



CITY OF BURTON

ZONING BOARD OF APPEALS

FEBRUARY 18, 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=mf688f1f537959915a872cec4c4ab5820>

Thursday, Feb 18, 2021 5:00 pm | 2 hours | (UTC-05:00) Eastern Time (US & Canada)

Meeting number: 126 085 9522

Password: mfP3He2P4XF (63734327 from phones and video systems)

Join by video system

Dial 1260859522@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: 126 085 9522

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

Board members attending through the virtual forum must state their name and physical location.

Mr. Welch, Burton, Michigan.

Mrs. Ward-Terry, Burton, Michigan.

Mrs. Conley, Burton, Michigan.

Mr. Burge, Burton, Michigan.

Mr. Hynes, Burton, Michigan.

Mr. Rapacz, Burton, Michigan.

Mr. Fuhst, Burton, Michigan.

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

Rick Fuhst

Commissioner

Remote

D. STAFF PRESENT

Amber Abbey, Deputy DPW Director
Lindsey Bice, Clerk's Office Records Tech
Leandra Swayne, DPW Records Tech

E. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Jan 21, 2021 5:00 PM

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

F. APPROVAL OF CORRECTED MINUTES

1. Zoning Board of Appeals - Regular Meeting - Corrected Minutes - Sept. 17, 2020 5:00 PM

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

G. VARIANCE

1. ZBA #21-02

By: Genesee County Drain Commissioner- Division of Water and Waste Services
G-4610 Beecher Rd., Flint MI 48532

Re: 3063 S. Center Rd. Burton Mi, Parcel 59-27-100-003

For: To Construct a fence that exceeds 5 feet in height. Requested height of 8 feet
(7 feet of fence and 1foot of barbed wire)

Matt Raysin of Genesee County Water & Waste Services Drain Commission, residing in the City of Burton stated this request is for a seven foot fence with one foot of barbed wire. Facilities like ours typically have structures like this. This facility is not manned. This is approximately a four and a half acre parcel, the fence will only be in the area of the water tower, which is an area of about 100 feet by 100 feet. We are about 200 feet off the road. We do anticipate landscaping and ensure that the sight from the road will be limited. This is an essential service and a lot of our resilient risk-assessment conduction's typically recommend that we have fences of this height with barbed wire on top of them.

Mrs. Abbey stated if anybody on the virtual WebEx call in feature would like to speak for or against this case they will need to un-mute themselves and speak up.

Mrs. Abbey stated the Drain Commission proposed this elevated tower a few months ago to go in front of the Planning Commission. The site plan was approved. I would like to reiterate some points Mr. Raysin already made. The plan is not to put up a perimeter fence nor is it intended to be anywhere near the residential properties on either side of them. The intention is just to protect their equipment. It's not unusual for public utilities to make requests like this. We would recommend approval. If you would prefer, you may add the contingency that the fence can only be added where it was approved on the site drawing.

Mr. Burge asked the applicant if this is common practice at the water towers.

Mr. Rasyin stated yes, it is.

Mrs. Ward-Terry motioned to approve variance number 21-02 to construct a fence that exceeds five feet of height. Requested feet of eight feet, seven feet of fence and one-foot of barbed wire that would be around the property that encompasses the water tower.

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

2. ZBA #21-03

By: Trex 1 Corp / ABRD LLC
3245 Card Dr. Burton MI

Re: 3265 Card Dr. Parcel 59-33-501-020
M-2 Zone

For: To expand an existing marijuana facility that will be within 200 feet of a residential home.

Damien Frasier on behalf of ABRD LLC and T Rex 1 Corporation, 111 E. Court Street, Ste. 2C3, Flint, MI stated the applicant here already has two buildings in which they have exceeded their capacity. They need to expand. If they are not able to expand within the community they will be forced to leave at much greater expense. They are asking for the variance to be able to expand into their joining lot which they have purchased and then go through site plan for approval. They have operated from this site for a full year now and have been a good neighbor to everybody.

