



CITY OF BURTON

ZONING BOARD OF APPEALS

OCTOBER 17, 2019

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

B. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Kevin Burge	Commissioner	Present	
Don Jones	Alt. Commissioner	Excused	5:45 PM
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

Rik Hayman, Chief of Staff
Bette Bigsby, Acting Clerk
Amber Abbey, Superintendent of Planning and Zoning

D. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Jul 18, 2019 5:00 PM

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

2. Zoning Board of Appeals - Regular Meeting - Aug 15, 2019 5:00 PM

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

E. VARIANCE

1. ZBA #19-19

By: Holy Redeemer
1227 E. Bristol Rd.
Burton, MI 48529

Re: 1227 E. Bristol Rd. Burton, MI 48529
59-30-300-014 R-1C Zone

For: To conduct an outdoor recreational event for the purpose of the Parish Festival from May 28th through May 31st, 2020

Kenneth Jubar stated he is the Business Manager at Holy Redeemer Catholic Church and they will be having their annual Parish Festival which is our one big fundraiser we do every year. Last year we made \$41,000. We use these funds to fund our outreach program. Last year Holy Redeemer spent \$59,000 at the food bank and \$36,000 on water and electricity bills for those less fortunate. The need for assistance is growing every year. We have successfully implemented the changes this board has required to protect the safety of the community. Rides close down at 9:00 PM, the beer tent is gone and we have private security as well as on duty Police Officers at the festival. We have also added a youth supervision policy for anyone under the age of 17. We have had no issues since making these changes. We would like to continue to request the variance one year at a time.

Mrs. Abbey stated they had an incident several years ago and since then we have been placing stipulations on the variance: youth supervision policy, festival closes at 9PM, no beer tent, security and police presence, contract with police to have a cruiser in the neighborhood for the weekend. There have been no issues with these stipulations in place so, the administration recommends approval with these same conditions.

Mrs. Conley asked if the school will be down by then.

Mrs. Abbey stated it is coming down right now and the festival isn't until May so it should be down in plenty of time.

Mr. Burge asked if we can choose the security company.

Mr. Jubar stated he would take the Police Chief's recommendation.

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

2. ZBA #19-20

By: Michigan Residential, LLC.
51424 Van Dyke Ave. Suite 11
Shelby Township, MI 48316

Re: 3447 S. Dort Hwy. Burton, MI 48529
59-28-551-034 M-2 General Industrial Zone,

For: To conduct a Medical Marijuana Facility that will be within 500' of another facility.

Noah Link of Uttica stated he is with Michigan Residential to answer any questions.

Eric Carr of Brooklyn stated he is with Michigan Residential and the operator and CEO of Quality Roots Incorporated based out of Royal Oak, MI. He represents the real estate side of the business. It has been difficult to find a property.

Nathaniel Schaaf of Burton owns the property next door known as Affordable Wheels and Tires. This is a shared easement to my property which is a family owned business. We have concerns of what could come with the marijuana business.

Tim Kimball of Burton is the business owner. He stated he owned the tire store and sold it to Mr. Schaaf and the easement was included. It is on a land contract for 12 more years so I am still the deed holder at this point. But, the easement will always belong to Mr. Schaaf.

Mr. Carr stated the building doesn't have water, sewer, power or gas and we will need to do this quickly which will provide a benefit to the city. We are big on community outreach. We will work with the neighboring property owners and residents to make this a good situation for everyone.

Mr. Link stated there is a new roof, garage doors and paint. Mr. Kimball has invested more money into the building than what it's worth without this variance. The assessed value is around \$120,000 and he has invested \$250,000 into it. This is a financial hardship for him. We plan to make it look even better.

Mrs. Abbey asked if the easement is recorded with the county? If it is not, I would like this will be a stipulation of approval. A new driveway would cost a considerable amount of money. The ordinance does stay 500 feet which was a mechanism to limit the amount of marijuana facilities in Burton. Dort Highway is a main state highway. It is not a thoroughfare and will not be intrusive to a neighborhood. It meets all of our requirements except the distance. One of the two businesses that are too close

fronts Bristol Road but we do measure property line to property line. If we did not measure that way, the one property would not be in that distance.

Mr. Burge stated there was a lot of discussion about the 500 feet requirement before we ever put it in the ordinance. This is only 28 feet. I cannot support it.

