

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MEETING MINUTES
APRIL 18, 2002, 6:00 P.M., COUNCIL CHAMBERS

THE MEETING WAS CALLED TO ORDER BY TERRY PARKER AT 6:00 P.M.

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

MEMBERS ABSENT: None

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

Moved by Grantner, seconded by Scott to approve the Regular Zoning Board of Appeals meeting held on February 21, 2002 at 6:00 p.m., and the Regular Zoning Board of Appeals meeting held on March 21, 2002 at 6:00 p.m.
Motion carried, 7-0.

RE-ORGANIZATION OF THE ZBA CHAIRPERSON AND VICE-CHAIRPERSON:

Mr. Parker asked the Board for nominations for the Chairperson.

Mr. Grantner nominated Mr. Curtis for Chairperson and Mr. Welch supported.

Mr. Centilli nominated Mr. Parker for Chair and Mrs. Scott supported.

Mr. Parker asked if there were any other nominations. There were none.

Mr. Parker said he would like to request that his name be removed because he is not comfortable with the Chair's position.

Jamie Curtis was nominated unanimously as the new ZBA Chairperson and Steve Welch as the Vice-Chairperson. Mr. Curtis and Mr. Parker exchanged seating and Mr. Curtis continued the meeting.

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

BOARD DISCUSSION:

Mr. Parker indicated one of the cases tonight abuts the property of a member on this Board. He spoke with Jeff Major and Tom Strasser from DPW to make sure there was not a conflict of interest. Mr. Strasser informed me our City attorney said the only time there is a conflict of interest is if there is a monetary gain involved for the person that sits on this Board. Because we are all members of this community, eventually we will have somebody that is close to us come up for consideration. Mr. Parker said he wanted this to be put into the record that there was discussion about that, and there is no conflict of interest.

YEARLY APPLICATIONS:

- | | |
|---------------|---|
| 1. ZBA #02-10 | BY: Auto Vision
4499 Davison Rd. |
| | RE: Parcel #59-03-400-007
4499 Davison Rd.
C-2 Zoned |
| | FOR: To conduct a used car sales lot not in conjunction
with new car sales. (5 Votes Required) |

The applicant was not present.

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Mr. Parker said he would like to address the case even though the applicant is not present. An applicant before came to the Zoning Board and the request was denied. We said something to the affect we wanted the owner of the property to come before the Board and give us some detail about what his intent was to sell cars on the property, before we would let someone else have a license to sell used cars on that property. Mr. Parker asked Mr. Strasser if anything had transpired.

Mr. Strasser said the owner of the property did come in and speak with me and there were some issues taken care of. Currently, the biggest issue regarding this property is a safety factor. There is an alleged license holder on this property that unloads their vehicles out in the middle of Davison Rd. I have contacted the State Bureau of Licensing in regards to vehicle dealers and they are in violation of local codes. So they are being investigated by the State. Mr. Strasser stressed that it is not Auto Vision, but another entity. The applicant has been there for two or three years and he does not do unloading on Davison Rd.

Mr. Parker asked if this was the man they gave the license to wholesale cars.

Mr. Strasser said this is the original person.

Mr. Curtis tabled the case to the end of the meeting in case the applicant appears.

2. ZBA #02-12

BY: Sherry Dykes
4365 Shubert
Burton, MI

RE: 3455 S. Center Rd., Lot 4 Schram Acres
Sect. 27, C-2 Zoned

FOR: Temporary use, Haunted Forest; fundraiser.
(5 Votes Required)

Sherry Dykes, 4365 Shubert, Burton, MI, said she is a volunteer with handicap and physically impaired scouts. We would like to have a haunted forest at 3455 S. Center Rd. as done in previous years for a fundraiser. It is strictly run by volunteers and is totally non-profit. All the monies raised goes to purchase equipment and supplies for the handicapped boy scout troop. We have permission from the property owner next door at 3495 S. Center Rd. to use the property for parking. The fundraiser is insured by Boy Scouts of America. Mrs. Dykes said they had the fundraiser in 1999 and 2000, but did not in 2001. They did not have any problems. The event will not be until October but it takes quite awhile to get things organized.

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

BOARD DISCUSSION:

Mr. Centilli inquired as to the dates of the fundraiser.

Sherry Dykes indicated it would be the weekends in October starting October 18th and 19th, the following weekend of October 25th and 26th and on Halloween.

Mr. Strasser said this is a yearly renewal and they have operated the last couple of years without any problems. We recommend approval.

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BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Scott, seconded by Weatherford to approve ZBA #02-12 for a yearly renewal.
Motion carried, 7-0.

