



Meeting Agenda

Zoning Board of Adjustment

Tuesday, May 2, 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 April 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.

#23-08

Kara Bixby Rodriguez & Joel Rodriguez

for property located at

2943 SW 3rd Street

-EX W67F & N 67F ON W LN & N70.59F ON ELN RD EAS-

S140F N 798.1F W 356.14F NW 1/4 SEC 22-80-24

RE: Variance - Front Yard Setback

#23-09 and #23-10

Ralph Grout

for property located at

1101 NE Trilein Drive

Lot 9, Barclay Plat 1

RE: #23-09 Variance - Rear Yard Setback, Sunroom

#23-10 Variance - Rear Yard Setback, Deck

F. OLD BUSINESS:

G. NEW BUSINESS

H. REPORTS

I. ADJOURNMENT



ZONING BOARD OF ADJUSTMENT

May 2, 2023

5 : 00 PM



ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

ACTION REQUESTED:

Motion

LEGAL:

SUBJECT:

Minutes of the April 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:

Click to download

 [ZBOA Minutes 2023-04-18](#)

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

CALL TO ORDER

Chair Matt Ott called the April 18, 2023 regular meeting of the Zoning Board of Adjustment to order at 5:03 p.m.

ROLL CALL

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

AMENDMENTS TO THE AGENDA

There were no amendments to the agenda.

MINUTES OF THE MARCH 21, 2023 REGULAR MEETING

Motion by J.Baxter to approve the March 21, 2023 meeting minutes as submitted. Second by K.Tomlinson.
Motion carried 3 – 0 – 1. (Abstain: M.Ott)

COMMUNICATIONS / CORRESPONDENCE

Communication received from Ken and Nancy Herndon, 2808 NW Beechwood Street regarding Appeal #23-06 to be received and filed during the public hearing.

BUSINESS ITEMS

PUBLIC HEARINGS:

M.Ott motioned that the Board table public hearing #23-06 until later in the meeting to allow time for staff to contact the applicant to see if they will be participating in the meeting. Second by J.Baxter. All voted aye. Motion carried 4 – 0.

#23-07

Concrete Technologies, Inc.

for property located at

Outlot Y, Four Mile Four

RE: Special Use Permit

Chair M.Ott opened the public hearing.

Beau Sprouse, Concrete Technologies, Inc., 1001 SE 37th Street, Grimes, Iowa said they are requesting an approval for a Special Use Permit for the property located at Outlot Y, Four Mile Four. The purpose is for a portable concrete ready-mix batch plant. The use would be for a couple projects generally located around I-35 and Hwy 69.

M.Ott confirmed that they intend to use the batch plant location for two years and will restore the property to its current condition. Beau Sprouse said, correct.

B.Morrissey reported that the request is for a Special Use Permit for property located on Outlot Y, Four Mile Four, generally located south of NE 126th Avenue and west of I-35. He stated that the property was recently annexed into the City and is currently zoned R-1, One-Family Residence district, which is the standard for newly incorporated properties. He stated that they are requesting the Special Use Permit to allow them to use the site for a portable concrete batch plant during the 2023 and 2024 construction seasons. He noted that the applicant will only be occupying a small portion of the site in the NE corner. This site was used for a similar project a few years ago but at that time a Special Use Permit was not required since it was under Polk County's jurisdiction. B.Morrissey stated that if the Special Use Permit were granted, there is a series of conditions, per code, that has to be met. He noted two of the conditions, which included that the project site must be 1,000 feet away from any residential dwelling and the applicant must submit a map of the routes that the trucks will use. He stated that staff does not have concerns about the property being utilized for the concrete batch plant as it appears the applicant will be able to meet the conditions of the Code. He commented that notice requirements for this

hearing have been met, and to date, only one property owner reached out to staff wanting additional information on the amount of traffic and the hours of operation, if this is approved. Staff's position is that Zoning Board of Adjustment grant a Special Use Permit in accordance with Section 196.02(1) to Concrete Technologies, Inc. on Outlot Y, Four Mile Four, for a portable concrete batch plant, provided that the following conditions are met:

1. Such facility shall be erected in conjunction with a project or projects, either private or public, within the City.
2. Permitted until termination of such project or projects.
3. The contractor shall submit a routing of trucks to and from the proposed plant to the City Engineer as a condition prior to approval.
4. The contractor shall be required to restore the area to its original productive state.
5. Such facility shall only be allowed access via arterial or collector roads and highways. Access via local residential and/or collector roads serving residential areas shall be prohibited.
6. Entire site must be 1,000 feet from a residential dwelling.

M.Ott asked if the route being proposed is all hard surface. B.Morrissey responded, he believes it is. J.Baxter noted that from an aerial view, it looks like the property was restored properly after the last use and he confirmed that the contractor will have to restore the site to its existing condition again. B.Morrissey stated, yes. J.Baxter asked if there are any plans for this property to be developed over the next two years. E.Carstens said the property owner has a lease with Concrete Technologies, Inc. for use of the property, so he does not believe that there are any intentions to develop over the next two years.

Emily Huss, 1957 NE 126th Avenue, Ankeny shared that her home sits 1,022 feet from the proposed concrete batch plant. She shared her concerns about safety relating to truck traffic and air pollution for the two years. She also inquired whether it could continue to operate for more than two years. She informed the Board that they were recently annexed into the City of Ankeny and said that the property owner told them that the property behind their home would be used for residential purposes. Emily Huss further said that they were told that their life would not change much when they became a part of Ankeny; now, the request is to place a concrete batch plant 1,022 feet from their home. Emily Huss needed some answers to her questions.

Jeremy Nefzger, 1558 NE 126th Avenue, Alleman said he would like more information on what the hours of operation will be, what to expect with the increase of truck traffic, and information from the standpoint of health and safety. He said he provided staff with the covenants of Outlot Y, Four Mile Four, which staff informed him that the City does not enforce covenants and, in this case, it is temporary and will be put back into its original state.

Kevin Huss, 1957 NE 126th Avenue, Ankeny shared that he wanted to make sure the Board understood that he and his wife are against the request. He further said that they never received notification of the request and wondered what the notification requirements were for this request.

B.Morrissey responded saying that the notification area is 250-feet from the actual parcel where the use is requested.

M.Ott asked for the applicant to provide information on the safety measures that their crews would be using.

Beau Sprouse stated that they have identified the haul routes; and NE 126th Avenue will be part of the detour. He said they have added construction traffic signage and signs informing citizens of trucks entering and exiting from the Hwy 69 and NE 126th Avenue corner to the entrance of the concrete batch plant.

M.Ott asked the applicant as to the number of trucks expected per hour, the anticipated operating hours and the anticipated completion date? Beau Sprouse responded stating that during peak days, which would be about 20 days, there could be 25-30 trucks that would travel from the Hwy 69 intersection to the plant location. He stated that they would be following the Noise Ordinance for Ankeny, 7:00 a.m. to 9:00 p.m. Monday through Friday; and 9:00 a.m. to 6:00 p.m. Saturday and Sunday; and the contract with the IDOT is a working day contract, which puts the completion date in the middle of the 2024 construction season. Beau Sprouse further commented that the work along NE 126th Avenue is anticipated to be completed near the end of the 2023 construction season, but once the NE 126th Avenue ramps are open to I-35, the route would be changed and they would more than likely use the interstate for their route. K.Tomlinson asked how much truck traffic would be heading east on NE 126th Avenue versus west to Hwy 69 from the concrete batch plant. Beau Sprouse

stated that the dump trucks will use the ramps on NE 126th Avenue to the east as much as possible during the project. The proposed haul routes are for when the ramps are closed.

