

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MINUTES
APRIL 16, 1998, 7:00 P.M., COUNCIL CHAMBERS

THE MEETING WAS CALLED TO ORDER BY Homer Berry AT 7:00 P.M.

MEMBERS PRESENT: Berry, Parker, Centilli, Layman, Scott

MEMBERS ABSENT: Hohloch, B. Weatherford, W. Weatherford, Kalanquin

OTHERS PRESENT: Tom Strasser, Deputy Planning Official, J. Adams, Clerks Office

APPROVE THE MINUTES OF THE FOLLOWING MEETINGS:

Approve and authorize the minutes of the Regular ZBA Meeting of March 19, 1998, 7:00 p.m.

AUDIENCE PARTICIPATION:

No audience participation.

BOARD DISCUSSION:

Strasser stated because there was not a full Board of members tonight, the ZBA applicants do not have to have their case heard if they wish not to.

Berry said if anyone wanted their case tabled till the next regular scheduled meeting they can do so.

NEW APPLICATIONS:

- | | |
|---------------|--|
| 1. ZBA #98-15 | BY: Kessel Food Stores
1200 E. Bristol Rd.
Burton, MI |
| | RE: 59-31-100-024
C-4 zoned |
| | FOR: To construct a temporary greenhouse
for outside sales. (5 Votes) |

Berry asked Wayne Cameron of Kessels if it is the same request as last year.

Wayne Cameron, representative for Kessel Food Stores, 1200 E. Bristol Rd., Burton, MI, indicated that it is the same request.

Berry asked if they have approval from Green Briar Center.

Wayne Cameron said they get it approved every year after the Board approves. He was not aware of the Green Briar Center letter. He will not construct it until they have their full permission.

Berry asked if the electrical is the same.

Wayne Cameron indicated yes it is the same.

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Strasser said there has not been any problems in the past but he is aware that everyone has a copy of the letter submitted by Green Briar Center. If you do approve this use but the owner states they cannot do it then obviously your affirmative action cannot override what the landowner tells them.

Berry said if the landowner tells Mr. Cameron they cannot do it, then they cannot.

Layman said since they have this letter it should not be approved until it is okayed by the person owning the property.

Centilli said time is of the essence here, we can approve subject to.

Cameron said he is asking for the Board to give approval and then he will go to the landlord as he has done in the past.

Layman said two years ago they did not get approval, they went and put it in and got stopped.

Cameron says he comes here every year to get approval.

Parker said when he drove by last night they were putting it up.

Cameron stated the same crew every year has been putting it up and he noticed they started the frame. If they were turned down, the same thing he would tell the landlord, they would have to take it down. Mr. Cameron said it is not a problem, they have done everything that he has asked and the Board has asked.

Mr. Parker said he agrees with Mr. Centilli, that if they are approved and the landlord denies this request, they are not going to be able to do it.

Moved by Centilli, seconded by Parker to approve ZBA #98-15 as requested, subject to obtaining approval from the landowners.

Motion denied 4-1. Layman no.

Cameron asked Layman why she denied.

Layman said the letter states, we respectfully request that you deny the approval of their request, and that is the property owner asking us to deny your approval and I feel the property owner should have the right to what they want and don't want. She further stated that when you come before the Zoning Board, you should not start your construction until you come before us, whether you get it every year or not.

Cameron said the same guys put these up every year and it got ahead of us with the weather. If he was aware of this letter, dated the 15th, he would have seen the landlord and handled it.

Layman asked Cameron if they should have checked with Green Briar first.

Cameron said every year they do this and then talk with them. He was not aware of this letter or he would have handled it first before he came here.

Layman said she feels she is staying with her vote she made because they asked for us to deny it and they are the property owners.

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2. ZBA #98-16

BY: Kessel Food Stores
1135 N. Belsay Rd.
Burton, MI

RE: 59-11-200-005
C-3 Zoned

FOR: To construct a temporary greenhouse
for outside sales. (5 Votes)

AUDIENCE PARTICIPATION:

No audience participation.

Strasser said there has been no problems, there was an aisle blocked one time and corrected.

Motion by Parker, seconded by Layman to approve ZBA #98-16.
Motion carried, 5-0.

Cameron asked that for the Kessels on Bristol Rd., could he obtain permission from the landowner or does he have to wait till next month to finalize it.

Berry indicated he could call for a special meeting but there was no guarantee he will have a full Board.

