

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MINUTES
FEBRUARY 18, 1993, 7:00 P.M., COUNCIL CHAMBERS

The ZBA Meeting was called to order by Doug Gooding, Chairman, at 7:10 P.M.

MEMBERS PRESENT: Gooding, Berry, Welliver, Edmonds, DePottey and Cox.

MEMBERS ABSENT: Hohloch.

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

A. APPROVE THE MINUTES OF THE FOLLOWING MEETING:

Moved by Welliver, supported by Berry to approve the minutes of the Regular ZBA Meeting of January 21, 1993 at 7:00 P.M., as printed. Motion carried 6-0.

Moved by Cox, supported by Welliver to move Item F, Board Discussion, to the beginning of the meeting to get a report from Mr. Gooding, after his discussion with the City Attorney regarding what action should be taken by the ZBA when there isn't a full board present. Motion carried 6-0.

F. BOARD DISCUSSION:

Mr. Gooding said he spoke with the City Attorney regarding the Board postponing cases when there isn't a full Board present to hear the case. The Attorney said it is up to the Board to set the policy to handle these cases. If we have a case where five (5) votes are required, we need to have more than five people present to act on the case.

Mr. Berry said possibly a quorum plus one would be sufficient to act on the case.

Mr. Edmonds expressed that he was uncomfortable about setting policy tonight and then acting on that policy. Mr. Edmonds said after the case is postponed one or two times, it should be heard by the Board and a decision made.

Mr. Cox said the Attorney would give us confirmation of his recommendation in writing if the Chairman would request it. However, it is up to us, as a Board, to determine what we want to set as policy.

Mr. Berry gave a brief history of how the cases were handled in previous years when there were not enough members present to act on a case.

Mr. Welliver said it seems as if we have a quorum plus one, we could act on the case or afford the applicant the opportunity to come back before the Board when all members are present.

Mr. Cox said possibly raw numbers should be used instead of using the word quorum.

Mr. Gooding said in the past, people have been in direct violation of the City Ordinance. The present policy is not working and we have to find a solution to the problem to be fair to all the citizens of the City.

Moved by Welliver, supported by DePottey to set policy to hear each case if there are enough board members present plus one (1) to pass the case. Roll call vote and motion carried 5-1 with Mr. Edmonds voting no.

B. YEARLY RENEWALS:

1. ZBA #93-2

By: Ralph Tucker
5353 E. Bristol Rd.
Burton, MI 48519

Re: Q-287-G
Section 26, SE Zoned

FOR: Yearly Renewal - M-2 Use in an
SE District. Contractors storage
yard in a residentially zoned area.
(5 votes required)

Mr. Tucker said he has been at this location for the past 15 years and would like to continue to stay here. If the renewal is denied, it would create a financial hardship, as this is his only income.

There was no one in the audience who wished to speak.

Mr. Strasser said Mr. Tucker runs a clean operation and DPW has had no complaints about the business. DPW recommends approval.

Moved by Edmonds, supported by Cox to approve ZBA #93-2 for a yearly renewal.
Motion carried 6-0.

2. ZBA #93-3

By: Blessed Sacrament Church
6336 Roberta
Burton, MI 48509

Re: Q-129 A & B
Section 13, R-1A Zoned

FOR: To conduct AC-3 Special Use Festival
Carnival in a R-1A zoned area
July 30 & 31 and August 1, 1993.
(5 votes required)

Fr. Philip Schweda, 6340 Roberta St., explained that the Church has been having a festival for the past 15 years, ever since St. Joseph parish closed and merged with Blessed Sacrament. Without the festival, it would be difficult to promote the Hungarian culture in this area. We are in a residential area and have enough room to keep the festival away from the residents by moving to the back of the property.

Mr. Gooding asked if the festival was used as a fund raiser. Fr. Schweda replied, yes.

Mr. Strasser said the DPW has no complaints and recommends approval.

Mr. Edmonds asked if ID's are checked. Father Schweda said yes, security is good.

Moved by DePottey, supported by Welliver to approve ZBA #93-3. Motion carried 6-0.

