



CITY OF BURTON

ZONING BOARD OF APPEALS

MARCH 19, 2020

Council Chambers

Regular Meeting

5:00 PM

**4303 S. CENTER ROAD
BURTON, MI 48519**

ATTENTION APPLICANT:

In order to prove you are entitled to a variance, you should be prepared to show how your property meets the conditions listed:

1. The difficulty must be unique to your property and not generally shared by others in the same zoning district, and would constitute a hardship.
2. The variance will not adversely affect the public health, safety and welfare, or be contrary to the spirit and intent of the Ordinance.

The burden of demonstrating that the above conditions exist on your property falls on you, the applicant. The Zoning Board of Appeals will not argue or present your case for you.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

C. STAFF PRESENT

D. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Feb 20, 2020 5:00 PM

E. VARIANCE

1. ZBA #20-02

By: Our Risen Lord Lutheran Church
4040 Lapeer Rd
Burton MI 48529

Re: 4040 Lapeer Rd Burton, MI 48509 / 59-15-300-005 / R-O Zone

For: To conduct an M-1 Light Industrial Use in a R-O Restricted Office zone for an outdoor recreational use as a Dog Park.

2. ZBA #20-03

By: Allen Automotive LLC
2447 E. Judd Rd.
Burton MI 48529

Re: 2447 E. Judd Rd. Burton MI 48529/ 59-32-527-003 / M-1 Zone

For: 1. To conduct a Marijuana establishment within 1,000 feet of a school. 2. To conduct a marijuana establishment within 500 feet of another marijuana use.

3. ZBA #20-04

By: Top Shelf Burton LLC
6160 Dixie Hwy Suite 205
Clarkston MI 48346

Re: 4463 S Dort Hwy Burton, MI 48529 / 59-33-300-013 / M-1 Zone

For: To conduct a marijuana use within 200 feet of a residential house.

F. AUDIENCE PARTICIPATION

Now is the time set-aside for members of the audience to address the Zoning Board of Appeals. I would ask each individual to give their name and address for the record and to limit their comments to three (3) minutes and to speak on the topics germane to City business.

G. BOARD DISCUSSION

The next regularly scheduled meeting will be held on Thursday, April 16, 2020, at 5:00 p.m.



CITY OF BURTON

ZONING BOARD OF APPEALS

FEBRUARY 20, 2020

Council Chambers

Regular Meeting

5:00 PM

**4303 S. CENTER ROAD
BURTON, MI 48519**

This meeting was opened by Chairman Steve Welch at 5:05 PM.

A. PLEDGE OF ALLEGIANCE WAS LED BY STEVE WELCH

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Don Jones	Alt. Commissioner	Present	
Christina Conley	Council Representative	Present	
Scott Hynes	Commissioner	Present	
Tim Rapacz	Commissioner	Present	
Deb Walton	Commissioner	Excused	
Michaeline Ward-Terry	Vice Chairperson	Present	
Steve Welch	Chairman	Present	
Joey Richvalsky	Alt. Commissioner	Excused	
Rick Fuhst	Commissioner	Present	

C. STAFF PRESENT

Amber Abbey, Planning/Zoning Superintendent
Lindsey Bice, Records Tech

D. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Nov 21, 2019 5:00 PM

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

E. NOMINATIONS

Minutes Acceptance: Minutes of Feb 20, 2020 5:00 PM (Approval of Minutes)

1. 4730 : Nomination for Steve Welch Chairperson

RESULT: CARRIED [UNANIMOUS]
MOVER: Scott Hynes, Commissioner
AYES: Jones, Conley, Hynes, Rapacz, Ward-Terry, Welch, Fuhst
EXCUSED: Walton, Richvalsky

2. 4731 : Nomination for Michaeline Ward-Terry as Vice Chairperson

RESULT: CARRIED [5 TO 2]
MOVER: Christina Conley, Council Representative
SECONDER: Scott Hynes, Commissioner
AYES: Jones, Conley, Hynes, Ward-Terry, Welch
NAYS: Rapacz, Fuhst
EXCUSED: Walton, Richvalsky

3. Nominations for Rick Fuhst as Vice Chairperson

RESULT: FAILED [2 TO 5]
MOVER: Tim Rapacz, Commissioner
SECONDER: Rick Fuhst, Commissioner
AYES: Rapacz, Fuhst
NAYS: Jones, Conley, Hynes, Ward-Terry, Welch
EXCUSED: Walton, Richvalsky

F. VARIANCE

1. ZBA #20-01

By: Lyle Demo and TK Auto Buyers
 2422 Blarney Dr Davison MI 48423

Re: 4307 Saginaw Burton MI 48529
 59-32-552-003 C-2 Zone

For: To conduct an M-1 Light Industrial Use in a C-2 General Business zone for
 Used Vehicle Sales

Tom Marks stated he is here representing TK Auto Buyers and Lyle Demo is here with him. We are in the process of purchasing George's Garage and plan on making improvements to it. They understand that they are not on the plan with their type of sales. They are currently down the road at 2101 Saginaw Street and sold that building so they are planning on moving. We have never done outside car sales, it has always been by order or inside. The George's Garage building works perfectly for what we are trying to do but does not fit into the DDA plan. What we propose is fixing the building up and having cars inside the building behind it. We have never put cars on the road and this building would not allow cars to be put on the road because there is not any frontage on Saginaw Street that would allow cars to be parked. I have drawn up some maps and we have spoke with the Burton Downtown Development Authority and they are on board with this. Auto Works, down the road, was approved to have a dealers license as well as T-Rods which has a wholesale license. We propose to sell cars, just not on the road and we would like to update the

property but did not want to put the money into it unless we could get something going here. George wants to sell and we want to buy the building but have a contingency of zoning approval. We have been in business for 20 years and have had no violations or complaints. With our inside sales, we average 75-100 sales per year so it has been a profitable business for us. I brought pictures of what we plan on doing to the building as well as the DDA's recommendation.

Mr. Welch stated for the record when they make an application, most of us go over and visit the site so we know what it looks like.

Mr. Marks stated George has been there a long time, he is at a point where he is no longer investing in the building. I feel whatever we do, it will be an improvement. The building is pretty old and it needs a facelift. If we don't do it, I am sure someone will but we have some plans that will make it more cosmetically pleasing and clean it up inside.

Mrs. Abbey stated because I just heard about the DDA five minutes ago, I would like to see what they said.

