



CITY OF BURTON

ZONING BOARD OF APPEALS

OCTOBER 21, 2021

Council Chambers

Regular Meeting

5:00 PM

4303 S. CENTER ROAD
BURTON, MI 48519

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

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

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

C. STAFF PRESENT

Amber Abbey, Deputy DPW Director
Lindsey Bice, Clerk's Office
Leandra Swayne, DPW Records Tech

D. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Sep 16, 2021 5:00 PM

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

E. VARIANCE

1. ZBA #21-14
By: Genova USA
1760 W. Associates Ave., Salt Lake, Utah 84104

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

For: 1.To conduct an M-1 light industrial use in a C-2 general business zone for

wholesale.

2.To conduct an M-2 special use in a C-2 general business zone for an open storage yard.

Mrs. Abbey informed the board that she mailed the applicant a letter after the last meeting, at their request, informing the applicant that there would be no more postponements. She read into the record a response letter from Richard Reese, building owner, stating the current condition of the building, their plans moving forward and that they are still waiting for the as-built plans to provide to the board. I have been asked to withdraw their application on their behalf. If you do not want to do that, you can choose to postpone again.

Mr. Rapacz suggested that the variance gets withdrawn because, in his opinion, most people won't want to make a decision without seeing plans and we have spent enough time talking about this for now. Motioned that the applicant withdraw at this time.

Mr. Burge raised concerns regarding the drainage system and how we can make sure that will not affect the neighboring businesses with all the rain lately.

Mrs. Abbey stated that is what the as-built plans will tell us. Mr. Doyle is here in the audience tonight and may be able to answer some of your questions.

Jim Doyle with Genova USA stated he has spoken with Collette's Vintage and they informed him they were thankful for the updated drainage system because previously, they flooded but do not flood anymore.

Motion to withdraw the variance.

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

2. ZBA #21-26

By: George Fletcher
6475 Wagner Ave., Grand Blanc, MI 48439

Re: 6475 Wagner Ave., Grand Blanc, MI 48439
Parcel # 59-36-576-012, Zoned SE

For: To allow farm animals (goats) on property with less than 5 acres.

George Fletcher of 6475 Wagner Ave, Grand Blanc stated he has a six foot fence around his backyard where he keeps his goats. He has had them since they were five and six days old, they are now one year old. None of his neighbors have a problem with them. He makes sure they are cleaned up after.

Chris Christensen at 6465 Wagner Ave, Grand Blanc stated he lives next door to Mr. Fletcher. He does not have any issue with the goats. His grandchildren go over everyday to play with them. They do not make any inappropriate noises. We are in favor of Mr. Fletcher.

Mrs. Abbey stated On August 23, 2021, the City of Burton received a complaint about farm animals at Mr. Fletcher's property. The complaint was for goats, sheep, roosters and chickens. They did receive a permit for the chickens under the backyard chicken ordinance, which allows them to have six chickens but no roosters. Their request is only for the goats, the sheep are gone. I would think the person who made the original complaint would have lived within 300 feet but I do not see them here tonight and they did not respond. I'm going to leave this one up to the board. The particular property is about three-quarters of an acre.

Mr. Burge asked if the goats make any obnoxious noises when guests come by. If his yard is fenced in, how he keeps the yard nice with three goats running around, if he sells the goats and if they have to be vaccinated.

Mr. Fletcher stated they are Nigerian Dwarf Goats, they stand about a foot tall. They do not make noise unless I am putting hay in with them. My backyard is all grass and fenced in. The goats go into a pen for shelter at night and are able to walk around my yard during the day. I do not sell the goats, they are my pets. They do get a vaccine and they have all had it.

Mr. Rapacz asked how long the goats live for.

Mr. Fletcher stated up to 10 years.

Mr. Rapacz asked, if we approve this, but say that it expires when the goats expire, would you be okay with that?

Mr. Fletcher stated I would absolutely be okay with that.

Mrs. Abbey stated I would ask that he submit pictures of each goat to our office. I am comfortable with this if we get the pictures and say that it does not go with the property, it is for this particular party only.

Mr. Rapacz motioned to approve ZBA #21-26 with the condition that it only applies to the three goats that are on the property now, the applicant has to submit pictures to the city, it will only last for the life of the goats.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Tim Rapacz, Commissioner
SECONDER:	Gary Kautz, Alt. Commissioner
AYES:	Burge, Kautz, Hynes, Rapacz, Ward-Terry, Welch, Fuhst
EXCUSED:	Conley, Richvalsky

3. ZBA #21-27

By: Edward Brenner
3264 Card Dr., Burton MI

Re: 3264 Card Dr., Burton MI
Parcel # 59-33-100-013, Zoned M-2
Parcel # 59-33-200-001, Zoned M-1

For: To conduct a marijuana facility that will be within 500' of an existing marijuana facility.

