



CITY OF BURTON

BURTON ZONING BOARD OF APPEALS MEETING

JULY 21, 2016

MINUTES

Council Chambers

Regular Meeting

5:00 PM

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by Commissioner Steve Welch at 5:00 PM.

A. PLEDGE OF ALLEGIANCE WAS LED BY CHAIRMAN STEVE WELCH.

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Duane Haskins	Council Representative	Present	
Terry Parker	Commissioner	Present	
Scott Hynes	Commissioner	Excused	
Bobbie Weatherford	Commissioner	Excused	
Steve Welch	Commissioner	Present	
Tim Rapacz	Commissioner	Present	
Deb Walton	Commissioner	Present	
Michaeline Ward-Terry	Commissioner	Present	
Donald Standel	Board Member	Present	

C. STAFF PRESENT

Amber Abbey, Planning and Zoning
Marcy Kimball, Records Tech

D. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Jun 16, 2016 5:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Terry Parker, Commissioner
SECONDER:	Michaeline Ward-Terry, Commissioner
AYES:	Haskins, Parker, Welch, Rapacz, Walton, Ward-Terry, Standel

E. VARIANCE

1. ZBA #16-11

By: Jeff Sherbino & Neil Martz
1441 Allen St.
Burton, MI 48529

Re: 3361 S. Center Rd. Burton, MI 48519
59-27-551-012, C-2 Zoned

For: To keep an accessory structure once the principal structure is demolished.

Neil Martz stated I am petitioning this board to allow Mr. Sherbino and myself to resurrect this property into something that we and the community will be proud to have. The pole barn is around 10 years old and is in good shape. I am trying to preserve the value of that. My intentions are to reconstruct the block house into a use allowed in the C-2 Zoning district, whether it be an office, warehouse, store or storage. I would like to leave the pole barn up and work on the building and have my engineer investigate the liability of leaving the block walls up to serve as part of a future building. My engineer told me that the block looks alright, the walls are straight, not a lot of cracks. I would take out the floor, interior walls and roof structure and then reevaluating the house use. I will do a market evaluation to decide what the appropriate use would be.

Mrs. Abbey said as Mr. Martz stated, the house itself is in terrible condition. If he chooses to demolish the building that would leave the pole barn there without a principle structure. If he chooses to keep the building, this variance is not necessary. He wants to have the variance for that option. We recommend that you put a contingency on the approval that a bond be posted at the time that the house is demolished for the estimated cost of the pole barn. To make sure that maintenance is done or if no future endeavors ever happen we will have the bond in place to be able to demolish the pole barn.

Mr. Welch asked who determines the estimated cost of the demolition.

Mrs. Abbey said with the previous ones we had a demolition contractor give us an estimate. We used this figure for the bond.

Motion to approve ZBA #16-11 with the stipulations that a bond be posted for the estimated cost of the demolition of the pole barn in the case that this is needed.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Terry Parker, Commissioner
SECONDER:	Deb Walton, Commissioner
AYES:	Haskins, Parker, Welch, Rapacz, Walton, Ward-Terry, Standel

2. ZBA #16-13

By: Rommel Aquino
6175 Lapeer Rd
Burton, MI 48509

Re: 6175 Lapeer Rd Burton, MI 48509
59-13-502-162, C-1 Zoned

For: To delay the installation of sidewalks
until the adjoining properties are

required to install sidewalks

Jim Sabo from Burton spoke on behalf of Rommel Aquino. He said Dr. Aquino has purchased a gas station a couple years ago and recently purchased the adjoining lot, 6161 Lapeer Rd.

Mrs. Abbey said he did combine the two properties.

Mr. Sabo stated 6161 Lapeer Road had a dilapidated house that has been taken down. We added approximately 50 percent to the current building. We had to create a detention pond on the lot where the house was. Recently, while they are expanding this road, it has changed some of the engineering. There is substantial ditching that has been created across the front of 6175 and 6161 Lapeer Road. If we had to put in a sidewalk it would be adjacent to a 5 foot ditch. We have posted a bond so that in the meantime we can do our construction and get a permit.

John Stapish of Burton said there isn't an ordinance for required sidewalks or what the distance is or setback is.

Mrs. Abbey stated the reason this property had to post a bond is when they put on the original addition they went in front of the Planning Commission with the sidewalk on the plan. When they received occupancy for the building they had not installed the sidewalk. So when they went in front of the Planning Commission for the second addition, which is the one after the house was demolished, the Planning Commission chose to make them post a bond for the installation of the sidewalk. That bond would be released if the board approves them tonight. This is another one of those sidewalks to nowhere. We recommend delaying the installation of the sidewalk until the adjoining property owners have to put theirs in.

Mrs. Walton said the March 15, 2016 meeting minutes it states Mrs. Abbey said in 2014 Dr. Aquino came to the Planning Committee meeting for an addition. At that time they had sidewalks on the site plan however when the footing was done in December 2015 it made it difficult to put sidewalks in so they were not done. Therefore with this new addition the administration recommends the board place a condition on the property owner to install sidewalks prior to the building permit being issued or post a performance bond for the amount of the installation of the sidewalk with our office before the building permit can be issued. The administration recommends approval. Mrs. Abbey said the problem is occupancy has already been issued on the other portion of the property and the applicant failed to put the required sidewalk in. So at that time you were for the sidewalks, correct?

