

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MINUTES
NOVEMBER 19, 1998, 6:00 P.M., COUNCIL CHAMBERS

THE MEETING WAS CALLED TO ORDER BY William Kalanquin AT 6:000 P.M.

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

MEMBERS ABSENT: None

OTHERS PRESENT: R. LaDuke, Building Superintendent, R. Stewart, Building Inspector,
J. Adams, Clerk's Office.

Moved by Parker, seconded by Layman to approve the Regular ZBA Meeting of October 15, 1998, 6:00 p.m. with the correction to the motion of ZBA #98-58 to read "for a period of one year".

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh St., Burton, MI, inquired as to the presence of Attorney Richard Austin at the last meeting.

Mr. LaDuke said that Mr. Austin was not present at the last meeting and that two meetings ago, Mr. Hamilton was present.

Mrs. Dargel inquired as to the property at 5350 Davison Road, the former We Three building. For the past two weeks she noticed cars parked there. She asked if there is an occupant at the building at this time.

Mr. Kalanquin asked the DPW if there was a mechanical shop on the side of the building.

Mr. Stewart indicated there is a company that deals with rubber dye-setting located there.

Mrs. Dargel stated when John's Lumber proposed to buy that building, they came before the Zoning Board to ask for an industrial use in a commercial zone. They further stipulated different things they would have the City do based on their signage. Recently, the owner has been contacted in Mt. Clemons where their offices are, and the request was to have something on file in the Police Department that would entitle the police to enforce certain ordinances. They had their real estate firm put up signage stating no parking and no dumping. She asked the DPW that they further inquire as to the property at 5350 Davison Road.

Mr. Kalanquin said there is a small dye shop, and the person who runs the business come before the Board once a year for a temporary variance.

Mrs. Dargel stated the business has not done so for several years because he has not been called upon to come in.

Mr. Kalanquin indicated he thought they had.

BOARD DISCUSSION:

Mr. Parker said he would like to extend thanks to the City Council for the seminar the Zoning Board members attended on November 18th. Mr. Parker indicated it was very informative and he looks forward to future seminars. He spoke of the possibility of having someone come in directly to address the Zoning Board.

Charles Cross, 1092 S. Packard, Burton, MI, indicated to Mr. Parker that if he knows of anyone who could come and speak germane to the subject to the Zoning Board, he will personally look into it.

Mr. Parker said through the Michigan Municipal League, if there is something germane that this Board wishes to discuss or have more information on, the Michigan Municipal League will find the correct person and set up a seminar. He spoke of a seminar at the Fire/Police Station conference room a couple of years ago that was just for planning and zoning. Mr. Parker indicated most of the Zoning Board members have been there less than three years, and they can use more knowledge to carry out their duties.

Mr. Cross further re-iterated that if there is a topic they feel they need, they can contact MML and see what they can do. The Council as a whole is always willing to pay for the training for the Board members.

Mr. LaDuke indicated it was brought to his attention by Jeff Majors that the next ZBA meeting is scheduled for December 17th which is also the night of the City Council meeting at the Senior Citizen Center to discuss the mobile home park. He suggested the Board might want to consider changing the next ZBA meeting so they can attend the Council meeting. Mr. LaDuke said he understands that the next step if the zoning request is turned down by City Council, that it will come before the Zoning Board of Appeals, and it would give the members the opportunity to listen to the case.

Mr. LaDuke indicated there was an application taken out for the Just We Three building to file a site plan for a major corporation.

Discussion followed on meeting dates for the next ZBA meeting.

BOARD ACTION AND/OR RECOMMENDATIONS:

Moved by Parker, seconded by Scott to have the next scheduled Regular ZBA meeting held on Tuesday, December 15th at 6:00 p.m.
Motion carried, 5 -2.

NEW APPLICATIONS:

1. ZBA #98-59

BY: Enoch E. Lane
1176 Adams
Burton, MI

FOR: 1176 Adams, #59-13-503-031

RE: To construct a 12 ft. x 14 ft. dog building.
Exceeds allowable square footage by 72 sq. ft.
Total square footage of all structures is 936 sq. ft.; 864 sq. ft. allowed by ordinance. Section 5.15, Pg. 26, 27, Item 8. (4 Votes)

Enoch E. Lane, 1176 Adams, Burton, MI, said he would like to build a storage shed with a combination dog run and a chain length fence around it.