Mr. Marks stated we plan on bricking over the garage doors as part of their facelift, we do not feel like that is a safe place to exit the building. The plans to remodel include both the inside and outside of the building. The back building is just a metal building but with the size of it, it should be enough for us to park 2 rows of cars, which would be about 20 cars and is more inventory than we have ever kept at one time. After we clean them, we put them inside the building.

Mr. Welch asked Amber, do you have any questions for him after reading that?

Mrs. Abbey stated this is different from what I was told they had intended to do so I need to make sure I have some clarification. What type of license are you pursuing?

Mr. Marks stated used car.

Mrs. Abbey stated I know, but is it a B?

Mr. Marks stated it is a B and C.

Mrs. Abbey asked, what would stop you from putting cars outside?

Mr. Marks stated there is no room there. We would sign anything saying we wont sell cars outside there. There is enough room for customer parking, but I do not see anything visually being able to help us by having outside sales.

Mrs. Abbey asked, is George's going to be gone?

Mr. Marks stated yes, that is the plan.

Mrs. Abbey asked, so all of his vehicles would go with him?

Mr. Marks stated most the stuff is his stuff, we are not going to move it until we buy the building. We told him if this gets approved today, we will get rid of all those cars and we have also discussed fencing it.

Mrs. Abbey stated you said their is another use in that building? Because I am unaware of any other use.

Mr. Marks stated just repair, and he kept his license current.

Mrs. Abbey stated you said auto detail.

Mr. Marks stated Lyle is renting the building now, that is the plan, to do detail and car repair. He is in the process of getting his F license for repair.

Mrs. Abbey stated there is no approval for an auto detail there, that is why I am asking.

Mr. Marks stated we have worked together, even when we were down the road he had a clean up shop in our building.

Mrs. Abbey asked, you also repair cars?

Mr. Marks stated we use the place across the street for repair. I personally do not like to repair cars because of the liability but we have always had a certified mechanic that is signed on to work for us. Right now it is another car dealer who is across from our old location, Harvey Auto Sales. Lyle is in the process of getting his license for repair. Even if we don't put the sales there, he probably wants to continue. I just don't see transmission repair being a viable thing.

Mrs. Abbey stated from what I understood, George's was closed.

Mr. Marks stated he is there once in a while. He doesn't do a lot of work but he kept his license current.

Mrs. Abbey asked the board for the pictures they were provided by Mr. Marks. I was prepared to come here tonight to recommend denial based on the DDA's vision plan and their encouragement to move forward with that and the fact that the Planning Commission worked on the Master Plan. We created a central business district to remove these uses out of this area. It sounds like the DDA is on board and is okay with the idea. There are a few things I am not okay with, one of them is the vehicles being outside for sale. I am also not okay with the number of junk vehicles that are currently there and need to go. What I don't want to happen is when George leaves, we find out we have a use out of there that isn't allowed and then we bring in another auto repair in to continue the cycle of what he is doing. It talks in here about some retail uses that you plan to do, can you elaborate on that?

Mr. Marks stated we sell car and truck accessories, mud flaps, bed liners, etc. We would like to create a retail space within the building. It may have to be around back because that is where the parking is but this is a big part of our business.

Mrs. Abbey stated the front part of the building is supposed to be at the road, that is the traditional downtown that they are looking for so parking in the back is what you are intended to do. So, you would do retail space in the back of the building?

Mr. Marks stated in our opinion that is the front.

Mrs. Abbey stated there would be nothing from the front of this building that would look like a retail store at all.

Mr. Marks stated signs and truck accessories. But if we close up the garage door, we could probably put a window there instead of a garage door so you could see stuff.

We could move it to the front, we just thought when you walk in, it would be better in the back. But we are not opposed to putting the retail space where ever you want it.

Mrs. Abbey stated having the road frontage appear to be more of a retail space versus an auto repair is the DDA's vision plan.

Mr. Marks stated if that building sat further back we would have everything in front. The way the building is set up, there is four feet from the sidewalk to the building. I want to be practical about it. I don't want to commit to something we can't do.

Discussion ensued about adding a possible entrance to the front of the building to accommodate the retail space and the options of having the retail space in front of the building.

Mr. Marks stated we plan on paving the parking lot. We have all sorts of plans but until we get to the next step of being approved we are at a standstill. And we do want retail space.

Mrs. Abbey stated I wasn't present for the presentation they gave to the DDA so it is hard for me to judge what the DDA heard. What they talk about in the minutes is the retail space and the car detail shop. They don't talk about thinking you were going to do auto repair there at all so I don't know if their thinking is that George's is going out, no one is going to be doing auto repair. The only thing we will have here is detailing, retail and a license hanging on the wall, I do not know if that is what their impression was. So it is hard for me to say if the DDA was on board or if they weren't on board.

Mr. Welch stated I am writing all this down, we can add all these contingencies.

Mrs. Abbey stated if you are doing contingencies I would suggest adding that the repairs be done before the license is approved to sell the cars there, which I believe is what the DDA expected. Once you sign the paper you don't have any leverage except fighting in court, which we do not want to do. I would suggest some of these items be done in advance of that license being sent.

Mr. Welch stated I would recommend the maker of the motion state that there are no cars to be parked outside, have a front entrance door on Saginaw Street so it looks like a retail shop, have the repairs done before the license is approved.

Mrs. Abbey stated yes, he said he is going to pave the parking lot. I think the DDA's encouragement was that all these improvements were going to be made.

Mr. Welch asked what specifically in there are the DDA's recommendations for approval?

Mrs. Abbey stated it appeared to me that they expected the applicants to come back before them when they have a proposed plan.

Mr. Welch asked if everyone has that?

Mr. Hynes stated we may want to elaborate more on the retail frontage.

Mrs. Abbey stated how about we have the facade improvements approved by the DDA prior to issuing the license. Then they can get the look that they are interested in having at the front and that secures what they were looking for.

Mr. Welch stated you have mentioned other cases so I wanted to make note that on the ZBA there is no precedence set, each case is individually determined on their own merit.

Mrs. Abbey stated American Auto Works went in before the DDA had a vision plan, before the master plan was done.

Mrs. Ward-Terry made a motion with contingencies that the inside sales to order would be retail on front of the building, no cars would be parked outside, and the Saginaw Street improvements would be made before licensing. Which means the frontage of the store would be done first. This is to be contingent on the DDA plan and the detailing will be done in the retailing space. Cars will be parked inside.

Mrs. Abbey added that all vehicles listed for sale must be parked inside.

