

# Almont Township

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ALMONT TOWNSHIP  
ZONING BOARD OF APPEALS  
JULY 2, 2014

The meeting of the Almont township Zoning Board of Appeals was called to order at 7:00 P.M. by Chairman Schenburn. The meeting was held at the Almont Township/Village Hall, 817-819 N. Main Street, Almont, Michigan

**MEMBERS PRESENT:** Rick Dodge (alternate), Larry Malburg, Jerry Moore, Dave Schenburn, and Clay Stroup.

**MEMBER ABSENT:** Brad Bletch

**ALSO PRESENT:** Approx. 13 guests

**MINUTES: MOVED BY STROUP AND SUPPORTED BY MALBURG TO RECEIVE THE MARCH 6, 2014 MINUTES AS PRESENTED. MOTION CARRIED.**

**1<sup>ST</sup> HEARING:** Application 14-002 – Mr. Larry Bruzzese for 3863 Van Dyke (44-001-009-036-50), Variance Request from Zoning Ordinance No. 39 (as amended), Article 2, Sections 2.12 – Frontage and Section 2.15-Lot, Minimum, and Frontage.

Chairman Schenburn explained meeting procedures.

Mr. Mark Clark, Attorney at Law, noted that he was attending the meeting to represent his client, Mr. Larry Bruzzese. Mr. Clark gave a brief history of the property in question noting that when L.A.R.R. was formed, Mr. Bruzzese was one of four partners. The other three partners had more active roles in the development of the property, especially Mr. J. Rinke who had the buildings on the site constructed. In 2005, Mr. Rinke sold his interest in the business to Mr. Bruzzese. Mr. Bruzzese is now currently the owner of the property.

Mr. Clark noted that Mr. Bruzzese has split off the accessory building to the north of the main building to the Vineyard Church and now has two remaining buildings that are currently vacant. Mr. Clark noted that the proposed use of the northeast building that Mr. Bruzzese wished to split off was and will continue to be used for storage. Mr. Clark noted that due to the configuration of the site, the remaining 2 accessory buildings do not and probably will never have road frontage.

**1<sup>ST</sup> HEARING: Application 14-002 – Continued**

Mr. Clark noted that strict enforcement of the zoning ordinance would prohibit Mr. Bruzzese the right to divide his property just as other owners in the same zoning district have. The 2.56 acres with building would be granted an access easement to M-53 (Van Dyke) which would allow the new owners access to their building without causing the new owners or Mr. Bruzzese any unnecessary hardship.

Chairman Schenburn noted for the record that the public hearing for Application 14-002 was opened at 7:10 P.M. Mr. Eric Flinn, Attorney at Law spoke on behalf of his clients Brandon and Kristen Smith, who wished to purchase the N.E. accessory building along with 2.56 acres. Mr. Flinn noted that his clients were part of the Smith Waterproofing Company, but that the owners of Smith Waterproofing were not interested in combining the properties together nor had any interest in the proposed purchase of the property with building.

Chairman Schenburn after asking for and not hearing any further comments, closed the public hearing at 7:17 P.M.

Mr. Doug Piggott of ROWE Professional Services and Almont Township's Planner, gave a brief review of the five (5) standards for approving or denying the application. Mr. Piggott and the Zoning Board of Appeals members noted that the easement shall be part of the legal description and shall be recorded at the time of closing. It was also agreed that the Township's attorney shall review the maintenance agreement for recommendation of approval.

**MOVED BY STROUP AND SUPPORTED BY MOORE TO APPROVE APPLICATION 14-002 FOR 3863 VAN DYKE (44-001-009-036-50) AS PRESENTED AND GRANT THE VARIANCES FROM ZONING ORDINANCE NO. 39, AS AMENDED, ARTICLE 2, SECTION 2.12 – FRONTAGE, AND SECTION 2.15 – LOT, MINIMUM AND FRONTAGE BASED ON THE FOLLOWING FINDINGS OF FACT:**

