



Meeting Agenda

Zoning Board of Adjustment

Tuesday, April 5, 2022

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 March 22, 2022 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.

#21-13(2022)

**Fiesta Jalapenos
1975 N Ankeny Boulevard, Suite 113
Part Lot 7, Northpointe Village Center Plat 1
RE: Special Use Permit**

#22-06

**Julian Sheldahl and Dean Wilson
3313 NW 13th Street
Lot 2, Boulder Brook Plat 14
RE: Variance - Rear Yard Setback**

F. OLD BUSINESS:

G. NEW BUSINESS

H. REPORTS

Renewed Special Use Permits

#16-03 District 36 Wine Bar and Grille - 1375 SW Vintage Parkway

I. ADJOURNMENT



ZONING BOARD OF ADJUSTMENT

April 5, 2022

5 : 00 PM



ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

ACTION REQUESTED:

Motion

LEGAL:

SUBJECT:

Minutes of the March 22, 2022 regular meeting.

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

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 [ZBOA Minutes 2022-03-22](#)

Meeting Minutes

Zoning Board of Adjustment

Tuesday, March 22, 2022

Ankeny City Council Chambers

1250 SW District Drive, Second Floor, Ankeny, Iowa

CALL TO ORDER

Chair Matt Ott called the March 22, 2022 regular meeting of the Zoning Board of Adjustment to order at 5:00 p.m.

ROLL CALL

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

AMENDMENTS TO THE AGENDA

There were no amendments to the agenda.

MINUTES OF THE FEBRUARY 8, 2022 and MARCH 8, 2022 REGULAR MEETINGS

Motion by K.Tomlinson to approve the February 8, 2022 meeting minutes as submitted. Second by B.Walker.

Motion carried 3 – 0 – 2 (Abstain: J.Baxter and N.Sungren).

Motion by J.Baxter to approve the March 8, 2022 meeting minutes as submitted. Second by N.Sungren. Motion carried 4 – 0 – 1 (Abstain: B.Walker).

COMMUNICATIONS / CORRESPONDENCE

Chair M.Ott asked to have the record reflect that the members of the Board received correspondence, from Barbara Meckstroth, Chris Gilroy and Linda Schanus, which will be received and filed as part of the public hearing for Appeal #22-05.

BUSINESS ITEMS

PUBLIC HEARINGS:

#22-05

**Timothy Spicer
1710 NE Crestmoor Place
Lot 20, Winbury Place Plat 2
RE: Variance – Front Yard Setback – Fence**

Chair M.Ott opened the public hearing.

Timothy Spicer, 1710 NE Crestmoor Place, said they moved into their home in 2019 and knew that with it being located on a corner lot and next to the bike path that they would want to build a fence for privacy. He stated that after they moved in they learned that per City code, the fence would have to be much lower or a see-thru fence, which would not allow them any privacy in their back yard. Timothy Spicer said their request is for a 6-foot high fence encroaching 10-feet into the setback to provide more privacy in their back yard and also keep the one shade tree that is in their back yard. They feel the distance of the fence from the NE corner of their lot will not be a sight line hinderance for people turning from or onto NE Crestmoor Place. He thanked the Commission for their time.

M.Ott asked if Mr. Spicer was aware of Staff's recommendation and inquired whether he had any concerns with the requirement of adding additional landscaping, if approved. Timothy Spicer said they are okay with the requirement but will work with the City as he believes there is a fiber line that runs through the area to NE Elementary School.

R.Hulstrom reported that the applicant is requesting a variance to construct a 6-foot tall wooden fence that would encroach into the front yard setback adjacent to NE 18th Street for the subject property located at 1710 NE Crestmoor Place. It is generally located south of NE 18th Street and west of NE Crestmoor Place. The required front yard setback for the lot is identified as 30-feet, with a 10-foot PUE and 5-foot tree easement on the north

side of the subject property and a 10-foot PUE and drainage easement along the west edge of the property. She stated the property is zoned R-2, One-Family and Two-Family Residence District and noted that the majority of the properties surrounding the property are zoned R-2. She presented a map identifying the zoning areas. R.Hulstrom referenced Ankeny Municipal Code Section 191.14(2), which is the reason the applicant is requesting a variance. The request is for the 6-foot tall wooden fence to be installed and encroach a maximum of 10 feet into the required 30-foot front yard setback adjacent to NE 18th Street. The proposed fence is shown to attach to the north edge of the house and run 14 feet north and then run west to the rear property line. R.Hulstrom said that given how far back the proposed fence is anticipated to be located from the intersection of NE Crestmoor Place and NE 18th Street, City staff has limited concern that the fence would create any visibility issues. City staff's position is to recommend that the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 191.14(2), allowing a 6-foot tall wooden fence to encroach approximately 10 feet into the front yard setback adjacent to NE 18th Street at 1710 NE Crestmoor Place, subject to additional landscaping being installed between the fence and the property line along NE 18th 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 visibility, or diminish property values; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code.

N.Sungren commented that since the Board has received some feedback from the neighbors, she inquired as to what is included in the notice that is mailed to the public. R.Hulstrom explained that the public notice includes the location of the property, a general outline of the request and the code section related to their request along with an aerial map. She said it also provides contact information for Staff, and has a website link for them to view the entire agenda packet on the Friday prior to the meeting, which is the same information the Board is provided.

K.Tomlinson asked what staff's thoughts are regarding the landscaping requirement if there is a fiber line running through that area. E.Carstens said there should be at least 10-feet from where they want to place the fence to the utility easement.

The Board had no further questions.

Marcia Smith, 1902 NE Bel-Aire Drive said she did receive the notice with the information regarding the request. She commented that at first, they had concerns as NE 18th Street is very busy and they live around a lot of schools. Marcia Smith stated that due to her not being aware of where they were going to locate the fence, she came to the meeting in opposition. Now that she sees the proposed location, she understands there is no danger to city utilities, traffic or pedestrians. She now supports the request.

Chair M.Ott shared the concerns that were stated in the correspondence received by the Board.

Motion by M.Ott to close the public hearing, and receive and file documents. Second by J.Baxter. All voted aye. Motion carried 5 – 0.

M.Ott asked that there be a specific amount of landscaping stipulated in the motion.

E.Carstens shared Staff's standard landscaping comment for fences that don't require a variance, particularly rear yard fences. They require two trees.

