankeny, IA 50021/ 515-964-1587
E-mail jyork@dennyselwellcompany.com
(Owner must sign the application or submit a letter of authorization)

To the Members of the Board of Adjustment:

I hereby request authorization for a Special Use Permit:

For (description of use) Adjusting the hours of operation of our restaurant's patio space to be open from 10:00am to 12:00am Mon-Sun

Location (address) of the proposed special use 106 SW State St, Ankeny, IA 50023

Legal description (Plat & Lot #) LOT 1 FRONTIER VILLAGE PLAT 1

Zoning R-2 Principal use of property (existing) RESTAURANT

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

- A statement indicating the reasons for my request, evidence concerning the feasibility of the proposed request and its effect on surrounding property.
- A site plan drawing defining the areas to be developed for buildings, the areas to be developed for parking, the locations of sidewalks and driveways and the points of ingress and egress, including access streets where required, the location and heights of walls, the location and type of landscaping, and the location, size and number of signs.
- A letter of authorization from the owner or lessee, if applicable.

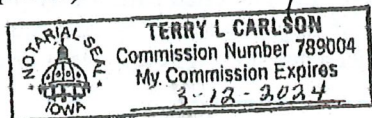
Complete submittals are required for review

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.

(Signature of Applicant)



Signed and sworn to before me, this
19th day of July, 20 23
Terry L. Carlson
(Notary Public)

Date received	RECEIVED	Paid ☐ Cash ☒ Check # <u>1504</u> \$ <u>200.00</u>	Office Use Only
Filing #	<u>JUL 20, 2023</u> # <u>17-02(2023)</u>	Scheduled Meeting Date	<u>Aug 8, 2023</u>

