



CITY OF BURTON

ZONING BOARD OF APPEALS

AUGUST 19, 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. PLEDGE OF ALLEGIANCE

B. ROLL CALL

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

C. STAFF PRESENT

Amber Abbey, Deputy DPW Director
Lindsey Bice, Clerk's Office

D. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Jul 15, 2021 5:00 PM

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

E. VARIANCE

1. ZBA #21-14
By: Genova USA
1760 W. Associates Ave., Salt Lake, Utah 84104

Re: 5490 Davison Rd., Burton MI, Parcel 59-11-200-005, Zoned C-2

For: 1.To conduct an M-1 light industrial use in a C-2 general business zone for wholesale.

2.To conduct an M-2 special use in a C-2 general business zone for an open storage yard.

Mrs. Abbey stated the applicant is not present. The four items they were required to provide as stipulations before they were to be heard again, were not provided. They have been in compliance as far as the building permit and are working on the plans to get the as-built for the parking lot. They have contracted with Roe Engineering to get those plans for us. They thought they would have them by tonight but were not able to get them. They are now requesting, and the administration would agree to, a postponement to the next meeting.

Mr. Welch asked if we need to have a motion for that.

Mrs. Abbey stated I believe you would have to agree to that postponement. I do not know if there is anyone in the audience that is here to speak on this case. You may want to allow them to speak for the purpose of minutes.

Discussion ensued regarding procedure for audience participation without an applicant present.

Mr. Richvalsky stated it appears they are making an effort. Have they been showing good faith, so far?

Mrs. Abbey said, yes, they have. After last months meeting, the owner of the company came in from Utah to have a meeting with us. We worked out an agreement and things moved very quickly once that happened.

Mr. Richvalsky asked if that was a written agreement.

Mrs. Abbey stated there was court action so, yes, it is written. They have pulled their building permit, they are working on their fire system. We are waiting for the as-built on the parking lot. Roe Engineering did call me and said they were running behind so I was surprised they thought they would be ready for today. They do feel confident that they will be ready with all the items by the next meeting.

Mr. Richvalsky asked, when they put the parking lot in, did they only replace what was there or did they expand at all?

Mrs. Abbey stated I have no way of knowing for sure. As far as the surface, yes. But there was a drain system underneath. I am not as concerned with the surface. We need the as-built to tell us what catch basins are reinstalled, how big they are, or if they down sized the pipe. They told me they replaced what was there, I am going to make them prove it with an as-built.

Mr. Richvalsky motioned to postpone ZBA case #21-14 until the next meeting.

RESULT:	CARRIED [5 TO 2]
MOVER:	Joey Richvalsky, Alt. Commissioner
SECONDER:	Michaeline Ward-Terry, Vice Chairperson
AYES:	Burge, Hynes, Ward-Terry, Welch, Richvalsky
NAYS:	Rapacz, Fuhst
EXCUSED:	Kautz, Conley

2. ZBA #21-20

By: Emerald Real Estate Development
3364 Associates Dr. Burton MI, 48529

Re: 3368 Associates Dr., Parcel 59-29-551-027 & Vacant
Parcel 59-29-551-013, Zoned M-1

For: To conduct a marijuana facility within 500' of an existing marijuana facility.

Scott Smith at 3364 Associates Drive stated he does not have anything to add.

Mrs. Abbey stated this property is on a dead end road with all industrial facilities back there. Recently, there was a variance approved across the street from the applicant and there is another one next to that facility. By doing this, you will be approving him of being within 500 feet of two facilities. The city is going to leave this up to the Zoning Board to decide.

Mr. Richvalsky asked, how many licenses are available? If we grant this variance, does the applicant apply for a marijuana license afterwards?

Mrs. Abbey stated you would want to have the variance before you apply for the license to make sure your property meets the requirements.

Discussion ensued regarding general property requirements for marijuana licenses, variance requests procedure and how many licenses are in the City of Burton.

Mrs. Ward-Terry asked what the use of the other facilities were within the 500 feet of this variance request.

Mrs. Abbey stated the facility that has been in existence for a few years is a provisioning center. I do not know what the other facility will be, as he was just approved last month. They are going to be whatever they are unless you have a problem with a specific use. I believe he is just asking for a general use.

Mrs. Ward-Terry asked if they were to put stipulations of specific uses.

Mrs. Abbey stated you can if you want to.

Mr. Welch asked, how many feet are they away?

Mrs. Abbey said, across the street, 60 feet.

Mr. Hynes expressed concern with the amount of facilities that are being allowed to come into the city. What do you want your city to become?

Mr. Rapacz asked, how many businesses are left on associates drive? Could we consider this to now be a green zone without actually labeling it that? What he is asking is no different than the applicants last month or last year. If we know this is all that exists on this road, they already have all the security measures in place, I am not really sure what our hang up would be on this applicant at this time.

Mr. Hynes stated for me, it is the amount. Then you turn onto Dort Highway and you have a few more. Where is the extension line going to be?

Mr. Richvalsky stated we have the 500 foot rule that we can lean on to.