Mr. Rapacz asked to Mrs. Abbey, the DDA minutes that we are looking at say "I know Amber is concerned about having the cars sitting out so maybe there could be a note from us that we know he will not be doing that. They have a lot of small dealerships that are limited on the amount of cars they are allowed to sit out but always exceed that amount and don't follow the laws and rules." What in the world is he referring to?

Mrs. Abbey stated I am not sure what that means. When people came into my office I explained to them that they never told me the vehicles were only going to be sold inside. This was a conversation about having used vehicles at the property, the concern is always about the number of vehicles you have.

Mr. Rapacz asked, do we have any idea what Mr. Fenner means by they have a lot of small dealerships that are limited but they don't follow the laws and rules?

Mrs. Abbey stated I do not know about them.

Mr. Rapacz stated I am trying to figure out who they is that he is referring to.

Mrs. Abbey stated I couldn't answer that, you would have to ask Mr. Fenner. I did not have a conversation with Mr. Fenner about this, I had a conversation with the applicants about it. I do not believe he was talking about the applicants specifically, I think he was talking about dealerships in general.

Mr. Rapacz asked, does that mean even if we set this rule it wouldn't be enforceable?

Mrs. Abbey stated it is absolutely enforceable. As soon as we see a vehicle there for sale we will tow it and then I revoke their variance.

RESULT:	CARRIED [6 TO 1]
MOVER:	Michaeline Ward-Terry, Vice Chairperson
SECONDER:	Scott Hynes, Commissioner
AYES:	Jones, Conley, Hynes, Ward-Terry, Welch, Fuhst
NAYS:	Rapacz
EXCUSED:	Walton, Richvalsky

G. AUDIENCE PARTICIPATION

Joey Richvalsky of Richvalsky and Sons Reality and DDA Chair stated on this matter, the garage has been an eye sore. We are going to be paving Saginaw Street and having the garage updated is a job well done before it is done. However, it better be done with your stipulations of course. The point I want to make is, any change there is good. The car lots along the road that they are talking about is basically everyone on South Saginaw Street, if you go there it's an automotive based, it is not the retail like we desire. What we would like to see is more useful uses there. This has been there and it has not been updated. Let's leave it there, upgrade it and put some stipulations on it. That is basically what the DDA would like to see. With that being said the DDA does approve of this.

H. BOARD DISCUSSION

Mr. Welch stated I would like to congratulate Scott Hynes and Michaeline and myself for re-appointment to the ZBA. I would like to thank Don Jones for your service on the board. We do have an opening now for an alternate, if anyone is interested there are applications at the clerks office.

Mr. Hynes asked to Mrs. Abbey, the Flex High that just went in, they have a trailer there that has been there for four months. Is that supposed to be there?

Mrs. Abbey stated no, they were working on Flex High and they had it there for that. I haven't been by there in a while. If it is still there I will send code enforcement out to get rid of it.

The next regularly scheduled meeting will be held on Thursday, March 19, 2020, at 5:00 p.m.

Minutes Acceptance: Minutes of Feb 20, 2020 5:00 PM (Approval of Minutes)



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

SCHEDULED

AGENDA ITEM (ID # 4746)

Meeting: 03/19/20 05:00 PM

Department: Department of Public Works

Category: Variance

Prepared By: Leandra Swayne

Department Head: Charles Abbey

E.1

DOC ID: 4746

ZBA #20-02

By: Our Risen Lord Lutheran Church
4040 Lapeer Rd
Burton MI 48529

Re: 4040 Lapeer Rd Burton, MI 48509 / 59-15-300-005 / R-O Zone

For: To conduct an M-1 Light Industrial Use in a R-O Restricted Office zone for an outdoor recreational use as a Dog Park.

ATTACHMENTS:

- Backup 20-02 (PDF)



City of Burton
 Department of Public Works
 4093 Manor Drive
 Genesee County, Burton, Michigan 48519
 (810) 742-9230

Date Filed: 2-10-20
 Fee Paid: 7450.00
 Receipt #: _____
 Check #: 004054312
 Received by: AA
 Date Mailed: _____

APPLICATION FOR ZONING BOARD OF APPEALS HEARING:

ZBA Case #: 20-02 5 Votes Required

DATE OF ZONING BOARD OF APPEALS HEARING: March 19, 2020 AT 5:00 P.M.

PLEASE PRINT

APPLICANTS NAME: Our Risen Lord Lutheran Church

APPLICANTS ADDRESS: 4040 Lapeer Road

CITY: Burton

APPLICANTS PHONE: 810 742 3780

APPLICANTS EMAIL: _____

ADDRESS AND PARCEL OR LOT NUMBER: 4040 Lapeer Road / 59-15-300-005
R-D zone

NOTE: ZBA meets on the 3rd Thursday of each month. All applications and associated drawings must be on file at least six (6) weeks prior to the meeting. Notification of property within 300' must be postmarked at least 15 days prior to the meeting. Including publication in local newspaper.

VARIANCE REQUESTED: The church would like to erect a 500 linear square foot chain link fence (150"x100") on the area directly to the south of the parking lot. See attachment for approximate location. The fenced area will be dedicated to canine & other pet recreation. The fence will be four foot high of residential grade fence.

I hereby certify that the proposed application is authorized by the owner of record and that I have been authorized by the owner to make this application as his agent. I agree the statements made on the attached application are true, and if found not to be true, any permit that may be issued may be void. Further, I agree to give permission to officials of the City of Burton to enter the property subject to this permit application for the purposes of inspections. Further I understand that this is an application and any fees paid will not be refundable regardless of the decision of the Commission. Mandatory attendance at the above meeting is acknowledged.

APPLICANTS SIGNATURE: [Signature]

Attachment: Backup 20-02 (4746 : ZBA #20-02)

APPLICANT:

Please explain your hardship or reason this variance is needed and attach to the application. Any information provided to the board will be public information and will be given to the board approximately 2 weeks prior to the meeting.

There is public interest of the development of a dog park on church property for public use. Per conversation with Deputy Planning Official the property is not zoned for the intended use.

A simple four foot chain link fence is to be erected on church property. Length is 150 ft and width is 100 ft for a total of five hundred linear feet of fence. The fenced-in area will be located on the back section of the property.

