

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MEETING MINUTES
SEPTEMBER 20, 2001, 6:00 P.M., COUNCIL CHAMBERS

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

MEMBERS PRESENT: Weatherford, Scott, Parker, Cross, Grantner, Curtis, Welch, Kalanquin

MEMBERS ABSENT: Layman

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

Moved by Parker, seconded by Scott to approve the minutes of the Regular ZBA meeting of August 16, 2001, at 6:00 p.m. Motion carried, 7-0.

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

Moved by Parker, seconded by Scott to move the ZBA by-laws to the end of the meeting.
Motion carried, 7-0.

BOARD DISCUSSION:

Mr. Cross asked that for agenda item #3, a ZBA member not be allowed to vote because of a conflict of interest.

Mr. Curtis responded that it is already taken care of.

NEW APPLICATIONS:

Post-poned from the August 16, 2001 Regular ZBA meeting:

- | | |
|---------------|---|
| 1. ZBA #01-37 | BY: Edward P. Abbott
PO Box 4040
Flint, MI 48504 |
| | RE: Parcel #59-30-578-286
1323 Bristol Rd., Burton, MI |
| | FOR: To conduct a truck rental business "C-3
Special Use in a C-1 Zoning" outdoor
display, parking, of trucks for rent.
(5 Votes Required) |

Mr. Kalanquin indicated the applicant has withdrawn his request.

2. ZBA #01-39

BY: Richard Johnson / Stephanie Cloud
3387 E. Atherton Rd., Burton, MI

RE: Parcel #59-21-527-067
Lot 71, Supervisors Plat #2

FOR: To keep up to 10 dogs on the property.
(5 Votes Required)

Jason Hains and Stephanie Cloud, 3387 E. Atherton Rd., Burton, MI. Mr. Hains said he is looking for permission to continue his hobby. He owns 10 pedigree dogs which he shows, weight pulls and hunts with them. He said someone last month reported me for having the dogs and said they were being abused. The police and animal control came out and found none of my dogs were abused or unhealthy. The City's code enforcer came and ticketed me for violating and having too many animals on my property. I am requesting a variance so that I may apply for a special usage kennel license to be able to maintain up to 10 dogs on my property. A few of the dogs are personal pets, and I have not had any neighbor complaints. Mr. Hains stated he has notes from a veterinarian in Flushing, MI, that states all of his dogs appear in good health, there are no signs of abuse, he would not classify any as vicious, and most appear very friendly. He also has copies of their dog licenses. Mr. Hains said he owns 900 ft. of property back off of Atherton Rd. He has taken about 100 ft. by 70 ft. and double fenced it with a privacy and chain link fence. Each dog is attached to a chain anchored to an axle into the ground. He has never had an incidence of any dog getting off of their chain or his property. Mr. Hains stated he has insurance of \$300,000 against any liability, but he does not foresee any problems.

AUDIENCE PARTICIPATION:

Don Sanderlin, 4460 Killarney Park, Burton, MI., stated he is speaking for his son Jeffrey Sanderlin at 3334 Atherton Rd. They are concerned with the applicants having 10 or more dogs and running a business from the home. Mr. Sanderlin inquired regarding the City checking to see if the animals are being taken care of.

Pat Manor from Manor Family Properties, LLC, 203 Church St., Grand Blanc, MI, said he owns the property next door to the applicant. He was not aware of any complaints, or if they came from his tenants. When he was preparing the house for rental, there was a total of thirteen dogs there. Every time he shows the house, people comment on the dogs and it has been difficult to rent the house out. Mr. Manor said he is sure the dogs are well cared for and maintained, they are just loud and make a lot of noise. He addressed concerns of the variance being permanent if approved, and with the amount of dogs, it seems like it is a business.

Mr. Hains responded there are 9 dogs which he has documentation from the cruelty investigator. The tenant next door had a pit bull which he saved its life from the road. It has been on his property many times and he returned the dog to them several times. The dog bit my son and I still have not pressed charges against him. The City of Burton police officer that came out to investigate said any one of the Board members could contact him regarding his dogs and how their kennel is set up. Mr. Hains stated further, the neighbor on one side of him said he never knew his dogs were even there. He welcomes the Board and anyone to come to his home and see his animals.

Mr. Strasser said this came to our department through a complaint and the code enforcement office issued a 10 day correction notice. The gentleman elected to petition the ZBA. The area is zoned residential and the ordinance allows 2 dogs on the property. Mr. Strasser expressed to the Board that if they elect to approve this, do not make the DPW responsible to keep track of health records, insurance policies and so forth. Please make a motion to have it handled through the City attorney, we do not have the staffing or ability to be able to do that.

