

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

THE MEETING WAS CALLED TO ORDER BY CHAIRPERSON JAMIE CURTIS AT 6:00 P.M.

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

MEMBERS ABSENT: Grantner

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

Moved by Centilli, seconded by Scott to approve the minutes of the Regular Zoning Board of Appeals meeting held on May 16, 2002 at 6:00 P.M. Motion carried, 7-0.

Mr. Curtis stated that at the last ZBA meeting discussion was held to have Council look into re-visiting the ordinance on signage. He asked Mr. Centilli if it was addressed.

Mr. Centilli indicated he gave the information to the Legislative Committee Chair to look into.

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

BOARD DISCUSSION: No discussion was held.

YEARLY RENEWALS:

1. ZBA #02-24
- BY: Ace Asphalt
115 S. Averill St.
Flint, MI 48506
- RE: 3178 E. Bristol, Lot 8 Bristol Rd.
Industrial Park
Section 33, Zoned M-2
- FOR: Renewal for off site advertising sign on
Carter Lumber property.
(5 Votes Required)

Applicant was not present.

Moved by Scott, seconded by Weatherford to table ZBA #02-24 to the end of the meeting.
Motion carried, 7-0.

2. ZBA #02-29
- BY: Gregory Barnes
8395 Parkside Dr.
Grand Blanc, MI 48439
- RE: 2480 S. Center Rd.
Parcel #59-14-578-007
Zoned C-2
Lots 63-65 Supervisor's Plat #12
- FOR: To conduct a used car sales lot not in
conjunction with new car sales.
(5 Votes Required)

Attorney Chris Ebbott stated he is here to represent Gregory Barnes.

Gregory Barnes, 8395 Parkside Dr., Grand Blanc, MI, said he was back a couple of months ago with the same request. We wanted to open a used car lot sell cars in the \$3,000 to \$10,000 range. They would be nice, clean used cars. I have been looking around for months for a different building and this one keeps coming back into my mind. He thought he would try to change the minds of the Board members who had reservations of allowing this. Mr. Barnes said he can assure the building would be nice and well kept. I basically am a wholesaler but I would like to retail cars every month.

Mr. Ebbott said his plan is not to have a large number of vehicles on the property. There is an ample parking lot on the side that would accompany a number of vehicles and they would not be on the lawn. I believe the building has been empty for almost a year and it would benefit the City to have another business there instead of an empty building. There would be no repair facility so you would not have to worry about broken down cars sitting on the property. These would be cars ready to drive off the lot.

Mr. Ebbott stated further, the hardship in this case would be that he has undergone negotiations where he is attempting to lease with an option to buy this property. With the other properties in that area being zoned commercial and not with the same use, I feel it is an undue hardship in Burton not be able to conduct the same business in that same neighborhood just due to the zoning. There would not be adverse affects on the public health, safety and welfare, or contrary to the spirit and intent of the ordinance as seen by the other businesses that exist on Center Rd. and in the general area. Therefore, for those reasons we are asking for the variance to allow the small used car dealership.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said the applicant was before the ZBA a couple of months ago and the request was denied. If approved this evening, I ask you to not get too hung up on the number of vehicles which are extremely difficult to police. The easiest way to even police the situation is to state, as long as any vehicles are on a paved surface.

BOARD DISCUSSION:

Mr. Parker said he re-iterates what he said two months ago. It is better to have a business in that building than have it empty. I know some members think a car lot is not a good thing to have on our main thoroughfare in Burton, but I think having a business there is better than having an empty piece of property with a big for sale sign out front. It looks better for the City of Burton to have a business that is active. With the ability of this Board to put a one year stipulation on it so we can re-visit this in a year, and if it does not meet our expectation of what a clean business is, it would give us some policing. Mr. Parker stated further, he agrees with Mr. Strasser that if this is allowed there should be a stipulation in the motion that cars only be allowed on a paved surface.

Mr. Centilli said Mr. Barnes does not own the property. He asked what the hardship is.

Mr. Barnes said he is negotiating and would like to buy the property, but he does not have the variance yet.

Mr. Centilli said he would feel more comfortable if he purchased the property.

Mr. Barnes said if he goes through the trouble to purchase it and can't do what he wants with the property, than he is stuck with it.

