

CITY OF BURTON  
REGULAR ZONING BOARD OF APPEALS MEETING MINUTES  
APRIL 17, 2003, 6:00 P.M., COUNCIL CHAMBERS

THE MEETING WAS CALLED TO ORDER BY VICE CHAIRPERSON STEVE WELCH AT 6:00 P.M.

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

MEMBERS ABSENT: Curtis

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

Moved by Parker, seconded by Scott to post-pone approving the minutes of the Regular ZBA meeting held on March 20, 2003 at 6:00 p.m., to the next meeting scheduled May 15, 2003. Motion carried, 7-0.

AUDIENCE PARTICIPATION: No audience participation at this time.

BOARD DISCUSSION:

Mr. Grantner stated the two provisions read aloud at the start of every ZBA meeting to the applicants only apply to a dimension variance, they do not apply to a use variance. He believes it is misleading because it gives the impression that someone asking for a use variance needs to show a hardship, and that is not true. For your consideration it might be qualified by starting out with number one, with respect to a dimension variance and then state the difficulty must be unique and there must be a hardship. Item 3 should stand by itself.

Mr. Grantner stated further, at the last meeting they had a case for a use variance. The motion was made that it was contingent upon the owner owning the property. I think it is a good idea because many people come before us requesting a use variance and they do not own the property, they have an option to buy. If we approve the variance and then the sale falls through, the property is still re-zoned. I just think it is a good idea for our future dealings.

Mr. Parker said he agrees with Mr. Grantner. Changes were made to the verbiage before and normally when there is a change to by-laws there has to be a First and Second Reading. Since we do not have representation with us, I think someone from administration needs to find out what if anything we need to do to change that verbiage because it is something that is a stated fact of what is necessary for someone to get a variance.

Mr. Strasser indicated he will look into the matter.

Mr. Welch commented regarding upcoming ZBA seminars.

Mr. Parker expressed an interest in attending the advanced zoning seminar that will be held in June at the Holiday Gateway Centre.

Mr. Welch said any Board member wishing to attend should contact Julie Adams in the Clerk's Office.

NEW APPLICATIONS:

Post-poned from the March 20, 2003 meeting held at 6:00 p.m.:

- |               |                                                                                                                                                                                       |
|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. ZBA #03-09 | BY: Tabby's Auto Shine & Auto Sales<br>3308 Atherton Rd. , Burton, MI                                                                                                                 |
|               | RE: 3308 Atherton, Lots 1 &2 Blk B, Southgate Sub.<br>Sect. 28, C-1 zoned.                                                                                                            |
|               | FOR: 1) To conduct a C-3 special use "used car sales" in a<br>C-1 zoned area.<br>2) To conduct a C-2 special use in a C-1 zoned area<br>"car detailing, clean-up." (5 Votes Required) |

Attorney Stephen Lazio, 4070 N. Jennings Rd., Flint, said he is representing Brian Tuck. As discussed at the last meeting, Mr. Tuck purchased the property. It was run down and the building was abandoned and boarded up. He cleaned up the lot and his intention is to have a car lot and small detail shop. They feel this is an excellent location for the business.

Brian Tuck, 3308 Atherton Rd., Burton, MI, stated he has worked on this property for quite some time. It has been vacant for about 20 years. He had a site plan review approved administratively for the clean up shop.

#### AUDIENCE PARTICIPATION:

Rick Retherford, 3318 E. Atherton Rd., Burton, MI, stated the building use to be Pete's Plumbing and it was not kept up. He has lived there for many years. The neighbors have thrown stuff all over in the back of it and Mr. Tuck has cleaned it up a lot. At the last meeting he said he would put up a fence and that has been done. Mr. Retherford said he does not feel the business would cause more traffic or accidents as was previously stated by other residents.

Jim Hutton, 7066 E. Atherton Rd., Burton, MI, said he has seen Brian work on cars before and he is the best clean up man I have ever seen. As far as detail work, there is none better. He does not know of a better person that could turn this business around and make an eyesore look like a jewel in the neighborhood it is in.