BOARD DISCUSSION:

Mrs. Weatherford asked the applicant if he is using the dogs for breeding purposes.

Mr. Hains said he does not have a puppy mill, and does not breed puppies to sell. Occasionally I have a litter, but it is strictly to keep the blood line I am trying to establish going, strictly for myself. Any puppies that do happen to be for sale, are sold through the internet or through magazine ads. I have not had a litter in a long time.

Mrs. Weatherford inquired further as to the years he has lived there and as to how many litters in those years.

Mr. Hains indicated he has lived there for 2 years, and there has been 2 litters.

Mr. Kalanquin asked Mr. Hains if his intent is not to sell the puppies, why does he place an ad in the paper.

Mr. Hains replied he places an ad if there are some puppies that he is unable to place in a home that he feels comfortable with. He cannot keep every one of them.

Mr. Parker said the Board had a request for a kennel a couple of years ago and it was denied. He appreciates this gentleman's eagerness to be a dog lover, and he does not have any qualms he is kind to his animals and probably takes good care of them. However, he questions how he ended up doing this in a residential area. Mr. Parker read aloud the list of conditions that the property must meet to prove the applicant is entitled to a variance. He addressed further the intent of the ordinance concerning noise and kennels. He stated that in order to have a kennel, you must be in an M-1 light industrial district and this is not. We would be spot zoning this piece of property and I cannot support it.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Grantner to approve ZBA #01-39.

Motion carried to deny, 7-0. Weatherford – no, Scott – no, Parker – no, Cross – no, Grantner – no, Curtis – no, Kalanquin – no.

Note: Mr. Curtis stepped down from the ZBA for the following case. Mr. Welch took over Mr. Curtis' seat.

3. ZBA #01-40	BY: Cheri Mys-Curtis 2230 Ridgemoor Ct. Burton, MI
	RE: 3495 Center Rd., Lots 2 & 3, Schram Acres Sect. 27, C-2 Zoned
	FOR: To hold garage sale at 3495 Center Rd., Genesys PHO building. For fundraiser (one time deal) on September 29, 2001, 9:00 a.m. to 5:00 p.m. (5 Votes Required)

Kathy Willingham, 5174 Lippincott Blvd., Burton, MI, said they are requesting a garage sale at the Genesys PHO building at the corner of Center and Bristol Rd., on September 29, 2001, from 9:00a.m. to 5:00 p.m. for a fund-raiser for Jamie Curtis.

AUDIENCE PARTICIPATION: No audience participation.

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Mr. Strasser said the request is a temporary use for one day only. It is for a fund raiser for a person wishing to run for Council. As long as the grounds are cleaned up afterwards and everything is removed from the sight, they see no problem with the request.

BOARD DISCUSSION:

Mr. Parker inquired as to why this needed to be on their agenda. The Kwanis has a garage sale every year on Genesee Rd. and they have not been before the ZBA. Also, there are garage sales all year long.

Mr. Strasser responded it is because it is a commercially zoned area. Outside sales are prohibited and everything is suppose to be inside of a building. This is a different situation, it is a commercial piece of property, a temporary use for one day, and it is outside.

Mr. Cross said this is not a unique situation, and has been done by politicians in commercial zoned areas. They have been allowed one and two day sales in the past.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Scott, seconded by Grantner to approve ZBA #01-40.
Motion carried, 7-0.

Note: Mr. Curtis resumed his seat on the Board for the remainder of the meeting.

4. ZBA #01-41
- BY: Kingsway Builders
2325 W. Shiawassee
Fenton, MI 48430
- RE: 4169 Maplewood Meadows, Lot 256,
Maplewood Meadows
- FOR: To allow a 25 ft. front setback for attached garage;
30 ft. required. (4 Votes Required)

Donald Deaver, 2325 West Shiawassee, Fenton, MI, passed out information to the Board and indicated this is the site plan that was submitted to the Building Dpt. at the time the building permit was obtained. He highlighted on the plat where the lot is located and indicated adjacent to it is a large open field that is presently farmed. It is set back from the road 35 ft., the minimum requirement is 30 ft. I misread a document in the file that these people anticipated adding 5 ft. to the garage one way and 10 ft. to the garage the other way. Mr. Deaver stated further, he has been duplicating this home since 1992 and when people have added to this home it has always been the width. I submitted from the building permit based on the way I read the document. After the house was up under roof, my foreman was measuring for utilities and discovered that an error had been made in the setback requirement. As you can see from the site plan, it had nothing to do with the lot size which is 280 ft. deep and 245 ft. on the other side. The site plan submitted to you with my request shows the encroachment into the setback area. Mr. Deaver said he has tried to compensate for the error on the last lot #257 in the subdivision. He sold a similar two story house to go beside it, so the house that went on #257 would not be dwarfed or look out of place in relation to the one sold on #256.

