

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MEETING
MARCH 18, 1999, 6:00 P.M., COUNCIL CHAMBERS

THE MEETING WAS CALLED TO ORDER BY WILLIAM KALANQUIN AT 6:03 P.M.

MEMBERS PRESENT: Berry, Scott, Parker, Centilli, B. Weatherford, Layman, Kalanquin, Wright

MEMBERS ABSENT:

OTHERS PRESENT: T. Strasser, Deputy Planning Official, J. Adams, Clerk's Office.

Moved by Berry, seconded by B. Weatherford to approve and authorize the minutes of the Regular ZBA Meeting of February 18, 1999, 6:00 p.m.

Motion carried, 7-0.

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh St., Burton, MI, spoke regarding an applicant's property on Davison Road and concerns with contaminated soil. She spoke further on current owner liability and stated she has information on environmental assessment and read extensively on that site.

Mr. Kalanquin said he knows the tanks have been taken out of there.

BOARD DISCUSSION:

Mr. Kalanquin spoke regarding the upcoming MML Planning and Zoning Workshop Seminar to be held on April 29, 1999, at 6:00 p.m.

Mrs. Layman discussed a property at the Lapeer and Genesee Road area and indicated they have semi-vans and business vehicles at the premises.

Mr. Strasser said that information was given to the code enforcement officer.

Mr. Kalanquin inquired as to the trailer at a property on Genesee Road.

Mr. Parker indicated there was no update at the last meeting on it due to no further information from the home owner.

YEARLY RENEWAL:

- | | |
|---------------|--|
| 1. ZBA #99-10 | BY: Home Depot
4245 E. Court St.
Burton, MI 48519 |
| | RE: Parcel #59-10-300-010 |
| | FOR: Temporary garden center pick-up area,
C-3 special use in a C-4 Zoned area.
Dates to be specified. (5 Votes) |

Eric Coswell said he is General Manager at Home Depot. He would like to revise the dates to a lesser period than what they applied for. The dates of March 23rd through July 26th, instead of April through September 15th. He proposes the same thing as last year, and indicated things seemed to run more smoothly and there were no accidents.

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AUDIENCE PARTICIPATION:

Mike Medich, 1091 Arapaho, Burton, MI, said his property borders the back of Home Depot. There is litter and debris from their business and the only way he gets results from them to clean it up is to call constantly and pressure them. Mr. Medich also stated there are noise problems with the forklift trucks running at 5:30 a.m. in the morning and running till 11:00 p.m. until midnight. He would like some standards and guidelines for them to follow regarding the forklifts and timely clean up.

Mrs. Dargel expressed concern regarding enforcing the fire lane in front of the building.

Eric Coswell said nothing violated the fire lanes last year, they kept the pedestrian lanes cleared, and he promised the Board last year that he would not allow that to happen again.

Ken Baker, 1133 Forest, Burton, MI, said he is Battalion Chief for the City of Burton Station #2, and in the beginning they had trouble with the blocking of the fire lane area, but in the last couple of years, there has been no further problems.

Mr. Strasser spoke regarding enforcement and stricter guidelines.

BOARD DISCUSSION:

Mrs. Layman spoke regarding loading out front of the building.

Mr. Coswell indicated they now have signs in the front regarding loading.

Brief discussion followed concerning restrictions and guidelines.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Berry, seconded by Parker to approve ZBA #99-10 with stipulation that everything from the Garden Center is kept inside the fenced in area, forklift trucks will not be used on the outside after 11:00 p.m., and the dates of the garden center will be from March 23, 1999, to July 26, 1999.
Motion carried, 6-1. Layman - no.

NEW APPLICATIONS:

- | | |
|--------------|---|
| 1. ZBA #99-8 | BY: Pierre Najjar
8395 Wesley Dr.
Flushing, MI 48433 |
| | RE: 5516 Davison Rd., Parcel #59-11-200-006
at NE corner, Section 11, T7N - R7E,
City of Burton |

A representative for Pierre Najjar, spoke regarding the location of the property at Davison and Belsay Road, various zoning of the property and the prior uses of the location.