AUDIENCE PARTICIPATION: No audience participation.

Mr. LaDuke stated they reviewed the application and see no problem with the request. They would ask the applicant the type of siding to be used and will it match the house.

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BOARD DISCUSSION:

Mr. Centilli asked the applicant if he had a fence on the back of the property.

Mr. Lane indicated he does.

Mrs. Scott asked if he is building a shed and dog house.

Mr. Lane stated on one side there will be a 4 ft. hangover and spoke on the dimensions of the shed.

Mr. Parker asked how many dogs he has.

Mr. Lane indicated one dog.

Mrs. Scott asked if the slab is already poured.

Mr. Lane indicated yes.

Mrs. Layman asked if he is intending to use siding and if it will match his house.

Mr. Lane indicated yes.

BOARD ACTION AND/OR RECOMMENDATIONS:

Moved by Centilli, seconded by Weatherford to approve ZBA #98-59.

Motion carried, 7-0.

2. ZBA #98-61

BY: Larry Bowers
2373 N. Eugene
Burton, MI 48519

FOR: S ½ Lot 24, Pioneer Acres, Section 24, R-1A
Zoned.

RE: To temporarily place two homes on a residential
lot. Old house to be torn down after new house is
placed. (4 Votes)

Larry Bowers, 2373 N. Eugene, Burton, MI, wants to build a modular home with a full basement and take down the old house.

AUDIENCE PARTICIPATION:

Nancy Lindsay, 2322 Eugene St., Burton, MI, asked how long this would take and where on the property would this be located.

Mr. Bowers indicated the new house will be right behind the old house. As soon as the new modular home moves in, he will tear down the old house. He hopes it will take a couple of months to tear it down and plans on moving in by Christmas.

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Mrs. Lindsay asked if there is anything in the rules that states they have a certain amount of time.

Mr. Kalanquin indicated the Board has a right to set a specified time and the applicant would have to concur with that.

Mr. Stewart indicated they have dealt with this property several years ago. The DPW is not against him putting in a new house but his track record has not been exemplary. He has done additions in the past that have taken several years to finish. They have had several problems with code enforcement for junk, debris, cars, and dogs. If granted, there should be stipulations as to the time limit in removing this house because of problems they have had in the past and to protect the neighborhood. Mr. Stewart suggested a performance bond that would cover the cost of a demolition and stated otherwise, they do not have a problem with it.

BOARD DISCUSSION:

Mrs. Scott inquired if the applicant needs a variance to put a modular home on the property.

Mr. Stewart indicated he does not.

Mr. Centilli asked Mr. Stewart what the cost would be to take down the old house.

Mr. Stewart said typical demolitions would be approximately \$3,000 to \$3,500.

Mr. Centilli asked Mr. Stewart if the applicant posted a bond for \$4,000, would that be satisfactory.

Mr. Stewart indicated that would be sufficient.

Mr. Centilli asked the applicant if he knew a time schedule that he would need to take the house down from start to finish.

Mr. Bowers said the modular is ordered and he needs to put in a basement. The modular will be delivered 8 weeks from the date of October 16th.

Mr. Centilli asked if it will be delivered and set.

Mr. Bowers said he does not know about it being set, it is suppose to take 8 weeks to have the modular built.

Mr. Centilli said they will bring the modular and set it on your lot if the foundation is not prepared. He asked Mr. Bowers how long he thinks he needs to do all of this.

Mr. Bowers indicated at least until the end of January.

Mr. Centilli asked Mr. Bowers if he had until the end of February, would he be happy with that.

Mr. Bowers indicated yes.

Mr. Stewart said in his application he is asking for a house behind a house, to live in while he is constructing the other one. The 2nd part of the request, he is asking to tear it down and use the material to build a shed, which leads him to believe this is not something that will be tore down quickly. He will be disassembling and using the material.

