

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MINUTES
JUNE 18, 1998, 6:00 P.M., COUNCIL CHAMBERS

THE MEETING WAS CALLED TO ORDER BY Berry 6:04 P.M.

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

MEMBERS ABSENT: None

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

Approve and authorize the minutes of the Regular ZBA Meeting of May 21, 1998, 6:00 p.m. with stipulation of correction to ZBA #98-19, page 6.

Motion carried 7-0.

Berry stated the position of Chairperson is open for nominations.

Moved by Layman, seconded by Scott to nominate Kalanquin for Chairperson.

Moved by Centilli, seconded by B. Weatherford to nominate Parker for Chairperson.

Motion carried 4-3, Kalanquin nominated for Chairperson.

Discussion followed in length on the position of Vice-Chairperson. It was decided by the Board Members to have the City Attorney review the Vice-Chairperson's position before any action is taken.

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh St., Burton, MI, spoke regarding the zoning map not being current, Zoning Ordinance #19, appeals and use permits. She also spoke on the Board members frequent comments of an applicant's property being neat/nice and stated this is not indicated in the zoning ordinance in reference to the neatness.

Leona Stevens, 3049 Vineland, Burton, MI read aloud an article regarding zoning laws.

BOARD DISCUSSION:

Parker indicated he received a call from an applicant from last month's meeting and they asked if a Board member votes no, to give the applicant a reason why it is denied.

Berry received a communication and B. Weatherford received a call regarding this matter also.

NEW APPLICATIONS:

1. ZBA #98-26	BY:	Jerry Clark 2102 E. Bristol Rd. Burton, MI 48529
	RE:	3034 Bristol Rd., Lots 18 and 19 of Way Acres, Sect. 33, Zoned C-2
	FOR:	To allow a C-3 special use in a C-2 zoned area, for a mobile home sales lot. (5 Votes)

Attorney Michael Jablonski, representing Mr. Clark, spoke on the property at Bristol and Dort Hwy. He indicated Mr. Clark retained an architect for the site plan review and presented it at the Planning Commission meeting, which gave their approval.

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh St., Burton, MI, spoke regarding the Planning Commission site plan review and inquired as to what the applicant is asking for.

Charles Cross, 1092 S. Packard, Burton, MI, stated he does not like to see used cars in that corner and would like to see that corner utilized for something other than that use.

Strasser indicated the DPW reviewed this case and feel that any changes in use be denied until after the City's Master Plan is looked at.

Atty. Jablonski spoke in review of the applicant's needs for the property.

Berry stated the Planning Commission thought the site plan was well designed.

Clark spoke on the number of modular homes designated for the site.

Parker stated he thinks this is a good utilization and is consistent with other modular sales businesses in the area.

Moved by Parker, seconded by Layman to approve ZBA #98-26 with the stipulation the variance will revert back to a C-2 if Mr. Clark sells and leaves the property. It is strictly a use for Mr. Clark as a C-3 and C-2 for modular home sales.

Motion carried 7-0.

2. ZBA #98-19

BY: Ben Vedrody
6386 E. Atherton Rd.
Burton, MI 48519

RE: 6386 E. Atherton Rd.
Lot 4 Burton Homesites
Section 25, SE Zoned

FOR: Temporary variance to park semi-truck
and trailer on site; M-1 Light Industrial
use in an SE, single family zoned area for
3 years. (5 Votes)

Kalanquin indicated Mr. Vedrody requested to have his case postponed till September.

Discussion followed in length on ZBA #98-19: Parker indicated this is the 2nd time Mr. Vedrody did not appear and that he could have sent a representative. Strasser said Mr. Vedrody indicated he needs to obtain 90 days without absence at his new employment with General Motors in Lansing. Strasser indicated he has received numerous calls regarding the truck on the site.

Layman indicated there are two trailers there including a truck and asked how they can get those removed.

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Strasser indicated if the Board denies this request, it will start the paper work all over again. There is a paper trail they must file and go through certain motions and a certain amount of days are given. Strasser indicated that when he receives the minutes of this meeting, they will be highlighted and explained why it has been denied and he is sent a certified letter. He has so many days in receipt of the letter to comply, if he does not comply, it will go back to the code enforcement officer, building inspector and they issue an appearance ticket.