N.Sungren asked how long the site was used with the previous concrete batch plant in this location. Beau Sprouse said that the project was completed in the 2013 construction season and he believes the plant did not come down until the Spring of 2014 and he was not aware of any complaints with that project.

Beau Sprouse shared that Concrete Technologies, Inc. does have to acquire an Air Quality Permit with the Iowa DNR. They are required to follow certain regulations to collect any dust that is presented from the batch operation and follow the guidelines set by the Iowa DNR.

M.Ott asked Beau Sprouse if he would have an issue if the Board set a cap on the operation of the batch plant for December 31, 2024. He said as long as it went through the 2024 construction season, it should be fine.

K.Tomlinson asked how long does it take to put the property back to its current condition? Beau Sprouse said about one month.

M.Ott asked if they would be opposed to placing a Child at Play sign out in front of the residents. Beau Sprouse said no.

Beau Sprouse shared that NE 126th Avenue is used all the time for aggregate hauling to/from the ready-mix plants on the east side of the interstate. He said since truck traffic will not be able to use NE 126th Avenue to travel to those plants, their project will just be replacing the truck traffic that would normally travel on NE 126th Avenue, not add additional.

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 discussed the information that was presented to them during the public hearing and had no further questions. Their discussion included the willingness of the applicant to address the neighbor's concerns and placing a specific end date for the Special Use Permit.

Board Action on Filing #23-07 property located at Outlot Y, Four Mile Four

Motion by M.Ott that the Zoning Board of Adjustment grant a Special Use Permit for a portable concrete batch plant in accordance with Section 196.02(1) to Concrete Technologies, Inc., provided that the following conditions are met:

1. Such facility shall be erected in conjunction with a project or projects, either private or public, within the City.
2. Permitted until termination of project or projects, no later than December 31, 2024.
3. The contractor shall submit a routing of trucks to and from the proposed plant to the City Engineer as a condition prior to approval.
4. The contractor shall be required to restore the area to its original productive state.
5. Such facility shall only be allowed access via arterial or collector roads and highways. Access via local residential and/or collector roads serving residential areas shall be prohibited.
6. Entire site must be 1,000 feet from a residential dwelling.

Second by J.Baxter. All voted aye. Motion carried 4 – 0.

#23-06

MJ Properties

for property located at

2712 NW Beechwood Street

Lot 25, Centennial Estates Plat 1

RE: Variance - Covered Deck

Chair M.Ott confirmed with Staff that the applicant for Public Hearing #23-06 would not be in attendance.

E.Jensen shared that since there is no one in the audience regarding this case, it would be acceptable to Staff if the Board would like to move forward with holding the public hearing for this request instead of tabling it until the next meeting.

Chair M.Ott opened the public hearing.

The applicant was not in attendance to present their request.

R.Kirschman reported that the applicant is requesting a variance to allow for a 32-foot rear yard setback for a covered deck at 2712 NW Beechwood Street, generally located north of NW 18th Street, south of NW 36th Street, east of NW Irvinedale Drive and west of NW State Street. He said the subject property is zoned R-3, Multiple-Family Residence District restricted to single-family homes. R.Kirschman stated that the requested variance would allow for the covered deck to encroach approximately 2-feet into the 35-foot rear yard setback. Should the variance to allow the owners to convert their proposed deck into a covered deck be approved, a 32-foot rear yard setback will be the resulting setback on the west side of the property. He noted that staff has no concerns with the covered deck extending into the rear-yard setback as the property backs up to private open space/wetlands and the covered deck should not have any measurable impact on surrounding residences. He shared that notifications were sent out to all property owners within 250' of the subject property, and to date, staff has not received any correspondence either for or against the variance. Staff recommends 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 deck at 2712 NW Beechwood Street. Staff's position is based on a determination that the decreased rear yard setback from the resulting covered deck would not impair an 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 J.Baxter. All voted aye. Motion carried 4 – 0.

There was no further discussion.

Board Action on Filing #23-06 property located at 2712 NW Beechwood Street

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 conversion of a covered deck at 2712 NW Beechwood Street. The Board's decision 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. Second by N.Sungren. All voted aye. Motion carried 4 – 0.

NEW BUSINESS

There was no new business.

REPORTS

There were no reports.

There being no further business, meeting adjourned at 5:44 p.m.



Submitted by Brenda Fuglsang, Board Secretary
Zoning Board of Adjustment



ZONING BOARD OF ADJUSTMENT

May 2, 2023

5 : 00 PM

 [Print](#)

ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

Ensure Economic Vitality

ACTION REQUESTED:

Public Hearing

LEGAL:

SUBJECT:

#23-08

Kara Bixby Rodriguez & Joel Rodriguez

for property located at

2943 SW 3rd Street

-EX W67F & N 67F ON W LN & N70.59F ON ELN RD EAS-
S140F N 798.1F W 356.14F NW 1/4 SEC 22-80-24

RE: Variance - Front Yard Setback

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

PUBLIC OUTREACH EFFORTS:

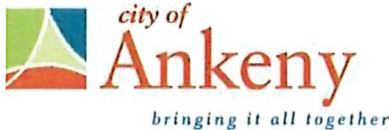
ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Click to download
 #23-08 Applicant Submittal
 #23-08 Staff Report

#23-08



APPLICATION FOR APPEAL ZONING BOARD OF ADJUSTMENT

Applicant is: ☒ Property Owner ☐ Tenant ☐ Other _____

Applicant Kara Bixby Rodriguez and Joel Rodriguez Castro

Address / Phone # 2943 SW 3rd Street, Ankeny, Iowa 50023 515-217-8583 515-217-8560

E-mail joel@heartlandstaff.com rodriguezjoelkara@gmail.com

Property Owner Same As Above

Address / Phone # _____

E-mail _____

(Owner must sign the application or submit a letter of authorization)

To the Members of the Board of Adjustment:

I hereby appeal from the decision of the Zoning Administrator rendered on 10th day of April, 2023

Location (address) of the proposed variance 2943 SW 3rd Street, Ankeny

Legal description (Plat & Lot #) -EX W67F & N 67F ON W LN & N70.59F ON ELN RD EAS- S140F N 798.1F W 356.14F NW 1/4 SEC 22-80-24

Zoning C-2 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 # 192.09.3 (D) which state(s) Front Yard: Same as required in the C-1 District

Front Yard: 35-feet

I would propose the following in lieu of that required: Front Yard: 23-feet

A variance of 12-feet from the required front yard setback.

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.

(Signature of Applicant)

Signed and sworn to before me, this

13th day of April, 2023.

Brenda Fuglsang
(Notary Public)

RECEIVED



APR 13 2023

Date received _____

Paid ☐ Cash ☒ Check # 1090 \$120.00 Office Use Only

CITY OF ANKENY #23-08

Scheduled Meeting Date May 2, 2023

April 13th 2023

Dear members of the Zoning Board of Adjustment,

My husband and I are submitting this variance request because we just purchased this property on Friday April 7th 2023. When we made the offer on the house, the zoning issue had not yet been discovered. When the appraiser went to the property, they discovered this strange zoning issue that divided our property right down the middle of the house. We continued with the purchase in hope that this could be made right. Neither my husband nor I were alive when this house was built or when the zoning lines were drawn. We are just learning about zoning & city laws for the first time through this process. From what we can understand, the city requires a front yard of 35 feet before the structure and our house currently is built at 23 feet from the property vacation line. Like I mentioned before we are new to all of this but we were surprised by this since there is more than 35 feet from the street to the structure of the building so when we made the offer on purchasing the home we were under the impression that our property would be from the street to the backline of the creek behind the house. Now we understand that when lines were drawn back in the day that this was not the case.

