



CITY OF BURTON ZONING BOARD OF APPEALS

DECEMBER 15, 2022

Council Chambers **Regular Meeting** **5:00 PM**

**4303 S. CENTER ROAD
BURTON, MI 48519**

This meeting was opened by Chairman Steve Welch at 5:04 PM.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

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

C. STAFF PRESENT

Leandra Swayne, DPW Clerk Code/Building
Amber Abbey, Deputy DPW Director
Tonya Walton, Clerk's Office
Joy Roe, Clerk's Office

D. AUDIENCE PARTICIPATION

None.

E. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Nov 17, 2022 5:00 PM

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

F. VARIANCE

1. ZBA #22-23
By: Lyle Demo & Tom Marks – TK Auto Buyers

2422 Blarney Dr., Davison, MI 48423

Re: G4307 S. Saginaw St., Burton, MI
59-32-552-003, Zoned C-2 (General Business)

For: Reconsideration of stipulations placed on case 20-01 and to still conduct the M-1 use (light industrial zone) in a C-2 (general business zone) for used auto sales, B & C license that was approved on February 20, 2020.

Tom Marks, G4307 S. Saginaw St. stated we received approval when we were here last time, but there were some stipulations. We got an architect involved and he told us the stipulation we agreed to couldn't be done to the building. To put a brick edge on the front of the building was cost prohibitive and to find another material. He presented three other materials which were hardie board, metal, or resurface with the T1-11 again. We want to go with the hardie board. We were told to come back before the board and get approval for the front of the building. Also, there is a door on the front we need the use of and we would like to review using that front door. We would put a new door in. So, we would like to get approval for it. Also, they said the parking lot has to be paved or we can't use it. We would like to get some kind of guideline on when the parking lot can be paved. Our goal is to get municipal approval. We are in the middle of the transition, and I know we received the approval, but it is another process for the state. It really isn't approval until we get the municipal signature submitted to the state. It is imperative we get the signature. We want to proceed with all of this, and our architect said we have to come up with a better plan for the front. We went in front of the DDA Board, and they liked what we submitted. We have a contractor ready to work, but the paving of the parking lot couldn't be done because of the season. We aren't opposed to paving it, we just couldn't do it right now.

Mr. Welch asked if anyone in the audience wishes to address the board either for or against this.

Justin Gerstenberger 2169 Judd Road stated I am for this. I can speak for Lyle's character as a person, and he is a great guy. Whatever you tell him to do, they will do it. It will be good for the community. I have known him for years. I am also here because I received a flyer in the mail about a dispensary and today is the day for it.

Mrs. Abbey addressed this concern. We apologize, there was a typo in the notification, and we removed it from the agenda. It will be in next month's meeting with the correct information and the address of the location. It is on Dort Hwy and not on Kenneth. It was the address that was incorrect. We probably should have made an announcement because I forgot the notices did go out to the residents, so I apologize. It will be for next month and you will get a whole new notice.

Mr. Welch asked for the recommendation from the administration.

Mrs. Swayne stated in February of 2020 is when this case came before you to conduct an M1 use in a C2 Zone which was approved with stipulations. I provided the minutes for you to see and review. I think the board examined this case very thoroughly and you placed stipulations where they were needed. When the applicant came into the office, he wanted us to sign his licenses for the approval and that's why we are here today because we are enforcing the stipulation. Once we sign the license, it is a state license, the City of Burton cannot remove the license due to the zoning laws. For the overhead door, it is part of the DDA's vision for the frontage of the buildings not to have an overhead door facing the street. That is a vision put in

place for a reason. We wouldn't object to the change of the facade. It doesn't have to be brick unless you are going to put the stipulation it must be brick. We are not objecting to that. We do not have a recommendation for approval because the first approval in 2020 with the stipulations, we believe are reasonable and it stays with the vision of what we want the DDA District to look like. You do need to choose A, B, or C that they presented to you for the facade change. They did provide a drawing, just want to make it clear it is not a site plan review. For the parking lot concerns, you may want to request for a full site plan review to go before the Planning Committee.

Mr. Burge asked the applicant if the construction manager told him why you can't put brick there.

Mr. Marks answered saying the front of the building is block and they would have to dig up the foundation for the brick edge. It is major construction and there are other ways to comply that wouldn't have to be brick. And cost wise, it is a major project to tear up the entire front of the building.

Mr. Burge asked if the hardy board is brown?

Mr. Marks stated that it comes in 20 different colors, it is permanent color. It is on the list of materials that other business use in Burton. It is a composite board that is colored all the way through and used outside. It is a fiber board that has uniform color and looks like textured plywood.

Discussion ensued about the owner of the building and getting this approval, what would happen if it doesn't get approved, and the front garage door.

Mr. Welch the administration, is it reasonable to pave now or is it too cold to consider?

Mrs. Abbey replied that isn't something on the agenda. He isn't asking for a variance for the parking. I don't think that should be addressed by this board because you don't have that right. This is more of a site plan review item. If that is something you think is appropriate, let's put it in front of the Planning Commission for a full site plan review. That would give a guarantee the parking lot does get paved. As an administrative approval it is still required to get paved. I wouldn't be able, as an administrator, to make stipulations to allow him temporary occupancy while he waits for it to get paved.

Mr. Welch stated so what we are addressing here today is to sign the permit, the door, and the facade.

Mrs. Abbey stated if you all want him to go before the Planning Commission for a full site plan review, not this hand drawn plan because it doesn't meet our requirements, the Planning Commission can enforce the paved parking. If not, I'm going to do it as an administrative approval, and he is going to be required to do the parking places before occupancy because that is what our ordinance says he has to do.

Discussion about the DDA vision plan, a full site plan review, the material used on the outside of the building, and what the DDA said to do with the building.

Mr. Rapacz made an amendment to the motion. I would like to grant a motion to allow them to conduct an M-1 light industrial use in a C-2 general business zone for used vehicle sales-with contingencies that retail takes place inside the front of the

building, no cars would be parked outside, and the Saginaw Street improvements would be made before licensing which means the frontage of the store would be done first. The Saginaw Street improvements would be decided by a full site plan review conducted by the Planning Commission upon approval of this request.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Tim Rapacz, Vice Chairperson
SECONDER:	Joey Richvalsky, Alt. Commissioner
AYES:	Smith, Burge, Kautz, Rapacz, Welch, Richvalsky, Fuhst
ABSENT:	Hynes
EXCUSED:	Ward-Terry

G. BOARD DISCUSSION

None.

The next regularly scheduled meeting will be held on Thursday, January 19, 2023, at 5:00 p.m.
