



CITY OF BURTON

ZONING BOARD OF APPEALS

APRIL 15, 2021

Council Chambers

Regular Meeting

5:00 PM

4303 S. CENTER ROAD
BURTON, MI 48519

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

A. MEETING INFORMATION

Zoning Board of Appeals
Hosted by Racheal Boggs

<https://cityofburton.my.webex.com/cityofburton.my/j.php?MTID=m5fecb42c9dfe66e105ef67e1cd3c10ee>

Thursday, Apr 15, 2021 5:00 pm | 2 hours | (UTC-04:00) Eastern Time (US & Canada)

Meeting number: 182 187 4433

Password: Zone123 (9663123 from phones and video systems)

Join by video system

Dial 1821874433@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

+1-415-655-0001 US Toll

Access code: 182 187 4433

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

Kevin Burge, Burton, Michigan
Scott Hynes, Burton, Michigan
Tim Rapacz, Burton, Michigan
Rick Fuhst, Burton, Michigan
Steve Welch, Burton, Michigan
Michaeline Ward-Terry, Burton, Michigan
Joey Richvalsky, Burton, Michigan

Attendee Name	Title	Status	Arrived
Kevin Burge	Planning Representative	Remote	
Gary Kautz	Alt. Commissioner	Excused	
Christina Conley	Council Representative	Excused	
Scott Hynes	Commissioner	Remote	
Tim Rapacz	Commissioner	Remote	
Michaeline Ward-Terry	Vice Chairperson	Remote	
Steve Welch	Chairman	Remote	
Joey Richvalsky	Alt. Commissioner	Remote	
Rick Fuhst	Commissioner	Remote	

D. STAFF PRESENT

Amber Abbey, Deputy DPW Director
Leandra Swayne, DPW Records Tech
Katie Malin, Clerk's Office

E. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Mar 18, 2021 5:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Michaeline Ward-Terry, Vice Chairperson
SECONDER:	Scott Hynes, Commissioner
AYES:	Burge, Hynes, Rapacz, Ward-Terry, Welch, Richvalsky, Fuhst
EXCUSED:	Kautz, Conley

F. VARIANCE

1. ZBA #21-07

By: Adam Reigle
2020 Crooked Ln. Flint MI 48503

Re: 3189 Dort Hwy. Burton MI 48529
Parcel ID 59-28-501-190

For: To conduct an M-1 special use in a C-2 zone for auto repair facility.

Adam Reigle, 2020 Crooked Lane, Flint, Michigan stated we would like a variance to conduct an M-1 special use in a C-2 zone for automotive repair. The building is well suited for this change.

Mrs. Abbey stated previously the building was Specmo, they did speedometer changes which did fall under auto repair but for nonconforming use. This particular business did move in without an approval but we are not going to hold that against them. Once they were aware they needed approval they complied right away. They have done everything we have asked them to, even knowing they could do all of it and the variance may not be approved. There is a house on Myrton Avenue and there is a six-foot privacy fence between the house and business. My only question is, who owns the fence? My recommendation would be that if it is the homeowner's fence and they ever decided to take it down, the business would need to install a new fence.

Mr. Reigle stated he does not know if the privacy fence belongs to the homeowner or the business. He will find out and if the business owns the fence and, if it ever comes down, they will install a new fence.

Mrs. Abbey stated outside of that, we would recommend approval.

Mr. Fuhst stated he would like to recommend limiting the number of cars that can be parked outside the facility.

Mr. Welch asked if he had a suggested number.

Mr. Fuhst stated 10 to 15 cars.

Mr. Burge asked how many vehicles can he place inside at the end of the day?

Timothy West, 10020 Seyforth Road, Silverwood, Michigan stated we can have six cars inside.

Mr. Burge asked Mr. Welch, would 15 be a good number?

Mr. Welch stated we would need to look at the code too. How many spots per square footage?

Mrs. Abbey stated I do want to add that there is another business that occupies the building that shares parking. My suggestion would be they stripe spaces along the north parking lot to legal spaces and they have to keep the vehicles in those spaces.

Mr. Burge asked, should we limit it to 20 spaces?

