

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

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

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

MEMBERS ABSENT: None

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

Moved by Curtis seconded by Scott to approve the minutes of the Regular Zoning Board of Appeals meeting of June 21, 2001, at 6:00 p.m. Motion carried, 7-0.

AUDIENCE PARTICIPATION: No audience participation.

BOARD DISCUSSION:

Mr. Parker said he has revised language in the ZBA by-laws. He spoke with the City attorney regarding conflict of interest. Mr. Parker asked the Board members to review the changes and if there are any questions to give him a call. He said hopefully at the next meeting they can approve the by-laws.

Mr. Cross said in Sect. 6, Item D., #3 he would like to see it removed. He does not see a reason if one of our members declares a conflict they need to leave the room. If there is a problem, they should know what it is.

Mr. Parker said when he asked for these by-laws, he received a copy from Steve Langworthy, of Langworthy & Associates from Grand Rapids. These by-laws were over a period of time and in use by several different places. The reason for this language being in here, is to protect the City and members of the Board, especially a member that would have a conflict of interest. If a Board member has left the room and has not heard what is going on, there is no way that person could be accused of having a conflict of interest. Mr. Parker said he has been on this Board for six years, and has never seen a conflict of interest. But he thinks it is necessary to have the language in there, it is also to protect us. If you want to take it out, I don't have a problem with it, but I feel it should stay.

Mr. Kalanquin said he agrees in part, but does not think a person should be forced to leave the room, it should be up to the discretion of the person if they want to leave the room.

Mr. Cross stated everything that is said in that time will be recorded by our secretary and also recorded on the tape. So if they want to stay or not stay, they will still know what has been said. The City Council had a conflict of interest with a member of the Zoning Board and we had to review him. We offered him the opportunity to leave the room, and you also have to offer them a chance to go in a closed or open session. Mr. Cross said if you want to have it in there with the stipulation to stay or leave, it will work.

Mr. Grantner said Mr. Parker offered that this was information only, and in light of the agenda and people present, we should use the time between now and the next meeting to review this and have our actual discussion on specific recommendations at our next meeting.

Mr. Kalanquin recommended this be placed as an agenda item to discuss at the end of the next regularly scheduled meeting.

D. NEW APPLICATIONS:

1. ZBA #01-29

BY: Monica March
4045 Risedorph St.
Burton, MI 48509

RE: Part of Lot 217 Greenlawn Sub.

FOR: To expand the non-conforming side setback of 6 ft. with an
Addition to the rear of the home; 10 ft. required.
(4 Votes Required)

Monica March, 4045 Risedorph St., Burton, MI, said the reason for their application is to build a 12 ft. x 24 ft. addition to the back of our home. Our home sits 6 ft. 6 inches from the west side of the property line. If we wanted to build up, we would be in violation due to the 10 ft. requirement. The addition will be used as a master bedroom and full bath.

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

Mr. Strasser said this is a common variance that is requested, we do not see a problem with the request.

BOARD DISCUSSION: No Board discussion.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Curtis, seconded by Layman to approve ZBA #01-29.

Motion carried, 7-0.

2. ZBA #01-30

BY: Wolverine Turf Development
3183 Kleinpell
Burton, MI

RE: 3183 Kleinpell
Part of Lots 35 and 34, Supervisors Plat of
Atherton Gardens

FOR: To construct two storage buildings at 10 ft. from the side
and rear property lines. Side setback 30 ft. required;
rear setback 50 ft. required. M-2 zoned.
(4 Votes Required)

Joe Brasher, 3183 Kleinpell, said he is representing Wolverine Turf Development, and the hardship created is due to the M-2 zoning which requires a 50 ft. and 30 ft. setback, respectfully. The lots are only 80 ft. wide, the area is 160 ft. wide. If we do not receive a variance the buildings would have to be small.

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

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES

JULY 19, 2001 / 6:00 P.M.

