

Meeting Minutes

Zoning Board of Adjustment

Tuesday, April 5, 2022
Ankeny City Council Chambers
1250 SW District Drive, Second Floor, Ankeny, Iowa

CALL TO ORDER

Chair Matt Ott called the April 5, 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, B.Morrissey, L.Hutzell, R.Hulstrom, D.Gervais, B.Fuglsang.

AMENDMENTS TO THE AGENDA

There were no amendments to the agenda.

MINUTES OF THE MARCH 22, REGULAR MEETINGS

Motion by K.Tomlinson to approve the February 22, 2022 meeting minutes as submitted. Second by N.Sungren.
Motion carried 5 – 0.

COMMUNICATIONS / CORRESPONDENCE

There were no communications.

BUSINESS ITEMS

PUBLIC HEARINGS:

#21-13(2022)

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

Chair M.Ott opened the public hearing.

The applicant was not in attendance.

B.Morrissey reported that the request is for a Special Use Permit at 1975 N Ankeny Boulevard, Suite 113 for Fiesta Jalapenos restaurant. The property is located near the intersection of NE 18th Street and N Ankeny Boulevard and is zoned C-2, General Retail & Highway Oriented Commercial District. The majority of the surrounding properties are zoned C-2, with the exception of the residential properties to the east. He stated that due to the residential properties to the east being within 500 feet of the restaurant a Special Use Permit is required to operate on the patio with alcohol and background music. B.Morrissey stated that a Special Use Permit was granted for the existing patio by the Board in May of 2021, with the condition that future renewals of the permit come before the Board. He noted that the request does not include any expansion or modifications to the patio. He presented a photo of the existing patio and said that City Staff checked with the Police and Fire Departments and found that there have not been any issues with the patio as it operates today. Additionally, Staff did not receive any correspondence for or against the patio when notices regarding the public hearing were mailed. Staff recommends 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.

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 J.Baxter. All voted aye. Motion carried 5 – 0.

Board Action on Filing #21-13(2022) property located at 1975 N Ankeny Boulevard, Suite 113

Motion by J.Baxter 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.

Second by K.Tomlinson. All voted aye. Motion carried. 5 – 0.

#22-06

Julian Sheldahl and Dean Wilson

3313 NW 13th Street

Lot 2, Boulder Brook Plat 14

RE: Variance - Rear Yard Setback

Chair M.Ott opened the public hearing.

Julian Sheldahl, 3313 NW 13th Street said they would like to replace their existing deck with the same footprint and place a roof over a portion of the deck. He stated that the rear yard setback for their property is 30-feet and with the proposed roof over a portion of the deck, it would provide for a 19.5-foot rear yard setback. They are asking the Board for a variance to allow the 19.5-foot rear yard setback.

There were no questions from the Board.

L.Hutzell reported 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 and is zoned R-3A, Planned Multiple-Family Residence District. R-3A zoning requires a 30-foot rear yard setback. She stated that Ankeny Municipal Code Section 196.03(2)B(2), states that an unenclosed deck may project no more than 12-feet into the required rear yard setback. It is only when the roof is added that the structure needs to meet the setback requirements of the house. L.Hutzell stated the proposal is to construct a 10.5x11.75-foot portion of a new, covered deck on the rear of the house replacing the current deck and existing pergola. She said the owners are requesting a 10.5-foot variance to allow the required 30-foot rear yard setback be reduced to 19.5-feet for the 10.5x11.75-foot roof. She noted the addition of the roof would not decrease the backyard of the property and does not infringe upon the surrounding properties. Staff notified all property owners within 250-feet of this property and to date, have not received any comment for or against the request. The Staff position is to grant a 10.5-foot variance to Ankeny Municipal Code Section 192.06 to allow a 19.5-foot 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.

N.Sungren asked Staff if the existing pergola was permitted when it was originally constructed. L.Hutzell stated the pergola was in place when Julian Sheldahl and Dean Wilson moved into the home. She further stated, that a building permit for the pergola could not be found. E.Carstens commented that before the pergola was constructed it should have come before the Board as a variance request.

The Board had no further 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 J.Baxter. All voted aye. Motion carried 5 – 0.

Board Action on Filing #22-06 property located at 3313 NW 13th Street

Motion by N.Sungren that the Zoning Board of Adjustment grant a 10.5-foot variance to Ankeny Municipal Code Section 192.06 to allow a 19.5-foot 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. The Board'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. Second by M.Ott. All voted aye. Motion carried. 5 – 0.

NEW BUSINESS

There was no new business.

REPORTS

Renewed Special Use Permits

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

E.Jensen announced that this is Associate Planner Ruth Hulstrom's final meeting, as she has taken a new position in Wisconsin. He expressed his appreciation for her service to the community.

There being no further business, the meeting adjourned at 5:25 p.m.



Submitted by Brenda Fuglsang, Board Secretary
Zoning Board of Adjustment