Mr. Welch stated the owner made the improvements to the property and he made that decision to take that risk so, I don't consider this a hardship.

RESULT:	FAILED [0 TO 7]
MOVER:	Kevin Burge, Commissioner
SECONDER:	Tim Rapacz, Commissioner
NAYS:	Burge, Conley, Hynes, Rapacz, Ward-Terry, Welch, Fuhst
EXCUSED:	Jones, Walton, Richvalsky

F. AUDIENCE PARTICIPATION

Nathaniel Schaaf stated Mr. Kimball has added a permanent structure to the joint easement used for the driveway after he took my rights to use it away. Is this within his legal right?

Mrs. Abbey stated the city doesn't enforce the easement. However, he cannot build a structure without a permit. We can send someone out there. If he gets a permit and does it correctly, that is between the two of you. It is a civil matter.

G. BOARD DISCUSSION

Mr. Burge stated there will be another free food distribution next Thursday, October 24th at Bentley High School at 9 AM. There is no registration required, they only ask how many people are in your family.

Mrs. Abbey stated she would like to talk to the board about a previous case #19-15 that came before the ZBA board on July 18, 2019. This was a request from Doris Dell at 4243 Keene that she be able to keep three dogs. This was a very heated neighborhood dispute and sometimes that makes it difficult to distinguish the hardship of the case. This situation is tragic because the woman is taking care of her grandchildren after both parents passed away. Not all of the dogs were brought to the household by Mrs. Dell but by the circumstance of taking on her grandchildren. Since the meeting, I have received a certified letter from a doctor stating that these dogs are emotional support dogs that Mrs. Dell does require. I respect the decision of the ZBA to deny it by a vote of 4-3. The administration would like to ask the ZBA to reconsider the case and if possible, approve the request with the stipulation that when the current dogs pass, they do not replace them beyond the two allowable. The other part of this is if you decide to reconsider, Mr. Burge and Mrs. Ward-Terry were not here during this case. If either of you do not feel comfortable acting on it, Mr. Jones is here tonight and because he was also here during this case, he could step in and vote.

Mr. Hynes would like the City Council to amend the dog ordinance.

Mr. Rapacz asked what why the council didn't change the ordinance before.

Mrs. Abbey stated we did a huge Zoning Ordinance amendment and the dog ordinance was one of them. When it came up, the Planning Commission wanted to take it out but didn't have the right to do it at that time. Council followed their recommendation.

Mr. Hayman stated the council took the stance of what is the point in having a Planning Commission if we are not going to follow their recommendation.

Mrs. Abbey stated she will continue to reiterate that we recommend the change.

Mr. Rapacz asked, what was the Planning Commission's reasoning?

Mrs. Abbey stated I imagine some of them had some bad experiences with neighbors who had too many dogs. Changing it to 3 dogs doesn't dictate the size of the dogs. So, someone could have 3 very large dogs on a very small lot. It makes sense in some places in the city and not in others.

Mrs. Abbey asked the Zoning Board to check their schedules for potential days for training in the near future.

1. Motion to Reconsider ZBA Case # 19-15 for Doris Dell at 4243 Keene Drive to allow for 3 adult dogs.

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

2. Motion to Approve ZBA Case # 19-15 for Doris Dell at 4243 Keene Drive to allow for 3 adult dogs.

Mr. Burge will not be voting on this item and Mr. Jones has joined the board to act on the motion to approve ZBA Case # 19-15.

Mr. Hynes stated he has a problem reconsidering this case without the neighbors being informed. I feel the public/neighborhood should have a say in this.

Mrs. Abbey stated we are also not allowing the applicant to be present during the reconsideration. This is not a new public hearing. In court action, the neighbor wouldn't be involved either.

Mr. Rapacz asked what has changed since we heard the case.

Mrs. Abbey stated the administration received a letter from the doctor. I have tried to change this ordinance because we are one of the only communities in Genesee County that is limiting it to 2 dogs. Most allow 3 dogs.

Mr. Rapacz stated he can't remember the age of the dogs. This is important for determining the approximate life expectancy of the current dogs. Also, he would like a copy of the doctor's letter the administration received.

Mrs. Ward-Terry stated this can be considered new evidence.

Mrs. Abbey stated I felt like we were clouded by the arguments between the neighbors which made it hard to focus on the real facts of the case.