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Mr. Kalanquin asked Mr. Stewart if the applicant is building a shed, if that requires a separate variance.

Mr. Stewart said it would not require a variance at all on a shed.

Mr. Bowers indicated he wants to build a 12 x 16 shed.

Mrs. Scott asked the applicant what is he doing with all the materials that he is not able to use.

Mr. Bowers indicated he will use disposal bins to dump unused material in.

Mrs. Weatherford asked the applicant if he has dug a basement yet.

Mr. Bowers stated he cannot until he obtains the permit and gets the variance before he starts.

Mrs. Layman asked if he is tearing this down himself or if he has help.

Mr. Bowers indicated he and his brother will do the work.

Mr. Kalanquin asked the applicant if the Board sets limitations, will he heed them.

Mr. Bowers indicated yes.

Mr. Parker said he sees an enforcement problem. He does not have a problem with the applicant putting up a new house and tearing the old one down, the problem is time and the enforcement of that. He asked the DPW for a recommendation on enforcement.

Mr. LaDuke indicated to ask the applicant to submit a performance bond and they would set a designated time period, such as March 1st. If he gets in by December, and as he indicated, he needs a couple of months, that would give him January, February, and the end of March to tear everything down. If things are not completed by a designated time, they would take the performance bond and hire a contractor to remove everything that is left and would have the funds to pay for it. Mr. LaDuke state that is what a performance bond does is guarantee performance. It will probably cost the applicant for a \$4,000 performance bond, approximately \$120.

Mr. Parker asked the applicant if he would have a problem with the stipulation of a performance bond.

Mr. Bowers said he would not have a problem with that.

BOARD ACTION AND/OR RECOMMENDATIONS:

Moved by Parker, seconded by Weatherford to approved ZBA #98-61 with the stipulation there be a \$4,000 Performance Bond and the old house torn down by March 31, 1999.
Motion carried, 7-0.

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3. ZBA #98-62

BY: Gerald Basore, J.B. Painting
4085 S. Genesee, Burton, MI

FOR: #59-35-100-015

RE: To build accessory structure; exceed allowable
footage by 10 square feet, 970 sq. ft. allowed, 980
sq. ft. requested. SE Zoned. (4 Votes)

Applicant not present.

Mr. LaDuke stated the application indicates 7:00 p.m. for the meeting time.

BOARD ACTION AND/OR RECOMMENDATIONS:

Moved by Parker, seconded by Berry to move ZBA #98-62 to the end of the meeting.
Motion carried, 7-0.

4. ZBA#98-63

BY: Tammy Stockton
4338 Bennett, Burton, MI

FOR: Lot 22, Bennett Acres #1, Section 22

RE: M-1 use in an R-1B District to keep 5 adult
dogs. Section 17.03, Item 1-d. (5 Votes)

Tom Stockton, 4338 Bennett, Burton, MI, said they want a variance to keep 4 adult dogs, and not 5 as indicated. He had his dog put to sleep last week. They have 2 adult dogs currently, and 2 puppies for their kids to show. There would be 4 adult dogs instead of 5 adult dogs. Mr. Stockton indicated they are in kennels, they just finished them, but the dogs had been getting out and roaming the neighborhood once in a while.

AUDIENCE PARTICIPATION:

Jack Herriman, 2324 Meadowcroft, Burton, MI, indicated he lives at the end of the road and backs up next to this. He has nothing against family pets, and has a dog and cat himself. He lives there and goes into his woods and out to the other side. The applicant does not have a large lot or large house, and there is 5 dogs in a small house along with wife and kids. He sees no kennel provision but sees a pile of lumber or something stacked in the back yard with a tarp over it. Mr. Herriman indicated he read in the Sunday paper an ad for pit bulls and a phone number. He said he raised six kids and they had dogs and cats, but that this looks more like a commercial operation in a residential neighborhood then it does family love for their dogs. Mr. Herriman stated further that his 4 acres of woods is exactly where these dogs get out into.

Mr. Stockton said they have american pit bull dogs and they are show dogs. He said the neighborhood kids play in the yard. They have bred their dogs to get the pups their kids can show.