Layman mentioned a case on Genesee Road where they were given a time limit to take the trailer off the property and then was sent to the Court. She indicated they are still looking at the trailer and a house to be tore down and could this fall under the same category.

Strasser indicated yes, once it goes to the Court, the Board is no longer involved with it. That is why it is important as to how you proceed in the beginning.

Discussion followed regarding the applicant re-applying. Kalanquin asked Strasser if he could re-apply in September. Strasser indicated yes, and if he is denied this evening and the applicant elects to re-apply, he would take the application and bring it back in front of you.

Moved by Parker, seconded by B. Weatherford to deny ZBA #98-19.
Motion carried 7-0.

Keith Cox, 4349 Chicory, Burton, MI, thanked the Board for the action they took and said as a Council person he was a representative on the Zoning Board approximately six years ago and remembers this particular issue. Mr. Cox spoke further regarding residents that have problems with accessory structures, enlarged garage or building sheds that does not really involve zoning changes or infringement upon zoning. Those particular things are site problems such as blocking neighbors view or too large it makes the garage look bigger than the house, etc. He stated that those particular issues could be taken back to the Council for changes on Ordinance #19 to alleviate some of those problems and possibly expand the square footage allowable. It is a sign of the times with people having recreational vehicles, snowmobiles, motor homes, etc., that they do not want setting out in the weather. He spoke further on temporary zoning and changes and stated that profit motive should not be considered. Trucks should not be parked in residential areas, the surrounding neighbors have to put up with the noise and the welfare and public health should be considered. Cox further stated that running a business in a subdivision is not allowed and other arrangements should be made to park the truck somewhere else and not in a residential area.

Leona Stevens, 3049 Vineland, Burton, MI, spoke regarding locating an area for long-haul drivers to park.

3. ZBA #98-30

BY: Bentley Boosters
1150 N. Belsay Rd.
Burton, MI

RE: #59-12-300-001

FOR: Carnival, C-3 special use in an R-1A
area, 5 year request
(5 Votes)

Doug Elkins, 1445 S. Genevieve, Burton, MI, representative for the Bentley Festival, indicated that 4 years ago they discontinued the beer tent and Skerbeck Brothers came in with their carnival. He had a 5 year request but would like to withdraw that and ask for a one year to possibly bring back the beer tent. Mr. Elkins indicated they have had numerous requests to bring back the beer tent.

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AUDIENCE PARTICIPATION: No audience participation.

Strasser indicated they had similar requests in the past and there were no problems.

Parker asked Mr. Elkins what kind of security they plan to use.

Elkins indicated the Special Deputies from Genesee County. They use 4 to 6 deputies.

B. Weatherford asked if they are having a beer tent this year.

Elkins indicated no because of the preparation it takes in advance to plan. He has to appear before the boosters to see if they want to have a beer tent next year.

Moved by Parker, seconded by Layman to approve ZBA #98-30 with stipulation it is a one year variance.
Motion carried 7-0.

3. ZBA #98-31

BY: Geraldine Statler
2196 S. Term
Burton, MI

RE: Lot 17 Southeast Acres, Sect. 21
R-1B Zoned

FOR: Yearly renewal for a mobile home on lot,
used as a second dwelling unit. Ordinance 19,
Section 5.07, 5.14 and 5.36
(5 Votes)

Cheryl Clark said she is representing Geraldine Statler who is out of town and could not be present. Mrs. Clark indicated they are asking for a renewal for their mother's trailer on the site. She indicated there have been no complaints from neighbors and that this would be both a financial and emotional hardship for their mother if denied.

Cross asked if the trailer would be moved from the site if anything happened to the mother.

Clark indicated yes.

Strasser indicated there has been no problems.

Parker indicated this is a case where they need to state the property is very nicely kept and the trailer is not noticeable.

Moved by Layman, seconded by Scott to approve ZBA#98-31.
Motion carried 7-0.

