Meeting Agenda

Zoning Board of Adjustment

Tuesday, July 2, 2024
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 April 16, 2024 and June 18, 2024 regular meetings.

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.

#24-08
Kyle Anderson
for property located at
2009 SW Sage Circle
Lot 19, Sawgrass Park Plat 3
RE: Variance - Covered Deck

#24-09
Great Barrier Fence Co.
on behalf of Terry Ubben
for property located at
110 NW Westwood Street
Lot 35, Golfview Terrace Plat 1
RE: Variance - Fence

F. OLD BUSINESS:

G. NEW BUSINESS

H. REPORTS

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

I. ADJOURNMENT

ZONING BOARD OF ADJUSTMENT
July 2, 2024
5 : 00 PM
Print

ORIGINATING DEPARTMENT:
Planning and Building

COUNCIL GOAL:

ACTION REQUESTED:
Motion

LEGAL:

SUBJECT:
Minutes of the April 16, 2024 and June 18, 2024 regular meetings.

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Click to download
ZBOA Minutes 2024-04-16
ZBOA Minutes 2024-06-18

Meeting Minutes

Zoning Board of Adjustment

Tuesday, April 16, 2024
Ankeny City Council Chambers
1250 SW District Drive, Second Floor, Ankeny, Iowa

CALL TO ORDER
Vice Chair Jeff Baxter called the April 16, 2024 regular meeting of the Zoning Board of Adjustment to order at 5:00 p.m.

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

AMENDMENTS TO THE AGENDA
There were no amendments to the agenda.

MINUTES OF THE APRIL 2, 2024 REGULAR MEETING
Vice Chair J.Baxter commented that he will table the minutes until the next Board of Adjustment meeting since he will need to abstain.

COMMUNICATIONS / CORRESPONDENCE
There were no communications.

BUSINESS ITEMS
PUBLIC HEARINGS:

#24-05
Ryan Nurnburg
for property located at
537 NE 5th Street
Lot 8, Henderson Park Plat 19
RE: Variance – Covered Deck

Vice Chair J.Baxter opened the public hearing.

Ryan Nurnburg, 537 NE 5th Street, Ankeny said that there is a sunroom on the back of his house, which was there when he purchased the home in 2021. The assessor's page also showed that the home had a sun-room. In January 2024, the roof was damaged by the snow, and when they went to get a permit to replace the sunroom they found out that the previous owners did not get a permit to do so. They would like to be allowed to get a permit to replace the sunroom.

J.Baxter asked if the sunroom was going to be located in the same spot. Ryan Nurnburg responded that the size and location of the sunroom would remain the same. The only difference is that it will have a hip roof that will match the shed and the house.

There were no further questions from the Board.

J.Heil reported that the applicant is requesting a variance to encroach approximately 12 feet into the 35-foot rear yard setback, to allow the owners to replace the existing four-seasons porch attached to the rear of the home. He stated that the property at 537 NE 5th Street is generally located south of NE 5th Street and west of NE Innsbruck Drive and is zoned R-2, One-Family and Two-Family Residence District. The neighboring properties contain single family homes and are similarly zoned. J.Heil said that the four-seasons porch was originally constructed with the house and is 12x14 feet in size. He noted that due to heavy snowfalls in January 2024, the roof of the four-seasons porch collapsed. He said that if the requested variance is approved, a 23-foot rear yard setback would be the resulting setback on the south side of the subject property. He explained that staff is not overly concerned with the applicant reconstructing the four-seasons porch, primarily because the structure will be staying in its current location and will not be expanded. Staff is confident that keeping the four-seasons porch in its current location should not have a measurable impact on the surrounding properties. He noted that all legal notifications have been made 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 23-foot rear yard setback for a four-seasons porch at 537 NE 5th Street. Staff's position is based on a determination that the decreased rear yard setback from the four-seasons porch 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.

J.Baxter asked if there is any distinction from a Code standpoint for a covered deck versus a four-seasons porch. J.Heil responded, no. J.Baxter asked what a four-seasons porch is versus a covered deck. J.Heil responded that it is enclosed on all four sides. E.Jensen explained that the only distinction in the Code is that an unenclosed deck can extend into the setback and anything that has a roof on it, whether it has walls or not, cannot.

Motion by J.Baxter to close the public hearing, and receive and file correspondence. Second by K.Tomlinson. Motion carried 3 – 0.

The Board had no concerns with the request.

Board Action on Filing #24-05 for property located at 537 NE 5th Street
Motion by K.Tomlinson that the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 192.04(3)(E) to allow a 23-foot rear yard setback for a four-seasons porch at 537 NE 5th Street. The Board's decision is based on a determination that the decreased rear yard setback from the resulting four-seasons porch 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 B.Walker. Motion carried 3 – 0.

REPORTS
There were no reports.