J.Baxter addressed the sight line questions, most of the cars that will be at the stop sign and would actually have to look back to see the fence and does not feel there are any potential blockage of view on NE 18th Street.

Board Action on Filing #22-05 property located at 1710 NE Crestmoor Place

Motion by J.Baxter that the Zoning Board of Adjustment grant a variance to Ankeny Municipal Code Section 191.14(2), allowing a 6-foot tall privacy fence to encroach approximately 10 feet into the front yard setback adjacent to NE 18th Street at 1710 NE Crestmoor Place, subject to additional landscaping being installed between the fence and the property line along NE 18th Street, a minimum of two trees. The Board'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 visibility, or diminish property values; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code. Second by N.Sungren. All voted aye. Motion carried. 5 – 0.

NEW BUSINESS

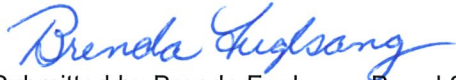
There was no new business.

REPORTS

Renewed Special Use Permits

#17-02 Wheel House Pizza Pub – 106 SW State Street, Suite 100

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



Submitted by Brenda Fuglsang, Board Secretary
Zoning Board of Adjustment



ZONING BOARD OF ADJUSTMENT

April 5, 2022

5 : 00 PM

 [Print](#)

ORIGINATING DEPARTMENT:

Zoning Board of Adjustment Department

COUNCIL GOAL:

Ensure Economic Vitality

ACTION REQUESTED:

Public Hearing

LEGAL:

SUBJECT:

#21-13(2022)

Fiesta Jalapenos

1975 N Ankeny Boulevard, Suite 113

Part Lot 7, Northpointe Village Center Plat 1

RE: Special Use Permit

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

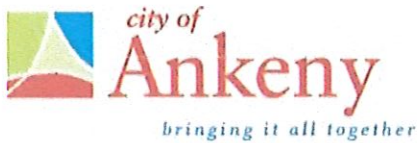
PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Click to download
 Applicant Submittal Docket #21-13(2022)
 Staff Report



21-13(2022)

**APPLICATION FOR
ZONING BOARD OF ADJUSTMENT
SPECIAL USE PERMIT**

Applicant is: ☐ Property Owner ☒ Tenant ☐ Other _____

Applicant Ohio Investments Group LLC, d/b/a Fiesta Jalapenos

Address / Phone # 1975 N. Ankeny Blvd. Suite 113, Ankeny, IA 50023 805-775-9682

E-mail jose.bmobile@gmail.com

Property Owner Georgetown LLC

Address / Phone # 1350 NW 138th Street, Ste 400, Clive, IA 50325

E-mail robins@cigroup.com, cseiser@cigroup.com

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

To the Members of the Board of Adjustment:

I hereby request authorization for a Special Use Permit:

For (description of use) outdoor seating area

Location (address) of the proposed special use 1975 N. Ankeny Blvd., Ankeny, IA 50023

Legal description (Plat & Lot #) Northpointe Village Center, Plat 1, Lot 7S

Zoning C2 Principal use of property (existing) Restaurant

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

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

Complete submittals are required for review

AFFIDAVIT

State of Iowa)ss
County of Warren)

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

Jose Ortega
(Signature of Applicant)



LUCERO VELAZQUEZ
Commission Number 822647

My Commission Expires
December 10, 2022

Signed and sworn to before me, this
21 day of March, 20 22

[Signature]
(Notary Public)

RECEIVED

MAR 21 2022		Office Use Only	
Date received	<u>3-21-22</u>	Paid ☐ Cash ☐ Check #	<u>CC # 1740</u>
CITY OF ANKENY		Scheduled Meeting Date	<u>April 5, 2022</u>
Filing #	<u>21-13(2022)</u>		

Georgetown, LLC
1350 NW 138th Street Suite 400
Clive, Iowa 50325

March 23, 2022

Letter of Intent for Zoning Variance for:

Fiesta Jalapenos

1975 N Ankeny Blvd,
Ankeny, Iowa 50023

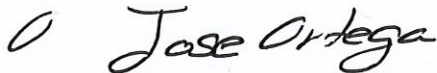
Dear Planning & Zoning members,

This is a letter of intent to request the renewal of the special permit that was approved by the board last year to allow additional outdoor seating. The patio has already been built within the allowable Ankeny Zoning Code.

Granting this variance would have great effect on our business.

We appreciate your consideration,

Jose Ortega



RECEIVED
MAR 23 2022
CITY OF ANKENY

Georgetown, LLC
1350 NW 138th Street, Suite 450
Clive, Iowa 50325

March 23, 2022

City of Ankeny
Attn: Zoning Board
1210 NW Prairie Ridge Drive
Ankeny, Iowa 50023

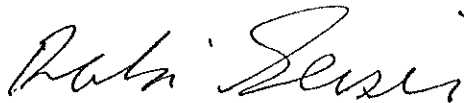
RE: Outdoor seating Area

Dear Zoning Board:

Our current restaurant tenant, Fiesta Jalapenos, located at Georgetown Plaza shopping center, 1975 N Ankeny Blvd #113, Ankeny, Iowa 50023 is requesting to renew the special permit that was approved last year by the board to allow us to have outdoor seating. We are looking forward to the opportunity to continue the seating capacity as weather will permit.

Thank you for your time.