3. ZBA #93-5

By: Geraldine Statler
2196 S. Term
Burton, MI 48519

Re: Lot 17 Southeast Acres
Section 21, R-1B Zoned

For: Yearly renewal for mobile home on
lot, used as a second dwelling on
lot. Waive Section 5.07, 5.14 and
5.36 of Ordinance #19
(5 votes required)

Mr. Jerry Statler represented ZBA #93-5. He said his mother-in-law, Gwendolyn Edwards, still lives in the mobile home and this is the only way she can remain independent. She is almost 75 years of age and can't afford a home of her own.

Mr. Gooding asked if there had been any changes since the last renewal. He was advised no.

Mr. Strasser said he has had no complaints and the property is well taken care of. DPW recommends renewal.

Moved by Cox, supported by Berry to approve ZBA #93-5 with the stipulation that when Mrs. Edwards no longer needs the mobile home, the variance will be terminated. Motion carried 6-0.

4. ZBA #93-8

By: Holy Redeemer
1227 E. Bristol Rd.
Burton, MI 48529

Re: Q-329-C
Section 30, R-1C Zoned

For: Yearly Festival May 14-15-16, 1993.
C-3 special approved use in an R-1C
zoned area for an outdoor festival.
(5 votes required)

Patricia Spohn, 6410 Springdale, Grand Blanc, said Holy Redeemer has had a festival for the past 52 years and the festival has since become a fund raiser for the school. The beer tent has security with off-duty Burton Police Officers and they make sure there are no kids allowed in the beer tent after 6:00 P.M. The off-duty officers also work the entire festival, which gives the children and the community contact with their Police Department. Some of the officers stay for 24 hours.

There was no one in the audience who wished to speak.

Mr. Strasser said DPW recommends approval and has no problems with the renewal.

Moved by Welliver, supported by DePottey to approve ZBA #93-8. Motion carried 6-0.

C. POSTPONED MEETING OF NOVEMBER 5, 1992 AT 7:00 P.M.:

1. ZBA #92-71

By: Janice Lockhart
6089 Nelson Ct.
Burton, MI 48519

Re: Lot 7 of Nelson Replat.
Section 25, R-1B Zoned.

For: To permit an M-1 special approved
use in an R-1B zoned area for a dog
kennel. 10 adult dogs.
(5 votes required)

Ron Lockhart, 6089 Nelson Ct., represented his wife requesting a kennel license and permission to build a kennel for up to ten (10) adult dogs. He said they have had the dogs for a period of six or seven years. Mr. Lockhart presented a drawing of the layout of the kennel he is proposing to put in.

Mr. Gooding asked how large the kennel would be. He was advised 12x12 for the main structure with a 12ft. runway, which will be double-fenced and a 6' privacy fence around the kennel.

Mr. Gooding asked if the dogs would be bred and Mr. Lockhart said yes. The pups would be sold after a six week period. Mr. Gooding asked if any signs were used for the sale of the pups. Mr. Lockhart said there would be no signs, that he advertises in the Flint Journal.

Discussion was held concerning the extra traffic which may be created and Mr. Lockhart said there wouldn't be a large volume of traffic created with this kennel. Without the kennel, it will create a financial hardship because his work is limited in the winter months. His brother lives with him and is a teacher, so his work is limited in the summer months.

Audience Participation:

Robert Lockhart, 6089 Nelson Ct., said when the meeting was adjourned two months ago, the public discussion was closed at that point.

Mr. Strasser said the DPW has not given their recommendation for the case. He said the DPW never received complaints and in fact, didn't know Mr. Lockhart had the dogs until he told us so. To get a kennel license for a commercial kennel, approval is required from this Board. The DPW recommends denial as the Ordinance only allows three (3) adult dogs for a kennel.

Mr. Edmonds said the people have had the dogs for a period of six years and the what they are proposing looks better than it has ever been. There is open land behind the home where the kennels will be constructed and tonight they present us with petitions stating their neighbors have no objections.

Mr. Cox said he has had a number of phone calls from the residents objecting to the kennel. He asked if all the dogs were licensed. Mr. Lockhart replied all of the dogs which are of age are licensed. Mr. Cox said he would be voting to deny the variance.

Mr. Welliver said he also had phone calls against the approval of the kennel. He said he thinks there is a potential for a water problem and he too would be voting to deny the variance.

Mr. Berry said he received phone calls against the variance and for the health safety and welfare of the residents, he too would be voting against the variance.

Mr. DePottey said he received a rash of calls and would also be voting to deny.

