



CITY OF BURTON

BURTON ZONING BOARD OF APPEALS MEETING

MAY 21, 2015

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	Excused	
Robert Walls	Planning Chairman	Present	
Terry Parker	Commissioner	Present	
Tracy Parker	Commissioner	Present	
Scott Hynes	Commissioner	Excused	
Bobbie Weatherford	Commissioner	Present	
Steve Welch	Commissioner	Present	
Tim Rapacz	Alternate Commissioner	Present	
Robert Olsen	Alternate Commissioner	Excused	

C. STAFF PRESENT

D. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Special Meeting - Apr 30, 2015 5:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Robert Walls, Planning Chairman
SECONDER:	Terry Parker, Commissioner
AYES:	Haskins, Walls, Parker, Parker, Weatherford, Welch, Rapacz
EXCUSED:	Hynes, Olsen

E. VARIANCE

Before preceding to the variances Mr. Welch clarified that Council was short one board member, those presenting their case must state beforehand if they would prefer to postpone. If they chose to proceed then tonight's decision would be final.

1. 1546 : ZBA # 15-07 To consturct a 30' X 40" pole barn that will project 10' past the front face of the house.
Mr. Welch called for Mr. Foerster to come forward and asked him if he understood his options this evening. Mr. Foerster replied yes.

Mr. Gary Foerster of Grand Blanc stated he had never done this before and was unsure how to proceed.

Mr. Welch asked if he had anything he would like to offer.

Ms. Judy Wright of Burton requested denial of the variance being it is a commercial size structure, and with that will come increase in traffic and fears for the safety of the children in the neighborhood. Concerned it will be used for a business.

Ms. Shelby Mayberry of Burton also requested denial of the variance citing the same concerns of Ms. Judy Wright. Additional concern is the building will be forward on the lot (10 feet passed the house) and not in back of the property.

Mrs. Abbey providing clarification that commercial businesses are not allowed in a residential zoned area, he is allowed to build that size of structure on his property. Request for variance is the projection of the structure into the front yard. We as administration find no hardship or uniqueness to this property as to why he couldn't move it back so we recommend denial.

Mr. Rapacz asked Mr. Foerster to explain the hardship for us so we can understand why you can't put the structure further back on the property.

Mr. Foerster stated he is building it to store his vehicles in and use it for storage. There are power lines running through the back of the property and unable to build the structure towards the back.

Mr. Parker asked him if he intended to put that pole barn 18 feet from the existing garage.

Mr. Foerster stated yes, 18 feet from the existing garage, 17 feet off the property line from the north, 47 feet from the house, and 97 feet off the road. Structure would be in line with neighbor's structures.

Mr. Parker asked if he moved the structure back closer to existing garage he would have to be at least 10 feet away from the existing structure in order to comply with building codes since Mrs. Abbey stated he would need a firewall at 10 feet or closer.

RESULT:	CARRIED [4 TO 2]
MOVER:	Terry Parker, Commissioner
SECONDER:	Tim Rapacz, Alternate Commissioner
AYES:	Parker, Weatherford, Welch, Rapacz
NAYS:	Walls, Parker
EXCUSED:	Haskins, Hynes, Olsen

2. 1547 : ZBA #15-09 To conduct used car sales not in conjunction with new car sales. Mr. Nicholas Rowan of 2429 Sunray Ct. Davison MI, variance requested for 4033 S. Center Rd. Burton, MI 48519.

Looking for a commercial spot to hang their license, will not be operating at the location.

Mrs. Abbey stated the recommendation from administration is for a condition that there will be no retail conducted at the site, and with that condition, recommends approval.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Terry Parker, Commissioner
SECONDER:	Bobbie Weatherford, Commissioner
AYES:	Walls, Parker, Parker, Weatherford, Welch, Rapacz
EXCUSED:	Haskins, Hynes, Olsen

3. 1548 : ZBA #15-10 To construct a deck 19' from the rear property line, 35' required. Mr. Rudy Hunt of Grand Blanc, MI 48439 request variance to construct a deck off the back of their house 19 feet from the rear of the property line, 35 feet is required. Mr. Hunt provided pictures to council of the back of the house where the deck will be built.

James Delano of Grand Blanc spoke in favor of the variance. Mr. Delano's property backs up to Mr. Hunt's property and has no issue with the requested variance.

Ken of Allen Edwin Home Builders of Flushing MI spoke of Mr. Hunt that he is an awesome homeowner. Original intent of the back door being so high was to build a deck for access.

