



CITY OF BURTON

ZONING BOARD OF APPEALS

JULY 21, 2022

Council Chambers

Regular Meeting

5:00 PM

4303 S. CENTER ROAD
BURTON, MI 48519

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

A. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

B. ROLL CALL

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

C. STAFF PRESENT

Amber Abbey, Deputy DPW Director
Leandra Swayne, DPW Records Tech
Lindsey Bice, Clerks Office

D. AUDIENCE PARTICIPATION

No audience participation.

E. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Jun 16, 2022 5:00 PM

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

F. VARIANCE

1. ZBA #22-11
By: Ruth Bloch
2056 E. Boatfield Ave., Burton, MI

Re: 2056 E. Boatfield Ave., Burton, MI
59-32-501-215, Zoned R-1C

For: To allow 4 dogs in a single-family residential zone (R-1C), Kennels allowed in an M-1, light industrial zone, with special use.

Ruth Bloch of 2056 E. Boatfield stated she is asking for a variance request to allow four dogs.

Catherine Berry of 2036 E. Boatfield stated the applicant has already obtained the fourth dog. The third dog they had is very aggressive. Their fence across the front yard is not typical, children are able to stick their hands in it. Two of the dogs are very aggressive. I have to walk on the other side of the street when passing this home because of the dogs. This would not be a good fit for our neighborhood.

Michelle Trevaro of 2041 E. Boatfield stated she is against this variance and has been bit by one of the dogs on the applicants property standing on the outside of their fence. The applicant then advised me to tell my grandson not to put his hand near the fence. The dog barks at 11:30PM and at 1:30AM.

Michael Bloch of 2056 E. Boatfield stated he has lived on the property for 16 years. The previous party had owned four dogs. The front fencing of the property is a licensed installed banister fence, it meets code and there are 18-inches of lattice board. The one lady that got snipped at, reached through the fence without permission to do so. There have been no ordinance violations concerning the dogs barking. I work second shift, the dogs do bark when I get home from work, they are in the house at that time.

Lori Robinson of 2050 E. Boatfield stated she provided a written statement to the board to be read into the record and is happy to answer any questions.

Mr. Welch read into the record a letter submitted by Lori Robinson at 2050 E. Boatfield citing many issues on the Bloch's property, lack of care for the dogs on the property, and bullying issues experienced.

Mrs. Swayne stated in May of 2022 code enforcement went to this property regarding a complaint about a fourth dog. Code Enforcement was able to verify that there were in fact four dogs living on this property. The owners were notified that they are only allowed three dogs, that is when they applied for the variance. The Planning Commission changed the ordinance in 2019 from two dogs to three dogs, over three is considered a kennel and you do have to be in an M-1 zone. The commission decided to change this number to be consistent with Genesee County. We are leaving this decision up to the board.

Mr. Burge stated the intent behind the change in amount of dogs was also that the property could accommodate the dogs and their size.

Mrs. Bloch stated we have a double lot. The information that has been presented is hearsay. The dogs have access to an entire lot. The city has been out multiple time due to complaints, measured our yard and has not found anything. The dogs have never had any complaints for noise, biting or evening barking. We have installed cameras and motion lights around our yard so we know where our dogs are at all times. Bringing the issues up from a year ago that have already been found to be unsubstantiated have no merit on this case. The fourth dog that is in question in this case was labeled by the Genesee County Animal Shelter as a dog that would not

make it in the shelter life. That was our reason for adopting her. We found our information on an article that was posted regarding the amount of dogs allowed in the city.

Mr. Bloch stated the neighbor next to us uses a device and aims it at our animals. I am not sure what it is or what it does.

Mr. Welch informed Mr. Bloch that we are out of audience participation. We are not here to resolve neighbor disputes. There are three dogs allowed per property, we are deciding if a variance should be allowed for this property to have four.

Mr. Rapacz asked the administration if they can state why the lady did not receive her notice and if the applicant does in fact have a double lot.

Mrs. Abbey stated we mail notices, I can't say whether she received it or not. It is a postcard sent out, maybe she threw it away. She did call on the phone and was aware of the case, she is here today. As for the size of their property, yes, they do have two lots that make up one. They have a grassy area of about 20x40. The rest of that lot is a pool, deck, pavement and some other items.

Mr. Richvalsky asked if this is a multi-family property or a single family dwelling.

Mrs. Abbey stated this is a single family dwelling. There is a large pole barn on the property.

Mr. Burge motioned to approve ZBA case #22-11.

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

2. ZBA #22-12

By: Tye Hilliker
2103 E. Bergin Ave., Burton, MI

Re: 2103 E. Bergin Ave., Burton, MI
59-32-501-158, Zoned R-1C

For: Requesting approval to live in a camper on the property during a rehab process on the residential house.

