

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MEETING MINUTES
APRIL 19, 2001, 6:00 P.M., COUNCIL CHAMBERS

THE MEETING WAS CALLED TO ORDER BY WILLIAM KALANQUIN AT 6:00 P.M.

MEMBERS PRESENT: Kalanquin, Layman, Scott, Parker, Grantner, Curtis,

MEMBERS ABSENT: Cross

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

Moved by Grantner, seconded by Layman to approve and minutes of the Regular Zoning Board of Appeals meeting of March 15, 2001 at 6:00 p.m.
Motion carried, 6-0.

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh St., Burton, MI, commented on the upcoming Master Plan workshops.

BOARD DISCUSSION:

Mr. Parker inquired regarding revisions to Ordinance 19, replacing alternate Board members and changes made regarding cell towers. Mr. Parker also spoke briefly on the zoning seminar he attended through the Michigan Municipal League. He believes the Board members should attend a seminar at least once a year.

YEARLY APPLICATIONS:

Postponed:

1. ZBA #01-07

BY: Donald R. Bridges
 4499 Davison Rd.
 Burton, MI 48509

RE: Parcel #59-03-400-007
 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. Mr. Parker asked that this case be tabled to the end of the meeting.

YEARLY APPLICATIONS (continued)

2. ZBA #01-11

BY: Don Hudson / American Promotional Events
Paramount Promotions, Inc.
PO Box 10443
Arlington, VA 22210

RE: Wal-Mart Store, Burton
5323 E. Court St.
Burton, MI

FOR: Temporary tent sale for June 22, 2001 through
July 7, 2001. (Not to obstruct fire lanes.)
(5 Votes Required)

Please Note: Per Fire Chief Doug Halstead, City of Burton ordinance
regarding sale and use of approved fireworks, as of
9/1/98, complies with State Code.

Greg Evangelidi, 133 Cedarwalk Circle, Leesburg, Virginia, said he is an agent for Don Hudson. They are asking to renew their license for a temporary sale at Wal-Mart. Their request is exactly the same as last year's.

AUDIENCE PARTICIPATION: No audience participation at this time.

Mr. Strasser indicated their request is common place at all the other stores and they recommend approval.

BOARD DISCUSSION: No Board discussion.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Layman, seconded by Scott to approve ZBA #01-11.
Motion carried, 6-0.

Mr. Parker stated there is not a full Board tonight and as a courtesy to the applicants, as done in past practice, they should offer the applicants a chance to have a full Board.

Mr. Kalanquin explained to the audience the option to wait for a full Board.

Temporary Use:

3. ZBA #01-18

BY: K-Mart Corporation
1145 N. Belsay Rd.
Burton, MI 48509

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

FOR: To erect a tent for the purpose of conducting the sales of
variety merchandise; temporary use.
(5 Votes Required)

Sid Rogers, representing K-Mart, stated the sketch before them shows the parking lot immediately in front of the two entrances. It is adjacent to the live goods corral, which we have a permanent annual variance on. He would like to request the dates of April 20th through September 4th. They would erect the tent on April 20th and dismantle it on September 4th.

AUDIENCE PARTICIPATION:

Leona Stephens, 3049 Vineland, Burton, MI, said she drove to the back of the store where you get your car fixed, and the lane was so full of stock she could not get through.

Mr. Rogers said he was not familiar with that particular day, but would observe and minimize that area.

Mr. Strasser stated those are fire lanes and it should be addressed. He also indicated that K-Mart always does what they say they are going to, and they do not have a problem with the request.

BOARD DISCUSSION:

Mrs. Layman inquired as to the number of parking places that would be eliminated.

Mr. Rodgers said the area is 40 ft. x 80 ft.

Mr. Grantner asked for clarification of variety merchandise.

Mr. Rodgers spoke regarding merchandise of apparel, patio furniture, and swing sets.

Mrs. Layman inquired as to having security in the evenings.

Mr. Rodgers said they will have security 7 days a week, a 24 hr. day watch.

Mr. Parker inquired regarding guidelines for the use of electricity to assure a safe environment.

Mr. Rodgers said they will have a licensed electrician doing the work.

Mr. Strasser commented regarding the State Electrical code.

Mr. Parker asked for clarification on an annual and temporary use.

Mr. Rodgers said it is temporary use for this year only, and if it is successful they will visit the Board again next year.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Layman to approve ZBA #01-18 with the stipulation that the temporary use is from April 20, 2001 through September 4, 2001.
Motion carried, 6-0.