Recommendation from Administration Mrs. Abbey stated that the builder was aware of the set back line at the time they built the house; the owner was unaware and recommends approval.

Mr. Parker requested Mr. Hunt to podium and proceeded to question Mr. Hunt on the height of the deck; if it was one level, have access to the windows etc.

Mr. Hunt stated the posts that will hold the deck up are 10 feet from the house, it will not inhibit egress from the house.

Mr. Parker asked Mr. Hunt why are the measurements 14' x 14' and 12' x 16'?

Mr. Hunt stated there will be a deck on the ground not attached to the home, so it is a split level deck.

Mr. Welch clarified with Mr. Hunt this is a split deck and not one level.

Mr. Parker stated that this should not set precedence for your neighbors building next to your property.

Mr. Welch expressed concerns why the builder would build the door and window that high off the ground when they know what the codes are.

Mrs. Anna Hunt stated in reference to questions on the windows three daylight windows, one will be affected by the deck, the other will be on the landing, and the other on the side of the house.

Mr. Parker stated there would be egress access.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Robert Walls, Planning Chairman
SECONDER:	Bobbie Weatherford, Commissioner
AYES:	Walls, Parker, Parker, Weatherford, Welch, Rapacz
EXCUSED:	Haskins, Hynes, Olsen

4. 1549 : ZBA #15-11 Motion to approve to conduct a C-2 special use for an indoor recreational event center in an M-1 zone.
Board verified with Mr. Simpson that he was aware of the 5 vote requirement referring to the earlier advisement from the board being one (1) member short. Mr. Simpson acknowledged and proceeded.

Mr. Darrell Simpson of G3266 S, Dort Hwy requested a variance concerning required parking spaces. Mr. Simpson handed out packet from ICON Training & Event Center summarizing services offered, it also included aerial view of parking areas leased for the business.

Mr. Simpson gave a brief overview of the leased parking areas. He had a discussion prior with Zoning and Planning in reference to easement requirements of the parking areas to the place of business. Mr. Simpson was confused as to the second requested variance of reduced spaces. He stated leased parking areas coincide with the lease of the building.

Mrs. Abbey from Administration stated they are aware that the leased parking areas are owned by the same person and we would require a legal agreement verifying the lease of the parking lots. Need to avoid issues with parking for other businesses in the area.

Mr. Simpson replied that he has reached out to the other businesses except for two which he could not get in touch with. The response was positive from business owners. All big events related to Mr. Simpson's business will be held on the weekend.

Mr. Welch stated that Mr. Simpson would be required to produce an affidavit or legal document affirming the leases of the additional parking areas.

Mrs. Abbey stated that the affidavit/legal document should be a condition for approval and recommended approval.

Mr. Welch to Mr. Simpson, I assume you do not have signed leases as of yet.

Mr. Simpson replied there is a lease signed with a contingency of approval for the use of the building from ZBA, and that the leases are signed on the parking areas.

Mr. Welch asked what is the term of the lease?

Mr. Simpson stated two years.

Mr. Walls asked what happens in two years if the parking leases are not renewed?

Mrs. Abbey stated that he would be in violation of his variance and the City could revoke his variance, if the board puts it as a condition. If you didn't he would still be allowed to operate.

Mr. Simpson stated there is a contingency in the lease for extensions of the leases.

Mr. Parker stated that the motion should state that Mr. Simpson produces the leases and he does not get the variance unless the leases are produced to the DPW. The leases for Parking Areas is part of the variance, he would have to have leases on all the lots. Motion needs to be contingent of Mr. Simpson producing the leases and continuance of the leases of all the properties together.

Mr. Welch stated leases on lots 1, 2, 3, and 4 as stated by Mr. Simpson.

Mr. Simpson stated that lot 4 is the only lot not under the same owner. He asked for contingency on lots 1, 2, and 3 only.

Mr. Welch asked if lots 1, 2, and 3 were enough? (59 spots)

Mrs. Abbey stated it would be more than enough to satisfy the requirement.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Robert Walls, Planning Chairman
SECONDER:	Terry Parker, Commissioner
AYES:	Walls, Parker, Parker, Weatherford, Welch, Rapacz
EXCUSED:	Haskins, Hynes, Olsen

5. 1549 ZBA #15-11 Motion to approve variance 2, contingent on parking lots 1, 2, & 3 must have leases presented to DPW for approval before variance is granted.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Robert Walls, Planning Chairman
SECONDER:	Terry Parker, Commissioner
AYES:	Walls, Parker, Parker, Weatherford, Welch, Rapacz
EXCUSED:	Haskins, Hynes, Olsen

6. 1550 : ZBA #15-12 Postpone approval of variance to conduct a medical marijuana grow facility within 200' of a residential property.
Letter read by Mr. Welch from Cannabis Attorneys of Michigan Ashlee Runick, dated May 19, 2015.