Mr. Gooding said many of the residence don't complain because they are not aware of the process. He said he is uncomfortable granting the variance.

Moved by Cox, supported by Hohloch to deny the variance for ZBA #92-71. Roll Call Vote: DePottey, yes; Cox, yes; Gooding, yes; Berry, yes; Welliver, yes; Edmonds, yes. Motion carried to deny variance 6-0.

D. NEW APPLICATIONS:

1. ZBA #93-1

By: Terry King
3335 E. Atherton Rd.
Burton, MI 48529

Re: 3143 Connecticut St.
Lot 81 City Gardens
Section 25, R-1B Zoned

For: To exceed allowable square footage
for accessory structures by
1056 sq. feet.
(4 votes required)

Mr. King said he obtained possession of his home yesterday and in January he asked to have the case postponed because he would like to increase the size of the storage building. Mr. King said he only has 1/2 basement under his home and he has several large items to be stored. He also does woodworking as a hobby and would like to keep his equipment for that inside the storage building. He said he has been through the neighborhood and there are several others who have storage buildings, so he is not asking for anything out of the ordinary. He said his lot size is just less than 1/2 acre, 185x138.

Mr. Gooding asked if he would be selling any of the items being made through the woodworking. He was advised no. The building would only be used for storage. Mr. Gooding asked if he had considered a smaller size building because of the lot size. Mr. King said yes, but would like to have the building larger for floor space. If his variance is denied, he will have to store his equipment and boat in all kinds of weather and will have to store it outside in the yard, which will make it accessible to thieves.

Audience Participation:

Leonard Hammermeister, 3116 Connecticut St., said he lives across the street and has pole barn, but he thinks the size pole barn Mr. King is asking for is much too large for the size property he has. He could fit his whole house inside the storage building.

Mr. King said directly behind him is 34 acres of open land and he said the building will not be as close to the house as Mr. Hammermeister may think. Everything is within the setback area. He said he would like to do routine maintenance work on his own van and truck and keep the garage for its use of keeping vehicles in.

Mr. Strasser said the Ordinance says 864 sq. feet and what Mr. King is asking for exceeds the ordinance. He could build a 10x14 and still be within the City Ordinance.

Mr. Welliver said he will be close to the property next door. Mr Strasser said that street has been vacated and he can't building in that area.

Mr. DePottey said Mr. King has done a good job in planning this building and he asked if the peak of the building would be the same as his house. He was advised yes.

Mr. Berry said he would be voting against the variance due to the size of the structure.

Mr. Edmonds said he agrees with Mr. Berry that the size of the structure is too large and he too would be voting no.

Mr. Cox said Mr. King has presented his case and he would be voting for the variance.

Mr. Gooding said he thinks Mr. King could get by with a smaller sized building and because of the size, he would be voting against the variance.

Moved by Cox, supported by Welliver to approve ZBA #93-1. Roll Call vote: DePottey, yes; Cox, yes; Gooding, no; Berry, no; Welliver, yes and Edmonds, no. Motion failed 3-3.

2. ZBA #93-4

By: ALL Automotive Repair
2150 E. Hemphill Rd.
Burton, MI 48529

Re: 2150 E. Hemphill
Lot 2 of Associates Commercial Sites
Section 29, M-2 Zoned

For: To conduct a used car sales not in
conjunction with new car sales.
Waive Section 16.03 item F. Number
of vehicles and placement to be
determined.
(5 votes required)

Hazen Thayer, 1311 Potter Blvd., said he would like to open an automotive repair shop and would like to buy vehicles which need repair and resell the. Mr. Thayer presented a drawing of the lot and building. He explained the business is new and to take up some slack time, they want to buy cars which need repair. They don't want to be a used car lot, however. Mr. Thayer said the type of work being done would be transmission, overhauls, brakes, mostly domestic. There would be no bump and paint being done.

Mr. Gooding asked if they were planning to display the cars. Mr. Thayer said possibly one or two, but no more than that. There would be no flags nor signs drawing attention to the cars. Each car would be in a parking space. Any extras would be in a 50x60 storage barn or behind it.

Mr. Gooding asked if more than two cars would be parked in the front of the building at any one time. He was advised no.

Mr. Thayer said if the variance is denied, it would take away from their income.