Mr. Centilli said Center Rd. is someday going to be our main highway. Mr. Centilli gave the example of possibly a Red Lobster wanting to locate on that property.

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Mr. Ebbott said to address your concerns, the Board could grant the one year, and in a year review it. If it does not meet expectations, you can deny and not renew it. I think the one year benefit is a no-lose situation for you because you have the option to deny it a year later if it is not what you thought it was going to be, and on the other hand, to give Mr. Barnes the opportunity to prove to you he can make it a benefit to the City of Burton.

Mr. Centilli said this is a Zoning Board of Appeals and not the Planning Commission. I just don't see the hardship, you don't even own the property. A used car lot brings a lot of cars with hoods up, we have the same thing over on Belsay Rd. and have a mess over there. We have to be very particular of what we put on Center Rd. I just don't see used car lots on Center Rd.

Mrs. Scott said if you were to purchase the property and only get a one year variance, you are then stuck with this property.

Mr. Barnes responded, I think what I would do with the property would impress you, and I would get a yearly renewal. I have had buildings in the past that I have totally changed. I know I could make that area look better than what it does know.

Mr. Parker said a Red Lobster would not want that piece of property because it is way too small. If he cleans up the property like they did at the corner of Maple and Dort, I am for it because it was a run down mess. I think it would be an attribute to Center Rd.

Mr. Curtis said he wants to make sure Mr. Barnes understands if this variance is granted and he does purchase the property, this does not mean it paves the way for a future permanent variance.

Mr. Barnes responded he understands that.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Welch to approve ZBA #02-29, with the stipulation all the cars on this property be on a paved surface.
Motion denied, 4-3. Mrs. Weatherford – no, Scott – no, Mr. Centilli – no, Mr. Curtis – no.

NEW APPLICATIONS:

- | | |
|---------------|--|
| 1. ZBA #02-25 | BY: Charles Cross
1092 Packard
Burton, MI 48509 |
| | RE: 1092 Packard
Lot 50, the S 120' of Lot 67 and the
adjoining Vacant R.O.W. of Garden Acres
Section 13, Zoned R-1B |
| | FOR: To exceed the allowable square footage for
accessory structures by 440 sq. ft. 1824 sq. ft.
allowed, 2264 sq. ft. proposed, with a
32'x48' pole barn. (4 Votes Required) |

Charles Cross, 1092 Packard, Burton, MI, congratulated Mr. Curtis on his appointment as ZBA Chair.

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Mr. Cross said approximately the first week of May he applied for the permit and came back two weeks later and paid the fee. The permit was issued, and he started the layout of the land. He started the building and passed various inspections and then three quarters of the way through, they said I exceed the allowable limit. I feel that hardship was

put on me by the City because I followed everything. I own a 100 ft. x 200 ft. where the pole barn sits and also owns the right-of-way all the way to Briggs Ave. which is approximately another 60 x 140 ft. The road dead ends at my property. Mr. Cross indicated he has pictures and stated there is no way he can afford to take it down, and he does not believe he should be asked to do that.

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

Mr. Strasser said this was an error that was created by our building department. Calculations were incorrect when they were done.

BOARD DISCUSSION:

Mr. Centilli asked who caught the mistake.

Mr. Cross said he has no idea, he gave them \$200 and two weeks to make sure there were no mistakes. The day I picked up the permit, I said to make sure this is right, I don't want to have any problems.

Mr. Centilli asked if there was a site plan for the lot.

Mr. Cross said he did not need one because at the time there was no question about the structure not being the right size. I submitted the plans and the layout.

Mr. Centilli asked Mr. Cross if he noticed there is a County easement on that property.

Mr. Cross responded that he asked them about that before and they would not give me a yes or no, but there is a County Drain on the property. Gilkey Creek runs through the middle of it. There is approximately 65 ft. on the south side of the creek and the remainder of the property 135 ft. on the other side.

Mr. Centilli inquired as to the obligation to tell DPW there are restrictions on the property.

Mr. Cross said there are no restrictions other than the creek running through. I used the piece prior to the creek and did not infringe upon the creek, that is why I put it more southerly than northerly.

Mr. Centilli asked Mr. Cross if he has ever been to the Drain Commissioner's office.