Pierre Najjar, 8395 Wesley Dr., Flushing, MI, said they need to change the zoning to C-2 and will construct a nice building for a convenience store and gas station. They checked into the contamination of the soil, everything has been cleaned up, tanks have been removed, and there is now monitor wells. Mr. Najjar spoke further regarding the prior owner being forced to clean everything out and any future problems being the prior owner's responsibility. He indicated if there were any problems with it what-so-ever, he would not be taking a risk and putting a lot of money into the property. Everything has been checked with the State, and looks good.

AUDIENCE PARTICIPATION

Mrs. Dargel inquired as to the hours of the business, and if food stamps would be used.

Mr. Najjar indicated the business hours are 8:00 a.m. to midnight, and he is unsure yet about food stamps which they have to apply to the State for approval.

Mrs. Dargel spoke regarding the soil, and when the property was determined in 1989 to be contaminated. She spoke further of the rules and regulations by the State that looks to the use, and because this is commercial use, it would be acceptable for that site. Mrs. Dargel indicated there was two water wells and the County Health Department was present at the time the 8 tanks were removed. She inquired as to the use of municipal water and how many pumps were at the location.

Mr. Najjar said he was not sure what water was available, and indicated there are four gas pumps.

Mr. Strasser said they are here before the Board for zoning, and the DPW has no problem with the request.

BOARD DISCUSSION:

Mr. Parker inquired if there was a use variance granted for the former occupant of the property.

Mr. Strasser said when the application was made, there was no use on the property for more then one year, so you are basically looking at a brand new site.

Mr. Parker inquired regarding the C-2 use being addressed by the ZBA, and the Planning Commission addressing the other items.

Mr. Strasser said contaminated soil, if there is such, is handled by the DEQ. The DPW and Fire Marshall would witness a tank removal or any special activity with contaminated soil, but that is all the City would do is witness it, the DEQ would take care of everything else.

Mr. Centilli inquired as to the applicant's other businesses.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Layman, seconded by Scott to approve ZBA #99-8.
Motion carried, 7-0.

YEARLY RENEWALS:

2. ZBA #99-11

BY: K-mart Corp.
1145 N. Belsay Rd.
Burton, MI 48509

RE: Parcel #59-11-400-002, Section 11,
C-3 Zoning

FOR: To conduct outdoor sales of garden plants,
nursery stock and related items. (5 Votes)

FOR: To conduct a C-2 special use in a C-1 zoned
area for an automotive service area. (5 Votes)

Sid Rogers representing K-Mart Corp. 1145 N. Belsay Rd., Burton, MI, indicated the variance is for outdoor sales for garden plants and items as requested in the past. They are requesting the dates of April 18th through October 1st, which is the same as last year's.

AUDIENCE PARTICIPATION: No audience participation.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Layman to approve ZBA#99-11 as written, with the dates of April 18, 1999, through October 1, 1999.

Motion carried, 7-0.

NEW APPLICATIONS:

Postponed from 1/21/99

1. ZBA #99-2

BY: Church & Sons, Inc., d.b.a. The Car Depot
4499 Davison Rd.
Burton, MI 48509

RE: Parcel #59-03-400-004

FOR: 1) To conduct a used car sales lot not in conjunction
with new car sales, Sect. 16.03 Item 3F;
2) To construct a free standing 4 ft. x 8 ft. sign,
three free standing signs exist. (5 Votes)

The applicant from Church & Sons, Inc. was not present.

Mr. Parker said it has normally been past practice to give the applicant three times to appear before the Board, and this has only been his second. He recommends to post-pone it.

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Mr. Centilli asked if they would be notified that the next time would be their last chance.

Mr. Strasser said they have not corresponded with him at all, and he will notify them again.

BOARD RECOMMENDATIONS
AND/OR ACTION:

Moved by Parker, seconded by Layman to post-pone ZBA #99-2 until next month's regular ZBA meeting.
Motion carried, 6-1. Kalanquin - no.

2. ZBA #99-6

BY: Bernard Dzido
5235 Lahring Rd.
Linden, MI 48451

RE: 3054 Kleinpell

FOR: To construct a storage building at 5 feet from the
south property line of Lot 85 of Supervisors Plat of
Atherton Gardens. (4 Votes)

Bernard Dzido, 5235 Lahring Rd., Linden, MI, said he proposes to build a storage building on the lot. There are no other buildings close enough, and he feels that five feet is not out of the question to ask for.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said Mr. Dzido businesses are located on Kleinpell. There are industrial businesses similar to his, and most of the requests on Kleinpell has been for the same reasons. The lots are narrow, any of the buildings put up with a 30 ft. side set-back is not feasible because of limited land space. His proposal of a storage building will not affect any other businesses around there. There will be a three hour fire-rated wall being that close to a property line, which will be taken care of through the architect.

