

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MINUTES
JUNE 21, 2001, 6:00 P.M., COUNCIL CHAMBERS

The Regular Meeting was called to order by Bill Kalanquin, Chairman, at 6:00 P.M.

MEMBERS PRESENT: Grantner, Curtis, Kalanquin, Layman, Scott, Parker and Cross.

MEMBERS ABSENT: None.

OTHERS PRESENT: T. Strasser, Deputy Planning Official and C. Ladd, Deputy City Clerk.

A. APPROVE THE MINUTES OF THE FOLLOWING MEETINGS:

Moved by Parker, seconded by Layman to approve the minutes of the Regular Zoning Board of Appeals Meeting of May 17, 2001 at 6:00 P.M. Motion carried 7-0.

B. AUDIENCE PARTICIPATION:

There was no one who wished to speak.

C. BOARD DISCUSSION:

Terry Parker stated that he had spoken with Attorney Austin regarding the by-laws. He has a copy of them for his review and so far, there has been no word from him. I discussed with Mr. Austin the Board's discussion concerning restrictions of considerations and he said that was illegal. He said he would discuss this further with me at a later date and when he contacts me, I will give you an update.

D. NEW APPLICATIONS:

- | | |
|---------------|---|
| 1. ZBA #01-22 | BY: Brent Smith
2299 Fox Run
Burton, MI 48519 |
| | RE: Parcel #59-34-100-006
4070 E. Bristol Rd.
Burton, MI |
| | FOR: To expand the non-conforming use of a self-storage
facility in a C-2 zoned area. Ordinance 19,
Section 6.01 (5 Votes Required) |

Paul Paris, 10415 E. Bristol Rd., Davison, MI, explained that he is the previous owner of Bristol Storage and he is representing Mr. Smith. They are asking for a variance to construct four additional buildings on the site. He said currently there are four buildings on the site. He presented pictures for the Board to view. There are 16,700 sq. feet buildings and 117 individual units on the property. The occupancy rate is 100% and the annual occupancy is 97%, which indicates a need for more storage, especially with the apartment complexes that will be built on Bristol Road, adjacent to the Bristol Storage property. There will be about 21,000 sq. feet in the additional buildings and there will be 300 units total, when this is completed.

Brent Smith, 2299 Fox Run, Burton, MI, stated he is asking for a variance to expand the existing business to full capacity.

Audience Participation:

Mary Ann Malinich, 4059 E. Bristol Rd., said she lives across from the storage facility and asked if a right turn lane would be put in to ease the traffic flow.

Mr. Smith replied that at the present time he doesn't think there is a need for a right turn lane. The entrance is off the main road about 70 feet so there should be plenty of room for the people to pull up onto the premises.

Mr. Strasser commented that Bristol Road is currently under the jurisdiction of the Genesee County Road Commission and they would determine whether or not a right turn lane would be necessary. In 1986, when Mr. Paris owned this property, the zoning then, as it is now, was C-2 (general business). In 1986 a self-storage facility was a special use permit requirement in C-2 zoning. Approval was granted by the Planning Commission, as well as site plan approval. At that time he indicated that the back half of the property would be constructed with self-storage facilities and the front half would be left vacant for a period of time. In 1989 the zoning ordinance was changed so the self-storage facilities are now special use permit requirement, which is M-1 (light industrial) minimal of five acres and a couple other requirements. We got entangled in ordinances. As we look at this, there is a proposed apartment complex being built south of there. It seems to be a business type of demand we have here. The site is clean and the DPW has no problem with the request. If approved, they must go before the Planning Commission for site plan review approval.

Moved by Curtis, seconded by Layman to approve ZBA #01-22, as requested, to expand the non-conforming use of a self-storage facility in a C-2 zoned area. Motion carried 7-0.

2. ZBA #01-23

BY: Michelle Mann
1396 Proper
Burton, MI

RE: 1396 Proper, Lot 354
Greater Flint Sub.

