



CITY OF BURTON

ZONING BOARD OF APPEALS

JUNE 16, 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 OF 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	Present	
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, Clerk's Office

D. AUDIENCE PARTICIPATION

No audience participation.

E. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - May 19, 2022 5:00 PM

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

F. VARIANCE

1. ZBA #22-07
By: Ric Rubio
9225 Perry Rd., Grand Blanc, MI 48439

Re: 5205 E. Court St., Burton, MI 48519
59-11-300-007, Zoned C-2

For: To temporarily use the parcel to store (park) finished vehicles.

Ric Rubio 9225 Perry Road in Grand Blanc presented the board with a letter addressing why he is asking for this request and pictures of the property related to his variance request.

Bruce Coleman at 1111 Creekwood Trail and 1040 Creekwood Trail posed questions as to if there was going to be lighting, security, security guards, fencing, and the plans in general for this operation.

Mrs. Swayne stated this is the old Showcase Cinema property consisting of 25 acres. It is zoned C-2 in the front of the property and M-1 in the back. That is not clarified on the agenda. The applicant is asking for a temporary use of this land to store GM vehicles. As a board, you are permitted to add a stipulation of an expiration date. We are aware of the issues facing the parking of the new vehicles but it will be important to nail down a date for this to expire so our city does not end up as a parking lot. In the applicant's letter he proposed the installation of a 550 foot by 6 foot chain link privacy fence. By ordinance he is only required a 5 foot fence so you would have to add the stipulation to require the 6 foot privacy fence. The administration recommends approval with the stipulations of the fence and the expiration date.

Mr. Burge asked if this is the same company that was before the board a few months back and if they were moving locations.

Mr. Rubio stated they are not the same company nor are they moving locations. They are attempting to consolidate multiple smaller lots into a larger lot until they have completed the development of a bigger lot closer to the plant. That will take upwards of one year to complete. There will be 24 hour security and fencing in the front. We will have temporary lighting placed in the back of the lot.

Mr. Burge asked for clarification on the requirements for the 6 versus 5 foot fence.

Mrs. Abbey stated all he is required to have is a 5 foot fence. If you want him to have a 6 foot privacy fence, you will need to add that as a stipulation to the variance. I believe he wants the 6 foot fence. I would like it to be added that the fence be removed when they leave.

Mr. Burge asked the applicant if they want a 5 or 6 foot fence.

Mr. Rubio stated a 5 foot fence would suffice.

Mr. Smith asked the applicant how they will be securing the back of the property. There is a lot of traffic that goes through that area.

Mr. Rubio stated there will be security guards throughout the property.

Mr. Smith clarified that he is concerned with the houses behind the property. He wants to make sure this will be a controlled environment and people won't be on the property looking at these vehicles, trying to find other things to do.

Mr. Rubio stated I am sure it will be intriguing to people at first but once the novelty wears off, I do not see it causing any type of attraction.

Mr. Rapacz clarified with the applicant that these are only vehicles being stored and no one should be on the property looking to buy them. The only people on the property should be the security guards, correct?

Mr. Rubio stated transporters and security guards. That is it.

Mr. Hynes asked the administration why the fence needs to be removed when the applicant leaves.

Mrs. Abbey stated it is good for this type of use but I do not think it would be good for another C-2 use that would go in there. If it is not taken down, the next person who gets in there develops the land, I do not want them to think they can use the fence.

Mr. Rapacz asked for clarification regarding the type of fence.

Mr. Rubio stated it is a chain link fence but instead of the slats that go into it to make it a privacy fence, we will be using a rolled out piece of material that attaches to the fence.

Mrs. Ward-Terry motioned to approve ZBA case #22-07 with the stipulations that it will be for twelve months from June 21, 2022 until June 21, 2023. There will be a 6 foot chain link fence that will be removed by the petitioner when the variance expires, there is to be 24 hour security and solar or electric powered security lighting in the back of the property, the fence will be along the front property line with security on all sides.

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

2. 5430 : ZBA #22-08 Part 1

By: Reese Real Estates & Investments Co.
9310 South 320 West Sandy, UT 84070

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

For: 1. To conduct a M-1 light industrial use in a C-2 general business zone for wholesale products.
2. To Conduct a M-2 special use in a C-2 general business zone for an open storage yard.

Richard Reese of 9310 South 320 West in Sandy, UT stated he is here regarding 4900 Davison Road in Burton. They are trying to operate Genova products out of this location which has been a long term business in Michigan and was the originator of plastic pipes and fittings in America.

Mrs. Swayne stated that Genova is currently occupying that business for office use. The concern is the industrial use there with the facility being close to residential properties. We would like to add the stipulation that this is revisited if the property

ever sells for the outside portion of the property only. We would also like it to be addressed as to what type of fencing is being placed on the property for the storage.

Discussion regarding the type of privacy fence that will be used on the property and the property layout.

Mr. Welch questioned what type of vehicles will be going back on the property.