Mr. Hynes stated he does not think the recommendation is to limit the amount of cars. I think the recommendation is to stripe the parking lot and they can only park cars in those spaces.

Mr. Welch stated they can have 20 cars on the side parking lot and nine out front, is that right?

Mrs. Abbey stated she would like to see the parking lot stripped with legal parking spaces.

Mr. Hynes made a motion to approve ZBA case #21-07 with the stipulation that the parking lot is striped with legal parking spaces within 30 days and the six-foot privacy fence will be replaced if needed.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Scott Hynes, Commissioner
SECONDER:	Tim Rapacz, Commissioner
AYES:	Burge, Hynes, Rapacz, Ward-Terry, Welch, Richvalsky, Fuhst
EXCUSED:	Kautz, Conley

2. ZBA #21-08

By: Edwards Brenner
3264 Card Dr Burton MI

Re: 3264 Card Dr. Burton MI
Parcel #59-33-100-013

For: To conduct a marijuana facility within 500 feet from another facility.

Edward Brenner, 3264 Card Drive, Burton, Michigan stated I have my realtor as well as a buyer on the line here with me.

Bob Dodge owner of T Rex 1 Corp, 3245 Card Drive, Burton, Michigan stated I did not speak with Mr. Brenner about being okay with him selling his property to another business. I did make him an offer on the property and he did not call me back until a few hours before this meeting and told me he would call me back and let me know tomorrow.

Kristine McCarty of Keller Williams Real Estate, 4130 Waterland Drive North, Metamora, Michigan stated we do have an offer on this property. We have had many people interested in the property, but with the marijuana facility across the street it has been hard to sell the property for any other matter than marijuana.

Amy Beauchamp owner of T Rex 1 Corp 3245 Card Drive, Burton Michigan asked what is the precedence if you want to buy property or get a variance to grow marijuana.

Mr. Welch stated there is no precedence we take it case by case. Are you here to speak for or against the variance.

Ms. Beauchamp stated we do not want competition across the street from us.

Mr. Dodge stated I think the point we want to make is we made Mr. Brenner an offer and he has not denied or accepted our offer. We are willing to purchase the property at his asking price.

Mr. Brenner stated an offer was made online for \$4,500.00 a month, no down payment, and no contract. They have not made me a legal offer.

Discussion ensued between audience members.

Mrs. Abbey stated this is not the time and place for back and forth discussion between audience members.

Mr. Welch asked Mrs. Abbey for a recommendation from the administration.

Mrs. Abbey stated just to clarify, 3245 Card Drive did come before you at the last meeting to expand on-to the other parcel .They did have an existing variance from several years ago because of their proximity to Mr. Brenner's property. It appears from Mr. Brenner's request that he does not wish to pursue the residential home anymore. This is an industrial park, all businesses down on these streets are for industrial use or industrial businesses. The only thing unique was a house that sat on Mr. Brenner's property. When we decided to limit the facilities not to be within 500ft of each other that was to limit the number of facilities in the City of Burton without physically picking a number. For the city, we try to use this as an indication so we don't have them everywhere. As for the realtor mentioning this property can only be sold for marijuana because of the marijuana business nearby, we have other marijuana facilities on main roads in the city and it does not stop businesses from coming in. The city is not going to make a recommendation on this property. We will leave that up to the board.

Mr. Burge asked, Is there more than one parcel?

Mrs. Abbey stated he only included one parcel on the application. Which is the property at 3264 Card Drive. He does own the other parcels next to it but he is not requesting a variance on those parcels. It was not included on the application.

Mr. Burge stated it indicates a variance for cannabis use. Is this going to be for growing, medical or recreational?

Mrs. Abbey stated the way it is stated on the application, it could be for any of those. It is up to the board to decide.

Mr. Burge asked what the applicants intent is for the property.

Mr. Brennar stated you would have to ask the real estate agent. If I do sell the property, I would like to include all the parcels.

Mr. Welch stated that is not what is here before us today. Would the real estate agent like to answer the question about intent for the property?

Ms. McCarty stated it would be for cultivation, processing only and recreational.

Mr. Rapacz stated I want to make sure the applicant understands that even if we say yes to the variance, that does not include the other parcels.