FOR: To grant variance for 8 ft. side yard set back in
R-1C area. Applicant wants to build a deck off her
side egress door and would be within 5 ft. of side
lot line. (4 Votes Required)

Michelle Mann, 1396 Proper Ave., Burton, MI, explained that there are exiting decks on both doors and one is 4 feet wide on the side door and the other is 6 feet wide on the front door. The 4-foot deck is freestanding, unstable and unsafe. The rails are insecure and rather dangerous. We need to get the side porch up to code and want to make the house look better. We plan to connect both decks. We have 8 feet from the house to the neighbor's fence line and would like to build a 4-foot deck, which would leave 5 feet from the property line.

There was no one in the audience who wished to speak.

Mr. Strasser said that in the south end this is a common problem with the lots when people try to improve their homes. DPW has no problem with the request.

Mr. Parker asked if there is some way of acquiring access to the back yard.

Mr. Strasser explained that where they are proposing to construct the deck there is a side door. The building code requires that there be a 4'x5' landing outside of that door with steps going down. They could put the 4'x5' deck without a variance, but if it is made larger, then a variance would be needed. Even without this variance there needs to be a landing and they would still have a problem getting to the back yard, with or without the variance.

Discussion continued regarding the need for a variance.

Mr. Parker stated that this Board serves to meet the needs of the citizens and with the ordinance changes over the years, it is impossible for people to meet the new requirements. In the older parts of the City and we are dealing with the smaller lot sizes. The purpose of this Board is to consider these types of cases and to allow these variances.

Moved by Parker, seconded by Scott to approve ZBA #01-23, as written, to grant a variance for 8 ft. side yard set back in R-1C area. Motion carried 7-0.

3. ZBA #01-24

BY: Roger Martin
2049 Williamson
Burton, MI

RE: 2040 Williamson
Burton, MI

FOR: To construct an addition at 5 ft. from the east property
line. (4 Votes Required)

Roger Martin, 2049 E. Williamson, explained that he wants to build out 8 feet but we won't build any closer than we are now, which is 5 feet from the property line. We have a two-bedroom home with six people in the home and we want to build another bedroom for the children. We like the area and want to stay.

Audience Participation:

Robert McCullough, 2028 E. McLean St., said he received a notice and spoke with Mr. Martin. The property adjacent to his is being remodeled and he is asking for a variance to put on an addition for the children. When a gentleman wants to enlarge his home so his children can stay in the area, I think the variance should be granted.

Mr. Strasser commented that this lot is 5 feet narrower than in the previous case. The existing home is 5 feet from the property line and he is asking to expand the non-conforming setback and the addition would be in the 5 foot setback. The DPW has no problem with the request.

Mr. Parker said he wouldn't repeat himself, but this is the same as the previous case and this is what we are here for.

Moved by Parker, seconded by Cross to approve ZBA #01-24, as written, to construct an addition at 5 feet from the lot line. Motion carried 7-0.

4. ZBA #01-25

BY: Louis Albert-Blake Rizzo
5273 Empress Dr.
Grand Blanc, MI

RE: 5273 Empress Dr.
Lot 107 / Lot 102, Maplewood Meadows

FOR: To construct an accessory building "detached" in front
of the home. Ordinance 19, Section 5.15, Item 2

Mr. Kalanquin stated that this case has been withdrawn at the applicant's request.

Mr. Cross asked why the application was withdrawn.

Mr. Strasser replied that he has never been before the ZBA Board before. He said what he is proposing to build can be built within the requirements of the ordinance.

5. ZBA #01-26

BY: James Naum
G-5149 Warwick Woods Tr.
Grand Blanc, MI

RE: 1039 E. Bristol, Lots 55 and 56 of
Burton Gardens

FOR: To construct a C-3 Special Use in a C-2 zoned
area for a car wash. (5 Votes Required)

James Naum, G-5149 Warwick Wood Tr., Grand Blanc, MI, said he currently owns the property at 1039 E. Bristol Rd. and the lot next to it, Lots 55 & 56 of Burton Gardens. He explained that he wants to relocate the Scrub-A-Dub Car Wash to those two lots. What is needed is a use variance for those two properties.