Discussion ensued regarding the legal ramifications involved with the reconsideration.

Mrs. Ward-Terry stated when granting a variance, we should always make sure the spirit of the ordinance is observed, public safety is secured and substantial justice is done. This is a special circumstance and by placing stipulations that she cannot replace the dogs keeps our ordinance intact.

Mr. Hynes asked if there is any language regarding how many support animals and the type of animals that can be support animals. This situation with support animals keeps coming up.

Mrs. Abbey stated there is no law that determines the number of support animal a person can have. That is why we take each individual situation into consideration.

Mrs. Conley stated when they came in it was more about moving the car so the bus could pick the children up which turned into a complaint about the dogs. This is a hardship. These children lost their parents.

Mrs. Abbey stated that's correct. The dogs have been there for a considerable amount of time and there were no complaints regarding them until there was an issue with the parking.

Mr. Welch asked, if this goes to court and they win, that changes it for everyone in the city, correct?

Mrs. Abbey stated it would make it difficult to enforce our ordinance without that same scrutiny depending on the decision the court makes.

Mr. Fuhst stated anyone can go online for \$25.00 and make their dog a service animal.

Mrs. Abbey stated at a Planning Conference last month there was a great deal of discussion on support animals versus service animals and it hasn't been quite figured out when it comes to zoning laws. At some point it will be taken to a higher court and will be taken out of your control. I believe this will change zoning law within the next 5 years which may make it to where zoning laws can't effect the number of dogs that are support animals and somebody can certify that.

Mr. Hynes stated there needs to be a lot more clarity with this. Did the applicant contact the administration or just the doctor?

Mrs. Abbey stated she spoke to their attorney and then contacted the Mayor's Office. Neither the applicant or neighbors know about this currently.

Mr. Hayman stated one of our responsibilities is to mitigate liability. We had some conversations with our attorney and decided the best way to handle it was to ask this board to reconsider. We have a concern that if this goes to court then it takes the power away from the ZBA to act on individual cases because of the precedence that may occur.

Mrs. Abbey stated the applicant didn't comply with the boards decision, we sent them a letter and at that point the attorney contacted us. The next step in our enforcement process is to take them to court to remove the dogs. That will be what

we have to do if you don't make the reconsideration. Basically, it becomes a last attempt to make sure we have thoroughly examined the facts of the case.

Mr. Rapacz asked, how we are going to notify the people that were here that thought it was denied?

Mr. Hayman stated I think it was clear on both sides at the meeting and since then that there was a lot more going on with the neighbors besides the dogs.

Mr. Hynes asked if we can add a stipulation that there will be no complaints allowed in 6 months.

Mr. Hayman stated specifying a convicted offense would be a better way to phrase it.

Mr. Hynes stated he believes this will give the neighbors some form of representation because I have a big problem with them not being involved in this decision.

Mr. Fuhst stated the reason he voted no the first time was regarding the size of the house and yard and the amount of people and dogs living there. I didn't think this was a good situation for them to be in.

A stipulation was added to the motion that if any of the three current dogs for any reason, are no longer in the home, they cannot be replaced beyond the 2 allowable dogs and that there shall be no convicted offenses regarding the dogs for 6 months.

Mr. Welch explained that 5 votes are required for approval.

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

The next regularly scheduled meeting will be held on Thursday, November 21, 2019, at 5:00 p.m.



CITY OF BURTON

ZONING BOARD OF APPEALS

JULY 18, 2019

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

B. CALL TO ORDER

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	Present	
Michaeline Ward-Terry	Vice Chairperson	Excused	
Steve Welch	Chairman	Present	
Joey Richvalsky	Alt. Commissioner	Excused	
Rick Fuhst	Commissioner	Present	

C. STAFF PRESENT

Amber Abbey, Planning & Zoning
Rik Hayman, Chief of Staff
Marcy Kimball, Records Tech

D. APPROVAL OF MINUTES

None.

E. VARIANCE

1. ZBA#19-13

By: Daniel Peake
2111 Delaney St.
Burton, MI 48509

Re: 2111 Delaney St. Burton, MI 48509
59-03-300-040 R-1B Zone,

For: To construct a 4' chain-link fence in the front yard, objection received from
adjoin property owner.