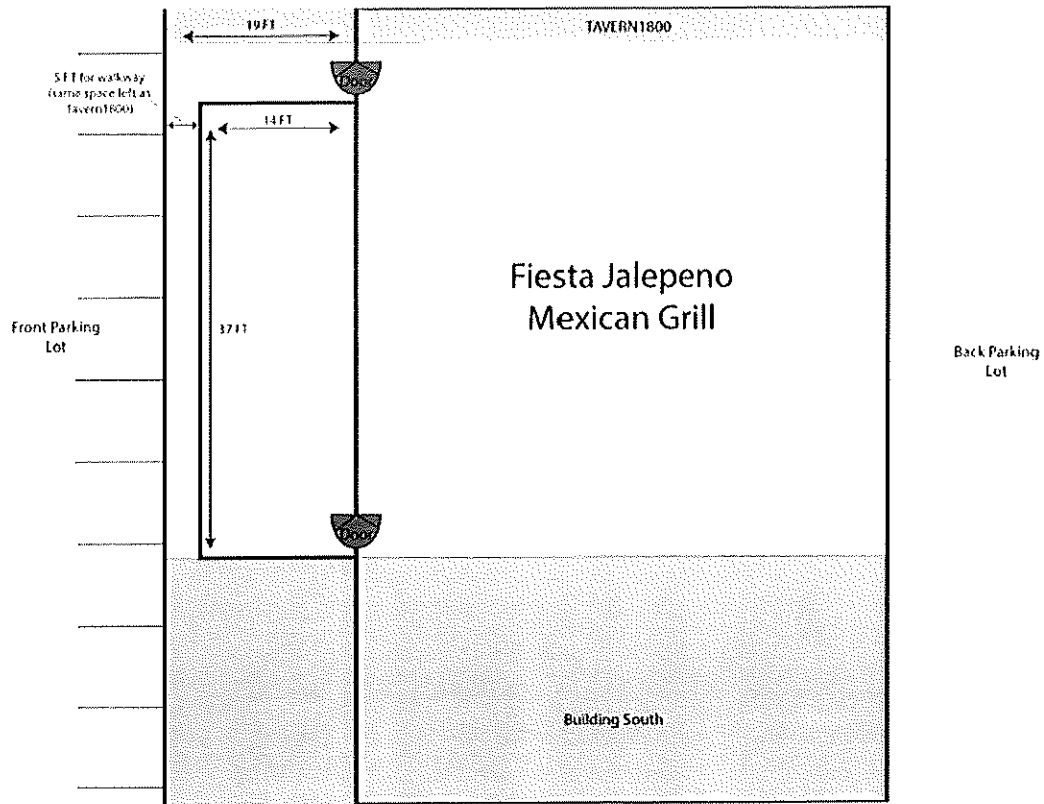
If in any case, there are any concerns regarding this matter, feel free to contact me at 515-778-5050, or email at robins@cigroup.com



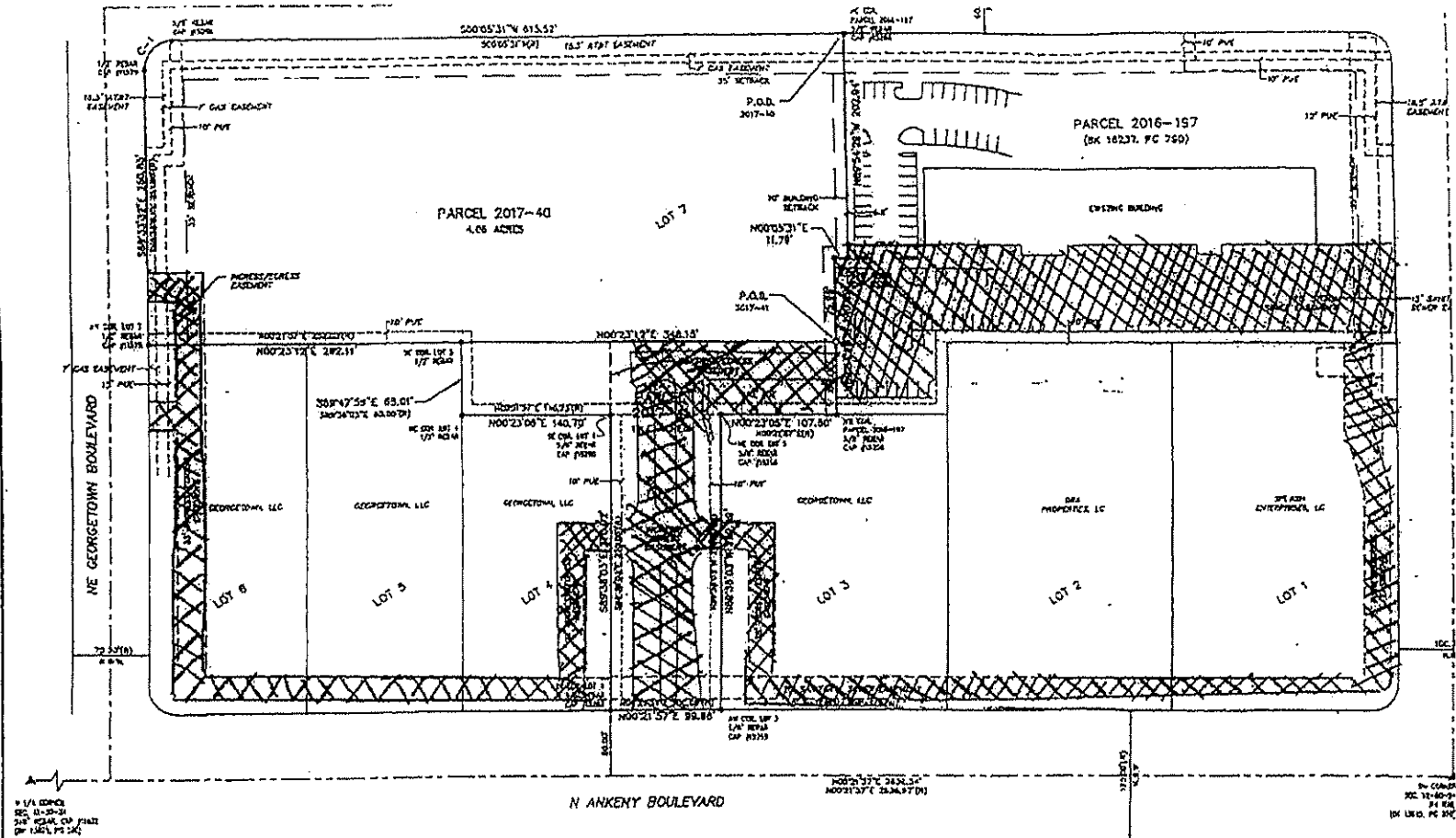
Sincerely,

Robin Seiser

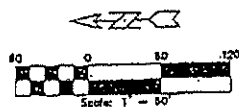
EXHIBIT 1



2017-10-23 10:25:10 10/23/2017 10:25:10 10/23/2017 10:25:10



DATE OF FIELDWORK
SEPTEMBER-OCTOBER 2016
FEBRUARY 2017



LEGEND

- FOUND MONUMENT AS NOTED
- SET 5/8\"
- ▲ SECTION CORNER FOUND AS NOTED
- △ SECTION CORNER SET 5/8\"
- (R) RECORD DEDICATION
- R.O.W. RIGHT-OF-WAY
- P.O.B. POINT OF BEGINNING