Attachment: Backup 20-02 (4746 : ZBA #20-02)

Our Risen Lord Lutheran Church Dog Park

Concept Sketch



Approximate Size of Fenced-In Area:

- Length: 150 feet
- Width: 100 feet
- Linear Square Feet: 500 feet

Approximate Distance from Front Entrance of Fenced-In Area to:

- Burton Inn & Suites 180 feet
- 4041 Lapeer Rd 625 feet
- 4061 Lapeer Rd 640 feet
- Vargo's Hair Salon 430 feet
- 4071 Lapeer Rd 533 feet
- 4090 Lapeer Rd 750 feet

Our Risen Lord Lutheran Church Dog Park

Reference Map



Attachment: Backup 20-02 (4746 : ZBA #20-02)

Our Risen Lord Lutheran Church Dog Park

Traffic Counts	The annual average daily traffic for the section of Lapeer Road closest to the church is 7,421 vehicles per day. Source: Genesee County Metropolitan Planning Commission 35,043 cars pass on Center Road, closest to Lapeer Road, on a daily basis per Genesee County Metropolitan Planning Commission 64,356 cars pass on I-69 on a daily basis. Source: MDOT														
Sound	The dog park will attract dogs, which will bark. The impact of the sound generated by the barking will be mitigated by several factors. First, the park is located at a minimum of 180 feet from the closest structure (Burton Inn & Suites). There is a line of trees at the property line that will diminish the sound. Secondly, the park will be located behind the church. This means the sound of the dogs will have to travel past the church, over Lapeer Road to the front door of the closest home. For a homeowner, a vehicle traveling on Lapeer Road will generate more sound than a dog at the park. Vehicle traffic on Lapeer Road, Center Road and I-69 is near constant and should be taken into consideration when examining the potential impact of the dog park on nearby neighbors and businesses. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Dog barking</td><td style="width: 50%;">60 decibels*</td></tr> <tr> <td>Vehicle traveling at 45 mph</td><td>65 decibels*</td></tr> </table> The intensity of sound diminishes over distance. The dog park is located at a significant distance from the closest business and residential home. <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Dog barking at 180 foot distance</td><td style="width: 50%;">35 decibels**</td></tr> <tr> <td>Dog barking at 550 foot distance</td><td>25 decibels**</td></tr> <tr> <td>Soft whisper</td><td>30 decibels***</td></tr> <tr> <td>Refrigerator hum</td><td>40 decibels***</td></tr> <tr> <td>Normal conversation</td><td>60 decibels****</td></tr> </table> Sources: * University of Michigan Environmental Health ** www.omnicalculator.com/physics/distance-attenuation *** www.cdc.gov/nceh/hearing_loss/what_noises_cause_hearing_loss.html **** www.noisehelp.com/noise-level-chart.html	Dog barking	60 decibels*	Vehicle traveling at 45 mph	65 decibels*	Dog barking at 180 foot distance	35 decibels**	Dog barking at 550 foot distance	25 decibels**	Soft whisper	30 decibels***	Refrigerator hum	40 decibels***	Normal conversation	60 decibels****
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Soft whisper	30 decibels***														
Refrigerator hum	40 decibels***														
Normal conversation	60 decibels****														
Support in the Master Plan	The City of Burton Master Plan has language that supports the concept of a dog park at Our Risen Lord Lutheran Church. Master Plan Language Identify and develop pocket parks within the City of Burton's neighborhoods. Strategies: a. Amend Parks and Recreation Master Plan to provide for sites and/or locational criteria for neighborhood parks. b. Incentive program to encourage residents or private developments to develop parks and recreation. Source: City of Burton Master Plan 2018-2038 Goals and Objectives ● 9-6														



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

SCHEDULED

AGENDA ITEM (ID # 4747)

Meeting: 03/19/20 05:00 PM
Department: Department of Public Works
Category: Variance
Prepared By: Leandra Swayne
Department Head: Charles Abbey

E.2

DOC ID: 4747

ZBA #20-03

By: Allen Automotive LLC
2447 E. Judd Rd.
Burton MI 48529

Re: 2447 E. Judd Rd. Burton MI 48529/ 59-32-527-003 / M-1 Zone

For: 1. To conduct a Marijuana establishment within 1,000 feet of a school. 2. To conduct a marijuana establishment within 500 feet of another marijuana use.

ATTACHMENTS:

- Backup 20-03 (PDF)



City of Burton
 Department of Public Works
 4093 Manor Drive
 Genesee County, Burton, Michigan 48519
 (810) 742-9230

Date Filed: 2-10-20
 Fee Paid: 450
 Receipt #: _____
 Check #: 18039
 Received by: LS
 Date Mailed: _____

ZBA Case #: 20-03 4 Votes Required

APPLICATION FOR ZONING BOARD OF APPEALS HEARING:

PLEASE PRINT

DATE OF ZONING BOARD OF APPEALS HEARING: March 19, 2020 AT 5:00 P.M.

APPLICANTS NAME: Allen Automotive LLC

APPLICANTS ADDRESS: 2447 E. Judd Road

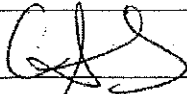
CITY: Burton, MI 48529

APPLICANTS PHONE: 810-813-7897

ADDRESS AND PARCEL OR LOT NUMBER: 2447 E. Judd Road, Burton, MI 48529

NOTE: ZBA meets on the 3rd Thursday of each month. All applications and associated drawings must be on file at least five (5) weeks prior to the meeting. Notification of property within 300' must be postmarked at least 15 days prior to the meeting. Including publication in local newspaper.

VARIANCE REQUESTED: Applicant requests a dimensional variance.
 Please see Exhibit 1 for a detailed explanation.

APPLICANTS SIGNATURE: 

MANDATORY ATTENDANCE AT THE ABOVE MEETING IS ACKNOWLEDGED BY THE APPLICANTS SIGNATURE.

APPLICANT: Please explain your hardship or reason this variance is needed.

Also see Exhibit 1

Attachment: Backup 20-03 (4747 : ZBA #20-03)

Exhibit 1

Attachment: Backup 20-03 (4747 : ZBA #20-03)

VARIANCE APPLICATION REQUEST

The applicant's property is located in the M-1 district for light industrial zoning. The property's present use is for new appliance sales, repair and refurbishing. This application seeks a dimensional variance from the requirements found in Section 157.046 of the City of Burton Zoning Ordinance.

After site plan approval, the M-1 district permits marijuana establishments, provided they are at least 500 feet from any established marijuana facility and 1000 feet from any school. Granting the requested variance will not impede the surrounding properties, and increase the parcel's taxable value without diminishing the goal of the City's zoning ordinances.

Bendle High School is located approximately 664 feet from the applicant's property measured as the crow flies, short of the 1000-foot separation requirement. There is no pedestrian access from the subject property to Bendle High School, and the distance traveled by vehicle from the applicant's property to Bendle High School is located approximately 3696 feet. A strict interpretation of the zoning ordinance's dimensional requirements under this unique circumstance creates a practical difficulty for an otherwise permitted use on the parcel. The subject property is located in an area of the City that is ideally suited to accommodate marijuana facilities. There are existing buildings on the subject parcel that could be used for marijuana facilities or with minor changes accommodate a marijuana facility.

