

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MEETING MINUTES
SEPTEMBER 16, 1999, 6:00 P.M., COUNCIL CHAMBERS

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

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

MEMBERS ABSENT: Centilli

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

Moved by Layman, seconded by Scott to approve the Regular ZBA Meeting of August 19, 1999, at 6:00 p.m., and the Special ZBA Meeting of September 2, 1999, at 6:00 p.m.
Motion carried, 7-0.

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh St., Burton, MI, commented regarding properties having unique situations.

BOARD DISCUSSION: No Board discussion at this time.

NEW APPLICATIONS:

- | | |
|---------------|---|
| 1. ZBA #99-55 | BY: Marcia Wheat
3231 Christner St.
Burton, MI |
| | RE: Lots 5 and 16, Blk R, Southgate Sub., Sect. 28
R-1C Zoned. Parcel #59-28-528-223 |
| | FOR: To construct a front porch at 10 ft. from the front
property line; 20 ft. required. Front of existing home
at 18 ft. from front property line. (4 Votes) |

Marcia Wheat, 3231 Christner St., Burton, MI, stated she wants to come out 24 ft. from the existing front porch to the end of the house, and also 8 ft. so that the gable roof will cover the front porch and give the existing kitchen more room. Mrs. Wheat presented the Board with pictures to review.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said this is an older subdivision the applicant lives in, and many of the smaller homes are built closer to the front line. They do not see a problem with the request and recommend approval.

BOARD DISCUSSION:

Mr. Berry inquired regarding the color of siding.

BOARD RECOMMENDATIONS
AND/OR ACTION:

Moved by Layman, seconded by Scott to approve ZBA #99-55.
Motion carried, 6-1. Parker – no.

2. ZBA #99-57

BY: Belsay Rd. Associates
702 Church St.
Flint, MI 48502

RE: Part of Lots 43 through 45, Cardinal Gardens
Sect. 14, C-2 Zoned.

FOR: Service of food and beverages outside of an enclosed
building in a C-2 Zone. Sect. 15.02, Item 2.
(4 Votes)

Joe Falaras indicated he is the proprietor and owner of what was previously known as Bootleggers at 1076 Belsay Rd. He would like to re-open with a new concept, a Mexican / Irish restaurant. They would like to have outside services in order to use it primarily as a holding area for people waiting and be able to serve cocktails and food.

AUDIENCE PARTICIPATION:

Leslie Brown, 5477 Raymond Ave., Burton, MI, said her property adjoins the building and thinks it is good a business is going into the old establishment but is concerned with the noise level and alcohol drinking. There is a subdivision there and everyone tends to overlook it because it is one street and there are many children there. Mrs. Brown spoke further of the schools being nearby, and concerns of problems with alcohol drinking.

Mrs. Dargel said she received the agenda earlier and asked to see the back-up for this request. The application she felt was by Belsay Road Associates, and she was told the signature was Mr. Hamilton's. She asked if this is for Belsay Road Associates or for Belsay Enterprises, Inc., that was presented to the Council in May. Mrs. Dargel said when Mr. Hamilton brought this before the Board on June 18, 1998, 5 votes were required for the use permit. There was a drawing at that time in DPW, but she did not see one this time and does not know if there is a difference in the planned fenced area. She asked the Board to inquire as to the location, number and the hours. Mrs. Dargel inquired if Applebee's is a Resort C License as this one is, and that there is no outdoor sales at Applebee's.

Mr. Falaras said he presently owns five other restaurants and bars, two of them. Bubbas and the Redwood Lodge, have outdoor services with extensive decks. He has been in the business the last 30 years and has an extensive experience when it comes to crowd and noise control and people's behavior. His place on Belsay Road would be primarily a restaurant, they will sell 75% food and 25% alcohol. They do not promote the excessive use of alcohol and he has never in his 30 years have had a violation for serving minors or drunks. His primary reason for requesting the variance is to use that area as a holding area for people to sit because usually there is a line on Fridays and Saturdays. They will not have anything other than background music outside and the level of sound would never be louder than the highway which is next to them. Alcohol being passed to kids would be impossible because it would be all fenced in. He would not allow kids in his parking lot for the simple reason of liability, they do patrol their parking lots and enforce all the liquor control rules and regulations.

Leona Stevens, 3049 Vineland, Burton, MI, said for the people in that residential area, she would hate to see this pass because no matter what kind of music and the drinking outside, is bound to go over into their area. She hopes the Board denies this request.

Mr. Strasser inquired to Mr. Falaras regarding the holding area in the summer and winter, and if he is considering an addition to the restaurant.

Mr. Falaras said they have considered an addition in the next year or two. They purchased the whole 14 acres, and would like to develop it since it is zoned commercial.