Letter also submitted by Edward and Linda Brenner who operate a business in the area of the requested variance. Letter submitted is opposed to the variance.

RESULT:	POSTPONED [UNANIMOUS]	Next: 6/18/2015 5:00 PM
MOVER:	Robert Walls, Planning Chairman	
SECONDER:	Terry Parker, Commissioner	
AYES:	Walls, Parker, Parker, Weatherford, Welch, Rapacz	
EXCUSED:	Haskins, Hynes, Olsen	

7. 1551 : ZBA #15-13 To conduct a medical marijuana dispensary where persons under the age of 18 that do not possess a valid Medical Marijuana Registry Card are allowed on the property.

Tom Childs of 1053 W. Wilson Rd is requesting a variance based on a couple of issues, it is mainly due to persons under age of 18 having access to the lot. Disputing the age requirement due to minors are allowed to go into bars that serve food and into liquor stores to buy candy. In observing and monitoring patrons to the Plaza he noted there are very few minors that utilize the businesses in the Plaza. He also stated he would be running the store and monitoring to ensure minors do not enter.

Mrs. Abbey stated that Mr. Childs is not the owner of the property and unable to restrict who visits the property.

Andrea Robinson a realtor who represents Mr. Ogorick who owns the facility stated Mr. Ogorick is in support of the business and does not feel there would be any issues or concerns.

Mrs. Abbey stated that Mr. Childs is not the property owner and unable to restrict minors from entering the property or any other business conducted in the plaza. The potential is there for minors to enter property. The Planning Commission sees this as a special use and requires a lot split from a residential area, and does not qualify for this type of business. The property as it sits does not qualify, we do not recommend approval.

Mr. Parker addressing Mrs. Abbey the language in city ordinance is clear that persons 18 of age and younger are not allowed on the premises. We have to go by the Ordinance. He does not feel that the ZBA is the correct forum to address this issue.

Mrs. Abbey clarified that he's not asking you to change the ordinance. He has requested an exception to the ordinance which is what a variance is.

Mr. Rapacz expressed concern that the way the ordinance was written sounds like if they wanted to run a dispensary it could not be around anything.

Mrs. Abbey stated if he wished to have the ordinance changed he could address the City Council for that.

Mr. Parker in summary stated he could not support this variance since there was no hardship addressed, and because of the age requirement in the ordinance.

Mr. Welch stated he is unsure of how many kids visit the property, but the ordinance states they have to have access to the property.

Mr. Walls asked for clarification from Mrs. Abbey are you saying that since he does not own the building that we could not grant the variance stating that no one under 18 is allowed inside this unit.

Mrs. Abbey clarified a variance can be issued, her point was that he is not the property owner and unable to control who goes in and out of the other units.

Mr. Walls we can still grant a variance stating no one under 18 can go in the building.

Mrs. Abbey stated we are not talking about the unit but the property.

Can we change it to state that no one can go in his unit.

Mrs. Abbey stated that is state law that no one under 18 can go into that shop.

Mr. Welch clarifies that Mr. Childs is no the property owner and he cannot dictate he goes into quest or other businesses there. The owner of the property could.

Mrs. Abbey stated if it was a free standing building (as opposed to a strip mall) you can restrict who comes and goes on that property since customers are coming there specifically for whatever that business has to offer. When it is a strip mall you have different units (various businesses) and persons under the age of 18 will visit that property.

Mr. Walls stated the ordinance states you have to be over the age of 18 to visit that type of establishment.

Mrs. Abbey stated yes, a parent could not visit the property and leave their child in the car.

RESULT:	FAILED [1 TO 5]
MOVER:	Robert Walls, Planning Chairman
SECONDER:	Bobbie Weatherford, Commissioner
AYES:	Rapacz
NAYS:	Walls, Parker, Parker, Weatherford, Welch
EXCUSED:	Haskins, Hynes, Olsen

F. AUDIENCE PARTICIPATION

None.