Mr. Cross said he has had Jeff Wright and others out there, and they have said as long as I do not fringe upon the creek they do not have a problem with the area I put the structure on.

Discussion continued regarding the drain on the property.

Mr. Centilli inquired regarding the tax roll.

Mr. Cross said he annexed along with the right-of-way and now has one tax statement for the whole piece of property.

Mr. Centilli expressed it is a very nice looking pole barn.

Mr. Curtis asked Mr. Cross if he had any prior knowledge before he started the barn that it exceeded the allowable square footage.

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Mr. Cross responded that he had no prior knowledge and that is why he applied for his permit and had it here for two weeks. I wanted everything checked out.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Centilli, seconded by Scott to approve ZBA #02-25.

Motion carried, 7-0.

2. ZBA #02-26

BY: Randy Hodgeson
2087 McLean
Burton, MI 48529

RE: 2087 McLean
Lot 92 & E ½ of Lo 93 Durant Heights
Section 32, R-1C Zoned

FOR: To park commercial vehicle on site, M-1 Light
Industrial use in an R-1C single family zoned area.
(5 Votes Required)

Randy and Julie Hodgeson, 2087 McLean, Burton, MI. Julie Hodgeson stated her vehicle is an Archway cookie truck and she is a distributor. We have had our vehicle here for approximately ten years. The vehicle is privately owned. I was sited on 57C, Section 2.1. and Code 901. My vehicle weighs about 5,000 lbs. fully loaded. She does not sell her cookies there, she just parks her vehicle there. Mrs. Hodgeson said she has pictures of where she parks and indicated you can barely see the vehicle.

AUDIENCE PARTICIPATION:

Julie Wilson, 4373 Columbine, Burton, MI, said she also owns the house across the street at 2100 E. Buder. We had lived there for 4 years and you never seen the truck. They are gone early in the morning till late afternoon. It is always back by the garage and it is not an eyesore. Their yard is one of the nicest ones kept. Mrs. Wilson said it is not a burden to any of us that actually see it.

Lyle Resseguie, 2084 Buder, Burton, MI, said he lives to the immediate north of the Hodgeson's. I have lived there since 1985, and I have never had a problem with my neighbor. The truck is parked to my immediate south and next to my driveway and it is not a problem at all.

Attorney Hamilton said both Mr. and Mrs. Hodgeson has worked for me in various different capacities. I know both are very credible and concerned about the upkeep of their property. Mrs. Hodgeson is a member of the Parks & Recreation Commission and contributes a lot to the community.

Mr. Curtis commented on the time and work Mrs. Hodgeson has put into the summer youth program.

Mr. Strasser said in reference to Mrs. Hodgeson comments on the codes, she was sited for having a commercial vehicle in a residentially zoned area. It came to us in a form of a complaint.

BOARD DISCUSSION:

Mr. Parker said generally I would say I was against this. There are many people that do business in this community and drive their vehicle home. If it is under the weight limit, I do not have a problem with it.

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Mr. Strasser said it is apparent the applicants are not a burden to their neighbors. As far as the weight of the vehicle, it is way under the weight limit.

Mr. Curtis said he does not see it is a burden.

Mrs. Scott said the truck was neatly parked in their driveway and she does not have a problem with the request.

Mr. Centilli said he had to look for the vehicle, and he does not have a problem with the request.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Scott to approve ZBA #02-26.
Motion carried, 7-0.

3. ZBA #02-27

BY: Jackie Gunnels
2071 Scottwood Ave.
Burton, MI 48529

RE: Lot 41 Bendlecrest
Section 32, R-1C Zoned

FOR: To construct an 8' privacy fence in the rear
yard. 6' allowed by Ordinance.
(4 Votes Required)

Jackie Gunnels, 2071 Scottwood Ave., Burton, MI, said she would like to have an 8 ft. fence to make her neighbor happy. Her neighbor was not happy with just a 6 ft. fence so she thought she would try for an 8 ft. height. My hardship is I would not have to worry about my boys playing and hitting any plastic balls on my neighbors siding, and it would make everyone happy. Mrs. Gunnels said the fence would be on the left side of her house facing her neighbor.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said the standard privacy fence comes in a 6 ft. height. He asked Mrs. Gunnels how they would construct the additional 2 feet.

