

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MINUTES
AUGUST 20, 1998, 6:00 P.M., COUNCIL CHAMBERS

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

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

MEMBERS ABSENT: None

OTHERS PRESENT: Randall Stewart, Building Inspector, J. Adams, Clerk's Office.

Moved by Parker, seconded by Scott to approve the minutes of the Regular ZBA Meeting of July 16, 1998, 6:00 p.m.

Motion carried, 7-0.

AUDIENCE PARTICIPATION: No audience participation.

BOARD DISCUSSION:

Parker discussed the election of the officer of the Vice-Chair position, and indicated the question of Homer Berry remaining Vice Chair was to be checked out by the City Attorney.

Kalanquin said he spoke with Strasser who indicated he looked into the matter and there was no problem with Homer Berry being the Vice-Chair.

Discussion followed if it was required to have someone from the Planning Commission to serve as Vice-Chair.

Berry indicated he spoke with Attorney Hamilton regarding the Vice-Chair position and he indicated it has always been that way but is not necessary for the Vice-Chair to serve in that capacity.

Parker asked Mr. Stewart to look into the matter further and have that information for the Zoning Board for the next meeting.

1. ZBA #98-42

BY: Jerry Hendrix
2296 Timber Run
Burton, MI

RE: Lot 51 of Hidden Trails, Sect. 24
R-1B Zoned

FOR: To construct a pool in a front yard setback
where house faces street on 2 sides, no back
yard available to construct pool in. (4 Votes)

Lolita Hendrix, 2296 Timber Run, Burton, MI, indicated they live on an irregular lot that has a lot of front and side yard and very little back yard and were unaware that a permit was required for their pool, which is already there. They live on a cul-de-sac and measured the back yard and there was not enough room for the pool there.

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AUDIENCE PARTICIPATION:

Roberta Foust, 2294 Timber Run, Burton, MI, said she is the direct neighbor next to the Hendrix's home and presented pictures to the Board members of what the pool looks like. Mrs. Foust indicated she is opposed to the pool in the current location, it is adjacent to her front yard and should be located in the back yard. The pool in its current location she feels is not compatible with the existing structures and for these reasons, she respectfully requests that the variance be denied.

Paul Schafer, 2289 Timber Run, Burton, MI, stated he lives directly across the street from the Hendrix. He has measured the back yard area with the homeowner and there is no room there for the pool. Mr. Schafer said he looks directly at the pool every day and feels it is not an eyesore, it is nicely landscaped and he is in favor of the variance.

Trish Rustin, 2304 Wood Creek, Burton, MI said she walks the subdivision every night and thinks it is a very bad place for the pool. They do not have a fence around it, their subdivision is full of little kids, anybody any time can go into that pool. It is right in the front yard and she does not feel the variance should pass.

Donald Bryant, 2293 Timber Run, Burton, MI, said he lives directly across the street and sees nothing offensive about the pool. There is landscaping around it and has no problem with it.

Diane Decker, 2290 Timber Run, Burton, MI, said she is at the end of the cul-de-sac. The pool is not offensive to her. She knows the Hendrix's have landscaping and another deck planned, and it will be nice when they get done.

Gerald Smith, 2292 Timber Run, Burton, MI, said he also lives at the end of the cul-de-sac and feels before a decision is made on the variance, a scale drawing should be made to see if the pool will fit in the back yard. He inquired as to why a 24 ft. pool was purchased when there are smaller pools that would have been within the variance. He does not like the particular position of the pool because of the privacy situation and is in favor of a variance in the back yard for the pool.

Trish Rustin, 2304 Wood Creek, Burton, MI, said the applicant spoke of adding another deck, which means they are taking off more of their property and if they have so much property, they should move the pool some place else.

Karen Costello, 2291 Timber Run, Burton, MI, said she lives directly across from the Hendrix's. She is not opposed to them having a pool. In light of the recent decisions of GM, she might have to sell her property and relocate. She had a realtor come to her home and she indicated they may have a hard time selling her home because some people like pools and others do not. Ms. Costello said she does not have a husband and all her time, energy and money is invested in her house, which is a very big investment to her and she cannot afford to lose dollars on it.