Mr. Reese stated they will be standard delivery vehicles, short semis or smaller bobtail type trucks. The easement is adequate for this as it was a prior grocery store so it received regular deliveries.

Mr. Burge inquired as to the hours the business will be operating and receiving deliveries.

Mr. Reese stated the hours of operation will be from 8AM-5PM.

Mr. Smith stated familiarity with the property and that he would not foresee any issues with the trucks accessing the property.

Mr. Rapacz asked the administration if they would like the M-1 Industrial use to expire when or if this business sells.

Mrs. Swayne stated we would like for item number two to be revisited if the business sells.

Mr. Reese suggested the language of the permitted use being for plastic pipe and fittings only.

Mrs. Abbey stated that would work, that way if there is a change in ownership, the use does not expire on the new owner.

Mr. Hynes expressed concern regarding the asphalt where the trucks will be driving.

Mr. Reese stated on the plan that we have submitted, that has been approved by the drain commission, the asphalt has been repaired and a new sump system is being installed. He further invited the board to come have a look.

Mr. Burge inquired about the new sump system installed.

Mr. Reese stated it is in the storm drain as suggested by the Genesee County Drain Commission.

Mrs. Abbey stated that their storm sewer is connected to Collette's. The county requires them to catch the materials that come off of their parking lot at their property instead of it being filtered over into the neighbors.

Mr. Hynes motioned to approve ZBA case #22-08 part 1 as written.

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

3. ZBA #22-08 Part 2

Discussion regarding the type of privacy fencing to be utilized and the area that needs to be fenced.

Mrs. Ward-Terry motioned to approve ZBA case #22-08 part 2 with the stipulations that either plastic or metal privacy slats be added to the east property line chain link fence, this special use for outside storage is specific to only this business and if another business moves in it would have to be re-examined at that time.

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

4. ZBA #22-09

By: Hanna Lytle
2114 Morrish St., Burton, MI 48519

Re: 2114 Morrish St., Burton, MI 48519
59-21-526-089, Zoned R-1C

For: To keep backyard chickens on a parcel of land that is less than ½ acre.

Hanna Lytle of 2114 Morrish Street in Burton presented pictures of her chicken coop to the board. It is a fully enclosed coop and the five chickens are secure. I meet all other ordinance requirements to have chickens. There is 10 feet on each side from any fence lines.

Richard Newsome of 2113 Morrish Street in Burton stated that he lives across the street from Ms. Lytle. The chickens have not been controlled. They run all over the street and other neighbors' yards. They need to be contained. She does try to round them up. I have had conversations with her about getting the wings clipped. The chickens have come into my yard and torn out my perennials. She has a rooster. How many chickens are allowed?

Mrs. Abbey stated if she gets the variance she would be allowed six hens. Right now she is allowed zero.

Mr. Newsome stated that the chickens have been out since I have been down here to complain and since I received the letter regarding this meeting today. She is doing better, but we need to have zero tolerance.

Mr. Welch read into the record letters of support for Ms. Lytle from Mark Schmitzer and Sue Gosciniak.

Mrs. Swayne stated this began because we received a complaint regarding a rooster and some chickens. Roosters are not allowed. They are required to be 30-feet from a building, which she is, and 10-feet from a property line. Ms. Lytle states the coop is 10-feet from the property line. We find the tarp on top of the coop to be concerning and there appears to be a rooster outside of the enclosure. The requirement is to have a half acre of land to be allowed to have chickens, she does not have a half acre. The administration does not have a recommendation.

Mr. Welch asked if the rooster outside of the coop was a statue.

Ms. Lytle confirmed it is in fact a statue.

Mr. Welch asked how long the coop has been there and clarification on the tarp.

Ms. Lytle stated that previously she had a run that was not fully enclosed and the chickens were sneaking out. It is completely enclosed now and there are no roosters anymore. The tarp needs to be re-stapled to the top, there is fencing underneath. I have .45 of an acre. I thought when I got the chickens I had a half acre, but that was my mistake.

Mr. Burge reminded the board that when we did our master plan, our agriculture and farming area is in the south eastern part of our city.

Mrs. Ward-Terry asked how many chickens she has and how many she wants to be allowed to have.

Ms. Lytle stated she has five and does not necessarily want to be allowed the six.

Mrs. Abbey stated that if she is granted this variance she can have up to six hens and it will stay with the property. She is not coming to you because she has five chickens and wants to be allowed six, she is coming to you because she isn't allowed any chickens and wants to be allowed to have them. We don't want to put a number on the amount she can have.

Mr. Rapacz asked what is the Corunna Chief of Police, Mark Schmitzer, relation to your property?

Ms. Lytle stated that he helped her clip the wings of the chickens, so he has knowledge of the chickens and the property.

Mr. Hynes asked about the tarp.

Mrs. Abbey stated the tarp will not be allowed at all. It is not an approved type of material.