CITY OF ANKENY

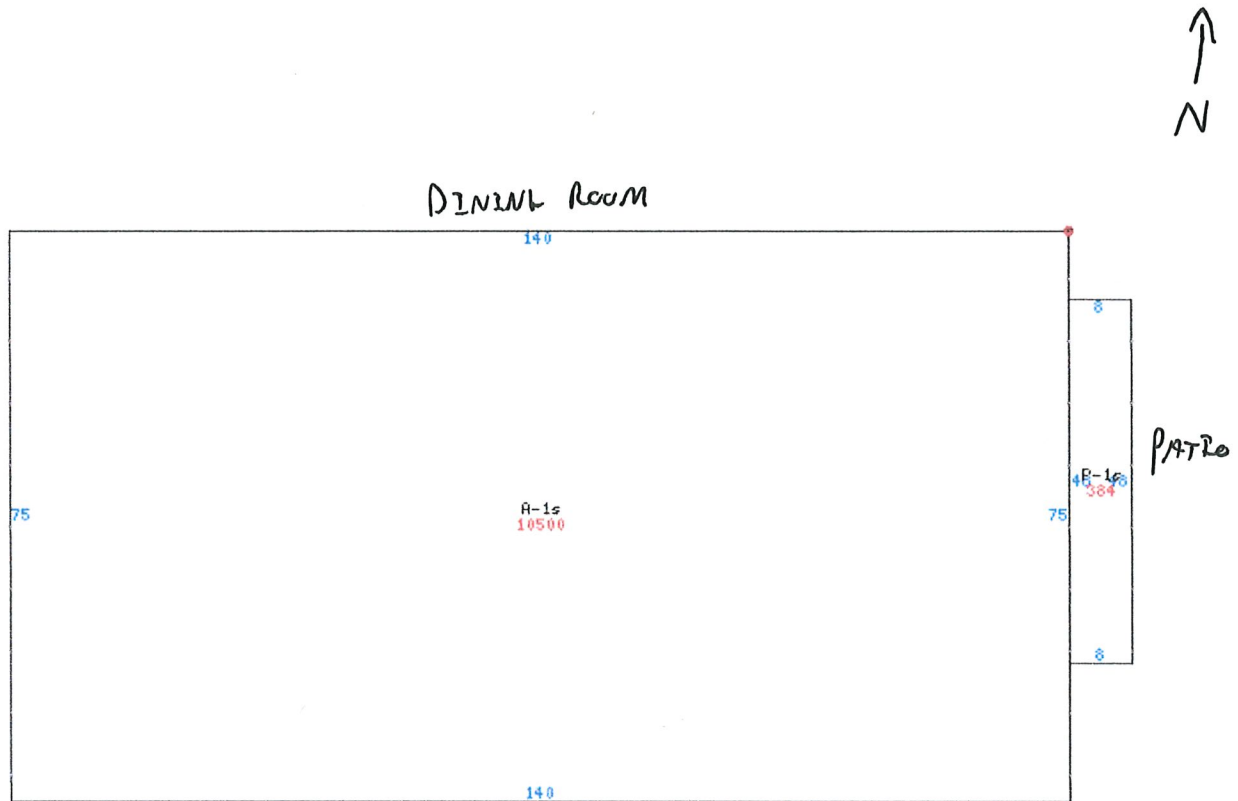
REQUEST TO ALTER SERVICE HOURS STATEMENT

Luddy's Tavern at 106 SW State Street #100, Ankeny, IA 50023, requests permission to alter the hours of operation for the patio space to coincide with our dining room service hours. We request permission to open our patio from 10:00am until 12:00am, Monday through Sunday, to be used for food and drink service. This is to allow for patrons to enjoy our outdoor seating area at the same times that customers may enjoy dining inside.

This request is feasible as it amends an already approved and standing Special Use Permit for Luddy's Tavern patio space (Filing # 17-02 [2018]). No other changes are requested except for adjusting the hours of operation for the patio space.

The adjustment will have no additional impacts on surrounding properties as business will continue as it previously did under the ownership of Wheelhouse Pizza. We will continue to execute proper noise controls and the previously installed permanent retainers shall remain in place.

Sketch 181/00392-001-000 - csection 101



Sketch Vector

A1:SD75L140/P:D9SR8D48Z

Polygons				
Label	Story Height	Basement%	Base Area	Perimeter
A	1	0	10,500	430
P	1	0	384	112

Areas	
Name	Area
A	10,500
P	384

Notice of Disposition of Zoning Board of Adjustment Case

Filing #: 17-02 (2018)
Appellant: Crankie's Inc., dba Wheel House Pizzeria & Pub
Address: 106 SW State Street, Suite 100
Legal Description: Lot 1, Frontier Village Plat 1
Meeting Date: April 3, 2018

RESOLUTION # 17-02 (2018) (ATTACHED)

Board Action on Filing #17-02 (2018) property located at 106 SW State Street, Suite 100

Motion by J.Baxter that the Zoning Board of Adjustment grant a renewal of a Special Use Permit in accordance with Sections 130.07 and 196.02(1)(I) to Wheel House Pizzeria & Pub for an outdoor seating area to run concurrently and terminate with a liquor license for said establishment provided the following conditions are met:

1. Any sound, amplified or otherwise, from the outdoor service areas shall not be at a level greater than is necessary to reach the audience and shall not be of such a volume so as to interfere with normal conversation on adjacent properties and shall be in compliance with Ankeny Municipal Code Chapter 44, Noise Control.
2. All appropriate building permits and building code regulations need to be reviewed and met.
3. Hours of operation between 3:00 p.m. to 11:00 p.m. Monday – Thursday; 11:00 a.m. – 12:00 Midnight Friday – Saturday; 9:00 a.m. – 11:00 p.m. Sunday.
4. This Special Use Permit may be automatically approved by staff.

Second by N.Sungren. Motion carried 3 – 0.

The attached Resolution/Special Use Permit is to be kept on premises

130.07(2) OUTDOOR SEATING AREAS

The outdoor seating area shall be surrounded by a permanent retainer, which clearly encloses the area adjacent to the licensed establishment, as follows:

- A. The retainer must measure a minimum of thirty-six inches in height from finish floor surface to the top of the retainer.
- B. A permanent retainer shall consist of a top rail with lower intermediate rails spaced so that a twelve-inch sphere cannot pass through, or a fence consisting of a top rail with permanent fencing material, both of which shall be supported by columns or posts spaced no more than ten feet on center.
- C. Snow fence or plastic fence shall not be deemed permanent retainer material for purposes of this section.
- D. In lieu of paragraphs A through C of this subsection, densely planted shrubbery may be considered equivalent to the intermediate rails or fencing, subject to the approval of the building and zoning official.
- E. One ingress/egress gate shall be allowed for each outdoor seating area. The ingress/egress gate shall be constructed and located in accordance with the Building Code. It shall be a minimum of 36" in width and shall provide unobstructed access and illumination for the safety of patrons. The gate shall be the same height as the retainer and shall be installed with a self-closing mechanism. The gate shall not access directly onto a parking lot or access drive.