Lolita Hendrix, the applicant, said in reference to comments of why they would not move the pool when they have so much property, is because if moved to the other side, then it is facing the main street that goes into the subdivision. For those that find it offensive, they would find it more offensive if they were on the other side. To do that they would have to cut down trees which would decrease the property value. The only other option is to put it in the back and there is not enough room to place the pool. Mrs. Hendrix stated further, she understands Mrs. Costello's concern selling her home but she too had a realtor out and asked if the pool detracted from the property value, and in her opinion she indicated no. She also spoke to a certified appraiser who indicated there was no way to say for certain whether it will or not.

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Stewart stated the Condominium Act allows certain things that the Plat Act does not allow and these irregular shaped properties create problems like this. He stated further, when you are on a curve, you end up having two front yards which under the law, you have no back yard, just a side yard and at this point, there is no room for the pool in the back yard under the zoning ordinance. It is not the best place for the pool but under this situation, they do not see any other place for it. They do not have a problem with a privacy fence and would allow it to come up to the edge of the pool if this variance is granted.

BOARD DISCUSSION:

Parker said unfortunately, any time they run into a corner piece of property they run into side set-back problems. He does not see where it could be put in the back yard. Since it is in the condominium setting and because of the way the laws are set up, the square footage available for building and because the lots are smaller, the physical size of the structure takes up most of the lot. The areas that are necessary to show you need a variance such as hardship meets that, it must be unique to your property, and it is unique to this property. This is one of those cases where a variance is definitely called for and would vote in favor of this.

Berry asked Stewart if the privacy fence would take care of the security of enclosing the pool.

Stewart indicated the building code states that for a pool more than 4 ft. out of the ground, fencing is not required providing a stairway can be locked in an upward position.

Weatherford asked the Hendrix's if anyone told them they needed a permit.

Mrs. Hendrix indicated no, and that Macksoods put the pool in.

Centilli asked if the pool could go in the southwest corner of the back lot.

Stewart indicated there are trees in that area that would have to be removed. They have 10 ft. from the house and 5 ft. from the side, so it would be close if it fit.

Discussion followed on the removal of the trees and back yard placement.

Scott inquired if there was any kind of gate so someone could not walk into the pool.

Mrs. Hendrix said they do not have a gate but do have stairs to put up.

Kalanquin said he was at the site and it is a nice home. He was surprised the pool was up already. He can sympathize with the neighbors and with the applicants. He asked if they would be willing to put up a privacy fence.

Mrs. Hendrix indicated yes.

Moved by Parker, seconded by Berry to approve ZBA #98-42 as written with stipulation that a privacy fence is required.

Motion carried, 4 -3.

Berry - yes, Scott - yes, Parker - yes, Centilli - yes, Weatherford - no, Layman - no, Kalanquin - no.

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RE: Lot 3 Holiday Villa, Sect. 24, R-1B zoned.

FOR: To construct a garage which will extend into the front setback area by 8 ft.; 25 ft. is required. Will have 17 ft. after garage is constructed. (4 Votes)

Applicant not present.

Parker inquired if the applicant was notified of the time of the meeting tonight.

Layman indicated when she was out looking at the different applicants properties and some indicated their meeting notice stated 7:00 p.m. and she informed them it was 6:00 p.m.

Moved by Parker, seconded by Scott to post-pone ZBA #98-43 to the end of the meeting in case the applicant shows up late.

Motion carried, 7-0.

3. ZBA #98-44

BY: Louis J. Wiederman
1034 Schumacher
Burton, MI

RE: Lots 33 and 34 Allen Acres, Sect. 31, R-1C zoned.

FOR: To exceed allowable sq. ft. by 726 ft. for accessory structure by constructing 30 ft. x 52 ft. (4 Votes)

Louis Wiederman, 1034 Schumacher, Burton, MI, stated he wants to put up a garage to replace the old one to be tore down. They have an over-sized van and three vehicles.

AUDIENCE PARTICIPATION: No audience participation.

Stewart indicated the DPW has no problem with the request due to the size of the property.

BOARD DISCUSSION:

Parker inquired if the 30 x 52 structure will have an excess wall height, and questioned the pitch of the roof.

Berry asked if the property is abutting the alley.

