

CITY OF BURTON  
REGULAR ZONING BOARD OF APPEALS MEETING MINUTES  
MARCH 20, 2003, 6:00 P.M., COUNCIL CHAMBERS

THE MEETING WAS CALLED TO ORDER BY CHAIRPERSON JAMIE CURTIS AT 6:00 P.M.

MEMBERS PRESENT: Terry Parker, Grantner, Welch, Curtis, Weatherford, Scott, Centilli

MEMBERS ABSENT: None

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

Moved by Parker, seconded by Weatherford to approve the minutes of the Regular Zoning Board of Appeals Meeting held on February 20, 2003 at 6:00 p.m.

Motion carried, 7-0.

AUDIENCE PARTICIPATION: No audience participation at this time.

BOARD DISCUSSION:

Mr. Curtis stated he will be absent for next month's meeting and Mr. Welch will take over as Chairperson. Mr. Curtis thanked Mr. Centilli for his help in obtaining ID badges for the Board members.

Mr. Parker asked Mr. Centilli to thank City Council for the clarification on moving signs and their quickness on acting on it.

NEW APPLICATIONS:

- |               |                                                                                                                   |
|---------------|-------------------------------------------------------------------------------------------------------------------|
| 1. ZBA #03-07 | BY: Burton Scrub-A-Dub Properties, Inc.<br>2025 N. Genesee Rd., Burton, MI                                        |
|               | RE: Lot 86 & 87 Burton Gardens<br>Lot 382 & 383 The Bronx<br>Sect. 30, C-2 Zoned                                  |
|               | FOR: To allow a C-3 Special Use "Drive thru car wash<br>establishment" in a C-2 zoned area.<br>(5 Votes Required) |

David Visser, 2025 N. Genesee, Burton, MI, stated he is proposing to build a car wash. The problem is car washes have always been in a C-3 zoning and there is very little C-3 zoning available. It would be directly across the street from Wendy's, Tim Hortons and Krogers. Mr. Visser distributed pictures to the Board.

Mr. Visser said he has a car wash just east of Fenton on Bristol Rd. It is our intention to eventually tear it down and maybe use it for storage. We are trying to upgrade the car wash but the parcel is not large enough for a modern new facility. Mr. Visser said the main hardship is the fact there is very little C-3 zoning available in the type of business district that we need to re-locate in. I have been in a lot of different municipalities and this is one of the few where we are classified in a C-3 zoning as a car wash.

#### AUDIENCE PARTICIPATION:

Wendel Norman, 5151 Van Slyke Rd., stated he owns the property at 1203 E. Bristol Rd. I oppose this because we have a very congested highway where the car wash is going in. I have the property right next to the church. It has 5 apartments and a small real estate office. If this goes through the driveway will be within 5 ft. of my house on the west side. There is no access to a red traffic light. If approved, he would like to recommend that he have a 6 ft. or 8 ft. solid fence for privacy along his property line.

Bethine Sordyl-Crookedacre, 1208 Strawberry, Burton, MI, said she is speaking on behalf of the Pastor at Holy Redeemer Church who is not able to be present tonight. She read aloud a letter from the Pastor and stated their primary concern is the traffic. It is nearly impossible to turn left to go east on Bristol Rd. from Holy Redeemer's parking lot. With a school, a dorm, a day care center and family life center located on their property, we feel it would only contribute to the problem at this time and perhaps place lives in danger. Perhaps with future traffic lights in place, they might re-consider this position.

Mr. Visser stated they would be vacating an area that is more congested at Bristol and Fenton Rd. He has been in and out of the parcel we are proposing numerous times. We try and locate in a middle of a block away from traffic lights so there are no back-ups. History can show we have several locations around the area and we do not create any more of a stress in traffic than something else would in that area. If the area is to be developed, I would think this would be a good proposal as anything else. They will try to minimize with an interior design and traffic flow any problems as far as traffic in and out and congestion in the street.

Mr. Visser addressed Mr. Norman's request for a privacy fence. He indicated a 6 ft. screen fence would not be a problem.