We are submitting the request to be allowed 23 feet to be sufficient for the front yard instead of 35 feet. At this current moment, if there was a storm or other kind of disaster, we would not be able to rebuild our home, and it is too close to the creek behind us to be able to build further back. As new homeowners this is a huge concern for us and our growing family. We would like to ask that the city allow the line to be drawn at 23 feet so that we could be covered by insurance if a natural disaster were to ever occur so that our largest access be protected & so that we could rebuild our home if such an issue ever happened. Please take in account in your considerations that all of these variables happened before my husband or I were even alive and we are not responsible for the house being built 12 feet too short to the vacation zoning line. I'm not sure why this happened or how it is decided where property lines get drawn, but what is done is done and we ask that we be allowed to protect our home and be allowed to have 23 feet be enough for the city in this situation.

Thank you so much for reading and for all you do to serve our city 😊



Kara Bixby Rodriguez & Joel Rodriguez Castro
2943 SW 3rd Street, Ankeny Iowa 50023
rodriguezjoelkara@gmail.com
515-217-8583 (J)
515-217-8560 (K)



N



1 inch = 50 feet

Date: 4/13/2023

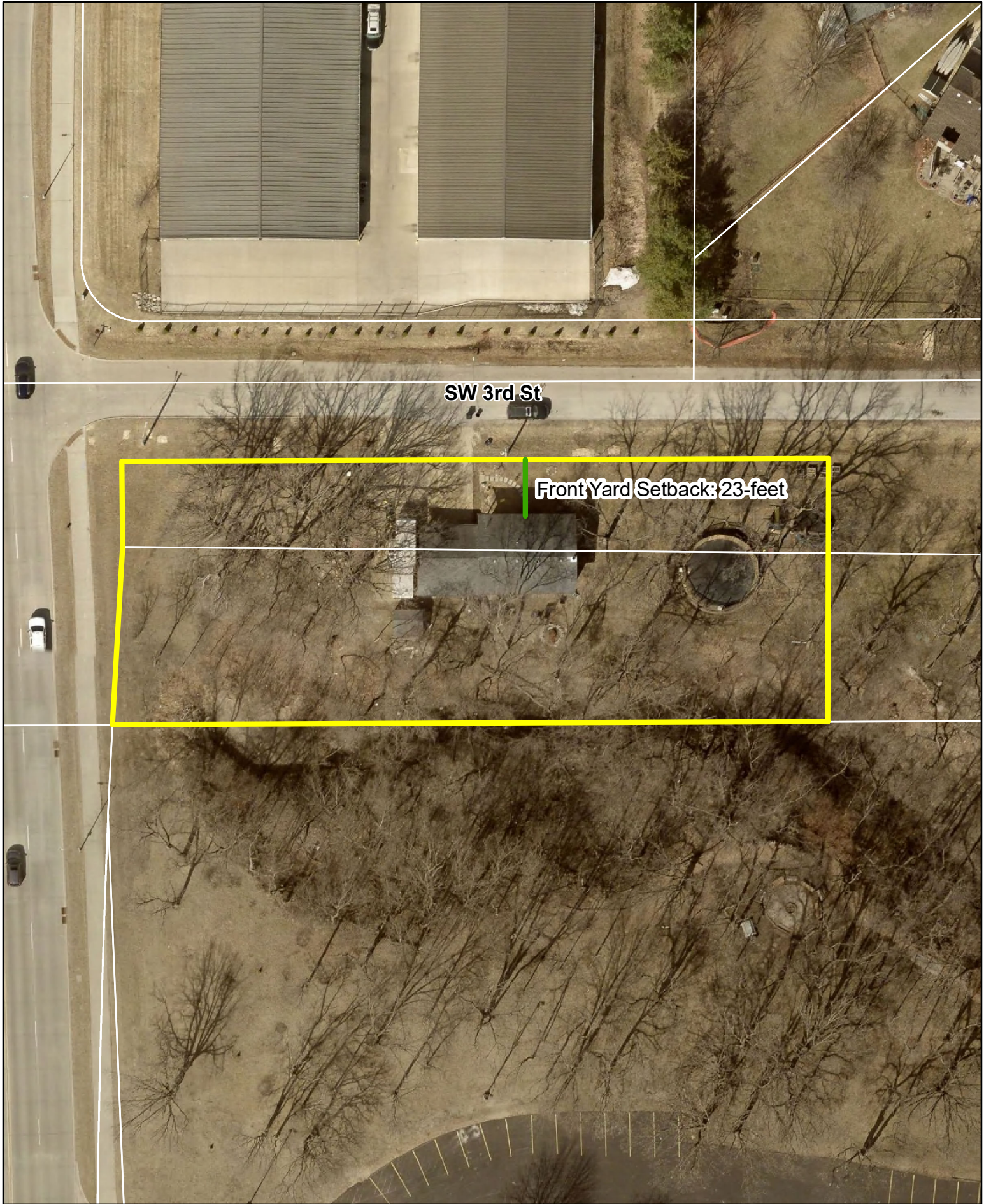
2943 SW 3rd Street



1 inch = 200 feet

Date: 4/18/2023

2943 SW 3rd Street



1 inch = 50 feet

Date: 4/13/2023

2943 SW 3rd Street

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

To: Members of the Zoning Board of Adjustment
From: Deb Gervais, Senior Planner
Filing #: 23-08
Meeting Date: May 2, 2023
Address: 2943 SW 3rd Street

ESC

APPELLANT REQUEST

A variance to Ankeny Municipal Code Section 192.09(3)(D) that requires Front Yard: 35-feet, allowing a 23-foot front yard setback for the existing home at 2943 SW 3rd Street.

STAFF POSITION

That the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 192.09(3)(D) to allow a 23-foot front yard setback for the existing home at 2943 SW 3rd Street.

Staff's position is based on a determination that the existing front yard setback from home does not impair adequate supply of air and light, does 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 2943 SW 3rd Street, south of SW 3rd Street and east of SW Irvinedale Drive within the southwestern quadrant of Ankeny. In 1973-1975, the home on the property was constructed overtop a Roadway Easement for SW 3rd Street.

An easement vacation request is currently being processed. As part of the City Council meeting May 1, 2023, it is anticipated that City Council would vacate a portion of the Roadway Easement allowing for a free and clear 23-foot front yard setback.

Community Development staff requested vacation of the full 35-foot front yard setback area, but it was determined by Public Works staff and utility companies located within the easement area that they would need to retain at least 33-feet of width measured from the street centerline for the half right-of way on the south side of SW 3rd Street.

The applicant is requesting a variance to allow the existing home to encroach approximately 12-feet into the 35-foot front yard setback, allowing the owners to fully and legally insure their property in the case of substantial damage.

PROJECT REPORT

Criteria for Variance

197.01(4) Powers and Duties.

B. To grant a variation in the regulations when a property owner can show ...that by reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of the terms of this title actually prohibits the use of this property in the district; and that the board is satisfied under the evidence before it that a literal enforcement of the provisions of this title would result in unnecessary hardship; provided, however, that all variations granted under this clause shall be in harmony with the intended spirit and purpose of this title.

FINDINGS OF FACT

The subject property is addressed, 2943 SW 3rd Street, and located south of SW 3rd Street and east of SW Irvinedale Drive. The subject property is not a platted lot; therefore, the legal description is as follows:

-EXCEPT WEST 67-FEET & NORTH 67-FEET ON WEST LINE & NORTH 70.59-FEET ON EAST LINE ROAD EASEMENT- THE SOUTH 140-FEET, NORTH 798.1 FEET, WEST 356.14-FEET LOCATED IN THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 80 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF ANKENY, POLK COUNTY, IOWA

CONTAINING APPROXIMATELY 0.471 ACRES (20,500 S.F.).