AUDIENCE PARTICIPATION: There was no audience participation.

Mr. Strasser said if this was an empty lot and he was asking for this variance, he would be adamantly against it. Being that it was an honest mistake and having dealt with Mr. Deaver in the past many times, they do not have a problem with the request. He came to us after he discovered the mistake.

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BOARD DISCUSSION:

Mrs. Scott inquired regarding Lot 257 being sold and utilities on the property.

Mr. Parker commented regarding platting of subdivisions, potential problems and concerns with variances being requested.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Grantner, seconded by Parker to approve ZBA #01-41.
Motion carried, 7-0.

5. ZBA #01-42
- BY: New Century Auto Sales, Inc. /
dba Rightway Automotive
6200 State St., STE B
Saginaw, MI 48603
- FOR: To operate a used vehicle sales lot not in conjunction
with new car sales. (5 Votes Required)

Mr. Kalanquin stated that the applicant has withdrawn his request.

6. ZBA #01-43
- BY: Chemco, Inc. / Joe Kolly
4247 S. Dort Hwy.
Burton, MI 48529
- RE: 4247 S. Dort, Part of Lot 36, Supervisors Plat #25
- FOR: To obtain a use variance for a Haunted House Halloween
attraction. Applicant seeking permanent request.
(5 Votes Required)

Joe Kolly, 4247 S. Dort Hwy., Burton, MI said he is asking for renewal of his temporary use permit for his haunted house attraction that he has open in October. If approved he would like to ask if this could be for a permanent variance. This will be his third year and he has been here the last 2 times they have been approved.

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

Mr. Strasser indicated Mr. Kolly has had this request before the Board in the past. He runs a prominent business on Dort Hwy., and they have never had complaints regarding the business or the haunted house. When Mr. Kolly came to him a couple of weeks ago, I suggested putting on the request form for a permanent variance. The Board can either act on that, a yearly, or a certain number of years.

BOARD DISCUSSION:

Mr. Cross said the only problem he has is if Mr. Kolly vacates his business and we approve a permanent, it will stay with the property. We would have to place a stipulation that if there is a change of ownership, the business will come back before us again for a haunted house.

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Mr. Kalanquin asked if Mr. Kolly sells the property and we insert this clause, is it enforceable.

Mr. Strasser responded if you wish to grant him a permanent, grant that use to Chemco Co. which he owns, for him to operate that temporary use every year.

Mr. Parker said Mr. Kolly has run a fine operation all these years and we have never had any problems. He would personally like to see the Board grant a five year variance because if this is permanent, we really don't have a handle on it.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Weatherford to approve ZBA #01-43 as written, with the stipulation it be for a 5 year variance. Motion carried, 7-0.

7. ZBA #01-45
- BY: Don Rosebrough
3381 Greenly
Burton, MI
- RE: 2144 Webber, Lot 2, Blk F Southmere
Section 32, R-1C Zoned
- FOR: To keep a side yard setback of 16 inches for a
car port; 8 ft. required. (4 Votes Required)

ZBA Case #01-45 has been post-poned to the Reg. ZBA meeting of October 18, 2001, at 6:00 p.m.

8. ZBA #01-46
- BY: Robert D. Denam
5196 Greenmeadows
Grand Blanc, MI 48439
- RE: Parcel #59-32-400-023
4510 S. Dort Hwy., Burton, MI
- FOR: To conduct a used car sales lot not in conjunction
with new car sales. (5 Votes Required)

Robert Denam, 5196 Greenmeadows, Grand Blanc, MI, said he wants permission to move his business to 4510 S. Dort, located at Dort and Maple Rd. There has been a used car lot in there for quite some time and we have made arrangements to buy the property. The past business was a definite eyesore and I plan to fix it up quite a bit. I have been cleaning it up and trying to make the place look presentable. Mr. Denam said he grew up in the area all his life and is familiar with the building and property since he was a small child, so there is a lot of sentimental value to the property as well as business. Mr. Denam presented pictures to the Board of his current location in Grand Blanc Township on Fenton Rd., north of Hill Rd. He has been there since 1993.

AUDIENCE PARTICIPATION: No audience participation.

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Mr. Strasser said there is no problem with the request for the auto sales. He will need the building department requirements as far as code, clean up of the lot, and some parking lot issues to make it look presentable.