3. ZBA #98-18

BY: Don Hudson
American Promotional Events/A Paramount
Promotions, Inc.
P.O. Box 10443
Arlington, VA 22210

RE: Wal-Mart Store, Burton
5323 East Court, Burton, MI

FOR: Temporary Tent Sale - June 20, 1998 through
July 4, 1998 (not to obstruct fire lanes).
(5 Votes)

Don Hudson said they are requesting approval for a 4th of July fireworks tent sale. He stated the Fire Chief, Doug Halsted, said there is an unenforceable City ordinance right now and told him to make an application here subject to. Mr. Hudson indicated that Mr. Halsted is trying to work on the ordinance to have repealed because he cannot enforce it. Mr. Hudson said he is requesting a 10 day to 2 week tent sale selling Michigan State approved merchandise fireworks and Walmart will adhere to whatever the department of public works wants us to do.

Berry asked if it was a large tent.

Hudson said that it is 30 x 40 within the parking spaces two wide.

Berry asked where it will be located on the property.

Hudson indicated over halfway in the middle of the parking lot. He said if he had known there was only five people on the Board tonight he would not have flown in from Washington, D.C.

Pauline Dargel, 6119 Hugh St., Burton, MI, said she does not understand the tie to Walmart.

Hudson said they are an approved vendor for Walmart.

Pauline Dargel stated she understands this location is in the parking lot and assumes they are not going to be taking up the area that was designed for handicap people. Mrs. Dargel said she heard Mr. Halsted speaking to the Legislative Committee and thinks it is unfortunate we do not have words of advice from our Fire Chief, Council people, or someone.

Berry asked if the handicap spaces at the store would be affected.

Hudson indicated no they would not be affected.

Strasser stated he cannot really speak for the situation of the fireworks, but as far as having a temporary tent sale, it is not unusual, these things go on during the summer for one event or another. The problem is temporary signs, banners, etc., which look unsightly. Strasser said they recommend no temporary signs, banners and so forth, and the tent speaks for itself.

Layman asked about Walmart having a permanent variance.

Strasser said he researched the files and they do have a permanent variance for nursery sales in the parking lot.

Berry asked about the starting and ending dates and said that otherwise, they can use it year round.

Strasser stated that technically yes, and he does not know how that one slipped by.

Berry asked Hudson what is his desire.

Hudson stated to approve conditional upon the issue that he can or cannot sell fireworks. He indicated Doug Halsted said to get the tent sale approved and he will work on the other issues.

Moved by Parker, seconded by Centilli to approve ZBA #98-18 as requested, with the stipulation of no use of banners or flags and to adhere to DPW regulations.

Motion failed, 3-2 no. Layman and Scott no.

Centilli asked about the handicap area.

Layman spoke of a display Walmart set up in a handicap area.

Parker spoke on Walmart receiving a permanent variance.

Hudson asked what the reasons were to deny it.

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Layman said she feels that the Fire Chief should have been here if it was okay and that there is a question of restrictions against fireworks in the City of Burton, and stated further that until we know what it states it, she does not feel it should be approved.

Berry said we usually have a comment from the Fire Chief and does not see one. We can have him send us a copy on fireworks to see what happens then.

4. ZBA #98-7

BY: William J. Stanton
5465 Statler Dr.
Burton, MI

RE: Part of Lots 13 & 14, Madarasz Acres
Section 2, R-1A zoned.

FOR: The building of a garage on the back of my lot.
32 x 40 with 14 ft. height for a ceiling. (1) exceeds
sq. footage by 896 sq. ft; 864 allowed, (2) exceeding
height limitation by 2 ft. 6 inches; 14 ft. allowed
asking for 16 ft. 6 inches. (4 Votes)

William Stanton stated this is for a travel trailer, the code is 12 ft. and with a garage door on, it takes it down a foot. The height of the travel trailer with an airconditioner on top is 10 ft. high, which leaves 3 inches and is too close.

Berry asked if this is for personal storage and what type of material is to be used.

Stanton said the siding and roof will match the house.

AUDIENCE PARTICIPATION:

No audience participation.

Strasser said even though it is over-sized, it would not be noticeable in the area it is in. There are large lots and it is fairly open.

Moved by Layman, seconded by Scott to approve ZBA #98-7.
Motion carried, 5-0.

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5. ZBA #98-12

BY: Floyd Gibbs
3219 Iron St.