2. ZBA #02-13

BY: Fred Schrader
518 Cherry Lane
Gas City, IN 46933

RE: Parcel #59-22-300-019
2333 S. Center Rd.
C-2 Zoned

FOR: Erect a 30 ft. x 50 ft. tent on Meijer's parking lot
selling Michigan approved "safe and sane" Class C
fireworks; open 9:00 a.m. to 9:00 p.m.
(5 Votes Required)

Fred Schrader, 518 Cherry Lane, Gas City, IN, said they are asking for permission to have a tent on Meijer's parking lot for approximately two weeks to sell Michigan approved fireworks.

BOARD DISCUSSION:

Mr. Welch inquired regarding the dates.

Mr. Schrader said the sale would start June 24th and June 25th, and go through July 5th or July 6th.

Mr. Strasser said Meijers has ample space for parking for something like this. He spoke to the Fire Marshall as to the aspects of this. He did not see a problem with it because they lock them up at night and they have inspections by the Fire Marshall. They recommend approval.

Mr. Centilli said Meijers is a well operated and clean company. Meijers donated \$5,000 towards the fireworks for our Memorial Day, and I don't think they would let anything go wrong in their parking lot.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Grantner, seconded by Weatherford to approve ZBA #02-13 for a yearly renewal.
Motion carried, 7-0.

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4. ZBA #02-16

BY: American Promotional Events / PPI Corp.
Don Hudson
PO Box 3224

Leesburg, VA 20177-8096

RE: Wal-Mart Store
5323 E. Court
Burton, MI
C-2 Zoned

FOR: Temporary Tent Sale – June 21, 2002 to July 8, 2002
(not to obstruct fire lanes) Please note: Per Firechief
Doug Halstead, City of Burton ordinance regarding sale
and use of approved fireworks, as of 9/1/98, complies
with fire code. (5 Votes Required)

Karen Monica, Flushing, MI, said she works for PPI, they are requesting approval for the sale of fireworks.

BOARD DISCUSSION:

Mr. Centilli said they also operate a clean operation.

Mr. Strasser said they recommend approval.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Weatherford, seconded by Scott to approve ZBA #02-16 for a yearly renewal.
Motion carried, 7-0.

F. NEW APPLICATIONS:

1. ZBA #02-14

BY: Mari Smith
2090 Valley Forge
Burton, MI

RE: 2090 Valley Forge
Lot 23 Holiday Villa
Sect. 24, R-1B Zoned

FOR: To keep 4 adult dogs / 2 allowed.
“Kennel” M-1 special use in
residential area. (5 Votes Required)

Mari Smith, 2090 Valley Forge, Burton, MI, said she is not asking for a kennel’s license nor wish to operate a kennel business. I have four adult dogs and forcing us to get a lawyer or dispose of any of our companions would in fact cause us a serious amount of emotional hardship. They had no prior knowledge of the City’s ordinance prior to the purchase of their home, or she would not have chosen to settle there.

Ms. Smith spoke further regarding the ages of the dogs, 15, 9, 5 and 2, and their condition. She indicated the two oldest are partially blind. She said they took additional steps of installing a privacy fence as well as the existing chain link fence. She spoke to her neighbors and they did not have a problem.

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AUDIENCE PARTICIPATION:

Cindy Hicks, 9102 N. Genesee Rd., Mt. Morris, MI, said she and her husband own the property directly next door to Ms. Smith. While she feels sorry for her and her dogs, my step-daughter, husband and their three children live in that home now. Until the large privacy fence was put up, we could not allow the children in the yard. They have a daughter that is a newborn 3 ½ weeks old, a 13 ½ month old daughter and a 6 year old daughter. The children are deprived of

playing in their back yard because these dogs will go right to the fence. I find it difficult to believe two are blind because they know right where you are and if you walk they will follow you along the fence.

Mrs. Hicks said the fence is a separate issue, it is facing in the wrong direction, the posts are facing her property. Over time it is going to weather and look terrible. My kids are not going to be able to do anything about it because it butted up against the short chain link fence. The main problem we are currently having is my step-daughter cannot even do the dishes with her windows open because the dogs bark. The children go to bed 8:30 at night, the 6 yr. old has to get up early to go kindergarten. Now that it is warm outside and the windows are open, if there is any kind of noise inside the house the dogs bark, and they bark loudly.

Mrs. Hicks said she does sympathize and has a dog from the Humane Society. I would never want to part from her, but I have one dog and also live on one acre. This is a residential neighborhood that has been there since the early 1950's, and honestly, I would not want to have the problem of every time I step in the back yard to go in my garden, to barbecue outside or to just play with my kids, these dogs are continually barking. It interferes with the freedom of my grandchildren and it is a scary situation.

Sherry Blosser, 2097 Valley Forge, Burton, MI, said she is Mari Smith's sister. The dogs are gentle and there has never been an incident where these dogs have bitten anyone. Dogs bark, I live on Valley Forge and there are dogs that bark behind us. Cars go by with the radio blasting, you can only do so much. The privacy fence they put up is in adjacent to the chain link fence, and I am sure it alleviates some of the noise. Neighbors have said they do not have a problem.