— source Polk County Assessor's webpage

AND

A PART OF SW 3RD STREET RIGHT-OF-WAY LOCATED IN THE SOUTH 3/4 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 80 NORTH, RANGE 24 WEST OF THE 5TH P.M., IN THE CITY OF ANKENY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 22; THENCE SOUTH 00°10'19" WEST ALONG THE WEST LINE OF SAID SECTION 22, A DISTANCE OF 658.10 FEET TO THE NORTH LINE OF SAID SOUTH 3/4; THENCE NORTH 89°35'43" EAST ALONG SAID NORTH LINE, 67.00 FEET; THENCE SOUTH 00°24'17" EAST, 33.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°35'43" EAST, 289.06 FEET TO THE WEST LINE OF PARCEL "A" AS SHOWN IN THE PLAT OF SURVEY RECORDED IN BOOK 6183, PAGE 210 IN THE OFFICE OF THE POLK COUNTY RECORDER; THENCE SOUTH 00°28'32" WEST ALONG SAID WEST LINE OF PARCEL "A", A DISTANCE OF 37.90 FEET; THENCE NORTH 89°45'53" WEST, 288.49 FEET; THENCE NORTH 00°24'17" WEST, 34.68 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.24 ACRES (10,479 S.F.).

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

-source Roadway Easement Vacation Plat

The subject property is zoned C-2, General Retail, Highway-Oriented, and Central Business Commercial District. Neighboring properties to the north, east, and south are all zoned C-2. Neighboring properties west of SW Irvinedale Drive are unincorporated and under Polk County jurisdiction and zoned Rural Residential.

The existing land use for neighboring properties include: Storage Mart and single-family homes to the north of SW 3rd Street, a private cul-de-sac termination of SW 3rd Street and two single-family homes to the east, Ankeny Baptist Church to the south, and single-family homes west of SW Irvinedale Drive.

Robert Bauer attained a building permit for the home on the property October 31, 1973. The original plans reviewed by staff did not indicate that there was a 67-foot at the narrowest up to 80-foot wide Roadway Easement south of the SW 3rd Street centerline. Therefore, the home was constructed partially in the Roadway Easement area for SW 3rd Street. The property was occupied February 6, 1975. Other permitted structures on the property include: an above ground swimming pool and deck, permitted in 2012, and a shed completed in 2019.

On May 10, 1982, a letter was sent to the original builder and owner, Robert Bauer, relating to the Roadway Easement and pointing out that, "This particular easement is not the pre-World War II road easement which was 20' each side of the centerline of SW 3rd Street (the east-west gravel road on the north side of your property). The easement I found was by the U.S. Government to Polk County and now in favor of the City of Ankeny." The letter concluded with the City's wish to straighten out the situation, but there were no additional notes relating to this easement in the address file.

The situation of the home being constructed partially in the Roadway Easement was brought to current City staff's attention with a call from Albertson Appraisal asking if it is legally permissible to rebuild in the case of substantial damage.

Polk County shows Roadway Easements as property lines on the Polk County General Map and Assessor's webpages. As situated, the house was constructed half on private property and half on City property. Therefore, after review of the site and information in the address file, the answer to the call from Albertson Appraisal was, "No, it could not be reconstructed in the case of substantial damage."

Community Development staff discussed options for the property with other City Departments including Public Works and Municipal Utilities. Community Development staff requested vacation of the SW 3rd Street Roadway Easement retaining only 21-feet to attain the full 35-foot front yard setback area. This option would not have required a variance request.

However, Public Works staff recommended that at least 30-feet of the Roadway Easement be retained, measured from the centerline of SW 3rd Street. And private utility companies located within the Roadway Easement required an additional 3-feet for a total of 33-feet for the south side of the Roadway Easement, measured from the street centerline of SW 3rd Street.

Once the City terms were determined Community Development staff conveyed the City's needs and met with the property owners to discuss vacation and conveyance of a portion of the Roadway Easement. On March 24, 2023, an application for Roadway Easement vacation was received and filed from property owners Michael and Donna Westbrook. Then the roadway easement vacation process was initiated by City Council and reviewed by the Planning and Zoning Commission.

As part of the City Council meeting May 1, 2023, it is anticipated that City Council will hold a public hearing and waive the 2nd and 3rd readings of the ordinance proposed to vacate a portion of the Roadway Easement allowing for a free and clear 23-foot front yard setback.

The applicant is requesting a variance to allow the existing home encroach approximately 12-feet into the 35-foot front yard setback. The home is 36-feet wide and the attached garage is 24-feet wide for a

structure total of 60-foot wide. Both the home and garage are 24-foot deep. On the rear of the home is also a 140 square-foot deck.

All property owners within 250' of the subject property were notified of the proposed variance by mail, and to date, staff has not received any correspondence either for or against the variance.

Staff does not have concern about future impact of this variance request on the existing neighborhood, primarily because there are no proposed changes to the existing structure. The condition has existed generally unnoticed for 48-years without any formal complaints being received by the City. Should the variance be approved, the home may remain in its current location and future questions regarding reconstruction in the case of substantial damage, could be answered, "Yes."

That the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 192.09(3)(D) to allow a 23-foot front yard setback for the existing home at 2943 SW 3rd Street.

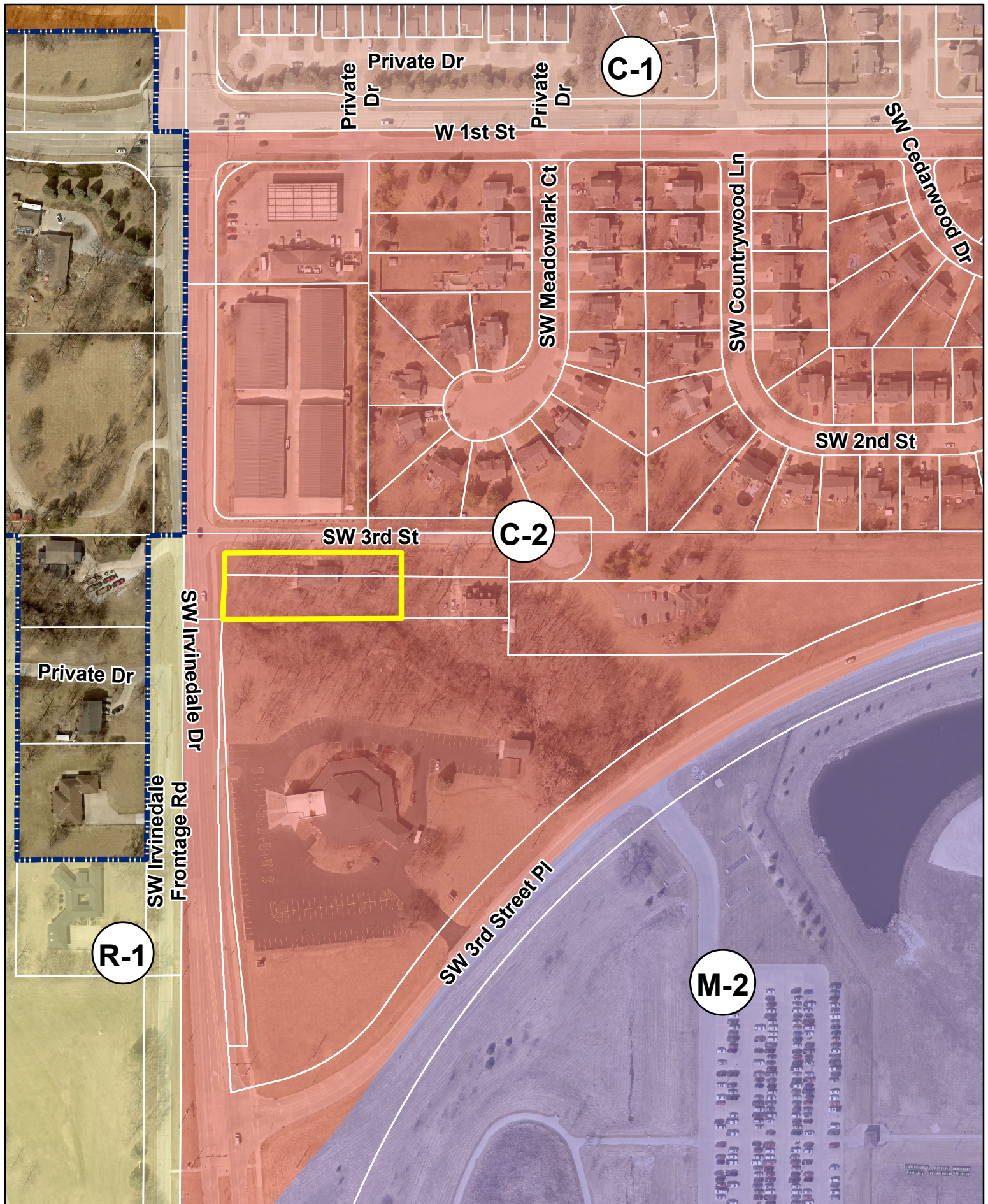
Staff's position is based on a determination that the existing front yard setback from home does not impair adequate supply of air and light, does not increase public danger of fire, or diminish property values; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code.