- 1. IT COMPLIES WITH STANDARD ONE (1) BASED ON DETERMINATION THAT THE STRICT ENFORCEMENT OF THE ZONING ORDINANCE PROHIBITS DIVISION OF THE PROPERTY, THEREBY DEPRIVING THE OWNER OF RIGHTS ENJOYED BY ALL OTHER OWNERS IN THE SAME ZONING DISTRICT AND THAT ANOTHER PROPERTY ON VAN DYKE WAS GRANTED A VARIANCE BY THE ALMONT TOWNSHIP ZONING BOARD OF APPEALS ON MARCH 21, 2012, BASED ON NEARLY IDENTICAL SET OF CIRCUMSTANCES.**

**1<sup>ST</sup> HEARING:** Application 14-002 – Motion Continued

2. IT COMPLIES WITH STANDARD TWO (2) BASED ON THE FACT THAT IT WAS DEVELOPED WITH SEVERAL COMMERCIAL AND INDUSTRIAL BUILDING AND DUE TO ITS LOCATION ON A STATE HIGHWAY IT IS LIKELY THAT THE SEPARATE PARCELS COULD NEVER BE DEVELOPED WITH SEPARATE ACCESS FOR EACH.
3. IT COMPLIES WITH STANDARD THREE (3) BASED ON THE FACT THAT WHILE THE CURRENT OWNER WAS A SILENT PARTNER OF THE BUSINESS THAT CONSTRUCTED THE BUILDING, HE DID NOT HAVE ACTIVE INVOLVEMENT IN THE DECISION AND THEY WERE ALL BUILT PRIOR TO HIS OBTAINING FULL OWNERSHIP OF THE PROPERTY.
4. IT COMPLIES WITH STANDARD FOUR (4) BASED ON THE FACT THAT OTHER PROPERTIES SIMILARLY SITUATED IN THE SAME ZONING DISTRICT HAVE BEEN GRANTED A SIMILAR VARIANCE BY THE ALMONT TOWNSHIP ZONING BOARD OF APPEALS, MOST RECENTLY ON MARCH 21, 2012.
5. IT COMPLIES WITH STANDARD FIVE (5) BASED ON THE FACT THAT THE REQUEST WILL PROMOTE THE EFFECTIVE MANAGEMENT OF ACCESS POINTS ON M-53, WHICH IS A GOAL OF THE ZONING ORDINANCE AND GRANT OF THE VARIANCE WILL NOT MATERIALLY AFFECT THE CURRENT USES ON THE SITE.

FURTHER, IN ORDER TO ENSURE COMPLIANCE WITH THESE STANDARDS, THE FOLLOWING CONDITIONS ARE PART OF THIS MOTION TO APPROVE: THE ACCESS EASEMENT SHALL INCLUDE A MAINTENANCE AGREEMENT THAT ENSURES THAT THE ACCESS WILL BE MAINTAINED (THIS DOCUMENT WILL BE APPROVED BY ALMONT TOWNSHIP'S ATTORNEY), AND THE EASEMENT WILL BE RECORDED AND A COPY OF THE RECORDED EASEMENT SHALL BE PROVIDED TO THE TOWNSHIP ASSESSOR WHEN APPLYING FOR THE LAND DIVISION.

**ROLL CALL VOTE:**

**STROUP – YES, MOORE – YES, MALBURG – YES, DODGE – NO, SCHENBURN – YES.**

**MOTION CARRIED , VARIANCES GRANTED WITH STIPULATIONS.**

**2<sup>nd</sup> HEARING:** Petition 14-003 – The Village of Almont (44-001-023-002-40) request a variance from Zoning Ordinance No. 39, as amended, Article 6, sections 6.01.10 – width of driveway and section 6.01.12 – parking areas shall be paved with concrete, or plant mixed bituminous material.

Mr. Doug Piggott informed the Zoning Board of Appeals members that due to the fact that ROWE Professional Services, the company he is employed by, also services the Village of Almont excused himself from the room during the proceedings for Petition 14-003 in order to avoid any conflict of interest.

**2<sup>nd</sup> HEARING: Petition 14-003 –Continued:**

Mr. Doug Scott, PE of ROWE Professional Services was present to represent their client the Village of Almont. Mr. Scott noted that the Village needing to construct a new pump station had purchased a parcel of land, a little over two (2) acres, in section 23 of Almont Township. The applicant had been before the Township Planning Commission and received conditional approval based on the Village obtaining variances for the width of the driveway (section 6.01.10) and having to provide a hard surface for the driveway and parking area (section 6.01.12).