Mr. Strasser stated Mr. Visser pointed out there is very little C-3 zoning in the City where a car wash would be allowed to go. Even if it was zoned C-3, it would take a special use permit.

Mr. Grantner said in the Planning Commission's work session they discussed the concept of a C-3 use in a C-2 district.

Mr. Strasser said this is one of the few applications that has come before the Board for a car wash within the past 3 to 4 years. When the Ordinance was originally written, the car wash was of a different nature than what they are today. They are now state of the art, more quiet and aesthetically pleasing. This will probably be upwards of one million dollars in order to build this type of establishment. The Planning Commission is currently looking at allowing car washes as a permitted use in a C-2 zoned area with specific restrictions such as more exact setbacks, lighting away from residential areas, and the use of vacuums away from residentially zoned areas.

Mr. Strasser said if approved, it does not mean he can put anything there that is allowed in a C-3 zoning. He can only put a car wash there or develop it with something that is allowed in a C-2 zoned area. In either event, any further plans would have to go before Planning for site plan review. Mr. Strasser further indicated he has known Mr. Visser for a number of years. If he says he will put up a privacy or screen fence on the east side, I would take him at his word. I have to advise the Board that it is not a requirement unless a commercial property adjoins a residentially zoned property, not a residentially used. The property on the east is zoned commercial and not residential.

Mr. Parker inquired regarding the DPW recommendation.

Mr. Strasser replied, in light of the fact we are going through and re-vamping the ordinance, our department recommends approval.

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Mr. Parker inquired regarding setbacks.

Mr. Strasser stated this may not be the final site plan that goes in front of the Planning Commission. Since the property is zoned commercial he can build up to the property line on the sides. He has elected to stay 5 ft. at this time.

Mr. Parker stated Mr. Visser was before us within the last couple of years to have a variance given close to the property he now owns. He believes it is 2 lots down. He was going to put the car wash in there and they were going to tear the building down and someone was going to develop the corner. Mr. Parker asked what happens to the variance that was given for that piece of property if we give a new variance for this property.

Mr. Strasser said if there is a variance granted for that property, it stays with the property.

Mr. Centilli said that property is zoned C-3 in the Master Plan now.

Mr. Visser said they have been trying to improve that corner. The car wash is too small for that lot and too close to the corner. We would like to upgrade the whole area but we are limited as far as how much money we can put into it to make it state-of-the-art and still expand there. Mr. Visser stated further, on this particular property we do have a valid purchase agreement pending obtaining the necessary permits to build a car wash.

Mr. Visser presented a drawing explaining the set backs.

Mr. Parker said his drawing does not necessarily mean that is the plan that will go before the Planning Commission for final site plan review.

Mr. Strasser interjected that the Board can assess setbacks.

Mr. Parker asked for further clarification regarding the zoning.

Mr. Strasser stated it is zoned C-2 and has a use variance for a car wash.

Mr. Centilli said the traffic is horrendous there and he does not know how the road will handle it.

Mr. Curtis asked Mr. Strasser if they could make approval contingent on the finalization of that applicant applying for the variance to take ownership.

Mr. Strasser replied yes they could.

Mr. Centilli stated the applicant does not own the property as yet and he does not see the hardship.

Mr. Visser said there is a Norman Realty building and a building he believes Baker College is using. Also, he believes there is a church proper there. We are almost a block away from the church proper, as far as noise. We have addressed this issue before with other Councils in different communities. If you stand at the road, the noise from the cars going by on the road is more severe than any noise coming from a car wash.

Mr. Parker stated our ordinance is outdated and he agrees there is a traffic problem. But I don't think moving the traffic from Fenton Rd. to the service drive or the expressway, the traffic is still there one way or the other. Where ever the car wash is, he is not going to have any more traffic on Bristol if it is at Fenton Rd. or if it is at the Grand Traverse service drive. Mr. Parker stated he will support this request.