PREPARED FOR
GEORGE GLOHREST
GLOHREST & ASSOCIATES
8014 STATE LINE ROAD, SUITE 210
LEAWOOD, KS 66208
(913) 384-3400

OWNER OF RECORD
GEORGETOWN, LLC
1444 NW 124TH COURT
CLIVE, IA 50325
WARRANTY DEED: BK 11402, PG 305

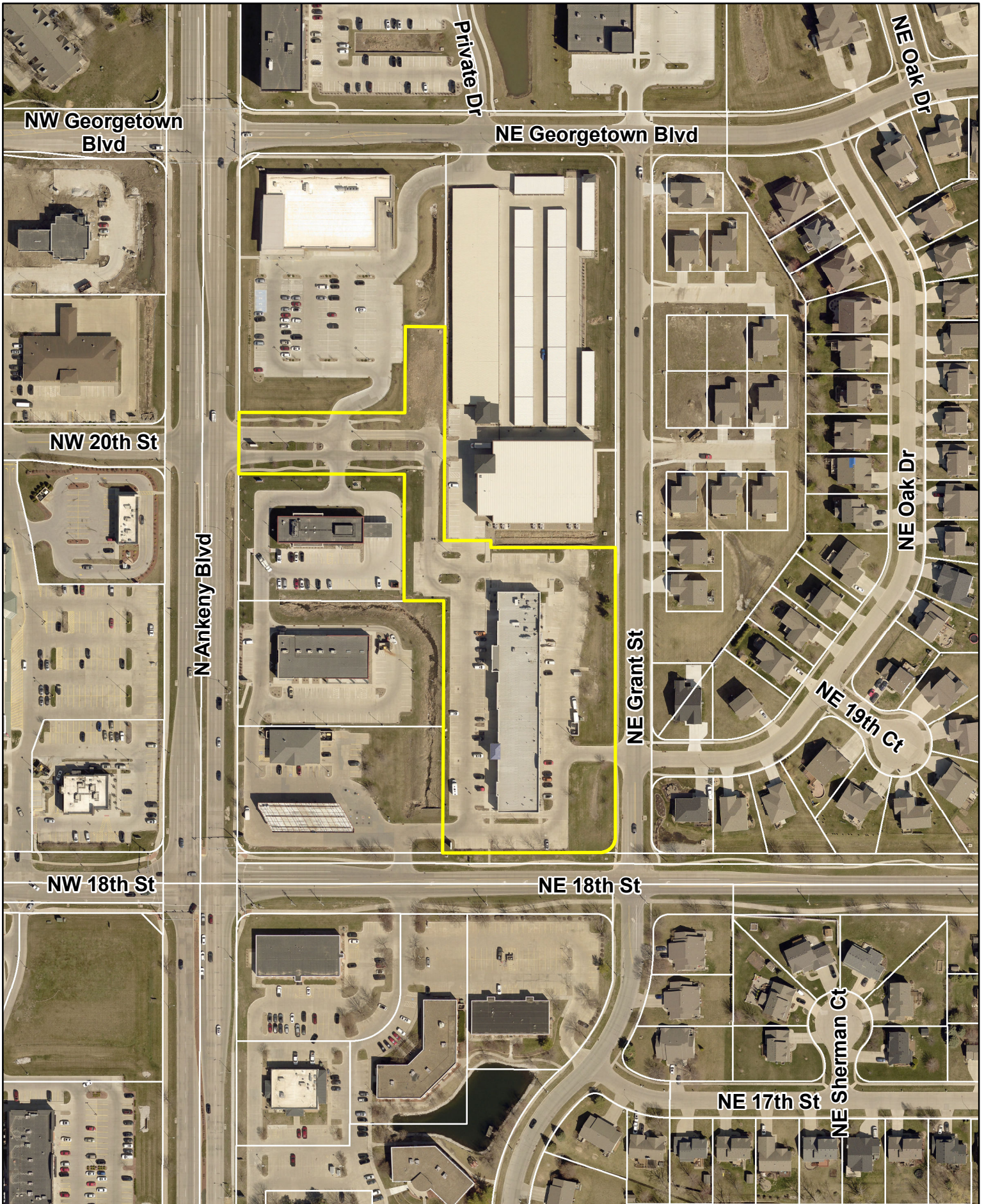
NOTES

1. THIS SURVEY WAS PREPARED TO DIVIDE PARCEL 2016-197 OF LOT 7 IN NORTHPOINTE VILLAGE CENTER PLAT 1 INTO TWO PARCELS FOR CONVEYANCE PURPOSES. NO PUBLIC IMPROVEMENTS ARE BEING MADE AT THIS TIME ON EITHER PARCEL.
2. PLAT OF SURVEY FOR PARCELS 2016-198 & 2016-197 IS FILED IN BOOK 16237, PAGE 790. PARCELS 2017-40 & 2017-41 OF THIS PLAT OF SURVEY COMPRISE ALL OF PARCEL 2016-198.
3. PARCEL 2017-41 SHALL BE TIED TO EXISTING PARCEL 2016-197 FOR FUTURE CONVEYANCE PURPOSES.
4. AT THE TIME OF FUTURE DEVELOPMENT OF PARCEL 2017-40, IT IS POSSIBLE THAT ADDITIONAL CROSS EASEMENTS FOR ingress AND egress ACROSS DRIVEWAYS MAY BE NECESSARY.
5. CITY OF ANKENY RECORDS INDICATE THERE MAY BE A SANITARY SEWER SERVICE STUO LOCATED IN THE NORTHEAST PORTION OF PARCEL 2016-197 FOR FUTURE USE OF DEVELOPMENT TO THE NORTH. ALTERNATIVELY, FUTURE DEVELOPMENT IN PARCEL 2017-40 COULD SERVICE OFF THE SANITARY SEWER MAIN LOCATED ON THE EAST SIDE OF NE DRANT STREET.