Locational restrictions are designed to provide buffers that separate one land use from incompatible land uses and to prevent "bundling" of similar uses. Granting this variance will not undermine either goal because there is no pedestrian access for students to the high school, students have the same potential of seeing a marijuana facility on their way to school from the other licensed facilities in the City, and there is no established marijuana facility within a 500-foot radius of the present parcel. Permitting a marijuana facility at this location does not increase the possibility of fire, flood, or endanger public safety or change the character of the neighborhood. Further, the last time the topic of this property being used as marijuana facility was brought up at a City meeting, a neighboring landowner supported the suggested use for the parcel. The minutes to that meeting are attached to this application.

Michigan voters passed recreational marijuana in the last election and the City of Burton took advantage of the legislation by allowing recreational marijuana facilities, which has led to increased property values for many previously diminished commercial properties. The subject parcel is one such property where granting this variance would have a direct impact on the parcel, and immediately increase its potential and property value. Although, this applicant previously sought a variance at this location. The ordinance and topic of marijuana facilities have changed drastically in the City and the State. Granting this variance will have a positive impact on the parcel, further the goals of the City's zoning ordinance by increasing the property's value, and be a catalyst for investment into the property.



Burton
Michigan

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Burton
Michigan

Agenda Item
4461

Carried
Jul 18, 2019 5:00 PM

ZBA #19-14

Information

Department: Department of Public Works
Category: Variance
Sponsors:

Attachments

Printout
Back up 19-14

Body

By: Allen Automotive, LLC.
2447 E. Judd Rd.
Burton, MI 48529

Re: This is not a specific property request. The request is for the City as a whole.

For: An interpretation of the zoning ordinance as it relates to the distance requirements under the commercial medical marijuana facilities portion of the ordinance.

Meeting History

Jul 18, 2019 5:00 PM Video **Zoning Board of Appeals** **Regular Meeting**

Chris Stritmatter from Davison stated (and David Allen, Owner of Allen Automotive spoke) this is the second time we have been in front of this board. Originally, we asked for a variance concerning this property use for medical marijuana and the distance from the high school and the other building south of it. We are asking for an explanation as to how the spirit and intent of the zoning ordinance is met by when his variance was denied for that. He is zoned in a perfect spot. It is made for industrial use in that area. Facilities have been approved near it. It doesn't help an automotive business as the properties around it are continuing to be approved for this type of business. The distance between his property and the school is completely wooded and fenced. Mr. Allen would actually prefer to relocate his automotive business but the only people that have been interested in his building are these marijuana growers.

Thomas Panek from 2457 E. Judd said he is in support of this variance.

Mrs. Abbey stated the City of Burton has had a medical marijuana ordinance in place since 2010. Since that time, we have used property line to property line to measure out distances. We have not changed that and anyone who wished to appeal that came before the Zoning Board of Appeals. Each individual case was taken into consideration and decisions were made. If you change the way we have been doing things by changing the way this distance is measured, you will essentially change this city as a whole not his individual property. You will not be protecting the intent of the ordinance which is absolutely to protect uses not buildings or the way that the road is traveled. Two properties could share a property line without actually sharing road frontage. If this was approved and changed then you would open the city up to some very significant problems when it comes to distances. It takes that completely out of my hands and uses a measurement other than what we have been using for the last 9 years. Most recently we have divulged into the recreational marijuana ordinance requirements and through that text change we have 100% cleared up this language for the location limitations to say from property line to property line. This is not an effective ordinance so if the board decides tonight to use the traveled road as the way it is measured then we would have to edit that language.

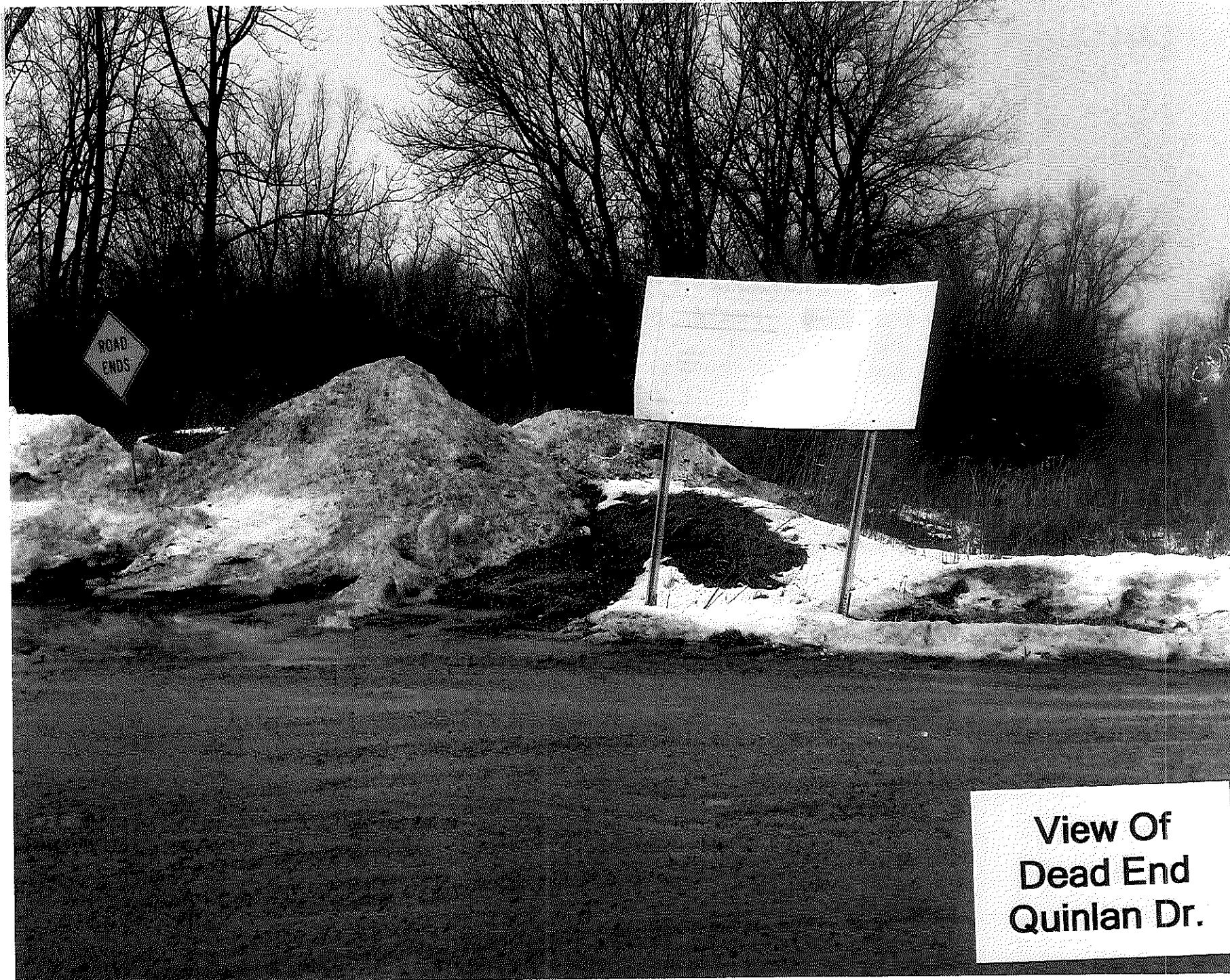
Mrs. Walton, Chair of the Planning Commission, said we have worked very hard on this. We felt that property line to property was the best way to go. We did not make this decision lightly, we made this decision with our residents in mind.