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4. ZBA #98-28

BY: Charles L. Burch
5040 Raymond
Burton, MI 48509

RE: 5040 Raymond, E. 150 ft. of Lots 20 & 21
Vodden Little Farms Burton

FOR: Request a 40 x 30 x 12 ft. garage and exceed the
allowable height by 2 ft. 6 inches. 14 ft. allowed,
16 ft. 6 inches requested. (4 Votes)

Charles Burch, 5040 Raymond, Burton, MI, stated he would like to go from a variance of 10 ft. wall to a 12 ft. wall due to his truck camper having a roof rack and ladder on the back which will not go past a 10 ft. door. He is also thinking about purchasing a motor home which will need the higher height. The structure is needed for strictly storage purposes.

AUDIENCE PARTICIPATION: No audience participation.

Burch submitted a letter by five neighbors that they do not object to his request.

Strasser said the Board would be approving the structure to be higher than what the ordinance allows. He does have a permit which is not circumventing this request. He is asking to go to 12 ft.

Moved by Parker, seconded by B. Weatherford to approve ZBA #98-28.
Motion carried 7-0.

5. ZBA #98-29

BY: Doyne D. Christopher
3332 Lockhead
Burton, MI

RE: Lot 15 and 16, Southgate Subdivision, Sect. 28
Dell St.

FOR: To exceed the allowable square footage for accessory
structures by 216 sq. ft. with a 18 ft. x 20 ft. garage.
(4 Votes)

Doyne Christopher, 3332 Lockhead, Burton, MI, indicated he needs storage space for lawn and garden equipment.

AUDIENCE PARTICIPATION: No audience participation.

Strasser said that it does exceed the ordinance but is not that large and obtrusive.

Parker spoke on the property site and asked if the land is all on one tax ID number. He asked the applicant if the current 10 ft. x 10 ft. shed will be taken down.

Christopher indicated the property is all combined into one tax ID number and the shed will be taken down.

Strasser confirmed that it is all under one tax ID number.
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Moved by Berry, seconded by B. Weatherford to approve ZBA #98-29.
Motion carried 7-0.

6. ZBA #98-32

BY: Belsay Rd. Associates
702 Church St.
Flint, MI

RE: 1076 S. Belsay Rd.
Part of Lots 43 through 45 Cardinal Gardens
Section A, C-2 Zoned.

FOR: Service of food and beverages outside of enclosed
building in a C-2 Zone. (5 Votes)

Richard Hamilton, 2250 Ridgemoor Ct., Burton, MI, indicated they would like a serving area south of the existing building for patio service outdoors. It would be from the south wall of the building to the existing sidewalk that is presently landscaped with river rock.

Robert Brown, 5477 Raymond, Burton, MI, stated his property is adjacent to the establishment through the parking lot of the Belsay Road Medical Clinic and he is opposed to granting the variance.

Pauline Dargel, 6119 Hugh St., Burton, MI, said she was present when the Council was asked to make a decision on the application for the Liquor License and the request for outdoor sales was part of that request. Regarding the Zoning Ordinance in your C-2 area, other places are required to have their business completely enclosed which is what your ordinance states. Mrs. Dargel said she agrees with Mr. Brown and that there is no place in town of this nature that has outdoor sales and the Board would be setting a precedence. She stated Mr. Hamilton has a different type of liquor license than other places because of his resort. She asked Mr. Hamilton what he is currently licensed for regarding seating.

Hamilton said the license itself does not limit the number of seats. The time of when the application was submitted, they were approved at 188 seats. The actual operating facility at this time is approximately 160.

Dargel stated there are two different locations on the site plan, and inquired as to 30 in one location, 30 in another.

Hamilton stated the area proposed is the southeast corner towards the front and that is where the 30 would be. If it is successful, they would like to do the west side as well.

Dargel said at the Council meeting in 1995, regarding the idea of outside entertainment, there was a 7-0 vote to eliminate that portion from the liquor license application, and this would be a precedence. There are some new licensees in town and they should expect the same treatment.