Mrs. Gunnels said they sell 8 ft. fences at Lowes. They have very nice looking fences. Her neighbor wanted her to put chicken wire up on the fence because her biggest concern is the balls hitting her home.

Mr. Centilli commented that there is already an 8 ft. fence on the east side of her house.

Mr. Parker said normally he would be against something like this, but if they make an 8 ft. fence that is nice and it helps keep peace in the neighborhood, it would help ease the tension in the neighborhood.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved By Centilli, seconded by Parker to approve ZBA #02-27.
Motion carried, 7-0.

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4. ZBA #02-28

BY: Anthony Sales
1242 Howe Rd.
Burton, MI

RE: Parcel #59-15-100-007
R-1A Zoned

FOR: To extend a 6' privacy fence beyond the front
of the home, equal to the front of the adjacent
home addressed as 1258 Howe Rd.
(4 Votes Required)

Anthony Sales, 1242 Howe Rd., Burton, MI, said he would like to extend a privacy fence beyond his house and up to his neighbor's house. His neighbor's property is an eyesore and he is tired of looking at the cluttered mess. Mr. Sales presented pictures to the Board and stated further, he just put up a new porch and would like to be able to use it without looking at the clutter debris. The neighbor's house sits closer to the road than mine does. Mr. Sales expressed that he is not trying to get anyone in trouble.

AUDIENCE PARTICIPATION:

Dan Hill, 1239 Howe Rd., Burton, MI, said to say that it is an eyesore is being a little friendly. I think anything Mr. Sales can do to extend the fence over to make my view across the street a lot nicer. I also get to look at the mess on the side of their garage.

Mr. Strasser said there is a little glitch in the ordinance. If this neighbor came in to extend the fence we would give him a permit and he would not have to be here. We do not have a problem with the applicant's request.

BOARD DISCUSSION:

Mr. Parker said the application states "equal to the front of the adjacent home," and since this home has a porch on the front of it, you could almost put the fence out to the road. Mr. Parker asked Mr. Sales how far he wants the fence to come down the side of the property.

Mr. Sales indicated from the center of the road to his neighbor's house is 65 ft., and I want to bring my fence another 40 ft. There would not be any obstruction to the traffic.

Mr. Parker asked Mrs. Sales for clarification that he wants to bring his fence out to the neighbor's porch.

Mr. Sales said at least to the front of his garage.

Mr. Curtis commented that the Board recently had a similar situation on Dortch Dr.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Weatherford to approve ZBA #02-28.
Motion carried, 7-0.

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YEARLY RENEWALS:

1. ZBA #02-24

BY: Ace Asphalt
115 S. Averill St.
Flint, MI 48506

RE: 3178 E. Bristol, Lot 8 Bristol Rd.
Industrial Park
Section 33, Zoned M-2

FOR: Renewal for off site advertising sign on
Carter Lumber property.
(5 Votes Required)

Applicant was not present.

Mr. Parker said he does not know if this has ever been done before on this Board, but I don't see anything wrong with the request. I have been on this Board for almost seven years, and they have been approved every year. It is pretty innocuous and it is just because it does not meet the ordinance that they come before this Board and it is renewed. I don't know if we ever approved an applicant that was not present. Mr. Parker said he would be in favor of approving it even though the applicant is not present. He asked Mr. Strasser for his opinion.

Mr. Strasser said in all the years I have been with the Board I have only seen it done one time. I don't see anything wrong with it. It has just been a matter of practice we wait until the applicant shows up.

Attorney Hamilton indicated this is a renewal and they are not looking for a hardship.

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

BOARD DISCUSSION:

Mr. Parker said it is a yearly renewal and apparently there has been no complaints. The applicant keeps the sign in good shape.

Mrs. Weatherford said she feels if they did not bother to come, why should we pass it.

Mr. Curtis said he believes it is a formality for the people to be given the opportunity to present their case. As mentioned by the Attorney, this is a yearly renewal and in existence. It is not anything where we need to discuss and have the applicant here to present the hardship.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Scott to approve ZBA #02-24.

Motion carried, 6-1. Mrs. Weatherford – no.

Mr. Curtis announced the next regularly scheduled meeting of the Zoning Board of Appeals will be held on **Thursday, August 15, 2002, at 6:00 p.m.**

Meeting adjourned at 7:10 p.m.

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