



CITY OF BURTON

ZONING BOARD OF APPEALS

DECEMBER 17, 2020

Council Chambers

Regular Meeting

5:00 PM

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by Chairman Steve Welch at 5:11 PM.

A. MEETING INFORMATION

Zoning Board of Appeals
Hosted by Racheal Boggs

<https://cityofburton.my.webex.com/cityofburton.my/j.php?MTID=mf03471e0ccfff95b67915a5f64c63a63>

Thursday, Dec 17, 2020 5:00 pm | 2 hours | (UTC-05:00) Eastern Time (US & Canada)

Meeting number: 126 432 1314

Password: ZBA2020 (9222020 from phones and video systems)

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Join by video system

Dial 1264321314@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: 126 432 1314

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

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

D. STAFF PRESENT

Amber Abbey, Deputy DPW Director

Lindsey Bice, Records Tech

Steven Phillips, IT Director

E. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Nov 19, 2020 5:00 PM

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

F. VARIANCE

1. ZBA #20-10

By: Jerry and Ashley Bell
4370 S Belsay Rd Burton MI

Re: 4370 S Belsay Rd Burton MI
59-35-400-018, SE Zoned

For: To Construct an accessory structure that will exceed allowable height, 16'8" requested, 16' allowed

Jerry Bell 4370 S. Belsay Road stated he does not have anything to add but could answer questions if anyone has them.

Mark Ziewacz 4249 Pebble Creek Boulevard stated I understand the limit is 16 feet and this exceeds it by 8 inches, what is the problem with meeting the 16 feet.

Mr. Bell stated he cannot get overhead door height tall enough. His wife owns a moving company, he would like to have a place where he can work on the truck when it needs repairs. I went through DIY in Ohio, they claimed they checked with the zoning boards and everything met the requirements. They missed this small aspect on the requirements for the building I wanted. It is already bought and paid for, I am at your mercy asking for this variance for the extra 8 inches.

Mr. Ziewacz addressed questions to the applicant and the applicant continued to answer. Mr. Welch corrected Mr. Ziewacz that all questions must be directed to the board and will be addressed at the conclusion of audience participation.

Mr. Bell stated he has many vehicles and he needs this pole barn to store and work on them. His wife owns one truck for her moving company and he would like to be able to work on that truck in a building instead of outside in the elements. Her truck does not stay on the property. If I'm going to build a barn, I need the ceiling height tall enough so I would be able to bring home my wife's work truck to work on it inside.

Mrs. Abbey stated Mr. Bell has lived there for several years. We are aware he runs a moving company but not from his residence. We have never received complaints regarding his property or having vehicles stored there. Pulling a vehicle into a pole barn for a few hours to work on it, then taking it back to where it is stored is not a concern. Mr. Bell came to us after he had purchased this barn and began installing it, he realized it was over by the 8 inches. At that time he applied for the variance, most people would just hope they don't get caught. There are other remedies he could do to fix this problem without having to remove the barn but then it could cause potential issues where you would have to raise the elevation around the barn

to make it from the ground level up, which I don't think is necessary. The parcel is big, the houses around him are large enough where it won't stick out. We would recommend approval.

Mr. Burge asked, how many trucks do they have?

Mr. Bell stated one truck.

Mr. Burge stated as long as there won't be diesel trucks running outside all night.

Mr. Bell stated absolutely not. The trucks aren't even the idea here. I am trying to build a barn where I can work on things and not be exposed to the elements. The truck is not even kept on my property. I need a place to store my things and work on them as well.

Mr. Burge stated behind this home, there are no other homes behind it.

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

2. ZBA #20-11

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

Re: Parcel 59-29-551-013
Parcel 59-29-551-027
(To be combine)

For: To conduct a medical marijuana grow facility that will be within 500' of
another marijuana facility

Scott Smith 3364 Associates Drive stated he has nothing to add.

Mr. Hynes stated he has a long objection from Mr. Smith to a marijuana facility at a previous meeting. I am curious as to why you had this strong objection and now you are asking for one.

Mr. Smith stated that was two months ago and now there are three facilities down here. They bought up all the buildings down here. They are vacant and dilapidated. People have approached me to rent my building. I have 6 acres on Hemphill that I can build on or some buildings on Saginaw Street that are vacant that we can relocate to. If I can lease my building then that would be ideal.

Mr. Hynes stated you made a pretty strong argument here against it. Which way are we going here?

Mr. Smith stated yes, that was my opinion at the time. You guys all ruled against it. I figured I don't know everything. The last meeting the guy across the street wanted to get a zoning approval, I wasn't against that one, and I think you guys approved it. Once you have so many in town here, it is a good location for it. There are not many

other businesses down here. I have an opportunity for some good rent and can move my business to another part of Burton.

Mr. Hynes stated you have medical marijuana here, are you looking for recreational too?

Mr. Smith stated just the medical.

Mr. Rapacz asked for the administrations recommendation.

Mrs. Abbey stated there is no recommendation from the administration.

Mr. Burge asked, how many businesses will be ran out of this building?

Mr. Smith stated he would be moving his businesses to a different location and this facility would be leased for medical marijuana use.

Mr. Hynes asked, how many medical and recreational facilities are on associates drive?

Mrs. Abbey stated there is one at 3309, 3365, and a variance down the street that was approved but has not applied for a license.

Mr. Hynes clarified to Mr. Smith that his plan was to only lease the building and not to run the business himself.

Mr. Smith stated, correct. I want to do what the guy down the street is doing, he gets about \$14,000 a month for rent.