NEW APPLICATIONS:

1. ZBA #01-12
- BY: Bedrock Building Co.
5066 E. Hill
- RE: 2169 Williamson
- FOR: To place handicapped ramp in front setback, placed at
2 ft. from the front right-of-way line; 20 ft. required.
(4 Votes Required)

Michael Foy, 5066 E. Hill, Grand Blanc, MI, said his company was contracted to build an accessibility ramp for a wheel chair use by the Family Independent Agency his company was contracted to build an accessibility ramp for a wheel chair use by the Family Independent Agency for Lyla Call at 2169 Williamson. They assist people with various disabilities. To build this ramp there are certain guidelines that must be met to pass building codes. For the minimum guidelines, it can have a slope, a fall of one inch per every foot. This is so the slope isn't so steep that a person in a wheel chair could get out of control and hurt themselves. To accomplish this we have to construct it within violation of the right-of-way. We have to get closer to the road and there is no other way to design it.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said that a month ago this gentleman was granted a permit in order to construct this ramp. They called in for the inspection for the post holes. The building inspector was uncomfortable with the placement of it upon review at the site. The building inspector advised him to apply at the Zoning Board of Appeals and was told he would not stop him from completing the ramp so the woman could have accessibility in and out of her home. Mr. Strasser said they do not have a problem with what they have done.

BOARD DISCUSSION:

Mr. Parker said in looking at this hardship and the circumstances, he feels the Board should approve the request.

Mrs. Scott asked if the ramp could have been built a different way instead of coming to the road.

Mr. Foy responded that you have to go so many feet in a direction, and then turn around to build a corner. The turn around must be a 5 x 5 area so it still would push it to the road. Every corner must be flat and have no slope. We also tried to preserve the look of the property the best we could.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Scott to approve ZBA #01-12, as written.
Motion carried, 6-0.

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2. ZBA #01-13

BY: Gary Hall
1396 Kenneth
Burton, MI

RE: Lots 1176, 1177 and 1178 Baker Park

FOR: To exceed the allowable square footage for accessory structures by 590 sq. ft. with a 30 ft. x 40 ft. pool enclosure. (4 Votes Required)

Gary Hall, 1396 Kenneth St., Burton, MI, stated he put in a pool with a fence around it. He is concerned with kids jumping over his fence and going into the pool because he works on the weekends and is not there. I would like to enclose this pool which is behind my house next to my garage. It would be an extension of my garage.

AUDIENCE PARTICIPATION:

Pauline Dargel inquired regarding the three lots being continuous.

Mr. Hall indicated he owns all three lots.

Mr. Strasser if you turned this around and joined the pool to the house and built this size structure, it would not be accessory. It would be part of the principle dwelling and he would not need a variance. We were challenged a couple of different times, and in checking with other communities, they are considered to be part of the principle structure when they are attached. Mr. Strasser said they do not have a problem with the request.

BOARD DISCUSSION:

Mr. Kalanquin asked if he has had problems with kids jumping over the fence.

Mr. Hall replied that he has.

Mr. Parker inquired regarding the construction and materials.

Mr. Hall said it will be vinyl sided, and he would like large windows and sliding glass doors.

Mr. Curtis asked if he would be doing the construction himself.

Mr. Hall said it will be done by a contractor.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Scott, seconded by Layman to approve ZBA #01-13.

Motion carried, 6-0.

3. ZBA #01-14

BY: James Grennay
1231 Adams Rd.
Burton, MI 48509

RE: 1231 Adams, Lot 11 McAinsh Acres

FOR: To exceed the allowable square footage for accessory
structures by 182 sq. ft., 1,402 sq. ft. allowed;
1,584 sq. ft. requested. (4 Votes Required)

James Grennay, 1231 Adams Rd., Burton, MI said he would like to build a garage over what is allowed to store his boat, lawn tractors, and also to use as a workshop. It will be identical to the house. Mr. Grennay presented a drawing to the Board members.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said this is a fairly new subdivision under development. He asked Mr. Grennay if he was before the ZBA on another occasion.

Mr. Grennay replied he was before the ZBA in the past, and he use to live on Surrey Lane.

Mr. Strasser said he keeps a very nice place.

BOARD DISCUSSION:

Mrs. Scott inquired regarding the applicant's woodworking and if it is for the purpose of sales.

Mr. Grennay responded there would be no business run out of it.

Mr. Parker said even though the ordinance on accessory structures was just revisited, 182 square feet still exceeds the ordinance. He cannot support this request.

Mr. Curtis said he would not need a variance with 28 ft. x 28 ft.

Mr. Grennay said he would like 30 ft. x 28 ft. for the extra 2 ft.

Mr. Parker asked if the applicant changes the dimensions, would they have to re-notify.

Mr. Strasser replied not if it is reduced in size. If he stays with 28 ft. x 28 ft. he is fine, but 28 ft. x 30 ft. would make it 12 sq. ft. over and would still require a variance.