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

Brenda Fuglsang

Submitted by Brenda Fuglsang, Board Secretary
Zoning Board of Adjustment

Meeting Minutes
Zoning Board of Adjustment
Tuesday, June 18, 2024
Ankeny City Council Chambers
1250 SW District Drive, Second Floor, Ankeny, Iowa

CALL TO ORDER
Chair Matt Ott called the June 18, 2024 regular meeting of the Zoning Board of Adjustment to order at 5:00 p.m.

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

AMENDMENTS TO THE AGENDA
There were no amendments to the agenda.

MINUTES OF THE APRIL 2, 2024 REGULAR MEETING
Motion by M.Ott to approve the meeting minutes as submitted. Second by K.Tomlinson. Motion carried. 3 – 0 – 1 (Abstain: J.Baxter).
MINUTES OF THE APRIL 16, 2024 REGULAR MEETING
Chair M.Ott motioned to table the minutes for April 16, 2024 until the next Board of Adjustment meeting.
MINUTES OF THE JUNE 4, 2024 REGULAR MEETING
Motion by J.Baxter to approve the meeting minutes as submitted. Second by M.Ott. Motion carried. 3 – 0 – 1 (Abstain: N.Sungren).

COMMUNICATIONS / CORRESPONDENCE
There were no communications.

BUSINESS ITEMS
PUBLIC HEARINGS:
#24-07
Buresh Home Solutions
on behalf of Mike and Kate Cisney
for property located at
1619 NW 27th Court
Lot 22, Centennial Pointe Plat 19
RE: Variance – Covered Patio

Chair M.Ott opened the public hearing.

Jason Smothers, Buresh Home Solutions, 9379 Swanson Blvd., Suite D, Clive, on behalf of Mike and Kate Cisney, said he is requesting a variance to construct a pergola over a patio that will encroach 2'6" into the rear yard setback.

J.Baxter inquired if there was an existing pergola or only a concrete pad. Jason Smothers responded, only a concrete pad. K.Tomlinson asked for clarification on the retracting portion of the pergola. Jason Smothers responded that it has louvers that open and close.

There were no further questions from the Board.

R.Kirschman reported that the applicant is requesting a 32-foot rear yard setback for the construction of a covered patio. He stated that the subject property is located at 1619 NW 27th Court, north of NW 18th Street and west of NW State Street within the northwestern quadrant of Ankeny. He shared that the subject property is zoned R-3 with restrictions, Multiple Family Residence District restricted to single family homes. Neighboring properties to the north, east and west are similarly zoned R-3 with restrictions, Multiple Family Residence District restricted to single family homes and the property to the south is Ankeny Centennial High School, which is zoned R-1, One-Family Residence District. R.Kirschman stated that per Ankeny Municipal Code Section 196.03(2)(B), unenclosed patios are allowed to extend up to twelve feet into the rear yard setbacks, while covered patios are not permitted in rear yard setbacks. R.Kirschman noted that at its furthest point, the proposed covered patio extends approximately 3-feet into the rear yard setback, leaving approximately 32 feet between the patio and the rear property line. Staff is not concerned with the covered patio extending into the rear-yard setback as the property backs to Ankeny Centennial High School. He commented that all legal notifications were met and to date, staff has not received any correspondence for or against the request. The staff position is to grant a variance to Ankeny Municipal Code Section 192.05(3)(E) to allow a 32-foot rear yard setback for the construction of a covered patio at 1619 NW 27th Court. 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. Second by J.Baxter. All voted aye. Motion carried 3 – 0.

The Board had no concerns with the request.

Board Action on Filing #24-07 for property located at 1619 NW 27th Court
Motion by J.Baxter that the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 192.05(3)(E) to allow a 32-foot rear yard setback for the construction of a covered patio at 1619 NW 27th Court. The Board'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. Second by N.Sungren. Motion carried 4 – 0.

REPORTS
Renewed Special Use Permits
#16-16 Guadalajara Mexican Restaurant, 202 SE Delaware Avenue

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

Brenda Fuglsang

Submitted by Brenda Fuglsang, Board Secretary
Zoning Board of Adjustment

ZONING BOARD OF ADJUSTMENT
July 2, 2024
5 : 00 PM
Print

ORIGINATING DEPARTMENT:	COUNCIL GOAL:
Planning and Building	Ensure Economic Vitality

ACTION REQUESTED:
Public Hearing

LEGAL:

SUBJECT:

#24-08

Kyle Anderson

for property located at

2009 SW Sage Circle

Lot 19, Sawgrass Park Plat 3

RE: Variance - Covered Deck

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Click to download
#24-08 Applicant Submittal
#24-08 Staff Report

24-08

APPLICATION FOR APPEAL
ZONING BOARD OF ADJUSTMENT

city of Ankeny
bringing it all together

Applicant is: ☑ Property Owner ☐ Tenant ☐ Other _____

RECEIVED
JUN 13 2024
CITY OF ANKENY

Applicant Kyle Anderson

Address / Phone # 2009 SW Sage Cir /:

E-mail kyleandersoniowa@gmail.com

Property Owner Kyle Anderson

Address / Phone # 2009 SW Sage Cir / :

E-mail kyleandersoniowa@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 2nd day of July, 2024

Location (*address*) of the proposed variance 2009 SW Sage Cir.

