

CITY OF BURTON
REGULAR ZONING BOARD OF APPEALS MINUTES
JULY 18, 1996 AT 7:00 P.M.

The Meeting was called to order by Homer Berry, Vice-Chairman, at 7:00 P.M.

MEMBERS PRESENT: Berry, Cross, Layman, Parker, B. Weatherford and W. Weatherford.

MEMBERS ABSENT: Hohloch, Kalanquin and Foust.

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

A. APPROVE THE MINUTES OF THE FOLLOWING MEETING:

Parker moved and Cross seconded the following motion:

Approve and authorize the Regular ZBA Meeting of June 20, 1996, at 7:00 P.M.,
as printed. Motion carried 6-0.

B. AUDIENCE PARTICIPATION:

Lynn McDaniels, 1129 Arapaho Dr., addressed some concerns regarding traffic and new development in her subdivision area on Court Street. She urged the Board to reject the request being made by Al Serra for a used car sales lot, ZBA #96-46. She said the residents still haven't adjusted to the noise in that area from the new businesses. Ms. McDaniels asked what type of business could go into the C-3 zoned property, and she also inquired about the Master Plan of the City and when it was last updated.

Mr. Berry the property is presently zoned C-4, the same as Courtland Center. Mr. Serra is asking for a used car sales, not in conjunction with new car sales.

Mr. Cross said the City Council has discussed updating the Master Plan, but at the present time, there are no funds to do so.

Mr. Strasser said the only business that would be allowed under this zoning is the used car sales, because this is not normally allowed. Our ordinance states that there is to be no used car sales, unless they are in conjunction

with new car sales.

Larry Petrella, 1081 Howe Rd., spoke concerning the notice he received regarding ZBA Case #96-46. He said his notice said "in conjunction" with new car sales/service center. Also, he said he would like to see a fee imposed on the applicants, everytime they come before the City to be used for the purpose of renotifying the residents.

Mr. Strasser said the notice sent out is a copy of the one he has and the used car sales is "not in conjunction" with new car sales/service center.

C. BOARD DISCUSSION:

Mr. Strasser said we have previously denied cases for lack of attendance at the meetings and not making contact with the DPW after they have been postponed a couple of times. However, in the case of Mr. Serra, he has contacted our office, requesting a postponement as they are still in the negotiation stages.

Mr. Cross asked Mr. Strasser to inform Mr. Serra that if he is unable to attend the August 15th meeting, to please withdraw his request until he is ready to proceed.

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Mr. Parker said he would like to see changes in the zoning ordinance for accessory structures. He would rather have them resemble a garage rather than a pole barn. Also, the structure should be built according to the size of the lot.

D. YEARLY RENEWAL:

1. ZBA #96-48

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

Re: 5353 E. Bristol Rd.
59-26-400-007
Sect. 26 SE Zoned

For: Yearly Renewal M-2 Use in an SE

area. Zoned Area. Contractors storage yard in a residentially zoned area.

(5 Votes Required)

Mr. Tucker said he has been in business for the past 26 years at this location, prior to Burton becoming a City. He said to his knowledge, there have been no complaints from the neighbors, until Mr. Ovidek moved in. He said he is asking for the renewal for the contractors storage yard.

Audience Participation:

Matt Ovidek, 5313 E. Bristol Rd., presented pictures of Mr. Tucker's yard and said the variance for the business doesn't include running a dump. He said papers blow over from Mr. Tucker's yard and he has seen him digging in the back yard, burying something. He is against the variance being approved.

Denise Ovidek, 5313 E. Bristol Rd., said she is harassed by Mr. Tucker when she is home alone. There has been no one investigate as to what he buries in the back yard.

A lengthy discussion was held concerning the problems between Mr. Tucker and Mr. Ovidek.

Warren Berry, 5329 E. Bristol Rd., said he has lived next door to Mr. Tucker for the past 20 years and he has no complaints regarding noise from Mr. Tucker's business. He said up until the past two years, the field in back has been plowed and to his knowledge, nothing has ever been buried there.

Doug Durga, 2435 Clayward Dr., said he sees nothing wrong with the business.

John DeJohn, Davison Township resident, said his daughter owns the property where Mr. Ovidek lives. He said there is something being buried on the property.

Mr. Berry asked if there was a copy available of the DNR investigation. Mr.

Strasser said he would request a copy from the DNR.

Mr. Parker inquired about the For Sale sign on Mr. Tucker's property.

Mr. Tucker said he the piece of property for sale is the 108 foot frontage that goes back to the 25 acres behind his home.

Mr. Strasser said until recently, there have been no complaints on the business and no other problems reported.

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Moved by Layman, seconded by Cross to postpone ZBA #96-48 until the August 15, 1996 regular meeting and Mr. Strasser is to request a report from the DNR regarding their investigation of Mr. Tucker's property. Motion carried 6-0.

