

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MEETING MINUTES
NOVEMBER 20, 2003, 6:00 P.M., COUNCIL CHAMBERS

THE MEETING WAS CALLED TO ORDER BY VICE CHAIRPERSON STEVE WELCH AT 6:00 P.M.

MEMBERS PRESENT: Scott, Terry Parker, Centilli, Grantner, Tracy Parker, Welch

MEMBERS ABSENT: Weatherford

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

Moved by Parker, seconded by Scott to approve the Regular Zoning Board of Appeals Meeting held on September 18, 2003, at 6:00 p.m., Special Zoning Board of Appeals meeting held on October 9, 2003 at 6:00 p.m. and the Regular Zoning Board of Appeals meeting held on October 16, 2003 at 6:00 p.m. Motion carried, 6-0.

AUDIENCE PARTICIPATION:

Dennis Gorbitt, 1040 Rinn, Burton, MI, spoke regarding neighbors using code enforcement as a weapon to harass other neighbors.

BOARD DISCUSSION:

Mr. Welch expressed congratulations for Mr. Curtis' appointment to the City Council. Mr. Welch told the audience Mr. Curtis has been a member of the Zoning Board.

NEW APPLICATIONS:

Post-poned from ZBA meeting held on October 16, 2003 at 6:00 p.m.:

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| 1. ZBA #03-52 | BY: Barbara Pettey
3295 Shannon Rd.
Burton, MI |
| | RE: 3283 Shannon, Lot 105 Killarney Park #3
Section 33, R-1B Zoned. |
| | FOR: Appeal front yard fence application for
3283 Shannon Rd. (5 Votes Required) |

Barbara Pettey, 3295 Shannon Rd., Burton, MI, spoke against front yard fences. She expressed that the yards in her subdivision are open and friendly and they do not have front yard fences. She does not see a hardship and requests the Board to deny the front yard fence request.

AUDIENCE PARTICIPATION:

Beverly Palm, 3294 Shannon, Burton, MI, stated their subdivision has an Association that has by-laws and restrictions. Mrs. Palm read aloud one of the Association's statements regarding no fences. She re-iterated Mrs. Pettey's comments regarding their subdivision and stated they have at least 11 families from Killarney Park that ask the Board to turn down the front yard fence request.

Mr. Welch indicated the meeting is not the proper venue to enforce any Association restrictions.

Pauline Dargel, 6119 Hugh St., Burton, MI, stated she feels Zoning Ordinance 19 should be amended regarding this particular area and she has brought this up to Council. She asked if a 4 ft. fence down a front yard setback is allowed.

Mr. Strasser responded yes. There is an application for a front yard fence. Front yard fences are dictated by the height which is a 4 foot maximum that can be chainlink, plastic, vinyl, split rail, or whatever constitutes a front yard fence. The ordinance reads that we have to notify the adjoining property owners of the intent. On that application there is an objection portion by the adjoining property owner. If they object, they have to fill out a Zoning Board of Appeals application, pay the fee, and bring the applicant for the front yard fence before this Board and the Board determines if they are going to grant a front yard fence permit or not.

Mrs. Dargel stated she feels the procedure is backwards.

Mr. Welch asked Mr. Centilli to look into this issue with the full Council.

Wesley Siebert, 3235 Shannon Rd., Burton, MI, stated his subdivision resembles a park with the woods behind it. The attraction of the subdivision is the yards. He hopes the Board turns down the front yard fence.

Don Sanderlin, 4460 Killarney Park, Burton, MI, said he has lived at his home for 50 years. He re-iterated many of the comments regarding the subdivision.

Mr. Welch expressed to the audience that the Zoning Board members visit the sites of each applicant.

BOARD DISCUSSION:

Mr. Centilli stated this is one of Burton's better kept neighborhoods. It would look quite ridiculous seeing a front yard fence. He does not see the hardship.

Mr. Welch said it would not conform with the rest of the neighborhood.