Mr. Hynes stated I understand that, but we are already waiving that.

Discussion ensued regarding the amount of facilities in the City of Burton.

Mr. Rapacz asked the applicant his plans for the lawn equipment and current business if this variance is granted.

Mr. Smith stated he would be moving his lawn care business to another facility.

Mr. Burge stated if you are going down this road, it is for one reason only. Motioned to approve ZBA case number 21-20 as written.

RESULT:	CARRIED [5 TO 2]
MOVER:	Kevin Burge, Planning Representative
SECONDER:	Tim Rapacz, Commissioner
AYES:	Burge, Rapacz, Welch, Richvalsky, Fuhst
NAYS:	Hynes, Ward-Terry
EXCUSED:	Kautz, Conley

3. ZBA #21-21

By: Alan Reno
4105 Davison Rd. Burton, MI 48509

Re: 4083 Davison Rd. Burton, Parcel 59-03-300-050
4089 Davison Rd. Burton, Parcel 59-03-300-051
2038 Delaney St. Burton, Parcel 59-03-300-056
2032 Delaney St. Burton, Parcel 59-03-300-049
All 4 properties are Zoned C-3

For: To allow an automotive repair facility to operate in a C-3 zoned district, specifically on Parcels ending in 049, 050, 051, 056. M-1 zone required

Ronnie Beslac at 14165 North Fenton Road, Fenton, Michigan stated we are here tonight to request an automotive repair facility to be in a C-3 district. Currently, the Muffler Man is allowed to run his automotive repair facility. The gentlemen here tonight have secured properties surrounding the Muffler Man. We are requesting them to be combined with that property to all be used as the automotive repair facility. We would like to use the different buildings on the other properties for engine repair, transmission rebuilds, etc. If we get this approval, we will be back with a drainage plan. There are some asphalt improvements we plan on doing.

Ryan Peak at 2037 Delaney Street stated I live across from the two Delaney Street addresses. We have been in meetings numerous times before complaining about

their junk cars. He referred to pictures that were presented to the board. The applicant was instructed to clean the properties up in May, he has not done so. They have a privacy fence that is almost to the road with holes in it. The stray cats are able to escape through these holes. I would like to see the property cleaned up, no cars parked there, the fence fixed and nice landscaping. We have no problem with him running the business off of Davison Road.

Daniel Peak at 2111 Delaney Street stated I feel he has neglected all the things he said he would do. I don't think he needs any of these variances.

Mrs. Abbey stated the Muffler Man property is not included in this request, it currently has an automotive repair facility license. The property directly to the west of it also already has an automotive repair facility license. The actual application is for the four parcels. The residential property is not part of the request and he will not be allowed to park there. We are actually requiring him to remove the gravel from that property and reinstall the lawn as part of a court action. The four parcels that are part of the request are currently zoned C-3. He was before this board a few years ago and denied to store unlicensed vehicles on the properties. The request today is for an automotive repair facility but I do not want Mr. Reno to confuse the fact that you still cannot store junk vehicles on your property. The city will still take action against any junk vehicles on the property. If you are going to approve this, for the sake of the residential properties on Delaney Street, I have a few stipulations. First would be that we remove the approach to the Delaney driveway completely. Since he is combining the parcels, he will still have access off of Davison Road now. The next stipulation will be that there are to be no vehicles parked out front of the buildings on Davison Road or Delaney Street that are being repaired. Active repairs should be in and out in a reasonable amount of time. They need to do a complete replacement of the fence from parcel 056 to the front of the building at 4089 Davison Road.

Mr. Richvalsky asked if the buildings on the properties will have facia uniformity. They currently look messy being so different. Will there be something that can tie those three buildings together to make them look more uniform?

Mr. Burge asked, what will be the stipulations if they are waiting on parts for cars?

Mrs. Abbey stated not to sound harsh, Mr. Burge, but this has been a problem that has been going on for years. If he clears out all the junk vehicles that are currently being stored on his property, he could probably store a vehicle like that a little longer.

Mr. Rapacz asked what lot number the cars in the picture are on.

Mrs. Abbey stated that would be on parcel 056.

Mr. Rapacz clarified that the parcel is behind his business so cars should not be stored there.

Mrs. Abbey said, yes. That is a vacant parcel, it has no principle structure and no use was approved to be there.

Mr. Rapacz asked, why are there cars there now?

Mrs. Abbey stated you would have to ask the applicant.

Mr. Rapacz asked, why are there cars there now and what is your plan to move them to comply with the ordinance?

Mrs. Abbey stated I would think that once he gets this approval, the parcels would be combined and then it would be an overflow parking area.

Mr. Hynes asked, if he hasn't done all these things now, what makes us think that by combining the properties it's not just going to get worse?

Mr. Beslac stated the idea is, after we get the approval, we will make all the buildings look the same, we will clean up the yard, fix the fence.

Mr. Rapacz stated we understand you are saying that but when you were here before, you were told not to park cars under the power lines, and to put them behind the buildings but they are still there. Now you are here asking for a whole new set of things. Then you will have four parcels combined to park your cars wherever you want. So excuse me while I believe you may be disingenuous.