Mr. Strasser said Mr. Tuck has done a tremendous job of cleaning up that corner along with the building. He has complied with all the requirements from the building inspector. We recommend approval.

Mr. Welch spoke of the Bellingham Street residents concerns that the variance affected Lots 24 and 125.

Mr. Strasser said the variance did not affect those particular lots.

Mr. Parker said Mr. Tuck stated he received administrative approval for the clean-up shop. He asked if the Board still needs to approve item #2 of the variance request.

Mr. Strasser stated ZBA has to approve this. If a business comes into a building, as long as they meet the criteria and they are not making major additions or changes, we can approve administratively without them having to make a formal presentation to the Planning Commission.

Mr. Parker asked if one item could be approved and the other not.

Mr. Strasser responded yes.

Mrs. Scott said she is not familiar with car detailing. She asked if there are any odors that would affect the neighbors.

Mr. Tuck replied there is no bump and painting. The car detailing he does is cleaning the vents on the dashboard, seats, carpet, power washing the door jams, the hood, trunk, under the fender wells, and so forth.

Mrs. Weatherford inquired regarding the chemical he uses for cleaning.

Mr. Tuck said he uses a citris type of cleaner which is harmless.

#### BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Centilli, seconded by Parker to approve ZBA #03-09 for a one year annual renewal for Items #1 and #2. Motion carried, 7-0.

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES

APRIL 17, 2003 / 6:00 P.M.

PAGE -3-

YEARLY RENEWALS:

2. ZBA #03-14

BY: Tri-City Aggregates / Genoak Constr.  
3251 E. Bristol Rd.

RE: Lots 10-13 Follo Acres, Sect. 28  
M-2 zoned.

FOR: Stock piling raw concrete and crushing concrete,  
concrete re-cycling. (5 Votes Required)

Mark Petit, 3251 E. Bristol Rd., Burton, MI, said he is requesting a renewal for their concrete recycling operation.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said this has been a renewal for the past several years. There has been no complaints and they recommend approval.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Weatherford, seconded by Scott to approve ZBA #03-14.  
Motion carried, 7-0.

3. ZBA #03-17

BY: American Promotional Events / P.P.I. Corp.  
Don Hudson  
PO Box 3224 Leesburg, VA 20177-8096

RE: Wal-Mart Store  
5323 E. Court St., Burton, MI  
Parcel #59-11-400-014, C-2 zoned.

FOR: Temporary Tent Sale - June 21, 2003 thru  
July 7, 2003 (not to obstruct fire lanes).  
(5 Votes Required)

Greg Angelic, 133 Cedar Walk Circle, Leesburg, VA, stated he is a representative for Don Hudson and they would like to renew their tent sale at the Wal-Mart parking lot. This is the 6<sup>th</sup> year they have done this particular sale.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser stated out of any of the events that happen on a temporary basis in this City, they probably do the finest job we have ever seen. There is never any problems or trash left over. They live up to what they say they are going to do and comply with all the ordinances. They recommend a yearly renewal.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Centilli, seconded by Weatherford to approve ZBA #03-17 for a yearly renewal.  
Motion carried, 7-0.

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES  
APRIL 17, 2003 / 6:00 P.M.  
PAGE -4-

NEW APPLICATIONS:

4. ZBA #03-11

BY: Douglas and Dawn McLain

3479 Ellis Park Dr.  
Burton, MI

RE: Radio Acres Lot 13, Sect. 27, R-1A zoned.

FOR: To construct an addition to the home at 8 ft. from  
the south property line; 10 ft. required.  
(4 Votes Required)

Doug & Dawn McLain, 3479 Ellis Park Dr., Burton, MI, said they have a two bedroom home which is over crowded. They would like to put an addition on for a den or computer room.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said this is not an unusual request. Several homes in the area are at that setback or closer. We see no reason to deny the request.