Mr. Richvalsky asked, does the purchase agreement include all three parcels?

Mr. Brennar said yes.

Mr. Burge asked, are we sure this is the correct parcel?

Mrs. Abbey stated yes, this was the only parcel included on the application.

Mr. Hynes stated he just wanted to mention that he has had a lot of residents approach him concerned about how many marijuana facilities we have in the city.

Mr. Rapacz asked, how many facilities do we have?

Mrs. Abbey stated we have 12 grow facilities, retail we have ten total retail licenses, six with their doors open.

Mrs. Ward-Terry made a motion to approve ZBA case #21-08 with the stipulation that it can only be used to grow and process.

RESULT:	FAILED [0 TO 7]
MOVER:	Michaeline Ward-Terry, Vice Chairperson
SECONDER:	Joey Richvalsky, Alt. Commissioner
NAYS:	Burge, Hynes, Rapacz, Ward-Terry, Welch, Richvalsky, Fuhst
EXCUSED:	Kautz, Conley

3. ZBA #21-09

By: RCB Enterprise Co. LLC
5042 Exchange Dr. Flint MI 48507

Re: G4211 Fenton Rd Burton MI
Parcel ID 59-31-501-086

For: To conduct an M-2 use in a C-2 Zone for auto repair facility including painting.

Bob and Christina Burns, 9146 Parkside Drive, Grand Blanc, Michigan stated, we paint spoilers that go on the back of cars. We paint automotive parts, not the whole vehicle paint the parts in house and then ship them out via UPS, Fed-Ex and USPS.

Victoria Martinez, 1034 Schumacher, Burton, Michigan stated she is opposed to the variance change and would like to hear her grandmother's letter read into the record.

Tracey Huffman, 1061 Schumacher, Burton, Michigan stated she is against the variance and would like her mothers letter read into the record.

Kristy Primeau, 11336 Glenwood Drive, Fenton, Michigan stated I own the business directly to the south of the property. We wanted to know the extent of the business. We do have concerns about exhaust fumes and parking since we would share the parking lot.

Richard Wrathell, 1020 Schumacher, Burton, Michigan stated my property backs up to the back of the business property. I have concerns about contaminating the air and water. A lot of residents have wells on the street and contamination is a concern for us with being so close. Another concern I have is my property value.

Mr. Welch read the following letters into the record:

Roslyn Ermisch, Ray DelReal, Karen DelReal, 1028 Schumacher, Burton, Michigan opposed to the zoning variance for ZBA # 21-09.

Amber McClendon, 1046 Schumacher, Burton, Michigan opposed to the zoning variance for ZBA # 21-09.

Linda Wiederman, 1061 Schumacher, Burton, Michigan opposed to the zoning variance for ZBA # 21-09.

Mr. Welch stated at this time I would like to have the applicant address any concerns.

Mr. Burns stated I understand the concerns everyone has that lives nearby, I would have the concerns too. One thing I noticed everyone brought up was fiberglass. We have no fiberglass parts what so ever. Our parts are ABS plastic, they are already primed, so as far as the fiberglass, that is not an issue. As far as lead paint, we get our paint from Finish Master two doors down, there is no lead paint. There is already a company called Professional Collision about 500 feet south of us that basically has the same operation. We don't manufacture parts, we import parts and paint them. The exhaust filters we use pretty much eliminate everything. You don't have to worry about paint particles dropping in your yard. It also eliminates the odor. Every location we have has a DEQ number. We take safety measures, we are very efficient. Our painting booth is fireproof and the same for our paint mixing room and it has spill proof barriers.

Mrs. Abbey stated most of the resident issues seem to be environmental. The city does not regulate the environmental issues, that is a higher power. I do not want to speak on that. As far as the history of the building, it has not been occupied for at least 10 years. The city is not going to make a recommendation.

Mr. Burge stated in the packet it talks about less run off. What does that mean?

Mr. Burns stated what that means is, there is a pit that it is put in and the filter I described earlier goes into the floor before it goes into the pit and that's the run off it is referring to. Everything is contained inside the booth.

Mr. Welch asked, how often are you inspected?

Mr. Burns stated the EAP tracks their records and then every six months, the paint booth is inspected.