Dawn Press, 4308 Bennett, Burton, MI, said her concern is not the dogs they now have, but how many more are they going to kennel in the future. There are approximately 30 children on that street and there are only 20 houses. Her concern is being kept up all night with barking dogs and more being added.

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Mr. Kalanquin asked if they plan on more dogs.

Mr. Stockton indicated no, just the four.

Mr. LaDuke read aloud a letter he received from a neighbor that could not be here tonight. He indicated he opposes any variance. Mr. LaDuke said he also received a complaint on 11/17/98 and 11/19/98 showing

opposition to this variance. This is a M-1 use in a residential area and the last case they had was denied by the Board.

Mrs. Scott asked about the ages of the dogs.

Mr. Stockton indicated one adult female that is age 3, one adult female age 3 to 3 ½ and 2 puppies 7 to 8 months old.

Mr. Stewart stated at this particular house, he was handling code enforcement a year ago, and had been there twice for noxious smell and the amount of dogs. They left violation notices which the resident never responded to. There has been other complaints and he has been there because of dog problems.

Mr. Berry said the M-1 zoning would go with that for dog kennels from now on.

BOARD ACTION AND/OR RECOMMENDATIONS:

Moved by Centilli, seconded by Weatherford to deny ZBA #98-63.
Motion carried to deny, 7-0.

Mr. LaDuke asked if Mr. Basore was present and if so, could the Board hear his case next because he anticipates the following to be lengthy.

5. ZBA #98-62	BY: Gerald Basore, J.B. Painting 4085 S. Genesee, Burton, MI
	FOR: #59-35-100-015
	RE: To build accessory structure; exceed allowable footage by 10 square feet, 970 sq. ft. allowed, 980 sq. ft. requested. SE Zoned. (4 Votes)

Gerald Basore, 4085 S. Genesee, Burton, MI, said this request has nothing to do with his business, this is at his home. He spoke on the variance request.

AUDIENCE PARTICIPATION: No audience participation.

Mr. LaDuke indicated the DPW has no problem with the request.

Mr. Parker said he went out to the property and seen a big pole barn on an empty lot. He inquired as to two pieces of property under the same tax number and how he could have a big pole barn built on an empty lot.

Mr. Basore said the pole barn is at 4095, he owns both properties.

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Mr. Stewart said he would have to look into the pole barn on the empty lot.

Mr. Basore said that was built a long time ago.

Mr. Parker said he has a problem with building a 24 x 28 garage, whether it is on a different lot or not. The applicant owns both pieces of property, has a pole barn and now wants to build a garage. He also is concerned with the application saying JB Painting and realizes the applicant is stating it is on his private property and it has nothing to do with the painting business. Mr. Parker spoke of concerns with using this as part of his business.

Mr. Basore said he does not know why it states JB Painting on the application.

Mr. Parker spoke further that the driveway is shared with the property that has the pole barn. He did not know that an out-building could be built on a lot without a structure that was a residence.

Mr. LaDuke said you can with a variance and there is one in the Lapeer Heights Subdivision that a past ZBA Board gave permission to build.

Mr. Parker said he did not realize he was going to tear down the existing garage because it did not state that on the application. It just states he is going to build an accessory structure.

Mrs. Layman inquired regarding the variance and two different tax identification numbers.

Mr. LaDuke said he knows of a case where the resident lived three streets away, and the Board gave him permission to build a garage on a parcel. In this particular case, this was taken by a non-building department staff person. If this person changed it from 24 to 26, the applicant would not be here today and 10 sq. ft. is 1 x 10, so if he changed it by half a foot, he would not be here today. He will check into how the other pole barn got there, but he does not see a problem. Mr. LaDuke asked the applicant if he is tearing down the existing one.

Mr. Basore indicated yes.

Mr. LaDuke suggested the Board make that part of the motion or one of the conditions to have it tore down, but he still does not see a problem with it.

Mr. Centilli asked if the garage will be a permanent structure attached to the home.

Mr. Basore indicated yes.