Legal description (*Plat & Lot #*) Lot 17 SAWGRASS PARK PLAT 3

Zoning R-3 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 # 192.05(3)E which state(s) Rear Yard: 35 Feet

I would propose the following in lieu of that required: Provide variance to allow for us to have a covered portion of the deck.

Sight plan dictates needing to be within 19.7 feet of property line.

Attached hereto and made a part of this appeal, I submit the following:
a) A written statement addressed to the Board of Adjustment 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~~ Florida)ss
County of ~~Polk~~ Pinellas)

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

Kyle Anderson
Print Name *(Signature of Applicant)*

Kyle Anderson
Print Name *(Signature of Property Owner)*

Signed and sworn to before me, this 12th day of June, 20 24.

(Notary Public)

--Notary seal--
NOTARY PUBLIC STATE OF FLORIDA
Notary Public State of Florida
Aaron C Yarbrough
My Commission HH337918
Expires 12/4/2026

Office Use Only
Paid ☐ CC ☐ Cash ☑ Check # 6673002899
Date received 6-13-2024
Filing # 24-07
Scheduled Meeting Date 7-2-2024

24-08

Zoning Board of Adjustment
1250 SW District Dr, Second Floor
Ankeny, IA 50023

To Whom It May Concern,

I am writing to request a variance for my single-family home located at 2009 SW Sage Circle. Zoning rules require a 35' rear yard setback. I am requesting a relaxation of approximately 14' to add a roof over a portion of our deck.

We live in the Sawgrass Park neighborhood and our house sits facing a large open green space. There would be no obstructions in our plan to any of our neighbors. We do not share a rear yard lot line with anyone. Adding the roof will not impede any of our neighbor's view of the open space.

Our backyard faces south to the green space. The deck is directly in the sun from the hours of about 9 am to 7 pm. This space is not usable during this time. During the summer months, the deck gets extremely hot due to the constant sun exposure. It gets very windy with no trees close by so umbrellas and tents have proved to be an unsuccessful option. We have two young children, Kwyn (10) and Ian (7), who would benefit from additional shade space.

Other properties that have successfully obtained a variance for a roof over their deck include: 4402 SW Sawgrass Pkwy, 4008 SW Sawgrass Pkwy, 3605 SW Beechwood St, 3805 SW Beechwood St, and 4106 SW Bluegrass Dr. These properties are all over the 35' lot line with a roof over their deck.