View of the house from SW 3rd Street facing east

Applicable Property History:

- 1947 – Roadway Easement filed by the United States of America.
- 10/31/1973 – A building permit was issued for the construction of a single-family home.
- 2/6/1975 – The single-family home was issued a Certificate of Occupancy.
- 1982 – Letter from the City Engineer sent to the original homeowner / builder bringing attention to the Roadway Easement.
- 2001 – Michael and Donna Westbrook entered into a real estate contract to purchase the property from Richard and Harriette Westbrook.
- 1/31/2023 – Call from Albertson Appraisal asking if it is legally permissible to rebuild in the case of substantial damage.
- 3/24/2023 – Application for Roadway Easement vacation received from Michael and Donna Westbrook.
- 4/14/2023 – Joel Rodriguez Castro and Kara Bixby Rodriguez purchased the home from Michael and Donna Westbrook.
- 4/17/2023 – Ankeny City Council approves Resolution 2023-179, A Resolution Providing for the Notice and Hearing of the City Council of the City of Ankeny, Iowa, to Consider a Request to Vacate a Portion of Roadway Easement Along SW 3rd Street at 2943 SW 3rd Street.
- 5/1/2023 – Ankeny City Council is anticipated to hold public hearing and approve Ordinance 2142 on the first reading, An Ordinance Vacating a Portion of Roadway Easement Along SW 3rd Street at 2943 SW 3rd Street, and approve a Resolution Authorizing the Sale of Real Estate Vacated by the City of Ankeny to Kara Bixby Rodriguez and Joel Rodriguez Castro.



1 inch = 200 feet

Date: 4/18/2023

2943 SW 3rd Street Zoning Map



ZONING BOARD OF ADJUSTMENT

May 2, 2023

5 : 00 PM

 [Print](#)

ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

Ensure Economic Vitality

ACTION REQUESTED:

Public Hearing

LEGAL:

SUBJECT:

#23-09 and #23-10

Ralph Grout

for property located at
1101 NE Trilein Drive
Lot 9, Barclay Plat 1

RE: #23-09 Variance - Rear Yard Setback, Sunroom

#23-10 Variance - Rear Yard Setback, 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
 #23-09 & #23-10 Applicant Submittal
 #23-09 & #23-10 Staff Report



#23-09 & #23-10
APPLICATION FOR APPEAL
ZONING BOARD OF ADJUSTMENT

Applicant is: ☒ Property Owner ☐ Tenant ☐ Other _____

Applicant Ralph Grout

Address / Phone # 1101 NE Trilein Dr, Ankeny IA

E-mail RandCGrout@gmail

Property Owner Ralph Grout

Address / Phone # _____

E-mail RandCGrout@gmail

(Owner must sign the application or submit a letter of authorization)

To the Members of the Board of Adjustment:

I hereby appeal from the decision of the Zoning Administrator rendered on 3rd day of April, 2023

Location (address) of the proposed variance 1101 NE Trilein Dr.

Legal description (Plat & Lot #) Lot 9 Barclay Plat 1

Zoning R1 district **Principal Use of property** Home Residence

I request a variation from the current zoning requirement for:

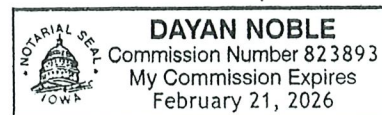
" Front Yard " Side Yard " Rear Yard " Fence " Sign " Parking " Height
" Other _____

Ankeny Zoning code Section # 196.03 **which state(s)** _____

I would propose the following in lieu of that required: A & b. Please see attached documentation.

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.



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.

Ralph A. Grout
(Signature of Applicant)

Signed and sworn to before me, this
13 day of April, 20 23.
Dayan Noble
(Notary Public)

RECEIVED

APR 13 2023		Office Use Only	
Date received _____	Paid <u>Cash</u> <u>\$240.00</u>		
Filing # <u>23-09 & 23-10</u>	Scheduled Meeting Date <u>May 2, 2023</u>		

Variance Application for

Ralph Grout, 1101 NE Trilein Dr. Ankeny IA, 50021

Attached are site map and site plan for proposed construction, in addition to permit application submitted 04/03/2023.

Resident/Property Owner Ralph Grout

Issue in question : Enclosed Porch (unpermitted by previous homeowner)

Current Homeowner (Ralph Grout) purchased the home on 08/08/2022.

The home currently exists with an enclosed porch and an exterior staircase on the East side of the structure. The homeowner would like to construct a deck to the North of this enclosed porch. When applying for a permit to do so, we were made aware that the current enclosed porch was unpermitted.

The enclosed porch in question is 12' off the house to the East and the exterior staircase is 4' off the enclosed porch; making the distance from staircase to rear lot line 21'. We were also made aware of the 35' setback on this plat with a 12' allowance however, the enclosed porch isn't allowed in the setback per Zoning Ordinance 196.03.

We are applying for a variance to Zoning Ordinance 196.03

- A 2' variance for the new deck
- a 10' variance for the existing enclosed porch – allowing for a 25' rear yard setback

The proposed deck does not and will not infringe an inch further into the set back than what is currently existing today. Please see attached drawings.

Your time and consideration is greatly appreciated.