Mr. Strasser said even though this was approved once before, it was never instituted or built, so we do not have a track record on it. This needs to be looked at in a business sense, as to promoting business, and also, to protect the residential rights of the people that live there. If approved, he asked the Board to please take into consideration that there is no outdoor music, whether it is background music, a whisper or whatever, because once it is there it is extremely difficult to control. Mr. Strasser suggested tabling the matter and ask for a site plan for the Board to look at (outdoor seating, numbers of people, screening, etc.). The Board is not necessarily acting on a site plan, but they can have something to look at and put provisions in it to help the applicant with his business and protect residential rights. If approved one way or another, there will have to be a site plan presented to the DPW for review regarding setbacks and so forth.

BOARD DISCUSSION:

Mrs. Layman inquired regarding the business name and hours of operation.

Mr. Falaras indicated the hours will be 11:00 a.m. to 11:00 p.m., 7 days a week.

Mr. Parker inquired regarding the liquor license as a resort, and commented that he seen a recent newspaper article that Burton has too many liquor licenses and the only way to get one is as a resort

Mr. Strasser indicated a million dollars or more invested into the business then it can be considered as a resort license as opposed to a liquor license.

Mr. Parker asked if it changes any of the laws or encumbrances upon the owner of the business.

Mr. Strasser replied he did not know.

Mr. Parker inquired regarding the minutes of the meeting of June 18th and the outcome of the voting.

Mr. Strasser said he believes that information is in the site plan review file, and the vote did eventually approve it, and passed 4 to 3. It indicated on the application that it required 5 votes, and discussion came up regarding 4 or 5 votes. We contacted an attorney not associated with our municipality and he read the ordinance, the application, procedures and so forth, and determined it was not a 5 vote, and not a use variance. Only 4 votes would be required because of the specifications of the property. It was where you were going to be serving something, not something over and above what the ordinance would allow.

Mr. Parker spoke further regarding the minutes and stated there was a 7-0 vote to eliminate the portion from the liquor license that was outdoor seating which was the wishes of the Council. Mr. Parker stated further, the monetary needs of the business does not outweigh the noise concerns of the citizens of the area, so he cannot support this.

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BOARD RECOMMENDATIONS
AND/OR ACTION:

Moved by Layman, seconded by Scott to table ZBA #99-57 until the next regular scheduled meeting and have the applicant submit a site plan for review.

Motion carried, 5-2. Parker – no, Wright – no.

Mr. Parker asked if the residents within 300 ft. would be re-notified that it is on the agenda for next month.

Mr. Strasser indicated they would not.

3. ZBA #99-58

BY: Martin Spees
6153 Wilderness Pointe
Grand Blanc, MI 48439

RE: 6153 Wilderness Pointe
Lot 210, Maple Pointe No. 7

FOR: A limited C-2 use in an R-1B zoned area for a
F.F.A. License, "Federal Firearms License".
(5 Votes)

Martin Spees, 6153 Wilderness Pointe, Grand Blanc, MI, said he is a Project Engineer at Rowe, Inc. and also works as a part-time Deputy Sheriff for the Oakland County Sheriff's Department. He has had an FFL license for 9 years and would like to continue to keep it. Since moving from the Fenton area to Burton, he is required to update his address on the license, and that is why he is seeking a variance. He spoke to his neighbors on this matter and has not received any negative feed-back. One neighbor had a concern of traffic and he explained his highest volume of anyone coming to his residence is about 12 times per year. The Bureau of Alcohol, Tobacco and Firearms requires that the transfer of any firearms be done at the place of business, which would be his residence. Mr. Spees stated further, he also gets sporting goods of all types and has a Tax ID License. Mr. Spees passed out information to the Board regarding the largest volume of sales he did in one year.

AUDIENCE PARTICIPATION:

Loren Myslicki, 6183 Wilderness Pointe, Grand Blanc, MI, stated this is a brand new subdivision, and is still being developed. He knows Mr. Spees and feels he is an honorable man, but it is the perception of selling guns in a brand new subdivision. Mr. Myslick said he feels that possibly his right to sell his property could be hurt if a potential buyer came in and inquired regarding the neighborhood and it was divulged about the applicant selling guns. He said they might walk away because of fear and he knows it is the perception out there that concerns him. Mr. Myslicki said he requests the Board to deny the request.

Mr. Strasser said it is a commercial use in a residential area and we prefer that business-type uses not be in residential areas.

Mr. Berry inquired if this constitutes home occupation.

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Mr. Strasser indicated to really look at the situation. In any given residential area, UPS trucks are allowed. With regards to the BATF, to sell a firearm, the person has to come to the place where that license is issued to. To sell sporting goods he can have orders come in and merchandise, but still as a home occupation, he cannot have people coming to the home, but he can deliver that merchandise to the people. For a home occupation, he would not even have to be here, but this comes into the commercial use because of the federal firearms.