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Mr. Grantner referred to the Planning Commission's work session. He said this is one of the items they are dealing with. They have not had input from everyone as yet, but some of the stipulations was lighting facing away from adjoining properties, vacuums need to be enclosed and placed between the building and the setback, proper screening and no ingress or egress onto side streets. It had to be onto a main thoroughfare to protect the neighborhood. Mr. Grantner stressed further that there may be other things added to the stipulations.

Mr. Curtis inquired regarding DPW stipulations.

Mr. Grantner noted that this is not a site plan they are dealing with, it is a use variance.

Mr. Parker said that piece of property is zoned C-2 and there is a lot that can go in a C-2. This car wash is probably a less use of that property as far as traffic count than something else would be because cars are just in and out, whereas in another situation you could have three or four cars pull in at the same time and three or four cars trying to get out. So there is some regulation to this as far as cars shooting out of there. We have to remember a C-2 use is commercial and something else could go in there that is far more involved than this. I think this is an innocuous use for that piece of property.

Mr. Centilli said he wants to state that he does not have anything against car washes. But any afternoon you can see traffic backed up at the Kroger store. If we had a light at Carman and Bristol it would stop that traffic. The congested traffic is worse now than ever before.

#### BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Grantner and seconded by Parker to approve ZBA #03-07 contingent upon DPW recommendation on setbacks and fence as a noise barrier, also contingent upon Mr. Visser owning the property, and not to be extended to any other owner. Motion denied, 4-3. Weatherford – no, Scott – no, Centilli –no.

|               |                                                                                                                                        |
|---------------|----------------------------------------------------------------------------------------------------------------------------------------|
| 2. ZBA #03-08 | BY: Blessed Sacrament Church<br>6340 Roberta, Burton, MI                                                                               |
|               | RE: Parcel #59-13-400-001 and #59-13-400-002                                                                                           |
|               | FOR: To conduct a yearly festival / carnival C-3 use in<br>an are R-1A zoned area, permanent variance<br>requested. (5 Votes Required) |

James Cokely, 5404 S. Sycamore, Burton, MI, said he is here on behalf of Blessed Sacrament Church to ask for a permanent variance for our annual festival. It will be our 26<sup>th</sup> festival this year. It is a 3 day festival the first weekend in August. Mr. Cokely stated further it is a community fundraiser for their charitable activities.

AUDIENCE PARTICIPATION: No one in the audience wished to speak.

Mr. Strasser said previously the church requested a permanent variance and a 5 year variance was granted in 1998. Mr. Cokely has requested a permanent variance be granted. Presently the Planning Commission is looking at re-vamping the zoning ordinance to take these uses away from ZBA and make it an administrative function for a yearly license. They would have to take out an application at the DPW, then looked at from the various departments and a fee would be paid. It has not reached finalization nor has it been approved by City Council.

Mr. Strasser stated further they have never had any problems with the festival and neighbors have never complained. We see no reason not to grant their request.

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Mr. Parker said if this is something we are in the works to make a change with, I would rather see us grant a year variance to see what happens with that legislation. If in a year the legislation does not happen, they would come back to us and we could decide what to do with it.

Mr. Curtis said they should at least be granted with what they had in the past.

Mrs. Scott asked Mr. Cokely if they would accept a temporary 5 year variance.

Mr. Cokely said they will accept whatever decision the Board makes. He also indicated they obtain a license for the festival from the City Clerk's Office and pay a fee each year.

#### BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Scott, seconded by Weatherford to approve ZBA #03-08 for a temporary 5 year variance.  
Motion carried, 7-0.

3. ZBA #03-09

BY: Tabby's Auto Shine & Auto Sales  
3308 Atherton, Burton, MI

RE: 3308 Atherton, Lots 1 & 2 Blk B Southgate Sub.  
Sect. 28, C-1 Zoned.

FOR: To conduct a C-3 special use "used car sales in a  
C-1 zoned area." (5 Votes Required)

Brian Tuck, stated he has an office at 3308 Atherton Rd., Burton, MI. His attorney, Stephen Lazzio, indicated his office address is 4070 N. Jennings, Flint, MI.