Mr. Hynes stated concerns over security measures being put in place if this facility is being leased.

Mrs. Abbey stated every marijuana license has requirements set by the ordinance. If they move someone in there, they will have to be licensed properly and follow all the rules.

Mr. Smith stated he is already paying \$3,500 a month for security because of their break-ins.

Mr. Hynes asked if he has someone ready to lease the property.

Mr. Smith stated he has had people approach him about leasing the property, however, he informed them he needed to get approved for the variance first.

Discussion ensued regarding the leasing of Mr. Smith's property, combining of parcels and security.

Mr. Smith discussed the dilapidated properties and blight along associates drive.

Mr. Hynes stated if all the properties are boarded up but you say they are getting \$15,000 a month, I am a little confused.

Mr. Smith stated one of the properties is getting \$15,000, I am not sure where the confusion lies. The rest are all sitting there empty and not getting taken care of.

Discussion ensued regarding Mr. Smiths plans to lease the property and the surrounding buildings.

Mr. Welch asked Mr. Smith if he would keep his lawn care business at this facility if this variance was denied.

Mr. Smith stated he did not know what his plans were at this time.

Mr. Burge asked if he was planning on doing any upgrades to his building?

Mr. Smith stated that is what he has been doing. We are constantly doing improvements.

Mr. Hynes clarified with Mrs. Abbey that this variance is only for medical marijuana.

RESULT:	FAILED [0 TO 7]
MOVER:	Scott Hynes, Commissioner
SECONDER:	Kevin Burge, Planning Representative
NAYS:	Conley, Hynes, Rapacz, Ward-Terry, Welch, Fuhst, Burge
EXCUSED:	Kautz, Richvalsky

3. ZBA #20-12

By: Dennis Odom
G-3085 S. Dort Hwy. Burton MI

Re: G-3085 S. Dort Hwy. Burton MI
59-28-501-151, C-2 Zoned

For: To conduct an M-1 light industrial use in a C-2 General Business Zone to sell used vehicles.

Dennis Odom G-3085 S. Dort Highway stated he has been here for almost 8 years as a pawn shop licensed to buy and sell merchandise. The one item he cannot sell is vehicles. I have customers who come in and want to sell there vehicles to me but without an outlet to do so, I have to turn them down. With the current economic state I am doing everything I can to produce income, this would be another opportunity for that.

Mrs. Abbey stated everyone is familiar with this section of Dort Highway and there are some used car sale lots. I do not believe he intends to be a used car sale lot. We would be comfortable with an approval based on a limited number of cars. I believe he has eight spaces out front. I would ask him what is the number he was looking to have and then you could set the number based on what you are comfortable with.

Mr. Welch asked the applicant how many cars he would like to have at one time.

Mr. Odom stated he did not have a number in mind. I cannot foresee having a lot out there but I do have a nice, large lot. If I had ten cars I would be surprised. I wouldn't be able to purchase that many and want to keep a clean lot.

Mr. Burge asked the applicant if he would be parking the cars on Dort Highway.

Mr. Odom stated near Dort Highway but there is a large curb. I will not be placing anything right up front, on top of the road.

Mr. Burge stated there is no sidewalk. If you park them right up front, it will block the view trying to pull out there.

Mrs. Abbey stated there is a right-of-way there and he cannot park anything in the right-of-way. Which is 50 feet from the center line of the road.

Discussion ensued regarding where Mr. Odom would park the used cars he purchases for sale.

Mrs. Ward-Terry stated being that your business is a pawn shop, does that mean you lend money to customers then they have a certain amount of time to pay you back before you sell their item. How exactly is that going to work out, would you be taking the vehicles in as a pawn or buying them outright? I would recommend 6 vehicles at a time.

Mr. Odom stated when anyone has approached me about pawning a car, what they want to do is pawn their title and keep their car. I am not comfortable with that. For them to leave their car with me, I do not believe I could safeguard their car while they are on my property. I do not plan on doing loans on vehicles and I do not believe anyone in Michigan does. You can get a title loan in Ohio. I plan on purchasing outright.

Mr. Welch stated you have 8 spots available right now.

Mr. Odom stated I believe that is the number but I don't know exactly. I have several parking spots in the front of my building.

Mr. Rapacz made a motion to approve ZBA #20-12 with the addition that they can have no more than 8 cars for sale at a time.

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

G. AUDIENCE PARTICIPATION

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

No audience participation.

H. BOARD DISCUSSION

Mr. Hynes asked about the banner flags that have gone up around the city. Boost Mobil on Dort Highway, Creekwood and others have them now. Has something changed where they are not required to come through us anymore?

Mrs. Abbey stated no, nothing has changed. Through the pandemic, we have become more relaxed with this for restaurants letting people know they are still open or allowing takeout. I agree that at some point it has got a little out of control.

Mr. Hynes stated Boost is really bad.

Mrs. Abbey stated I told our Code Enforcement Officer we will go out in January and see what we are working with. Some of the restaurants have take out available signs. It is difficult for us to say they can have that but to another business they can't have theirs. If it doesn't look good, that is an easy one to get rid of.

Mr. Hynes stated I don't want to get in the way of the ones trying to promote their business during the pandemic. It is hard enough out there.

Mrs. Abbey stated that has been our approach with this and why we have been more relaxed. Before, we would go take them. Now, if we receive a complaint, we go address that complaint. It is difficult to go take their signs when they are struggling just to stay open.

The next regularly scheduled meeting will be held on Thursday, January 21, 2021, at 5:00 p.m.