Edward Brenner at 3264 Card Drive, Burton stated this is the third time I have been in front of this board. The first time was when I objected to the marijuana plant across from my residence. The second time was when I applied for a variance for medical marijuana so I could sell my property, I was turned down. I looked at the record for the last meeting and saw that you have approved a marijuana facility on Associates Drive within 60 feet of another facility. My question is, why am I being turned down?

Linda Gram at 3265 Card Drive stated on behalf of TRex 1 Corp that they are not necessarily opposing Mr. Brenners request. They do not feel he has proven a hardship, he could sell his property to another business. We prefer not to have a competitor across the street. We have made him an offer, he could accept our offer if he wants to sell it.

Mrs. Abbey stated to clarify why you are hearing this case again, on April 15, 2021, this case was heard at a virtual meeting. We were advised by the attorney that if an applicant felt like the virtual meeting forum hindered their case, they could apply again. We are going to ask that if you do approve this case that the parcels be combined. Outside of that, I am going to leave this one up to the board.

Mr. Welch stated every case that comes before the board is determined by its own merit. There is no precedence set.

Mr. Rapacz asked if the applicant has a medical marijuana licensed applicant that is wanting to move into his facility.

Mr. Brenner stated you cannot apply for a license until you get the variance on the property.

Mr. Rapacz asked if anyone is interested in that.

Mr. Brenner stated he has several people interested. The business across the street did not send a formal offer to him, they only stated in the last meeting they would buy the property.

Mrs. Abbey stated if this was approved, the house would not be there.

Mr. Burge asked about the pole barns located on the property.

Mrs. Abbey stated the pole barns are industrial.

Mr. Hynes stated concerns regarding the proliferation. There is a variance request regarding marijuana at every meeting.

Mr. Rapacz motioned to approve ZBA case #21-27 with the stipulation that they combine both parcels.

Discussion ensued regarding the amount of marijuana facilities within the City of Burton.

RESULT:	CARRIED [4 TO 3]
MOVER:	Tim Rapacz, Commissioner
SECONDER:	Michaeline Ward-Terry, Vice Chairperson
AYES:	Burge, Kautz, Rapacz, Ward-Terry
NAYS:	Hynes, Welch, Fuhst
EXCUSED:	Conley, Richvalsky

4. ZBA #21-28

By: Kevin Stenger & Bobby Glass
1376 E. Hemphill Rd., Burton, MI 48529

Re: 1376 E. Hemphill Rd., Burton, MI 48529
Parcel # 59-30-576-022, Zoned C-2

For: To conduct an M-1 use in a C-2 zone for auto repair.

Bobby Glass at 7651 Center Road, Millington and Kevin Stenger at 4476 Mulwood Drive, Flint did not have anything to add to their application.

Mrs. Abbey questioned the applicant regarding the parcel to the west. This property contains two parcels, on your application you only applied for it to apply to one parcel. What is the reason for that?

Mr. Glass stated they forgot about the other one.

Mrs. Abbey stated I would like to add to this application as a condition that they combine parcel 59-30-576-023 with parcel 59-30-576-022. It is right next door, the same amount of neighborhoods would have been notified, it is the same length and width of the other parcel. If they do not add it, they have zero parking on that property. The only issue we have had, which has been discussed with the applicant, was unlicensed vehicles were being parked on the vacant parcel. We want to make sure that they understand that if the auto repair is approved, that does not allow them to park junk cars on the property nor does it allow them to park cars for sale.

Mr. Burge raised concerns about adding stipulations regarding the amount of cars that can be sitting at this location and for how long.

Mr. Rapacz stated there could be enforcement issues with that.

Mrs. Abbey stated if the vehicles are in good working condition, we do not have an issue with them. We did speak with the applicant and informed him that if they have smashed up vehicles, they will need to be kept inside and not in the parking lot. Those we will notice if they have been there for more than two weeks and we will start getting complaints on them.

Mr. Rapacz asked about the second parcel being used for parking. Do we need to add how many spaces are allowed?

Mrs. Abbey stated that particular property is parking lotted out. However many spaces they have there now is what they would need. One parcel is the driveway into the building and that is it.

Mr. Kautz asked if this is a current business or if they are asking to put the business at this site.

Mrs. Abbey stated they are in there already but I try not to hold that against people. They moved in without approval but came in almost immediately and have cooperated.

Mr. Fuhst stated given how small the property is, I am thinking we should find a way to limit the number of cars outside. This could look very cluttered very fast.

Mr. Welch asked how many cars can fit on this property.

Mr. Glass stated 10-15 if they were bumper to bumper.

Mrs. Abbey stated you won't be doing that. You cannot block any fire lanes, drive isles or anything like that. Five would be plenty.