Mr. Lazzio stated Mr. Tuck has been looking for a place to put a used car lot for quite some time . He has been in the car business for a number of years. In looking through the area he found this vacant lot. Years ago there was some type of garage that was quite an eye sore. He contacted the owners and cleaned the lot up. A car lot makes the most sense with the structure that is presently on the lot. The frontage and the location would be ideal for him to have a car lot.

Mr. Tuck said not only would he like to have the car lot there, but he filed an application for a site plan review scheduled for April 8<sup>th</sup> for an auto clean-up detail shop. The lot is 125 ft. x 120 ft. and it is all black-topped. He wants to renovate the building and place 7 to 10 cars across the front. Mr. Tuck indicated further that the garage will be the detail shop.

#### AUDIENCE PARTICIPATION:

Richard Hobson, 2365 East Lake Rd., Clio, MI, said he owns the property next to the two lots. He is against the proposal because the applicant wants to go back into the subdivision area. The noise will interrupt the neighborhood.

Mr. Strasser clarified Lots 1 and 2 are on the corner of Atherton and Term Street.

Mr. Curtis said for the record, the property is currently zoned C-1.

Rick Retherford, 3318 E. Atherton, Burton, MI, said he opposes the business being there. We are close to a foot of his property. He is also speaking on behalf of his mother and his family.

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Don Sanderlin, 4460 Killarney Park, Burton, MI, said Atherton and Term has a lot of traffic there. He is concerned as to what the detail shop would entail.

Joy Olds, 3313 Buckingham, Burton, MI, said Mr. Tuck has cleaned up the property and it was an eyesore. She would like to see him have a business there but not a car lot. A detail shop is okay but I would not like to see older cars in that back lot which is behind me. The comments expressed previously on the traffic is true and there are accidents all the time.

Mr. Tuck presented drawings to the Board and explained the site in detail. Lots 1 and 2 on Atherton Rd. is the black top of the parking lot. He owns the other two parcels behind the property but he is not doing nothing with those. The auto

detailing involves washing, cleaning and vacuuming the cars. There is no bumping and painting. Mr. Tuck stated he does not deal with cars that are an eyesore.

Mr. Curtis said he wants to clarify that the applicant also owns Lots 24 and 25 on the corner of Term and Buckingham but it does not have anything to do with this land use permit today.

Mr. Strasser indicated in any zoning, a used car sales lot would require a variance from this Board. In our zoning ordinance the stipulation reads that the only time you can have a used car sale lot by right, is when you have a new car sales lot. The property is zoned C-1 which is local commercial. It is the only commercial zoning in the area. If approved, it still has to go before Planning for site plan review. Since there is residential zoning adjacent to it, even though he owns the residential zoning on the south side of it, by ordinance it has to be screened. So he would be required to put up screening even along his own property line. The building has been closed up for many years, and at one time it was a gas station. To the best of my knowledge and in going through the records, the tanks have been pulled out of the ground. I understand the neighbors concerns and it will be looked into at the Planning Commission meeting, but our recommendation is approval of the request.

#### BOARD DISCUSSION:

Mr. Grantner said this is a special use case and while that is good information, we are not looking at a site plan.

Mr. Parker said a C-3 in a C-1 seems like it is over-using the property and he cannot support it.

Mrs. Weatherford asked for clarification regarding the two residential lots located behind the property.

Mr. Parker said Mr. Tuck keeps referencing the two lots in the back and using them. They are not part of the application and they are residential.

Mr. Lazzio said he was with Mr. Tuck when he approached the owner of the property. Mr. Tuck has no intentions of doing anything with those lots in the beginning. We recognize it as part of the residential area. That was just extra property that the owner had that was contiguous to the business use. He probably will sell those two lots in the future at some point, but he really had no intentions of developing those two lots as part of this business.

Discussion continued regarding the used car sales variance and a detail shop.

Mr. Strasser said because of the intent of used car sales and a detailing shop, he suggests the applicant ask to table the case and they will re-do the application to bring it back before the Board next month on April 17th.

Mr. Tuck said that would be fine with him.