Mr. Wright inquired regarding the number of guns kept at any given time, and security.

Mrs. Spees indicated he has approximately 8 guns. His ammunition is kept in a totally different area than the firearms. The only firearms he keeps in the home is his personally.

Brief discussion followed regarding his license in Fenton, restrictions and the limits of hardware that can be sold.

BOARD RECOMMENDATIONS
AND/OR ACTION:

Moved by Layman, seconded by Berry to deny ZBA #99-58.
Motion carried to deny, 5-2. Parker – no, Scott – no.

4. ZBA #99-59
- BY: SSOE, Inc. (Frank Grocki)
1050 Wilshire Dr., STE 260
Troy, MI 48084
- RE: Meijer #29
2333 S. Center Rd.
Parcel #59-22-300-018, C-2 Zoned.
- FOR: To increase the allowable square footage for building
signage with an additional 56 sq. ft.; 234 sq. ft.
existing; 300 sq. ft. requested. (4 Votes)

Frank Grocki, from SSOE, stated they are architects and engineers for Meijers. They are undergoing a renovation of store #29 on Center Road. They are requesting to replace the existing Meijer sign that is on the building. The Meijer's letters are 6 ft. tall and there is a 24 hours stated under the lower right part of that signage. The sign that has been proposed is due to a corporate logo change which is the elimination of the 24 hour letters, and the addition of "the fresh" as part of the new logo. Mr. Grocki handed out drawings to the Board and spoke further regarding the letters and signage.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said the Board is very well aware that recently another oversized sign request came before them and was denied. The DPW reviewed all the facts and do not see that the request should be granted as presented. They feel just the word Meijer is sufficient.

Mr. Berry inquired if they removed the drive-up carport, and if there are any plans of placing a sign at that location.

Mr. Grocki said there is no intent to place signage there. He spoke further regarding the Meijer entrances.

Mr. Parker stated Meijers has been a pretty good neighbor, they keep the property in good shape.

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BOARD RECOMMENDATIONS
AND/OR ACTION:

Moved by Berry, seconded by Layman to approve ZBA #99-59.
Motion carried, 7-0.

5. ZBA #99-60
- BY: Eric Humble
6404 Wagner Ave.
Grand Blanc, MI 48439

RE: Lot 16, Wagner Acres, Sect. 36, SE Zoned.

FOR: For a Light Industrial M-1 use in an SE residential area; to park semi truck on property. (5 Votes)

Eric Humble, 6404 Wagner, Burton, MI, stated he needs to park his semi truck on the weekends at his residence. He goes on the road 5 to 6 days a week, sometimes for 2 weeks. The only time he needs it there is to work on it with adjusting brakes and so forth. He received a ticket for having the semi truck and went to Court, the Judge ordered him to come to the Board. Mr. Humble said he needs to park it there for safety and vandalism reasons.

AUDIENCE PARTICIPATION:

Renee Kirby, 6466 Wagner Ave., Burton, MI, indicated they can barely hear Mr. Humble's truck when he comes down the road. They have never had any problems with him.

Dana Dugas, 6336 Wagner Ave., Burton, MI, said when the applicant first started parking his truck, it was on the side of the road which blocked about 1/3 of Wagner Ave. At first no one complained, but now he is bringing in fully loaded trailers with earth moving equipment, and big huge steel machining presses. You can see the tracks where he has pulled up and down Wagner Ave. and by his residence it is like a washboard. There has been a sign up since April of last year, and it is clearly posted that he cannot drive that truck down that road, but he continues to do so. Mr. Dugas stated the applicant is parked on an ungraveled driveway and had the truck stuck a couple of times, so at 4:30 a.m. to 5:30 a.m. in the morning they are awakened to hear his diesel truck rocking back and forth to get it out. Neighbors that live closer to the applicant have contacted him and said when he starts his truck up in the morning to let it warm up, it wakes them up also. Mr. Dugas feels the applicant has no consideration for his neighbors and asks that the request be denied.

Leona Stevens, 3049 Vineland, Burton, MI, said there was a problem with a semi truck parked in a residential area and some of the things the gentleman just stated happened to these neighbors. She would like to see this request denied and to see the City provide a place for these truckers which has been done in other areas.

Rick McCormick, 6452 Wagner, Burton, MI, said he has lived there for over 21 years and has heard his truck one time. There is a lawn care business that comes down the road that makes three times as much noise. He supports the applicant 100%.

Mr. Humble spoke regarding the DPW rules book in reference to commercial use and weight limits. He said he had heavy equipment pulled in when he was working on his driveway. The sign was not up when he started parking there and the ruts are there when it rains. Mr. Humble said he is not tearing up the road any more than garbage trucks, UPS trucks and the traffic. He feels he has a right to bring his truck down the road when the sign is there, because according to the book, it is doing business as.