PAGE -3-

Mr. Strasser indicated this was before the Planning Commission last week for site plan review, which was approved. Kleinpell St. is zoned heavy industrial, the lots are deep and somewhat narrow. Even though he has two lots combined together, variances are still required on just about every location on that street to build any industrial buildings. Mr. Strasser said DPW does not have a problem with the request.

BOARD DISCUSSION:

Mr. Cross inquired as to the reason of constructing two buildings instead of one.

Mr. Brasher replied it is because of the setbacks and to conserve space.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Cross and seconded by Scott to approve ZBA #01-30.
Motion carried, 7-0.

3. ZBA #01-31	BY: Ed Henderson 4416 Howe Rd. Burton, MI
	RE: 4416 Howe
	FOR: To exceed the allowable square footage for accessory structures by 310 sq. ft. with a 32 ft. x 56 ft. garage. (4 Votes Required)

Ed Henderson, 4416 Howe Rd., Burton, MI, said the garage he wants to build exceeds the limits by approximately 300 sq. ft. It is going to be 30 ft. minimum from the lot lines. On the side lot lines, I do think it would adversely affect anyone. Mr. Henderson commented that his property is 3 ½ acres.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said he has a little over 3 acres of land. I know for a fact he has more than normal lawn equipment, tractors and so forth he cuts his lawn with. There are similar structures in the area, one across the street was granted for horses. This request is not out of line especially with the large expansive land around him. They recommend approval.

BOARD DISCUSSION:

Mr. Parker said even though the DPW is recommending approval, the City Council just passed within the last year very generous standards for accessory structures. This would exceed those standards, and anything above that I feel should be denied.

Mr. Cross said as Council representative, those are guidelines, and if there are extenuating circumstances, that is what you have to look at.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Grantner and seconded by Curtis to approve ZBA #01-31.
Motion carried, 5-2. Parker – no, Layman – no.

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES
JULY 19, 2001 / 6:00 P.M.
PAGE –4–

4. ZBA #01-32	BY: Gary R. Weber 6432 Pinebrook Ln. Burton, MI 48509
---------------	---

RE: 6432 Pinebrook Ln.

FOR: To add 6 ft. cantilevered addition on to the kitchen at 28 ft. from the rear property line; 35 ft. required. (4 Votes Required)

Gary Weber, 6432 Pinebrook Ln., Burton, MI, said he wants to build a small addition to the back of his kitchen. It will be 6 ft. out and approximately 12 ft. wide. The building, an attached condominium on the east side, is already 22 ft. from the lot line.

AUDIENCE PARTICIPATION:

Joe Thorpe, 2231 N. Vassar Rd., Burton, MI, said he owns the property on the south side, part of 12 unit condominiums. He asked where the location of this addition would be. In the main building there is already an extended portion of the building that comes towards his lot line. Mr. Thorpe asked for clarification of the building plan, and expressed concerns of the resale of his property and possibly setting a precedence for others to request this type of variance.

Mr. Kalanquin explained that each case is individual.

Mr. Weber said he believes the original variance was 35 ft.

Mr. Strasser said the original setback was required to be 35 ft. in the rear.

Mr. Weber said the variance is now 22 ft. in one section of the building, and 28 ft. where I am requesting a variance of 6 more feet. I don't know how it would affect the resale value of his property because behind the building is solid woods and shrubs, and I cannot see his land.

Mr. Strasser indicated he received one call on the request. There are existing buildings that have less of a setback than what he is requesting. He does not see a problem with the request.

Mr. Curtis asked if the applicant could draw on the easel the placement of the back of the building.

Mr. Weber presented a drawing for the Board and audience.

BOARD DISCUSSION:

Mr. Cross inquired regarding his copy reflecting the addition at 8 ft. and not 6 ft.

Mr. Weber said it should show 6 ft.

Mr. Strasser said he is going to have to go by what is on the application, which is 6 ft. What you are looking at is actually 28 ft. from the rear property line.

Mr. Cross inquired as to what a cantilever is.