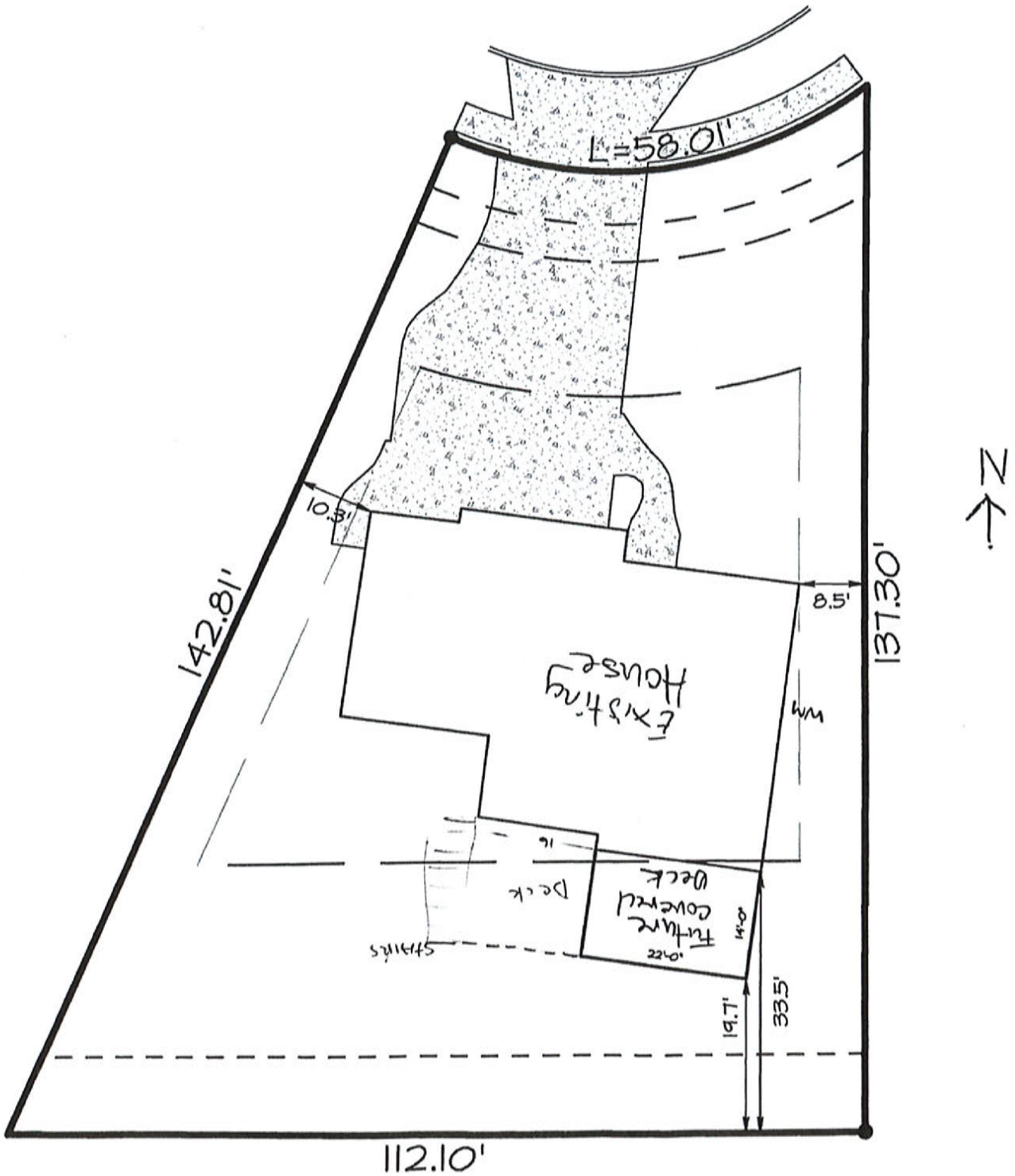
Thank you for considering this request. We look forward to improving our family home and our neighborhood. We are excited to be able to enjoy our backyard at any time during the day.