Daniel Peake from Delaney Street stated I would like to put up a 4 ft. chain link
fence from the front of my house, where the privacy fence stops and out to the end
of the property line.

Cheryl DuShane from Delaney Street and neighbor of Mr. Peake's, said if the fence is

there it will be very hard for me to mow my lawn. My property at the end is slanted, which makes it even harder for me next to a chain link fence.

Mrs. Abbey stated we are not here to decide on a variance. You are only deciding on whether or not he can have the fence. Our ordinance states that when a fence goes into a front yard we notify the adjoining property owners. We received one objection back from Cheryl Dushane. What the board needs to decide on is if this fence is appropriate for this area. Properties are small and tight in this neighborhood.

Mr. Rapacz asked Mr. Peake, do you plan on encircling your front yard or just run down the property line and what is the reason for the fence.

Mr. Peake stated eventually I hope to encircle my front yard, but for now I would just like to run the fence down the side yard. I want to put this up to slow the foot traffic through there and keep stray animals out.

Motion to construct a 4' chain-link fence in the front yard, objection received from adjoin property owner.

RESULT: WITHDRAWN

2. Motion to allow a split rail fence on the north, side property line only.

Mrs. Walton stated when you own property and you have other people who were approved cyclone fences in your neighborhood, I do not think it is right to not allow it for another person.

Mrs. Conley stated she agreed with Mrs. Walton.

Motion to allow a split rail fence on the north, side property line only.

RESULT: FAILED [3 TO 4]
MOVER: Scott Hynes, Commissioner
SECONDER: Tim Rapacz, Commissioner
AYES: Jones, Hynes, Welch
NAYS: Conley, Rapacz, Walton, Fuhst
EXCUSED: Ward-Terry, Richvalsky

3. Motion to construct a 4' chain-link fence on the north side property line only, objection received from adjoining property owner.

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

4. ZBA #19-14

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.

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:	Jones, Conley, Hynes, Rapacz, Walton, Welch, Fuhst
EXCUSED:	Ward-Terry, Richvalsky

5. ZBA #19-15

By: Doris Dell
4243 Keene Dr.
Burton, MI 48519

Re: 4243 Keene Dr. Burton, MI 48519
59-34-551-045 R-1B Zone,

For: To conduct an M-1 special use in an R-1B Single Family Residential zone to allow more than 2 adult dogs.

Doris Dell from Keene Drive, read a letter from her doctor stating that he is prescribing an emotional support animal that will help Doris. She meets the definition of disability under the Americans Disability Act. Due to her mental illness, Doris has certain limitations regarding anxiety, grief response and PTSD. Ms. Dell said my daughter died three years ago and her three girls live with me. One of the girls has traumatic brain injury and is in a wheelchair. The bus stops at the end of my driveway to pick her up. The neighbor parked her car almost on the property line, so the bus cannot come in completely to pick her up. They have to pick her up in the middle of the road where it is muddy. The neighbor has also adjusted my security light on my porch. This light shines down on our handicap ramp. The light does not shine in their window.

Betsy Snyder from Howe Road, stated she has lived next door to Ms. Dell for over 30 years. Three of the dogs they have come with the three grandkids that moved in to Ms. Dells home. There is a total of four dogs, two cats, 5 people. One person is very handicapped and one is elderly. This is in a home that is a little over 900 sq. ft. with very little property. They do not leash their dogs and scream for them to come in day and night. They have no fenced in yard so they walk them on Consumers property and probably do not clean up their droppings. The dogs pee on my fence. I don't feel I should have to live this way. The law is there to protect not only us but the community. It is there to protect our mail carriers, delivery people, the garbage men, you next door neighbor, the kids riding bikes, the bus drivers that let the kids on and off the bus.

Larry Snyder from Howe Road said he did not park in her driveway, he parked in front of his house. They do not leash their dogs.

Heather Allen from Howe Road stated we should only be allowed two dogs. We have small homes and the yards are not fenced. If you add to the number of dogs allowed, that's where hoarding starts.

Tammy Dell from Bristol Road said I don't see any reason they cannot have a light shining on their ramp.

Mrs. Walton asked if the dogs have ever bitten anyone.

Ms. Dell stated no.