Mr. Strasser said these gentlemen have been trying to locate their business in Burton for quite some time. It was a matter of finding the right property. They run a very clean business and the building is cleaner now since they have purchased it. The DPW has a good working relationship with the gentleman. Prior to signing the vehicle dealers license, they must get approval from the ZBA. This use fits the area where they are locating and would not be out of harmony with the rest of the area. DPW recommends approval.

Mr. Welliver asked how many cars would be fenced in. Mr. Thayer said no more than 20 cars total.

Moved by Welliver, supported by Berry to approve ZBA #93-4 with the stipulation that no more than 2 cars are in parked in the front of the building, which are for sale, at a time and up to 20 cars can be parked in the graveled area which will be exposed. Motion carried 6-0.

3. ZBA #93-6

By: Tom Sheroski
9505 E. Atherton Rd.
Davison, MI 48423

Re: 3064 E. Atherton Rd.
Lots 9 & 10 of Chambers Subdivision
Section 38, C-2 Zoned

For: Establish a front parking setback of 22' on Atherton Rd., and a front parking setback of 8' on Shaw. 30' is required. Refer to SPR #93-4, site plan dated 1-25-93.
(4 votes required)

Mr. Brian Sheroski represented his father and explained that they are planning to construct a new building and are asking for a setback to accommodate the number of customers which come and go for their business. They plan to move only one block from where they are presently located. He said the building they are presently renting needs a great deal of repair and it would be feasible for them to build their own building rather than put money into someone else's building.

Mr. Berry asked if the building would be exactly like the one on Richfield and Genesee Road. He was advised yes.

Mr. Sheroski said if they are denied the variance, it would be a financial hardship because they have purchased the property and have trees removed from the property and while doing so, helped some of the neighbors get rid of trees at the same time. If the neighbors would like the fencing, that would not be a problem. We want to make good neighbors to the rest of the area.

here was no one in the audience who objected.

Mr. Strasser said all the business dealings the City has had with Mr. Sheroski have been top-notch. There is a limited amount of parking for the building. This was brought before the Planning Commission last week.

Mr. Berry said the Planning Commission unanimously approved the site plan.

Moved by Edmonds, supported by Cox to approve ZBA #93-6 for a variance for a parking setback of 22 ft. on Atherton Rd. and a front parking setback of 8 ft. on Shaw St. as requested. Motion carried 6-0.

4. ZBA #93-7

By: John Vecellio
4086 Yeager Drive
Burton, MI 48519

Re: Part of Lot 14 of Schram Acres
Section 27, C-2 Zoned

For: 1. To reconstruct a residential house & garage in C-2 zoning.
2. To have two main dwellings on a single lot. Old house will be removed after new house is constructed.
(5 votes required)

Mr. Vecellio said he would like to tear down the old garage and build a new home on the east side and tear down the old house. The old garage would be torn down first and the new garage will be built behind the old one.

Mr. Gooding asked what the size of the lot is. Mr. Vecellio replied the property is 321x167. If the variance is denied he would have three vehicles and only one garage which doesn't house them all. Also, the old house is in need of wiring, as it is unsafe in it's present condition.

There was no audience participation.

Mr. Strasser said the property is zoned commercial. Mr. Vecellio is requesting to have two dwellings on the same lot. We need a decision from the ZBA prior to writing a building permit. What he is asking to do the DPW has no problem with because he has plenty of room.

Mr. Cox asked if the old house would be removed after the new one is built. He was advised yes.

Mr. Edmonds asked how long all of the renovations would take. Mr. Vecellio said he hoped to be completed within a year and a half.

Moved by Cox, supported by DePottey to approve items #1 and #2 with the stipulation that within 45 days after the Building Inspector grants an occupancy permit, the old house will be removed. Motion carried 6-0.

AUDIENCE PARTICIPATION: Now is the time set aside for the members of the audience to address the Zoning Board of Appeals. I would ask each individual to give their name and address for the record and to limit their comments to five (5) minutes and to speak on tonight's agenda or topics germane to City business.

There was no one who wished to speak.

The next regularly scheduled meeting of the Zoning Board of Appeals meeting will be held on Thursday, March 18, 1993 at 7:00 P.M.

Meeting Adjourned at 9:35 P.M.

Respectfully Submitted,

Cheryl M. Ladd, CMC/AAE
Deputy City Clerk

CML