

Meeting Minutes

Zoning Board of Adjustment

Tuesday, August 8, 2017
Ankeny City Hall – City Council Chambers
410 W. First Street, Ankeny, Iowa

CALL TO ORDER

The August 8, 2017 regular meeting of the Zoning Board of Adjustment was called to order at 5:00 p.m. by Chair M.Ott. Members present: J.Baxter, M.Ott, K.Tomlinson, and B.Walker. Absent: N.Sungren. Staff present: E.Carstens, D.Gervais, D.Silverthorn, B.Fuglsang.

AMENDMENTS TO THE AGENDA

There were no amendments.

MINUTES OF THE MAY 2, 2017 MEETING

Motion by K.Tomlinson to approve the May 2, 2017 meeting minutes as submitted. Second by M.Ott. Motion carried 4 – 0.

COMMUNICATIONS / CORRESPONDENCE

There were no communications.

PUBLIC HEARINGS:

#17-05 **Paul R. Scranton**
 714 SE Peterson Drive
 Lot 3 Richland Estates, Plat 1
 RE: Rear Yard Setback Variance

Chair M.Ott opened the public hearing.

Paul Scranton, 714 SE Peterson Drive, Ankeny explained that they have lived in their home about 20 years. He stated they were in front of the Board about 4 years ago to turn their deck into a sunroom. He continued to state that they would like to “age in place” so to do that they would need to extend the Northwest corner of their home. Mr. Scranton commented they are asking for a 4-foot variance to allow for an addition to their home, which would allow them to reconfigure their master bathroom to be handicap accessible. Mr. Scranton stated he contacted the abutting property owners and they do not have any objections to their planned addition. He commented that the addition would tie into the roofline. Mr. Scranton asked the Board for their consideration on his request for the 4-foot variance.

M.Ott asked Mr. Scranton to explain the location of the neighbor’s property who he had contacted about the addition. Mr. Scranton shared with M.Ott their directional locations. M.Ott then asked Mr. Scranton if they had any intentions to come back before the Board requesting future additions to the home. Mr. Scranton stated at this time they do not foresee any future additions.

Staff Report: D.Silverthorn reported the subject property is located at 714 SE Peterson Drive, east of SE Trilein Drive and north of SE Peterson Drive. He stated the property is zoned R-2 and the subject development consists of a single-family residential dwelling situated on Lot 3 of Richland Estates Plat 1. D.Silverthorn stated the applicant is requesting a variance to the rear yard setback. He explained that the required rear yard setback in the City of Ankeny R-2 zoning district regulations is 35 feet. D.Silverthorn stated the subject development creates a 4-foot encroachment along the north property line of the site, providing a 31-foot rear yard setback. D.Silverthorn stated the subject building was issued a final certificate of occupancy in February 1989. D.Silverthorn explained that the site plan submitted with the variance request indicates the northern plane of the existing portion of the structure to be modified as being 42’ from the rear property line. He stated an existing covered deck that extends seven feet into the required 35-foot rear yard setback, was granted a variance in 2014. He further commented that the applicant stated the adjacent property owners have provided support for this request, and attest that there will be no hardships created for the use of their properties. D.Silverthorn stated the staff position is to grant the requested variance for the structure encroaching 4-feet into the required 35-foot rear yard setback. The staff position is based on a determination that the resulting structure 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.

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

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

The Board members expressed no concerns. M.Ott commented that there were no objections from neighbors.

Board Action on Filing #17-05 property at 714 SE Peterson Drive

Motion by J.Baxter that the Zoning Board of Adjustment grant a 4-foot variance to the City of Ankeny R-2 zoning district regulations to allow a 31-foot rear yard setback at 714 SE Peterson Drive based on a determination that the resulting structure 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. Second by M.Ott. All voted aye. Motion carried 4 – 0.

**#16-14 (2017) Whiskey River on Vintage, Inc.
1350 SW Vintage Parkway
Lot 2, The District at Prairie Trail Plat 3
RE: Special Use Permit – Outdoor Service Area**

Chair M.Ott opened the public hearing.

Joe Romare, Whiskey River on Vintage, Inc., 1350 SW Vintage Parkway, Ankeny stated he is before the Board to request continuation of his Outdoor Service Area Special Use Permit.

