



# Approved

**MINUTES**  
**CITY OF DUBUQUE ZONING BOARD OF ADJUSTMENT**  
**REGULAR SESSION**  
5:00 p.m.  
Thursday, May 25, 2017  
City Council Chamber, Historic Federal Building

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

**Board Members Excused:** None.

**Board Members Unexcused:** Board Member Joyce Pope.

**CALL TO ORDER:** The meeting was called to order by Chairperson McCoy at 5:05 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:** Motion by McCoy, seconded by Golombeski, to approve the minutes of the April 27, 2017 Zoning Board of Adjustment meeting as submitted: Motion carried by the following vote: Aye – Cremer, Ahlvin, and Golombeski; Nay – None; Abstain - McCoy.

**Docket 20-17/Special Exception:** Application of Anthony Petty, 2815 Davenport Street, to enclose a carport one (1) foot from the rear property line and two (2) feet from the east side property line, six (6) feet minimum required, in an R-1 Single-Family residential Zoning district.

Alan Petty, 2815 Davenport Street, said that he would like to move a carport back from its present location and enclose it. He said he will also be installing a driveway to the carport and a concrete pad underneath.

Board Member Golombeski clarified which carport was in question. Staff Member Wernimont outlined the staff report, noting the location of the various structures using aerial photos. He said that the Board had approved a Special Exception in 2001 for another carport on the subject lot. He reiterated the request and said that a neighbor had contacted him but was not opposed to the project.

Board Member Ahlvin asked why the applicant was creating two paved parking spaces. Staff Member Wernimont stated that because of the improvements to the property, the applicant is required to install paved parking.

Board Member Golombeski noted that the area where the carport will be located is already impermeable.

Staff Member Wernimont noted that drainage from the carport will eventually flow into a new green alley.

Board Members discussed the request and felt it was appropriate.

Motion by Ahlvin, seconded by Cremer, to approve the Special Exception request as submitted. Motion carried by the following vote: Aye – Cremer, Ahlvin, Golombeski and McCoy; Nay – None.

**Docket 21-17/Special Exception:** Application of John & Corleen Myers, 65 North Booth Street, to build a 16' x 18' attached deck, ten (10) feet from the rear property line, 20 feet minimum required, in an R-1 Single-Family Residential Zoning district.

John and Corleen Myers, 76 North Booth, explained their request to the Board. Mr. Myers said they would like to build an enclosed deck at the rear of their house. He said the deck would face the YMCA's parking lot. He said that the deck would be 10 feet away from the fence along the property line.

No one spoke in opposition to the request.

Staff Member Hemenway presented the staff report. He reiterated the request and referred to aerial photos, noting the location of the deck relative to the surrounding property. He said that the lot is only 90 feet deep and considering the front yard setback and width of the residence, limited space is left in the rear yard. He said that a representative of the YMCA had contacted him and said they had no concerns with the request.

Board Members discussed the request and felt it was appropriate.

Motion by Ahlvin, seconded by Golombeski, to approve the Special Exception as submitted. Motion carried by the following vote: Aye – Cremer, Ahlvin, Golombeski and McCoy; Nay – None.

**Docket 22-17/Special Exception:** Application of Tom Kelzer, 4617 Camelot Drive, to pour a concrete pad to store a travel trailer, ten (10) feet from the front (Embassy West Drive) property line, 20 feet required, in an R-1 Single-Family Residential Zoning district.

Tom Kelzer, 137 Main Street, said that he would like to place a travel trailer parallel to Embassy West Drive on the subject property. He said that the trailer will be partially screened by bushes and a retaining wall.

No one spoke in opposition.

Staff Member Wernimont outlined the staff report. He discussed the R-1 district regulations for vehicle storage which he said included setbacks. He said that stored vehicles must be operable and currently registered and stored on a hard surface. He said that the subject lot was a corner lot and; therefore, the 20-foot setback was applied to both frontages. He noted the grade change and the proposed retaining wall and vegetation, which he said would partially screen the trailer. He said that the trailer would not be located in the visibility triangle.

Board Members discussed the request and felt it was appropriate.

Motion by Golombeski, seconded by Cremer, to approve the Special Exception request as submitted. Motion carried by the following vote: Aye – Cremer, Ahlvin, Golombeski, and McCoy; Nay – None.

**Docket 23-17/Conditional Use Permit:** Application of Renee Krier (Romper Stompers), 121 West 23<sup>rd</sup> Street, to expand an existing daycare and add an additional 50 children and nine (9) employees in an R-2A Alternative Two-Family Residential Zoning district.

Gary Carner, 1664 Washington Street, said they would like to create a daycare with employee parking and drop-off and turnaround on the property at 121 West 23<sup>rd</sup> Street. He said that the outdoor play area will be fenced.

