



CITY OF BURTON

BURTON ZONING BOARD OF APPEALS MEETING

APRIL 20, 2017

MINUTES

Council Chambers

Regular Meeting

5:00 PM

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by Commissioner Steve Welch at 5:00 PM.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Duane Haskins	Council Representative	Present	
Terry Parker	Commissioner	Present	
Scott Hynes	Commissioner	Present	
Steve Welch	Commissioner	Present	
Tim Rapacz	Commissioner	Present	
Deb Walton	Commissioner	Present	
Michaeline Ward-Terry	Commissioner	Present	
Donald Standel	Commissioner	Excused	
Timothy Miller	Commissioner	Excused	

C. STAFF PRESENT

Amanda Doyle, Attorney
Amber Abbey, Planning and Zoning
Marcy Kimball, Clerk's Office

D. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Mar 16, 2017 5:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Terry Parker, Commissioner
SECONDER:	Tim Rapacz, Commissioner
AYES:	Haskins, Parker, Hynes, Welch, Rapacz, Walton, Ward-Terry
EXCUSED:	Standel, Miller

E. VARIANCE

1. ZBA #17-05

By: David Tatro
4242 Howe Rd.
Grand Blanc, MI 48439

Re: 4242 Howe Rd. Grand Blanc, MI 48439
59-34-100-023, SE Zoned

For: To conduct an M-1 Light Industrial Special Use in an SE Suburban Estates zone for a dog kennel.

David Tatro of Grand Blanc stated the violation does not say how many dogs I can have.

Mr. Welch said you are only allowed 2 dogs.

Mr. Tatro of Howe Rd., Grand Blanc stated the dogs have never been a problem, they don't bark and are all state champion hunting dogs. My dogs range in age from 14 yrs. to 9 yrs. old. I have them in \$4,000 above the ground dog kennels, Humane Society approved. I am not getting any more dogs and I am not breeding dogs.

Michael Wissinger of Howe Rd., Grand Blanc stated my property is adjacent to Mr. Tatro's. I have never had an issue with his dogs, have never seen his dogs.

Elisa Swartz of Howe Rd., Grand Blanc stated I live next door to Mr. Tatro. I ask that you reject this application. In May of 2016 my husband and I were bit by one of his dogs in our driveway. I appeared before the council and it was in the Burton View. I have Facebook documents that prove Mr. Tatro has had these dogs since 2010. The dog cage he keeps his dogs in is damaged. He is not in compliance. We felt in danger the entire time we have lived on Howe Rd. We have been harassed and threatened all because of the dogs he has on his property. I don't want to live this way anymore.

Chuck McLain of Howe Rd., Grand Blanc said I live across the street from Mr. Tatro. I have had no problems with him or his dogs.

Mrs. Abbey stated the ordinance section that you are in violation of is 157.046 (C) 1 (D) which requires that a dog kennel with anything over 2 adult dogs requires an M1 Zone. You are a SE Zone which is a suburban estates zone. Code enforcer received a complaint, went out to the house and witnessed they had more than 2 adult dogs. He cited them with a notice. Within 10 days they came in and applied for the Zoning Board of Appeals. This is the procedure. We have allowed him to keep the dogs for due process. A decision will be made tonight on whether he will be allowed to keep the dogs. The administration is not making a recommendation on this case.

Mr. Haskins said I thought the ordinance went from 2 dogs allowed to 3 dogs allowed.

Mrs. Abbey said they talked about changing it to 3 adult dogs in 2015 but it did not pass.

Mr. Tetro stated I would like to keep 7 dogs. I have four Beagles that are very old, my Blue Healer is 10 yrs. old and my Squirrel dog is 9 yrs. old and two American Bulldogs.

Mr. Parker said I did not hear a hardship as to why this gentleman has to have this

many dogs so I can't support this.

Mr. Welch said there is a leash law and a lot of this could have been prevented if they were on a leash.

Mrs. Ward-Terry stated it is out of character with the neighborhood. In granting the variance the spirit is not observed, public safety is not secured and substantial justice is not done. It is not unreasonably burdensome for the taxpayer to use the property for the legally zoned purpose.