Burton, MI

RE: Lots 163 & 164 Holland Heights, Section 28
R-1C zoned.

FOR: (1) To exceed the allowable sq. footage for accessory
structures by 336 sq. ft. with a 30 x 40 barn. (2) To
exceed the height requirement by 7 ft., 14 ft.
required, 21 ft. proposed. Gambrel roof proposed.
(3) Construct in the front yard - Section 5.15 #2
(4 Votes)

Floyd Gibbs, 3219 Iron St., Burton, MI, said he cannot build behind his property and next to him is not wide enough. He has to have 10 ft. between the house and garage and 6 ft between the fence.

Berry asked what the pole barn is to be used for.

Gibbs stated he has a garage kit with a gambrel roof.

Berry asked if he will be doing repairs on vehicles.

Gibbs stated only on his own vehicles.

AUDIENCE PARTICIPATION:

Ken Plamondon, 3246 Berent, Burton, MI, said he owns the property next to him and is concerned that Mr. Gibbs property is on a slope and where the water will go. He does not want the water to flood out his yard and garden. Mr. Plamondon also asked about the number of cars in his yard.

Strasser said he will not be able to fill this lot or change the land and that half of this variance request is inherited. The house is 6 ft. off the back of the property line so he cannot put it in the rear yard, the height request is high but when you build a barn they normally exceed the height, and an 8 ft. side wall would be less of a height variance. Strasser said they are seeing more and more height requests because of people putting motor homes, boats, etc.

Layman asked why he could not build on his side yard.

Gibbs indicated it is 2 ft. from the water table and he would have to fill in 3 ft. across that lot.

Layman asked if he could do that.

Strasser said he would rather he did not.

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Layman said there has been problems when they have approved fences. She said you cannot put a fence in a front yard and asked about allowing a garage in the front yard.

Strasser said in this case it is an inherited situation, he cannot put the garage in the back yard because there is only 6 ft. behind the home.

Gibbs said the house is 20 ft. wide.

Strasser said contrary to popular belief, when there is a flooding problem, the solution is not to fill the hole, the solution is to drain the hole. If it is filled, it pushes the problem onto someone else, when you drain it, you are getting rid of it completely. If he has to move the building back, then he has to start filling it in which will compound the problem of the neighbor's yard.

Parker asked if notices went to neighbors.

Centilli asked if there is industrial across the street.

Gibbs said there is industrial across the street.

Berry said there is three things he is asking for, 1) to exceed the allowable sq. footage, 2) height requirement and 3) to construct in front yard.

Moved by Centilli, seconded by Parker to approve ZBA #98-12 as requested with stipulation to include vinyl siding and adhere to DPW regulations.

Motion carried, 4-1. Layman no.

6. ZBA #98-14

BY: James Grennay
6221 Surrey Lane
Burton, MI

RE: Lot 77 Holiday Villa, R-1B zoned, Section 24

FOR: To exceed the allowable square footage for accessory structures by 624 sq. ft with a 24 ft. x 36 ft. garage.
(4 Votes)

James Grennay said he wants to build a garage in his back yard to store his boat and tractor and wants an area for his workshop. The garage style will match the house. Mr. Grennay presented a drawing to the Board.

Berry asked if this is anything other then for his own use.

Grennay indicated it is for personal use.

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AUDIENCE PARTICIPATION:

No audience participation.

Strasser stated it is oversized, Mr. Grennay takes nice care of his yard and he came before the Board a couple of years ago, and did exactly what he said he would do. Strasser said he sees no problems.

Moved by Layman, seconded by Scott to approve ZBA #98-14 with stipulation to include vinyl siding and to adhere to his drawing he presented, and the DPW regulations.
Motion carried, 5-0.

7. ZBA #98-17

BY: Robert LaBell
4071 Montcalm
Burton, MI

RE: Lot 16 Martin Sub., Section 35, R-1B zoned

FOR: To exceed the allowable square footage for
accessory structures by 864 sq. ft. with a
24 ft. x 36 ft. garage. (4 Votes)

Robert LaBell, 4071 Montcalm, Burton, MI, said he wants to put up a garage in his back yard. He will use vinyl siding to match the house, it will have an 8 ft ceiling on the inside, two single car garage doors and a walk-in door on the side. He has a couple of antique cars and antique tractors and will use it strictly for storage.

Berry asked how close to the lot line.