Renee Krier, 121 W. 23<sup>rd</sup> Street, said that she would like to provide a pre-school option so that kids do not have to be bused elsewhere. She discussed the pre-school programs and the age group that she intended to serve.

Staff Member Wernimont clarified the location of current day care and the proposed daycare.

Mr. Carner noted that all required parking would be provided on-premise and that employees would not be allowed to park on the street.

Gary Schulte, 148 W. 23<sup>rd</sup> Street, spoke in opposition to the request, noting concerns with traffic safety. He distributed a handout citing several of the Conditional Use Permit criteria that he said he felt were not met. He said that the streets were too narrow and there were several difficult adjacent intersections. He said that winter weather causes further restrictions to the streets. He said that he had problems with a former daycare as it regarded parking. He noted that 23<sup>rd</sup> street serves as a short cut from Valeria or Central when there is construction on the adjacent streets.

Debra Schulte, 148 W. 23<sup>rd</sup> Street, said that she is a long-term resident of the area and that she had concerns with traffic volume and lack of on-street parking. She said that

the streets are narrow and that in winter the conditions worsen. She said that if the City would like to go green, then they should not allow paved parking in the neighborhood. She expressed concerns with the impact the day care may have on the value of her property.

Bob Johnson, 145 W. 23<sup>rd</sup> Street, expressed concerns with traffic safety. He said that he would view the parking lot from his house and that it would affect the value of his property.

Chairperson McCoy read a letter of opposition submitted by Bob Young, 151 W. 23<sup>rd</sup> Street, expressing safety concerns and the potential impact on parking.

Ms. Krier noted that the daycare would be located on a very large lot and that the facility and play area would be set well back from the street. She said that although a petition of opposition was submitted with 17 signatures, it came from only three addresses. She said their intent is to eliminate some of the vehicular traffic because the children will be able to stay at the facility for pre-school and not have to be bused elsewhere. She said she would not allow employees to park on the street. She distributed photos of the site.

Mr. Carner said that they will have adequate parking, safe access and plenty of green space on the property.

Staff Member Wernimont noted receipt of a letter from Dan Arling expressing concerns with traffic safety and parking. He outlined the staff report, referencing the site plan, noting that a complete site plan will be required that will address parking and traffic access to 23<sup>rd</sup> street. He discussed the difference between a day care home and a licensed child care facility, stating that the latter required that a conditional use permit be reviewed and approved by the Board. He said that the Board had approved a conditional use permit in 2009 for the existing day care at 121 W. 23<sup>rd</sup> Street. He said that the site plan for the subject lot indicates that the parking requirements, drop-off/pick-up and turnaround areas and outdoor recreation area would be provided. He said that the Building Services Department, Fire Department, and the Department of Human Services for the State of Iowa would have to review the facility for code compliance.

Board Member Ahlvin asked Ms. Krier what the hours of operation for the facility would be and how traffic would flow. Ms. Krier said they would be open from 5 a.m. to 10:30 p.m. and she said there was a bit of a rush in the morning and late in the afternoon. She said that having the pre-school on site will eliminate RTA bus service to the area and reduce traffic.

Board Member Cremer asked what the student population would be. Ms. Krier said they would have 50 three to nine year-old children.

Chairperson McCoy said that the neighbors have raised valid points regarding traffic safety. He said that the proposed day care may exacerbate existing traffic issues along 23<sup>rd</sup> Street.

Board Member Ahlvin said that he did not feel that the request met Special Exception Criteria C & F. He said that the additional traffic will affect the character of the neighborhood. He said the he felt the streets were too narrow and congested to handle peak traffic volumes.

Board Member Cremer said that the YMCA, for example, had a relatively busy facility that had a driveway access into a residential area. He said that he also felt that all 50 children and parents would not arrive at the same time.

Board Member Golombeski expressed concerns with Criteria C & F regarding neighborhood character and traffic.

Chairperson McCoy asked the applicants if they would like to table their application which he said would offer them an opportunity to speak with the neighbors and resubmit their request. The applicants indicated they did not want to table their request.

Motion by McCoy, seconded by Cremer, to approve the Conditional Use Permit for the daycare at 121 W. 23<sup>rd</sup> Street. Motion was denied by the following vote: Aye – Cremer; Nay – Ahlvin, Golombeski and McCoy.

Board Member Ahlvin said that he did not feel that the request met Criteria C & F. Board Member Golombeski said that she did not feel that the request met Criteria C. Chairperson McCoy said he did not feel the request met Criteria C & F.

**Docket 24-17/Special Exception:** Application Conlon Construction, 200 Fremont Avenue, to build a single-family residence 520 feet from the front property line (Fremont Avenue), 50' maximum permitted in an R-1 Single-Family Residential Zoning district.