Motion to deny an M-1 Light Industrial Special Use in an SE Suburban Estates zone for a dog kennel.

RESULT:	CARRIED AS AMENDED [UNANIMOUS]
MOVER:	Michaeline Ward-Terry, Commissioner
SECONDER:	Terry Parker, Commissioner
AYES:	Haskins, Parker, Hynes, Welch, Rapacz, Walton, Ward-Terry
EXCUSED:	Standel, Miller

2. ZBA #17-06

By: Greg Benjamin
6011 E. Atherton Rd.
Burton, MI 48519

Re: 6011 E. Atherton Rd. Burton, MI 48519
59-24-551-023, C-1 Zoned

For: To conduct an outdoor recreational event on September 19th through
25th, 2017

Greg Benjamin from Atherton Road in Burton stated this is an annual event and it has grown every year. This event raises money for the Old Newsboys. Within the last two years this event has raised almost \$6,000 for them. We also raised almost \$2,300 last year for Star Saving Tails Animal Rescue. This is my purpose for putting a tent up. I would like to ask for the approval to put up a tent to be for 5 years rather than having to come in front of the board every year.

Mr. Welch read a letter from the Chief of Police stating they haven't had any formal complaints from this event last year.

Eloise Doyle of Burton said I understand they call this event Burtucky. It sounds to me like they are slandering the southern people. They hang out woman's underclothes and it's not nice.

Mrs. Abbey reminded everyone this is not a variance. He doesn't have to prove a hardship in order to conduct the event. In our ordinance it requires that any outdoor recreational event come before the Zoning Board of Appeals for approval, notices be sent out and a decision be made by the board. The Police Chief sees no issue with

the event. As far as whether or not to do one year or not, just keep that in mind. If you approve him as it is he will be allowed to do administrative recommendations for the following years. What that means is we still send out notices to everyone within 300 feet of the property at least two weeks prior to the event. If anyone does object, which they have two weeks to do, then he has to come back before you anyway. So if approved tonight, for the next five years he would do it that way. It would still go to the Police Department every year, notifications are sent out. If there are issues the previous year he will still have to come back before the board. The administration recommends approval.

Mrs. Walton stated there are a lot of people that are offended by the name of your event. We are trying to put a positive spin on our City. We are working on our Master Plan. Real Estate companies have talked about the name Burtucky. Not your event but the name.

Mr. Benjamin said the name started when GM brought the workers here from down south. Most people don't think of the name Burtucky as a negative thing.

Mr. Haskins said I hear mixed emotions on the name Burtucky. It's not just the name, it's the things that are associated with it, like the billboards, signs, etc.

Attorney Doyle stated I just want to remind everyone, he has a right to call his event whatever he wants. You cannot base your decision on the name.

Mr. Rapacz asked will the cars be parked on the grass again and will the tent be placed by the road.

Mr. Benjamin said I got permission from the Tax business across the street to allow cars parked in their lot. The tent will be in the same place as last year.

Motion to conduct an outdoor recreational event on September 19th through 25th, 2017 with annual request and renewal.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Terry Parker, Michaeline Ward-Terry
AYES:	Haskins, Parker, Hynes, Welch, Rapacz, Walton, Ward-Terry
EXCUSED:	Standel, Miller

3. ZBA #17-07

By: Lon & Vicki Neuville / Best Car Co. Importing
4199 Davison Rd.
Burton, MI 48509

Re: 4218 Davison Rd. Burton, MI 48509
59-10-100-017, C-2 Zoned

For: To conduct a C-3 Highway Oriented Business Special Use in a C-2 General Business zone for used vehicles sales.

Lon Neuville of Burton stated we now own the property next door and would like to park cars on this lot. We import cars out of Canada and they have to sit for 30 days according to Federal Law. If approved we would have it graded and put in gravel and drainage.

Mrs. Abbey stated there are residential homes around the property as well as a residential home on this property. The requirement of a privacy fence would be necessary dividing between the commercial business and the residential. There are mostly businesses of that use in that area. If approved he would be required to go through site plan review, have drainage and a privacy fence. The administration is not going to give a recommendation on this case.

