

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

The Meeting was called to order by William Kalanquin, Chairman, at 6:00 P.M.

MEMBERS PRESENT: Berry, Hammon, Kalanquin, Layman, Parker, Scott and Weatherford.

MEMBERS ABSENT: None.

OTHERS PRESENT: T. Strasser, Deputy Planning Official and C. Ladd, Deputy City Clerk.

A. APPROVE THE MINUTES OF THE FOLLOWING MEETINGS:

Moved by Berry, seconded by Layman to approve the Minutes of the Regular ZBA Meeting of November 18, 1999, at 6:00 P.M., as printed. Motion carried 7-0.

B. AUDIENCE PARTICIPATION:

None.

C. BOARD DISCUSSION:

Mr. Parker suggest that a time be set up to hold an election to reorganize the Zoning Board.

Moved by Parker, seconded by Hammon to hold a reorganization election in January, 2000. Motion carried 7-0.

D. NEW APPLICATIONS:

1. ZBA #99-72

BY: Mindy Czysz
1350 James
Burton, MI

RE: 1350 James

FOR: To waive the 8 ft. side yard setback for
R-1C single family, for a carport
approximately 1 ft. from lot line.
(4 Votes)

Ms. Czysz, 1350 James St., stated she built a carport without a permit and the building inspector put a stop work order on it. I went an spoke with the building inspector about the carport. The secretary called the landlord of my next door neighbor and he said he had no problem with it. At this point, I did everything to comply with all of the requirements. My neighbor is here tonight and is not happy about the carport.

Audience Participation:

William Whitney, said the carport is not 1 foot from the property line. He presented pictures of the property. Evidently Ken Wright told Ms. Czysz that there was a water problem. I spoke with Ken and I have a crawl space that is wet. My house is 4 feet from the line and the water is going into that. The water was not the only problem. Mr. Whitney said there are three houses in a row, with the house on the corner built in the middle of the lot, my house, Mindy's house and the neighbor next to her are built back 4 foot from the back and west property lines. Her house used to be a two unit but is now a one unit home. The lot is 50x100 and is 4 foot from the other property line. She built the carport and mentioned it last summer to me. I knew she wouldn't be able to do it because she has 11 feet from the eastside of her house to the fence. I thought she wouldn't be able to build because she would have to be 4 foot from the property line. I was unaware of the 8-foot rule. He said he spoke with Ken Wright in person and

understood that he had given Ms. Czysz a list of items to be corrected. I think something is wrong with this because he had already issued her a stop work order. She put up eaves troughs recently and they are on my property. He said he is concerned about the roofline and the front bedroom, which is the children's room. If we get snow and ice and then have a January thaw, when the ice skates off the roof, it will go right into that window and one of the children could be injured. I am paranoid on safety. Even though I am not a contractor, I don't know of any place that you can build on the property line. Even though she should be 8-feet from the property line, I would have no problem with her

being 4-feet from the property line. Another header could be put in properly and she could either build a carport or garage ahead of that. If she cuts off 4-foot off the roof and instead of the carport, she could have a 7-foot patio. The garage would be 14-foot wide if she can extend the gable end. She could also eliminate a great deal of glass from the front of the house. What she did was wrong and her eaves are only 41" away from my house.

Ms. Czysz said I did what the inspector told me to do.

Mr. Strasser said going through the history file I found a rejection notice by Ken Wright that the carport was too close to the property line and she needs a building permit and a variance. I don't have a work order from the building inspector. The Board's job this evening is to determine whether or not the applicant's carport can be 1-foot from the property line. Regarding construction standards, that will have to be handled by our building department. If you do elect to approve this, the water from her roof cannot go on her neighbor's property and will have to be funneled down through downspouts.

Mr. Berry asked Mr. Strasser if the 1-foot includes the eavestroughs or has it been determined that the 1-foot is on the property line.

Mr. Strasser said it would be 1-foot to the structure.

Mrs. Weatherford asked what the hardship would be for Ms. Czysz.

Ms. Czysz said she put it up for privacy.

Mrs. Layman said she visited the site and it is very close. She has a concern about fire because should there be one, all three houses could catch on fire and there is no way a fire truck could get in there. I think this would be a safety issue.