Mrs. Abbey stated this is a variance for dogs only and all other concerns need to be addressed through the Police Department. Our code enforcement officer received a complaint about the number of dogs they had. He advised them to remove the extra dogs or apply for a variance. They applied for a variance and that is why we are here today. Their request says they have three dogs but they currently have four. The administration is going to leave this decision to the board.

One of the ladies that lives in Doris Dell's home stated, I have recently moved out with my dog.

Mrs. Abbey said the request for the variance has gone from four dogs down to three dogs.

Mr. Hynes stated the cards that we received were issued in July. I also googled them and it was for an ad. I question the validity of the cards. I do not question the validity of the doctors note. We have some upset neighbors here and I wish they would handle it in a neighborly manner. However, I am a firm believer that if we have neighbor objections, we need to stick to the ordinance.

Motion to conduct an M-1 special use in an R-1B Single Family Residential zone to allow more than 2 adult dogs with the following stipulations:

1. To allow for 3 dogs at this time.
2. Must reapply for the variance every 2 years.
3. When the number of dogs goes down to two, there will be no replacement of a third dog. At this time, they will only be allowed to have two dogs as the ordinance states.
4. They must show proof of all dog licenses to the city every year. Failure to do so, will result in the loss of the variance.

RESULT:	FAILED [4 TO 3]
MOVER:	Deb Walton, Commissioner
SECONDER:	Christina Conley, Council Representative
AYES:	Jones, Conley, Rapacz, Walton
NAYS:	Hynes, Welch, Fuhst
EXCUSED:	Ward-Terry, Richvalsky

F. BOARD DISCUSSION

Mrs. Walton spoke regarding the building that Lowes on Court Street was in. On the radio station it was stated that Costco was going to go in there but because of our administration and council they have decided not to. My question to the administration is, have you ever heard from Costco in any way?

Mrs. Abbey stated I can only speak for myself as the superintendant of Planning and Zoning. I have not spoken to Costco and I am not aware of anyone else who has.

Mrs. Conley stated people with big businesses are going to come here because of the business, population, expressways and location.

The next regularly scheduled meeting will be held on Thursday, August 15, 2019, at 5:00 p.m.



CITY OF BURTON

ZONING BOARD OF APPEALS

AUGUST 15, 2019

Council Chambers

Regular Meeting

5:00 PM

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

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A. PLEDGE OF ALLEGIANCE

B. CALL TO ORDER

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

C. STAFF PRESENT

Amber Abbey, Planning & Zoning
Marcy Kimball, Records Tech, CMC

D. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Jun 20, 2019 5:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Rick Fuhst, Commissioner
SECONDER:	Joey Richvalsky, Alt. Commissioner
AYES:	Jones, Conley, Hynes, Rapacz, Welch, Richvalsky, Fuhst
EXCUSED:	Walton, Ward-Terry

E. VARIANCE

1. ZBA #19-16
 By: Eric Hubbard
 3349 E. Hemphill Rd. Burton, MI 48529

 Re: 3349 E. Hemphill Rd. Burton, MI 48529
 59-28-528-199 / 59-28-528-203 (Must be combined) R-1C Zone,

 For: To convert an existing house into an accessory structure that will cause the

accessory structure to be closer to the road than the house and will create three detached accessory buildings, only 2 allowed.

Eric Hubbard from 3349 E. Hemphill Road said this old house has been there probably since 1920's and it does not impede the view. I would like to make this into a shed and combine my property taxes.

Mr. Richvalsky asked if walls would be torn down, if electrical and heat would remain there and was concerned about weight bearing walls and roof being compromised.

Mr. Hubbard said he will probably leave one bedroom there, for storage. It is not hooked up to Consumers right now. I will have them cut and cap it. There will be no heat or electric to the garage.

Mrs. Abbey stated it will be inspected properly and a permit would have to be pulled. At some point Mr. Hubbard purchased the property to the west of him. His intention is to convert the home into a garage, combine the parcels and make that an accessory structure versus it being a single-family residential home. As far as the city is concerned, it is in line with the other houses along the road. The administration recommends approval with the following conditions, that the portion of the building that faces the road either be a garage door or a solid wall. The front of the building needs to look like a garage, not a home.

Mr. Rapacz asked if the city would be losing out on revenue if he combines the two lots.

Mrs. Abbey said it will no longer be a single-family residential home so yes, there would be a loss. But if the house continues to deteriorate and you demo it, you're a complete loss.