Leslie Brown, 5477 Raymond, Burton, MI, said with 30 people at night with no liquor in them, the sound echos. She is an adjoining property holder and is concerned with the well-being of her family, where she decided to raise her children. She inquired as to how late the establishment is open.

Hamilton replied 12:00 p.m. on the weekends and 10:00 p.m. on Sunday nights.

Strasser said this would be a temporary use because of Michigan's weather. Strasser asked Hamilton if there is a proposal for any screening or anything around this area.

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Hamilton indicated they would have a rail fence around it, and will also have patio type tables with umbrellas. He stated there would be no entertainment outside and it would probably be used more during lunch time than the evening.

Strasser said in reference to comments on setting a precedence and the only restaurant in town, that it is not so. McDonalds on S. Saginaw and Hardees on Belsay Rd. had outdoor seating.

Discussion followed on other establishments that have the outdoor seating.

Hamilton said he has had a lot of comments from customers to have it. He said they are well shielded from Raymond Street by the medical facility and they are closer to Belsay Road than the residential area.

Centilli inquired as to the size of the area.

Hamilton indicated approximately 20 x 30, or 20 x 40.

Layman spoke regarding the speaker system.

Parker spoke regarding comments by one of the Council members regarding monetary value in determining to approve or deny. In his opinion, he stated, the good of the neighborhood outweighs the extra money Mr. Hamilton would make from using this as an outside establishment, and from that standpoint he would have to vote in denial of this request.

Hamilton indicated it is not a use variance and believes his request needs 4 votes, not 5.

Discussion followed in length as to how many votes to approve the request and if the request is a use variance.

Moved by Centilli, seconded by Berry to approve ZBA #98-32 for one year.
Motion denied, 4-3.

Parker said there is some confusion if we need 4 or 5 votes, since the literature they were given indicated 5 votes. Parker indicated an attorney needs to make a ruling on it and if some point in time it was ruled that it is not a use variance and only needed 4 votes, we can change the outcome of it.

Strasser indicated if it was a clerical error and it should have stated 4 votes instead of 5, he will take the responsibility of it. Strasser indicated he will make some contacts and report the findings.

Layman mentioned contacting a different attorney other than the City attorneys.

7. ZBA #98-33	BY: Mark Campbell 4233 Keene Burton, MI
	RE: Lot 42 Howe Manor, Sect. 34, R-1B zoned.
	FOR: To operate an M-1 Light Industrial use for a lawn care service in an R-1B zoned area. (5 Votes)

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Mark Campbell, 4233 Keene, Burton, MI, stated he has a lawn mowing services business and needs permission to park his equipment in his driveway.

AUDIENCE PARTICIPATION:

Barb Raysin, 4244 Keene Dr., Burton, MI, said she lives across the street and objects. She said she does not think 3 lawnmowers and a weed wacker constitutes a M-1. There are no restrictions on a M-1 and indicated Mr. Campbell has been sited twice for the mess he has had in his yard.

John Nemeth, 4231 Keene, Burton, MI, stated he lives next door and equipment comes in and out all hours, the gas smells and in the winter time it is the snow business and car repairs. He has seen it escalate, cars are parked in the road and this has been going on for 5 to 6 years.

Leona Stevens, 3049 Vineland, Burton, MI, said she agrees with the residents because she is in the same situation.

Keith Cox, 4349 Chicory, Burton, MI, said that his comments earlier regarding imposing zoning changes within residential areas and the impact that they have, he hopes the Board considers this. They currently have a situation in Calvert Park where the person did not apply for a zoning variation. It is a lawn care operation where they have trailers with their equipment, trucks moving in and out of neighborhood at all hours. Mr. Cox stated further, the DPW code enforcement officers have been trying to remedy this problem, now going on 2 years, and it was recently turned over to the police department for some action. The cost of rental and storage can be written off as business expense against those profits.

Strasser said mixing businesses in a residential area does not work. If approved, they will get complaints. Strasser said the DPW recommends denial.

Layman said when she was at the site there was hardly any room to get in the driveway and feels it is too close to the neighbors. She will deny this.

Scott said she was out to the site also, and indicated the driveway is small and she did see cars in the road. She will deny this.