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#### BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Grantner, seconded by Parker to table ZBA #03-09 to the next Regular Zoning Board of Appeals Meeting scheduled for April 17, 2003 at 6:00 p.m.  
Motion carried, 7-0.

4. ZBA #03-10

BY: Randall A. Haney (Randy)  
1453 N. Elms Rd.  
Flint, MI 48532

RE: Parcel #59-32-300-007 / N.W. corner of Saginaw and  
Maple Rd. C-2 Zoned.

- FOR: 1) To allow a RM Multiple Family Use for duplexes in a C-2 zoned area.  
2) To allow a M-1 special use “for self storage units” in a C-2 zoned area. (5 Votes Required)

Randy Haney, 1453 N. Elms Rd., Flint, MI, stated he is here on behalf of American Associates and Ameriguard Mini Storage. His mother lives in Burton so he is not a stranger to the area. We have property that is 22 acres zoned C-2. The land owner has tried to sell the property and find a good use for it. I looked at it and we decided that we would try to come up with a good use for the full 22 acres that made sense without having to stick to the exact C-2 zoning.

Mr. Haney addressed the surrounding businesses in the area and their uses. He presented a detailed drawing to the Board. Mr. Haney indicated they would like to see commercial development that would include possibly a Subway, video store, pizza outlet, insurance and real estate. There was one financial institution that showed an interest in going in there as well.

Mr. Haney spoke at length regarding parking, mini-storage units, condominiums, screening, landscaping, and water and sewer lines.

#### AUDIENCE PARTICIPATION:

David Cook, 1464 Friel, Burton, MI, inquired regarding entrances to the development, multi family dwellings and lighting.

Steve Allen, 5023 Springwell, stated he is owner of Ron’s Kitchen and Baths. He favors growth of the commercial and residential housing. There is a pond and wetland area he would like to see stay there. I don’t want to see Maple Road looking like Dort Hwy. I would like to make sure there are pine trees and a berm to help cover the view of buildings.

William Webb, 1505 Friel, Burton, MI, said he has lived there for 35 years. He asks what this development will do to the older water and sewer system presently there in the surrounding area. Will the older residents have to pay for the upgrade to the systems. Mr. Webb inquired further regarding traffic and entrances.

Mr. Cook said he personally would rather see a fence 60 ft. away from his property line than a strip mall that will take that whole section up.

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Joey Richvalsky, G-4387 S. Saginaw, Burton, MI, said he has known Randy Haney for many years in the real estate business and he is a good developer and broker. His concern is the mixed use request, primarily the mini storage. There is mini storage on Dort Hwy. and Judd Rd. There is more industrial and M-1 available around residential near the corner of Dort and Bristol. I think the mini storage should be placed in the M-1 areas and not next to residential. His residential and commercial idea is excellent. It has plenty of frontage on Maple Rd. to expand the commercial end of it. It leaves a lot of that land possibly unused but you have to protect the residential and I think the multi use is a problem.

Jeff Tufford, 1472 Friel, Burton, MI, asked if the duplexes are going to be ranch style and how close to the property line would fencing be placed. His garage is at the property line.

Mr. Strasser stated that extending Morrison and Fury Street is not allowed by ordinance, only single family residential uses can use single family residential streets. All access for this development would have to come in off of Maple Rd. or Saginaw St. only.

Mr. Strasser continued further and stated Mr. Haney gave an excellent presentation. We are not here for site plan review. The Board is to decide if they want to issue a use permit for this property for his two intended uses of duplexes and self storage units. The property is zoned C-2 which is general business. The Planning Commission and City

Council passed a future land use plan that designated this property as developmental. It is only one of four properties in the City that is designated developmental. This means the property lends itself to more than one specific use. You can have multi-family use, commercial and light industrial use.

Mr. Strasser indicated in the application, Mr. Haney is asking for an R-M multiple family use for duplexes. Duplexes are two unit. He is also asking for special use for self-storage units. Mr. Strasser addressed further the blue print and the legal description. He stated for Parcel #3, they will be acting on the multi-family use for duplexes, Parcel #2 is an M-1 use for storage facilities, and Parcel #1 does not need a variance to build a commercial structure because it is zoned commercial.