Mr. Weber said there is no foundation under this section. The floor rafters are extended out of the building and then suspended.

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES

JULY 19, 2001 / 6:00 P.M.

PAGE -5-

Mr. Cross asked why he would not want a foundation.

Mr. Weber replied that it is less expensive.

Mrs. Layman inquired regarding the support of the addition.

Mr. Weber explained a joist system.

Moved by Parker, seconded by Layman to approve ZBA #01-32.
Motion carried, 7-0.

BY: Richard Bannon
1354 Pratt
Lapeer, MI 48446

FOR: To construct an addition at 13 ft. from the rear property line;
30 ft. required. (4 Votes Required)

AUDIENCE PARTICIPATION: No audience participation.

BOARD RECOMMENDATIONS AND/OR ACTION:

BY: Bryan Lingenfelter and/or Paulette Lingenfelter
3228 N. Genesee Rd.
Flint, MI 48506

RE: Parcel #59-12-100-008, 1268 N. Belsay Rd.
M-1 Zoned. (5 Votes Required)

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

AUDIENCE PARTICIPATION: No audience participation.

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES
JULY 19, 2001 / 6:00 P.M.
PAGE -6-

Mrs. Layman said at this same location, one came up last year and was turned down. The problem we had was the way the property is on a hill and how many cars there was going to be.

Mrs. Lingenfelter said there would be 12 to 15 cars, and located in 2 rows behind the grass on the property.

Mr. Parker asked if this variance is approved, will it go to the Planning Commission for site plan review.

Mr. Strasser said under the new guidelines it would be handled administratively, and then reported to the Planning Commission.

Mr. Parker asked if there would be guidelines put in place regarding how far away from the roadway the cars need to be, and the number of cars.

Mr. Strasser indicated it is up to the Zoning Board which has the ability to restrict the numbers and the placement.

Mr. Parker said the property lot is gravel and they have had problems there in the past with clean up. He inquired regarding policing this and taking away the license if they do not comply.

Mr. Strasser said the State of Michigan issues the Vehicle Dealers License and only they can take away the license. If you put restrictions on and they do not live up to those, then we issue a violation notice. Mr. Strasser stressed that it is very difficult in controlling it.

Mr. Cross said we do not want the same situation with vehicles placed on the hill with streamers.

Mrs. Lingenfelter said she would give her word that she will do everything she can to comply with the City of Burton. She asked if items on the antennas are allowed.

Mr. Kalanquin stated flags and streamers are not allowed.

Mrs. Layman spoke regarding guidelines set by the Board and then ignored by businesses. She will not vote for this.

Moved by Parker, seconded by Grantner to approve ZBA #01-34.

Mr. Curtis asked for an amendment to grant a temporary permit for one year, to automatically be renewed for another 6 months, providing during that 6 months, the applicant is in compliance with the flags and all of the requirements within the City of Burton.

Mr. Parker said he understands where Mr. Curtis is coming from in trying to get a handle on this. Looking from the other side, the applicants will spend a lot of money on that property. It is difficult for us to place a one year time constraint on this.

Mr. Cross asked if they are leasing or buying the property.

Mrs. Lingenfelter said they are leasing the property. They plan on painting the front of the building and awning to make the building more presentable. I understand we cannot use the flags and streamers that go on the cars and we will abide by that.

Mr. Curtis asked how long their lease is for.

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES
JULY 19, 2001 / 6:00 P.M.
PAGE -7-

Mrs. Lingenfelter said the owner wanted them to sign for a year and they did a temporary lease for three months. We did not want to sign a year lease not knowing if we would get a variance.

Mr. Curtis said his amendment should have merit because everyone here complains about policing the situation, and if the applicant complies it is an automatic 6 month renewal.

Mr. Kalanquin asked Julie Adams to read back the amendment to the motion.

Mrs. Adams asked for clarification from Mr. Curtis on the wording.

Mr. Curtis stated to grant a temporary permit for one year, to be placed on a 6 month interim.

