



Meeting Agenda

Zoning Board of Adjustment

Tuesday, July 18, 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 June 20, 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.

#23-13
Great Barrier Fence Co.
on behalf of
Winsome Hayes
for property located at
3410 SW Applewood Street
Lot 1, Diamond Hills Plat 2
RE: Variance - Front Yard Setback

F. OLD BUSINESS:

G. NEW BUSINESS

H. 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

I. ADJOURNMENT



ZONING BOARD OF ADJUSTMENT

July 18, 2023

5 : 00 PM



ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

ACTION REQUESTED:

Motion

LEGAL:

SUBJECT:

Minutes of the June 20, 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 2023-06-20](#)

Meeting Minutes
Zoning Board of Adjustment
Tuesday, June 20, 2023
Ankeny City Council Chambers
1250 SW District Drive, Second Floor, Ankeny, Iowa

CALL TO ORDER

Chair Matt Ott called the June 20, 2023 regular meeting of the Zoning Board of Adjustment to order at 5:00 p.m.

ROLL CALL

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

AMENDMENTS TO THE AGENDA

There were no amendments to the agenda.

MINUTES OF THE MAY 2, 2023 REGULAR MEETING

Motion by K.Tomlinson to approve the May 2, 2023 meeting minutes as submitted. Second by N.Sungren. All voted aye. Motion carried 4 – 0 – 1 (Abstain: B.Walker).

COMMUNICATIONS / CORRESPONDENCE

There were no communications.

BUSINESS ITEMS

PUBLIC HEARINGS:

#23-11

City of Ankeny

for property located at

3755 NW Irvinedale Drive

PARCEL 2018-156 COM NW COR PARC E THN E 50F TO POB THN E 422.24F

S 170.36F W 127.57F W 295.16F N 172.57F TO POB BNG PRT PARCEL E

BK 15735 PG 812 SW 1/4 SW 1/4 SEC 3-80-24

RE: Variance - Height

Chair M.Ott opened the public hearing.

Don Clark, Director of Municipal Utilities, City of Ankeny, 1210 NW Prairie Ridge Drive, stated that their request is for a 2.5-million-gallon elevated water tower to be located at 3755 NW Irvinedale Drive, which was land that the city purchased about two and one-half years ago. He said the water tower will be similar in size and height to the Ash Drive water tower; and the overall height with the antennas will be 180-feet and 165-feet without the antennas. Don Clark stated that the water tower will be well above the maximum height allowed of 35-feet, so they are requesting a variance to allow the city to build the new water tower.

There were no questions from the Board.

B.Morrissey reported that the subject property is located at 3755 NW Irvinedale Drive, north of the NW 36th Street and NW Irvinedale Drive intersection. The property is currently undeveloped and zoned C-1, Neighborhood Retail Commercial District. He stated that there are residential properties to the north and east; and Casey's is the neighboring property to the south. The city acquired the 1.6-acre property in 2018, anticipating the site to be the location of a future water tower. B.Morrissey said the final plat and site plan for the property is currently under review; however, before the plans can be approved, a variance is needed for the height. He stated the City of Ankeny is requesting a variance to the height restrictions on the site to allow for the construction of a 180-foot tall water tower. B.Morrissey presented a copy of the site plan, which showed the proposed landscaping and fencing, which would provide separation between the site and the neighboring properties. He noted that notice requirements for this hearing have been met, and to date, staff has not received any correspondence either for or against the request. The staff position is to grant a variance to Ankeny Municipal Code Section 192.08(3)(G) to allow for the construction of a 180-foot-tall water tower at 3755 NW Irvinedale Drive. This decision is based on a determination that the increased maximum height allowance from the resulting water tower would not impair adequate supply of air and light, would not increase public danger of

fire, or diminish property values; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code.

M.Ott asked if the color and branding will be similar to the water tower on SW Irvinedale Drive. Don Clark stated, yes.

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 had no concerns with the request.

Board Action on Filing #23-11 property located at 3755 NW Irvinedale Drive

Motion by J.Baxter that the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 192.08(3)(G) to allow for the construction of a 180-foot-tall water tower at 3755 NW Irvinedale Drive. The Board's decision is based on a determination that the increased maximum height allowance from the resulting water tower 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 5 – 0.