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Mr. Strasser said he has had several conversations with the applicant, and informed him that trucks and commercial vehicles are not allowed in residential areas, and also, it is a residential street. Our recommendation is that it is not a residential use, it is a truck / commercial vehicle, going into a residential area, and those types of uses are not allowed in residential areas. Mr. Strasser read aloud two sections from the Vehicle Size and Weight Control Regulations.

Mr. Strasser stated further, UPS trucks come up and down there, and commercial carriers can make a delivery which is allowed by this ordinance. Recreational vehicles could weigh more than his truck, but they are not a commercial vehicle, it is considered to be a residential type vehicle even though it is not used to go back and forth to work. The Board can approve the variance, but he is still not allowed to drive the truck down the street.

Mr. Wright said he has sympathy for the applicant because he is in business for himself, but he feels the road is not designed or adequate for this type of thing. With the I-69 corridor getting larger every day and the semi-truck traffic

through this area, he personally sees semi-trucks parked all over this City. He thinks it is a bigger problem that will have to be addressed on a different type level than allowing individuals to park on residential streets. He cannot support this mainly because it is residential and if this is allowed, then we will have to approve the next one, and then the next.

BOARD RECOMMENDATIONS
AND/OR ACTION:

Moved by Wright, seconded by B. Weatherford to deny ZBA #99-60.
Motion carried to deny, 7-0.

6. ZBA #99-61	BY: Samy Meshraky 4081 S. Belsay Rd.
	RE: 4081 S. Belsay Rd., R-1B Zoned Parcel #59-36-100-037
	FOR: 1) To exceed the allowable square footage for accessory structures by 1,136 sq. ft. with a 40 ft. x 64 ft. pole barn. 2) To exceed height requirements by 4 ft. 8 inches, 14 ft. required, 18 ft. 8 inches requested. (4 Votes)

Attorney Joseph Sefa, representing Samy Meshraky, stated he submitted a packet showing a diagram of the building which is 40 x 60 x 12. There is 12 acres there, and when Mr. Meshraky obtained a permit to build, he could build a detached pole barn 30 x 50, and this request is not much more than he is asking for. Mr. Sefa said it is a hardship, a few years ago the wind took his pontoon and did \$5,000 damage because it blew it into the woods. Mr. Meshraky also had vandalism done to his trucks, he is in business for himself, a general contractor.

Mr. Sefa spoke further, that Mr. Meshraky would like to beautify and improve the conditions of his property and put this building up to alleviate the vandalism. It will have vinyl siding and match his home. He has trucks, cars, trailer, lawnmower equipment and the pontoon to put inside.

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AUDIENCE PARTICIPATION:

Jerry Thomas, 4057 S. Belsay, Burton, MI, said he borders both sides of the property and sold the applicant the property 4 or 5 years ago. If he builds a barn as nice as his house, he does not have a problem with it. Mr. Thomas inquired regarding the setback from his border.

Mr. Strasser said any of the property lines can be as close as 18 inches. He must put a firewall on the inside of the structure.

Mike Fidler, 4105 S. Belsay Rd., Burton, MI, said Mr. Meshraky has been his neighbor for about 4 years. His house is closer to the road and Mr. Meshraky's house is behind him. The pole barn would be right behind his property and he does not have a problem with him putting up a structure of that size.

Mrs. Dargel asked if the previous applicant had requested to put up a sizeable pole barn for his semi truck would that be okay.

Mr. Parker responded, no.

Mr. Sefa said if the Board wants to put restrictions to have vinyl siding that is not a problem.

Mr. Strasser said Mr. Meshraky has more than one acre of land and is entitled to 2,000 sq. ft. of accessory structure. He presently has an attached garage that equals 576 sq. ft., and without a variance he can build a 30 x 46 with an 11 ft. sidewall and have a 4 12 pitch roof. Mr. Strasser stated the request exceeds the ordinance.

BOARD DISCUSSION:

Mr. Wright inquired regarding the vehicles and the applicant's business.

Mr. Meshraky said he has a vehicle for his company, and his travel trailer is 11 ft. high.

Discussion followed regarding the height of the structure and sidewalls.

Mr. Parker said one of the things they have to do as a Board, is to look into the future. A 30 x 46 building is a good size structure. He cannot support the request.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Layman to deny ZBA #99-61.
Motion carried to deny, 7-0.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Kalanquin indicated there will be a **Special ZBA Meeting for Thursday, September 23, 1999, at 6:00 p.m.**

The next regularly scheduled meeting of the Zoning Board of Appeals will be held on **Thursday, October 21, 1999, at 6:00 P.M.**

MEETING ADJOURNED AT 7:55 P.M.

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