Mr. Hynes expressed concern for the recent outbreaks of salmonella with the growing popularity of chicken coops. I do not see any type of sanitation station here.

Ms. Lytle stated I go inside and wash my hands after handling.

Mr. Hynes suggested adding a sanitation station closer to the coop and working with her neighbor that was here expressing concerns.

Mr. Burge expressed concern regarding the smell of the chickens and how it can be contained.

Mr. Welch stated that looking at the picture it appears that it is well maintained.

Ms. Lytle stated that I regularly clean out their stalls and nesting boxes. I collect eggs daily. My son is in the process of joining 4-H, so we are getting into urban farming.

Mr. Burge stated I love seeing young kids get into this, the problem is that this is not farm territory.

Mr. Burge motioned to approve ZBA case #22-09.

Mrs. Ward-Terry stated she would like to add the fact that this property is just shy of being a half acre. That is her hardship.

Mr. Smith stated I was on the council when we decided on this. I could not believe the emotion that came from this. There were people that pleaded that we are not a township and then there were people who really wanted chickens. That is how we came up with no roosters and the size of the properties. Having sat through creating this ordinance, and listening to the gentleman speak tonight, I will not be able to support this.

Mrs. Abbey stated that there was an error on the application. There are only four votes required, not five.

Mr. Hynes expressed concern whether or not the applicant has a rooster.

Ms. Lytle stated she does not have any roosters, she had one and it is now gone.

Mr. Rapacz asked to speak with Mr. Newsome before they take a vote to ask when the rooster left the property and when was the last time the chickens were on your property?

Mr. Newsome stated that Ms. Lytles son told him they had two roosters, I only saw one, it left the property after the complaint. They were out in the road within the last week or two.

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

5. ZBA #22-10

By: Ronald Hart
2301 Pear Tree Dr., Burton, MI 48519

Re: 2301 Pear Tree Dr., Burton, MI 48519
59-23-676-020, Zoned R-1B

For: To construct a detached garage that will be 5' from the house, 10' required.

Mrs. Ward-Terry recused herself from this case due to the fact that the applicant is her neighbor and she lives within a certain distance.

Ronald Hart of 2301 Pear Tree Dr., Burton stated he is requesting to be allowed a garage built closer than the 10 feet that is allowed by city ordinance. He presented a petition to the board that was signed by each neighbor stating they have no issues with the garage. I do understand that I need to put a firewall in, if approved.

Mrs. Ward-Terry got up to speak in audience participation.

Mr. Welch stated that Mrs. Ward-Terry cannot speak after recusing herself.

Mrs. Abbey stated that Mr. Welch cannot tell her that she cannot speak and asked that Mrs. Ward-Terry refer to her bylaws. They give you direction on what you are supposed to do when you have a conflict. If you choose to talk, that is up to you.

Michaeline Ward-Terry of 2313 Pear Tree Dr., Burton stated she is happy he is putting up this garage. Everything his family does is very nice and clean. She asks for approval.

Janet Mallow of 2310 Apple Tree, Burton stated she lives behind Mr. Hart and has no issue with him building a garage. She does not understand why he isn't allowed to just do it because she was able to twelve years ago.

Mrs. Swayne stated I want to make sure everyone is looking at the diagram I gave you today and not the one that was sent. There is a private easement along his back property line. The structure will be 5 feet into the easement. It does not appear that it will affect the water flow but we need to make sure that when the plans are submitted there is something in place to not affect the water flow. We do need to make sure that he is going to put a firewall up for safety as well.

Mrs. Abbey stated that Mr. Hart has an easement on the back of his property that Mrs. Mallow may not have. That could be the reason why she was not required to get a variance for her build 12 years ago. If he builds into that drain easement then the water can get pushed into his neighbors yard. That is why we are asking for a swaile to go around the back. We do not need a stipulation for that, I know it is going to happen.

Mr. Hart stated that there used to be a water issue on the back property line. Since they have come in and put a drainage tile along the back run of those properties, there are no longer drainage issues along that back property line.

Mr. Richvalsky asked what the easement is for.

Mrs. Abbey stated it is a storm drain easement.

Mr. Richvalsky asked if there will be a driveway to the garage.

Mr. Hart stated that there will be a cement landing.

Mr. Hynes motioned to approve ZBA case #22-10 as written.

RESULT:	CARRIED [6 TO 1]
AYES:	Smith, Burge, Hynes, Welch, Richvalsky, Fuhst
NAYS:	Rapacz
EXCUSED:	Kautz
RECUSED:	Ward-Terry

G. BOARD DISCUSSION

The next regularly scheduled meeting will be held on Thursday, July 21, 2022, at 5:00 p.m.

Mr. Burge stated that the Clerk's Office is looking for Election Workers.

Mr. Smith asked Ms. Bice what the Council has just approved for the Election Workers.

Ms. Bice stated that the Council just approved a substantial pay increase for all of our Election Workers. The range is from \$200-\$250 for the day, depending on your position.