Mr. Brener stated I oppose this because it's within 200 feet of my home. I opposed it back in 2015 but Mrs. Abbey stated I do not live there. I do live there, I was never homestead exempt. I was homestead exempt but you people would never give me a full homestead, you only do at 10% of the total acreage I have there, which is quite a bit. It's my home, I do not want another marijuana plant there, I did not want that one there but you override what I had to say. I've had people wanting to buy that property from me for the same reason and I just applied for re-zoning for marijuana use and you told it's too close to the existing marijuana plant. But you can have someone else 200 feet from my home. I have lost value on my property immensely because you keep letting people do this. I object to it. It's not right, it's my home. I talked to Bob Dodge who was interested in purchasing the property. If they will purchase the property I would have no objection to what they do. That is my

objection, you have driven down the price of the acreage quite a bit. The original estimate was around \$760,000. I have it listed with Keller Williams and that's the reason we can't sell it, because of the marijuana plant. But you're letting someone else build another marijuana plant within 200 feet of my driveway when I live at that home.

Mr. Dodge stated I have spoke with Mr. Brenner a couple of times. He's approached me in regards to purchasing his property and I know about the value he is speaking of. This value may have been what it was once appraised at but it far exceeds what we're looking to pay however, as we grow, that property would be of interest to us down the road, but we have to grow in phases. I cannot say that Mr. Brenner is living there, unless he is snowed in because the driveway has not been plowed since we got the snow. We are there every day and I do not see any activity around his property ever.

Mr. Brenner stated I am there, I'm just at my property on Lake Isabella right now. The same people that plow for you, plow my driveway. It will be plowed and I will be down there.

Mrs. Abbey stated I would like to touch on a few things Mr. Brenner stated. I have the minutes from the 2015 meeting and was very clear that I stated I was not sure if Mr. Brenner was living at that property or not. However, I can say he has not had a property residence exemption, so that would identify to me that he does not actually occupy the home. I still have no idea if Mr. Brenner occupies the home or not. I don't want to lie to any of you. In 2015, 3245 Card Drive came before you guys to ask for a variance to be able to do a facility that was too close to a house. The house is in an industrial park, so this is not a situation where the industrial business is too close to where the houses exist. This is actually a house that does not belong in an industrial park. However, it is allowed to exist. It has non-conforming rights. You guys did approve the variance in 2015. The same owner that owned it in 2015 still owns it today and has invested over one million dollars in the property in improvements. When he built, he did build as much as he possibly could on that property to be able to operate. With that being said, 3245 Card Drive will continue to operate as a marijuana use regardless of tonight's decision. They did purchase the property next door to be able to expand over onto that property. Our recommendation does not change from our recommendation in 2015, except I would ask for the contingency that they combine the parcels and it's only that facility that operates on them.

Mr. Burge stated he went by that property yesterday and in his opinion it has not been plowed and looks like a vacant property. It also does not appear to be a place where somebody would want to raise a family. There is an asphalt plant next door with a bunch of heavy machinery for the roads. The combination across the street is just a quarter.

Mr. Rapacz asked the administration if the only reason this case has come before us is because of the house located at 3264 Card Drive.

Mrs. Abbey stated, yes.

Mr. Rapacz stated so technically if that house was not grand-fathered there, this wouldn't even be an issue for us to talk about.

Mrs. Abbey stated that is correct. The property would comply with all other requirements of the ordinance.

Mr. Rapacz read from the applicants letter to Mrs. Abbey a statement 'Without the new parcel applicant would be forced to move its facilities to another municipality in order to have a facility large enough to meet the demands of its business.' That almost sounds like a veiled threat if we do not approve this variance. I am willing to overlook that if that is not what the applicant meant by that. I would like it if the applicant could clear that up so we have a good idea what they meant by that sentence.

Mr. Fraiser stated that was not a veiled threat. That was just a statement that if we can't expand over, given the size of the facility we would have to build somewhere else. And that is just as much cost administratively for us, trying to run two facilities that are not located next to each other. That was the point for us, was the cost.

Mr. Rapacz stated I understand. Thank you for clearing that up for me.

Mrs. Abbey stated I will add to that, I didn't take it that way because I know that they have literally built out their entire property. They have no more room for expansion on that particular parcel.

Mrs. Ward-Terry stated I would like to thank you for clarifying that. That was one of my concerns as well. It sounded like a veiled threat and I was uncomfortable voting for something strictly because somebody was threatening to move out of our city if they didn't get their way.

Mr. Burge stated in his letter he notes that he has 35 employees. If they have an expansion, I'm sure they're going to add some more, which is a positive. He motioned to approve ZBA case #21-03 with the contingency that the parcels will be combined.

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

H. 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.

I. BOARD DISCUSSION

The board discussed technical difficulties, tips and tricks with using Webex.

The next regularly scheduled meeting will be held on Thursday, March 18, 2021, at 5:00 p.m.