Mr. Parker also expressed the fence would be out of place.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Scott to approve ZBA #03-52.
Motion carried, 6-0.

Post-poned from the ZBA meeting held on October 16, 2003 at 6:00 p.m.:

2. ZBA #03-55

BY: Dennis Gorbutt
1040 Rinn
Burton, MI

RE: 1046 Rinn
Lot 50 Rinn Acres, Sect. 13
R-1A Zoned

FOR: To deny request for a front yard 4 ft. chainlink
fence. (5 Votes Required)

Dennis Gorbutt, 1040 Rinn, Burton, MI, indicated he had the property surveyed by Delta. Davison Surveyors was the previous surveyor. He presented the Board with pictures and indicated the survey stakes had been moved according to his surveyor. Mr. Gorbutt asked the Board to pull his request and approve the fence request for 1046 Rinn. He will remove his split rail fence but he wants to keep his privacy fence.

Mr. Strasser said his advice to the Board is to act on the request negatively so the lady can have the fence.

Dorothy Beals, 1046 Rinn, Burton, MI, said her permit called for a front yard fence which is across the front of the house. Mr. Gorbutt's fence is between the two houses. She does not know what the problem is and she does not care if Mr. Gorbutt keeps his fence.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Scott, seconded by Mr. Parker to approve ZBA #03-55.

Motion carried, 6-0 to deny. Scott – no, Terry Parker – no, Centilli – no, Grantner – no, Tracy Parker – no, Welch – no.

Temporary Use:

3. ZBA #03-58

BY: Wendy Baryo
4157 E. Maple Ave.

RE: 4157 E. Maple Ave.
Parcel #59-34-300-029
SE Zoned

FOR: Place mobile home on site temporarily while fire
damaged home is being repaired.
(5 Votes Required)

Wendy Baryo, 4157 E. Maple Ave., stated she had a house fire and needs temporary housing.

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

Mr. Strasser said the DPW recommends approval with the stipulation the mobile home can stay there until they gain occupancy on the new structure.

BOARD DISCUSSION:

Mr. Centilli inquired as to the placement of the mobile home.

Mrs. Baryo responded it will be placed in the driveway.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Scott to approve ZBA #03-58 with the stipulation the temporary home is removed after occupancy. Motion carried, 6-0.

4. ZBA #03-56

BY: Edward & Michele Burzyck
5059 Lippincott Blvd.
Burton, MI

RE: Lot 25, Supervisors Plat 14, Sect. 14
R-1A Zoned.

FOR: 1) Build a two story addition 20 ft. x 30 ft. on rear of
house at a 5 ft. front setback from Roat Ct.; 30 ft.
required.
2) Addition to be 5 ft. from detached garage.
(4 Votes Required)

Gary Fielder said he is speaking for the Burzyck's. They would like to build a 20 x 30 addition onto the rear of the house. The existing house is 38 ft. off of Court. They want to extend it out another 3 ft. toward Court. The addition going back 20 ft. will place it 5 ½ ft. away from the existing garage and they need a variance for that. The garage will be fireproofed and dry walled.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said the proposed addition would be 3 ft. from the roadway. Being only 5 ft. from the proposed addition, inside the garage they will have to fireproof it which is standard procedure. DPW recommends approval.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Scott to approve ZBA #03-56.
Motion carried, 6-0.

5. ZBA #03-57

BY: Asselin Associates Architects
4488 W. Bristol Rd.
Flint, MI 48507

RE: 2487 E. Bristol Rd.
Parcel #59-24-400-007
M-2 Zoned.

FOR: Side yard setback from 30 ft. 0" to 5 ft. 0" (west side).
(4 Votes Required)

Les Beals, 1284 West View Dr., Grand Blanc, MI, said they are asking for a side yard setback from 30 ft. to 5 ft. on the property on the north side of Bristol Rd., just east of Dort Hwy. This is for loading material into the building.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said we assume because of the type of business occupying the lot, the building will be made out of blocks. The zoning is M-2, heavy industrial. The standard size setback is 30 ft. It is somewhat of a small lot that is isolated and they are totally surrounded by a Grand Blanc block company. It is not an unusual request especially on some of the smaller lots zoned heavy industrial. The DPW recommends approval.