Thank you,

1101 NE ^W Trilein Dr.

Enclosed
Perch

unaware to current
homeowner this was
unpermitted.

currently existing
as purchased in 08/2022

35ft Set Back

12ft
Alliance

Rear Property line
E

37ft

25ft

21ft

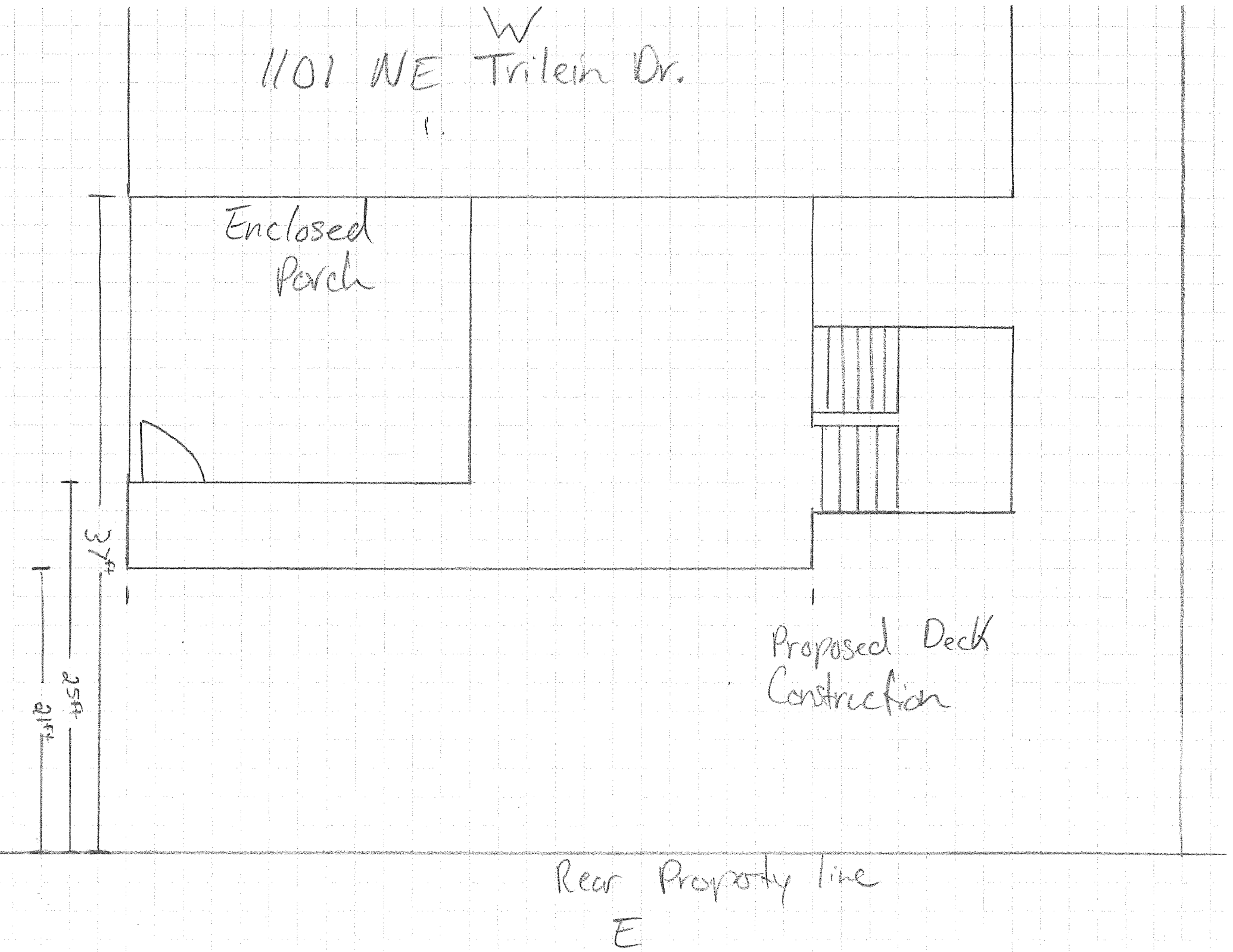
1101 NE ^W Trilein Dr.