Motion to convert an existing house into an accessory structure that will cause the accessory structure to be closer to the road than the house and will create three detached accessory buildings, only 2 allowed with the stipulation that the front door be removed so that it looks like a garage on the outside, the portion of the building that faces the road will either be a garage door or a solid wall.

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

2. ZBA #19-17

By: Starlite Coney Island / Bill Carr Signs
4125 E. Court St.
Burton, MI 48509

Re: 4125 E. Court St. Burton, MI 48509
59-10-300-006 C-4 Zone

For: To construct an addition to the sign that will be 32 sq ft more of signage than the previously approved 119 sq ft.

Jamie Elfstrom from Bill Carr Signs stated this sign would be an LED, lighted sign. It

would dim at night and would be brighter during the day. The main time it would be on is from 7 AM to 10 PM.

Jason Hester from Starlite said the sign would be more visible especially in the winter weather.

Mrs. Abbey said these electronic signs that show daily specials are much better than the changeable letter signs. If we need to give them a little more square footage in order for them to have a nice, clean look, I would recommend approval.

Motion to construct an addition to the sign that will be 32 sq. ft more of signage than the previously approved 119 sq. ft.

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

3. ZBA #19-18

By: Bill Dwyer
P.O. Box 514
Oxford, MI 48371

Re: 2136 E. Buder Ave. Burton, MI 48529
59-32-503-228 R-1C Zone

For: To conduct an M-1 special use in an R-1B Single Family Residential zone to allow more than 2 adult dogs.

Bill Dwyer from Oxford stated he is Patrice Gulecki and Joel Savela's landlord. They moved into this property and they have four dogs. Three of the dogs are very small, about 4 to 5 pounds each. These tenants have been cleaning up the property and improving the property. They pay on time and are responsible. I would like to see them be able to stay there.

Patrice Gulecki of 2136 E. Buder said she suffers from depression, panic attacks, PTSD and anxiety. My dogs help me with that. The oldest dog is 5 years old and the other three dogs are four years old. Three of them are Italian Greyhound mini Pinschers mix and the oldest is a Pitbull and hound mix.

Joel Savela of 2136 E. Buder said we moved into the home in February. We came from a mobile home park and the dogs are not used to their surroundings yet. I am handicapped and have PTSD, anxiety and ADD. The dogs really help us with our health problems.

Mr. Welch read the letter from Mrs. Gulecki's Doctor stating that her dogs benefit her mental health.

Mr. Savela stated they never let their dogs bark for more than ten minutes at a time. They are in training with special needs dogs so that we can get the certificate for that. The training would be at least another four weeks. Our compromise would be to continue to train the dogs and not let them out in the yard for more than five minutes and to quiet the dogs down. I will work with Mr. Wells on this. We cannot

afford to move.

Jay Wells of 2140 E. Buder stated since they moved in next door their dogs have drove me to the edge of insanity. They started with five dogs. Now they have four dogs that do nothing but bark constantly. I have tried to reason with them and tried to ignore it for the first three months in the hopes that he would work with the dogs and with me. I offered many solutions that were ignored. They even put a magnetic door on so that the dogs could go in and out whenever they wanted. I can't even play ball with my dog in my own back yard because there is too much distraction. My dog doesn't bark. There have been many instances where they have sent me threatening texts and I have six police reports on them for disturbing the peace and damage that they have caused to my house and property. They have also intentionally sprayed water from their hose into my back window. They haven't tried to work with me from the beginning. They have been there since February and they are not training their dogs. It is the responsibility of the landlord to know what the code is. He put them in that house without checking the codes and has created a hostile environment for me to live in.

Racheal Boggs of McLean Street stated I live on the next street over from 2136 Buder. I received something in my mailbox encouraging people to come because of the noise. I often hear the dogs and the fighting. It is loud and annoying even to the people on the next street over.

Mr. Welch stated you also have four dogs and only two dogs are allowed by our ordinance.

Mr. Dwyer said he has offered to let these tenants out of their one-year lease early if necessary.

Mr. Richvalsky stated I think two dogs are enough for the psychological and mental health of the applicants. This are too many dogs for that space.

