

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

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

MEMBERS PRESENT: Kalanquin, Scott, Parker, Grantner, Curtis, Layman, Welch

MEMBERS ABSENT: Centilli

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

Moved by Grantner, seconded by Scott to approve the minutes of the Regular Zoning Board of Appeals Meeting held on October 18, 2001 at 6:00 p.m. Motion carried, 6-0.

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

BOARD DISCUSSION:

Mr. Parker spoke regarding the letter he received from Atty. Hamilton concerning the by-laws. He said it is his opinion that with the suggested deletions Mr. Hamilton said should be made to the by-laws, the adoption of them would have no positive affect. I therefore withdraw my support for trying to get the by-laws in place. I would like to thank the Board for their cooperation and the time that we spent discussing them. Mr. Parker stated since Mr. Centilli is absent, we should offer the applicants on the agenda tonight the opportunity to wait for a full Board, as past practice.

Mr. Kalanquin acknowledged Mr. Parker's suggestion and asked him if he objects to his letter being submitted into the record.

Mr. Parker responded he did not have any objections and thought the letter was submitted to the Clerk's office and/or the Administrator's office.

NEW APPLICATIONS:

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|-----------------|---|
| 1. ZBA #01-52 | BY: Lawton & Martha Williston
5465 Lapeer Rd.
Burton, MI 48509 |
| | RE: Parcel #59-14-526-007 (Lot 10)
Parcel #59-14-526-008 (Lots 11 & 12)
Parcel #59-14-526-009 (As to Lots 13, 21 & 22)
Cardinal Gardens, Sect. 14, C-2 Zoned. |
| | FOR: Special Temporary Variance to place accessory
structure in front yard area. (4 Votes Required) |

Lawton & Martha Williston, 5465 Lapeer Rd., Burton, MI. Mr. Williston said he would have his request heard even though there is a Board member absent. He said he is asking for a special temporary variance due to the litigation with Sunoco, Garrow Loftis and the previous owners. The situation became apparent to the original homeowner in 1966. We had no disclosures on the environmental conditions, we bought the home in August of 2000, and moved into it in October of 2000.

Mr. Williston said that on February 3, 2001, fumes drove them from the house. He has a letter dated February 12, 2000 regarding ground water contamination on our property. A copy of this letter went to the Burton City Manager, Fire Chief Halstead, and the Burton Fire Department with copies of ground water data from the Genesee County Environmental Health Department and the DEQ. During the State investigation they noted that the petroleum odors was strong in the basement, the findings of the letter dated February 12, 2001. I have a letter dated July 3, 2001, sending the limited site licensed agreement to Sunoco. An agreement has not been reached and if it is not made by the end of the year, the State DEQ advised us they will step in to help mediate it. Mr. Williston stated further, they have documents showing the property has had past contamination, and documents from the Fire Department showing different visits to the residents with the same complaints. This is an exceptional situation and we would like this temporary variance for however long it takes to work the matter out. The situation begun last February, and we would like to tell you when it will end, but we can't and it is impossible at this point.

Mr. Williston stated the east side of the property is also contaminated. There are three wells on the east side. We know the west side has two wells that are contaminated. Sunoco wants to do 15 to 30 different wells, and they want to put them in permanently. Our attorney does not want them in permanently, and would like them in for a period of time to test and see where it is coming from, how far and wide the contamination has gone. Mr. Williston said he has tractors and farm implements that are in the garage right now and has no other place to put them. It would be temporary, when I move the shed goes with me, it is a portable shed when it was put up and purchased that way. I am asking for a temporary variance for only the time we are there.

AUDIENCE PARTICIPATION:

Anthony Tomassilli, 2713 Chicago Blvd., Flint, MI, said he has owned the property across the street from this gentleman since 1964. There has been contamination on his property since I was there, Jerry Zjadlik and I were good friends. Mr. Tomassilli said he does not like to look at the shed in his front yard, there is plenty of room in the back, and behind his house is a big shed where he can put these implements in. He believes however, someone needs to give the applicants some kind of relief. In the early 1970's, Mr. Zjadlik brought this up to the State, and it was in the Flint Journal.

Richard Jacobs, 5460 Lapeer Rd., Burton, MI said he understands the applicants' position and does not want to cause a rift with the neighbors. He has concerns of the shed staying there, a future business coming in and the competition for his business. Mr. Jacobs said the shed looks unsightly.

Earl Escue, 5423 Lapeer Rd., Burton, MI, said he agrees that it is an unsightly shed in the front yard. I drove up and down Lapeer Road to see if there were any other properties with sheds in the front, and did not see any. He believes the owner has 2 to 3 acres behind his home to put the shed.

Mr. Strasser stated the couple has a hardship.

Martha Williston said the gasoline and petroleum fumes have come into our basement causing an unsafe environment. What has happened with the State and Sunoco, is they want access to the property to place monitoring wells so they can see the plume to determine how to re-mediate, how to clean the situation. If we move this anywhere else and put a drive in, they may not be able to do the drilling to find the contamination.