(4) The site shall meet the parking requirements listed in Section 194.01 of the Code of Ordinances.

Cc: address file
docket file

RESOLUTION #17-02 (2018)

RESOLUTION GRANTING A SPECIAL USE PERMIT FOR WHEEL HOUSE PIZZERIA & PUB AT 106 SW STATE STREET, SUITE 100, TO ALLOW AN OUTDOOR SERVICE AREA WITH BACKGROUND MUSIC AT A LOCATION WITHIN 500 FEET OF RESIDENTIALLY ZONED PROPERTY

WHEREAS, on the 3rd day of April, 2018, the Board of Adjustment held a public hearing to consider granting a Special Use Permit to allow music within an outdoor service area within 500 feet of residentially zoned property; and

WHEREAS, after due notice and hearing provided by law the Zoning Board of Adjustment of the City of Ankeny, Iowa considered allowing an outdoor service area with background music within 500 feet of a residential zone district for Wheel House Pizzeria & Pub at the following location:

LEGAL DESCRIPTION:

Lot 1, Frontier Village Plat 1

LAYMAN'S DESCRIPTION:

106 SW State Street, Suite 100

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF ANKENY, IOWA:

That the Zoning Board of Adjustment grant renewal of a special use permit in accordance with Sections 130.07 and 196.02(1)(I) to Wheel House Pizzeria & Pub for an outdoor seating area to run concurrently and terminate with a liquor license for said establishment provided the following conditions are met:

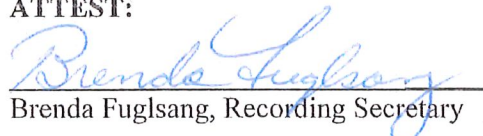
1. Any sound, amplified or otherwise, from the outdoor service areas shall not be at a level greater than is necessary to reach the audience and shall not be of such a volume so as to interfere with normal conversation on adjacent properties and shall be in compliance with Ankeny Municipal Code Chapter 44, Noise Control.
2. All appropriate building permits and building code regulations need to be reviewed and met.
3. Hours of operation between 3:00 p.m. to 11:00 p.m. Monday – Thursday; 11:00 a.m. – 12:00 Midnight Friday – Saturday; 9:00 a.m. – 11:00 p.m. Sunday.
4. This Special Use Permit may be automatically approved by staff.

PASSED at Ankeny, Iowa this 3rd day of April, 2018.



Jeff Baxter, Vice Chair

ATTEST:



Brenda Fuglsang, Recording Secretary



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

To: Members of the Zoning Board of Adjustment
From: Ryan Kirschman, Planner
Filing #: 17-02(2023) *ESC*
Meeting Date: August 22, 2023
Address: 106 SW State Street, Suite 100

APPELLANT REQUEST

A special use permit to allow an outdoor service area for Luddy's Tavern at 106 SW State Street, Suite 100.

STAFF POSITION

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 160 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.

PROJECT SUMMARY

Brandon J. Wheelock, Wheelock & Family, Inc., dba Luddy's Tavern is requesting a special use permit for an outdoor service area with amplified sound where patrons may be served alcohol. Luddy's Tavern property is zoned C-1, Neighborhood Retail Commercial District. The subject property is within 500 feet of residentially zoned property. The properties located directly to the north and south of the subject property are zoned C-1, and the properties directly to the east and west of the subject property are zoned R-2, One-Family and Two-Family Residential District.

