

Meeting Minutes

Zoning Board of Adjustment

Tuesday, June 7, 2022
Ankeny City Council Chambers
1250 SW District Drive, Second Floor, Ankeny, Iowa

CALL TO ORDER

Chair Matt Ott called the June 7, 2022 regular meeting of the Zoning Board of Adjustment to order at 5:00 p.m.

ROLL CALL

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

AMENDMENTS TO THE AGENDA

There were no amendments to the agenda.

MINUTES OF THE MAY 3, REGULAR MEETINGS

Motion by M.Ott to approve the May 3, 2022 meeting minutes as submitted. Second by K.Tomlinson. Motion carried 3 – 0 – 1 (Abstain: N.Sungren).

COMMUNICATIONS / CORRESPONDENCE

There were no communications.

BUSINESS ITEMS

PUBLIC HEARINGS:

#21-06 (2022)

El Molcajete Mexican Restaurant & Cantina
for property located at
301 East 1st Street
Lot 5 & -EX E 75F- Lot 6 NAPA Manor
RE: Special Use Permit

Chair M.Ott opened the public hearing.

Associate Planner Jake Heil read the Applicant's statement to the Board. The statement read as follows:

The applicant is requesting a permit to comply with Ankeny Municipal Code Chapter 44, Noise control for an outdoor serve area with hours of operation from 11:00 a.m. – 10:30 p.m., 7 days a week, with seating for 8 tables up to 34 chairs, with amplified sound utilized solely to provide light background music. The variance is being requested for the business entity "El Molcajete Restaurant" located at 301 E 1st Street in Ankeny, Iowa 50021. We appreciate your consideration and time. Sincerely, Abraham Murguia.

There were no questions from the Board.

J.Heil reported El Molcajete Restaurant and Cantina located at 301 East 1st Street is requesting a Special Use Permit to allow alcohol to be served and a speaker for sound on their proposed outdoor patio. He said that the patio was installed approximately one year ago and the property is zoned C-1, Neighborhood Retail Commercial District. J.Heil stated that the subject property is within 500 feet of residentially zoned property, with properties directly to the north and south of the subject property zoned R-1, One-Family Residential District. He commented that 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. J.Heil presented a drawing showing the patio's location on the north side of the building, in-front of El Molcajete Restaurant and Cantina, and along E 1st Street. The drawing submitted shows a patio area with seven tables and seats for 28 patrons. There is a 36-inch fence that surrounds the patio. He stated that the original request was for seating of 28 patrons and the applicant is now asking for seating up to 34 people with their renewal, which is the only change from their original request. Staff confirmed that there is ample parking to accommodate the additional table and was informed by City Police and Fire that there have been no complaints or issues since the patio was installed. The staff position for the request of a

Special Use Permit for an outdoor service area for El Molcajete Restaurant and Cantina is to recommend approval by the Board of Adjustment with the following conditions:

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. Seating on the patio for 34 persons.
3. Hours of operation 11:00 a.m. to 10:30 p.m. daily.
4. This Special Use Permit may be reviewed annually by staff for approval.

The Board had no questions.

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 N.Sungren. All voted aye. Motion carried 4 – 0.

The Board had no concerns.

Board Action on Filing #21-06 (2022) property located at 301 East 1st Street

Motion by B.Walker that the Zoning Board of Adjustment grant a Special Use Permit for an outdoor service area in accordance with Sections 130.07 and 196.02 (1) (I) to El Molcajete Mexican Restaurant and Cantina at 301 E 1st Street, to run concurrently and terminate with a 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. Seating on the patio for 34 persons.
3. Hours of operation 11:00 a.m. to 10:30 p.m. daily.
4. This Special Use Permit may be reviewed annually by staff for approval.

Second by M.Ott. All voted aye. Motion carried. 4 – 0.

#22-09

Rodney Knox

for property located at

809 NE Vail Court

Lot 22, Fountain View Estates Plat 3

RE: Variance - Rear Yard Setback

Chair M.Ott opened the public hearing.

Rodney Knox, 413 SW Cherry Street, said they are proposing to place an addition on the back side of their home. He said the angle of their property lines along with where the home is placed on the lot, the addition would be encroaching 2.9-feet into the rear yard setback. He asked the Board to consider granting the variance for the addition.

There were no questions from the Board.

L.Hutzell reported the variance request is for property located at 809 NE Vail Court located within the Fountain View Estates development located in the NE quadrant of Ankeny. She said the subject property, along with neighboring properties are zoned R-1, One-Family Residence District. L.Hutzell stated the applicant is proposing to remove the existing deck and construct a 348 square foot four seasons porch at the rear of the home. She said the four seasons porch will encroach into the 35-foot rear yard setback approximately 1.6 feet at the rear, east most corner, and 2.9 feet at the rear southeast most corner. She explained that after review, Staff determined that asking for one variance for the larger of the two at 2.9-feet is a more appropriate request as it encompasses the entirety of this project. She stated that since the proposed porch will be enclosed and connected to the primary residence on the site, the structure will need to adhere to the building setback requirements of the Code; and

should the 2.9-foot variance for the four seasons porch be granted, a 32-foot 1-inch setback will be the resulting rear yard setback. L.Hutzell noted that the lot is somewhat unique, the rear property lines back up to a trail and pond, and the property sits on a cul-de-sac. Staff has not received any correspondence from any neighboring property owners regarding the request. Staff's position is to grant a variance to Ankeny Municipal Code Section 192.04(3)(E) to allow a 32-foot 1-inch rear yard setback for the construction of a four seasons porch at 809 NE Vail Ct, subject to the applicant acquiring all necessary building permits. Staff's position 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.