Audience Participation:

David Visser, 6136 Pine Creek Ct., Grand Blanc, MI, commented that he is one of the owners of Scrub-A-Dub Car Wash and they have been negotiating with Mr. Naum. The entire plan calls for them to move the car wash about 150 feet east on Bristol Road to a larger parcel than we have now, which would be 120' x 315'. They are proposing to develop the entire corner and we are right in the middle, as they own property on both sides of us. It would be a tremendous asset to the entire corner. This would be a win-win situation for everyone. (Mr. Visser presented pictures of what the car wash would look like).

Charles Stanfill, 1049 E. Bristol Rd., Burton, MI, asked what type of fencing would be constructed. He plans to rebuild his home after a fire. He also asked where the entrance would be to the car wash.

Mr. Visser said at the present time there is no site plan that has been approved and this will be under the jurisdiction of the County. It would be an asset regarding the traffic because we would be back off the corner and create less congestion. He said he thinks the County would be in favor of the car wash being moved because of the utilization of the road.

Mr. Kalanquin asked if this would have to go before the Planning Commission.

Mr. Strasser replied it would, if the ZBA approved the request this evening.

A brief discussion was held concerning the property at 1049 E. Bristol Rd., and whether it was for sale or not.

Mr. Cross said a question was asked about the type of fencing that would be put in.

Mr. Visser said whatever the ordinance stipulates is what they would do in regards to the fencing. He said he understands the property is zoned commercial.

Mr. Strasser said the property is zoned commercial and therefore, Mr. Visser is not required to screen the property. He said that normally he asks the commercial developer to put in the screening when property adjacent property is zoned residential.

Mr. Visser said if putting in a fence would accommodate his neighbor, he would be more than happy to do so.

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Jim Hicks, 336 Bella Vista Dr., Grand Blanc, MI, stated he has been working with these gentlemen for sometime and would like to see the property developed. Mr. Stanfill lives next to the lot and I have the property next to him. He said he has a lot of property in that area and thinks this would be an asset to the City.

Mr. Strasser stated that this is a different situation than other car washes they have dealt with in the past, being that it is only 100 feet away from the property to the west. The location would support the car wash, a new building and a clean site and new development on that corner. Mr. Visser is a man of his word and if he says he will go over and above the ordinance, then I am certain he will. We have no problems with the request.

Mrs. Layman asked if the old KFC and the car wash would also be torn down.

Mr. Naum replied that eventually the building would be torn down, but they are now in the preliminary stages of doing something with the corner. The first step is to do the car wash. The old car wash will be torn down.

Mr. Parker asked if 1039 E. Bristol is directly next to the VFW Hall and he was advised yes. He said there is a special use in C-2 area, 100 feet away. All we are essentially doing is moving it 150 feet away, correct?

Mr. Strasser replied yes.

Moved by Scott, seconded by Layman to approve ZBA #01-26, as written, to construct a C-3 Special Use in a C-2 zoned area for a car wash. Motion carried 7-0.

6. ZBA #01-27

BY: Bruce Saunders
1276 Iva
Burton, MI

RE: Parcel #59-11-100-116

FOR: To construct an accessory building in the front setback area in front of home. Ordinance 19, Section 5.15, Item 2. (5 Votes Required)

Bruce Saunders, 1276 Iva, Burton, MI, explained that he lives on a dead end street. He said he couldn't build any further back on his property because the back yard is under water. He has been working with Mayor Smiley in regards to the water problem. He stated that he is having problems with vandals, which is why he wants to construct another building. He said the building would not be blocking anyone else's view, only his view of the railroad tracks.

There was no one in the audience who wished to speak.

Mr. Strasser confirmed that if the barn is moved to the east that there is a water problem.

Mr. Saunders stated that his back yard is under water because of the railroad track ditch, which is no ditch, the water just drains into his back yard. Before today's rain, I couldn't get in my back yard. I am on a dead end street.

Mr. Strasser said he does have a case. If the situation were different where there were neighbors on both side of him, then he may not have a case. The only thing affected is the railroad tracks.

Mr. Saunders said he couldn't get anyone to come from the Railroad Company to tell me where their property line is from mine. He said he has spoken with four different people and has had four different answers.