#21-13



21-13(2022)



1 inch = 200 feet
Date: 3/24/2022

**1975 North Ankeny Boulevard Suite 113 -
Fiesta Jalapenos**



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

To: Members of the Zoning Board of Adjustment
From: Bryan Morrissey, Associate Planner
Filing #: 21-13 (2022) *ESC*
Meeting Date: April 5, 2022
Address: 1975 N Ankeny Blvd, Suite 113

APPELLANT REQUEST

A Special Use Permit to allow an outdoor service area with background music and sound for Ohio Investments Group, LLC/dba Fiesta Jalapenos at 1975 N Ankeny Blvd, Suite 113.

STAFF POSITION

That the Zoning Board of Adjustment grant a Special Use Permit in accordance with Sections 130.07 and 196.02(1) (I) to Ohio Investments Group, LLC/dba Fiesta Jalapenos at 1975 N Ankeny Blvd, Suite 113 for an outdoor service area 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 60 persons.
3. Hours of operation Monday-Thursday 11:00 a.m. to 10:00 p.m., Friday-Saturday 11:00 a.m. to 11:00 p.m., and Sunday 11:00 a.m. to 9:00 p.m.
4. This Special Use Permit may be reviewed annually by staff for approval.

PROJECT SUMMARY

Ohio Investments Group, LLC/dba Fiesta Jalapenos located at 1975 N Ankeny Blvd, Suite 113, is requesting renewal of a previously approved Special Use Permit to allow alcohol to be served and a speaker for sound on their existing outdoor patio. The property is zoned C-2, General Retail and Highway Oriented Commercial District and is generally surrounded by commercial properties to the north, south, and west, while residential properties neighbor the restaurant to the east. Due to the existing outdoor service area's proximity to nearby residential properties, a Special Use Permit is required to operate on the patio. This request was originally approved by the Zoning Board of Adjustment in May of 2021, with the condition that the applicant come before the Board for renewal when the restaurant's liquor license is set to be renewed.

PROJECT REPORT

196.02 SPECIAL PERMITS.

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

(I) Premises with a Class B beer permit or liquor control license not contained within a completely enclosed and covered structure and located less than five hundred feet from a residential zoning district; provided the following standards are met:

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

130.07 OUTDOOR SEATING AREAS.

(1) The premises for which a class B beer permit or liquor control license is sought shall require a special permit for an outdoor seating area as described in paragraph 196.02(1) (I) if it is less than five hundred (500) feet from a residential zoning district...

(2) The outdoor seating area shall only have direct access from the main building and shall be enclosed by a permanent retainer, which clearly encloses the area adjacent to the licensed establishment as follows:

- (A) The retainer must measure a minimum of thirty-six inches in height from finish floor surface to the top of the retainer.
- (B) A permanent retainer shall consist of a top rail with lower intermediate rails spaced so that a twelve-inch sphere cannot pass through, or a fence consisting of a top rail with permanent fencing material, both of which shall be supported by columns or posts spaced no more than ten feet on center...

(3) Emergency exits, sized and spaced in accordance with the Building Code, must be provided with a clear and unobstructed access to a public way.

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

(5) Any use of sound, other than sound arising from conversation of patrons, shall require a special use permit for an outdoor seating area as described in paragraph 196.02(1)(I) of this Code of Ordinances. 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.

196.02(2) Pre-Issuance Review: Before issuing any special permit for any of the above buildings or uses, the Board of Adjustment shall review the conformity of the proposed building or use with the standards of

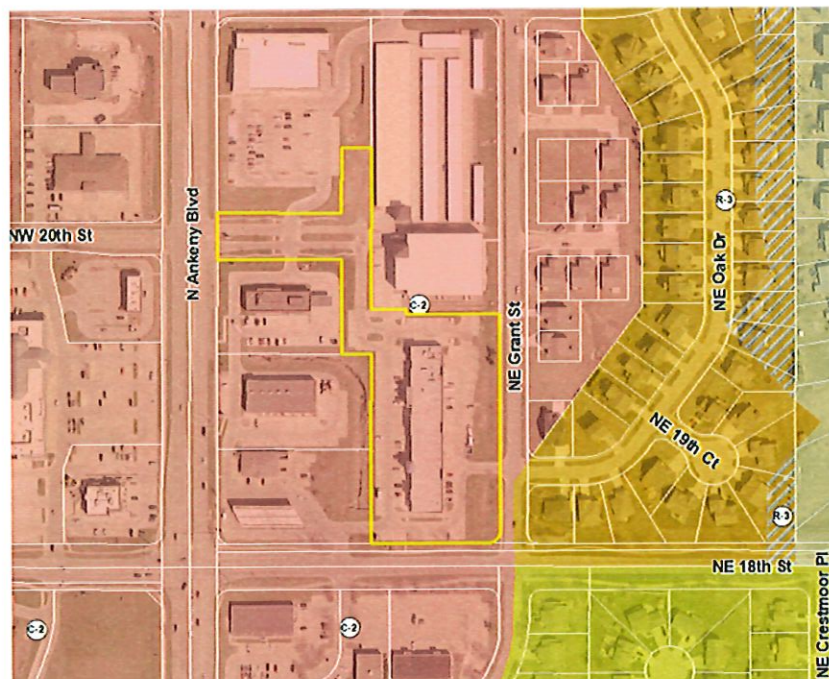
the comprehensive plan and with recognized principles of civic design, land use planning and landscape architecture. The Zoning Board of Adjustment may approve the special permit as submitted or, before approval, may require that the applicant modify, alter, adjust or amend the proposal as the Zoning Board of Adjustment deems necessary to the end that it preserves the intent and purpose of this Zoning Ordinance to promote public health, safety, morals and the general welfare.

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

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

Findings of Fact

The subject property is located at 1975 N Ankeny Blvd, Suite 113 and is zoned C-2, General Retail and Highway Oriented Commercial District. The legal description for the property is a part of Lot 7 Northpointe Village Center Plat 1. The subject property is generally surrounded by properties that are zoned C-2, with the exception being the properties to the east and southeast which are zoned for residential uses (R-2, One-Family and Two-Family Residence District and R-3, Multiple-Family Residence District). Being that the outdoor service area is within 500 feet of these residentially zoned properties, the establishment is required to obtain a Special Use Permit for the patio.



Zoning Classifications of the area near the subject property

The existing outdoor service area is located on the west side of the building, near the main entrance for the Fiesta Jalapenos restaurant. The patio area provides seating for up to 60 patrons and is enclosed via a brick perimeter that allows for direct access to the pedestrian walkway that runs along the frontage of the building. The existing brick perimeter meets the requirements of the Code and properly retains the outdoor service area.