There were no questions from the Board.

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

Motion by M.Ott to close the public hearing, and receive and file documents. Second by K.Tomlinson. All voted aye. Motion carried 4 – 0.

The Board had no concerns.

Board Action on Filing #22-09 for property located at 809 NE Vail Court

Motion by K.Tomlinson that the Zoning Board of Adjustment grant a 2.9-foot variance to Ankeny Municipal Code Chapter 192.04(3)(E), allowing a 32.1-foot rear yard setback for the construction of a four seasons porch at 809 NE Vail Court. The Board's position is based on a determination that the variance would adequately safeguard the health, safety, and welfare of the occupants of adjoining and surrounding property, would not impair an adequate supply of light and air to adjacent property, would not increase public danger of fire or endanger the public safety, and would not diminish or impair established property values in the surrounding area; 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. 4 – 0.

#22-10

Screenbuilders

for property located at

2514 NW Abilene Road

Lot 25, Centennial Pointe West Plat 3

RE: Variance - Rear Yard Setback

Chair M.Ott opened the public hearing.

Dave Brunell, 2514 NW Abilene Road said that they are proposing to build a four seasons room on the back of their home, which would replace their existing deck. They would like the Board's consideration on their 2'6" variance request.

There were no questions from the Board.

D.Silverthorn reported that the appellant is requesting a variance to the minimum required rear yard setback of 35-feet within an R-2 zoning district, in order to enclose the existing deck creating an addition to the house for property located at 2514 NW Abilene Road. He stated that the proposed addition would encroach 2'6" into the minimum required 35-foot rear yard setback, resulting in a 32'6" rear yard setback. He said all the surrounding properties are also zoned R-2. He presented the current zoning map and an aerial map showing the subject property. D.Silverthorn stated that the house is set back from the rear property line approximately 44 feet, and the existing deck, including the staircase, projects 7'6" into the minimum required 35-foot rear yard setback, which is allowed by code. He noted that the property is surrounded by single-family residences to the north and south and the rear property line abuts a stormwater detention pond. He explained that the property currently provides a 9'8" setback from the closest point of the house to the southern property line, and a 7'6" setback from the closest point of the deck to the southern property line. He stated the proposed building addition, if approved, would result in a 7'6" setback from the southern property line, which would provide a minimum side yard setback of 7 feet, and a total side yard setback of 15 feet from the north and south property lines, as required in the R-2 zoning district. The neighboring house to the south, closest to the proposed building addition, is currently located 19 feet from the subject house, and, if approved, the proposed building addition would provide 18 feet of separation between the

two. He further said the appellant is also proposing to construct a new deck, which will be located along the rear of the existing home and north of the proposed building addition. Staff has not received any correspondence from any neighboring property owners regarding the request. Staff's position for this request is that the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Chapter 192.04.3.E, allowing a 32'6" rear yard setback for the property located at 2514 NW Abilene Road. This position is based on a determination that the variance would adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property, would not impair an adequate supply of light and air to adjacent property, would not increase public danger of fire or endanger the public safety, and would not diminish or impair established property values in the surrounding area; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code.

There were no questions from the Board.

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

Motion by M.Ott to close the public hearing, and receive and file documents. Second by B.Walker. All voted aye. Motion carried 4 – 0.

K.Tomlinson commented that the addition seems too close to the neighbor's home to the south, but if it is allowed by Code she has no concern. M.Ott agreed. There were no further questions from the Board.

Board Action on Filing #22-10 for property located at 2514 NW Abilene Road

Motion by M.Ott that the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Chapter 192.04.3.E, allowing a 32'6" rear yard setback for the property located at 2514 NW Abilene Road. The Board's position is based on a determination that the variance would adequately safeguard the health, safety and welfare of the occupants of adjoining and surrounding property, would not impair an adequate supply of light and air to adjacent property, would not increase public danger of fire or endanger the public safety, and would not diminish or impair established property values in the surrounding area; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code. Second by B.Walker. All voted aye. Motion carried. 4 – 0.

NEW BUSINESS

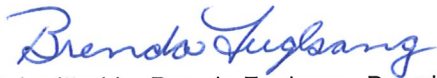
There was no new business.

REPORTS

Renewed Special Use Permits

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

There being no further business, the meeting adjourned at 5:28 p.m.



Submitted by Brenda Fuglsang, Board Secretary
Zoning Board of Adjustment