Mr. Dzido indicated he has another business, Four Seasons on the other side of Kleinpell and has three commercial lots there. He has a lot of equipment outside through the winter that has to be covered.

Mr. Centilli inquired as to the type of business.

Mr. Dzido indicated parking lot maintenance.

Mr. Parker asked if the drawing he submitted would have to go before the Planning Commission.

Mr. Strasser said it already has been approved.

Mr. Berry indicated approved subject to ZBA giving a five feet set-back.

Mr. Parker addressed the zoning book, Schedule of Regulations, Section 19, Page 122. He spoke of concerns with fire trucks being able to get into the side of the building.

Mr. Strasser also indicated Mr. Dzido owns the next two adjoining lots.

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Mr. Dzido said there is 30 ft. he cannot do anything with other then mow it. He commented on other buildings that have 5 ft. from the south property line.

Mr. Parker expressed concerns with looking in the future and possible problems down the road.

Mr. Strasser said they have had more industrial buildings go in on Kleinpell Street then anywhere else in the City. They were originally set up for 80 ft. residential lots, but it is turning over to industrial uses. The architect will have to design the building with the 5 ft. off the property line, and have a 3 hour rated fire wall that will face the south property.

BOARD RECOMMENDATIONS
AND/OR ACTION:

Moved by Berry seconded by B. Weatherford to approve ZBA #99-6.
Motion carried, 6-1. Layman - no.

3. ZBA #99-7
- BY: Duncan J. Wooster
5230 E. Bristol Rd.
Burton, MI 48519
- RE: 5230 E. Bristol Rd.
SE Zoned
- FOR: To establish two lots with substandard frontage of
130 ft. each, 150 ft. required. (4 Votes)

Duncan Wooster, 5230 E. Bristol Rd., Burton, MI, indicated he has a lot approximately 666 ft. he would like to divide on the west side to build a home, and divide the other two lots into 130 ft. lots. Mr. Wooster presented a map and said the lots next to it are 66 ft., 110 and 120 ft. He indicated he would like to sell them, and build a house on the other side.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said this lot split has to go in front of the Planning Commission. The SE he feels will be eliminated, and the next zoning will be R-1A. These will exceed the zoning specifications in the future of what it will actually be zoned. There is not a problem with what he is asking and any of these parcels other then the one with the existing home on it, will have to pay for an additional sewer tap at the time a home is built on it.

BOARD DISCUSSION:

Mr. Centilli said they are going to delete suburban estates and go down to 85 ft. lots.

Mr. Kalanquin inquired to the applicant as to working with DPW on the tap-ins and liability.

BOARD RECOMMENDATIONS
AND/OR ACTION:

Moved by Centilli, seconded by Layman to approve ZBA #99-7.
Motion carried, 7-0.

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5. ZBA #99-9
- BY: Kenneth Baker
1133 Forest Ave.
Burton, MI
- RE: 1133 Forest Ave.

FOR: To construct a 24 x 30 addition to rear pole barn,
site has 1,716 sq. ft. of accessory structure, addition
would exceed 2,000 sq. ft. allowable by 436 sq. ft.
Total amount of sq. ft. will be 2,436 sq. ft. (4 Votes)

Kenneth Baker, 1133 Forest Ave., Burton, MI, said he is in need of some space and would like to store his corvette, he also does wood work and small projects.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said he has more then one acre of land, and more then 2,000 sq. ft. of accessory structure. He is exceeding the ordinance by 436 sq. ft. He has a nice yard and everything is organized but it is more then the ordinance allows.

BOARD DISCUSSION:

Mrs. Scott asked if the siding would match the house.

Mr. Baker indicated it would match the existing siding on the pole barn.

Mr. Parker spoke regarding concerns of large pole barns and big structures, and indicated Mr. Strasser has stated many times that it is an enforcement issue, and looking at what could happen in the future. Mr. Parker said there is a lot of storage already on that property and he is not in favor of the applicant's request.