Mr. Centilli said he seen the property and they have a 15 ft. driveway and the garage sits back 32 ft. They have access to the back yard. He sees no problem with the request.

Mr. Parker said the way the property is situated, the house on the adjacent property is on the other side of that lot. I don't think it would be an encroachment onto the neighbors because the house is not close to the lot. There are other houses on that street and we have approved them because of the narrow lot sizes.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Scott, seconded by Weatherford to approve ZBA #03-11.  
Motion carried, 7-0.

5. ZBA #03-12

BY: Kimberly Frost  
1430 McLean  
Burton, MI

RE: Lot 67 Webber Place, Sect. 31, R-1C zoned

FOR: To place a 6 ft. privacy fence in the front setback area of  
Morrison St. "House is on a corner lot."  
(5 Votes Required)

Kimberly Frost, 1430 McLean, Burton, MI, said she is requesting a privacy fence. It will be placed where the pre-existing fence was located.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said the house is on a corner and faces McLean, so the side street is Morrison. They have no privacy whatsoever in their back yard. We see no reason not to approve this because there are similar situations in the neighborhood.

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES  
APRIL 17, 2003 / 6:00 P.M.  
PAGE -5-

BOARD DISCUSSION:

Mrs. Scott asked if a privacy fence could hinder the view of drivers.

Ms. Frost stated it is far enough back that they can see well past almost to the next corner.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Grantner, seconded by Weatherford to approve ZBA #03-12.  
Motion carried, 7-0.

6. ZBA #03-13

BY: Douglas R. Nickel  
6045 W. Pierson Rd., Flushing, MI

RE: Including 3371 Saginaw and 3425 S. Saginaw  
Parcels #59-29-300-012, #59-29-300-020,  
#59-29-300-004, #59-29-300-003, #59-29-300-001  
C-2 zoned.

FOR: To allow an M-1 special use "self storage facility"  
in a C-2 Zoned area. (5 Votes Required)

Douglas Nickel, 6045 W. Pierson Rd., Flushing, MI, presented drawings to the Board and explained that the property to be developed is located behind the area of Goodwill, McDonald's, the car wash and Kentucky Fried Chicken. The car wash is not functional and it will all be taken down. This whole area will be fenced in and lit up. There will also be a 24 x 40 office building. Mr. Nickel indicated his partner is Gary Hurand. He has two other storage facilities in Genesee County. One located in Flint Township and another in Mt. Morris Township.

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

Mr. Strasser said in past years the ZBA, Planning Commission and City Council has dealt with Mr. Nickel and Mr. Hurand. They are always above board and anything they do is top notch. If approved, they still have to go in front of the Drain Commission for water run off and the Planning Commission for site plan review. At that time, landscaping issues, lighting, placement of buildings and so forth would be addressed. Mr. Strasser stated further, even though the property is not zoned M-1 there is industrial property behind it. They are proposing to take a blighted area and several parcels, and conglomerate it into one. Mr. Strasser said he feels it is a good proposal.

Mr. Nickel expressed he has a letter showing ownership.

BOARD DISCUSSION:

Mr. Centilli said he met with Mr. Nickel and took off the other piece of property on the north end where it went towards Saginaw St. I did not think we wanted a big u-shape and that would have put storage sheds out by Saginaw St. Mr. Centilli inquired regarding the section behind Kentucky Fried Chicken.

Mr. Nickel said whoever would want that property some day more than likely would want some additional space. Mr. Nickel stated further, they applied for all of these parcels and if approved, it should be amended to say the east 275 ft. of this parcel.

Mr. Welch asked if they can change the description without Mr. Nickel re-applying.

Mr. Strasser replied it can be lessened but not added to it.  
REGULAR ZONING BOARD OF APPEALS MEETING MINUTES  
APRIL 17, 2003 / 6:00 P.M.  
PAGE -6-

Mr. Centilli inquired regarding re-zoning the land behind the Kentucky Fried Chicken restaurant.