Tye Hilliker of 2103 E. Bergin Ave., apologized to the board. He was not aware that he needed a permit or a variance for the work he was doing and would like to know how to remedy this situation.

Mrs. Swayne stated on May 25, 2022, Code Enforcement had to address work being done without a permit and the applicant living in the camper while working on the house. The applicant came in and complied right away. He pulled the building permit on May 31st. That permit expires on November 30, 2022, if they pass extensions then that could be extended, if necessary. We have previously seen these type of cases with compliance and added time stipulations. I would recommend an expiration date if this variance is approved. A question to ask the applicant, if this

needs to be extended into the winter months, would the camper be suitable to be lived in during the winter months?

Mr. Welch asked is this a rehab or building on the existing lot?

Mrs. Swayne stated this is a rehab of the existing house.

Mr. Welch asked about the trailers and campers on the property.

Mrs. Abbey stated they are only allowed to store one camper on the property, if they have more than one they would need to get rid of it. That is something you would need to speak with the applicant about.

Mr. Burge asked the applicant how many people will be staying in the camper.

Mr. Hilliker stated myself and my girlfriend.

Mr. Burge asked if the bathroom facilities can be used in the home that is being rehabilitated and if the project can be completed by November 30th.

Mr. Hilliker stated the bathroom facilities are fully functional in the home and the project should be completed by November 30th.

Mr. Richvalsky questioned the trailer on the lot.

Mr. Hilliker stated one of the campers is being sold, the other two trailers are my work trailers.

Mrs. Ward-Terry asked if the inspections will occur before or after the November 30th expiration date.

Mrs. Swayne stated the permit expires on the 30th but if there are active inspections it can be extended out from that date.

Mrs. Ward-Terry stated I am looking for a time frame of how long the inspections could prolong the permit. I do not want to set a cut off date and put them in a situation where they haven't been able to have the inspections completed.

Mrs. Abbey stated right now, November 30th is their expiration date because they have not had an inspection. As soon as they have an inspection, the permit will automatically renew and go 180 days between each inspection. Do not use the permit expiration as your deadline, use a specific date.

Discussion ensued regarding the specifics of the camper, the applicants plans, and timeline.

Mr. Rapacz asked if the home can be lived in as it currently sits and if anyone has complained about the applicants living in the camper.

Mr. Hilliker stated they could live in the home if they absolutely had to.

Mrs. Abbey stated this began because of a complaint that came in but notices were sent out and no one is here today.

Mr. Rapacz asked, what has been worked on since May 31st that has not required an inspection?

Mr. Hilliker stated because of the variance, we had to make the home habitable. I was not aware that living in our camper was against city ordinance, and again, I apologize. The beginning was gutting the home. As we opened it up, we found all the mildew throughout the home. I am getting stuff done, but I have to leave open walls for inspections so it is not completed.

Mr. Burge stated he would rather see someone live in a camper for a few months and have the outcome be a nice looking home. Motioned to approve ZBA case #22-12 with an expiration date of November 30th.

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

3. ZBA #22-13

By: Express Investment Group, Inc.
1942 S. Dort Hwy., Flint, MI 48503

Re: 4150 E. Bristol Rd., Burton, MI
59-34-100-011, Zoned C-3

For: To conduct a mini storage facility in a C-3 (Highway Business District), when required to be in a M-1 (Light Industrial District)

Mike Qazaha of 1942 S. Dort Highway and Ronnie Beslac of 14165 North Fenton Road, Fenton, Michigan stated they did not have anything to add to their application.

Mrs. Swayne stated this property is west of Howe, across from the Creekwood Mobile Home Park on Bristol Road. A mini storage use requires an M-1 zone with a minimum of 5 acres. This property is over 14 acres. There are approvals for properties close to this one that both have approvals for storage use to be conducted in a C-2 zone. This is not a full site plan review, they will need to go in front of the Planning Commission. If there are any stipulations you would like to add, please do so now. Keep in mind, you are only approving the use, not the plan. We recommend approval.

Mr. Rapacz asked if there have been any other plans to develop this property in recent history?

Mrs. Swayne said, no.

Mr. Burge asked if there will be outside storage.

Mr. Qazaha said there will be no outside storage.

Mrs. Abbey stated if they want to have outside storage, they will have to come before you and request a variance at another time.

Discussion ensued regarding the plans of the storage facility and the need for storage in Genesee County.

Mr. Burge motioned to approve ZBA case #22-13.