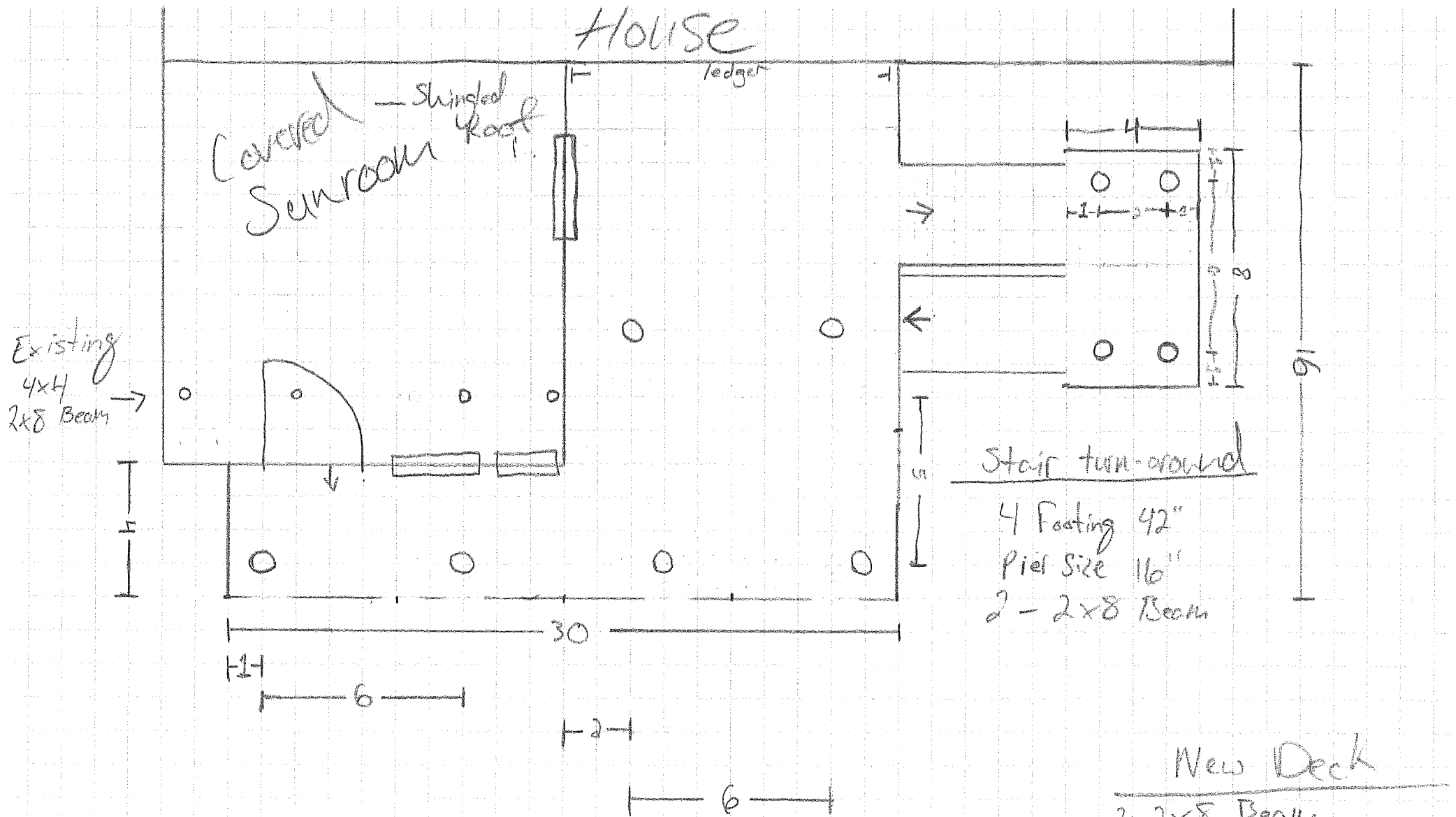
Enclosed
Porch

Proposed Deck
Construction

37ft
25ft
21ft

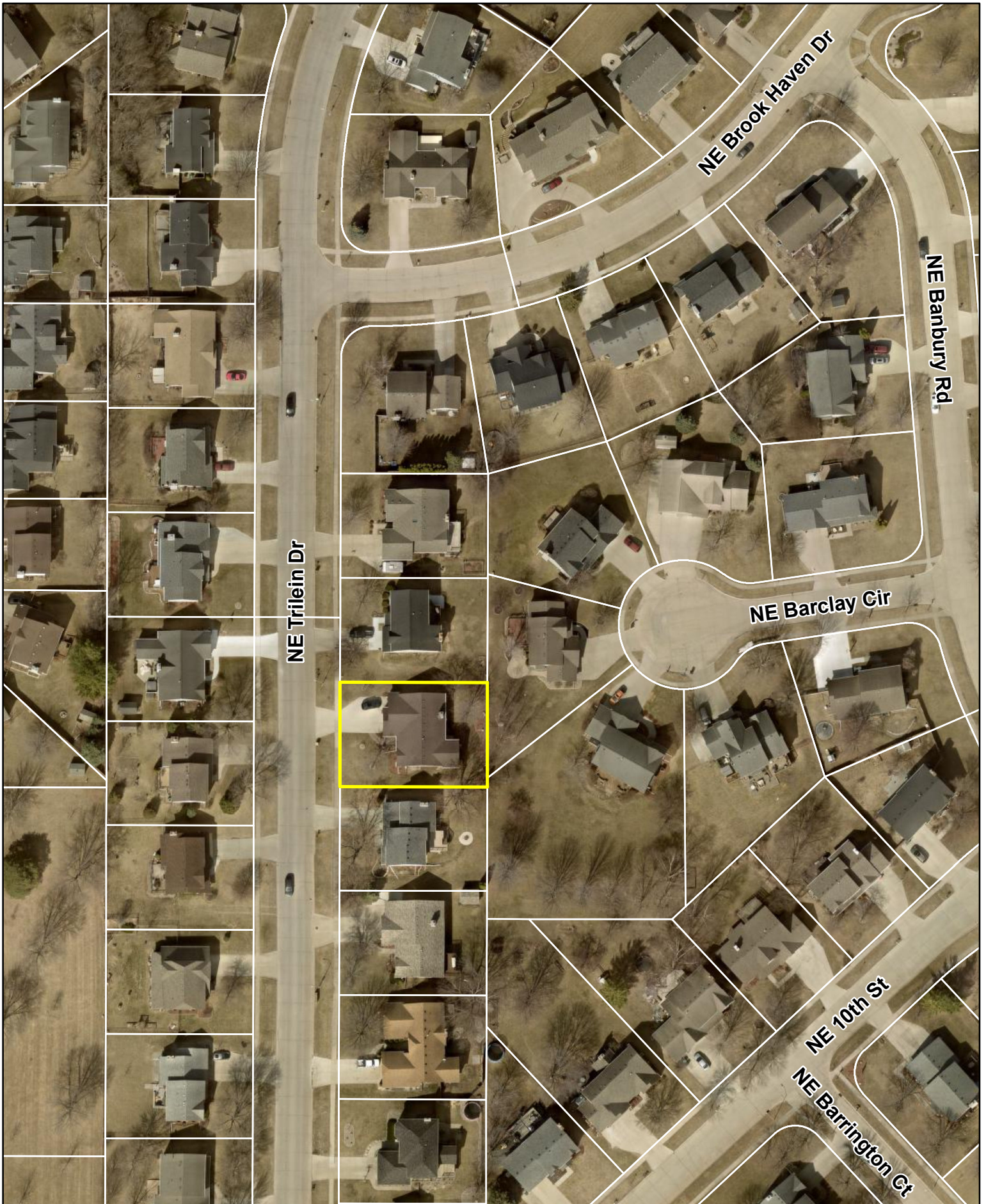
Rear Property line
E





1101 NE Trilein Dr. Ankeny IA, 50021

For Original Permit Application



N



1 inch = 100 feet

Date: 4/19/2023

1101 NE Trilein Dr.

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: Laura Hutzell, Associate Planner
Filing #: 23-09, 23-10 *ESC*
Meeting Date: May 2, 2023
Address: 1101 NE Trilein Drive

APPELLANT REQUEST

A 10-foot variance to Ankeny Municipal Code Section 192.03(3)(E) that requires Rear Yard: 35-feet, allowing a 25-foot rear yard setback for an existing sunroom at 1101 NE Trilein Drive.

And

A 2-foot variance to Ankeny Municipal Code Section 196.03(2B)(2) that requires an unenclosed, above and below decks which project not more than 12-feet into the required rear yard setback, allowing an unenclosed deck to encroach two-feet beyond the allowed 12-feet by code at 1101 NE Trilein Drive.

STAFF POSITION

That the Zoning Board of Adjustment grant a 10-foot variance to Ankeny Municipal Code Section 192.03(3)(E) to allow a 25-foot rear yard setback for an existing sunroom at 1101 NE Trilein Drive.

Staff's position is based on a determination that the decreased rear yard setback from the existing sunroom does not impair adequate supply of air and light, does 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.

That the Zoning Board of Adjustment grant a 2-foot variance to Ankeny Municipal Code Section 196.03(2B)(2) to allow an unenclosed deck to encroach two-feet beyond the allowed 12-feet by code at 1101 NE Trilein Drive.

Staff's position is based on a determination that the decreased rear yard setback will not impair adequate supply of air and light, will 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 1101 NE Trilein Drive, east of N Ankeny Blvd and South of NE 18th Street within the northeastern quadrant of Ankeny. The subject property is zoned R-1, One-Family Residence District and is situated on Lot 9 of Barclay Plat 1. The home at 1101 NE Trilein Drive is setback 37-feet from the rear property line.

The applicant came to the city requesting a permit to build an unenclosed deck that would attach to the existing sunroom at the back of the home at 1101 NE Trilein Drive. While reviewing the proposed deck

plans, City Staff realized the existing sunroom was never permitted, and that it encroaches 10-feet into the required 35-foot rear yard setback. The house at 1101 NE Trilein was constructed in 1990, and the sunroom in question was constructed sometime between 1991 and 2021. The current homeowners purchased the home in 2022, unaware the sunroom was never permitted. Staff informed the applicant that the sunroom was not properly permitted and that a variance would be needed due its location within the rear yard setback. It was at this time City Staff also realized that due to the sunroom's location within the required rear yard setback, the proposed unenclosed deck attached to the sunroom would also extend 2-feet beyond the allowed 12- feet by code.

PROJECT REPORT

Criteria for Variance

197.01(4) Powers and Duties.