BOARD RECOMMENDATIONS AND/OR ACTIONS:

Moved by Berry, seconded by Parker to deny ZBA #99-9 due to the size.

Motion failed, 3-4. Berry - yes, Scott - no, Parker - yes, Centilli - no, B. Weatherford - yes, Layman - no, Kalanquin - no.

Moved by Centilli, seconded by Scott to approve ZBA #99-9.

Motion carried, 4-3. Berry - no, Scott - yes, Parker - no, Centilli - yes, B. Weatherford - no, Layman - yes, Kalanquin - yes.

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6. ZBA #99-12

BY: Jillyn Kunz, d/b/a Sprint PCS
300 Galleria Officentre, Ste. 410
Southfield, MI

RE: Parcel #59-11-200-010
1289 N. Belsay Rd.
Burton, MI

- FOR: 1) To exceed the height limitations in the M-1 zoning by 91 ft. with a 126 ft. monopole, 35 ft. required;
2) To obtain side setbacks of 30 ft., 126 ft. required (4 Votes)

7. ZBA #99-13

BY: Jillyn Kunz, d/b/a Sprint PCS
300 Galleria Officentre, Ste. 410
Southfield, MI

RE: Parcel #59-31-200-002
S. Grand Traverse

- FOR: 1) To exceed the height limitations in the M-1 zoning by 91 ft. with a 126 ft. monopole, 35 ft. required;
2) To obtain side setbacks of 25 ft., 126 ft. required. (4 Votes)

Bob Perspillo, 216 Jeffrey Ave., Royal Oak, MI, indicated he works for the consulting firm of MVP, Inc., and they have been retained by Sprint PCS to assist them in their networking in Genesee County. They have two different facilities brought to the meeting today. Mr. Perspillo gave a brief description on what PCS is and Sprints selection process. The need for a site is governed by the capacity and coverage performance of the specific area to be served. For their primary coverage objective they are looking at the Belsay Road/I-69 location. Mr. Perspillo spoke further regarding the structure of the monopoles, fencing for security, various construction items, servicing and maintenance of the site, and the reason for the extra height needed for the monopoles. Mr. Perspillo indicated they are a friendly community company and spoke further regarding co-locating with other companies.

AUDIENCE PARTICIPATION:

Pauline Dargel spoke on co-locating with regards to an ordinance to be introduced at an upcoming Council meeting.

Mr. Perspillo said they are aware of the ordinance being proposed for telecommunication in the City of Burton. As it is written now, they comply with all of the approval criteria.

Mr. Strasser said at this point, there should be a postponement for ZBA #99-12 and #99-13 because of the fact there is a pending ordinance directly related to the towers that are requested.

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Mr. Parker indicated about a year ago they approved a tower at Dort Hwy., south of Bristol, and at that time he brought up some items he felt needed to be addressed. Mr. Parker said in looking at this, he feels it is more of a policing ordinance than a zoning ordinance. Some of the zoning questions need to be addressed by the Legislative Committee, and in looking at this draft, they could incorporate some of the zoning changes into it. He feels this should be postponed a month to give the Council time to act on the proposed legislation. Mr. Parker spoke further of addressing co-locating and stated the FCC is in favor of it also.

Mr. Strasser spoke regarding the co-location of towers and implementing it. He stated the FCC strongly recommends it.

Mr. Persillo said most of the companies out there, both cellular and PCS technology work well together, but some companies will not co-locate.

BOARD RECOMMENDATIONS

AND/OR ACTION:

Moved by Parker, seconded by Layman to table ZBA #99-12 and ZBA #99-13 until next month's meeting to give the Council a chance to act upon the proposed ordinance.

Motion carried, 7-0.

Mr. Persillo inquired as to the new ordinance, being grandfathered in, and meeting the criteria.

Mr. Strasser indicated he would refer this to Attorney Hamilton.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Kalanquin congratulated Mr. Parker, Mrs. Layman and Mr. Berry on there appointment for 3 more years on the Board.

The next regularly scheduled meeting of the Zoning Board of Appeals will be held on **Thursday, May 20, 1999, at 6:00 P.M.**

Meeting adjourned 7:40 p.m.

JRA