There was no one in the audience who wished to speak.

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Mr. Curtis asked if the water problem is behind your existing house and garage?

Mr. Saunders replied that the water runs from the railroad tracks and sits in my back yard. I have 2-1/2 acres, as do my two neighbors. He said it's like a lake.

Mr. Curtis suggested that the building be built in line with the existing building.

Mr. Saunders said that if he needed to get back there he wouldn't be able to. He would have to go around his neighbor's property and go around the house on the opposite side.

Further discussion continued regarding the placement of the building. It was suggested that a smaller structure could be built. Mr. Saunders said if that was done, he wouldn't have enough room for the items he has.

Mr. Saunders said he would not be blocking anyone's view and he would like two doors on the building and have it facing the house so he can see it. He said he has a problem with vandals nightly. If the Railroad Company would clean their ditch out, he wouldn't have a water problem.

Mr. Parker said the property on the other side of the railroad tracks will probably not be developed and he has no problem with Mr. Saunders' request.

Mr. Strasser said it is a fight back and forth. No one wants to take responsibility for it. The next case before you, the gentleman can't dredge out his own ditch without a permit from the DEQ.

Mr. Kalanquin asked who was responsible for the ditch, the Railroad Company or the Drain Commission.

Mr. Strasser said this is an established waterway and it can't be messed with, just leave it alone.

Moved by Parker, seconded by Curtis to approve ZBA #01-27, as written, to construct an accessory building in the front setback area in front of home. Motion carried 7-0.

7. ZBA #01-28

BY: R & R Development Corp.
2772 Stonemeadow Dr.
Milford, MI 48380

RE: Lots 18, 21-23, 27, 28, 30, 31 of
Hawkshire Estates

FOR: To establish Lots 18, 21-23, 27, 28, 30, 31 of
Hawkshire Estates as 70' Lots, 85' required by
R-1A Zoning.

Randy Morris, 2772 Stonemeadow, Milford, MI 48380, indicated that two weeks ago we had a 44-lot subdivision approved. We have developed 24 of the lots and have sold out up to this point and we are at the point of starting development and checking our permits with the County Drain Commission. At that time, we were notified that the Curtis Drain that was under the County Drain Commission's control no longer is. It is now considered a linear wetland. The problem that this caused immediately was that the original engineering and approved engineering, allowed for us to deepen the ditch and reshape it to actually consider it as detention for the subdivision. Under the current linear wetland rules we are not allowed to touch the ditch, whatsoever. This will cause us to create detention areas that are not shown on the drawing. We will have to lose lots in order to obtain water prior to going into the Curtis Drain. Now that this is under DEQ control, we will have to obtain DEQ permits, which were not required, and not part of our original approval. This is a three or four-month process and we are at the point of being sold out. We will now lose three or four months of selling season.

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Mr. Morris stated further, we may have to stop until next year until all the DEQ permits are in place and new engineering for the detention areas are calculated out. We are asking to go from R-1A to R-1B, which is a 70-foot lot, which would tie into a future proposal, which does not require rezoning. We are developing our multiple property in the

rear into 70-foot lot subdivision. We were looking to combine the rest of the property with that to help alleviate some of the loss of property for detention and the loss of selling season.

Audience Participation:

Ramon Silva, 4476 E. Atherton Rd., said he wrote a letter and had several of his neighbors sign it. He read the letter objecting to the 70-foot lot size request. He commented that this would hurt the community, not help it.

John Schaefer, 4378 E. Atherton Rd., said he agrees with comments from Mr. Silva. He said this is a temporary and economic setback for Mr. Morris. He opposed the request for 70-foot lots.

Pauline Dargel, 6119 Hugh St., stated she was unclear as to which lots were being discussed. She asked if the lots to the West are of a greater dimension. She said she concurs with the two previous speakers regarding the lot size.

Mr. Morris replied that those lots are already developed.

Howard Hummel, 3094 S. Genesee Rd., said he agrees with all of the speakers. He said there are too many people having to come before the Board for variances because they have small lots. The City has some good ordinances and we should abide by them.