#23-12

Bryon and Larissa Weyer

for property located at

2506 NE 17th Street

Lot 21, Deer Creek Estates Plat 13

RE: Variance - Rear Yard Setback

Chair M.Ott opened the public hearing.

Bryon Weyer, 2506 NE 17th Street, said they are requesting a variance for the construction of a covered patio on the rear of their home. He said the rear yard setback would be 29-feet from the rear property line instead of the required 35-feet.

There were no questions from the Board.

R.Kirschman reported that the applicant is requesting a variance to Ankeny Municipal Code Section 192.04(3)(E) to allow a 29-foot rear yard setback for a covered patio at 2506 NE 17th Street. The property is located south of NE 18th Street and west of NE Four Mile Drive within the northeastern quadrant of Ankeny. R.Kirschman stated the subject property is zoned R-2 with restrictions, One and Two-Family Residence District restricted to single-family homes and is situated on Lot 21, Deer Creek Estates Plat 13, which has a rear yard setback requirement of 35-feet. He commented that the neighboring properties to the north are zoned R-1, Single-Family Residence District, properties to the east, south, and west are also zoned R-2 with restrictions and contain single-family homes on similarly sized lots. R.Kirschman said that the applicant is requesting a variance to encroach approximately 6-feet into the 35-foot rear yard setback, which would allow the owners to convert their patio into a covered patio resulting in a 29-foot rear yard setback on the west side of the property. Staff is not concerned with the covered patio extending into the rear-yard setback as the property backs to a 30' wide buffer of open space owned by the homeowner's association and then NE 18th Street. He noted that notice requirements for this hearing have been met, and to date, staff has not received any correspondence either for or against the request. The staff position is to grant a variance to Ankeny Municipal Code Section 192.04(3)(E) to allow a 29-foot rear yard setback for the construction of a covered patio at 2506 NE 17th Street. Staff's position is based on a determination that the decreased rear yard setback from the resulting covered patio 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 correspondence received. Second by B.Walker. All voted aye. Motion carried 5 – 0.

The Board had no concerns with the request.

Board Action on Filing #23-12 property located at 2506 NE 17th Street

Motion by M.Ott that the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 192.04(3)(E) to allow a 29-foot rear yard setback for the conversion of a covered patio at 2506 NE 17th Street. The Board's decision is based on a determination that the decreased rear yard setback from the resulting covered patio would not impair adequate supply of air and light, would not increase public danger of fire, or diminish property values; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code. Second by K.Tomlinson. All voted aye. Motion carried 5 – 0.

NEW BUSINESS

There was no new business.

REPORTS

Renewed Special Use Permits

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

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

#16-16 Guadalajara Mexican Restaurant, 202 SE Delaware Avenue

#18-04(2019) Who's on First, 810 E 1st Street

There being no further business, meeting adjourned at 5:18 p.m.



Submitted by Brenda Fuglsang, Board Secretary
Zoning Board of Adjustment



ZONING BOARD OF ADJUSTMENT

July 18, 2023

5 : 00 PM

 [Print](#)

ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

Ensure Economic Vitality

ACTION REQUESTED:

Public Hearing

LEGAL:

SUBJECT:

#23-13

Great Barrier Fence Co.

on behalf of

Winsome Hayes

for property located at

3410 SW Applewood Street

Lot 1, Diamond Hills Plat 2

RE: Variance - Front Yard Setback

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

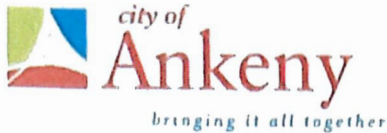
PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Click to download
 #23-13 Applicant Submittal
 #23-13 Staff Report



APPLICATION FOR APPEAL ZONING BOARD OF ADJUSTMENT

Applicant is: ☒ Property Owner ☐ Tenant ☐ Other _____

Property Owner Applicant Winsome Hays

Address / Phone # 3410 SW Applewood St. Ankeny, IA 50023

E-mail WinsomeTyler@yahoo.com

Property Owner Applicant Great Barrier Fence Co.