BOARD ACTION AND/OR RECOMMENDATIONS:

Moved by Parker, seconded by Scott to approve ZBA #98-62 with the stipulation the existing garage be torn down 3 months from the start of construction.
Motion carried, 7-0.

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6. ZBA #98-55

BY: Dennis Kinder
1224 S. Genesee
Burton, MI

FOR: #59-15-200-019, R-1A Zoned

RE: To extend the variance to live in a mobile home while fire damaged home is repaired. Ordinance 19, Section 5.16, Item 7. (5 Votes)

Dennis Kinder, 1224 S. Genesee, Burton, MI, stated his attorney has spoken to different individuals as well as Judge Fullerton. He is requesting an extension to the variance.

AUDIENCE PARTICIPATION:

Pauline Dargel, 6119 Hugh St., Burton, MI, spoke regarding a past case at 4119 E. Maple Rd., August 5, 1982, which was a request to allow placement of a mobile home on the property for one year while the house was being renovated. That went on for 5 years before a building permit was taken out. Mrs. Dargel indicated her point is, they do not have a first here with the Kinder case. She spoke further that at 5451 Brookwood, a resident was allowed to live in a mobile home during the construction of the house and further, was allowed to build a pole barn for the house. For a period of time, AC came to the Board for a period of time on an annual basis to allow two double-wides for an office, although she recognizes they are not living in those. Mrs. Dargel said there is a current case for a yearly renewal where a mother lives in a mobile home on a lot so there is a second dwelling unit there, and she remembers hearing each and every time, "this is a very neat place."

Mr. Stewart said in regards to the mobile home case on Maple Road, they are aware of it. The purpose of this Board is to deal with a specific property on a specific case.

Mr. LaDuke said at the last meeting, he was requested to check with the Court. The next day he went and obtained a copy of the file and spoke with Mr. Kinder's attorney and the insurance company's attorney this past month. He has a copy of a letter from Mr. Kinder's attorney that he did in fact go before Judge Fullerton's office on November 9th and ask for support of a motion, proof of service and motion to appoint an umpire. Mr. LaDuke stated further that an impartial umpire would take a look at Mr. Kinder's existing house that had the fire, place a value on that house, and at that time the house could be removed. They feel the house is in a state of disrepair and some day the house will be demolished. He did a case history and gave a copy to each of the Board members. He gave some recommendations on some conditions he would like to see if this Board chooses to grant Mr. Kinder a variance. Mr. LaDuke said he had an opportunity to go over to Mr. Kinder's property today and was a little disappointed to see the junk and debris behind the existing house. There was a stove, washing machine, and many, many garbage bags. Mr. LaDuke said he has no problem and does not want to see this family out, but wants some compliance and to show other residents we want to work with people, but yet the people we help and give a variance to, are willing to work with us. The Board needs to make conditions to grant an extension and a time extension. He wants to make sure the children and Mr. and Mrs. Kinder have a place to live that is safe.

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Mr. Kinder stated as to the bags of so-called garbage, stove and stuff like that, those are items that were removed from the house to itemize for insurance purposes. He was told by his attorney and the insurance company that he cannot get rid of them until he is paid for them or account for them. That is what the purpose of the umpire is for, is to come in and take a look at this because the insurance company refuses to. These items are behind the house so it cannot be seen from the street. Mr. Kinder said no one has ever complained about it.

BOARD DISCUSSION:

Mrs. Scott said she does not see how they can make a good judgment on this case until it has gone before the Courts and a decision is made.

Mr. Kinder said that is all he is waiting on, one way or the other. If he can get a settlement out of the insurance company he will tear the house down and rebuild. If he cannot get a settlement from the insurance company, he will tear the house down and move.

Mr. Parker said in discussion with Mr. LaDuke, the fire itself was contained in the basement of the structure and the only damage that was done was to the beams in the basement of the structure.

Mr. Kinder said the floor has dropped approximately 8 inches.

Mr. Parker said Mr. LaDuke stated they would not allow the house to be rebuilt because of the condition of it, and even if the beams were replaced, the house is still unlivable. Mr. Parker asked Mr. Kinder what kind of money is he is expecting to get from his insurance company.