Mr. Parker said we have had an influx of people importing cars from Canada and storing them in Burton. I am all for business and people making money because that helps our tax base. This business keeps growing. I don't want this board to become anti-business but when do we say enough. If this was denied what kind of lawsuit could come of this.

Mrs. Abbey said you can definitely limit them because they come before you for approval. There are certain cases where it is permitted use but these are not those cases.

Attorney Doyle stated the only law suit that would come would be an appeal to the Circuit Court. If the Circuit Court agreed with the ZBA then it could be appealed through the Court of Appeals.

Mrs. Ward-Terry suggested limiting the number of cars and they would be allowed on the property and have specific parking places for the cars.

Mrs. Abbey stated you can put a contingency on the motion.

Mr. Hynes said we want businesses here, but it doesn't look good on the community when you go down I-69 and you see 250 cars sitting there at the entry point to our community. What's to stop the next time from coming in with 400 cars?

Mr. Welch asked Mr. Parker how many cars you have there now. And how many more do you want to have.

Mr. Neuville said they have about 400 cars on the property. This new lot would hold about 250 cars. The lot is behind the houses, there is nothing behind it or on either side of it.

Vicky Neuville stated the importing business is starting to slow down. Out of all the importers, we are probably the most organized with our cars. We keep our lot clean and organized.

Motion to approve ZBA #17-07 To conduct a C-3 Highway Oriented Business Special Use in a C-2 General Business zone for used vehicles sales with the contingency of a 250 vehicle limit on the property.

RESULT:	FAILED [4 TO 3]
MOVER:	Michaeline Ward-Terry, Commissioner
SECONDER:	Terry Parker, Commissioner
AYES:	Haskins, Parker, Welch, Ward-Terry
NAYS:	Hynes, Rapacz, Walton
EXCUSED:	Standel, Miller

F. AUDIENCE PARTICIPATION

Mr. Tatro asked how many dogs am I allowed to have and how long do I have before I have to get rid of them.

Mr. Welch stated you are allowed two dogs.

Attorney Doyle stated you would have 10 days from the day you get the notice that you need to comply. If you do not comply you will be cited with a civil infraction which you will appear in court for. The court would decide how many days you would have.

Mr. Haskins asked Attorney Doyle isn't any ordinance violation a misdemeanor infraction. He is cited with a zoning violation and our zoning code is our municipal city infractions. If it was not complied with we would file an action in Circuit Court to abate a nuisance.

Mr. Haskins said my understanding was with this type of issue they were cited, given 10-15 days to comply. After that time, because of the ordinance violation, the city had the right to remove the dogs with Animal Control. Are you saying that is not going to happen until this whole court process goes through?

Attorney Doyle stated it's a property right so he has the right to due process. We do not have a specific ordinance for the removal of animals. We need to follow the ordinance we do have which states if you violate a zoning code you get a civil infraction ticket. You would then appear in court to either pay it, do what they ask or appear in court to dispute it. We then ask the Judge to act accordingly. The benefit of a civil infraction versus a criminal one is that when it goes in front of the Judge.

Mrs. Abbey stated to the best of my knowledge in the past 15 years we have never had to call Animal Control to remove dogs other than a situation where animals were abandoned inside a home.

G. BOARD DISCUSSION

Mrs. Ward-Terry stated it's very important to make it clear that people come before the Zoning Board of Appeals when they are asking to break an ordinance. By saying that we are allowing more dogs, cars, parking or expansion this is something that is already more nonconforming. That's why we take it on a case by case basis and look at it in black and white. There may be too many of something for what your asking and this is why it is not granted.

Mr. Parker said the ordinance states what the laws are in the City of Burton. If someone is in violation of that, normally it's because someone complained or our enforcement officials see that someone is in violation.

Mrs. Abbey stated it is the ability to enforce. We have one Code Enforcement Officer and he has to get to the complaints first.

The next regularly scheduled meeting will be held on Thursday, May 18th, 2017, at 5:00 p.m.

Meeting was adjourned at 6:20 PM.