Address / Phone # 515-298-8899

E-mail e.tyler@gbfenceco.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 27th day of June, 2023

Location (address) of the proposed variance 3410 SW Applewood St. Ankeny, IA 50023

Legal description (Plat & Lot #) Lot 1 Diamond Hills Plat 2

Zoning RUD Principal Use of property Residential

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 # 19.14 which state(s) front & side yards adjacent to a street in

residential zone districts shall be considered front yards & fences in front yards shall not exceed

48 in. height for chain link & 42 in. in height for all other fence materials

I would propose the following in lieu of that required: 6 ft. wood, cedar fence

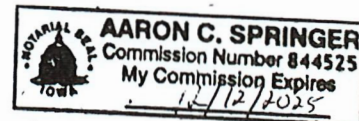
Attached hereto and made a part of this appeal, I submit the following:

- 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.

WH
(Signature of Applicant)

RECEIVED

Signed and sworn to before me, this
27th day of June, 2023

[Signature]
(Notary Public)

Date received CITY OF ANKENY

Paid ☐ Cash ☐ Check # _____

Office Use Only

Filing # 23-13

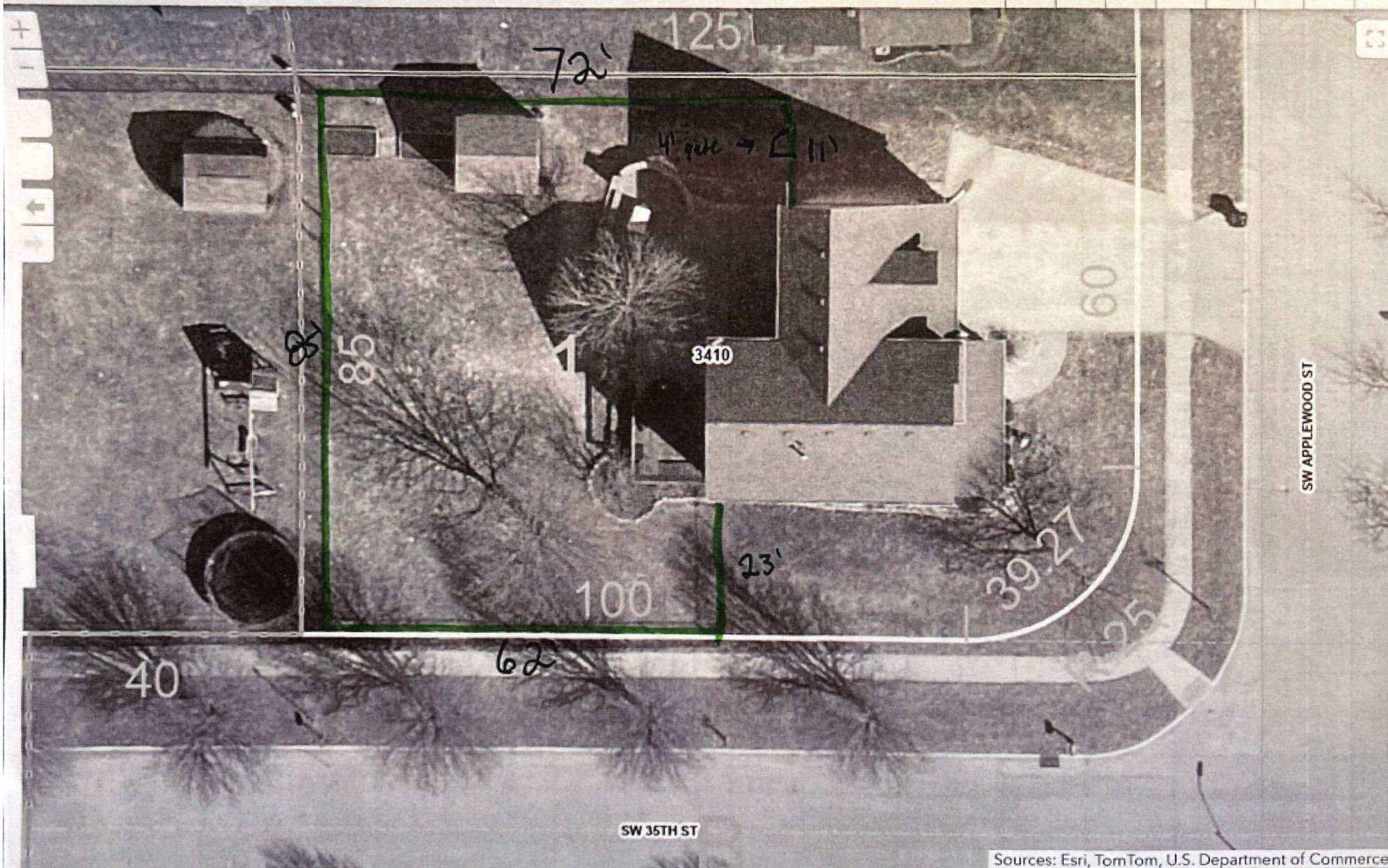
Scheduled Meeting Date 7-18-2023

To Whom it may concern:

I, Winsome Hays, am allowing Great Barrier Fence Co. to submit the variance paperwork on our behalf.

We respectfully ask for you to consider our interest in building a 6' wooden privacy fence around our back/side yard, as there is a clear view of the street and sidewalk from the intersection of SW Applewood and SW 35th St. We have been wanting and waiting to get a swimming pool because we want to make sure that it is safe and to also provide privacy for our family. With being a corner lot, there are constantly people walking by and want to be able to enjoy our pool and backyard with out feeling uncomfortable. Please consider giving us this opportunity. Thank you for your time.