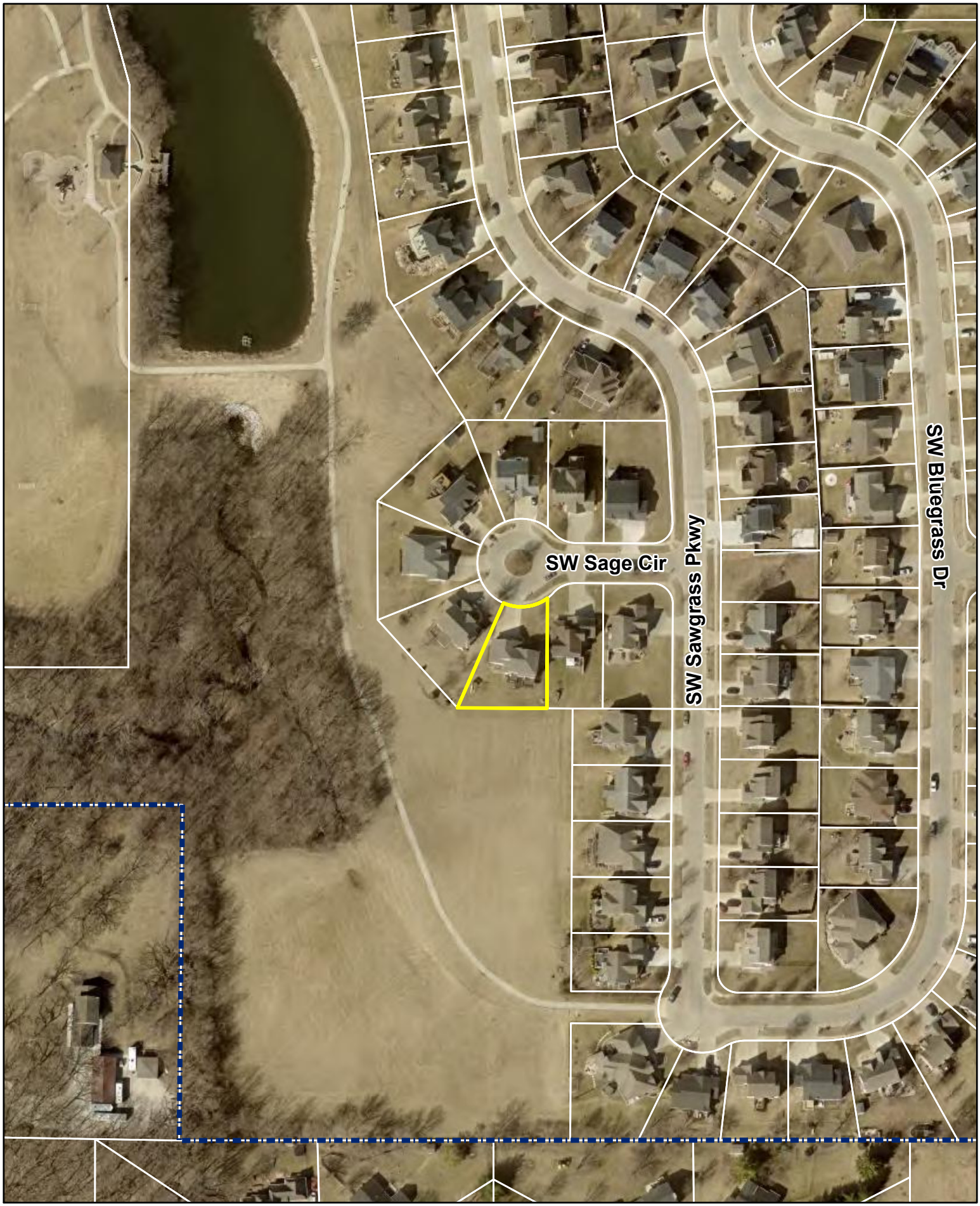
Sincerely,

Kyle, Alli, Kwyn and Ian Anderson

2009 SW SAGE CIRCLE - SITE PLAN

24-08





N

1 inch = 152 feet

Date: 6/20/2024

2009 SW Sage Circle
Variance - Rear Yard Setback
Aerial Map

Ankeny
bringing it all together.

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 #:	24-08 EJC
Meeting Date:	July 2, 2024
Address:	2009 SW Sage Circle

APPELLANT REQUEST

A variance to Ankeny Municipal Code Section 192.05(3)(E) that requires Rear Yard: 35-feet, allowing a 19-foot rear yard setback for a covered deck at 2009 SW Sage Circle.

STAFF POSITION

That the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 192.05(3)(E) to allow a 19-foot rear yard setback for the construction of a covered deck at 2009 SW Sage Circle.

The staff 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 2009 SW Sage Circle, south of SW Oralabor Road and west of SW State Street within the southwestern quadrant of Ankeny. The subject property is a .204-acre lot that is zoned R-3 with restrictions, Multiple Family Residence District restricted to single family homes and is situated on Lot 19 Sawgrass Park Plat 3.

The applicant is requesting a variance to encroach approximately 16-feet into the 35-foot rear yard setback that will allow the owners to convert their existing deck into a covered deck. The deck was constructed with the home in 2005 according to permit records. Should the variance for the covered deck be approved, a 19-foot rear yard setback will be the resulting setback on the south 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

View of deck from rear of house (Sawgrass Park)

The subject property is located at 2009 SW Sage Circle, south of SW Oralabor Road and west of SW State Street within the southwestern quadrant of Ankeny. The subject property is zoned R-3 with restrictions, Multiple Family Residence District restricted to single family homes and contains a single-family home with an attached deck on the south side of the .204-acre lot. Neighboring properties to the north, east and west are similarly zoned R-3 with restrictions, Multiple Family Residence District restricted to single family homes. Sawgrass Park is south of the subject property. Permit records show the house was constructed in 2004. 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 16' into the rear yard setback leaving approximately 19' 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 Sawgrass Park. 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 2024, which allowed a covered deck to extend 6-feet into the rear yard setback. In addition, there were 2 variances that allowed a covered deck to extend into the rear yard setback along SW Sawgrass Parkway where both properties also back to Sawgrass Park. Both of these cases resulted in a 25-foot 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 received correspondence from one property owner in the area in support of the proposed variance at 2009 SW Sage Circle.

The staff position is to grant a variance to Ankeny Municipal Code Section 192.05(3)(E) to allow a 19-foot rear yard setback for the construction of a covered deck at 2009 SW Sage Circle. 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.

192.05(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
July 2, 2024
5 : 00 PM
Print

ORIGINATING DEPARTMENT:	COUNCIL GOAL:
Planning and Building	Ensure Economic Vitality

ACTION REQUESTED:
Public Hearing

LEGAL:

SUBJECT:

#24-09

Great Barrier Fence Co.

on behalf of Terry Ubben

for property located at

110 NW Westwood Street

Lot 35, Golfview Terrace Plat 1

RE: Variance - Fence

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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#24-09 Applicant Submittal
#24-09 Staff Report

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APPLICATION FOR APPEAL
ZONING BOARD OF ADJUSTMENT

24-09

Applicant is: ☑ Property Owner ☐ Tenant ☑ Other Contractor

Applicant Great Barrier Fence Co.