Mr. Parker said the piece of property has a lot of room in the front yard and that would also require a variance for a garage in the front yard, but I think that it is better to have the applicant in her own yard than to encroach upon the neighbors. If there is going to be some type of structure there, it would be better to have it in the front yard than in the side yard. In my opinion, I think the structure should be torn down and if the applicant chose to have a structure, she could come back for a variance.

Moved by Parker, seconded by Scott to deny ZBA #99-72 as requested. Motion carried 7-0.

2. ZBA #99-73

BY: David Boger
2103 Morrish
Burton, MI

RE: 2103 Morrish

FOR: To exceed the maximum square footage
for accessory structure by 1,356 sq. ft.
Asking to build a 30 x 40 ft. pole barn with

10 ft. side walls and 4 12 roof pitch.
(4 Votes)

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Mr. Boger, 2103 Morrish St., said he has a truck and van that are too high to fit into his garage so he may turn that into a family room. He would like to build a pole barn on the extra lot that is empty. He would like to put the vehicles in it along with his 19-foot boat, to get it out of the weather.

Audience Participation:

Marc Rucinski, 2098 Morrish St., said he lives across the street from Mr. Boger and supports his request for the pole barn. He also has a pole barn and knows how much of an asset it can be.

Mr. Strasser said the structure would exceed what the ordinance allows and until the ordinance is changed, we can't recommend this be approved.

Mrs. Scott asked Mr. Boger if the third lot is taxed altogether or separately. Mr. Boger replied they are taxed altogether.

Mrs. Weatherford suggested that instead of building a pole barn, Mr. Boger could raise the roof on the garage to make it accessible for the van and truck.

Mr. Boger said it is already attached to the house and wouldn't be as feasible. I would have to tear everything apart that I have done since I moved in there. It is already dry walled and insulated and finished off.

Mr. Berry asked what the hardship is for Mr. Boger.

Mr. Boger said he can't put the vehicles inside and needs to get his boat out of the weather.

Moved by Layman, seconded by Scott to deny ZBA #99-73 for a pole barn. Motion carried 6-1 with Mr. Hammon voting no.

3. ZBA #99-74

BY: Grainger Associates
307 E. Third
Flint, MI 48502

RE: 1138 N. Belsay Rd.
Part of Lots 10 thru 13, Outlot A
Laurelhurst Acres

FOR: 1) C-2 and C-3 use not in conjunction with
a mall in a C-4 District, "service
station, car wash". (5 Votes)
2) Accessory structure in front setback of
Court St., 25 ft. required; 12 ft.
requested. (4 Votes)
3) Park in the north side setback; 20 ft.
required. (4 Votes required)

Gary Hurand, 1185 Andrew Lane, Flint, MI 48532, said he is the President of Dawn Donut Systems and the owner of the property. We leased this property in 1973 and purchased it in 1976. In the early 1980's we purchased the land adjoining it and wrapped around it from the school, with a plan to build a 10,000-12,000 foot strip center, which included the donut and gasoline rebuild on the corner. At that time I must have rezoned it and then we had some environmental problems, which have since been resolved. The site plan has been approved, subject to the variances.

The zoning around us is the same, but we had it rezoned because of the type of use we had planned in the early '80's.

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Mr. Hurand said the type of business we are in has changed and this development includes a Wendy's restaurant, an Amoco convenience store and car wash and gasoline station. The reason for the request is, we have a timing issue for our tenants and if we don't get started, we could lose both of them. Also, we have a high water table and the tank installation becomes a problem. If we don't put it in now, we will have to wait until next Fall. Our tenant will probably not wait for either of those.

Audience Participation:

Pauline Dargel, 6119 Hugh, spoke concerning the traffic flow thru the car wash.

Mr. Hurand said the car wash was pushed back 36-feet.

Mr. Strasser said the driveway would be on the eastside of the car wash. This is a site plan issue.

Mr. Hurand stated that the site plan was modified with the car wash and driveway being moved back 36-feet, which doesn't impede the flow of the car wash and still allows for the necessary stacking. The site plan was also modified to berm and put trees to protect the school. There will also be curbs all the way around.