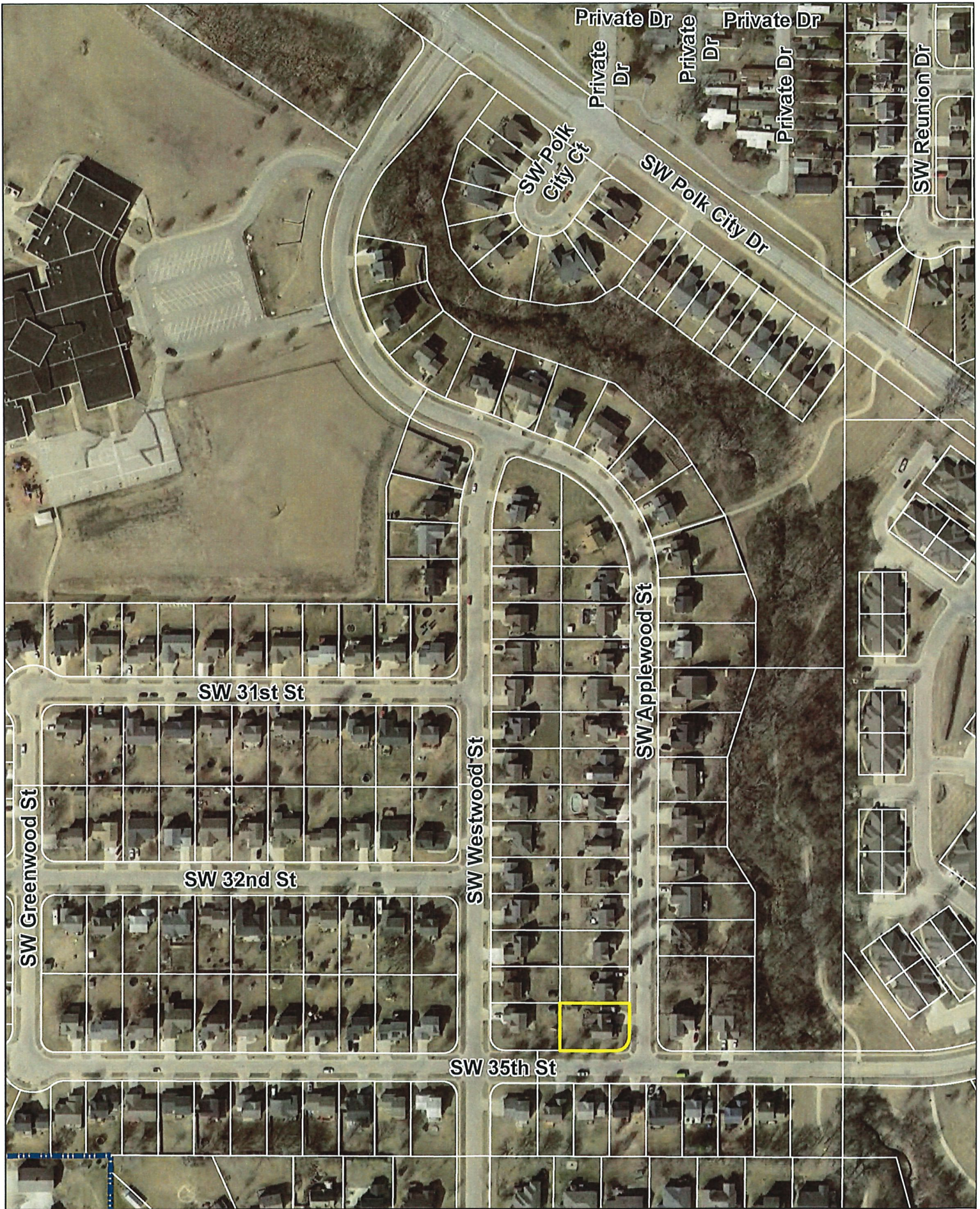
Sincerely,
Winsome & Michelle Hays



Sources: Esri, TomTom, U.S. Department of Commerce

 = Existing/proposed Fence Line





N



1 inch = 220 feet

Date: 7/6/2023

3410 SW Applewood St.

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

To: Members of the Zoning Board of Adjustment
From: Laura Hutzell, Associate Planner
Filing #: 23-13
Meeting Date: July 18, 2023 *ESC*
Address: 3410 NW Applewood St.

APPELLANT REQUEST

A variance to the City of Ankeny Zoning Ordinance General Regulations, 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 POSITION

Staff recommends that the Zoning Board of Adjustment 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 front yard setback along the south property line adjacent to SW 35th Street at 3410 NW 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.

PROJECT SUMMARY

The subject property is located at 3410 SW Applewood Street, south of SW Oralabor Road and west of SW State Street within the southwest quadrant of the City. The subject property is zoned Planned Unit Development (PUD) and is situated on Lot 1 Diamond Hills Plat 2. The home is located on a .241-acre corner lot with two front yards; one to the east, adjacent to SW Applewood Street and the other to the south, adjacent to SW 35th Street. The appellant has requested a variance 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. The proposed privacy fence would be installed approximately 23 feet into the 25-foot front yard setback along the south property line adjacent to SW 35th Street.

PROJECT REPORT

Criteria for Variance

197.01(4) Powers and Duties.

B. To grant a variation in the regulations when a property owner can show ...that by reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict

application of the terms of this title actually prohibits the use of this property in the district; and that the board is satisfied under the evidence before it that a literal enforcement of the provisions of this title would result in unnecessary hardship; provided, however, that all variations granted under this clause shall be in harmony with the intended spirit and purpose of this title.

FINDINGS OF FACT

The address for the subject property is 3410 SW Applewood Street and the legal description is Lot 1, Diamond Hills Plat 2. Lot 1 is considered a corner lot, which subjects it to two front yards. This lot is bordered by SW 35th Street to the south and SW Applewood Street to the east. The property is zoned PUD (Planned Unit Development). The immediate surrounding properties in all directions are also zoned PUD, while the properties further south are zoned R-1, and properties further east are zoned R-3