Ryan Koopmann, Conlon Construction 1100 Rockdale Road, said he is the project manager representing Mr. and Mrs. Schmid. He explained the request, noting that the Schmid's intend to subdivide their lot and build a house at the rear of their property. He noted that the Schmid's owned the adjacent lot and that there would be shared driveway access for both lots. He said that the driveway would be built to Fire Department standards for structural integrity and width, and would have a turnaround at the end to facilitate the safe exit of emergency vehicles. He said that a water main would be extended to the site with the potential to accommodate a fire hydrant. He said that an E-1 pump would force effluent from house to the City's sanitary sewer. He said that the shared driveway will eliminate an additional access to the street. He noted there are mature trees on the site that will partially screen the proposed house from the adjacent residential properties.

Mr. Koopman distributed a packet to the Board that included an aerial photo and proposed utility extensions. He said that the Schmid's own the adjacent flag-shaped lot and he noted that they were previously approved to build a house on that property. He said that he has worked closely with the Engineering Department to finalize the driveway access. He discussed the location of the curb cut and said that the proposed driveway will meet the Fire Department's specifications. He discussed the extension of utilities to the site.

Board Member Golombeski asked what the grade change was. Staff Member Hemenway said that the grade change from Fremont Avenue to the leading edge of the proposed new lot was approximately 16 feet.

Carol Arnold, 240 Fremont, said that she was upset that they were not notified of the request until they received the letter from the City. She said that she enjoys the park-like view which she said would be obscured by two houses. She expressed concerns with removal of trees from the back yard.

Rich Michalski said he represents the Dubuque Golf & Country Club. He expressed concerns with potential storm water runoff from the driveway and house onto the golf course.

Scott Arnold, 240 Fremont Avenue, said that the request would alter the park-like setting in the rear yards. He said that he was speaking on behalf of adjacent property owners whose backyards overlook the golf course. He noted the setbacks of the existing homes, stating that they were all aligned and relatively close to Fremont Avenue. He expressed concerns with the driveway access and traffic safety.

Dave and Marlee Tart, 262 Fremont Avenue, said that they object to the request for environmental and economic reasons. They said that they bought their house for the park-like view in the rear yard. They said that they felt that their property value would be impacted. Mr. Tart expressed concerns with storm water management, noting that he felt additional water would flow across their property. Mrs. Tart said the new house will have an unobstructed view to the golf course but will inhibit their view to the golf course. Mr. Tart said he felt the house would detract from the neighborhood and community.

Chris Dempsey, 130 Fremont Avenue, spoke in opposition to the request. He expressed concerns with locating a house in their back yards. He said that the request is to set the house back 10 times deeper than what is currently allowed. He said that he felt that if the request was to be approved it would devalue his property.

Kathleen Gruhl, 124 Fremont Avenue, said that her family has owned property in the area since 1953. She spoke in opposition to the request, noting the history of the subdivision and development of the property. She said that sight easements were

originally placed on the lots. She said she had concerns with the loss of privacy. She said that she felt the property had never been intended to be a subdivision.

David Kreig, 195 Fremont Avenue, said he was concerned with traffic safety and site visibility from the proposed driveway access.

Ann Kreig, 195 Fremont Avenue, spoke in opposition to the request, expressing concerns with traffic safety and the location of the driveway access. She said that there had been numerous accidents and near misses and the trees had been runover in their yard. She said that the development will likely result in the removal of several large trees. She expressed concerns with emergency access to the site for fire and ambulance.

John Schmid said that the houses were all originally built along Fremont Avenue because the technology of the day did not allow for the pumping of effluent from the lower areas and backyards up to the street. He said that, if approved, no other houses would be built behind his property. He said that he owns the adjacent lot and that storm water from the roof will be tied into the storm sewer.

Mr. Koopman said that the driveway will be aligned with Coates Street and that several trees will have to be removed.

Mr. Schmid said he would not be placing additional trees on the site that would inhibit the view to the golf course and that the new house will not obstruct the view to the golf course. He noted that he owns the adjacent lot and that no additional houses would be built on either of the lots.

Mr. Koopman said that storm drainage from the roof would be tied into the storm sewer system. He said that the water from the driveway will sheet flow across the grass and that the driveway would terminate at the house. He said there should be no storm water concerns. He discussed the proposed access to Fremont Avenue, noting that it would be reviewed by the City's Engineering Department. He said that they had initially considered relocating the telephone pole, storm catch basin and other utilities but that the driveway access could be configured so that relocation of the utilities was not necessary. He said that the driveway would be 20 feet wide and that they will leave as many trees as possible throughout the development process. He said that the cull-de-sac is needed to facilitate the turnaround for emergency vehicles.