Fiesta Jalapenos was granted approval of the original Special Use Permit for their patio by the Zoning Board of Adjustment on May 18, 2021. The Zoning Board of Adjustment made a motion for approval 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. All appropriate building permits and building code regulations need to be reviewed and met.
3. Seating on the patio for 60 persons.
4. Hours of operation Monday-Thursday 11:00 a.m. to 10:00 p.m., Friday-Saturday 11:00 a.m. to 11:00 p.m., and Sunday 11:00 a.m. to 9:00 p.m.
5. This Special Use Permit may not be automatically approved by staff, renewal of subsequent Special Use Permits must come before the Board

The request currently before the Board does not include any expansion or modification to the patio itself and said patio will operate in a similar manner to which it has previously. The applicant is looking to renew the permit with similar conditions, which will allow them to continue service on the existing patio. The hours of operation for the patio are expected to remain the same as when the original Special Use Permit was granted, which was Monday-Thursday 11:00am-10:00pm, Friday-Saturday 11:00am-11:00pm, and Sunday 11:00am-9:00pm. Additionally, staff reached out to the City's Police and Fire Departments, and to date, there have been no complaints or concerns regarding the patio.



Existing Outdoor Patio Area Located at 1975 N Ankeny Blvd Suite 113

The staff position is that the Zoning Board of Adjustment grant a Special Use Permit in accordance with Sections 130.07 and 196.02(1) (I) to Ohio Investments Group, LLC/dba Fiesta Jalapenos at 1975 N Ankeny Blvd, Suite 113 for an outdoor service area 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.
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4. This Special Use Permit may be reviewed annually by staff for approval.



ZONING BOARD OF ADJUSTMENT

April 5, 2022

5 : 00 PM

 [Print](#)

ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

Ensure Economic Vitality

ACTION REQUESTED:

Public Hearing

LEGAL:

SUBJECT:

#22-06

Julian Sheldahl and Dean Wilson

3313 NW 13th Street

Lot 2, Boulder Brook Plat 14

RE: Variance - Rear 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
 Applicant Submittal Docket #22-06
 Staff Report



#22-06 Variance
**APPLICATION FOR ~~APPEAL~~
ZONING BOARD OF ADJUSTMENT**

Applicant is: ☒ Property Owner ☐ Tenant ☐ Other _____

Applicant Julian Sheldahl and Dean Wilson

Address / Phone # 3313 NW 13th Street, Ankeny IA 50023 (515)321-8251

E-mail julian@worus.net

Property Owner Julian Sheldahl and Dean Wilson

Address / Phone # 3313 NW 13th Street, Ankeny IA 50023 (515)321-8251

E-mail julian@worus.net

(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 _____ day of _____, 20____

Location (address) of the proposed variance 3313 NW 13th Street, Ankeny IA 50023

Legal description (Plat & Lot #) LOT 2 BOULDER BROOK PLAT 14

Zoning Residential Principal Use of property Residential 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 # _____ which state(s) _____

I would propose the following in lieu of that required: A 15.5 ft variance to allow us to build a covered deck as we will be replacing the existing deck with one of the same size. The house is approx 30 ft from the property line, the deck roof would be approx 10.5 ft in length.

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
17th day of March, 20 22.
Brenda Fuglsang
(Notary Public)

Office Use Only

Date received 3-17-2022

Paid ☐ Cash ☐ Check # _____

Filing # 22-06 **MAR 17 2022**

Scheduled Meeting Date April 5, 2022

CITY OF ANKENY

TO: The City of Ankeny Zoning Board of Adjustment

FROM: Julian Sheldahl and Dean Wilson, owners of 3313 NW 13th Street, Ankeny IA 50023

RE: Request for a 15.5 foot variance to build a covered, unenclosed deck.

DATE: March 13, 2022

Dear Board Members,

Action Requested:

We are replacing our current unenclosed, raised deck with another of the same dimensions and request a 15.5' variance to build a roof over the new deck. The current deck is 19.5' from the rear property line. The existing roofline over the deck is approximately 29.5' from the rear property line.

Proposed Project:

We have included a site plan of the current house and deck. The current structure is 15.33' by 18.16' when including the staircase on the side. As we are not requesting to expand, the new deck will be the same dimensions. Since the deck is partially covered the added roof would project approximately 10.5' from the back of the existing roofline. The space we are requesting to be covered by the new roof is 10.5' x 11.75', which is the deck area only not including stairs.

Steps Taken:

We have contacted and met with several builders in order to find one that we felt confident would do the best job and have decided to hire a local company, Ankeny Deck Specialist. We met with Vishal Patel, our project manager, who came to our home, surveyed the site and discussed options. Vishal is the last builder that we have met with and is the first one to inform us about the 35' setback guideline to install a roof over the deck. This verified to us that Vishal and his company are very knowledgeable about the business and will do the job correctly.