Mr. Williston said the shed is 12 ft. from the house, 44 ft. from the next door neighbor, and is 38 ft. from the center line of the road to the edge of the property. The shed is probably the safest place it could be so Sunoco can come in and do the monitoring they have to do. It should have been a Brownfield property back in 1966. We have asked for records from the Burton City Fire Department and they are not available, it was written up in 1966, and 1971. We have the articles where Mr. Zjadlik did all the testing down in the basement and the problems were coming in. We knew there were gasoline problems back in those period of days coming from across the street as well as from Sunoco, so there are two variables.

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Mr. Williston expressed the shed looks as nice as any other shed that is around there, once they put the front on it. I look across the street and see the junk cars out in front of Beaver Auto that they are going to repair. We walk around after it rains and see all the gasoline variables coming up out of the ground or through the cracks, it does not make us very happy about that. As I look down the property we are not any farther than the barbershop or the bar. It is a C-2 area, we bought it as resident there, with the back being commercial. Again, we have a lot of places to put that shed, but to put that out there when they want to do drilling and testing, I think it is not the avenue to go at this point.

Note: The ZBA Alternate, Steve Welch, arrived at the meeting and seated himself with the Board due to Mr. Centilli's absence.

Mr. Strasser said that due to the fact there will be test wells driven on the property, my recommendation is to hold this over until the following meeting. Do not give a yes or no on it this evening and have Mr. Williston produce the schematic from the DNR/DEQ or drilling company showing the schematics on the property of where all the test wells will be. They do not come in and just drop them where they feel like it. They do have schematics and radius's they follow. If at that time the side shed does not fit in the back yard, then take a look at the variance he is requesting. Otherwise, remand it to be put in the back yard if there is room.

BOARD DISCUSSION:

Mr. Parker inquired regarding a building permit and re-iterated Mr. Strasser's comments of post-poning the case until they get some kind of idea from Sunoco, DEQ, or whoever is doing the testing. He still feels the shed should be in the back yard, but does not doubt there is a hardship.

Mrs. Layman inquired regarding the stop work order.

Mr. Curtis asked if the City has a role in this.

Mr. Strasser said the only role we have at this time is for the Board to approve or deny the variance. As far as the testing and ground contamination, the City is not involved.

Mr. Williston re-iterated they are waiting for the attorney and Sunoco. Sunoco has had this for approximately 2 ½ months. I do not know how to move Sunoco, and the last that I spoke to the attorney, he sent them a letter about 2 weeks ago and he has not heard anything. So this is where the State has said they will come in and mediate between Sunoco, the attorney, and Martha and I. When they say they want to drill 15 or 30 wells, I don't know where they are going to be. Mr. Williston stated further, they have dug 12 to 15 wells on the property next to us, and they are all hot out front, and in the back they are hot. Five feet off of my property they dug one, and it is hot right there, and I have three on the same side that are hot. I have enough room to put that shed in the middle of all of them, but that is not the practical way to look at this problem. The house should be tore down, gutted out and filled in, and we move on.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Parker, seconded by Scott to table ZBA #01-52 until the next scheduled meeting of January 17, 2002, at 6:00 p.m., and have Mr. Williston obtain the schematic from the DNR, DEQ or drilling company, showing the schematics on the property of where the test wells will be placed.

Motion carried, 7-0.

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2274 S. Vassar
Burton, MI

RE: 2274 S. Vassar
Part of Lot 19 Pioneer Acres
Section 24, R-1A Zoned

FOR: To exceed the allowable height for
accessory structures by 5 ft. 6 inches,
14 ft. allowed; 19 ft. 6 inches requested
for a pole barn. (4 Votes Required)

Calvin Greenman, 2274 S. Vassar Rd., Burton, MI, stated he wants to build a garage. The agenda states pole barn, but it is going to be sheeted, sided, a 16 inch overhang with a 5 ft. overhang on one side. I have done a lot of work to the house which was my grandparents home. In keeping with the style of the home, I would like to put a 6 12 pitch on to reflect that cape cod look. Mr. Greenman stated further, he needs a 12 ft. door. He spoke to his builder, and they can lower the pitch on the roof and come up with a 2 ft. 8 above limit, and 13 ft. side walls instead of 12.

AUDIENCE PARTICIPATION: No audience participation.

Mr. Strasser said the square footage of the structure is well within the confines of the Ordinance, the applicant is here because of the height. If he can go with a shorter height, we can recommend that idea.

BOARD DISCUSSION:

Mrs. Layman inquired regarding a pole barn construction.

Mrs. Scott commented on the size of the property and asked if there are two lots.

Mr. Greenman said Milano St. was his grandfather's driveway, and he built a couple of houses behind me. He made the lot a little larger when he sold the smaller lot to my brother. Mr. Greenman said the area was a small farm at one time.

Mr. Parker asked Mr. Greenman if he plans on having a loft in the structure.

Mr. Greenman responded he has no plans of a loft.

BOARD RECOMMENDATIONS AND/OR ACTION:

Moved by Curtis, seconded by Layman to approve ZBA #01-51 with the recommendations of the DPW to allow a 16 ft. 8 inch average height of building.
Motion carried, 7-0.

Mr. Kalanquin stated the next regularly scheduled meeting of the Zoning Board of Appeals will be held on **Thursday, January 17, 2002 at 6:00 P.M.**

Meeting adjourned at 6:40 p.m.

jra