Motion to confirm the interpretation of the zoning ordinance by the administration and to make no change as it relates to the distance requirements under the commercial medical marijuana facilities portion of the ordinance. The distance requirement will stay from property line to property line.

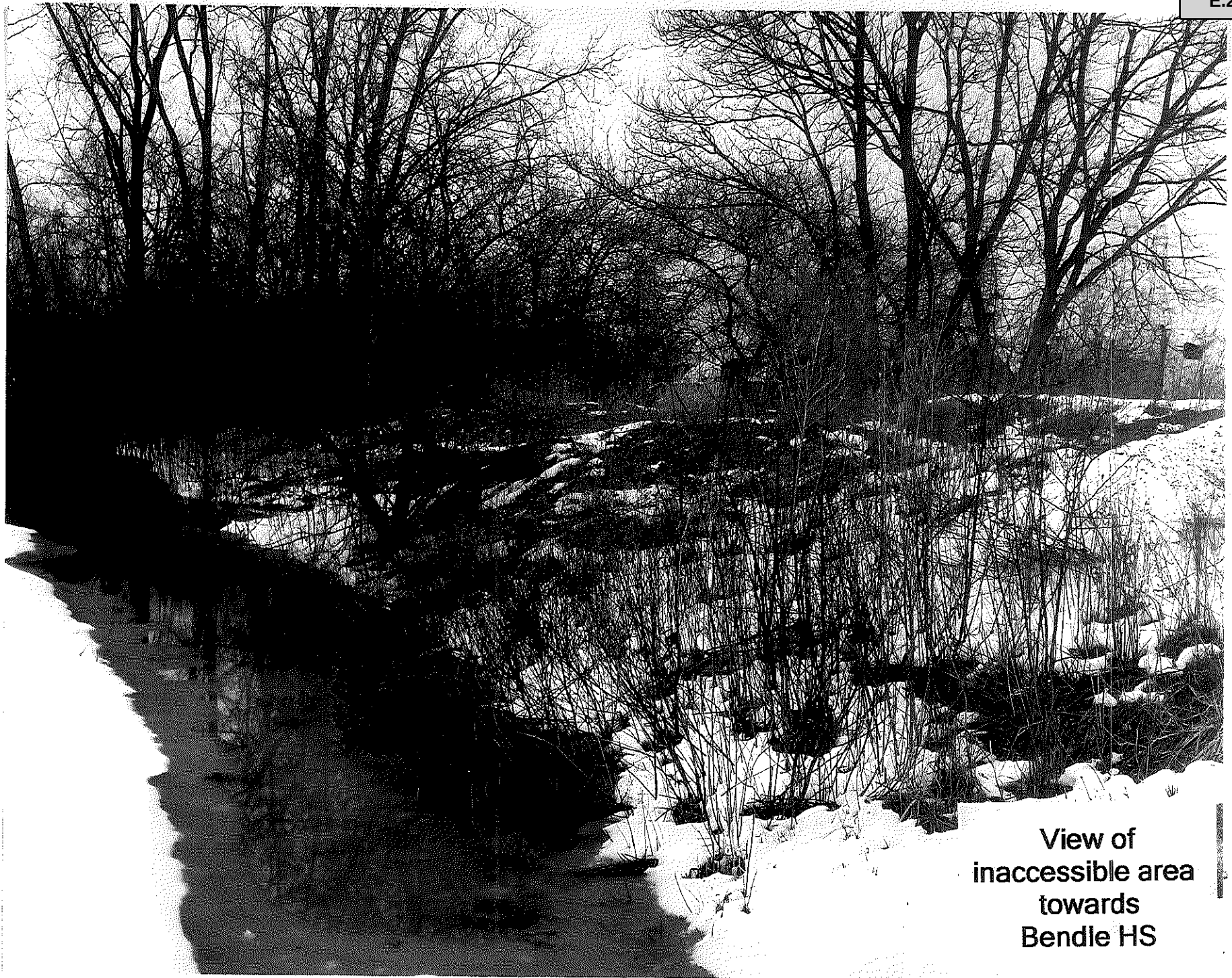
RESULT: CARRIED [UNANIMOUS]
MOVER: Scott Hynes, Commissioner
SECONDER: Don Jones, Alt. Commissioner
AYES: Don Jones, Christina Conley, Scott Hynes, Tim Rapacz, Deb Walton, Steve Welch, Rick Fuhst
EXCUSED: Michaeine Ward-Terry, Joey Richvafsky

Powered by Granicus

Attachment: Backup 20-03 (4747 : ZBA #20-03)