Mr. Scott reviewed the five (5) standards where he noted that due to the low impact the site will have on the surrounding properties, the width of the driveway would not be a factor nor would the parking area. The facility (shed) will not be occupied and will only receive regular maintenance. The driveway will also serve as an easement to the neighboring farmer so that if necessary he will be able to get his farm equipment to the field beyond the pump station.

Chairman Schenburn read the letter from Almont Township Fire Chief, Don Smith. Chief Smith noted in his letter that he would prefer a twenty (20) foot wide driveway and a turn around. It was noted that these were suggestions only, and not mandatory by law or ordinance.

Chairman Schenburn opened the hearing to the public at 7:48 P.M. for Application 14-003. Hearing no comments, the public comment portion of Hearing No. 3 was closed at 7:49 P.M.

Discussion was held by the Zoning Board of Appeals members regarding the letter from the Fire Chief.

**MOVED BY STROUP AND SUPPORTED BY MALBURG TO APPROVE APPLICATION 14-003 AS PRESENTED BY THE VILLAGE OF ALMONT FOR PARCEL 44-001-023-002-40 AND GRANT THE VARIANCES FROM ZONING ORDINANCE NO. 39, AS AMENDED, ARTICLE 6, SECTIONS 6.01.10 – WIDTH OF DRIVEWAY AND 6.01.12 – PAVING REQUIREMENTS FOR DRIVEWAYS AND PARKING AREAS, BASED ON THE FOLLOWING FINDINGS OF FACT:**

- 1. IT COMPLIES WITH STANDARD ONE (1) BASED ON DETERMINATION THAT STRICT ENFORCEMENT OF THE ZONING ORDINANCE IS UNNECESSARY DUE TO THE FACT THAT THE SITE WILL BE UNOCCUPIED AND THE USE IS NOT CONSIDERED TO BE A COMMERCIAL USE AS IT IS DEFINED IN THE ORDINANCE, THEREBY CREATING A HARDSHIP.**

**2nd HEARING: Application 14-003 – Motion Continued**

2. IT COMPLIES WITH STANDARD TWO (2) BASED ON THE FACT THAT THE PROPOSED USE IS NOT A TYPICAL COMMERCIAL USE BUT RATHER AN INSTITUTIONAL USE FOR A GOVERNMENTAL AGENCY.
3. IT COMPLIES WITH STANDARD THREE (3) BASED ON THE FACT THAT THE ZONING REQUIREMENT ARE BASED UPON A TYPICAL COMMERCIAL USE WITH MUCH MORE TRAFFIC THAN WILL BE ENCOUNTERED ON THIS SITE, WHERE AS THE PROPOSED USE IS NOT A TYPICAL COMMERCIAL USE.
4. IT COMPLIES WITH STANDARD FOUR (4) BASED ON THE FACT THAT THE VARIANCE WOULD ALLOW AN INSTITUTIONAL USE WITH VERY LOW TRAFFIC LEVELS TO HAVE A GRAVEL SURFACE AND WOULD NOT SET PRECEDENT FOR OTHER COMMERCIAL USES.
5. IT COMPLIES WITH STANDARD FIVE (5) BASED ON THE FACT THE PROPOSED COMMERCIAL DRIVEWAY WILL ONLY BE USED BY VILLAGE EMPLOYEES APPROXIMATELY THREE TIMES PER WEEK. THE AMOUNT OF TRAFFIC ANTICIPATED WILL BE LESS THAN WHAT IS TYPICALLY ENCOUNTERED FOR A SINGLE FAMILY RESIDENTIAL HOME. THE ZONING ORDINANCE IS BASED UPON TYPICAL COMMERCIAL USES WHICH WILL NOT OCCUR AT THIS SITE.

FURTHER IN ORDER TO ENSURE COMPLIANCE WITH THESE STANDARDS, THE FOLLOWING CONDITIONS ARE PART OF THIS MOTION TO APPROVED: THE DRIVEWAY WIDTH WILL BE REVISED TO BE TWENTY (20) FEET AND THAT NO TURN AROUND AS SUGGESTED BY THE FIRE CHIEF WILL BE REQUIRED DUE TO THE HARDSHIP IT WILL CAUSE THE PROPERTY OWNER.