Roger Hicks, 9102 N. Genesee, Mt. Morris, MI, said he owns the home at 2080 Valley Forge. Hopefully, we are not going to get into a thing of hard feelings within the neighborhood. There are residents that have dogs, but until a year ago I lived there. The previous neighbors, when their dogs barked, they let them in the house and the dogs shut up.

Mr. Hicks said he suggests the Board table this issue, and the Board come to 2080 Valley Forge and walk through the yard when the four dogs are outside and observe what goes on.

BOARD DISCUSSION:

Mr. Centilli inquired as to the breed of the dogs.

Ms. Smith replied they are a mixed breed, mongrels. There is not a pedigree amongst them.

Mr. Centilli asked if they have a kennel's license.

Ms. Smith replied they do not. She said they are her children, they do not stay out at night and are not let out unattended, they are only out when she is home. She lived in the City of Flint and her neighbors never complained or had a problem.

Mr. Centilli asked Ms. Smith if she created herself the problem.

Ms. Smith said in the City of Flint anything over 5 dogs is a kennel license.

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Mr. Centilli said if we approved this, it is setting precedence.

Ms. Smith said all she is asking for is to keep the dogs, she does not plan on continually violating this ordinance. She does not know how long the oldest dog will be with them. All I am trying to do is keep the family together, otherwise, I will sell the house and move. I am not going to get rid of my dogs.

Mr. Centilli said I sympathize with you but I don't see how we can allow you to have four dogs at that house. It is not fair to the neighborhood.

Mrs. Scott inquired as to the height of the privacy fence.

Ms. Smith replied it is 6 ft.

Mrs. Scott said her neighbor has two dogs, and I know the noise these two dogs can make. I can't fathom what four dogs could do.

Ms. Smith re-iterated that she checked with neighbors and they did not have a problem with it. She said her dogs do not bark continuously.

Mr. Strasser said he has had three or four phone calls that opposed it, and have had none in favor of it.

Mr. Curtis asked how this case came before the ZBA.

Mr. Strasser said it came as a complaint.

Mr. Parker said they have had this type of variance before this Board on several occasions, and unfortunately it has been because someone has more dogs than the ordinance allows. The ordinance is there for the protection of the neighborhoods. I cannot imagine living in a neighborhood where every house had four dogs. I have one and he barks at me when I walk down the driveway. The intent of the ordinance is to control our neighborhoods so they are beneficial to everyone who lives in the neighborhood. Although I understand why the applicant would not want to get rid of her dogs, I still think we need to stay by the ordinance to keep order.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Grantner to approve ZBA #02-14.

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

2. ZBA #02-15

BY: Richard J. Fletcher
5141 Dortch Dr.
Burton, MI 48519

RE: Parcel #59-23-100-040
5141 Dortch
R-1A Zoned

FOR: To place a 6 ft. privacy fence in front of the home.
(4 Votes Required)

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Richard Fletcher, 5141 Dortch Dr., Burton, MI, stated he is requesting a privacy fence. His home is 285 ft. off the road and due to the layout of the property, his neighbor's home is in front of his. He would like to go behind his neighbor's residence and put a 6 ft. privacy. Children continuously go through this area to pass onto Lippincott, and they always want to play around the pond. Mr. Fletcher said he does not want the liability or anything to happen.

BOARD DISCUSSION:

Mr. Centilli inquired regarding the fencing.

Mr. Curtis said the neighbor's back yard is technically Mr. Fletcher's front yard.

Mr. Fletcher reviewed drawings and the layout of his property for the Board.

Mr. Centilli asked Mr. Strasser where the setbacks would be.

Mr. Strasser said the front lot line is on Dortch Dr.

Mrs. Scott said she drove out to see it and it is a confusing piece of property. You almost have a natural fence on the west side.

Mr. Fletcher said he wants to try and stop people from cutting through his property. He has caught people 10:00 at night fishing. If someone fell in and drowned, I not only have a death on my hands, but I will get sued. Mr. Fletcher stated further, he will not take his neighbor's view away by the privacy fence.

Mrs. Weatherford asked how it will stop these kids.

Mr. Fletcher said it would mainly be a deterrent, on the west side is barbed wire and from the back of the neighbor's property all the way to Lippincott possibly, there is barbed wire. It use to be a horse farm so there is barbed wire everywhere through there.

Mr. Centilli asked if there will be a gate.

Mr. Fletcher said there would not be a gate, just a solid privacy fence.

Mr. Strasser said if the neighbor wanted a permit we would give it to him. Actually, the applicant is giving the neighbor a fence. They do not have a problem with the request.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Scott to approve ZBA #02-15.
Motion carried, 7-0.