Mr. Denam said they have been working very hard there the last couple of weeks. It has a ways to go, but we are 40% of the way there.

BOARD DISCUSSION:

Mr. Cross inquired regarding the motor home on the property.

Mr. Denam indicated it was not his, and the owner of the motor home did not obtain permission to park it there. I had problems because we put a dumpster there for cleaning up and people are dumping furniture along with other items.

This guy came along and parked the motor home with his phone number on it. I told him he could leave it there for the rest of the week then he had to get it out of there.

Mr. Parker inquired regarding the applicant going before the Planning Commission. He asked Mr. Strasser if there is anything he feels the ZBA should address.

Mr. Strasser responded just general clean up.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Cross to approve ZBA #01-46 as written.
Motion carried, 7-0.

9. ZBA #01-47

BY: Robin Mikkola
1471 Connell
Burton, MI

RE: 1471 Connell
Lots 1241, 1242 Baker Park #1

RE: To construct an addition to the rear of the home at
8 ft. from the detached garage; 10 ft. required.
(4 Votes Required)

Robin Mikkola, 1471 Connell, Burton, MI, stated she has a small 2 bedroom home they bought to remodel and fix up. They are done with the inside and are ready to put on the addition, but are in need of 2 ft. for it.

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

Mr. Strasser said there is ample room to get around to the back yard from the other side of the home. We do not see a problem with the request.

BOARD DISCUSSION:

Mr. Cross inquired regarding the lot size.

Mrs. Mikkola said the lot is 90 ft. x 100 ft.

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Mr. Cross said this is one of the homes in the south end we see a lot of, and the new Master Plan will help us in this area.

Mr. Parker asked if there would be special construction requirements because of the distance between the house and the garage.

Mr. Strasser replied when you line these up, there may be only a 2 ft. over-lap. It will be a call the building inspector will have to make.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Cross, seconded by Scott to approve ZBA #01-47.
Motion carried, 7-0.

BOARD DISCUSSION:

ZBA By-laws:

Mr. Parker said Section 3C was changed, which originally made it mandatory to attend training sessions. It now reads to attend training sessions. Mr. Parker read aloud the conflict of interest, and said the Board asked to have eliminated that the person would remove themselves from the room where the discussion takes place. He would still like to see this left in, but if the Board would approve these with that removed, he thinks it is a good document.

Mr. Cross said he has previously stated that he does not believe a person should be asked to leave the room, and does not believe we can legally tell them to leave the room. He feels other than that, it is a well written document.

Mr. Curtis responded that he concurs with Mr. Cross. He inquired as to the attorney's opinion on this.

Mr. Parker said he originally spoke to Mr. Austin who said he would look at it and get back with him. So far there has been no feed back from him.

Mr. Cross indicated Council has been keeping Mr. Austin quite busy with researching laws regarding cell towers, and he is busy at the Court. That is probably why he has not looked at it.

Mr. Curtis said the Board decided to recommend a legal opinion, and now we are wanting to move ahead without it.

Mr. Parker said he would like to make the recommendation, as several here have mentioned, in taking out Sect. 6, paragraph C, and Sect. 6, paragraph D#3. He would like to change this document to reflect these changes and then send it to Mr. Hamilton for his review. Mr. Parker inquired to Mr. Strasser as to his opinion of the document, and if he recommends any changes.

Mr. Strasser said he did not find any fault with the document and can see it being adopted as is.

Mr. Cross stated it is a well written document but it is only guidelines. It can be added or deleted at any time by a vote of this Board. It is a set of rules to govern yourselves on.

Mr. Parker indicated part of the reason to establish by-laws is we expect the members of this Board to live up to these guidelines. Mr. Parker addressed further taking action if a member did not comply with the guidelines.

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Mr. Cross said the City Council is the ultimate authority. He re-iterated that it is a good document for people to follow, but to remove a ZBA member is a Council decision.

Mr. Kalanquin said the document is basically pretty good and he agrees some things should be removed. I do not think we can move on until we find the legality behind it.

Mr. Grantner said he recommends two things. He has no problem tracking down Mr. Austin or Mr. Hamilton. He would be interested in Mr. Cross taking this back to City Council and hear what they have to say. These are pretty straight forward and removing those two items which seem to be controversial should not be a problem. I think we can move ahead with this. He asked Mr. Parker if he could have something for the next meeting.

Mr. Parker said he will make the changes and speak to Mr. Hamilton.

Mr. Cross said he will take this to the next Council meeting and hopefully, have answers for you at the next ZBA meeting.

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

MEETING ADJOURNED AT 7:20 P.M.

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