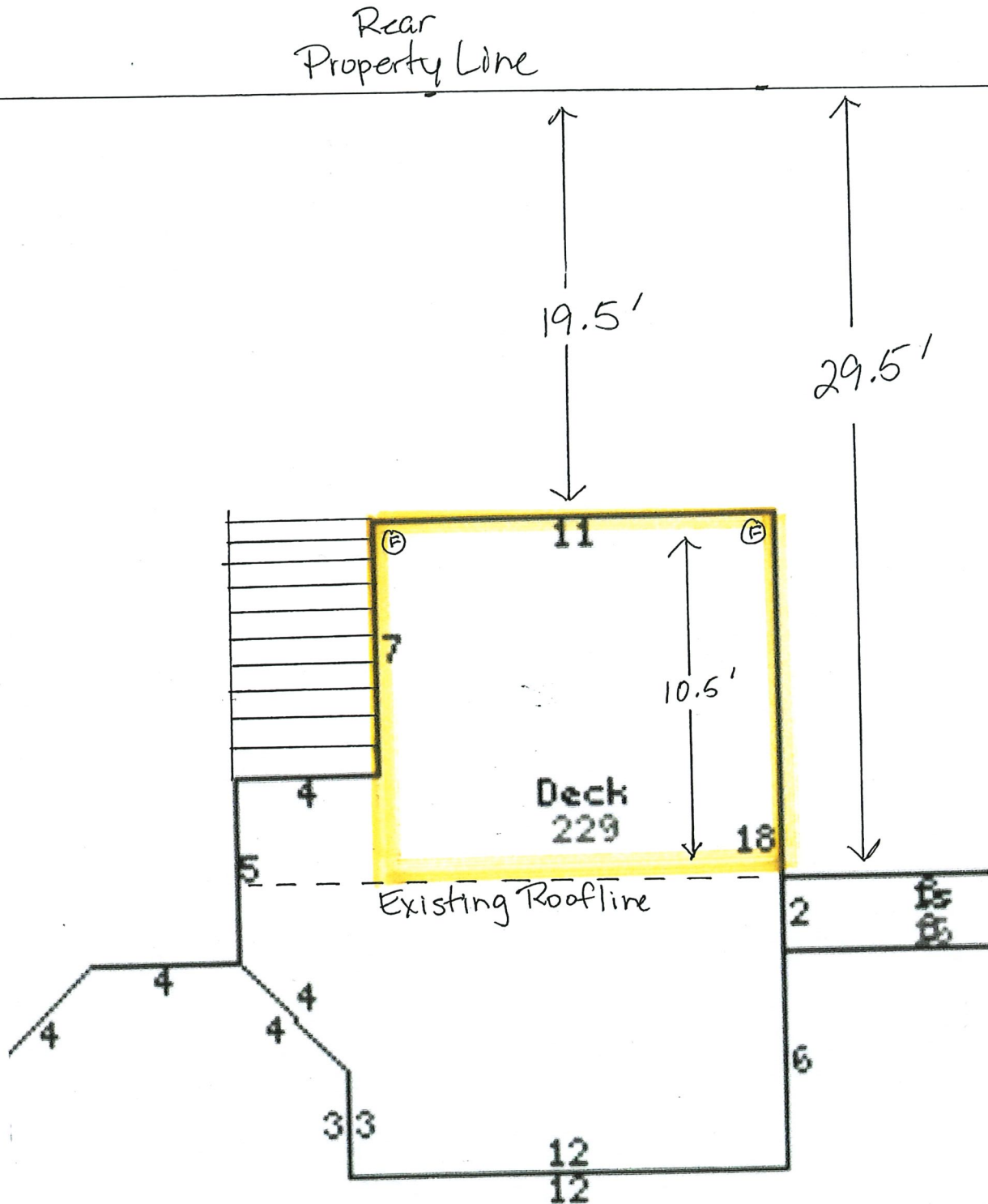
The Project's Impact on Us:

We have also included photos of the current deck and as you can see the former owners constructed a pergola which in our opinion, was not of quality. Covering the deck with an actual roof will enhance the look of our deck and backyard, hopefully adding value to our property. Of course we would like to have a covered deck to enjoy the outdoors for ourselves but my elderly father who has mobility issues will also be moving in with us and we would like to have a covered space for him in the backyard to be able to enjoy fresh air and sunlight as well.

The Project's Impact on the Community:

We have a very shallow backyard. However, with the way our neighbors' property lines are drawn and houses are oriented, there are no permanent structures within 70' of our deck. We have included an aerial view photo for reference. We feel that adding a roof to the raised deck will in no way have any negative impact on their access to light or air.

Thank you for your time and consideration,
Julian Sheldahl and Dean Wilson



Highlighted area demonstrates where we would like to construct a new roof.

#22-06



Red outline indicates project area.