PROJECT REPORT

196.02 SPECIAL PERMITS.

- (1) **Zoning Board of Adjustment Authorization:** The Zoning Board of Adjustment may, by special permit after public hearing, authorize the location of any of the following buildings or uses in any district from which they are prohibited by this Zoning Ordinance:

I. With the exception of properties located within Entertainment Districts as defined and regulated in Chapter 143 of the Ankeny Municipal Code, premises with a beer permit or liquor control license not contained within a completely enclosed and covered structure and located less than five hundred feet from a residential zoning district; provided the following standards are met:

- (1) The applicant meets all other requirements listed in Chapter 130 of this Code of Ordinances.
- (2) The special permit, if granted, shall expire one year after the grant thereof, subject to renewal...
- (3) Sound levels emanating from the outdoor seating area shall not be at a level greater than is necessary to reach the audience and shall not be of such a volume so as to interfere with normal conversation on adjacent properties.
- (4) The Board may exact any other regulations and assurances, covenants, and warranties as may be necessary to protect the rights of the neighboring residents, including but not limited to the following: (a) hours of operation; (b) lighting; and (c) screening.

130.07 OUTDOOR SEATING AREAS.

1. With the exception of properties located within Entertainment Districts as defined and regulated in Chapter 143 of the Ankeny Municipal Code, the premises for which a beer permit or liquor control license is sought shall require a special use permit for an outdoor service area as described in paragraph 196.02(1)(I) if it is less than five hundred (500) feet from a residential zoning district. This requirement may be waived by the City Council upon showing that the applicant for such license conforms to the requirements of Section 130.05 of this chapter.
2. The outdoor seating area shall be delineated by a barrier that is a minimum of thirty-six (36) inches in height and discourages the free movement of people between the outdoor service area and non-licensed areas and shall conform to all physical requirements of the State Code of Iowa as well as all Building Code requirements of the City of Ankeny.
3. Emergency exits, sized and spaced in accordance with the Building Code, must be provided with a clear and unobstructed access to the public way.
4. The site shall meet the parking requirements listed in Section 194.01 of this Code of Ordinances.

196.02(2) Pre-Issuance Review: Before issuing any special permit for any of the above buildings or uses, the Board of Adjustment shall review the conformity of the proposed building or use with the standards of the comprehensive plan and with recognized principles of civic design, land use planning and landscape architecture. The Zoning Board of Adjustment may approve the special permit as submitted or, before approval, may require that the applicant modify, alter, adjust or amend the proposal as the Zoning Board of Adjustment deems necessary to the end that it preserves the intent and purpose of this Zoning Ordinance to promote public health, safety, morals and the general welfare.

196.02(3) Application; Feasibility Evidence and Site Plan Required: Application for a special permit under the terms of this section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property; and shall include a site plan defining the areas to be developed for buildings, the areas to be developed for parking, the locations of sidewalks and driveways and the points of ingress and egress, including access streets where required, the location and heights of walls, the location and type of landscaping, and the location, size and number of signs.

196.02(4) Changes; Resubmittal Required: In the event a special permit is granted under the terms of this section, any change thereafter in the approved use or site plan shall be resubmitted and considered in the same manner as the original proposal.

Findings of Fact

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 subject property, located at 106 SW State Street, is zoned C-1, Neighborhood Retail Commercial District. Property zoned R-2, One-Family and Two-Family Residence District is located directly to the east and west of the subject property.

The existing outdoor service area is located on the east side of the existing building. 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. These were previously approved as 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. The applicant is proposing to align the outdoor service hours with their hours of operation 10:00 a.m. - 12:00 a.m. Monday – Sunday.

At this time, staff has not received any correspondence, either for or against the request from neighboring property owners.

The staff position is that 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 160 SW State Street, Suite 100:

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 from 10:00 a.m. - 12:00 a.m. Monday – Sunday.
5. This Special Use Permit may be reviewed annually by staff for approval.