E. NEW APPLICATION POSTPONED FROM JUNE 20, 1996:

1. ZBA #96-46

By: Al Serra, Representative:
THA Architects & Engineers
6167 S. Saginaw Rd.
Grand Blanc, MI 48439

Re: 4274 E. Court St.
59-15-100-018
SW Corner of Court & Howe

For: (1) To conduct a used car sales lot not in conjunction with new car sales, C-3 Special Use in a C-4 Zone.
(2) To operate an automobile

service

facility not in conjunction with

a

shopping center. See Ord. 19
Sect. 27.02 Item MM.
(5 Votes Required)

Moved by Cross, seconded by Parker to postpone ZBA #96-46 until the August 15th meeting, at the applicants request. Motion carried 6-0.

F. NEW APPLICATIONS:

1. ZBA #96-47

By: Greg Staley
2458 N. Center
Burton, MI 48509

Re: 50-03-100-004
Sect. 3 R-1B Zoned

For: To operate a commercial business
out of a residentially zoned
area.

Sewer cleaning business.
(5 Votes Required)

Mr. Staley said he owns and operates American Sewer Cleaners for the past 8 years and has been at this location for the past 5 years. He said he just learned that he needs variance to be able to run his business. He has about nine (9) S-10 Trucks and the trucks are parked in the back during the evening hours. If the variance is denied, this would be a financial hardship, as he would have to relocate the business and he has already invested so much into this property.

Audience Participation:

The following residents spoke regard ZBA #96-47:

James Ulanski, 2445 Clayward, said Mr. Staley built the pole barn for his trucks while he was in litigation and when he filed the application, he asked for the pole barn to be used for his lawnmower and personal items, not for his business. He said he is concerned about the decrease in his property values.

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Doug Durga, 2435 Clayward, said he has lived there 26 years and this is zoned residential, not commercial. He said Mr. Staley should have checked into the zoning, prior to starting his business.

Jane Leibman, 4147 Leith St., said she brought a petition before the Board two (2) years ago with over 100 names of the people in the area, asking that this property not be rezoned for commercial businesses. If a new petition is necessary, she said she would go door-to-door to get the signatures.

Bernard Gasper, 2471 Clayward, said he doesn't understand how Mr. Staley could

be in business this long and then ask for zoning. He said he feels bad for Mr. Staley, but this is a residential area and he would like it to remain as such.

Marjorie Piotraczk, 2477 Clayward, said Mr. Staley is digging holes and burying something in his yard. This should be checked out.

Mr. Berry asked if a complaint had been made regarding the business.

Mr. Strasser said yes, as this area is completely residential.

Mr. Cross asked Mr. Staley if he is selling cars off his property on a regular basis. Mr. Staley said no.

Mr. Staley said he thought he was legitimate when the garage was built. He presented a copy of his tax bill and said he thinks he is being taxed as a commercial site.

Mrs. Layman said she visited the site and didn't see cars for sale and it appeared that the property was neat and well kept.

Discussion was held concerning what type of taxes Mr. Staley is being charged.

Moved by Cross, seconded by B. Weatherford to postpone ZBA #96-47 until the next regular meeting of August 15, 1996, allowing time for the administration to check into the type of taxes Mr. Staley is being charged. Motion carried 6-0.

2. ZBA 96-50

By: Future Homes, Inc.
430 S. State Road
Davison, MI 48423

RE: Unit 122 & 123
Hidden Trails Phase II
Sect. 24 R-1B Zoned

For: (1) Lot 122, lot frontage of
70' required, 67.77' requested.
(2) Lot 123, Lot frontage of 70'
required, 68.1' requested.
(4 Votes required)

Gary Sabo, 430 S. State, Davison, MI, said he went before the Planning Commission and was approved contingent upon getting the variances approved by

the Zoning Board for the two sub-standard lot sizes. Mr. Sabo said there is an easement for drainage for Phillips Drain.

Mr. Strasser suggested the house be moved back on the lot. He said this is a new subdivision and variances should not be necessary if there is another way around the problem.

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Mr. Sabo said he would ask CHMP, Inc. about moving the house back and see if this would be feasible.

Moved by Cross, seconded by Parker to postpone ZBA #96-50 until the next meeting of August 15, 1996, giving the applicant time to check with the engineer in regards to moving the house over 2 feet. Motion carried 6-0.

3. ZBA #96-51

By: Future Homes, Inc.
430 S. State Road
Davison, MI 48423

Re: Unit 47
Hidden Trails, Phase I
Sect. 24 R-1B Zoned

For: To request a sub-standard rear
yard setback, 30' required,
13' requested.
(4 Votes required)

Mr. Berry said the applicant has asked to have this case taken off the agenda, as there is no longer a need for a variance.

Moved by Cross, seconded by Parker to remove ZBA #96-51 from the agenda at the request of the applicant, as no action is necessary. Motion carried 6-0.