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3. ZBA #02-17

BY: Robert Beckelic
1149 Forest
Burton, MI

RE: N ½ Lot 43, Glendale Acres
R-1A Zoned.

FOR: To extend a non-conforming side setback of
8 ft. 6 inches with an addition to the home on the
north property line; 10 ft. required. (4 Votes Required)

Elaine Beckelic, 1149 Forest, Burton, MI, said she and her husband bought the existing house in August of 1998. They would like to build an addition onto the existing side of the house.

AUDIENCE PARTICIPATION: No audience participation.

BOARD DISCUSSION:

Mr. Centilli said not too far from the applicant's home, we approved a variance allowing 5 ft. of the lot line. There is plenty of room on the south side of the home.

Mr. Parker said this is a common application in the south end of the City. That is one of the older subdivisions in Burton.

Mr. Strasser said the existing home is already at the non-conforming setback. They will have adequate room on the south side.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Scott, seconded by Centilli to approve ZBA #02-17.
Motion carried, 7-0.

4. ZBA #02-18

BY: Jeff Allen – Allen Audio
5479 Lapeer Rd.
Burton, MI

RE: 5479 Lapeer Rd., Lot 13 thru 15, Cardinal Gardens
C-2 Zoned.

FOR: To encroach 4 ft. into the required rear yard setback of
25 ft. for a new 70 ft. x 50 ft. building addition; 25 ft.
rear setback required, 21 ft. requested.
(4 Votes Required)

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Jerry Tomczak, said he is Project Mgr. for Rhoads & Johnson Construction, 101 N. Alloy Dr., STE A, Fenton, MI. He is representing Jeff Allen. They are requesting to encroach 4 ft. into the rear yard setback. Mr. Allen purchased the building a little over a year ago. It was a gas station many years ago and over the years it was changed to different uses. Mr. Allen did purchase the building and has made significant improvements to the building including a new roof. He will be seeking from the Planning Commission a proposed addition 75 ft. x 50 ft.

BOARD DISCUSSION:

Mr. Centilli asked if they are going to modify the front of the existing building.

Mr. Tomczak said it has already been done.

Mr. Centilli said the house to the west of the building has a problem with gasoline in the ground.

Mr. Tomczak said it was a gas station at one time and it had a leak in the ground storage tanks. There is apparently lawsuits going on with the homeowner to the west. It is zoned office to the north and commercial C-2 to the east and west.

Mrs. Scott inquired regarding Consumer Power lines.

Mr. Strasser said that after studying the plan and surrounding property, they see no adverse affects and recommend approval.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Centilli, seconded by Weatherford to approve ZBA #02-18.
Motion carried, 7-0.

5. ZBA #02-19

BY: Julie Hester
6245 Roberta
Burton, MI

RE: Lot 34 Seely's Sub. #1, Sect. 13
R-1B Zoned.

FOR: To construct an addition at 10 ft. from the rear property
line; 30 ft. required. (4 Votes Required)

Timothy Hester, 6245 Roberta, Burton, MI, said they would like an addition onto their home and to go within 10 ft. of the rear of the property even though 30 ft. is required. The existing structure is only 17 ft. off of the rear of the property, and we would like to put the family room and garage addition on to improve the property.

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BOARD DISCUSSION:

Mr. Parker said he thought this addition request was for a garage. He asked for clarification.

Mr. Centilli stated the way the house angles on the lot, I would use the east lot line as a back lot. You are already encroaching on your side lot line and are only 15 ft. off of it now. So all you are asking for is 5 more feet and still have 10 ft. from their place. Mr. Centilli asked if they will be a good distance from the well.

Mr. Hester said he would be over the minimum of 3 ft. away from the well.

Mr. Parker said because of where that well is, it bears a lot of the construction of the home. We have granted variances in the past because of where the utilities are.

Mr. Strasser said the request and layout of the property actually comes very close to the actual intent of the reason to give the variance, because of the physical hardship on the property. If the house was straight to a road he could get an addition on without a problem. To put the addition at either end would require a variance. So it does come very close to meeting the intent of giving a variance for all the right reasons. Therefore, we are behind it 100%.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Weatherford to approve ZBA #02-19.

Motion carried, 7-0.

YEARLY APPLICATIONS:

1. ZBA #02-10

BY: Auto Vision
4499 Davison Rd.

RE: Parcel #59-03-400-007
4499 Davison Rd.
C-2 Zoned

FOR: To conduct a used car sales lot not in conjunction
with new car sales. (5 Votes Required)

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Grantner, seconded by Parker to post-pone ZBA #02-10 to the next regularly scheduled meeting.
Motion carried, 7-0.

The next regularly scheduled meeting of the Zoning Board of Appeals will be held on **Thursday, May 16, 2002, at 6:00 p.m.**

Meeting adjourned at 7:00 p.m.

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