Leona Stephens, 3049 Vineland, said she agrees that the 70-foot lots are not large enough.

Larry Prang, 4310 Eagle Lane, asked for clarification as to why the 70-foot lots are needed.

Mr. Morris explained he is making this request to offset the cost incurred by having to wait to continue with the development due to getting the DEQ permits.

Mr. Prang said he supports the request. He doesn't think there are many homes being built in this area of the City and the homes are moderately priced.

Mr. Strasser said he has worked with Mr. Morris for several years and both sides have valid points. Many of the homes outside his development have been there for 20 years plus. This is a financial hardship and some of the regulations were forced on this development. There has been more than one development in the Atherton School District which did not come about because they couldn't generate the amount of financing that was required by selling a lot and a home in order to pay for the home. This is unfortunate, but it is not one of the more prominent school districts in the area. He is trying to develop, and he does have buyers for the homes. We as a department fully support this project. Mr. Morris builds nice homes and he is not trying to scam the City.

Mrs. Layman commented that if the smaller size lots are approved people will be coming in for a variance and we would be asking for problems.

Mr. Strasser stated that all of the lots to the west of what Mr. Morris is requesting, are 70-foot lots. The reason being is the property is zoned multi-family. It is surrounded on the east and on the north by R-1A zoning and in multi-family zoning, you are allowed to build an R-1A or R-1B zoned property. R-1B are 70-foot lots, so he would not be doing anything different than what he is allowed to by rights under the multi-family zoned property. He does need a variance to be able to do that.

Mr. Curtis said we are talking a total of 8 lots being 70-foot lots, correct?

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Mr. Morris said he is asking for all of the lots to be 70-foot lots.

Mr. Parker asked if the Planning Commission had approved the 70-foot lots.

Mr. Strasser replied no, but this does meet all of the criteria because of the multi-family zoning. The new sub area is zoned multi-family and under that zoning single family structures can be built.

Mr. Curtis asked if the total number of lots would be 25.

Mr. Morris replied that the new number would be 22.

Mr. Cross asked how many homes would be lost if the 85-foot lots remained.

Mr. Morris replied he would lose at least two homes.

A brief discussion was held concerning the Curtis Drain and what access Mr. Morris would have to the drain.

Mr. Morris reiterated that he couldn't deepen or widen the ditch. He has to retain the water away from the ditch and restrict it with one single six-inch pipe.

Mr. Cross asked how many other subdivisions that are being built at this time have been allowed to have 70-foot lots.

Mr. Strasser replied the subdivision at Belsay and Atherton is predominately 70-foot lots and Maple Pointe also has them.

Mr. Parker commented that it seems as though we have a lot of variance requests when the lots are 70 feet in size. As I look at the layout and the way the streets are formed, we could end up with a problem staying within the side yard setback. He listed Lots #15, #18, #25 and #27 as potential problems where variances could be requested. He said he doesn't see that Mr. Morris losing two lots is much of a problem.

Mr. Strasser said the options you have are to approve or deny.

Mr. Cross asked if the lots numbers that were addressed by Mr. Parker were large enough for a home to be built on.

Mr. Morris said of the 22 homes that are already built, we built all but one and have three different styles of homes, and they are designed to fit on a 60-foot lot in the required yard setbacks. With a 70-foot lot we have more than enough room and have sold 22 of them. All of our house prints fit within the 70-foot lots as well as on the cul-de-sacs.

Mr. Curtis asked if this would be curb and gutter. Mr. Morris replied it is curb and gutter.

Moved by Curtis, seconded by Granter to approve ZBA #01-28, as written, to establish Lots 18, 21-23, 27, 28, 30, 31 of Hawkshire Estates as 70' Lots. Roll Call Vote: Layman, no; Scott, no; Parker, no; Cross, no; Grantner, yes; Curtis, yes; Kalanquin, yes. Motion failed 3-4.

The next regularly scheduled meeting of the Zoning Board of Appeals will be held on **Thursday, July 19, 2001 at 6:00 P.M.** Meeting Adjourned at 7:18 P.M.

Cheryl M. Ladd, CMC
Deputy City Clerk

CML