BOARD DISCUSSION:

Mr. Centilli inquired regarding the building construction.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Grantner, seconded by Tracy Parker to approve ZBA #03-57.
Motion carried, 6-0.

6. ZBA #03-59
- BY: Carol Conover Revocable Living Trust
15205 Pinewood Trail
Linden, MI 48451
(Ron Sabo, Attorney for applicant)
- RE: 4085 S. Center Rd.
Parcel #59-34-100-027
C-2 Zoned
- FOR: Variance from ordinance so as to allow property split on the east portion of above referenced parcel to house a dental office without having a 20 ft. entrance on Center Rd. A perpetual irrevocable easement has been granted to east portion to allow for ingress/egress to east portion. (5 Votes Required)

Attorney Ron Sabo, 8275 Holly Rd., Grand Blanc, MI, stated on the application submitted, he attached several drawings. It includes the entire Conover parcel description that is approximately 155 ft. x 400 ft. It currently houses a dental office for Dr. Conover. He also provided a drawing of the back portion of the same parcel. There is a split request with the DPW and he provided that drawing of the perpetuary vocable easement of egress and ingress. It is across Dr. Conover's current parking lot and entrance which will continue straight through to the parking lot for the new building. The new building will look virtually identical to the current building housing Dr. Conover's office, but slightly different in size. The hardship is that Dr. Conover's current building and parking lot encompasses the entire 155 ft. of frontage. When Dr. Conover originally purchased the property, he envisioned that eventually there would be another building behind him and somewhat identical to the current building. Mr. Sabo said it is not an uncommon scenario, they just went before this Board recently with Dr. Engleman. We respectfully request the Board approves the variance primarily because of the hardship and the perpetual irrevocable ingress/egress easement which runs with the land, so irrespective of the ownership in the future, it will be running with the land.

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

Mr. Strasser said the City has the potential for more of these situations to come up. It may be something for our Planning Commission to look at as far as the ordinance. Our ordinance reads that any given property must have 20 ft. of frontage on a roadway. It doesn't necessarily say you have to ingress and egress that property on that 20 ft. It just indicates 20 ft. of property on the roadway. Many business situations are very similar to this. Dr. Engleman just north on Center Rd. / north of Bristol Rd. has a similar situation to this. The only negative part is that they have to ask for a variance because of the way our ordinance is written. Condominiums are very similar to this where they have ingress and egress easements. It is not a problem what he is requesting, it is a timing issue at this point. The doctors are looking at construction loans and mortgages, and it has been indicated to me that the banks are hesitant to do this until the City formally approves the lot split. Mr. Strasser stated further if the request is approved, it will then go in front of the Planning Commission for a lot split.

BOARD DISCUSSION:

Mr. Welch expressed that the variance granted stays with the property.

Mr. Centilli asked for clarification regarding the existing parking lot.

Mr. Strasser said they will use it for access to the building in the back.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Centilli, seconded by Scott to approve ZBA #03-59.
Motion carried, 6-0.

7. ZBA #03-60
- BY: Steve Bennett
2295 E. Judd
Burton, MI
- RE: 2295 E. Judd, Lot 1, Supervisors Plat #25
R-1C Zoned.
- FOR: 1) To exceed the allowable square footage for accessory
structures by 565 sq. ft. with a 32 ft. x 60 ft. pole
barn.
2) To exceed the height by 2 ½ft, 14 ft allowed,
16 ft. 6 inches requested.
(4 Votes Required)

Steve Bennett, 2295 E. Judd, Burton, MI, stated he would like to build a pole building on the back part of his property to be able to put his motor home into. He owns just under 4 acres of land. The previous owners let all the foliage get overgrown and it really is a secluded area. He needs a 12 ft. door to get the motor home into the pole building. He owns an in-close trailer, motorcycles, street bikes and a big ford tractor to mow the acreage that he would like to have in the pole structure as well. Mr. Bennett expressed further he would like to place the pole building so the doors face his house. There are three streets that dead end to his property and he has a problem with kids cutting through the back of the property, so he wants to make sure the entryway is facing his home for safety reasons.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said this is a residential area surrounding the applicant's property. As he stated, he has approximately 4 acres. Our Ordinance allows 2,250 sq. ft. of accessory structure to be built on this property. The size seems to be way too big for a residential area. Our recommendation is to deny the request.