Mr. Kinder said according to his attorney, the structure is a total loss because it cannot be repaired and is beyond salvageable. The policy was for \$49,000 on the structure and there is some argument as to the value of the contents because he has guaranteed replacement costs. He had an independent appraiser come in and the contents were appraised at \$108,000.

Mr. Parker asked if he would have to rebuild the basement.

Mr. Stewart said nothing on the house is salvageable.

Mr. Parker questioned rebuilding the house on the amount of \$49,000.

Mr. Kinder stated he already has things in order and has a package price of approximately \$52,000.

Mr. Kalanquin spoke regarding a home Mr. Kinder had pictures of about a year and a half ago. He asked if he recalled the price.

Mr. Kinder said \$15,000 was for the shell.

Mr. Weatherford asked about the insurance costs of the contents.

Mr. Centilli asked Mr. Kinder if he is aware of Mr. LaDuke's conditions.

Mr. Kinder said he had no knowledge about them what-so-ever.

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Mr. Centilli said he would support Mr. LaDuke's recommendations, Item 1, 2 and 3.

Mr. LaDuke stated he has a copy for Mr. Kinder to read, and provided him with a copy.

Mr. Kalanquin said the only way he would support this is if Mr. Kinder would allow the DPW to go into the trailer to make sure it is safe for the kids.

Mr. Kinder said he has no problem with that what-so-ever. He stated he does not understand Item #1 of the recommendations.

Mr. LaDuke said his intent was to support Mr. Kinder in his request for the variance and also have some control in that the house stays neat, clean, etc., then if it comes back before the Board, the Board would then take a look at it, and obtain a report from the DPW. There has been problems in the past, and they have had enough phone calls from residents of why that home is still there, so they want to stay on top of things in the rest of the areas, and then that does not draw attention to Mr. Kinder. That was his intent, every 90 days to come back, and if

there is no problem with his operation, he has no problem supporting it further if he sees progress. The Court case in talking with Mr. Kinder's attorney is still a year away. Mr. LaDuke indicated the first step is a pre-trial in February or March, and sometime after that on the docket. They are looking at a long haul, but also are protecting the other residents by keeping the place clean and also working with Mr. and Mrs. Kinder.

Mr. Kalanquin asked Mr. Kinder if he has a problem with the conditions they set and that the DPW has a right to come in and give a 24 hour notice.

Mr. Kinder indicated that is fine with him.

Mr. LaDuke said they are not going in to look at every little thing, they will look for the safety features, and if Mr. Kinder has some apprehension with Burton inspectors doing it, he can ask one of the fellow inspectors from a neighboring community to do that inspection.

Mr. Kinder said he does not have a problem with the City of Burton coming in.

BOARD ACTION AND/OR RECOMMENDATIONS:

Moved by Berry, seconded by Layman to approve ZBA #98-55 contingent upon DPW regulations, conditions #1,2,3 written by Mr. LaDuke. Item #1) Maximum 90 day variance with automatic review by ZBA. Complete site must be without any City Ordinance violations. Item #2) Demolition of existing dwelling once the Court appointed Umpire-Appraiser appointed by Judge Fullerton completes their appraisal. (motion made 10/26/1998. 60 days).

Item #3) The City of Burton building inspectors be allowed to inspect the mobile home currently being occupied by the Kinder family. If this home is found to be unsafe to reside in, based on the building inspectors review, the occupants shall be required to relocate until this dwelling is deemed safe to occupy.

Motion carried, 7-0.

Mr. LaDuke stated that the recommendations, so the audience can understand, a maximum 90 day variance, December, January and February, Mr. Kinder will come back and they will re-evaluate his case again.

Mr. Kalanquin asked Mr. Stewart to get with Mr. Kinder when he can go into the trailer.

Mr. Kinder asked the DPW to notify him approximately a week before.

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The next regularly scheduled meeting of the Zoning Board of Appeals will be held on **Tuesday, December 15, 1998**, at 6:00 P.M.

MEETING ADJOURNED AT 7:18 P.M.

JRA