



# Approved

**MINUTES**  
**CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT**  
**REGULAR SESSION**

5:00 p.m.

Thursday, November 17, 2016  
City Council Chamber, Historic Federal Building

**Board Members Present:** Chairperson Jonathan McCoy; Board Members Keith Ahlvin, Jeff Cremer, Bethany Golombeski, and Joyce Pope; Staff Members Guy Hemenway and Wally Wernimont.

**Board Members Excused:** None.

**Board Members Unexcused:** None.

**CALL TO ORDER:** The meeting was called to order by Chairperson McCoy at 5:00 p.m.

**AFFIDAVIT OF COMPLIANCE:** Staff presented an Affidavit of Compliance verifying the meeting was being held in compliance with the Iowa Open Meetings Law.

**MINUTES:** The minutes of the October 27, 2016 Zoning Board of Adjustment meeting were approved unanimously as submitted.

**Docket 62-16/Special Exception:** Application of Jason & Erin Schmitz, 1918 Avalon Road, to allow storage of a recreational vehicle eight (8) feet from the front property line and one (1) foot from the north side property line, twenty (20) and six (6) feet required in an R-1 Single-Family Residential district.

Jason Schmitz, 1918 Avalon Road, discussed his lot configuration. He distributed photos of his property and said that the stored recreational vehicle will not block the view from adjacent driveways or houses.

Cynthia Peterson, 1940 Avalon Road, said that she is the adjacent property owner and that she is not sure where her property line is. She said that she has no objection to the Schmitz's request to place their RV next to her lot.

Staff Member Wernimont reiterated the request. He discussed the regulations outlined in the Unified Development Code regarding vehicle storage. He said that the Schmitz's rear yard was not accessible and that consequently they are able to store in the side yard provided they meet the required setbacks. He discussed the lot configuration, required setbacks, and site topography. He said that the Schmitz's stated that the vehicle is stored seasonally but that the Board may want to verify the exact dates of

when storage would occur. He said the stored RV should not limit visibility from the adjacent property.

Board Member Ahlvin asked if a time limit could be placed on storage of the vehicle. Board Member Pope asked if the City had received a complaint regarding storage of the RV. Board Member Ahlvin asked if the Schmitz's would consider storing the RV off-premise over the winter months. Mr. Schmitz said he was okay with the condition that the vehicle be stored off-premise over the winter months.

Board Members discussed the request and felt that it was appropriate if the RV be stored off-premise during the winter months.

Motion by McCoy, seconded by Golombeski, to approve the special exception request to store a recreational vehicle eight (8) feet from the front property line and one (1) foot from the north side property line limited to from March 1st to November 30<sup>th</sup>. Motion carried by the following vote: Aye – Cremer, Ahlvin, Golombeski and McCoy; Nay – Pope.

Board Member Pope cited criteria B. and C. from the Unified Development Code to explain her vote.

After brief discussion Board Member McCoy decided to hear Dockets 63-16, 64-16, and 65-16 for 528, 518 and 534 Stone Valley Drive simultaneously and vote on each docket separately.

**Docket 63-16/Special Exception:** Application of Ron & Lisa Klein, 528 Stone Valley Drive, to construct a 1,500 sq. ft. detached garage, 1,000 sq. ft. maximum permitted, in an R-1 Single-Family Residential district.

Ron Klein, owner of property at 528 Stone Valley Drive, said that his intent is to erect a 35' by 50' detached garage at the rear of the property. He said that a high pressure gas line bisects the lot and making a large portion of the property unbuildable. He said that his intent is to build the garage at the rear of the yard next to a farm field. He noted that restrictive covenants dictate the design and orientation of the accessory structures on all three subject properties.

Board Members discussed the request in conjunction with the other two dockets. Board Member Ahlvin noted that the property suffers a disadvantage in that it is bisected by a wide natural gas pipeline easement which makes utilization of the property difficult.

Board Members said that they felt that conditions regarding the use of the buildings and lot coverage were warranted.

Motion by Pope, seconded by McCoy, to approve the Special Exception request with the conditions that:

- 1) The detached accessory structure not be used for a contractor shop or any other commercial purposes,
- 2) The total square footage for all structures on the subject lots not exceed 40% of the lot area, and,
- 3) The subject residence be built before, or in concurrence with, the detached accessory structure.