Mr. Grennay acknowledged he would stay with 28 ft. x 28 ft.

Mr. Kalanquin said he would not need a variance then.

4. ZBA #01-15

BY: Jim Korn
5073 Lapeer Rd.
Burton, MI

RE: 5097 Lapeer Rd.

FOR: To remove and replace exist building, non-conforming
square footage of 7,316 sq. ft. of accessory structure,
3,600 sq. ft. to be replaced; 2,250 sq. ft. allowed.
(4 Votes Required)

Jim Korn, 5073 Lapeer Rd., Burton, MI, said the property is next door and it will be my primary residence. I want to remove the existing barn which is in bad shape and replace it. Mr. Korn stated further he is not asking for additional square footage and if he wanted to repair the barn, he would not need to be here.

AUDIENCE PARTICIPATION:

Mrs. Dargel asked if this case is up for a zoning change.

Mr. Strasser indicated not at this location, there are two smaller lots in front on Lapeer Rd. Once you remove the barn, it does exceed the square footage that is allowed. If granted, we would have to stipulate it is for personal use only because it is a residentially zoned area. As far as we know, there are not any businesses being run out of it.

BOARD DISCUSSION:

Mrs. Layman inquired regarding Mr. Korn's residency.

Mr. Korn said he lives next door in the red brick house. His plan is to tear that house down and build a new one.

Mrs. Layman asked what is in the building connected to the barn and if he is running a business there.

Mr. Korn said it use to be his place, he is not running a business there, and he works for GM. This will be my primary residence when this is all done.

Mr. Parker said there was an article in the Flint Journal a couple of weeks ago that indicated this is one of the worst contaminated sites in Genesee County because of all the stuff they poured into the soil. Mr. Parker inquired further if there is something the DEQ or somebody needs to do when he removes this barn structure.

Mr. Strasser indicated he does not have an answer to that.

Mr. Korn said they have cleaned up and removed the contaminates that were there. He does not know why he hasn't been given a clean bill of health. The new standards out now are a lot higher than what the initial contaminates that I had would have been. I inherited this and am the property owner now.

Mr. Parker said this is a pretty good size property. He inquired regarding the size of the accessory structure allowed.

Mr. Strasser indicated 2,250 sq. ft.

Mr. Parker said one of the things stressed by Mr. Strasser is enforcement. Although the applicant may have good intentions of using this for personal, we know there was a business out of there. I realize he could repair this and not have to do anything, and I appreciate the fact he wants to clean up the property, but I think we are asking for trouble to approve a building this size in the City.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Layman, seconded by Scott to approve ZBA #01-15.

Motion denied, 5-1. Layman – no, Scott – no, Parker, - no, Grantner – yes, Curtis – no, Kalanquin – no.

5. ZBA #01-16

BY: Greg Pomeroy
2066 Whittemore
Burton, MI

RE: 2066 Whittemore, Lot 456 Bendlecrest
R-1C Zoned.

FOR: To construct a new home at 3 ft. from the east property
line; 8 ft. required. (4 Votes Required)

Greg Pomeroy, 2066 Whittemore, Burton, MI, said his house burnt down January 30th, and he would like to build it as it existed 3 ft. from the property line.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said as stated before, the previous home was at 3 ft. The homes in the south end subdivisions are on lots 40 ft. to 45 ft. wide. He does have the room to center it on the property and there is a good distance to the home on the east. He will have 17 ft. to the dwelling to the west. The gravel drive is wide enough and he will be able to get into his back yard. Mr. Strasser stated they recommend approval.

BOARD DISCUSSION:

Mr. Curtis asked if this is a stick built home.

Mr. Pomeroy replied that it is stick built.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Layman, seconded by Scott to approve ZBA #01-16.

Motion carried, 6-0.

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6. ZBA #01-17

BY: Kingsway Builders, Inc.
2325 W. Shiawassee, STE 202
Fenton, MI 48430

RE: 5273 Sequoia Court, Lot 279
Section 35, R-1A Zoned

FOR: To construct a new home with a rear setback of 29 ft;
35 ft. required. (4 Votes Required)

Donald Deaver, General Manager of Kingsway Builders, said they are building the homes in Phase 5 of Maplewood Meadows and purchased a block of 49 lots from the original developer last fall. We are quite a ways into our construction program and have run across a lot that has some unique peculiarities. Mr. Deaver passed out drawings of the site. He said they have an elderly lady that purchased Lot 279 on a cul-de-sac where she felt somewhat secure and not on a road where there is through traffic. To the north of the property is a large parcel of 80 acres, and to the west of the property is the County Drain Commission's storm retention area. Mr. Deaver stated further, the home in question is 1,911 sq. ft., and the property is 50 ft. 5 inches deep. There is a section in the back where 6 inches of the house projects into the rear setback. It is suppose to be at 35 ft. and I am at 29 ft.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said he has dealt with Mr. Deaver on many occasions in the past and he is one of the most well-informed, knowledgeable builders. There is an encumbrance on every lot in a cul-de-sac and none of the homes in these prints will fit because of the way the lot is laid out. Mr. Strasser said he feels what is being requested is not that out of line. He recommends approval because of Mr. Deaver's past performance.