Mrs. Abbey said that was a part of their original site plan which was for the first addition that they had put on. I was just enforcing their original site plan that was approved.

Mr. Parker stated that sidewalk ordinance is really old and at the time it was a great idea to make a walkable community. However for a commercial building surrounded by residential properties, it doesn't make sense to make them put in a sidewalk unless the residential properties do also. We still need it on the books so that we can make people put sidewalks in where it is feasible to do it.

Mr. Rapacz said eventually we will have to make someone install a sidewalk. We have to start somewhere.

Motion to approve ZBA #16-13 with the stipulation that if the adjoining properties have sidewalks installed they would be required to put their sidewalk in.

RESULT:	CARRIED [6 TO 1]
MOVER:	Terry Parker, Commissioner
SECONDER:	Michaeline Ward-Terry, Commissioner
AYES:	Haskins, Parker, Welch, Rapacz, Ward-Terry, Standel
NAYS:	Walton

3. ZBA #16-14

By: Kurt Neiswender – Good Shepard Lutheran Church
5496 Lippincott Burton, MI 48519

Re: 5496 Lippincott Burton, MI 48519
59-23-200-031, R-1C Zoned

For: To not install required sidewalks along the Belsay Road and the Lippincott frontage due to the addition.

Kirk Neiswender of Burton stated he is a member of Good Shepard Lutheran Church and the architect of the project. Our church also has a K-8 school attached to the church as well. We currently serve 32-33 students. For the two points the variance requires, being the only non-residential property in a residential zone, we are asking for this variance. Our church's school is in need of barrier free bathrooms. In order to do make these upgrades, we need to build a small addition to the school section of the building so that we meet the modern code standards.

Mr. Stapish said there is not an ordinance to back this up, nothing that says what the setback is. You don't see people walking on sidewalks.

Mrs. Abbey said we do have an ordinance that states you are required to install five foot wide concrete sidewalks along the entire road frontage of any property that goes through site plan review. This property is going through site plan review because they want to do an addition to their building. This property went before the Planning Commission last week. The Planning Commission decided to table any action until next month because they wanted you to act on this. They were in favor of installing sidewalks along this area. This property does adjoin R1C on both adjoining parcels of land. Unless these properties are demolished, rezoned and rebuilt commercial the adjoining property owner will never be required to put sidewalks in. We recommend approval with the stipulation that if the adjoining property owner is required to put the sidewalks in, they will also be required to put in sidewalks.

Mrs. Walton stated the Planning Commission decided to table the site plan review on 7/12/2016 by a vote of 7-1 for the addition to the building for the following reasons.

At this meeting, Mr. Burge stated there are currently sidewalks from Belsay and Lapeer going through to Roberta. He suggested a performance bond. Mrs. Ellenburg was concerned with the remaining sidewalks because other businesses have been required to put sidewalks in. That was the reason we postponed it and brought it to you.

Mr. Parker said as in the previous variance case unless there is some bonding by the citizens to put sidewalks in, I doubt that it will ever get done. When we do major road building sometimes sidewalks can be added in to it. Or perhaps there is funding for this. I don't see anything going on right away on Belsay Road that they are going to add sidewalks in the residential area. I think it would be unfair to require that one little corner put a sidewalk in. We do need to make sure that there is a stipulation that if adjoining properties are required to put in sidewalks the applicant will be too.

Motion to approve with the stipulation that if the adjoining properties have sidewalks installed they would be required to put their sidewalk in.

RESULT:	CARRIED [6 TO 1]
MOVER:	Duane Haskins, Council Representative
SECONDER:	Tim Rapacz, Commissioner
AYES:	Haskins, Parker, Welch, Rapacz, Ward-Terry, Standel
NAYS:	Walton

F. AUDIENCE PARTICIPATION

None.

G. BOARD DISCUSSION

1. Motion to approve and authorized the adoption of the City of Burton Zoning Board of Appeals bylaws and rules of procedure.

Mr. Parker stated I went to a seminar put on by MML. It was stated that every municipality should have By-Laws for all Boards. The only thing I would change is page 2, section A, second paragraph where it states "at his discretion". This should be gender neutral. We could use his/her or their. There should also be something that states the consequences for missed meetings, etc. to recommend removing a member from the board. It would have to be forwarded for City Council for action. This is a way for everyone to be on the same page.

Mrs. Abbey stated it is not required in Zoning Board of Appeals. It is strongly recommended in the Planning and Zoning Enabling Act for the Planning Commission. Attorney Amanda Doyle told me all you have to do is adopt it. It's your By-Laws. If you want to forward this to the Council you can do so.

Motion to approve and authorized the adoption of the City of Burton Zoning Board of Appeals bylaws and rules of procedure with the following change. Page 2, under Section 2 Meetings, Paragraph A, second sentence, to state: The Zoning Administrator may, at their discretion, schedule additional meetings for the first Thursday of each month.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Terry Parker, Commissioner
SECONDER:	Donald Standel, Board Member
AYES:	Haskins, Parker, Welch, Rapacz, Walton, Ward-Terry, Standel

The next regularly scheduled meeting will be held on Thursday, August 18, 2016, at 5:00 p.m.

Meeting was adjourned at 5:50 PM.