I. With the exception of properties located within Entertainment Districts as defined and regulated in Chapter 143 of the Ankeny Municipal Code, premises with a beer permit or liquor control license not contained within a completely enclosed and covered structure and located less than five hundred feet from a residential zoning district; provided the following standards are met:

- (1) The applicant meets all other requirements listed in Chapter 130 of this Code of Ordinances.
- (2) The special permit, if granted, shall expire one year after the grant thereof, subject to renewal...
- (3) Sound levels emanating from the outdoor seating area shall not be at a level greater than is necessary to reach the audience and shall not be of such a volume so as to interfere with normal conversation on adjacent properties.
- (4) The Board may exact any other regulations and assurances, covenants, and warranties as may be necessary to protect the rights of the neighboring residents, including but not limited to the following: (a) hours of operation; (b) lighting; and (c) screening.

130.07 OUTDOOR SEATING AREAS.

1. With the exception of properties located within Entertainment Districts as defined and regulated in Chapter 143 of the Ankeny Municipal Code, the premises for which a beer permit or liquor control license is sought shall require a special use permit for an outdoor service area as described in paragraph 196.02(1)(I) if it is less than five hundred (500) feet from a residential zoning district. This requirement may be waived by the City Council upon showing that the applicant for such license conforms to the requirements of Section 130.05 of this chapter.
2. The outdoor seating area shall be delineated by a barrier that is a minimum of thirty-six (36) inches in height and discourages the free movement of people between the outdoor service area and non-licensed areas and shall conform to all physical requirements of the State Code of Iowa as well as all Building Code requirements of the City of Ankeny.
3. Emergency exits, sized and spaced in accordance with the Building Code, must be provided with a clear and unobstructed access to the public way.
4. The site shall meet the parking requirements listed in Section 194.01 of this Code of Ordinances.

196.02(2) Pre-Issuance Review: Before issuing any special permit for any of the above buildings or uses, the Board of Adjustment shall review the conformity of the proposed building or use with the standards of the comprehensive plan and with recognized principles of civic design, land use planning and landscape architecture. The Zoning Board of Adjustment may approve the special permit as submitted or, before approval, may require that the applicant modify, alter, adjust or amend the proposal as the Zoning Board of Adjustment deems necessary to the end that it preserves the intent and purpose of this Zoning Ordinance to promote public health, safety, morals and the general welfare.

196.02(3) Application; Feasibility Evidence and Site Plan Required: Application for a special permit under the terms of this section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property; and shall include a site plan defining the areas to be developed for buildings, the areas to be developed for parking, the locations of sidewalks and driveways and the points of ingress and egress, including access streets where required, the location and heights of walls, the location and type of landscaping, and the location, size and number of signs.

196.02(4) Changes; Resubmittal Required: In the event a special permit is granted under the terms of this section, any change thereafter in the approved use or site plan shall be resubmitted and considered in the same manner as the original proposal.

Findings of Fact

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 subject property, located at 106 SW State Street, is zoned C-1, Neighborhood Retail Commercial District. Property zoned R-2, One-Family and Two-Family Residence District is located directly to the east and west of the subject property.

The existing outdoor service area is located on the east side of the existing building. 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. These were previously approved as 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. The applicant is proposing to align the outdoor service hours with their hours of operation 10:00 a.m. - 12:00 a.m. Monday – Sunday.

At this time, staff has not received any correspondence, either for or against the request from neighboring property owners.

The staff position is that 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 160 SW State Street, Suite 100:

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 from 10:00 a.m. - 12:00 a.m. Monday – Sunday.
5. This Special Use Permit may be reviewed annually by staff for approval.



ZONING BOARD OF ADJUSTMENT

August 22, 2023

5 : 00 PM



ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

ACTION REQUESTED:

LEGAL:

SUBJECT:

Renewed Special Use Permits

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

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 # 16-02**

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: Filet Steakhouse LLC

(Sole Proprietorship, Partnership, Corporation)

Name of Business (d/b/a): Filet Steakhouse LLC

Address of Premise: 1802 North Ankeny Blvd., Ste. 100

- 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)

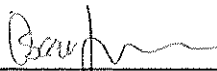
- Has any use of sound been added since last year or changed from what was approved by the Zoning Board of Adjustment?

☐ 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

BECKY MILLER
Name of Applicant (printed)

7/21/23
Date

ADMINISTRATIVELY
☒ **APPROVED**

7/31/23 EJC