**ROLL CALL VOTE:**

**STROUP – YES, MALBURG – YES, MOORE – YES, DODGE – YES, SCHENBURN – YES. MOTION CARRIED, VARIANCE GRANTED WITH STIPULATIONS.**

Chairman Schenburn called for a break at 7:57 P.M. The meeting was call back to order by Chairman Schenburn at 8:01 P.M.

**3<sup>rd</sup> HEARING: Petition 14-004 – Leander Blue of 8515 Hough Road (44-001-026-021-00)**  
**Request variance from Zoning Ordinance No. 39, as amended, Article 2, section 2.02 – detached accessory buildings shall not be erected in any front yard.**

Mr. Leander Blue noted that he would like to construct a 40 foot x 60 foot pole barn in the southwest corner of his property which would be in front of his house. The property as such is wooded in the front with the house, garage, and an historic barn placed about in the middle of

**3<sup>rd</sup> HEARING: Petition 14-004 –Continued**

the property. The septic field is located behind the house. Mr. Blue noted that the site submitted was an old mortgage survey and didn't accurately reflect the true measurements and placements of the buildings, the creek, and pond.

Chairman Schenburn asked that the record reflect that the public hearing for Application 14-004 was opened to the public at 8:15 P.M.

Two members of the audience expressed their concern over the placement of the barn and the condition of the road when he moves his equipment out for the day. Noise was also a concern. Two other neighbors spoke in favor of the variance noting that the site in question was wooded and one would not be able to plainly see the structure.

Mr. Blue noted that most of the heavy construction equipment that was stored outside was up for sale as he has taken a new position and would not be needing the equipment any longer.

After asking for and hearing no new comments, Chairman Schenburn closed the public hearing portion of Application 14-004 at 8:21 P.M.

Mr. Doug Piggott went through his review noting the five standards. Mr. Piggott suggested that due to the fact that the site plan was inaccurate and there were details missing from the application that could have a bearing on the outcome, suggested that Application 14-004 be postponed until next month thereby giving the applicant, Mr. Blue, sufficient time to make the necessary corrections.

**MOVED BY MOORE AND SUPPORTED BY MALBURG TO POSTPONE ZONING BOARD OF APPEALS APPLICATION 14-004 UNTIL AUGUST 20, 2014 AT 7:00 P.M. THEREBY GIVING THE APPLICANT SUFFICIENT TIME TO MAKE THE NECESSARY CORRECTIONS AND SUBMIT A REVISED SITE PLAN SHOWING ACCURATE LOCATIONS OF ALL STRUCTURES ON THE PROPERTY, SETBACKS, SIZE OF BUILDINGS, ETC. MOTION CARRIED.**

**4<sup>th</sup> HEARING: Petition 14-005 – request by Zoning Administrator for interpretation**

Mr. Piggott noted that the Township had been approach about a use that was not covered under the current Zoning Ordinance. The use might be classified as "Emergency Service Uses". The possible uses that might fall under such a classification would be ambulance stations, fire departments with E.M.T's or First Responders, health care facilities or urgent care facilities. This would break the use into two categories: mobile and stationary.

**4<sup>th</sup> HEARING: Petition 14-005 Continued:**

Upon discussion with the audience and the ZBA members the following chart was proposed:

Type of Use	A-R	R-1A	R-1B	MHP	RM	O-1	C-1	C-2	C-3	I
Emergency Services, Mobile	SLU					SLU	SLU		SLU	P
Emergency Services, Stationary	SLU					P	P	P	P	SLU

Emergency Services, Mobile	Ambulance, fire stations, EMTs, first responders
Emergency Services, Stationary	Urgent care facilities

**MOVED BY STROUP AND SUPPORTED BY MALBURG TO APPROVED THE CHART AS PROPOSED WITH A RECOMMENDATION THAT THE PLANNING COMMISSION REVIEW AND SET ANY APPROPRIATE STANDARDS AS NECESSARY. MOTION CARRIED.**

The consensus of members present agreed to meet on July 9, 2014 at 6:30 to review and approve the minutes and sign the Final Decision Form.

CHAIRMAN SCHENBURN RECESSED THE MEETING AT 9:25 P.M.

Respectfully submitted by:

*Ida L. Lloyd*

Ida L. Lloyd,  
 Recording Secretary