LaBell stated 5 ft. from the lot line.

Pauline Dargel, 6119 Hugh St., Burton, MI, asked what is the size on the R-1 B lot.

Parker stated 100 x 201.

Berry said it is a large lot.

Strasser indicated it is oversized, the area is somewhat open and sees no problem.

Berry asked Mr. Strasser about the building being so close to the lot line.

Strasser indicated it meets requirements, as long as it is not closer then 18 inches, he can build it there.

Parker said closer then 6 ft. there needs to be a fire wall.

LaBell said he planned on drywalling the inside to make it look better.

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Moved by Parker, seconded by Centilli to approve ZBA #98-17 with stipulation to have vinyl siding required and meets DPW requirements.
Motion carried, 5-0.

Parker said he would like to interject to the colleague from the Council to take back to Council and the Legislative Committee to have some zoning ordinances changed to require vinyl siding. He brought up a building on the corner of Belsay and Maple which used steel siding and thinks it looks unsightly.

8. ZBA #98-19

BY: Ben Vedrody
6386 E. Atherton Rd.
Burton, MI 48519

RE: Lot 4 Burton Homesites
6386 E. Atherton Rd., Burton, MI
Section 25, SE zoned

FOR: Permanent variance to park semi-truck
and trailer on site; M-1 Light Industrial use
in an SE, single family zoned area. (5 Votes)

Ben Vedrody, 6386 E. Atherton Rd., Burton, MI, asked to have his case set at next month's meeting.

Motion by Parker, seconded by Scott to postpone ZBA #98-19 until next month.
Motion carried, 5-0.

Berry indicated the next meeting will be Thursday, May 21st at 6:00 p.m.

Parker asked Strasser if notifications will go out again.

Strasser indicated normally no, but because of the change of time in the next meeting it might be a good idea to re-notify. There would be 16 to 20 notifications.

Parker stated it would be a good idea to re-notify residents.

9. ZBA #98 -20

BY: Kenneth Dinnan
3129 Christner St.
Burton, MI

RE: Lots 4, 24, 25, 26 and part of 27, Blk N
Southgate Sub., Section 28, R-1C Zoned.

FOR: To exceed the allowable square footage for
accessory structures by 1,368 sq. ft. with a
30 ft. x 60 ft. pole barn. (4 Votes)

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Kenneth Dinnan, 3129 Christner St., Burton, MI, stated he has lived in his home since 1962, there is no basement, and he would like to have a family room. He is retired and would like a workshop, space for his two boats and motor home and does not want things outside. He said he has one of the neatest homes in the area and realizes this is large, but wants it large enough for everything he needs it for.

Berry spoke on the property to the east and the flood plain.

Dinnan said he owns a lot down in that area and that is why he did not put it in that spot.

AUDIENCE PARTICIPATION:

No audience participation.

Strasser said it is oversized and the location is somewhat out of the way.

Dinnan stated it is 80 ft. off the road, he spoke with his neighbor and asked if he had a preference of where he would want it built and his neighbor said it does not make a difference to him.

Berry asked what it would be sided with.

Mr. Dinnan said he personally does not like vinyl siding. He would put aluminum on it.

Berry asked if it would match his house.

Dinnan replied yes.

Centilli asked about the height.

Dinnan indicated 10 ft.

Layman said she was out to the site and it would be an improvement. Layman stated further that Mr. Dinnan has one of the neatest home around there.

Motion by Layman, seconded by Centilli to approve ZBA #98-20.
Motion carried, 4-1. Parker no.

Parker said in the past they have given approval to a lot of structures that are large, but this structure is 30 x 60 which is industrial size and that is a big building. He said they discussed earlier cases and it is not so much what Mr. Dinnan is going to do with it, but 20 years down the road, someone might use it as a business.

Dinnan said it will be built better then most houses in the City.

Parker said he has a problem with it that big.

Dinnan said he wants a hobby shop, storage and garage.

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Parker said that building will be bigger then his house and feels it is out of place with the size in a residential area.

The next regularly scheduled meeting of the Zoning Board of Appeals will be held on Thursday, May 21, 1998 at 6:00 P.M.

MEETING ADJOURNED AT 8:07 P.M.

Julie R. Adams
Clerks Office

****** Reminder that meetings are now scheduled at 6:00 p.m.

The alternate for the next meeting of May 21st. is Marguerite Scott.