Mr. Beslac stated the change is, the father is passing this onto his son. The son wants to bring everything up to code at this point. Al came to me and said we have got in some trouble and we need to clean this up. This would be the first step in order to do that. We are aware you can put stipulations on anything as well.

Mr. Hynes expressed concerns with trusting the applicant again.

Mr. Beslac stated I would like to gain your trust. Al seems genuine to me. He owns the business and employs 30-40 people. They are waiting six or more months on some specialty parts that they have not gotten in yet.

Mr. Welch asked Mrs. Abbey if it would be easier if the board imposed all the stipulations. That way they could be cited for all of it.

Mrs. Abbey stated they are currently under a citation. There is a court action already to tow out all the junk vehicles. I wanted to see where this went tonight to see how to proceed with that.

Mr. Richvalsky asked if it is a junkyard.

Mrs. Abbey stated it is not approved to be a junkyard but appears to be one.

Discussion ensued regarding junk vehicles, and licensed versus unlicensed vehicles.

Mr. Rapacz asked what type of time frame should be given to remove the approach and reinstall the grass.

Mrs. Abbey stated I would suggest 60 days.

Mr. Burge asked which facilities are being used for repair.

Mr. Beslac stated the Muffler Man building and the hitch place.

Mr. Burge asked if the other buildings could be used to store cars.

Mr. Beslac stated they are full of automotive repair equipment.

Mr. Burge asked if there can be a restriction put on how many vehicles are allowed to be outside.

Mrs. Abbey stated you can do that but then we would be put in the position of having to count cars every other week. You could say that they all need to be in legal parking spaces.

Alan Reno 9475 W. Mount Morris Road, Flushing, Michigan stated we don't only work on customers' cars, we work on car lots. A lot of my cars come from Canada. We touch 100 cars a day. To take in 100 cars, I have to get rid of 100 cars. I would need enough parking spots to keep that moving. I have been doing it for 20 years like this and never had a problem. I didn't know my dad didn't have it all licensed, we just bought buildings and kept going. I found out about this 2 years ago. I am trying to fix that so I can still work and keep the 40 people employed that I have working. I am willing to do what we need to do to make it so we can use it and keep going.

Mr. Burge stated with that many employees he is already losing out on a bunch of parking.

Mrs. Abbey stated on the plans he has spaced out how many spaces they can fit on the property, it comes up to 213. I would like to add the stipulation that they are striped parking spaces and that all vehicles be parked in them.

Mr. Welch asked to go over all the stipulations for the motion.

Mrs. Ward-Terry motioned to approve ZBA case # 21-21 with the stipulation that within 60 days, they are to remove the approach to the Delaney property and reinstall grass. There will be access off of Davison Road only, no vehicles are to be out in front of the buildings seen on Delaney or Davison Road, the vehicles will be parked in marked parking spots only, the fence replacement will go from the parcel ending in 056 to 4089 Davison Road, there will be facade uniformity on all the buildings, and the four parcels will be combined.

Mr. Hynes asked, what type of fence is to be installed?

Mrs. Ward-Terry stated it will have to be a privacy fence.

Discussion ensued regarding fence types.

Mrs. Abbey suggested adding some trees to the stipulation.

Mrs. Ward-Terry stated she would like to add landscaping to her motion where it is facing the neighbors on Delaney Street. Some bushes or trees 8-10 feet apart.

Mr. Rapacz clarified that the parking spaces shown in the plans, that are right up to the fence line, aren't actually going to be there then.

Mrs. Abbey stated those will be unnecessary. He has to submit a site plan to my office for approval and if he puts parking spaces there, I will tell him he cannot have those.

Mr. Welch asked for the motion to be restated for the record.

Mrs. Abbey restated the motion as combine all four parcels, within 60 days remove the approach off of Delaney Street so there is no access off of Delaney and install

lawn, within 60 days replace the fence from the north property line of parcel ending in 056 all the way to the front face of 4089 Davison Road, six foot high privacy fence of vinyl or wood, there are to be no vehicles parked beyond the front face of the building on Delaney or on Davison Road, parking spaces are to be striped and all vehicles must be parked in a parking space, facia uniformity on all buildings, and a landscaping plan to include trees along Delaney at every 8 foot interval.

RESULT:	CARRIED [5 TO 2]
MOVER:	Michaeline Ward-Terry, Vice Chairperson
SECONDER:	Joey Richvalsky, Alt. Commissioner
AYES:	Burge, Hynes, Ward-Terry, Welch, Richvalsky
NAYS:	Rapacz, Fuhst
EXCUSED:	Kautz, Conley

F. AUDIENCE PARTICIPATION

No audience participation.

G. BOARD DISCUSSION

Mrs. Abbey stated she is offering a repeat of training classes for the board if any members are interested. Please get with her to work out a good day and time.

The next regularly scheduled meeting will be held on Thursday, September 16, 2021 at 5:00 p.m.