**View Of
Dead End
Quinlan Dr.**



View of
inaccessible area
towards
Bendle HS



View of
inaccessible area
towards
Bendle HS



View of
inaccessible area
towards
Bendle HS



View of
South Bendle
Elementary with
Southmoor Golf Behind



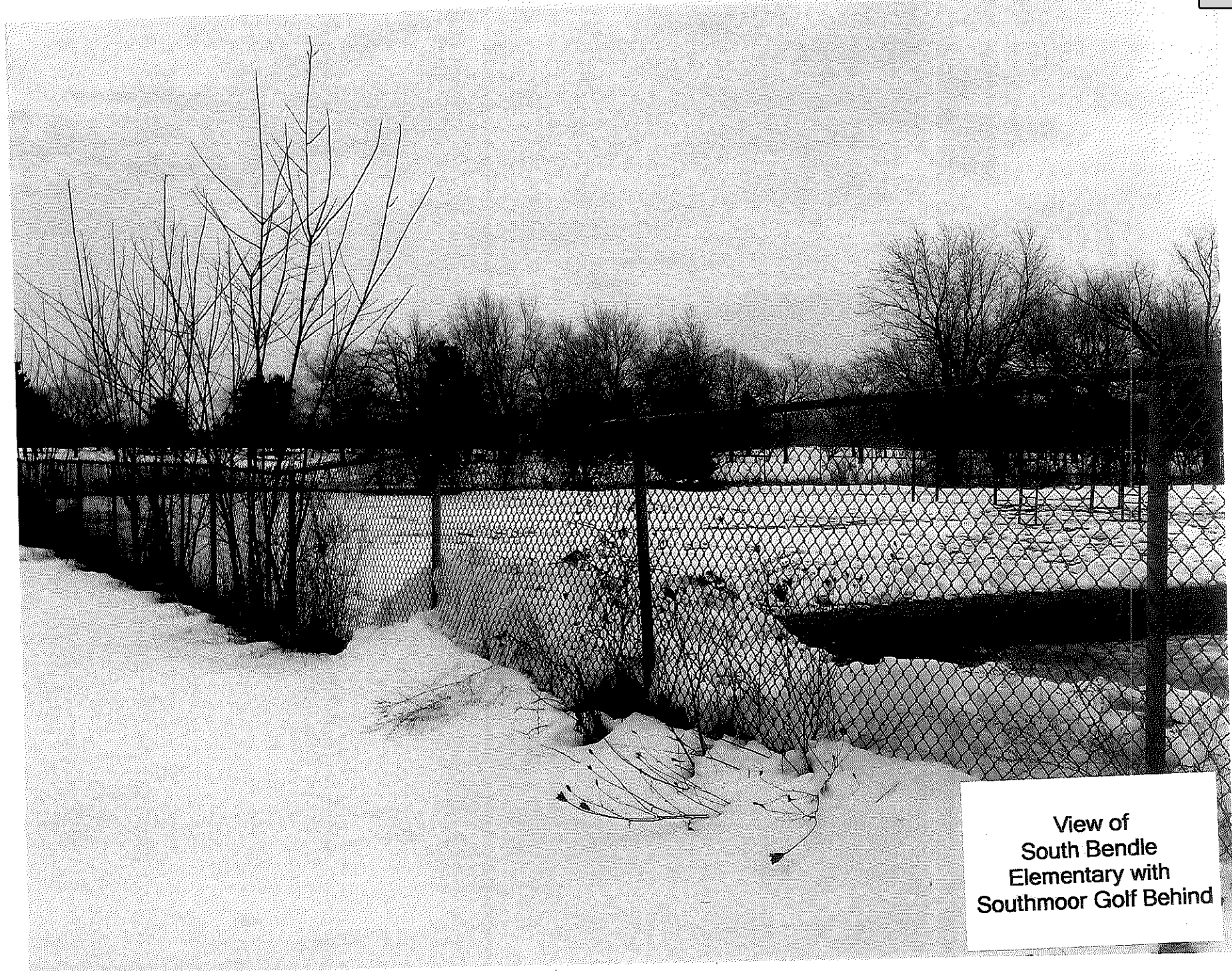
View of
South Bendle
Elementary with
Southmoor Golf Behind



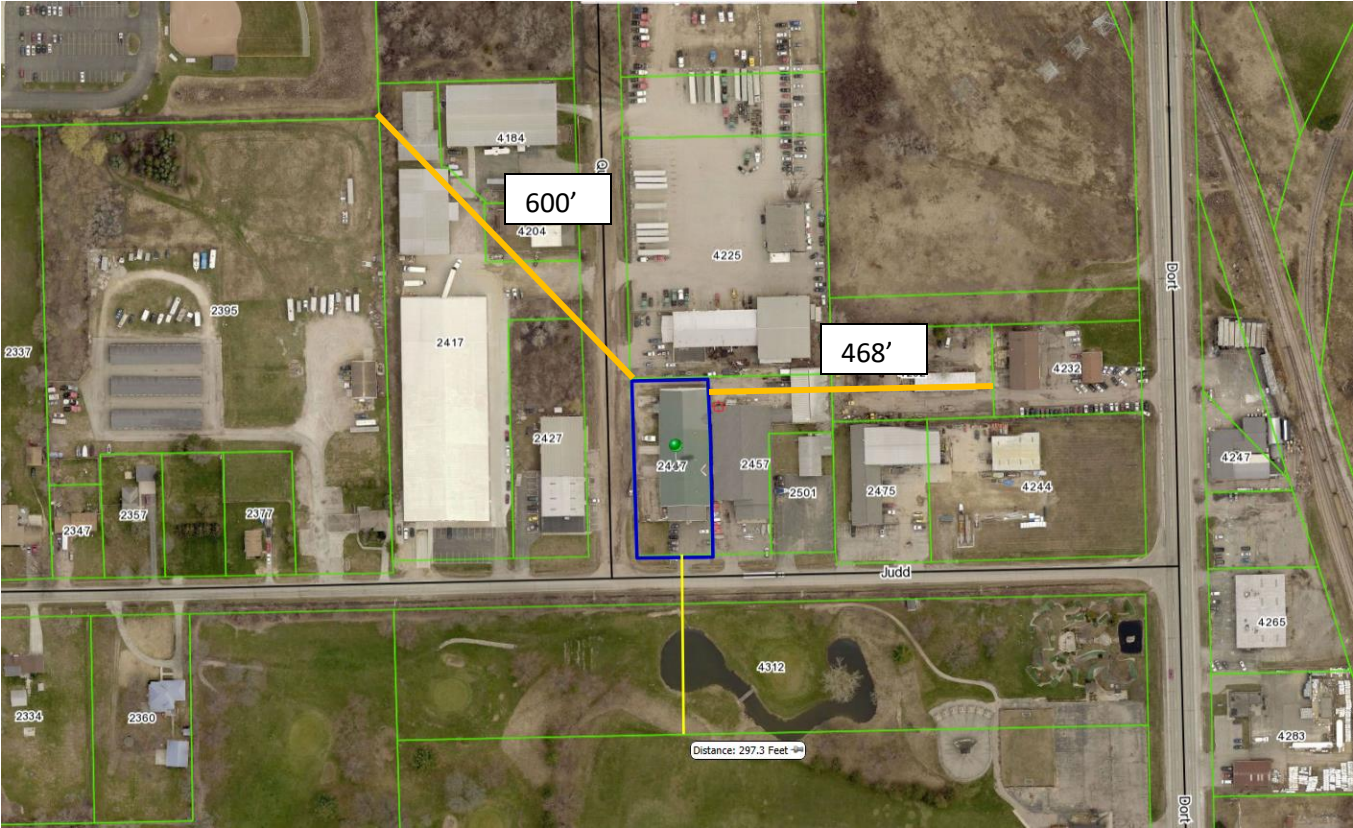
View of
South Bendle
Elementary with
Southmoor Golf Behind