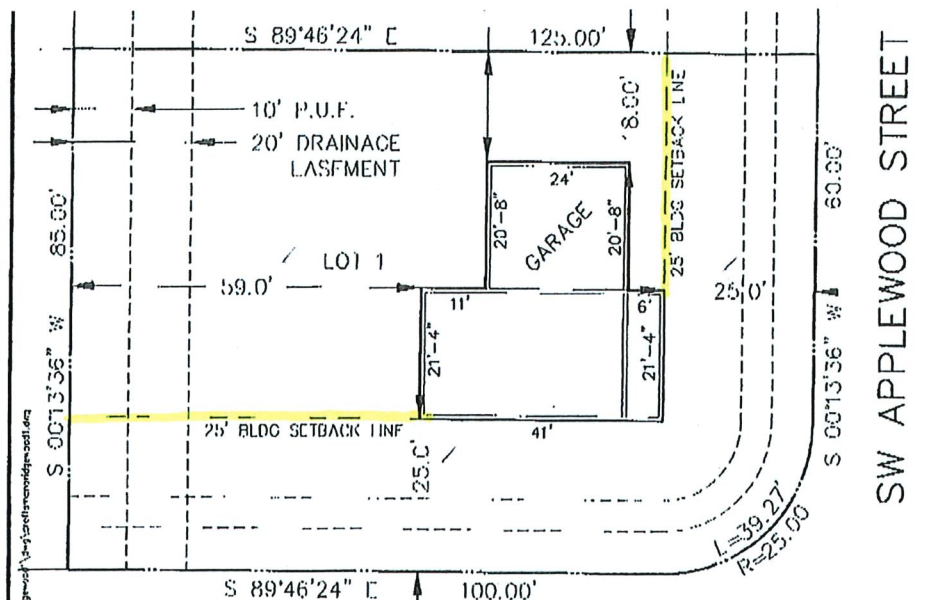
A fence permit application was recently received for the subject property requesting a 6-foot, wood, privacy fence to be installed to replace the existing 4-foot chain link fence. The appellant was informed that the proposed privacy fence would not be allowed because it was too tall based on its location being on a corner lot. The proposed fence (identified in green) on the site drawing is generally shown to abut the neighbor's fence posts to the west.





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"

This property has a required 25-foot front yard setback. Because this property sits on a corner lot, the front yard setback requirements apply to frontages along SW Applewood Street and SW 35th Street. Per code, the maximum height allowable for installing a privacy fence along one of these frontages without conforming to the front yard setback requirement is 42".