Mr. Nickel stated he does not want any re-zoning there, he wants it to stay zoned as is.

Discussion continued regarding the description of the property.

Mr. Parker said he would like to see the Planning Commission during site plan address berming on the south end for the residents on James Street.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Centilli, seconded by Weatherford to approve ZBA #03-13, excluding the west 275 ft. of Parcel #59-29-300-001, contingent upon completion of the purchase of the property.  
Motion carried, 7-0.

7. ZBA #03-15

BY: Helge Knuuti  
3221 Kleinpell, Burton, MI

RE: Lot 43, Supervisors Plat Atherton Gardens.  
Sect. 28, M-2 zoned.

FOR: Expand non-conforming residential in a M-2 use.  
Build a 32 x 48 pole barn; 10 ft. sides, 4/12 pitch.  
(5 Votes Required)

Helge Knuuti, 3221 Kleinpell, Burton, MI, stated he has lived at his home for 48 years. He would like to build a 32 ft. x 48 ft. pole barn for storage.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said the property is zoned industrial so they do need a variance to build an accessory building. We have no problem with the request.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Centilli to approve ZBA #03-15.  
Motion carried, 7-0.

8. ZBA #03-16

BY: Andrew W. Albrant  
6141 Bellingham Ct., Burton, MI

RE: 6141 Bellingham Ct., Parcel #59-25-300-009  
SE zoned.

FOR: To exceed the allowable square footage for accessory  
structures by 1,446 sq. ft. with a 28 ft. x 54 ft. garage.  
(4 Votes Required)

Andrew Albrant, 6141 Bellingham Ct., Burton, MI, stated he just moved into the City this past year and his property is 13 acres. His garage is loaded to the point that he cannot work in it. His hardship is he does not have the room and there are items setting outside that he would like kept inside. Mr. Albrant presented pictures to the Board.

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES

APRIL 17, 2003 / 6:00 P.M.

PAGE -7-

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

Mr. Strasser said the variance request greatly exceeds the ordinance. Two years ago the Planning Commission and City Council increased the allowable square footage for accessory structures. Mr. Strasser commented further regarding a hardship and stated DPW recommends denial of the request.

Mr. Albrant said he was always under the impression that if he bought 10 acres or more and had a farm, he could do what he wanted to. I feel I am being denied having 13 acres, when somebody that has an acre can have everything I got. I think this ordinance should be changed so it is pro-rated to the number of acres you have, possibly they could add an extra 25 sq. ft. per acre. This is my retirement house and I would love to enjoy it. I need this building to put all my other things in it and have a workshop as my hobby. It would not be an eyesore. My nearest neighbor is 300 plus yards away from me on the south side. On the other side, they are 850 ft. away from me and they have another 13 acres.

## BOARD DISCUSSION:

Mr. Centilli said the applicant is at the end of a dead-end street and you can see that there will never be a road through there. With the fields and trees way out in there, nobody is going to see anything. I don't see that there should ever be a problem.

Mr. Parker said the applicant has 13 acres. I know each case is looked at individually, but I think we have in the past approved a larger square footage than what the ordinance allows if the person has acreage. I don't have any problem with this request.

Mr. Grantner said he understands what Mr. Centilli and Mr. Parker is saying. But you can make it bigger and then how big is big. The problem lies with City Council. This Board grants variances but they do not enact the ordinances, so if there is problem one has to ultimately go back to City Council to change things. Hardship has to be shown and not by what someone wants, but defined by the property. The property has to dictate what a hardship is. Because of the petrography or the lay of the land, the person that owns that particular piece of property cannot do what you can do with your property. That is the only time one can call hardship.

Mr. Parker said he feels the 13 acres addresses that. I think he made a valid point that a person who has an acre is allowed whatever it is. He is going to do things with 13 acres that a guy with an acre will not do.