View of
South Bendle
Elementary with
Southmoor Golf Behind



View of
South Bendle
Elementary with
Southmoor Golf Behind



Attachment: Backup 20-03 (4747 : ZBA #20-03)



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

SCHEDULED

AGENDA ITEM (ID # 4748)

Meeting: 03/19/20 05:00 PM
Department: Department of Public Works
Category: Variance
Prepared By: Leandra Swayne
Department Head: Charles Abbey

E.3

DOC ID: 4748

ZBA #20-04

By: Top Shelf Burton LLC
6160 Dixie Hwy Suite 205
Clarkston MI 48346

Re: 4463 S Dort Hwy Burton, MI 48529 / 59-33-300-013 / M-1 Zone

For: To conduct a marijuana use within 200 feet of a residential house.

ATTACHMENTS:

- Backup 20-04 (PDF)



City of Burton
 Department of Public Works
 4093 Manor Drive
 Genesee County, Burton, Michigan 48519
 (810) 742-9230

Date Filed: 2-21-20
 Fee Paid: \$450.00
 Receipt #: _____
 Check #: Cash
 Received by: AA
 Date Mailed: _____

APPLICATION FOR ZONING BOARD OF APPEALS HEARING:

ZBA Case #: 20-04 4 Votes Required

DATE OF ZONING BOARD OF APPEALS HEARING: March 19th, 2020 AT 5:00 P.M.

PLEASE PRINT

APPLICANTS NAME: Top Shelf Burton LLC

APPLICANTS ADDRESS: 6160 Dixie Hwy Suite 205

CITY: Clarkston MI 48346

APPLICANTS PHONE: (248) 867-1699

APPLICANTS EMAIL: jeff@watsongrp.com

ADDRESS AND PARCEL OR LOT NUMBER: 4463 S. Dort Hwy

NOTE: ZBA meets on the 3rd Thursday of each month. All applications and associated drawings must be on file at least six (6) weeks prior to the meeting. Notification of property within 300' must be postmarked at least 15 days prior to the meeting. Including publication in local newspaper.

VARIANCE REQUESTED: Small distance variance under
section 157.046 (B)(5)(b) - proximity to residential use
located in a pre-existing non-conforming residential use
in an industrial zoned parcel. We seek approval for a smaller
provisionary center within 200' of the non-conforming use across the street.

I hereby certify that the proposed application is authorized by the owner of record and that I have been authorized by the owner to make this application as his agent. I agree the statements made on the attached application are true, and if found not to be true, any permit that may be issued may be void. Further, I agree to give permission to officials of the City of Burton to enter the property subject to this permit application for the purposes of inspections. Further I understand that this is an application and any fees paid will not be refundable regardless of the decision of the Commission. Mandatory attendance at the above meeting is acknowledged.

APPLICANTS SIGNATURE: [Signature] By Top Shelf Burton LLC

Attachment: Backup 20-04 (4748 : ZBA #20-04)

VARIANCE REQUESTED and REASON FOR REQUEST FOR VARIANCE

Top Shelf Burton LLC is a Michigan LLC whose members are already State Licensed owners of the Sweet Leaf provisioning center in Flint MI.

We are seeking a variance under Section 157.046, for Light Industrial M-1 zoned property, to be able to utilize the front building existing office area and structure for the specific purpose of operating a State Licensed provisioning center, which falls within 200' of a neighboring residential use.

The variance we are requesting is _____ feet, due to the fact that our parcel line at 4463 S Dort Hwy is within 200' of a residential use located across Dort Highway at the Delduca Welding lot. While the neighboring lot is zoned industrial and we would not require a variance for proximity to industrial zoned property, they have a pre-existing, non-conforming residential use of the structure on their lot that pre-dates the City of Burton ordinance. Therefore, they are allowed to continue with their residential use in an industrial zone despite non-conformance with modern ordinance of the City of Burton and we must now seek this variance approval.

A professional rendering of the exterior of our building is attached for the Board's consideration.

We have the support of the individuals who own and live in the pre-existing non-conforming residential use across the street in this request for variance. Without this variance it would be extremely costly and burdensome to construct a new building to house this state licensed operation and would stress the City's public department resources for an unnecessary new construction and all that comes with it.

Therefore we respectfully request that the Board approve this variance request to allow for us to occupy and utilize the front office area of the existing structure which will save time and resources, enabling us to bring jobs and tax revenues to the City of Burton through our State Licensed business operations.

Thank you for your consideration.

Sincerely,



Bruce Leach

Attorney and Owner of Top Shelf Burton LLC

Attachment: Backup 20-04 (4748 : ZBA #20-04)

APPLICANT:

Please explain your hardship or reason this variance is needed and attach to the application. Any information provided to the board will be public information and will be given to the board approximately 2 weeks prior to the meeting.

See attached.

Our rear parcel ~~4443~~ S. Dort Hwy
is already approved for marijuana zoning
by the City of Burton, we seek approval
to use the front parcel ~~4463~~ S. Dort.

OWNER ACKNOWLEDGMENT:

I, Jeff McGee am the owner of property
 known as: 4463 S. Dort Hwy located in the City of Burton. I give permission
 to Bruce Leach to make an application to the Zoning Board of
 Appeals on behalf of my property. I understand unless specified by the Zoning Board of Appeals, any action
 taken by the board is permanently associated with this property in accordance with the State of Michigan
 Zoning Enabling Act.

If I need to be contacted for any reason please contact me at:

Owner Name: 4463 S. Dort Hwy LLC
 Address: 6160 Dixie Hwy Suite 205
 City: Clarkston, MI 48346
 Phone: 248-867-1699
 Email: jeff@watsongrp.com

SIGNATURE: Jeff McGee DATE: 2-21-20



Attachment: Backup 20-04 (4748 : ZBA #20-04)