Mr. Parker said if that is going to be the amendment to the motion, I want to withdraw my motion.

Mr. Grantner said he believes it should coincide with the lease, and it should be a year. I understand Mr. Curtis feels it should be a temporary one, in that respect I would support that.

Mr. Cross said you have to vote on an amendment first to make it valid to attach to the vote. There was not support for the amendment, so I believe it died.

Mr. Kalanquin called for a second on the amendment. There was no second called.

Mr. Parker stated he withdraws his motion. Mr. Grantner withdrew his support.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Cross, seconded by Layman to approve ZBA #01-34, with the stipulation it is for a one year renewal. Motion carried, 7-0.

7. ZBA #01-35

BY: Voel Bredow
9204 Washburn Rd.
Goodrich, MI

RE: Lot 65, Supervisors Plat #8

FOR: To construct a new home on a C-2 "General
Business" zoned property. (5 Votes Required)

Voel Bredow, 9204 Washburn Rd., Goodrich, MI, said the request is for Lot 65 on Brabbs. It is currently zoned C-2 commercial and I would like to build a home there. I have a purchase order on the property subject to variance approval.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said there are residential homes up and down the street. On the west side of Brabbs is zoned C-2 commercial. That backs up against the properties that front Belsay Rd. He sees no problem with the request.

BOARD DISCUSSION:

Mrs. Layman inquired regarding the commercial area.

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES
JULY 19, 2001 / 6:00 P.M.
PAGE -8-

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Layman to approve ZBA #01-35. Motion carried, 7-0.

BOARD RECOMMENDATIONS AND/OR ACTION:

BY: Frank & Betty Stanton

RE: Lot 1 Rinn Acres, Section 13

FOR: Property has no zoning designation

Mr. Strasser said this land does not have a zoning designation on it. It is extremely rare and irregular, but by law we are required to zone every piece of private property. This came about when the State went through and bought up the land from people to put in I-69, this piece was also purchased. Through the years the State recognized this property was unnecessary, and split it off from the main part of the freeway. The City did not want it so they sold it to the highest bidder, Frank and Betty Stanton. They came in and asked what the zoning is on that property.

Mr. Cross inquired regarding the location of the property.

Mr. Strasser replied the property is on Court St. next to Genova Products which is in Davison Township. He spoke to Doug Piggott who indicated he never heard of this happening before in the entire State of Michigan. He researched what we needed to do. It had to go before the Planning Commission to make a recommendation of what the zoning should be and then that is referred to the Zoning Board of Appeals. The ZBA either concurs or comes up with what they think the zoning should be.

Mr. Kalanquin asked how deep is the property.

Mr. Strasser said it is approximately 100 ft. deep, and 125 ft. along the roadway. The adjacent zoning which is in Davison Township is commercial. That is the recommendation I made to the Planning Commission and they concurred. The ZBA now has to look at that.

Mr. Kalanquin inquired as to this being brought up before Council.

Mr. Cross said it is not Council's function, it is to be done at the ZBA level.

Mr. Parker said he is confused as to why it is not a Planning Commission function.

Mr. Strasser said Doug Piggott looked up the law and the Planning Commission makes a recommendation to the ZBA.

Mr. Cross inquired regarding the agricultural zoning that was in the area at one time.

Mr. Strasser said when the State took the property over it was actually part of a right-of-way. You do not technically have zoning in road right-of-ways. They decided they did not need it any longer and parceled it off.

REGULAR ZONING BOARD OF APPEALS MEETING MINUTES
JULY 19, 2001 / 6:00 P.M.
PAGE -9-

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Cross to make this piece of property, Lot 1 of Rinn Acres, Section 13, a C-2 designated piece of property. Motion carried, 7-0.

Mr. Kalanquin announced the next regularly scheduled meeting of the Zoning Board of Appeals will be held on **Thursday, August 16, 2001, at 6:00 p.m.**

MEETING ADJOURNED AT 7:02 P.M.

jra