Motion carried by the following vote: Aye – Cremer, Ahlvin, Pope, Golombeski, and McCoy; Nay – None.

**Docket 64-16/Special Exception:** Application of Ron & Lisa Klein, 534 Stone Valley Drive, to construct a 1,500 sq. ft. detached garage, 1,000 sq. ft. maximum permitted, and a single-family home ten (10) feet from the front property line (English Mill Road), twenty (20) feet minimum required, in an R-1 Single-Family Residential Zoning district.

Board Members discussed the request in conjunction with the other two dockets and decided it was appropriate given the location of the gas pipe line.

Motion by Pope, seconded by McCoy, to approve the Special Exception request with the conditions that:

- 1) The detached accessory structure not be used for a contractor shop or any other commercial purposes,
- 2) The total square footage for all structures on the subject lots not exceed 40% of the lot area, and,
- 3) The subject residence be built before, or in concurrence with, the detached accessory structure.

Motion carried by the following vote: Aye – Cremer, Ahlvin, Pope, Golombeski and McCoy; Nay – None.

**Docket 65-16/Special Exception:** Application of Ron Wernimont, 518 Stone Valley Drive, to construct a 1,500 sq. ft. detached garage, 1,000 sq. ft. maximum permitted, in an R-1 Single-Family Residential Zoning district.

Ron Wernimont, 518 Stone Valley Drive, said that he would like to have a larger garage which will enable him to store an RV and other materials on his premises.

Staff Member Wernimont noted that there is a shared driveway between the properties at 518 and 528 Stone Valley Drive. He clarified the location of all three subject lots and their location relative to Stone Valley Drive and English Mill Road. He reiterated the request and noted that all of the subject and adjacent property owners are aware that the covenants for the property allowed a 1,500 square detached accessory structure. He said that it is very clear in both the covenants and City Code that detached garages

cannot be used for contractor shops and yards or any other commercial purposes.

Board Member Golombeski asked about lot coverage issues. Staff Member Wernimont noted that although the footprint of the houses had not yet been determined, they would not likely exceed the 40% lot coverage threshold. He noted that the setback request for the property at 534 Stone Valley Road, stating that due to the gas pipe line easement location, it was difficult to fit a house in meeting the required setbacks.

Board Members discussed the request and felt that it was appropriate, provided conditions were added to approval.

Motion by Pope, seconded by McCoy, to approve the Special Exception request with the conditions that:

- 1) The detached accessory structure not be used for a contractor shop or any other commercial purposes,
- 2) The total square footage for all structures on the subject lots not exceed 40% of the lot area, and,
- 3) The subject residence be built before, or in concurrence with, the detached accessory structure.

Motion carried by the following vote: Aye – Cremer, Ahlvin, Pope, Golombeski and McCoy; Nay – None.

**Docket 66-16/Special Exception:** Application of David Bures, 1716 Sarah Street, to build a 10' x 20' freestanding front porch ten (10) feet from the front property line, twenty (20) feet minimum required in an R-1 Single-Family Residential district.

David Bures, 1716 Sarah Street, explained his request to the Board. He said that he would like to build a 10' x 20' wood deck approximately 10 feet from the front property line.

No one spoke in opposition to the request.

Staff Member Hemenway reiterated the request. He said that the deck will be built slightly above grade and must, therefore, meet the required setbacks. He noted that at-grade patios or paved pads are not required to meet setbacks. He said the porch will be of an open design and will not block the view to the street from the subject property or adjacent properties front windows or driveways. He discussed the history of the neighborhood and noted that the current trend is to build front porches instead of rear decks.

Board Members discussed the request and felt it met the criteria established for granting a special exception.

Motion by Pope, seconded by McCoy, to approve the Special Exception request with the condition that the porch remain of an open design. Motion carried by the following vote: Aye – Cremer, Ahlvin, Pope, Golombeski and McCoy; Nay – None.

**Docket 67-16/Variance:** Application of Dubuque Community School District, to add nine (9) signs to the Bryant School for a total of ten (10) signs, two (2) signs maximum, permitted for an educational institution in an R-1 Single-Family Residential district for property located at 1280 Rush Street.