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

4. ZBA #22-14

By: Country Oaks
5904 Dixie Hwy., Clarkston, MI 48346

Re: 3218 E. Atherton Rd., Burton, MI
59-28-100-005, Zoned M-2

For: To not construct a sidewalk along the frontage of the property, per site plan review requirements.

Kevin Richards of 3269 S. Belsay Road of Burton stated he is the manager of Country Oaks and here for any questions.

Mr. Welch read public comment submitted by Lynne and Raymond Frieberger in support of keeping the sidewalk requirement.

Rod Benson of 3204 E. Atherton stated he has lived there for 40 years. A sidewalk to nowhere does not make any sense. It will lead right into his property and will cause people to walk on his property and leave trash in it. He expressed concerns of the sidewalk not being maintained. It does not need to be there at this time. Encouraging foot traffic on a busy road is not a good idea.

Mr. Welch read a letter submitted from the applicant, Mark Cherry, asking the board to remove the sidewalk from the site plan.

Mrs. Swayne stated Country Oaks came before the Planning Commission for a Site Plan Review in January of 2021. When you submit a full site plan review, there is a requirement to have a sidewalk along the frontage of your property. These improvements are needed in the City of Burton. It is an opportunity to enforce an improvement on a property. Their frontage is 590 feet across.

Mrs. Abbey stated when the Planning Commission put the requirement in for sidewalks, the intent was that there would not be sidewalks to nowhere forever. If we don't start now, we never will. Prior to the building being built, it was known that there was a sidewalk required, now they are here asking to not have to put it in now that the building is complete.

Mr. Burge stated when we did our Master Plan we discussed sidewalks, having a walkable community, sidewalks going to nowhere and the sidewalks eventually connecting. Center Road has more traffic than Atherton. A sidewalk will not attract crime.

Mr. Richvalsky asked, if this property is zoned industrial and if Jimbo Drive properties require sidewalks?

Mrs. Abbey stated it is industrial and those are interior platted lots. They do not have that requirement.

Mr. Richvalsky stated I believe having a sidewalk there is unnecessary. Term Street is a whole mix of uses. To have one industrial use property that does not require sidewalks but force another does not make sense.

Mr. Rapacz asked if we continue to waive this sidewalk requirement, how are we ever going to have a walkable community?

Mrs. Abbey stated that is something you will have to ask your fellow board members.

Mr. Rapacz stated we seem to continue to waive this requirement and we will never reach our goal of a walkable community if we keep doing that. It is known when they do the Site Plan that a sidewalk is required. In order to make things happen, we have to start somewhere.

Mrs. Abbey stated it is a part of the Site Plan, they should be reading that to know what is required.

Discussion ensued regarding the preference of residents wanting sidewalks.

Mr. Richards stated he wants to see the City of Burton thrive. Sidewalk to nowhere is a silly term. We want to see the beautification of the city. In this instance, we do not see our neighbors, who are homeowners, putting a sidewalk through their front yards. It's costly and they do not have the financial means. Besides that, we will be left to maintain it which puts a burden on payroll for Country Oaks. If someone slips and falls, we are liable for that accident. It is on the right-of-way. Some of these rules are contradicting themselves. I agree with beautifying Burton, but I do not see how this is going to go the full length.

Mrs. Ward-Terry stated on the Zoning Board, we have to look at cases on a case by case situation. This applicant is showing a burden. They are going to have to put a sidewalk in that will be costly, that they will have to maintain, that is not useful. I will support not voting for this sidewalk.

Mr. Welch stated it is a tough call. They were made aware of it and it is a burden no matter who it is.

Mr. Smith stated I was the council representative on the Planning Commission, when we set up this Master Plan, we could not pick out individuals to not construct, it had to be all or nothing. From my perspective, I believe the emphasis was where there was residential, a lot of foot traffic or where people could be in danger. I do not think it was the intent of the Planning Commission have an industrial type business with a sidewalk. I will support not voting for this sidewalk.

Mr. Burge motioned to approve ZBA case #22-14.

RESULT:	CARRIED [4 TO 3]
MOVER:	Kevin Burge, Planning Representative
SECONDER:	Rick Fuhst, Commissioner
AYES:	Smith, Ward-Terry, Richvalsky, Fuhst
NAYS:	Burge, Rapacz, Welch
EXCUSED:	Kautz, Hynes

G. BOARD DISCUSSION

Mrs. Abbey stated that she will not be in attendance at next months meeting. If there are any questions regarding anything of historical significance please get those to us early as to not catch Mrs. Swayne off guard.

Mr. Welch mentioned the fencing at the property on Center Road from last months applicant. It is a mess.

Discussion ensued regarding the fencing.

The next regularly scheduled meeting will be held on Thursday, August 18, 2022, at 5:00 p.m.