Mrs. Abbey stated the Code Enforcement Officer received a complaint in June 2019 regarding the dogs and placed a notice in their door. The property owner contacted us. We went over their options and the tenant applied for the variance. It is the landlord's responsibility to check the ordinance as well as anyone else that is planning on moving into the City of Burton. It is usually the people who are the property owners who are requesting the variance. One contingency point that I want to make is that if this variance is approved, do not approve it in general because it would go with the property. What you decide could affect that home forever, the variance would go with the property. I ask that, if approved, a contingency be placed that it would be specifically allowed for these two people only. That way, if the move out, the variance will not go with the property.

RESULT:	FAILED [0 TO 7]
MOVER:	Scott Hynes, Commissioner
SECONDER:	Tim Rapacz, Commissioner
NAYS:	Jones, Conley, Hynes, Rapacz, Welch, Richvalsky, Fuhst
EXCUSED:	Walton, Ward-Terry

F. AUDIENCE PARTICIPATION

None.

G. BOARD DISCUSSION

None.

The next regularly scheduled meeting will be held on Thursday, September 19, 2019, at 5:00 p.m.

Minutes Acceptance: Minutes of Aug 15, 2019 5:00 PM (Approval of Minutes)



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

Meeting: 10/17/19 05:00 PM
Department: Department of Public Works
Category: Variance
Prepared By: Amber Abbey
Department Head: Bette Bigsby

E.1

ADOPTED

AGENDA ITEM (ID # 4587)

DOC ID: 4587

ZBA #19-19

By: Holy Redeemer
1227 E. Bristol Rd.
Burton, MI 48529

Re: 1227 E. Bristol Rd. Burton, MI 48529
59-30-300-014 R-1C Zone

For: To conduct an outdoor recreational event for the purpose of the Parish Festival
from May 28th through May 31st, 2020

COMMENTS - Current Meeting:

Kenneth Jubar stated he is the Business Manager at Holy Redeemer Catholic Church and they will be having their annual Parish Festival which is our one big fundraiser we do every year. Last year we made \$41,000. We use these funds to fund our outreach program. Last year Holy Redeemer spent \$59,000 at the food bank and \$36,000 on water and electricity bills for those less fortunate. The need for assistance is growing every year. We have successfully implemented the changes this board has required to protect the safety of the community. Rides close down at 9:00 PM, the beer tent is gone and we have private security as well as on duty Police Officers at the festival. We have also added a youth supervision policy for anyone under the age of 17. We have had no issues since making these changes. We would like to continue to request the variance one year at a time.

Mrs. Abbey stated they had an incident several years ago and since then we have been placing stipulations on the variance: youth supervision policy, festival closes at 9PM, no beer tent, security and police presence, contract with police to have a cruiser in the neighborhood for the weekend. There have been no issues with these stipulations in place so, the administration recommends approval with these same conditions.

Mrs. Conley asked if the school will be down by then.

Mrs. Abbey stated it is coming down right now and the festival isn't until May so it should be down in plenty of time.

Mr. Burge asked if we can choose the security company.

Mr. Jubar stated he would take the Police Chief's recommendation.

ATTACHMENTS:

- Back up 19-19 (PDF)

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

E.1



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

Date Filed: 8-16-19
 Fee Paid: 450.00
 Receipt #: _____
 Check #: PA
 Received by: AA
 Date Mailed: _____

ZBA Case #: 19-19 5 Votes Required

APPLICATION FOR ZONING BOARD OF APPEALS HEARING:

PLEASE PRINT

DATE OF ZONING BOARD OF APPEALS HEARING: October 17, 2019 AT 5:00 P.M.

APPLICANTS NAME: HOLY REDEEMER CATHOLIC CHURCH

APPLICANTS ADDRESS: 1227 E. BRISTOL ROAD

CITY: BURTON, MICHIGAN 48529

APPLICANTS PHONE: 810-743-3050 (Ken)

ADDRESS AND PARCEL OR LOT NUMBER: 1227 E. BRISTOL ROAD

BURTON, MI. 48529

59-30-300-014

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: HOLY REDEEMER IS REQUESTING THAT WE BE ALLOWED TO HOLD
OUR PARISH FESTIVAL ON MAY 28, 29, 30, 31, 2020

APPLICANTS SIGNATURE: Kenneth A. Julian

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

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

OUR PARISH FESTIVAL IS A COMMUNITY EVENT AND IS OUR ONE BIG
FUND RAISER FOR HOLY REDEEMER CATHOLIC CHURCH.