Mr. Wiederman said there is an alley on the west side of Fenton Road.

Moved by Scott, seconded by Layman to approve ZBA #98-44 with the stipulation vinyl siding is required as stated on the application.

Motion carried, 7-0.

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4. ZBA #98-46

BY: Ken Copeland
4188 Risedorph
Burton, MI

RE: Lot 178 and part of 177, Greenlawn Sub., Sect. 3

R-1B zoned.

FOR: To exceed the allowable square footage for accessory structures by 253 sq. ft. with a 12 ft. x 21 ft. shed.
(4 Votes)

Ken Copeland, 4188 Risedorph, Burton, MI, said the structure is needed for more storage space. He submitted pictures to the Zoning Board members.

AUDIENCE PARTICIPATION: No audience participation.

BOARD DISCUSSION:

Kalanquin indicated he received a phone call from a neighbor who indicated the structure was put up without a permit, is too large and too close to the fence, and there are three other sheds plus two old cars on the property.

Stewart indicated DPW is against this and that this is a situation where they came up with the 865 sq. ft. rule for houses under an acre. If the applicant receives this variance, he will presently have five accessory structure buildings on that lot. The lot is 100 x 110. The sq. footage of the accessory structures together will be close to what the house is. They have a lot of these in the City and that is why they came up with the 864 sq. ft. rule. They do not recommend approval.

Layman inquired as to how the applicant has the number of accessory buildings on his property to begin with. She also received a complaint that there are old cars that have been sitting for over a year that are not licensed.

Scott said she noticed the shed was too close to the fence and there was not a firewall nor a foundation.

Parker indicated if this building was approved for the variance, there would have to be a lot of modifications done to it. It is too close to the property line, no foundation and it would have to be moved. Mr. Parker spoke of requiring vinyl siding in the new zoning ordinance in the updating of the Master Plan and the Council addressing that change.

Stewart indicated that the DPW are addressing an ordinance that will look at what should and should not be in a subdivision, examples of roof pitches, types of siding, etc. There are other communities doing this now and it is working out quite well.

Moved by Parker, seconded by Layman to deny ZBA #98-46.

Motion denied, 7-0.

Berry - yes, Scott - yes, Parker -yes, Centilli - yes, Weatherford - yes, Layman - yes, Kalanquin - yes.

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5. ZBA #98- 43

BY: Leah Thureau
2019 S. Belsay Rd.
Burton, MI

RE: Lot 3 Holiday Villa, Sect. 24, R-1B zoned.

FOR: To construct a garage which will extend into the front setback area by 8 ft.; 25 ft. is required. Will

have 17 ft. after garage is constructed. (4 Votes)

Leah Thureau, 2019 S. Belsay Rd., Burton, MI, indicated she would like a two car garage.

AUDIENCE PARTICIPATION: No audience participation.

Stewart said the yard is presently fenced and is on a corner, 2 front yard set-backs.

Moved by Parker, seconded by Berry to approve ZBA #98-43.
Motion carried, 7-0.

6. ZBA #98-47

BY: Mark Allor
1446 Friel Ave.
Burton, MI

RE: Lots 730 and 731, Greater Flint Sub., Sect. 31
R-1C zoned. (4 Votes)

FOR: To construct an additional garage 24 x 36. Existing
garage 552 sq. ft. Total sq. ft. will be 1,416,
allowable 864 sq. ft., asking for additional 552 sq. ft.

Mark Allor, 1446 Friel Ave., Burton, MI, indicated he just moved in and wants a two car garage for storage and he has a couple of old cars.

AUDIENCE PARTICIPATION: No audience participation.

Stewart said he reviewed the property, it is a double lot and not overcrowded.

BOARD DISCUSSION:

Parker inquired as to the two lots being under the same parcel ID number.

Berry asked about the construction.

Mr. Allor spoke on the construction and materials.

Moved by Parker, seconded by Weatherford to approve ZBA #98-47 as written.
Motion carried, 7-0.

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The next regularly scheduled meeting of the Zoning Board of Appeals will be held on Thursday, September 17, 1998 at 6:00 P.M.

MEETING ADJOURNED AT 7:00 P.M.

JRA