BOARD DISCUSSION:

Mr. Parker said he has stated numerous times that the City Council re-visited the ordinance and increased the allowable square footage for accessory structures by a great deal. Even though he has 4 acres, a 32 x 60 is a huge building. He cannot support the request.

Mr. Grantner asked Mr. Strasser how long ago was the ordinance revised.

Mr. Strasser replied the ordinance was revised 4 years ago.

Mr. Parker said the date of the new ordinance was September 18, 2000.

Mr. Welch inquired regarding the structure size that could be built.

Mr. Strasser said totally he is allowed 2,250 sq. ft. What he has left to build is a structure 1,365 sq. ft. which is something bigger than 30 x 40.

Mr. Bennett said he has another building 20 ft. x 16 ft. he would be willing to demolish and tear it down. If this would make a difference he would be totally willing to do that.

Mr. Strasser said if the small structure was removed and the Board elected to approve the larger structure, he would exceed by 245 sq. ft. Mr. Strasser also indicated the height.

Mr. Welch discussed approving with stipulations.

Mr. Parker stressed that he would not support anything over what the ordinance allows.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Scott to approve ZBA #03-60.

Motion carried to deny, 6-0. Scott – no, Terry Parker – no, Centilli – no, Grantner – no, Welch – no,
Tracy Parker – no.

Discussion ensued regarding Part 1 and Part 2 of the request. It was recommended to approve Part 2 of the applicant's request.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Centilli to approve ZBA #03-60, Part 2.

Motion carried, 6-0.

8. ZBA #03-61

BY: Don Snider
1121 Neubert
Flint, MI 48507

RE: 3043 Clarice, Lot 13 Supervisors Plat #12
C-2 Zoned.

FOR: To construct a single family home on a C-2 zoned
property. (5 Votes Required)

Don Snider, 1121 Neubert, Flint, MI, stated he is asking for a permit to build a new home on the east side of Clarice.

AUDIENCE PARTICIPATION:

Joanne Snider, 1121 Neubert, Flint, MI, said her parents live on the right side of the lot and her sister lives on the other side. Her sister's house was fire-bombed this summer so nobody is living there now. My parents are both elderly and have lived there for 61 years. Her father cannot take care of her mother and the reason for building there is because we will be their caretakers.

Mr. Strasser said this is a gravel road south of Atherton Rd. It is very doubtful anyone would build commercial there. DPW does not have a problem with the request.

BOARD DISCUSSION:

Mr. Centilli said he would never deny anyone to build a new home on Clarice. It is a welcome site.

Mrs. Scott inquired regarding the placement of the home.

Mr. Snider responded the lot is narrow and long so the house would sit sideways. The garage would be off the front of the house and face the road.

Mr. Parker stated the ordinance will not allow that.

Mr. Strasser said the way the ordinance is written the front of the home has to face the road. This is a very unusual situation. The property is zoned C-2 and the side setbacks are zero. Technically he could build his home on the property line although we advise you not to do that. There is a way to have the front of the home face the road.

Mr. Welch advised Mr. Snider to get with Mr. Strasser to work out the placement of the home.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Centilli, seconded by Terry Parker to approve ZBA #03-61.
Motion carried, 6-0.

Mr. Welch stated the next Regular ZBA meeting is scheduled for Thursday, December 4, 2003 at 6:00 p.m.

Meeting adjourned at 7:17 p.m.

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