Mr. LaDuke said there was a great deal of staff time involved in this project to upgrade that corner. We spent a lot of time on the site plan to add trees, curb and gutters and the developers have agreed to brick both buildings. The driveway was moved because of safety issues and the site plan was approved. The ZBA is asked to create the variances and the DPW doesn't think this will be a hardship on that corner if they are granted.

Moved by Berry, seconded by Layman to approve variances 1, 2 and 3, as requested, for ZBA #99-74. Motion carried 7-0.

4. ZBA #99-75

BY: Top Shelf Realty, LLC
1295 S. Center Rd.
Burton, MI 48509

RE: 2229 S. Center Rd.
Parcel #59-22-100-013

FOR: Outdoor display of truck caps
C-3 use in a C-2 District.
(5 Votes)

Mr. Tim Seward, 1295 S. Center Rd., Burton, explained that he is requesting to have an outdoor display of merchandise specifically, pick-up toppers. He said the toppers are painted fiberglass structures that go on the bed of a pick up truck. The racks that we would be using would be well-built sturdy structures, painted and kept clean. These would go three high. This would be along the lines of Builder's Square, Home Depot or Meijer's or someone that might make a similar request. Mr. Seward said he met with Mr. Strasser early in the summer before signing a contract on the property. We had not made any commitments on the property at that time and I told him what we were planning to do and he thought there wouldn't be a problem with our request. Our architect met with Mr. Martz and he expressed that the caps be placed behind the front of the building. We think this is a reasonable request. Mr. Strasser asked me to put in a ZBA application in order to get this handled through the proper channels. We have our Site plan approved and special use permit approved. We have been in the City of Burton for the past 15 years. The other business operators are present tonight also. Our business is currently located on the NE corner of Lapeer and Center Roads where we have operated for the past 15 years. In addition to that, the other operators run another location at the corner of Saginaw and Hemphill. With the board's approval, we will be closing up the business on

the corner of Lapeer and Center and will be selling that property. Possibly someone would want to buy the entire corner and do something nice in the community. We have had a lot of interest in our property.

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Audience Participation:

Pauline Dargel, 6119 Hugh, inquired if the outdoor display is an added feature to the business. She said she hasn't heard the hardship stated.

Mr. Strasser said many of the commercial ventures have retail similar to this. They are beginning to display certain items outside. If this is approved and done as presented, it would be on asphalt and the racks are purchased and stacked in such a way that is neat and orderly. He presented the proposal and there were flags shown and I told him to forget the flags, as they are not needed. DPW has no problem with the request.

Mr. Berry said he would prefer to see the display limited to toppers. Mr. Seward agreed with him.

Mr. Parker said he has a concern about the security.

Mr. Seward said they are also concerned about security and we have asked the architect to place on the plan, two very expensive lights, costing \$2,000 each. The light shines down to illuminate this area. Our plans also show lighting on the building and we will install security cameras. We think this will take care of the situation so the caps are not stolen or vandalized.

Mrs. Layman asked how many toppers they are planning to have on site.

Mr. Seward said each rack holds three and there would be space for approximately 25 to 30 and then times 3 so it would be 70-80 total.

Mr. Kalanquin asked Mr. Seward if he objects to just selling toppers on the property. Mr. Seward replied no, he is in favor of that.

Mr. Kalanquin said he has a letter from Keely Realty and he supports your request.

Moved by Parker, seconded by Berry to approve ZBA #99-75 with the stipulation that the outdoor display consists only of toppers. Motion carried 5-2 with Scott and Layman voting no.

5. ZBA #99-76

BY: Joe Gibbons
4285 Wilderness Court
Grand Blanc, MI 48439

RE: Parcel #59-33-200-003

FOR: Special Land Use Permit for use No. 3c
Under Section 16.03 (C-3 Zoning) in an
M-1 District.
(5 Votes)

Lisa Easterwood, Gould Engineering, 2040 E. Maple Ave., Flint, MI, explained that she is representing the applicant.

She described where the property is located and said there are 26 acres with a 60-foot easement to the west to the ingress and egress to access the property. The zoning is M-1, light industrial, as well as all the properties around it. The surrounding uses include the FOP Lodge, Consumers Energy property on the south that runs on a diagonal, for

Overhead services. There is a radio station to the north of the property and there are also several residential properties shown on the drawing, to the east of the site. There are 550 feet of wooded land that includes wetlands, Thread Creek and some flood plain that runs along the east side, creating a natural buffer between the residential and the usable area of the site. The remaining land is narrow, less than 200 feet wide, and it's not good for industrial use.