M.Ott asked Mr. Romare if he is requesting any changes with the Special Use Permit. Mr. Romare stated no. K.Tomlinson confirmed with Mr. Romare that they have been open until 2:00 a.m. on the patio the entire year. Mr. Romare stated yes, they are open until 2:00 a.m. every night. Mr. Romare asked the Board if he would have to come back every year for the renewal. M.Ott along with E.Carstens explained what the process would be to Mr. Romare, if the Board would approve the staff recommendation at this meeting.

Staff Report: D.Gervais reported Whiskey River on Vintage, Inc. would like to continue two outdoor seating areas with sound located at 1350 SW Vintage Parkway. She stated the legal entity requesting the permit last year was For The Kids II, LLC and the current legal entity is Whiskey River on Vintage, Inc. She commented that their ownership has not changed. E.Carstens followed up on Mr. Romare's previous question regarding renewal by explaining what affects new ownership would have on the Outdoor Service Area Special Use Permit.

D.Gervais continued to report that the outdoor patios are on the south side of the building, adjacent to SW Merchant Street. She also stated that south of SW Merchant Street is currently vacant land and would be allowed to develop as any of the Mixed-Use Town Center Precinct allowed uses, including residential. D.Gervais stated Prairie Pointe at DMACC is an existing residential development 400-feet to the south.

J.Baxter asked staff for clarification as to the reason for Mr. Romare having to come back to the Board for approval of the Special Use Permit. He asked if it had to do with the potential of residential development on the vacant land. E.Carstens explained there are two reasons for the approval; one being if you are within 500 feet of residentially zoned property, and the second is if you have outdoor music. He stated staff's consideration was that the Prairie Trail Town Center PUD does allow for residential in the neighborhood and Whiskey River does have outdoor music. K.Tomlinson asked if the Prairie Pointe Apartments were notified of this request. E.Carstens stated no. D.Gervais stated the notification area is 250-feet and they are 400-

feet. E.Carstens stated staff checked with Code Enforcement, the Police and Fire Departments and there have not been any issued raised.

D.Gervais continued to report that the ground floor patio seats 65-75 and the upper rooftop patio seats 80-100 patrons. She commented the outdoor seating areas are enclosed and need to meet the exit criteria of the Code. D.Gervais stated the operating hours of the business and outdoor service areas are 10:00 a.m. to 2:00 a.m. daily. She explained the outdoor service areas have outdoor speakers, which play sound for the TVs and background music and there is no live music planned at this time. D.Gervais stated any sound, amplified or otherwise, from the outdoor service areas shall be in compliance with Ankeny Municipal Code Chapter 44, Noise Control. D.Gervais reiterated that in the past year there have been no complaints filed with the Police Department, Fire Department or the Building Department/Code Enforcement. She stated the staff position is to recommend approval with automatic renewal for the request for a Special Use Permit for Whiskey River, with the conditions that any sound shall comply with Ankeny Municipal Code Chapter 44, Noise Control and the hours of operation shall be 10:00 a.m. to 2:00 a.m. daily.

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

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

J.Baxter commented since there have been no substitute changes and no violations he is in favor of approving it with the automatic renewal. K.Tomlinson commented that she has a concern with the 2:00 a.m. outside service but since there have not been any complaints she would be okay with the automatic renewal.

Board Action on Filing #16-14 (2017) property at 1350 SW Vintage Parkway

Motion by B.Walker that the Zoning Board of Adjustment grant a Special Use Permit in accordance with Sections 130.07 and 196.02(1) (I) to Whiskey River on Vintage Inc. for two outdoor seating areas to run concurrently and terminate with a liquor license for said establishment provided the following conditions are met:

1. Any sound, amplified or otherwise, from the outdoor service areas 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 and shall be in compliance with Ankeny Municipal Code Chapter 44, Noise Control.
2. Hours of operation 10:00 a.m. to 2:00 a.m. daily.
3. The Special Use Permit may be automatically approved by staff.

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

REPORTS

Renewed Special Use Permits

#08-20 – 2414 SE Tones Drive – On the Waterfront Seafood Restaurant

#15-20 – 2732 SE Delaware Avenue, Ste 310 – Fuzzy's Taco Shop

#15-14 – 705 S. Ankeny Blvd. – Benchwarmers

#13-09 – 2510 SW State Street – Hy-Vee Market Grille

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

Submitted by Brenda Fuglsang, Recording Secretary



Zoning Board of Adjustment