Mr. Rapacz stated it seems like most of the residents concerns were about fiberglass which they do not use, and they are regulated by the EAP. It seems like a game of trust and that everyone is doing their job. The city does not regulate it, but it is regulated by the EAP.

Mr. Welch stated if there were concerns, the city could still be contacted.

Mrs. Abbey stated yes, we would take any concerns and give them information for who they need to contact.

Mr. Burge asked if the booth has a fire suppression system.

Mr. Burns stated yes, it does. It has a fire suppression system in the paint booth and paint mixing room.

Mr. Richavalsky stated your parts come in ready to paint. No altering of the parts correct?

Mr. Burns stated yes, that is correct. They come in primed and we paint them.

Mr. Burge made a motion to approve ZBA case #21-09 with the stipulation to paint the parking lot.

Mrs. Abbey stated there was a comment right before the vote. Tracy Huffman asked to make a stipulation to the motion that the run off water that runs into the residents yard be rerouted.

Mr. Rapacz asked before we amend the motion, do we know if this is a real issue?

Mrs. Abbey stated because of how close the property lines are, there is run off that comes from the buildings roof and also from the parking lot.

Mr. Welch stated we have already voted and I gave plenty of time for public comment.

Mrs. Abbey stated Tracey Huffman did type a few more comments that I would like to read into the record for her. She stated if possible, I can speak on it. I did live in the house behind the business, they did not give us another opportunity to speak, and yes it does flood our yards when it rains.

Mr. Welch stated ok, thank you it was all typed into the chat after we already had our vote and decided.

RESULT:	CARRIED [6 TO 1]
MOVER:	Kevin Burge, Planning Representative
SECONDER:	Tim Rapacz, Commissioner
AYES:	Burge, Hynes, Rapacz, Welch, Richvalsky, Fuhst
NAYS:	Ward-Terry
EXCUSED:	Kautz, Conley

4. ZBA #21-10

By: Justin Carpenter
2182 Boatfield Ave. Burton MI 48529

Re: 2182 Boatfield Ave. Burton MI
Parcel ID 59-32-501-197

For: To construct a garage 2 feet closer to the front property line than the existing house.

Justin Carpenter, 2182 Boatfield Avenue, Burton, Michigan stated the only thing I would like to add is that the garage does not obstruct the view of anything and it is behind the house.

Glen Carpenter, 2163 Boatfield Avenue, Burton, Michigan stated I reside on Boatfield Avenue and we received a letter from the city in regards to the variance and I just wanted to say we have no problem with it. He has done a nice job fixing up the house.

Mrs. Abbey stated since Mr. Carpenter has purchased the property, he has made great improvements to the house. He added a small addition to the back and put up a garage without a permit. In his defense, as soon as he was notified, he came in and applied for his permit. He is on a corner lot, so he does have two front yards which makes this a unique situation. We would recommend approval.

Mr. Rapacz stated so there are two front yards and he did not realize that?

Mrs. Abbey stated yes, and I had to explain that to the applicant.

Mrs. Ward-Terry stated I did drive by and it looks very nice and it does not obstruct any view when you are driving by there.

Mr. Burge stated I did drive by as well and he has done a very nice job and it looks great.

Mrs. Ward-Terry made a motion to approve ZBA case # 21-10.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Michaeline Ward-Terry, Vice Chairperson
SECONDER:	Tim Rapacz, Commissioner
AYES:	Burge, Hynes, Rapacz, Ward-Terry, Welch, Richvalsky, Fuhst
EXCUSED:	Kautz, Conley

G. AUDIENCE PARTICIPATION

Public comment may be sent to: publiccomment@burtonmi.gov. Comments received prior to the meeting will be read into the record.

None.

H. BOARD DISCUSSION

Mr. Hynes stated the marijuana facility on Bristol Road and Dort Highway has a LED sign. Do they have to go through us to have a LED sign?

Mrs. Abbey stated they do not have to go through you. However, they did not get a permit, so they received a stop work order.

Meeting was adjourned at 6:57 PM.

The next regularly scheduled meeting will be held on Thursday, May 20, 2021, at 5:00 p.m.