Kalanquin indicated he was at the site and it is a very small area for a business like that. He would not want that in his area.

Campbell asked why it was considered an M-1, he is trying to get his business started.

Kalanquin stated this is a residential section and they are trying to keep out businesses from going into a residential areas.

Strasser stated to Mr. Campbell, the reason it is designated light industrial use is because he has equipment that is not normally found on a residential lot. He has a trailer and truck, it is very light but is still considered industrial use. He also has fuels over and above what a normal residential home would have.

Moved by Parker, seconded by Berry to approve ZBA #98-33.
Motion 7-0 denied.

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8. ZBA #98-34

BY: Max L. Nelson
Nelson & Son's, Inc.
3205 E. Bristol Rd.
Burton, MI

RE: Sect. 28, M-2 Zoned.
3205 E. Bristol Rd., Lot 7 Follow Acres.

FOR: To construct a new facility with a 0 ft. side set-back
on the west property line, 30 ft. required.

(4 Votes)

Max Nelson, 10133 Fulmer Rd., Millington, MI, said he is proposing to construct a masonry building on the property line and is asking for a variance because the property is only 110 ft. wide. In constructing a 50 ft. wide garage area with four overhead doors, you cannot turn a vehicle with a trailer into it. On the west side, refrigeration and engineering use both pieces of property and their trucks go in and out of there with deliveries.

Kalanquin asked what they are using this property for.

Nelson indicated retail sales. He has a renter now that is doing hydraulic rebuilding and indicated that the building will be tore down and he will come into a new building. This is strictly for business.

AUDIENCE PARTICIPATION: No audience participation.

Strasser stated they do not have a problem with the request. There is concern about the amount of water run off. There is no problem to what they are asking as long as they can produce a print that will show all waters generated from this development that will go into a storm system on his property and then into the Bristol Rd. storm sewer system.

Kalanquin asked Mr. Nelson if he would bring in a print to the next meeting.

Nelson said all the water from the tri-city and refrigeration engineering runs across their property and right across his to the building next door. Nelson indicated they have to put catch basins in and there is an existing catch basin there now that takes the front of the property drains. He has a site plan that shows the proposed catch basin.

Strasser indicated to the Board if they approve this, they might stipulate in their motion that he proves positive drainage from his building and that it stays on his site and goes onto the Bristol Rd. storm sewer.

Discussion followed regarding granting the variance and the Planning Commission addressing the storm drain.

Moved by Berry, seconded by Layman to approve ZBA #98-34 contingent upon recommendations from DPW. Motion carried 7-0.

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9. ZBA #98-35

BY: Mark Pietrangelo
4277 Woodrow
Burton, MI

RE: Lot 28 Fischers Homesites, Section 3
R-1B zoned.

FOR: To construct an addition to the home at 9 ft.
from the side property line, 10 ft. required.
(4 Votes)

Mark Pietrangelo, 4277 Woodrow, Burton, MI, stated he would like to go out 16 ft. instead of 15 ft. to add a bedroom, bathroom and enlarge the kitchen.

AUDIENCE PARTICIPATION: No audience participation.

Strasser indicated there is a hindrance on the property because it is a corner lot. They have no problem with the request.

Moved by Parker, seconded by Layman to approve ZBA #98-35.
Motion carried 7-0

10. ZBA #98-36

BY: Harold Corbin
5217 Ottawa
Burton, MI

RE: Lot 77 Lapeer Manor #1, Section 14
R-1B Zoned.

FOR: To exceed the allowable square footage for accessory
structure with a 16 ft. x 20 ft. shed by 204 sq. ft.,
864 sq. ft. allowed.
(4 Votes)

Harold Corbin, 5217 Ottawa, Burton, MI, stated he is in need of more space, he has an inground pool and needs to store supplies. Mr. Corbin indicated the neighbors do not object.

AUDIENCE PARTICIPATION: No audience participation.

Strasser stated it is not that far over what the ordinance allows and the DPW does not have a problem with the request.

Berry inquired as to what the structure will be sided with.

Corbin indicated vinyl or T-11 siding.