G. BOARD DISCUSSION

Mr. Walls requested that letters received for variance that was postponed (ZBA #15-12) be attached to the next meeting agenda.

Mrs. Abbey stated they would receive a new packet for the next meeting and the letters will be included in the packet.

Mrs. Abbey introduced Mr. Bob Slattery the new DPW Director to the ZBA Board.

Mr. Slattery introduced himself and summarized his background information and touched on

future plans for DPW.

Mrs. Abbey stated that between the Clerk's office and hers that training has been organized for the board it is and Introduction to Planning and Zoning Essentials which is scheduled for end of June. Mrs. Abbey further stated she would forward details for the training to the board in the near future.

The next regularly scheduled meeting will be held on Thursday, June 18, 2015, at 5:00 p.m.

Meeting was adjourned at 6:04 PM.



CITY OF BURTON

BURTON ZONING BOARD OF APPEALS MEETING

APRIL 30, 2015

MINUTES

Council Chambers

Special 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	Excused	
Robert Walls	Planning Chairman	Present	
Terry Parker	Commissioner	Present	
Tracy Parker	Commissioner	Present	
Scott Hynes	Commissioner	Excused	
Bobbie Weatherford	Commissioner	Present	
Steve Welch	Commissioner	Present	
Tim Rapacz	Alternate Commissioner	Present	
Robert Olsen	Alternate Commissioner	Present	

C. STAFF PRESENT

D. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Apr 16, 2015 5:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Robert Walls, Planning Chairman
SECONDER:	Bobbie Weatherford, Commissioner
AYES:	Walls, Parker, Parker, Weatherford, Welch, Rapacz, Olsen
EXCUSED:	Haskins, Hynes

E. VARIANCE

Steve Welch advises those parties seeking a variance the variance advisement of rights.

Victoria Neuville of Burton advises board they were already in the process of purchasing the property when they learned the lot was zoned for C-2 and not C-3. Requesting variance for C-3 use.

Mrs. Frost advised the board that the land had been previously utilized as a Landscape Business; recommends a privacy fence on the west end of the property line and also recommends board approval for variance requested.

Minutes Acceptance: Minutes of Apr 30, 2015 5:00 PM (Approval of Minutes)

Mr. Parker addresses Mrs. Neuville for her acknowledgment and understanding of the requirement for a 6ft high privacy fence at her expense. He also advised the fence is a stipulation of the variance and it will be at Mrs. Neuville's expense.

Mrs. Neuville acknowledged the fence will be her responsibility and that it is also needed in order to secure the intended car lot. Non-issue.

1. 1472 : ZBA #15-08 To Approve Variance to conduct a C-3 business in a C-2 zone and conduct used car sales not in conjunction with new car sales, will erect 6ft privacy fence at west end of property.

1. ZBA #15-08

By: Lon & Victoria Neuville
4199 Davison Rd. Burton, MI 48509

RE: 42368 Davison Rd. Burton, MI48509
59-10-100-032, C-2 Zone

For: 1. To conduct a C-3 use in a C-2 zone.
2. To conduct used care sales not in conjunction with new car sales.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Robert Walls, Planning Chairman
SECONDER:	Bobbie Weatherford, Commissioner
AYES:	Walls, Parker, Parker, Weatherford, Welch, Rapacz, Olsen
EXCUSED:	Haskins, Hynes

F. AUDIENCE PARTICIPATION

None.

G. BOARD DISCUSSION

None.

The next regularly scheduled meeting will be held on Thursday, May 21, 2015, at 5:00 p.m.

Meeting was adjourned at 5:06 PM.

Minutes Acceptance: Minutes of Apr 30, 2015 5:00 PM (Approval of Minutes)



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

Meeting: 05/21/15 05:00 PM
Department: Department of Public Works
Category: Variance
Prepared By: Amber Abbey
Department Head: Greg Kray

E.1

ADOPTED

AGENDA ITEM (ID # 1546)

DOC ID: 1546

ZBA # 15-07

By: Gary Foerster
4307 Howe Rd. Grand Blanc, MI 48439

Re: 4307 Howe Rd. Grand Blanc, MI 48439
Parcel #59-34-400-009, SE Zone

For: To construct a 30' x 40' pole barn that will project 10' past the front face of the house.