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Ms. Easterwood said her client, Joe Gibbons, looked at the property to create a facility for cross country practice track for recreational motor cross use. Only light weight motor cross motorcycles and 4 wheel ATV's would be allowed on the track. The track would be opened to the public four days per week during daylight hours as designated by the owner. The hours would be between 3 p.m. and 8 p.m. and would be seasonal. If there is ice and snow on the track, there wouldn't be anyone out there. My client has offered to equip the site with an ambulance and paramedic during the hours of operation. When the site isn't open, it will be gated off so no one can access the property. Ms. Easterwood listed the types of businesses that are included in light industrial. Consumers Energy property runs along the south edge and about 600 feet west of this site there are kids currently riding motorcycles and this is unsafe as well as trespassing and illegal. By providing a supervised area, this will eliminate this problem. We think this site works well for this use with the natural buffer zone.

Joe Gibbons, 4285 Wilderness Ct., said he and his family recently moved into the City. He said they are looking to develop this proposed motor cross recreational track as a diverse recreational facility to the City of Burton. He said the City of Burton is one of the fastest growing areas in Genesee County. This sport is a very growing sport and there are a lot of young people out there that need things to do and I'm hoping to provide this for the residents. It is a safe Environment and currently there are a lot of people riding on that property illegally. We are hoping to curb the illegal activity going on and create a safe environment.

Audience Participation:

Edward Wilcox, 10175 Colonial Industrial Drive, South Lyon, MI, said he has prepared a letter for the Board and will submit it for the file (see attached). Mr. Wilcox he a one of the property owners at 3332 E. Bristol Rd., now known as the Whispering Pines Banquet Hall. It was formerly the Fraternal Order of Police and the Flint Rifle & Pistol Club. The gun range is now closed and the facility is used as a banquet hall. He said they specialize in wedding receptions, organization meetings and every Sunday, a church rents the hall for services and dinner. They think the noise would disruptive to those have a wedding or church service at the facility. Eventually they are planning to have a wedding arch and gazebo outdoors for wedding photos. They are objecting to this type of use for the adjoining property.

Mark Thomas, VP/General Manager for Regent Broadcasting of Flint, Inc., G-3338 E. Bristol Rd., P.O. Box 1080, Flint, MI, said he is the owner of the radio station and he also objects to the proposed use.

Douglas Wilcox, 3332 E. Bristol Rd., said he is the co-owner of Whispering Pines Banquet Hall, said he is opposed to the project.

Bill Cooke, President of Killarney Park #3 Homeowners Association, said he is speaking only for himself tonight. He said he is not within the 300-foot limit to be notified. He said he is opposed to the noise that this type of facility would create. There is currently a lot of bike riding in that area and the railroad has attempted to stop this by installing a gate but that was destroyed with two weeks. We cannot sit on our back decks in the summer time and carry on a conversation or to talk to our neighbors because of the noise. Other concerns are the issues of dirt, dust and pollution. Those who want to build this in our area don't live right in this area. I am not opposed to motor cross tracks, but not in this area.

Roland Bodey, 3450 E. Scottwood, said he is the first property owner east of this proposed site. There is activity in this area and it is a nuisance. When people use the property at the corner of Maple and Dort for bikes, I can hear the

noise from my house. People will be coming from other areas to use the track, not just our area. I am opposed to this being located in this area.

Thaddeus Modrak, 3471 E. Scottwood, said he understood that nothing could be done with wetlands. If a bike trail is going to be there, that means there will be hills, holes will be dug and disrupt the land which will then erode into the creek and plug it up and then the creek will have to be dug again. I see nothing positive about this endeavor and there are too many residential homes. He is opposed to the project.

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Keith Johnson, 3283 Shannon Rd., said he and his wife recently purchased their home and lived with his parents at 4437 Killarney Park, for the past 10 years. He said he is very familiar with the land and there may be a few straggler dirt bikes that go back there, but he doesn't want to have this type of track in his back yard. He is expecting a child and enjoys the quiet neighborhood and they have great neighbors. I don't have problem with the few stragglers, but to put in a track would be asking for trouble. He has a concern about the safety of his child, dog and land and is opposed to the project.