Mrs. Ward-Terry motioned to approve ZBA case #21-28 with the stipulation that parcel numbers 59-30-576-023 and 59-30-576-022 be combined. There will be no junk cars or for sale cars parked there, parking will be for cars getting repairs only and that will be limited to five vehicles.

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

F. AUDIENCE PARTICIPATION

Ronnie Beslac on behalf of Muffler Man stated Tuesday night they got all the cars moved. Everything is off Consumers and the residential property to the north. They did pull out the driveway on Delaney and seeded that. The fence guy came out and the fence has been ordered. They are getting ready to paint all the buildings. I am asking for an extension.

Mrs. Abbey stated I spoke with Mr. Beslac the other day regarding the 60 days being up. On August 19th, the board gave him 60 days to combine all the parcels, remove the approach off of Delaney and reinstall the lawn, replace the fence from the north property line of parcel ending in 056 all the way to the front face of 4089 Davison Road. The other items were the parking spaces to be striped, all vehicles being in parking spaces, landscaping to include trees and the buildings have fascia uniformity were not 60 day items. Up until last Friday, he had done nothing but remove the driveway from Delaney. The easiest thing was to apply for the combination and they haven't installed the fence. As of Friday, their variance was going to be revoked. I spoke with the City Attorney, she said if they fail to meet the 60 days without the board deciding to give them an extension then their variance is automatically revoked. Now that they have made an attempt over the last week, they are asking that you give them an extension on the other items. I am leaving this up to you. We have got them this far.

Discussion ensued regarding which stipulations were 60 days and which were able to be done in the spring time and that the combination of parcels has been filed.

Mr. Burge reminded the board that there has been progress and this is a business in Burton that brings a lot of jobs to the area.

Mr. Welch asked what happens if we give them another 45 days and we end up back in this same boat again.

Mrs. Abbey stated it will revoke in 45 days if the stipulations are not met.

Mr. Hynes expressed concerns to the applicant that the administration should not have to make a phone call to get them to get started on their projects to keep this variance.

Mr. Rapacz asked, what exactly will need to be finished in 45 days?

Mrs. Abbey stated all the parcels have to be combined, the fence has to be installed and the cars have to be removed from the front faces of the buildings.

Mr. Kautz asked who is contracted to remove the gravel and plant the trees? Will that be done in 45 days?

Mrs. Abbey stated that is not part of the 45 day stipulation but while we are at it, lets add the extra stipulation that the rest of the stipulations will be complete by July 1, 2022.

Mr. Rapacz stated if everything is not finished by that date then their variance is revoked.

Mrs. Ward-Terry stated that we would motion to grant a 45 day extension for the fence and removal of the cars, under the stipulation that everything in our original motion would be taken care of by July 1, 2022.

Mr. Hynes motioned to add ZBA #21-21 to the agenda.

1. Motion to Add ZBA Case #21-21 to the Agenda

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

2. ZBA #21-21

Mrs. Ward-Terry motioned to approve ZBA #21-21 giving a 45 days extension to complete the fence, remove the vehicles and combine the parcels. The remainder of the stipulations in the original motion must be completed by July 1, 2022.

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

G. BOARD DISCUSSION

Mrs. Ward-Terry stated she would like to address the marijuana facilities that are getting approved. The reason I voted how I did tonight was because that gentleman was pigeon holed. He had facilities all around him creating this hardship. We don't want our citizens to

feel like they can't use their property for what it is meant to be because of an outside entity that has what they do not have. It definitely is a concern in my mind and I think a lot of other peoples minds, all these places that are going up. Where does it stop. I know there is only a certain number we can have and it is creating a smell that is becoming concerning for everyone.

Mr. Rapacz stated I don't think you should say for everyone.

Mr. Burge stated we do have quite a few that are off the beaten path. They are in places that you would not go by unless you were going there to work.

Mr. Hynes stated there is additional police enforcement costs that go into play and other costs associated. City Council should address a cap, in my opinion.

Mrs. Abbey stated we have limited the number by limiting their location from each other. Every time you issue a variance, you are going against that limiting. To put that off onto someone else to set a number when you will still get variance requests and go against the number, it is your responsibility to say no to those variance requests to set those numbers. Our tactic to setting numbers is by saying they have to be 500 feet from each other. When you set a number, you are creating a bigger problem of creating a competitive process. A competitive process is a legal nightmare.

Mr. Hynes stated we keep waiving that 500 feet. That is my concern.

Mrs. Ward-Terry stated every time we grant a variance, we are allowing someone to break the law. I think that gets lost a lot of times. We may say this doesn't set precedence but in others minds, it does because they are wanting to know why someone else can do it but they can't.

The next regular scheduled Zoning Board of Appeals meeting will be held on Thursday, November 18, 2021, at 5:00 p.m.