BOARD DISCUSSION:

Mr. Curtis inquired regarding the home's alignment in the front yard as to the placement of the other surrounding homes.

Mr. Deaver said the homes on both sides are under construction and set back at 30 ft. You have to follow the radius of the houses on a cul-de-sac. Lot 278 is being built at the 30 ft. front set back.

Mr. Parker mentioned variance requests on the north side of Brookwood. He asked if this is a subdivision or condos.

Mr. Strasser said this is a subdivision.

Mr. Parker asked what is done in the preliminaries regarding these situations.

Mr. Strasser said the models this company builds will not fit within the building envelope of Lot 279. You can build a home that will fit in that lot, but this company does not.

Mr. Parker spoke of the 80 acre parcel possibly being developed and would there be an encumbrance from this variance request.

Mr. Strasser indicated there would likely be a cul-de-sac just north of that.

Mr. Curtis said having lived in a subdivision with a cul-de-sac, the encumbrance is not that noticeable.

Mr. Parker addressed the City's Zoning Ordinance with regards to the hardship

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Curtis, seconded by Layman to approve ZBA#01-17.
Motion carried, 6-0.

7. ZBA #01-19

BY: Linda M. Russo
3242 Shaw
Burton, MI 48529

RE: Lots 148 and 149, Chambers Subdivision
Section 28, R-1C Zoned

FOR: To construct a carport at 3 ft. from the south property
line; 8 ft. required. (4 Votes Required)

Mike McMahon, Fenton, MI, said he was asked by the resident Dan Hoag, to speak on his behalf because of his sickness. Linda Russo is owner of the lot and Dan Hoag lives in the house. He is requesting a 5 ft. variance to build a carport to the south of the building to cover his car due to his health condition. He has a bad heart and has had multiple by-pass surgeries.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said he met with the gentleman. Presently, there is a privacy fence which is 1 ½ ft. off of the property line, and this would be inside of that. It would be open on three sides. He spoke with his neighbor and he does not have a problem with it. Mr. Strasser stated further it is not an uncommon request.

BOARD DISCUSSION:

Mrs. Layman inquired regarding drainage.

Mr. McMahon said there will be eavestroughs.

Mr. Parker asked if Mr. Hoag rents a room from Linda Russo.

Mr. McMahon said he owns the house and has it in his sister's name due to his health.

Mr. Parker said he saw two commercial vehicles on the north side of the building and it looks like there was ample room to store a car.

Mr. McMahon said he owns the vehicles. On the north side of the building there is a patio door and Mr. Hoag uses the south side entrance to go to his car.

Mr. Parker believes this is a hardship due to Mr. Hoag's health.

BOARD RECOMMENDATION AND/OR ACTION:

Moved by Parker, seconded by Scott to approve ZBA #01-19, with the stipulation it remain open on three sides and downspouted and guttered, and the water is properly directed away from the neighbor and to the street.
Motion carried, 6-0.

Postponed:

1. ZBA #01-07

BY: Donald R. Bridges
4499 Davison Rd.
Burton, MI 48509

RE: Parcel #59-03-400-007
C-2 Zoned

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

Applicant was not present. Mr. Parker stated it has been our past practice if the applicant does not show for 2 months in a row, we deny the application.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Scott to deny ZBA #01-07.
Motion carried to deny, 6-0.

Mr. Parker spoke regarding taking action on Mr. Grennay's case, ZBA #01-14.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Curtis to deny ZBA #01-14.
Motion carried to deny, 6-0.

BOARD DISCUSSION:

Mrs. Layman inquired regarding how many people are selling cars from Church's, and being in compliance with regards to sidewalks, flags, and signs.

Mr. Strasser replied there are two and they both have approval from this Board. Mr. Strasser indicated the owners agreed to put the sidewalks in and he has a letter of commitment from them stating that. He is going to take that back to the Planning Commission to inform them they are trying to bring them in compliance.

Mr. Kalanquin announced the next regularly scheduled meeting of the Zoning Board of Appeals will be held on **Thursday, May 17, 2001 at 6:00 P.M.**

MEETING ADJOURNED AT 7:22 P.M.

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