Rachel Johnson, 4437 Killarney Park Dr., said they moved to this neighborhood because it was quiet and serene and she also objects to the project being approved. If it is approved, she would be inclined to sell her home.

Don Sanderlin, 4460 Killarney Park Dr., said he has lived here for 47 years and it is a wonderful subdivision. It's a quiet place to live and he is opposed to the request.

Sandra Wolfenden, 3401 Shannon Rd., said she is against the request, as she is within 300 feet of the property. She said she is opposed to this because of the noise, dirt, dust, emission, gas fumes and is also concerned about her property value, control of alcohol use and the wildlife in the area. We own about 24 acres and it's quiet, secluded and country-like. I am concerned about my children and pets. She would like this to be denied.

Brenda Polzin, 3451E. Scottwood, said she shares the property along with Mr. Bodey, closest to the facility. I own 2-1/2 acres there and purchased the property because of the quiet country setting and wildlife. She said she and her husband both work 3rd shift and like the peace and quiet during the daylight hours. Our sleep would be adversely affected. We are opposed to this project.

Wes Siebert, 3235 Shannon Rd., said when Bill Cooke spoke, he also spoke for him. He said directly to the north are some industrial properties and directly to the south are residential properties. This is a pristine-type setting where you can walk your dogs and deer come out of the woods and to think that a couple of fences are going to keep someone of there is unreal because C & O Railroad couldn't do it. Our homes and yards may be affected by the flood plain area when changes are made. The water from Thread Creek comes up into my yard within about 50-feet of my house every Spring. Most of the people in Killarney Park wouldn't stay if this is approved.

Russ Brown, 3365 Shannon Rd., stated that he has built two homes in this neighborhood. When I was a kid I lived about one-half mile from the area and used to come over on the hill in the wintertime and slide down the hill. We played in there all of the time. I can't see having this type of use in this area. As previously stated, we have deer and wildlife in the area and there is a creek that winds around that the duck and geese use to nest on. If you start this kind

of stuff there will be erosion. There is already a bad erosion problem on top of Ways Hill where Consumers Energy has a tower line. Consumers put up a fence to stop this because of the erosion and the fence was cut. There is noise there in the summertime and I like to sit on my back deck and the noise will only get worse. I am definitely against this proposal.

Don Miller, 4106 S. Center Rd., said Center Road also needs to be represented. He stated that his property goes back across the creek to the radio towers. The zoning ordinance was changed for 217 apartments across the road from me. What will the people who move in there think about the noise and dust they will get. People will use this site to get to the bar up on Bristol Road.

Keith Cox, 4349 Chicory, said he lives 2 miles from the property, but the facility will create a greater amount of noise. Under M-1 use there are a ton of things that could be done with that property that all fit the zoning without any changes. He asked what the hardship would be on the property owner. I hope you don't make any variances and leave the property the way it is now.

Paul Wilcenski, 4427 Dublin Rd., said he urges the board to vote the variance down because there is enough noise and dust as it is now.

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Mark Chessup, 3222 Vienna Rd., Clio, MI, said people need a place where they can take their family and enjoy the environment. There are a lot of codes out there and all of the manufacturers are reliable to these codes, 94 decibels to the noise. One thing to keep in mind is that this would be controlled. There will be certain times that they can ride, dust control, maintenance control and ambulance control. This is also a business per se. If trailer parks or apartments were being built, there would definitely be a change in the land but with this type of use the land would not be changed.

Ron Hammon, 3346 E. Bristol Rd., said his property is affected more than any of the others. He said there is a lot of illegal dumping and this is a facility that the community could use. I have no problem with the facility and one that the city could use.

Greg Fenner, 4434 Dublin Rd., said the point was made about people coming from all over when the gentleman from Clio spoke. I don't know much about motorcycles, but I do know they are noisy. Emission standards are an issue and how much smog, pollution do these things emit. We still have wells in the area and how much oil is going to leak out of the motorcycles into the rivers and creeks and ground. They could affect our wells. Before passing this, possibly someone should speak with the residents in Birch Run to see how the motor cross track there has affected their neighborhood. I don't believe I would stay living in that neighborhood if this is passed.