RECEIVED
JUN 14 2024
CITY OF ANKENY

Address / Phone # 5550 Wild Rose Ln. Ste 400 West Des Moines, IA 515-298-8899

E-mail bakerpool2@gmail.com

Property Owner Terry Ubben

Address / Phone # 110 NW Westwood St. Ankeny, IA

E-mail bakerpool2@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 13 day of June, 2024

Location (*address*) of the proposed variance 110 Westwood St. Ankeny IA

Legal description (*Plat & Lot #*) Lot 35 Golfview terrace plat 1

Zoning C-1 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 # 191.4 which state(s) 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 materials

I would propose the following in lieu of that required: 6' Wooden Cedar privacy fence

Attached hereto and made a part of this appeal, I submit the following:
a) A written statement addressed to the Board of Adjustment 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.

Echo Ubben — Echo Ubben
Print Name — *(Signature of Applicant)*

Echo Ubben — Echo Ubben
Print Name — *(Signature of Property Owner)*

Signed and sworn to before me, this 14th day of June, 20 24.
Mallory Jorgenson
(Notary Public)

--Notary seal --

MALLORY JORGENSON
Notarial Seal - Iowa
Commission No. 852347
My Commission Expires Nov. 28, 2026

Office Use Only
Paid ☒ CC ☐ Cash ☐ Check # 130.00
Date received 6-14-2024
Filing # 24-09
Scheduled Meeting Date 7-2-2024

24-09

To Whom it may concern:

I, Echo Ubben, 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 NW Westwood and NW Westwood St. We, along with our dogs would like to able to enjoy the space with more privacy. Also, it would help with other dogs distracting them and their continued barking.

Please consider giving us this opportunity.