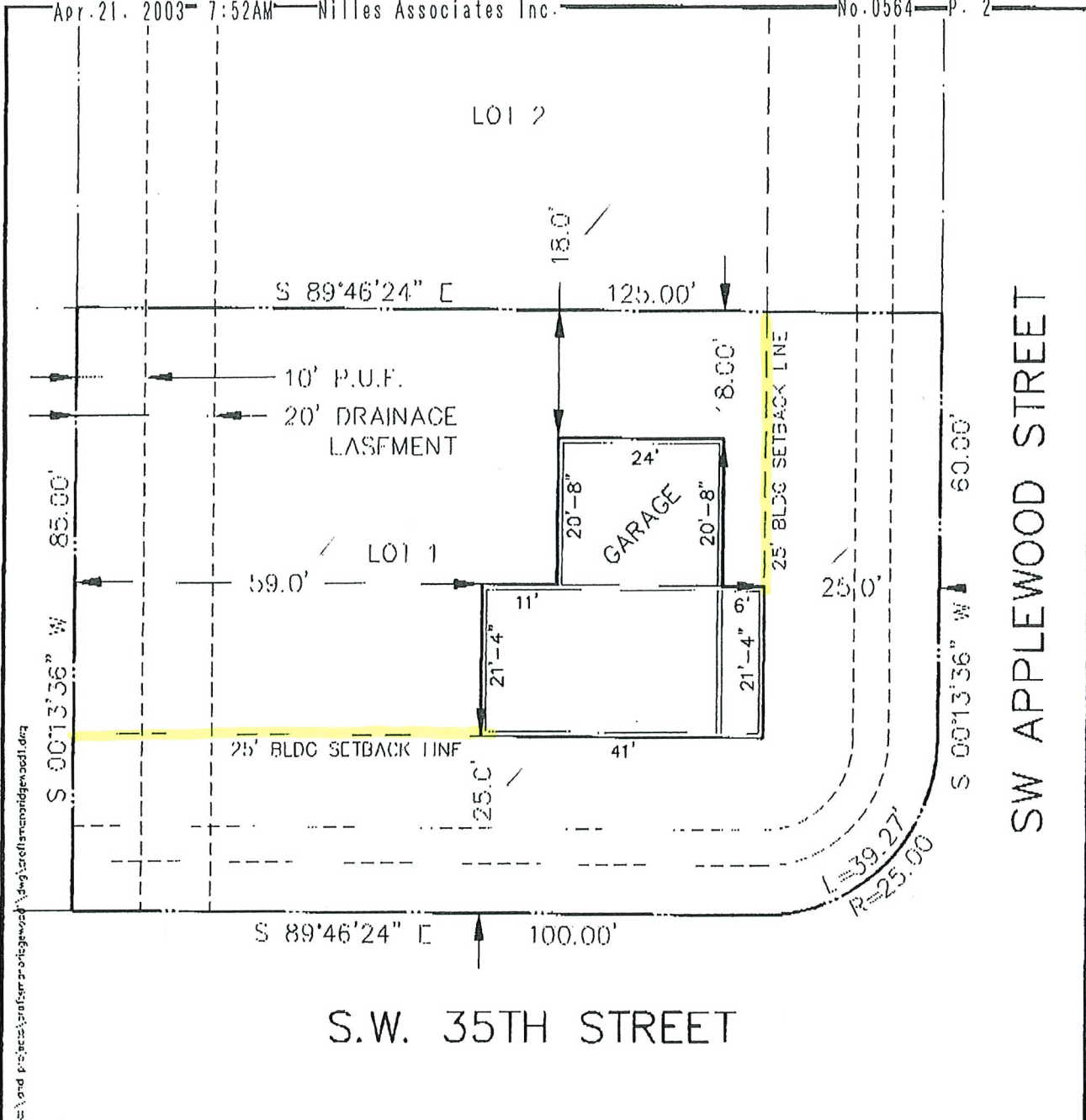
Staff does not believe that the privacy fence poses any safety concerns for the public. The proposed fence is not anticipated to inhibit visibility on the corner of SW Applewood Street and SW 35th Street. More specifically, the fence would not obstruct the required 30-foot vision clearance triangle on that specific corner. Additionally, the proposed fence would be set back approximately 55 feet from the east property line, clearing the 25-foot setback requirement along SW Applewood Street. The applicant has indicated in a recent conversation with City staff that they intend to keep the street trees along SW 35th Street intact if the fence is approved. Requiring landscaping similar to what is already in place has often been made a condition of approval for similar requests in the past.