RESULT:	CARRIED [4 TO 2]
MOVER:	Terry Parker, Commissioner
SECONDER:	Tim Rapacz, Alternate Commissioner
AYES:	Terry Parker, Bobbie Weatherford, Steve Welch, Tim Rapacz
NAYS:	Robert Walls, Tracy Parker
EXCUSED:	Duane Haskins, Scott Hynes, Robert Olsen



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

Meeting: 05/21/15 05:00 PM
Department: Department of Public Works
Category: Variance
Prepared By: Amber Abbey
Department Head: Greg Kray

E.2

ADOPTED

AGENDA ITEM (ID # 1547)

DOC ID: 1547

ZBA #15-09

By: Nicholas Rowan
2429 Sunray Ct. Davison, MI 48423

Re: 4033 S. Center Rd. Burton, MI 48519
59-34-100-042, C-2 Zone

For: To conduct used car sales not in conjunction with new car sales.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Terry Parker, Commissioner
SECONDER:	Bobbie Weatherford, Commissioner
AYES:	Walls, Parker, Parker, Weatherford, Welch, Rapacz
EXCUSED:	Duane Haskins, Scott Hynes, Robert Olsen



ADOPTED

AGENDA ITEM (ID # 1548)

DOC ID: 1548

ZBA #15-10

By: Rudy A. Hunt
4424 Pebble Creek Blvd. Grand Blanc, MI 48439

Re: 4424 Pebble Creek Blvd. Grand Blanc, MI 48439
59-35-578-014, R1-A Zone

For: To construct a deck 19' from the rear property line, 35' required.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Robert Walls, Planning Chairman
SECONDER:	Bobbie Weatherford, Commissioner
AYES:	Walls, Parker, Parker, Weatherford, Welch, Rapacz
EXCUSED:	Duane Haskins, Scott Hynes, Robert Olsen



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

Meeting: 05/21/15 05:00 PM
Department: Department of Public Works
Category: Variance
Prepared By: Amber Abbey
Department Head: Greg Kray

E.4

ADOPTED

AGENDA ITEM (ID # 1549)

DOC ID: 1549

ZBA #15-11

By: JND Ventures Limited, LLC
G-3266 S. Dort Hwy. Burton, MI 48529

Re: 3323 Associates Dr. Burton, MI 48529
59-29-551-003, M-1 Zone

For: 1. To conduct a C-2 special use for an indoor recreational event center in an M-1 zone.
2. To reduce the number of required parking spaces from 59 to 35.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Robert Walls, Planning Chairman
SECONDER:	Terry Parker, Commissioner
AYES:	Walls, Parker, Parker, Weatherford, Welch, Rapacz
EXCUSED:	Duane Haskins, Scott Hynes, Robert Olsen



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

Meeting: 05/21/15 05:00 PM
Department: Department of Public Works
Category: Variance
Prepared By: Amber Abbey
Department Head: Greg Kray

E.6

TABLED

AGENDA ITEM (ID # 1550)

DOC ID: 1550

ZBA #15-12

By: T-Rex Enterprises, LLC
3245 Card Dr. Burton, MI 48529

Re: 3245 Card Dr. Burton, MI 48529
59-33-501-027, M-2 Zone

For: To conduct a medical marijuana grow facility within 200' of a residential property.

RESULT:	POSTPONED [UNANIMOUS]	Next: 6/18/2015 5:00 PM
MOVER:	Robert Walls, Planning Chairman	
SECONDER:	Terry Parker, Commissioner	
AYES:	Walls, Parker, Parker, Weatherford, Welch, Rapacz	
EXCUSED:	Duane Haskins, Scott Hynes, Robert Olsen	



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

Meeting: 05/21/15 05:00 PM
Department: Department of Public Works
Category: Variance
Prepared By: Amber Abbey
Department Head: Greg Kray

E.7

DEFEATED

AGENDA ITEM (ID # 1551)

DOC ID: 1551

ZBA #15-13

By: Thomas Allen Childs
1053 W. Wilson Rd. Clio, MI 48420

Re: 4067 E. Court St. Burton, MI 48509
59-10-551-001, C-2 Zone

For: To conduct a medical marijuana dispensary where persons under the age of 18 that do not possess a valid Medical Marijuana Registry Card are allowed on the property.

RESULT:	FAILED [1 TO 5]
MOVER:	Robert Walls, Planning Chairman
SECONDER:	Bobbie Weatherford, Commissioner
AYES:	Tim Rapacz
NAYS:	Walls, Parker, Parker, Weatherford, Welch
EXCUSED:	Duane Haskins, Scott Hynes, Robert Olsen