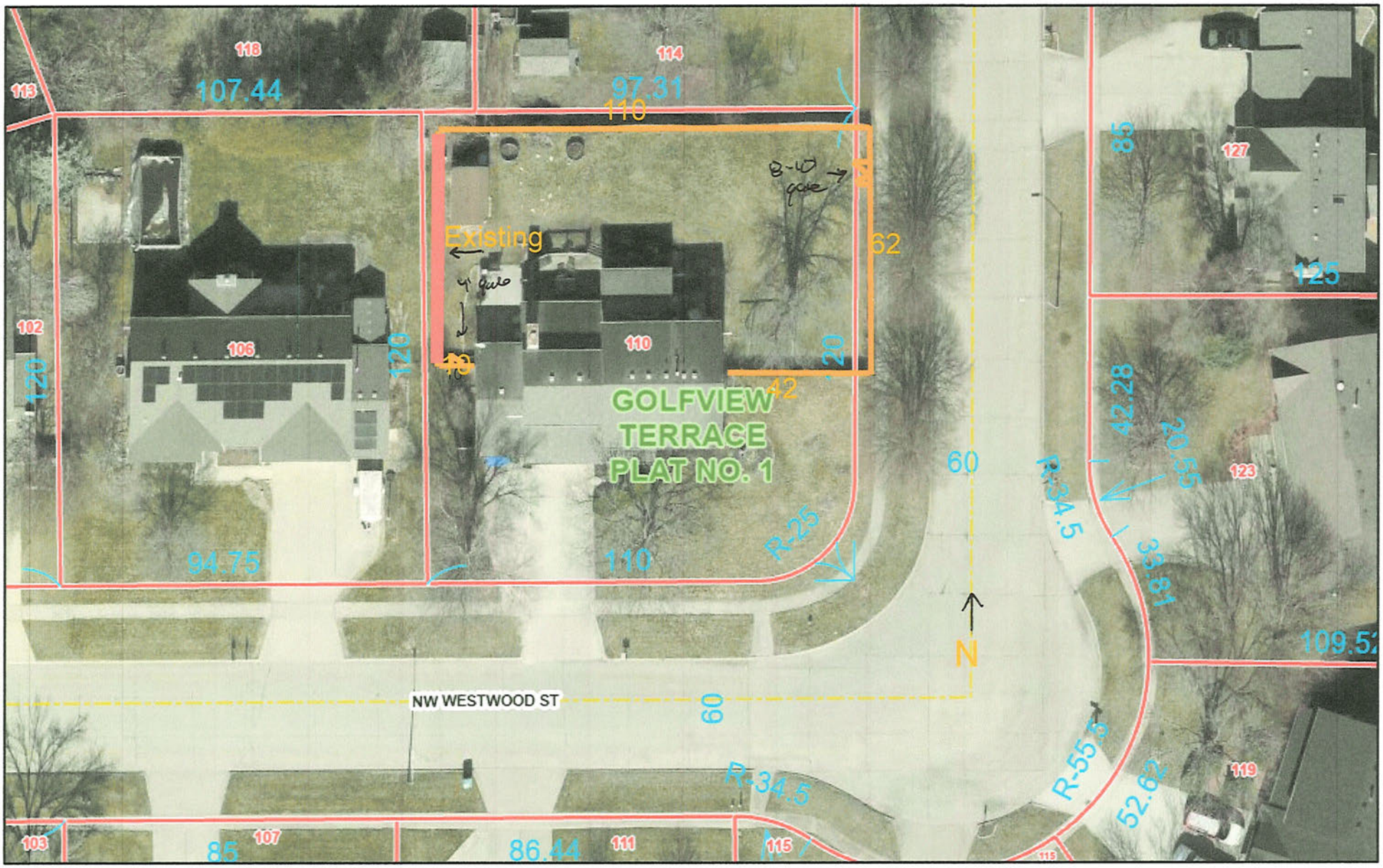
Thank you for your time

Sincerely

Terry and Echo Ubben

ArcGIS Web Map

24-09



6/13/2024, 5:45:12 PM

Lines

Override 2

Subdivision

Streets

Override 1

Tax Parcels

Lot Cartography

1:564

0 0 0.01 0.01 mi

0 0.01 0.01 0.02 km

Auditor's Office, Polk County, Iowa

Polk County, Iowa

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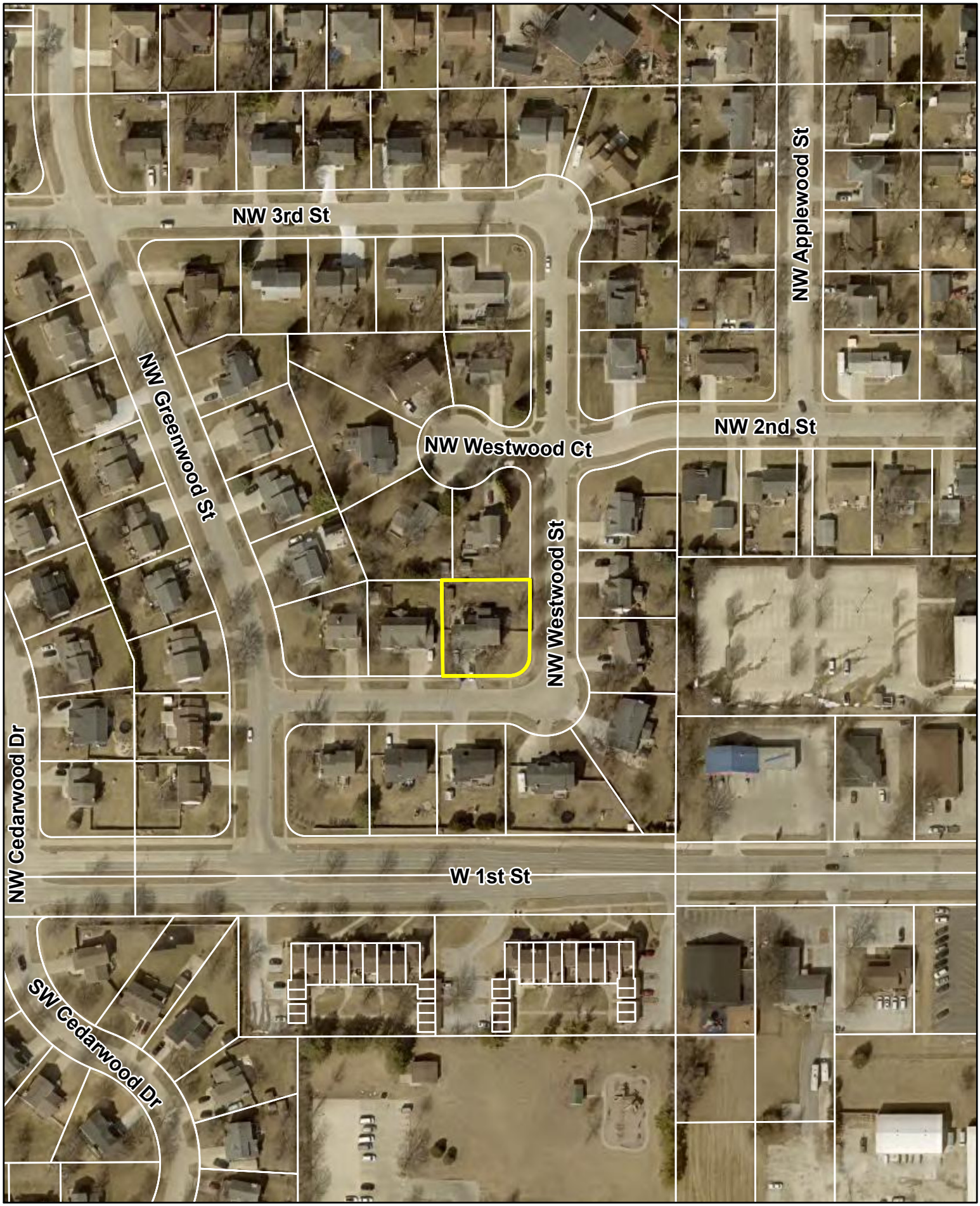

N

1 inch = 153 feet

Date: 6/20/2024

110 NW Westwood Street
Variance - Front Yard Setback
Aerial Map

Ankeny
bringing it all together.