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Berry indicated T-11 should be painted to correspond with his house.

Moved by Scott, seconded by Layman to approve ZBA #98-36.
Motion carried 7-0.

11. ZBA #98-37

BY: Mark A. Exum
4386 Bennett Dr.
Burton, MI

RE: 1289 Belsay Rd., #59-11-200-010
M-1 Zoned.

FOR: To conduct a used car sales lot not in conjunction
with new car sales. C-3 special use in an M-1

zoning. (5 Votes)

Mark Exum, 4386 Bennett Dr., Burton, MI, indicated he would like a temporary variance and wants to comply to whatever the conditions are to allow him to have the variance. The vehicles he sells are between \$3,000 - \$4,000, and between 3 to 8 years old. Mr. Exum further stated there will not be garbage setting around and will not have \$200 cars.

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh St., Burton, MI, asked about the location of the site.

Charles Cross, 1092 S. Packard, Burton, MI, asked Mr. Exum if he has been presently operating a business out of there selling vehicles.

Exum indicated he is not operating a business but has rented the property for storage and has vehicles setting there, but not for sale. He indicated there had been a couple of vehicles setting there for sale that were the landlord's. Code enforcement came by 3 or 4 days ago and told them to remove them.

Cross asked if he personally had any out there for sale.

Exum indicated he did 6 months ago. He had a couple of vehicles and code enforcement came by and told him to move them.

Cross asked how many he plans on storing there, how many is currently stored there now, and if they are licensed.

Exum said he would like to have a variance for 30, he presently has 15 there now and indicated they are not licensed. He indicated as a dealer he does not have to license the vehicles and does not have the titles, he has dealer plates and anything he puts the plates on has insurance on it.

Strasser said this facility was updated several years ago and has been used as a warehouse, small machine shop and other different types of businesses. He spoke with Mr. Exum who indicated the number of cars he wants on the lot. Strasser asked the Board when they consider this to keep in mind the amount of enforcement situations out there and if you indicate 30 cars, 50 or 10, it is next to impossible for them to go by there everyday and count cars. If they get complaints or see one more car then what is allowed, it is basically unenforceable.

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Strasser stated further, that if approved, there is no temporary signs, flags, banners or anything over and above that he is allowed to have for a business sign by the ordinance as it states today.

Layman asked if Mr. Exum is allowed at present to have those cars there. She indicated that this was not right to have the vehicles there, no plates on them, and then to come before the Board after-the-fact. She stated she will deny.

Discussion followed in length regarding the vehicles, clean-up, repairs, and tighter controls.

Moved by Berry seconded by Centilli to approve ZBA #98-37 for a one year variance and contingent upon DPW recommendations.

Motion carried 5-2.

12. ZBA #98-38

BY: Madelyn French
3181 Ludwig
Burton, MI

RE: Lots 47, 48 and 49 Chambers Subdivision,
Sect. 28, R-1C zoned.

BY: To construct an addition at 5 ft. from the garage,
10 ft. required. (4 Votes)

Madelyn French, 3181 Ludwig, Burton, MI, said she had indicated 10 ft. but would like to change her request to 12 ft. The structure is for a dining room because her kitchen is too small. She submitted a letter from the only neighbor close to her that does not object.

AUDIENCE PARTICIPATION: No audience participation.

Strasser stated it is not an unreasonable request.

Parker asked if there are fire building regulations required because of the nearness of the building to the garage.

Strasser indicated it will be addressed through the permit and the building inspector.

Moved by Parker, seconded by Berry to approve ZBA #98-38.
Motion carried 7-0.

Berry indicated on June 23rd at 6:00 p.m. at the Burton Senior Citizen Center is scheduled a workshop on the Master Plan.

Cox indicated that at the last Council budget session they doubled the workshop fee for Planning and Zoning members. He stated the workshops are well worthwhile and encourages the members to attend.

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The next regularly scheduled meeting of the Zoning Board of Appeals will be held on Thursday, July 16, 1998 at 6:00 P.M.

MEETING ADJOURNED AT 8:20 P.M.

JRA