Mr. Grantner said the more acreage you have, there should be a sliding scale with respect to dimensions. Council would address this matter and not this Board.

Mr. Centilli said he probably purchased this property and never figured with that much land he could only build two garages. Sometimes you have to think things over and use common sense. I don't see why this should be denied.

Mr. Welch said he agrees with Mr. Grantner too, but then the applicant has 13 acres.

## BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Centilli, seconded by Parker to approve ZBA #03-16.  
Motion carried, 4-3. Weatherford – no, Scott – no, Grantner – no.

## REGULAR ZONING BOARD OF APPEALS MEETING MINUTES

APRIL 17, 2003 / 6:00 P.M.

PAGE –8–

### 9. ZBA #03-18

BY: Apex Sign for Davison Oil Co.  
6200 N. Dort Hwy.  
Flint, MI

RE: 1138 N. Belsay Rd., Lots 10-13 Laurel Hurst Acres  
Sect. 12, C-4 zoned.

FOR: To raise the hi-rise sign an additional 19 ft. to a height  
of 84 ft. Existing sign is 65 ft., proposed sign to be  
84 ft., exceeding the height requirement of 30 ft. by  
54 ft. (4 Votes Required)

Gary Gebhart, 2417 Willowdale, Burton, MI, stated they are requesting to raise the existing structure to 65 ft. The Shell station is taking possession of the Amoco station. One of the problems is the sign is not tall enough to see from the west bound traffic. There are very large trees along Court Street where the sign is at so it is not visible. The particular sign code does not address expressway related businesses as many do, and this business relies on expressway traffic to

pump gallons of fuel and become successful at that intersection. The Shell sign across the street is right at 100 ft. so this sign would be lower by 15 ft. Also, we are putting in a smaller 13 x 13 Shell pecten sign to replace the Amoco sign. This will be substantially smaller than what is there today.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser asked if the Shell sign on the west side is at 100 ft.

Mr. Gebhart said he was told it was 100 ft. or close to it.

Mr. Strasser said the McDonald's sign is at 79 ft. Mr. Strasser asked Mr. Gebhart if Apex put up the Shell sign.

Mr. Gebhart replied yes.

Mr. Strasser said DPW does not have a recommendation. The sign is there now irregardless of the size. It is above the height requirement. Mr. Gebhart commented regarding expressway related businesses and generally they are much higher than the 30 ft. required by our ordinances. I don't know if the extra 19 ft. would hurt anything or not.

Mr. Gebhart stated he travels a lot and they do work all over the mid-west. It is not uncommon to be traveling in the left lane and trucks are in the right lane, and you cannot even see those signs. That is a long ramp as you are getting off Belsay Rd. when you are heading west. We are not trying to go 150 ft. in the air, we are just trying to get it high up to be seen. For that business to be successful, it has to be in the air. That station is not pumping enough gallons for an expressway related business and that is what the problem is attributed to.

Mrs. Scott asked if this is approved will it be a brand new structure from the bottom up.

Mr. Gebhart said the sign is an oversized concrete foundation. When it was originally installed there were problems with the land caving in, so it took about 80 yards of concrete to fill the foundation. That kind of worked to our advantage today. Mr. Gebhart stated further this has been through all the engineering aspects on it.

Mr. Grantner said he has no problem with the height. He inquired as to Shell taking over the station.

Mr. Gebhart said to his understanding, the one on the north side will be closed. He does not know what they are going to do with the property.

#### REGULAR ZONING BOARD OF APPEALS MEETING MINUTES

APRIL 17, 2003 / 6:00 P.M.

PAGE -9-

#### BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Centilli to approve ZBA #03-18.

Motion carried, 7-0.

Mr. Welch stated the next regularly scheduled meeting of the Zoning Board of Appeals will be held on **Thursday, May 15, 2003 at 6:00 p.m.**

Meeting adjourned at 7:30 p.m.

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