As stated above, similar variance requests have been approved by the Board in the past. A recent example being on April 6, 2021, when the board allowed for a 72-inch privacy fence to encroach 25 feet in the front yard setback at 3003 SE 20th Street. As is standard procedure, all property owners within 250 feet 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 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.

SW APPLEWOOD STREET



NORTH

DIMENSIONS ARE MEASURED FROM
THE FOUNDATION WALL TO THE BOUNDARY LINE.

M.P.E. = 913.3



SCALE

NOBIE HOMES

PROJECT NO.:

03110

WILLES ASSOCIATES, INC.
306 S. ANKENY BOULEVARD
ANKENY, IOWA 50021
(515) 965-0173 (515) 965-3322 (fax)

PROJECT:

**LOT 1, DIAMOND HILLS
PLAT 2**

3410 SW APPLEWOOD ST., ANKENY, IOWA 50021

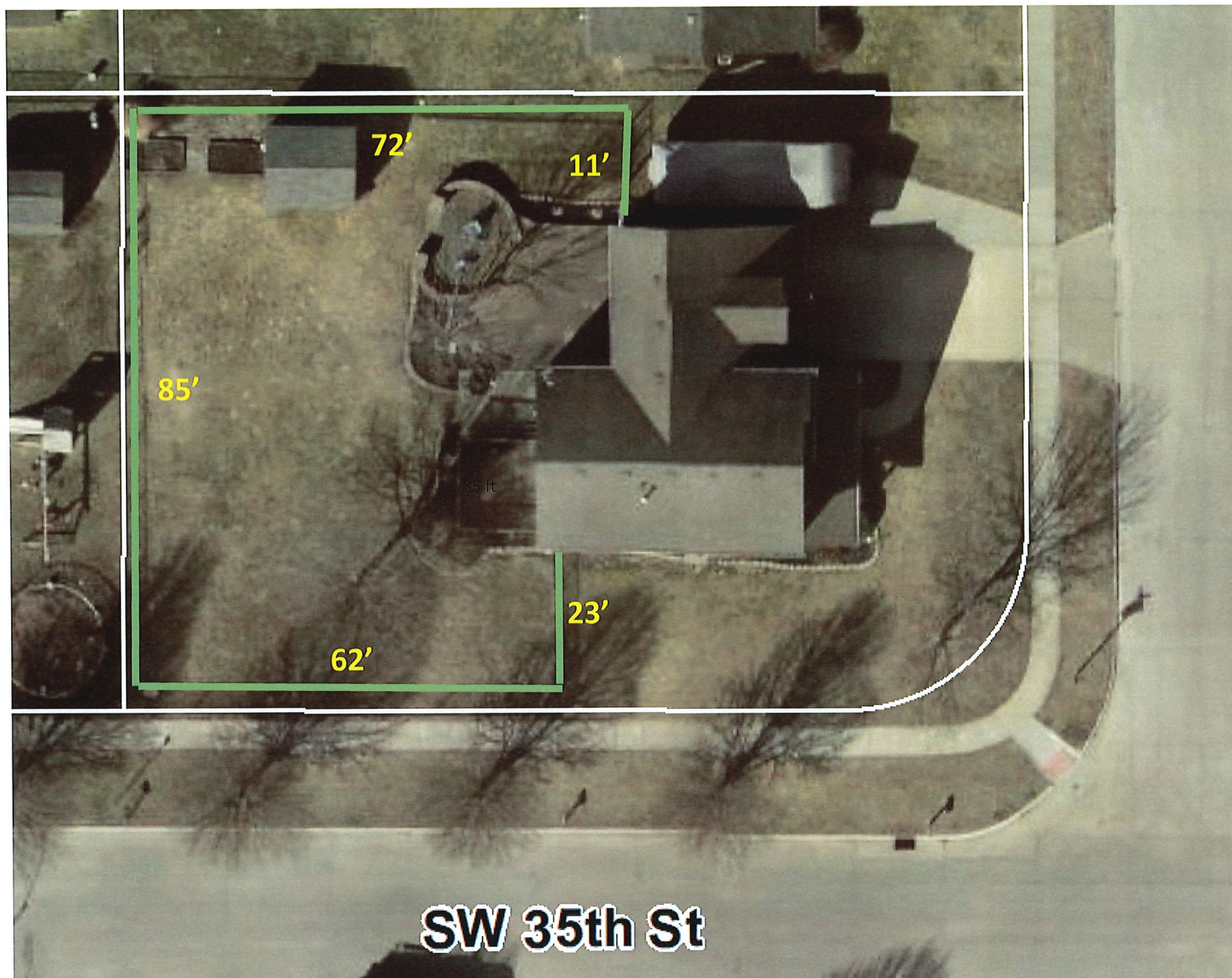
CK. BY: JPN

DR. BY: NEK

DATE: 18APR03

SHEET:

1/1





ZONING BOARD OF ADJUSTMENT

July 18, 2023

5 : 00 PM



ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

ACTION REQUESTED:

LEGAL:

SUBJECT:

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

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

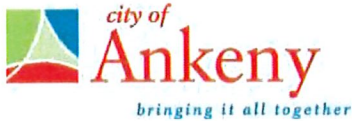
PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

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City of Ankeny
Outdoor Service Area Renewal Application

***Special Permit Resolution # 17-02**

Approved May 2, 2017

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: Wheelock & Family, Inc.
(Sole Proprietorship, Partnership, Corporation)

Name of Business (d/b/a): Luddy's Tavern

Address of Premise: 106 SW State Street, Suite 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

Brandon J. Wheelock

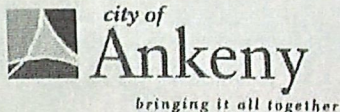
Name of Applicant (printed)

06.30.23

Date

ADMINISTRATIVELY
 **APPROVED**

7/5/23 EJC



City of Ankeny
Outdoor Service Area Renewal Application

*Special Permit Resolution # 20-07

Issued July 7, 2021

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: **T180 DEVELOPMENT, LLC.**
(Sole Proprietorship, Partnership, Corporation)

Name of Business (d/b/a): **TAVERN 180**

Address of Premise: **1975 N ANKENY BLVD, SUITE 117**

- 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

Brett Clure
Name of Applicant (printed)

Date

7.6.23

ADMINISTRATIVELY
☒ **APPROVED**

7/7/23 EJC