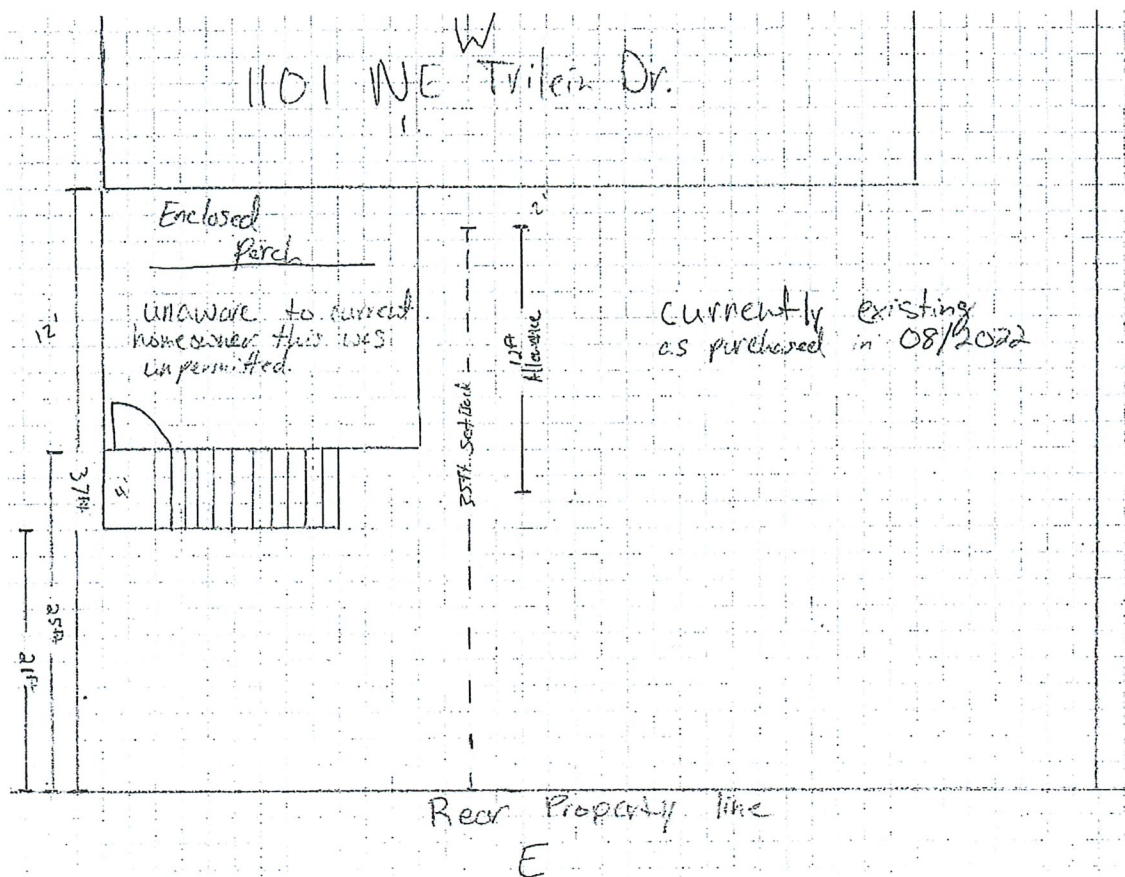
B. To grant a variation in the regulations when a property owner can show ...that by reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situation, the strict application of the terms of this title actually prohibits the use of this property in the district; and that the board is satisfied under the evidence before it that a literal enforcement of the provisions of this title would result in unnecessary hardship; provided, however, that all variations granted under this clause shall be in harmony with the intended spirit and purpose of this title.

FINDINGS OF FACT

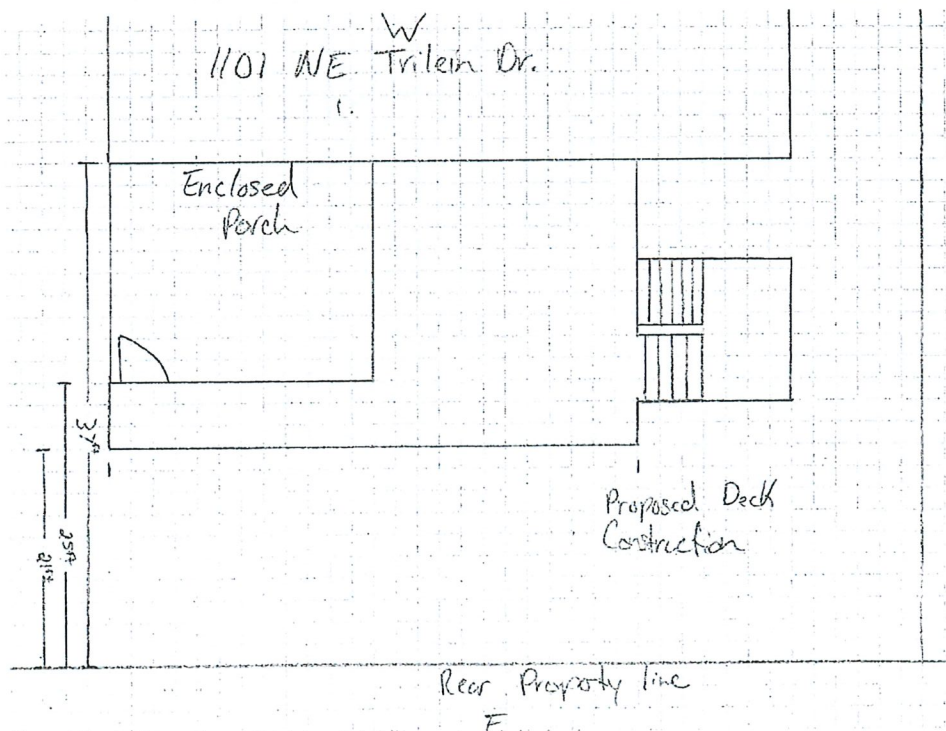
The subject property at 1101 NE Trilein Drive is generally located east of N. Ankeny Blvd and South of NE 18th Street on Lot 9 Barclay Plat 1. The subject property is zoned R-1, One-Family Residence District and contains a single-family home with an attached sunroom on the east side of the .234-acre lot. Neighboring properties in all directions are also zoned R-1, while properties further west are zoned R-2. All surrounding properties contain single family homes on similarly sized lots. Permit records indicate that the house on the subject property was constructed in 1990; however, original plans indicate that the home was built without a sunroom and is setback 37-feet from the rear property line. The home, as it sits today, has a sunroom that sits 12 feet off the east side of the house creating a 10-foot encroachment into the required 35-foot rear yard setback. The existing sun room also has an exterior staircase 4-feet off the back off the sunroom. The current owners of the home purchased the house in August of 2022, unaware the sunroom was not properly permitted.

View of the existing sunroom from the NE





Recently, a contractor on behalf of the property owners submitted a permit application to construct an uncovered deck attached to the existing sunroom at 1101 NE Trilein Drive. It was at this time City staff realized the existing sunroom was never properly permitted and encroached 10 feet into the required 35-foot rear yard setback. The deck as proposed, is 216 square feet in size and sits on the north side of the sunroom with access to the sunroom's existing rear door via a proposed 4-foot wide walkway. Per City Code (Section 196.03(2B)(2)), unenclosed decks are allowed to extend up to twelve feet into the rear yard setback, however staff realized that the sunroom's 10-foot encroachment, results in the deck also encroaching 2-feet beyond the 12-feet allowed by code. Staff informed the applicant that a second variance would be needed to approve the plans for the deck.



Since the house is set back 37-feet from the rear property line, the sunroom at its furthest point, extends 10-feet into the 35-foot rear yard setback. In addition to this, the proposed deck, at its furthest point, would extend 4-feet beyond the existing sunroom, which is 2-feet further than what is allowed by code for an uncovered deck. Ultimately, this leaves 21-feet of open space between the deck and the neighboring property line. Should both variances be approved, City Staff is not concerned about the construction of a deck to complement the existing sunroom, primarily because the sunroom, although not previously permitted, has been in its current position for a number of years without formal complaints. Furthermore, due to the location of the existing door on the east side of the sunroom, if the deck were to be configured in any other manner, it would more than likely encroach even further into the rear yard setback. Instead, the applicant has chosen a configuration that does not encroach any further into the rear yard setback than the existing 4-foot staircase as it sits today.

Furthermore, similar variance requests have been approved by the Zoning Board of Adjustment in the past. In June of 2022, a variance was granted for a covered deck to extend 10-feet 8-inches into a rear yard setback. As is standard procedure for these kinds of requests, all property owners within 250' of the subject property were notified of the proposed variance by mail, and to date, staff has not received any correspondence either for or against the variance requests.

The staff position is to grant a 10-foot variance to Ankeny Municipal Code Section 192.03(3)(E) to allow a 25-foot rear yard setback for an existing sunroom at 1101 NE Trilein Drive. Staff's position is based on a determination that the decreased rear yard setback from the existing sunroom 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.

It is also staff's position to grant a 2-foot variance to Ankeny Municipal Code Section 196.03(2B)(2), to allow an unenclosed deck to encroach two-feet beyond the allowed 12-feet by code at 1101 NE Trilein Drive. Staff's position is based on a determination that the decreased rear yard setback from the unenclosed 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.