Attachment: Back up 19-19 (4587 : ZBA #19-19)



Burton Zoning Board of Appeals

4303 S. Center Road
Burton, MI 48519

Meeting: 10/17/19 05:00 PM
Department: Department of Public Works
Category: Variance
Prepared By: Amber Abbey
Department Head: Bette Bigsby

E.2

DEFEATED

AGENDA ITEM (ID # 4588)

DOC ID: 4588

ZBA #19-20

By: Michigan Residential, LLC.
51424 Van Dyke Ave. Suite 11
Shelby Township, MI 48316

Re: 3447 S. Dort Hwy. Burton, MI 48529
59-28-551-034 M-2 General Industrial Zone,

For: To conduct a Medical Marijuana Facility that will be within 500' of another facility.

COMMENTS - Current Meeting:

Noah Link of Uttica stated he is with Michigan Residential to answer any questions.

Eric Carr of Brooklyn stated he is with Michigan Residential and the operator and CEO of Quality Roots Incorporated based out of Royal Oak, MI. He represents the real estate side of the business. It has been difficult to find a property.

Nathaniel Schaaf of Burton owns the property next door known as Affordable Wheels and Tires. This is a shared easement to my property which is a family owned business. We have concerns of what could come with the marijuana business.

Tim Kimball of Burton is the business owner. He stated he owned the tire store and sold it to Mr. Schaaf and the easement was included. It is on a land contract for 12 more years so I am still the deed holder at this point. But, the easement will always belong to Mr. Schaaf.

Mr. Carr stated the building doesn't have water, sewer, power or gas and we will need to do this quickly which will provide a benefit to the city. We are big on community outreach. We will work with the neighboring property owners and residents to make this a good situation for everyone.

Mr. Link stated there is a new roof, garage doors and paint. Mr. Kimball has invested more money into the building than what it's worth without this variance. The assessed value is around \$120,000 and he has invested \$250,000 into it. This is a financial hardship for him. We plan to make it look even better.

Mrs. Abbey asked if the easement is recorded with the county? If it is not, I would like this will be a stipulation of approval. A new driveway would cost a considerable amount of money. The ordinance does stay 500 feet which was a mechanism to limit the amount of marijuana facilities in Burton. Dort Highway is a main state highway. It is not a thoroughfare and will not be intrusive to a neighborhood. It meets all of our requirements except the distance. One of the two businesses that are too close fronts Bristol Road but we

do measure property line to property line. If we did not measure that way, the one property would not be in that distance.

E.2

Mr. Burge stated there was a lot of discussion about the 500 feet requirement before we ever put it in the ordinance. This is only 28 feet. I cannot support it.

Mr. Welch stated the owner made the improvements to the property and he made that decision to take that risk so, I don't consider this a hardship.

ATTACHMENTS:

- Back up 19-20 (PDF)

RESULT:	FAILED [0 TO 7]
MOVER:	Kevin Burge, Commissioner
SECONDER:	Tim Rapacz, Commissioner
NAYS:	Burge, Conley, Hynes, Rapacz, Ward-Terry, Welch, Fuhst
EXCUSED:	Don Jones, Deb Walton, Joey Richvalsky



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

Date Filed: 9-9-19
 Fee Paid: 450.00
 Receipt #: _____
 Check #: _____
 Received by: AAA
 Date Mailed: _____

ZBA Case #: 19-20 4 Votes Required

APPLICATION FOR ZONING BOARD OF APPEALS HEARING:

PLEASE PRINT

DATE OF ZONING BOARD OF APPEALS HEARING: Oct 17, 2019 AT 5:00 P.M.

APPLICANTS NAME: Michigan Residential LLC

APPLICANTS ADDRESS: 51424 Van Dyke Ave Suite 11

CITY: Shelby Township, MI 48316

APPLICANTS PHONE: 248 467-1878

ADDRESS AND PARCEL OR LOT NUMBER: 3447 Dort Highway

parcel number. 59-28-551-034

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: To conduct a medical marijuana
facility that will be w/in 500'
of another facility.

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.

Attachment: Back up 19-20 (4588 : ZBA #19-20)



3055 Bristol Rd. – Approximately 289'



3425 S. Dort Hwy. – Approximately 28'