Chris McCarron, 2476 Pearl Street, said she is the principal of Bryant School. She said that a charitable donation had allowed Bryant School to build a series of nine lamp posts on their property. She said that Bryant School would like to add banners to the lamp posts.

Chairperson McCoy asked if the City's banner policy applied to the Bryant School request. Staff Member Hemenway noted that the banner policy only applies to those structures located within the public right-of-way and he said that as all of the posts are located within Bryant School's property, a variance is necessary.

Dan Schmitt, 606 S. Grandview Ave., said that after notification, he was originally concerned with the request, but now that he has seen what Bryant School is interested in, he said that he is in favor. He said that the proposed banner signs should have very little impact on adjacent residential properties.

Staff Member Hemenway presented the staff report, noting the sign regulations as they apply to schools and churches located in residential districts. He said that as these facilities are generally large scale and generate activity, traffic and demand on parking unlike other residential uses. He said that schools are allowed to place two signs, up to 32 square feet each, on their campus. He said that in his experience, he had not had a request similar to this, and that there were some gray areas. He said that the signs are 16" by 36" and will not be internally illuminated.

Chairperson McCoy asked if the poles had electric outlets that would permit future illumination. Ms. McCarron said that she is new to the school and is not sure if the poles had electric outlets.

Board Members discussed the request, noting that the signs had a Two by Two corporate logo at the bottom. Staff Member Hemenway said that signs were not considered off-premise as they advertise a product, service, or activity that is being provided on-site within the school. He discussed corporate branding and limiting or regulating the current signage or future signs.

Chairperson McCoy said that he felt the signs act like an advertisement for the Two by Two program. Board Member Ahlvin said that the school could remove the logo or any trademark and then place the signs as banners. Board Member Pope said that in her

opinion, the request did not meet the criteria for granting a variance. She said that the school does not suffer any unique disadvantage.

Board Member Golombeski said that banners have been added to poles in the downtown area and that she felt they were tastefully done and complimented the neighborhoods. She said she felt the banners proposed by Bryant School were more decorative in nature and did not appear to be corporate advertising. She said that the logo at the base of the sign is very small and would not be highly visible people on the ground.

Board Member Cremer said that he felt the addition of the banners complimented the sign posts and appear to be tastefully done. He said he did have concerns with co-branding and corporate advertising on the banner signs. He said that if the Board were prone to approve the signs as submitted, that any change would require that they come back for approval.

Chairperson McCoy said that it would be possible for the Board to require that any corporate logos be removed. Board Members discussed the request over commercial branding on the signs.

Board Member Ahlvin asked for clarification regarding the City's regulation of public art and murals. Staff Member Hemenway noted that signs are defined as having text or recognizable logo that advertises a product, service, or activity that is either provided on-site or off-premise. He said that murals without aforementioned components are deemed public art, and are not regulated under the existing sign ordinance.

Board Members discussed the request and noted that if the school placed banners on the poles that qualify as art they would not require a sign variance. Board Members discussed conditions that may serve to alleviate some of their concerns.

Motion by McCoy, seconded by Ahlvin, to approve the sign variance request with the conditions that:

- 1) The signs are made of a fabric material;
- 2) The signs are non-illuminated; and,
- 3) Approval is predicated on Exhibit A, with the removal of the Two-by-Two logo at the base of the signs.

Motion was denied by the following vote: Aye – Ahlvin and Golombeski; Nay – Cremer, Pope and McCoy.

**ITEMS FROM BOARD:**

Chairperson McCoy noted that in response to his inquiry, the City Attorney stated that Board Members were indemnified from legal action by the public.

**ITEMS FROM PUBLIC:**

Dan Schmitt, 606 S. Grandview Ave., said that his children attended Bryant School. He said that he felt the signs on the light posts would have very limited impact on the neighborhood and were appropriate. He said that he felt that it was a mistake for the Board to not grant the variance request.

Board Member Pope said that she agreed with Mr. Schmitt; however, the sign request did not meet the criteria established for granting a variance. She said that the school could place art work on the posts, and not have the need for a variance.

**ADJOURNMENT:** The meeting adjourned at 6:30 p.m.

Respectfully submitted,

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Kyle L. Kritz, Associate Planner

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Adopted