4. ZBA #96-52

By: Future Homes, Inc.
430 S. State Road
Davison, MI 48423

RE: Unit 106
Hidden Trails, Phase II
Sect. 24 R-1B Zoned

on a
structure,
building

For: To construct a 22' x 22' garage
lot not having a principal
to be used as storage for
materials.
(5 Votes Required)

Mr. Sabo said he is asking to construct a 22'x22' garage on a buildable lot, without having a house on the lot. The garage will be used for storage of lumber and building materials so they are not laying around in the yards. In two (2) or three (3) years, he would then build a house and attach it to the garage and see it. Mr. Sabo said when he ordered the siding and roofing for the garage, he would buy enough to complete the house, so that everything matches.

Mr. Berry said previously, a similar request was made and it was approved with the stipulation of a time frame.

Audience Participation:

James McArthur, 2083 Woodland Pass, said he doesn't object to the request if there is a time frame for the house to be built.

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F. NEW APPLICATIONS (contd.)

Mr. Strasser said if this request is approved by the Board, DPW asks that the motion include there is not to be a free-standing garage, it must be attached to the house.

Moved by Weatherford, seconded by Cross to approve ZBA #96-52 to construct a 22'x22' garage on a lot not having a principal structure with the stipulations that the garage is to be sided and attached to a house within a three (3) year period. Motion carried 6-0.

5. ZBA #96-53

By: Suzanne Elyateem
3326 Dell Avenue
Burton, MI 48529

Re: Lot 5 Blk. M. Southgate Sub.
Sect. 28 R-1C Zoned

front
front

For: To construct an addition to the
of the home at 16' from the
property line, 20' required.
(4 Votes Required)

Mrs. Elyateem, 3326 Dell Ave., said she is asking to put an addition on the front of her home as she does not have enough room to add onto the side or back. She is request 16' from the property line and 20' is required. She wants to build an additional bedroom. She said the home will be resided all one color with 2' overhangs and will be boxed in soffits.

Mr. Berry asked if, by doing this, would the neighbors view be obstructed. He was advised no.

Mr. Strasser said DPW has no problem with the request.

Mr. Parker asked what the height of the roof will be.

Tonio Elyateem, 3326 Dell Ave., said it would be 15'x18' addition.

Mr. Strasser said the height would be the same as a 2 story home, 22 feet high at the peak.

Mrs. Weatherford asked if this is built out 6', wouldn't it be close to the fence? Ms. Elyateem said there would be 8' from back porch to the property line.

Mr. Parker said one of the stipulations in the zoning ordinance is that the request must be unique to the property and it looks as though the only way that they can put on an addition is in the front.

Moved by Parker, seconded by Cross to approve ZBA #96-53 to construct an addition to the front of the home at 16' from the front property line, instead of the request 20 feet. Motion carried 6-0.

F. NEW APPLICATIONS (contd.)

6. ZBA #96-54
"Speedway"

By: Patterson Construction -
360 E. Maple, Suite A
Troy, MI 48083

RE: 1001 S. Center Road
59-15-100-001

square

ft.,

sign,

parking

required,

For: (1) To exceed the allowable
footage for signage by 6 sq.
81 sq. ft. requested for a pole
75 sq. ft. allowed.
(2) To reduce the required
spaces from 16 to 9.
(3) East side setback, 20'
2' requested.
(4 Votes Required)

Ron Katzman, from Building Design Association, explained that they would be closing one drive along Court Street and maintain two openings on Center Road.

There will be extensive landscaping areas where the approach was and signs.

There will be parking on either side of the building. Mr. Katzman said they

are requesting several variances, 1) To exceed the allowable square footage for

signage by 6 sq. ft., 81 sq. ft. requested for a pole sign; 2) To reduce the

required parking spaces from 16 to 9 and (3) East side setback, 20'

required, 2'
requested.

Mr. Berry said the Board could act on each variance individually.

Item #1:

Mr. Berry said the height is within the ordinance, but they are requesting a variance for the width of the sign.

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

Mr. Parker asked what the need is for two signs, if there will be signs on the canopy.

Mr. Strasser explained that in the ordinance it states that any business on two streets is allowed 2 signs. Some of the businesses make specific square footage of their signs, such is the case in this situation.

Moved by Parker, seconded by Cross to approve Item #1 for ZBA 96-54 to exceed the allowable square footage for signage by 6 sq. ft., 81 sq. ft. requested for a pole sign, 75 sq. ft. allowed. Motion carried 6-0.

Item #2:

Mr. Strasser said 16 spaces are required, but the pump islands will be further apart and they are proposing nine (9) actual parking spaces, aside from the pumps. DPW has no problem with the request.

Moved by Cross, seconded by Parker to approve Item #2 for ZBA #96-54, to reduce the required parking spaces from 16 to 9. Motion carried 6-0.

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Item #3:

Mr. Katzman said the setback area behind the station is the greenbelt and there will be nothing built in that area.

Mr. Strasser said DPW has no problem with the request.

Moved by Parker, seconded by Cross to approve Item #3 for ZBA #96-54 to allow for an East side setback of 2', instead of the required 20 feet. Motion carried 6-0.

The next regularly scheduled Zoning Board of Appeals meeting will be held Thursday, August 15, 1996.

Meeting adjourned at 9:08 P.M.

Cheryl M. Ladd, CMC/AAE
Deputy City Clerk

CML