Board Member Golombeski asked if the house had been designed yet. Mr. Koopman said that they have created a conceptual plan but have not finalized the building plans. Chairperson McCoy asked staff about the easement issue raised by one of the neighbors. Staff Member Hemenway noted that any easements, other than City utility easements, are private and would be subject to enforcement by those property owners that are party to the easement.

Staff Member Hemenway outlined the staff report, noting the letter submitted by Mr. Arnold of 240 Fremont Avenue. He outlined the property history, noting that the Board had approved a Special Exception for the Meester's property directly adjacent to the subject lot in 1997. He said that the approval enabled them to build a house 500 feet back from the street frontage with the driveway access to Fremont Avenue. He explained the rationale behind the 50-foot setback, noting that it was needed for emergency access to structures and to ensure the privacy of adjacent residential properties. He said that the City's Fire Department would have to review and approve the driveway access, driveway composition, extension of water main and hydrant and adequate turnaround for the site.

Staff Member Hemenway referred to an aerial photo of the subject lot and adjacent properties, illustrating the access to Fremont Avenue approved by a previous Special Exception. He said that a site plan for the former special exception had been included in the packet. He said that the driveway is not considered a street and will only serve two single-family properties. He noted that the City does not have a view shed ordinance that protects views of adjacent properties.

Board Member Golombeski asked how it was that the subject lot would not have 50 feet of frontage. Staff Member Hemenway said that, if approved by the Board, the Schmidts will have to seek approval through from Zoning Advisory Commission and City Council to plat a substandard lot that has 0 feet of frontage along a private or public street.

Board Member Cremer said that he felt that placing a new house behind the existing houses along Fremont Avenue is not in harmony with the neighborhood. He said he felt it would have an impact on the use and enjoyment of the adjacent properties. He said he felt this was not normal and orderly development.

Board Member Golombeski said that she agreed with Board Member Cremer, and said it would be detrimental to the adjoining properties.

Motion by McCoy, seconded by Cremer, to approve the Special Exception request as submitted. Motion was denied by the following vote: Nay – Cremer, Ahlvin, Golombeski and McCoy; Aye – None.

Board Member Cremer cited Criteria B & C for the denial. Board Members Ahlvin, Golombeski, and McCoy cited Criteria B.

**Docket 25-17/Conditional Use Permit:** Application of Gary Carner, 1740, 1750 & 1760 Elm Street, to allow off-street parking as a conditional use, in an R-2A Alternative Two-Family Residential Zoning district.

Gary Carner, 1664 Washington Street, said that he would like to build a lot that will serve the parking needs generated by redevelopment of the Lamar building at 1540 Washington Street.



No one spoke in opposition.

Staff Member Wernimont outlined the staff report, stating that off-street parking lots in residentially-zoned districts require that a Conditional Use Permit be approved by the Board. He discussed the surrounding land use and zoning and the site diagram showing the lot layout. He noted that the intention of the Conditional Use Permit is to enable the Board to place conditions on approval that may mitigate the potential negative impacts that a parking lot adjacent to residential development may create. He noted; however, that Mr. Carner received permission to deconstruct the three houses on the block and as a result there would be no adjacent residential development. He said that the site would be similar to the Crescent Community Center across the street where there is a parking lot on a residentially-zoned property but there are no houses next to it. He said that written notification had been provided to all surrounding property owners and that he had received no input.

Chairperson McCoy stated that he felt a rezoning may be more appropriate and that the Conditional Use process was a way to bypass what he thought would be a more logical rezoning.

Staff Member Hemenway noted that there are several similar antiquated zoning districts in the community and that the applicant had applied for a Conditional Use Permit process to facilitate development.

Board Members discussed the request and felt it was appropriate.

Motion by Golombeski, seconded by Ahlvin, to approve the Conditional Use Permit as submitted. Motion carried by the following vote: Aye – Cremer, Ahlvin, Golombeski and McCoy; Nay – None.

**ITEMS FROM STAFF:** None.

**ITEMS FROM BOARD:** Board Chair McCoy asked staff when the amended by-laws would be completed. Staff Members noted that the amended By-Laws would be presented at the next regular meeting.

**ITEMS FROM PUBLIC:** None.

Motion by Golombeski, seconded by Cremer, to adjourn the May 25, 2017 Zoning Board of Adjustment meeting. Motion carried by the following vote: Aye – Cremer, Ahlvin, Golombeski and McCoy; Nay – None.

**ADJOURNMENT:** The meeting adjourned at 7:50 p.m.

Respectfully submitted,

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Kyle L. Kritz, Associate Planner

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Adopted