



CITY OF BURTON

ZONING BOARD OF APPEALS

MARCH 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 5:04 PM.

A. MEETING INFORMATION

Zoning Board of Appeals
Hosted by Racheal Boggs

<https://cityofburton.my.webex.com/cityofburton.my/j.php?MTID=m6f388a79552c74fe80e1b841f8f2c6b5>

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

Meeting number: 182 721 7457

Password: Zone123 (9663123 from phones and video systems)

Join by video system

Dial 1827217457@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: 182 721 7457

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

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, Records Tech, Clerk's Office
Leandra Swayne, Records Tech, DPW

E. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Feb 18, 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. VARIANCE

1. ZBA #21-04

By: WJH LLC
41210 Bridge St. Novi MI

Re: 2282 Hunter Lane Burton MI
Parcel 59-24-502-094

For: To construct a new home that will extend 4.9' beyond building envelope.

Rimma Morrison 41210 Bridge Street, Novi, Michigan stated in regards to 2282 Hunter Lane, none of the model homes that we are building there fit due to the irregular shaped lot. We are asking to extend the building envelope so we can fit a house on the lot. No other house would be able to fit on this lot.

Mrs. Abbey stated this particular lot is the very definition of what a variance is for. This property is unique to that entire subdivision, the setback cannot be met unless they build a house that does not fit with the other houses. We would recommend approval because we believe this is exactly what the Zoning Board of Appeals is here for.

Mr. Burge stated there is a wetland area on top of the diagram, is there a distance on how far they have to stay from the wetlands?

Mrs. Abbey stated no, the wetlands are not the issue. You just cannot build within the wetlands or destroy the wetlands.

Mrs. Ward-Terry motioned to grant variance 21-04 due to the odd shape of the lot, which is done by case and property so we are not setting precedent.

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

2. ZBA #21-05

By: Spring Gardens Properties, LLC c/o Lauren Walter
P.O. BOX 182 Holly MI

Re: 3187 Dahlia Dr. Burton MI
Parcel ID 59-26-531-039

For: To Construct a new home, requesting 8.3' side setback, 10' required.

Lauren Walter 3187 Dahlia Drive, Burton, Michigan stated the house has been constructed already. We became aware of the fact that it was built within setback after the construction and basement had already been completed. The stakes were moved and therefore the pouring occurred outside of the envelope in which it was supposed to be poured in. We have approval from the Genesee County Drain Commission because we occupy a portion of their easement now.

Justin Harold with Atlas Real Estate stated he represents the developer. They will pay the surveyors to set pins in the footings so this problem should never happen again on future builds.

Kathy Walls 1419 Shaffer, Burton, Michigan stated she is here on behalf of her daughter Amanda, who would be the owner of the home. She would really appreciate the board taking this into consideration and helping her daughter get into her new home. Her daughter cannot be here tonight because she is a nurse and working.

Mr. Rapacz stated I am reading the agreement from the Drain Commission. The bottom of the agreement reads "if it becomes necessary to utilize the entire right of way at a future date. If structural removal is necessary, the structure will be removed without compensation or damages paid to The Owner." Does that mean they can tear down their house in the future if they need to?

Mrs. Abbey stated I am not an attorney but essentially, sort of. The chances of that happening are highly unlikely. They have the right to take down anything that is in the easement.

Mr. Rapacz stated the applicant is aware that if anything were to happen, they could potentially destroy their home and there is nothing they could do about it.

Mrs. Abbey stated I would hope before they purchase the home they would consult with an attorney as this is a recorded document with their deed. As you can see in your packet, the house plan that was approved by our department did meet the requirements. The City of Burton did not error in permitting the project as it was approved and met the setback requirements. It also has the drain easement identified on the approved plan. The house that has been built is actually a different house than what was actually approved, so that is why it's in the setback and why it is in the easement. We found out about this in November when they brought the as-built to us. At that point, I told them they are in the drain easement and have to call the Drain Commission. They have approval from the Drain Commission now but the house is still in the setback so that is the reason they are before you today. We did not approve the easement from the Drain Commission. I do not want to hold up the individual who is trying to buy the house, so we would recommend approval.

Mr. Welch asked, this is not because the footing stakes were moved, it's because a different house was approved. Is that correct?

Mrs. Abbey stated that is my opinion since the approved plan had a house that was 42 feet wide and the house that was built is 48 feet wide.

Mr. Welch asked, is the homeowner aware that in extreme circumstances they could lose access to their home?

Mrs. Abbey stated, yes. That easement is recorded with the Genesee County Register of Deeds, so it is a part of their deed.

Mr. Burge stated in the future, owners of this property would need to be made aware of the fact that this is here if they want to build an addition, such as a garage.

Mr. Rapacz asked, so basically you approved one plan and then another house was built, correct?

Mrs. Abbey stated, yes.

Mr. Rapacz asked, how does that happen?

Mrs. Abbey stated the city requires a foundation as-built to be submitted prior to occupancy. It is up to them when they submit it, we recommend they submit it before framing. It looks like this was done in July, so we don't know why they didn't submit it to us then and we could have caught it prior to framing.

Mrs. Walter stated on the storm owner easement survey that we submitted, it shows a 13 foot setback on the north side of the house because of the shift. Normally when they put that house in, they do it right in the middle of the envelope. So I do apologize, I was not aware the builder went with a different plan. I think we were doing about eight houses at the time that permit was pulled, so it may have been a little hectic on his end. I apologize he's not able to be here in this meeting to explain. We are on our 35th house in the subdivision and this is the first one where this has happened, and it will certainly be the last that this happens. We have to be a little more diligent and as stated earlier, the builder is putting in more safety guards.

Mrs. Ward- Terry motioned to grant a variance for ZBA case 21-05.

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

3. ZBA #21-06

By: Greg Benjamin
1355 Blanch Ave, Burton MI

Re: 1355 Blanch Ave, Burton MI
Parcel 59-13-551-022

For: To Construct an addition. Requesting 5' rear setback when required 30' and requesting 15' front setback when required 20'.

Greg Benjamin 1355 Blanch Avenue, Burton, Michigan stated the main reason we want to do the addition is to build a basement for a tornado shelter. We thought about lifting the house and putting a basement under our crawl space but to be cost-efficient, it would be better to put an addition on.

Mrs. Abbey stated in this neighborhood, the lots are small and as you can see, a lot of them are already built in the setbacks. They were houses built prior to the zoning ordinance. If you look at his house, it appears to already be in the setback. It's a

very small lot and it's a corner lot which gives two deficiencies for him to be able to do anything with that property. Since there are no objections from the neighbor's, which would be ultimately affected by it, we would recommend approval.

Mrs. Ward-Terry asked, is this property already non-compliant to the setback because of the age of it?

Mrs. Abbey stated the one on Pearl Street, yes. I think that one is a 20-foot requirement.

Mr. Burge stated I have been by the address, the neighbors get along, it's not going to interfere with the neighbors at all, he's just going to have a little less grass to mow.

Mrs. Conley motioned to approve ZBA case 21-06.

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

The board discussed when we may go back to regular meetings.

The next regularly scheduled meeting will be held on Thursday, April 15, 2021, at 5:00 p.m.