Mr. Strasser said as far as our recommendation, Mr. Haney has pretty much covered the whole spectrum of what developmental allows on a property. His proposal seems viable. If approved, the site plan presented is probably not the one going before the Planning Commission. Currently in Genesee County, the Drain Commission requires extensive detention areas because of the inadequate storm systems in the County. They were designed 50 years ago for development and not for what we have today. You would probably have to put in a fairly substantial detention area incorporated with this site plan. With the self storage units you have between 95 and 98% total water run off because the buildings are hard topped. It is a requirement by our ordinance that all of the area between the buildings have to be paved. The other 2% is green area and berm area. That is a lot of water running off the site to be detained in a detention area that is going to be required by the Genesee County Drain Commission. Mr. Strasser stated further, by no means look at this and think this is what is going to be exactly presented to the Planning Commission for site plan review. The basic idea is there but I don't see how this could work with what is presented and knowing how much detention is required by the County.

Mr. Curtis commented regarding the Planning Commission making further decisions concerning water run off and other items.

Mr. Strasser said the Planning Commission will not approve it until they have a recommendation from the Drain Commission that the drainage has been handled.

Mr. Curtis mentioned the concerns expressed by a resident regarding the burden on the older water and sewer system.

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Mr. Strasser responded, initially I would have to say that all of the water and sewer demands would either be met from the Maple or Saginaw Street lines. It would not be pushed back into the residential areas.

Mr. Curtis asked Mr. Strasser for his recommendation.

Mr. Strasser said this is not a circumvention of the Planning Commission and City Council for a re-zoning. By looking at developmental, being from multi family to light industrial and the commercial and duplex development, as long as they can meet detention requirement and proper screening and so forth, it seems like a viable proposal.

#### BOARD DISCUSSION:

Mr. Centilli said the property has not been purchased and where is the hardship. Mr. Richvalsky commented regarding the availability of storage units already in the surrounding area. There are 600 units at Bristol Rd. and the expressway and they have 300 vacancies. We are talking about putting 1,000 storage sheds on the corner of Maple and Saginaw. Maple Rd. someday will be a very good thoroughfare. Ten years ago the road count on Maple Rd. was 17,000 cars per day, today it is 24,500 cars per day. Just because the land sits there we don't want to throw a bunch of tin buildings on it. You have to imagine that ground with 1,000 storage sheds on it. Less than a year ago we turned down R-M on that same property. What will those units will look like 10 or 15 years down the road. All those sheds have to be lit up at night and what will that do to Friel St. That is the only large parcel of ground we have left in the south end of Burton that could have a strip mall in it some day. It could even be restricted office.

Mr. Curtis said the site is not consistent with the Master Plan, nor is it compatible with the surroundings or the

capability of the land use as the best possible use of that land.

Mr. Parker said he agrees with Mr. Centilli. I like the commercial on the corner and the residential multiple there, but the storage facility, an M-1 use, I just don't see that there. A few years ago we had an applicant that came before us for a variance for a storage facility. I believe it was behind Gordon Food Service. At that time I canvassed the storage facilities close to us. There is one at Maple and Dort just south, one at Bristol and Center Rd., and Bristol and the expressway. It hasn't been that long ago that the variance was before us and when I canvassed those storage facilities, the people told me their occupancy was 60%. I know we already have plenty of storage facilities, so I don't feel it is necessary there. I like the rest of the proposal but I don't like that. I don't think the storage facility is in the right place at Maple and Saginaw coming into our City and I don't know if that is what we want people to see coming into Burton. I am looking for a hardship, and I don't see it.

#### BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Grantner, seconded by Scott to approve ZBA #03-10.

Motion carried to deny, 7-0. Weatherford – no, Scott – no, Parker – no, Centilli – no, Grantner – no, Welch – no.,  
Curtis – no.

The next regularly scheduled meeting of the Zoning Board of Appeals will be held on **Thursday, April 17, 2003 at 6:00 p.m.**

Meeting adjourned at 8:12 p.m.

jra