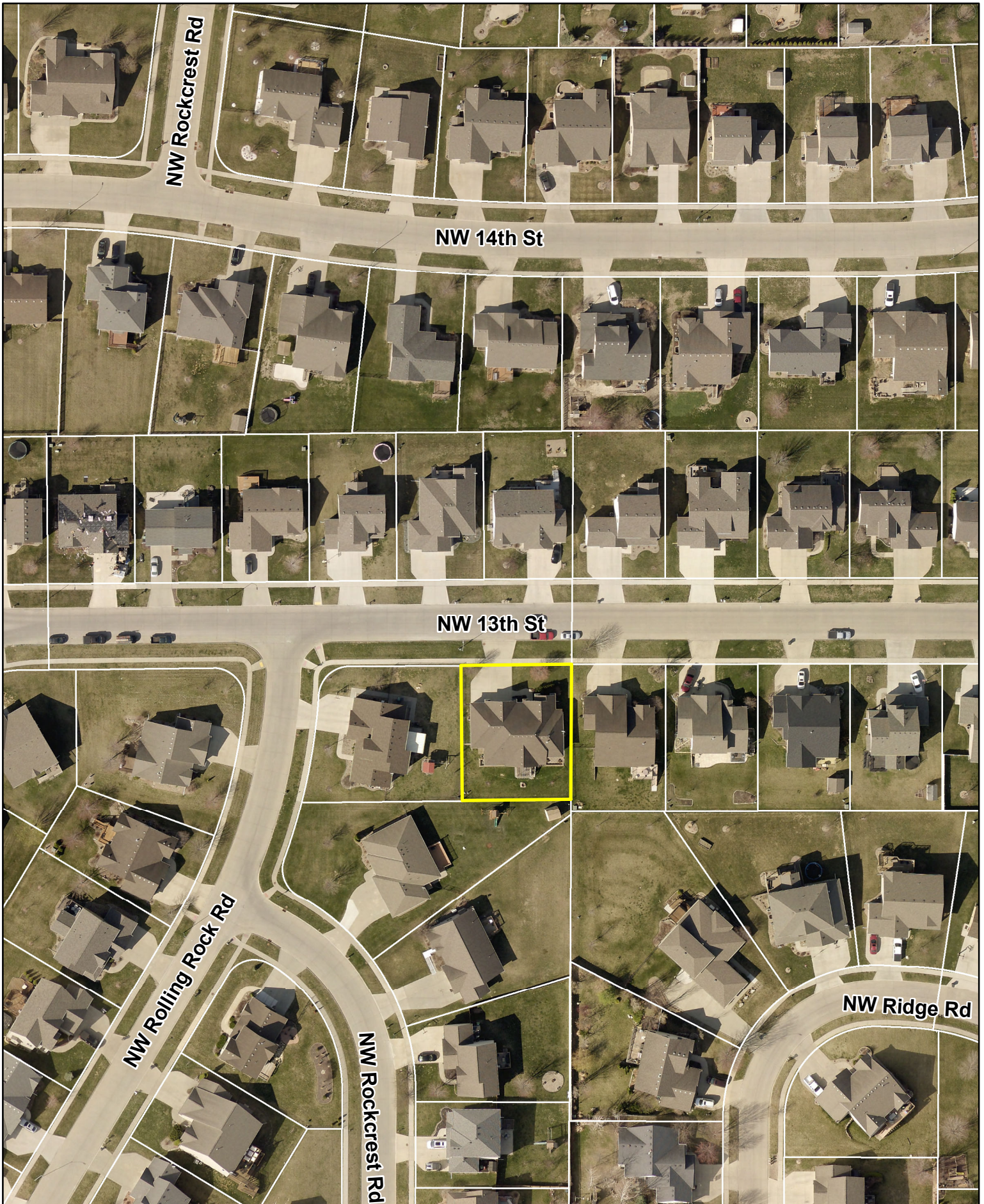


#22-06



★ Example Pictures of Inspected Existing Deck:





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

To: Members of the Zoning Board of Adjustment
From: Laura Hutzell, Planner 1
Filing #: 22-06 *ESC*
Meeting Date: April 5, 2022
Address: 3313 NW 13th Street

APPELLANT REQUEST

A variance to the City of Ankeny Municipal Code Section 192.06 that requires Rear Yard: 30-foot, allowing a 19.5' rear yard setback for a covered deck at 3313 NW 13th Street.

STAFF POSITION

That the Zoning Board of Adjustment grant a 10.5' variance to Ankeny Municipal Code Section 192.06 to allow a 19.5' rear yard setback for construction of a 10.5x11.75-foot portion of a covered deck at 3313 NW 13th Street, 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 covered deck would not impair adequate supply of air and light, would not decrease public danger of visibility, or diminish property values; and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code.

PROJECT SUMMARY

The subject property at 3313 NW 13th Street is owned by Julian Sheldahl and Dean Wilson. The property is located in the northwest quadrant of Ankeny. More precisely, south of NW 18th Street, and west of NW Irvinedale Drive. The zoning for the area is R-3A, Planned Multiple-Family Residence District, and the rear yard setback for residences in this area is 30-feet.

The appellant has requested a 10.5' variance to the 30-foot rear yard setback to allow a 10.5x11.75-foot portion of a covered deck.

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 3313 NW 13th Street is owned by Julian Sheldahl and Dean Wilson. The property is legally described as Lot 2, Boulder Brook Plat 14. The property is zoned R-3A, Planned Multiple-Family Residence District. Immediate neighboring properties to the north, south, east and west are also zoned R-3A.

The home at 3313 NW 13th Street is a one-story, single-family dwelling with 2,084 finished sf, 1,264 sf finished basement, and a 901-sf garage. There is an existing 229 sf deck at the back of the house that the applicant is planning to replace and cover. The new, covered portion of the deck will measure 10.5'x11.75-foot and will encroach approximately 10.5-feet into the 30' rear yard setback.

The rear yard setback is measured from the property line to the footings of the home or deck if there is a roof. According to Ankeny Municipal Code Section 196.03(2)B; *Rear Yard. Unenclosed, above and below, decks which project not more than 12-feet into the required rear yard.* It is only when the roof is added that the structure needs to meet the setback requirements of the house.

The proposal is to construct a 10.5x11.75-foot portion of a covered deck. The addition of a 10.5x11.75-foot covered deck will reduce the actual rear yard setback to 19.5' when measured to the rear property line. By and large, the addition does not decrease the "backyard" of the property and does not seem to infringe upon the properties to the east, west or south.

Furthermore, other similar variance requests have been approved by the Zoning Board of Adjustment in the past. The most recent being January 4, 2022, which allowed a covered deck to encroach 3 feet into the 35-foot rear yard setback.

Staff notified all property owners within 250' of 3313 NW 13th Street of this appeal by mail on March 25, 2022. Properties within 250-feet of the subject address are single-family detached residences. To date, staff has not received any official communication expressing concern or disapproval, nor communication endorsing the variance.

The staff position is to grant a variance to Ankeny Municipal Code Section 192.06 to allow a 19.5' rear yard setback for construction of a 10.5x11.75-foot portion of a covered deck at 3313 NW 13th Street. 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 decrease public danger of visibility, 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

April 5, 2022

5 : 00 PM



ORIGINATING DEPARTMENT:

Planning and Building

COUNCIL GOAL:

ACTION REQUESTED:

LEGAL:

SUBJECT:

Renewed Special Use Permits

#16-03 District 36 Wine Bar and Grille - 1375 SW Vintage Parkway

EXECUTIVE SUMMARY:

FISCAL IMPACT: **No**

STAFF RECOMMENDATIONS:

PREVIOUS COUNCIL/COMMISSION/BOARD ACTION(S):

PUBLIC OUTREACH EFFORTS:

ACTION REQUESTED:

ADDITIONAL INFORMATION:

ATTACHMENTS:

Click to download

 [Renewed Special Use Permit](#)



City of Ankeny
Outdoor Service Area Renewal Application

*Special Permit Resolution # 16-03

Originally approved April 5, 2016

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: Urban Hospitality LLC
(Sole Proprietorship, Partnership, Corporation)

Name of Business (d/b/a): District 36 Wine Bar & Grille

Address of Premise: 1375 Vintage Parkway

- Have there been any changes made to the Outdoor Service Area since last year in location, size, or type of fencing?

☐ Yes ☒ No

If yes, what changes have been made? (Please include a sketch)

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

☐ Yes ☒ No

Examples of sound uses requiring a special use permit shall include but not be limited to use of speakers to page patrons, use of a sound system to play music and the playing of live music. (Ord. 1426 Sec 1 Sub-section 5.08.100 G paragraph 5)

I hereby swear and affirm that I have complied and will continue to comply with all the requirements and attached conditions issued for the above identified property and with any subsequent modifications required by the Board of Adjustment.

The applicant hereby swears or affirms that all statements set forth herein are true and correct.

Signature

Name of Applicant (printed)

Date

ADMINISTRATIVELY
☒ **APPROVED**

3/21/22 EJC