Barbara Pettey, 3295 Shannon Rd., said her property backs up to the site. On the other side of Bristol Road there is an industrial park and at time the smell from the oil comes through to the subdivision. I also hear the noise from there too, but to live by one of these tracks would not be good. When trying to entertain, the noise coming from that track would be horrendous. We purchased the property because of the peacefulness. She said she thinks this would be unhealthy for the people who live in the area.

Lisa Easterwood noted that there is an existing flood plain and this site won't dispose any disturbance to the wetlands. She said the erosion can be controlled if need be. She showed a copy of the map and where people are currently riding. My client is proposing to have the track further away from where they are currently riding.

Mr. Gibbons said the property is still zoned M-1 and would be used seasonally use. Other developers may want to develop something far more extensive than what I want to do. He said the wetlands can be disturbed, as long as they are replaced somewhere else. Many other businesses could come in and run an operation 7-days per week, 365 days per year. The gentlemen from the banquet hall should have been informed by their realtor that the property is zoned M-1 Industrial.

Mary Gibbons, 4285 Wilderness Court, said there is a need for family activities and they are a family who enjoys riding dirt bikes together. I would like to have a place to take my son where there is security, help and I can be there with other families who are also looking to do the same kind of activity.

Mr. Strasser said the property is zoned M-1, Light Industrial. The motor cross track is considered to be a Special Use Permit in C-3 zoning area because of the outside recreational area. Other things could be placed on this land. If you vote in the positive, this will have to go before the Planning Commission for a Site Plan Review.

Mrs. Layman asked what the hardship is for the applicant.

Mr. Gibbons said there is no recreation like this in the City of Burton. He and his family would like to be able to visit such a site in their own area instead of having to go elsewhere.

Mr. Berry said the variance is not to adversely affect the public's welfare and I think this development will do just that.

Mr. Hammon said he is the new Council representative on the Zoning Board of Appeals and he has received many phone calls concerning this issue. He said he spoke with Mr. Gibbons at length about his plans. He said he has spoken

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with Mr. Gibbons about donating the wetlands as a park, to the City. It would buffer everybody and you wouldn't have to worry about someone coming in having something else come in on that property. We have a lot of land development with a low tax base. He asked Mr. Strasser why this project came before the Zoning Board prior to going to the Planning Commission.

Mr. Hammon asked if the concerns coming from the audience should be addressed at the Planning Commission rather than at the Zoning Board.

Mr. Strasser said this would be a two-fold project. It was less expensive for him too come to this Board first. If this project was taken to the Planning Commission, the first thing I would have to report to them is that they would be acting on a site plan that doesn't belong in this zoning, because of what the intended use is, an outdoor recreational Facility. At that point they would have to table it or approve it contingent upon the ZBA approval.

Mr. Kalanquin said he thinks Mr. Gibbons elected to come to the Zoning Board first.

Mr. Strasser said this is a three-fold process. Anyone that wants to build on a private drive would have to go before the City Council. Council would have to act on this for a building permit to build the structure.

Mr. LaDuke said another project was approved at I-69 and Belsay Road, contingent upon approval of the Zoning Board. This will have to go before both the Boards. He said he would check to see if it has to be one way or the other.

Further discussion continued regarding the proper channels between Planning Commission and Zoning Board.

Mr. Gibbons said his company would donate just under 4 acres to the City of Burton.

Mr. Hammon asked if FOP Drive is privately owned. Mr. Strasser replied yes.

Mr. Parker asked for clarification on the C-3 use in M-1 zoning. Mr. Strasser explained the ordinance.

Mr. Parker said one of the things that was stressed to him by the DPW is the enforcement. There would be noise coming from the motorcycles and may be louder than allowed. How would this be policed if there isn't enough manpower to do so? He said he doesn't think this is the proper use for this property.

Moved by Parker, seconded by Layman to deny ZBA #99-76 for a Special Land Use Permit. Motion carried 7-0.

The next regularly scheduled meeting of the Zoning Board of Appeals will be held on **Thursday, January 20, 1999 at 6:00 P.M.**

Meeting Adjourned at 8:00 P.M.

Cheryl M. Ladd, CMC/AAE
Deputy City Clerk

CML

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