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 #: 24-09 EJC
Meeting Date: July 2, 2024
Address: 110 NW Westwood Street

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 35-foot front yard setback along the east property line at 110 NW Westwood Street.

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 34 feet into the 35-foot front yard setback along the east property line adjacent to NW Westwood Street at 110 NW Westwood Street, subject to maintaining the existing landscaping between the proposed privacy fence and NW Westwood 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 110 NW Westwood Street, north of W 1st Street, west of NW State Street and east of NW Irvindale Drive. The property is zoned C-2, General Retail, Highway-Oriented, and Central Business Commercial District and contains a single-family house on the lot. The property is approximately .302 acres (+/-) in size and is considered a corner lot with two front yards; one to the east adjacent to NW Westwood Street and the other to the south adjacent to NW Westwood Street. The applicant is requesting a variance to allow for a 6-foot tall privacy fence to remain approximately 34 feet into the 35-foot front yard setback adjacent to the eastern 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 subject property is located at 110 NW Westwood Street and is legally described as Lot 35 Golfview Terrace Plat 1. The property is situated on a corner lot, which subjects the site to two front yards; one along the east property line adjacent to NW Westwood Street and the other along the south property line adjacent to NW Westwood Street. The project site is approximately .302 acres (+/-) in size, is zoned C-2, General Retail, Highway-Oriented, and Central Business Commercial District, properties to the south and west are similarly zoned, properties to the north are R-1, One-Family Residence District, and properties to the east and northeast are zoned R-2, One-Family and Two-Family Residence District. The residence on the property was constructed in 1991 and the current fence was constructed in 1998 per the property records. As of today, the property has a 48" tall opaque fence on the north, south, and east sides of the property with the west portion of the fence being 70".

A fence permit was received by city staff requesting to replace the existing 4-foot wooden fence with a 6-foot wooden privacy fence. The applicant was informed that the proposed privacy fence would not be allowed due to the property being on a corner lot with two front yards. Below is location of the proposed fence as submitted by the applicant, the proposed fence location is indicated in orange.

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 C-2, General Retail, Highway-Oriented, and Central Business Commercial District is 35 feet. Because the property is considered a corner lot, the front yard setback requirements apply to the frontages along the properties two frontages on NW Westwood Street. 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 35-foot setback requirement for the frontage along NW Westwood 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 staff does not anticipate the fence inhibiting visibility at the intersection of NW 2nd Street and NW Westwood Street or the bend in NW Westwood Street that fronts the subject property. More specifically, the fence would not obstruct the required 30-foot vision clearance triangle at that specific intersection. Below are multiple different views from intersections that are in the area as well as along NW Westwood Street. In addition, the fence will be adjacent to the rear yard of the property to the north, versus a front yard.

Left: View south from corner of NW Westwood Street and NW Westwood Circle

Below: View south from corner of NW Westwood Street and NW 2nd Street

Right: View northeast on NW Westwood Street

Below: View southwest on NW Westwood Street

Typically, in the past, the Board has required additional landscaping between the fence and the right-of-way as a condition of approval. In this case, there are existing mature trees between the street and the location of the proposed fence. These trees are shown in the picture to the right and are visible in the previous images.

In July of 2023 the board approved a similar variance allowing for a privacy fence to encroach 23 feet into the front yard setback resulting in a two-foot front yard setback. That variance was approved with the condition that the existing landscaping is maintained.

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, and to date, staff has not received any correspondence either for or against the variance at 110 NW Westwood Street.

Therefore, staff recommends that the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 191.14(2), to allow a 6-foot tall privacy fence to encroach approximately 34 feet into the 35-foot front yard setback along the east property line adjacent to NW Westwood Street, subject to maintaining the existing landscaping along NW Westwood 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
July 2, 2024
5 : 00 PM
Print

ORIGINATING DEPARTMENT: COUNCIL GOAL:

Planning and Building

ACTION REQUESTED:

LEGAL:

SUBJECT:

Renewed Special Use Permits

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

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Click to download
Special Use Permit Renewal

city of Ankeny
bringing it all together

City of Ankeny

Outdoor Service Area Renewal Application

***Special Permit Resolution # 18-04 (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: **What's on Second**
(Sole Proprietorship, Partnership, Corporation)

Name of Business (d/b/a): **Who's on First**

Address of Premise: **810 E 1st St.**

- 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)

  none.

- 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

Date: 6/10/2024

Aaron McCombs
Name of Applicant (printed)

ADMINISTRATIVELY
☑ APPROVED
6/11/24 EJC