

# Almont Township

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## Zoning Board of Appeals Meeting June 7, 2017

The regular meeting of the Almont Township Zoning Board of Appeals was called to order at 7:02 P.M. by Chairman Malburg at the Almont Township/Village Hall, 817/819 N. Main Street, Almont, Michigan. Roll call was taken.

**MEMBERS PRESENT:** Brad Bletch, James Gostomski, Larry Malburg, Jerry Moore, and Traci Pewinski

**MEMBER ABSENT:** N/A

**ALSO PRESENT:** 4 Guest

**MOVED BY PEWINSKI AND SUPPORTED BY GOSTOMSKI, TO RECEIVED THE MINUTES FROM MAY 8, 2017 AS PRESENTED. MOTION CARRIED.**

Chairman Malburg was notified that Mrs. Schanderer would be arriving late. Chairman Malburg suggested that in order to keep the meeting moving forward suggested that item #2 be discussed first.

### **PUBLIC HEARING: Petition 17-03 – Interpretation (hookah bars/lounge).**

Public hearing was opened at 7:05 p.m. Zoning Administrator Lloyd informed the board members that a request to establish a “hookah bar” was received by the Township. This matter had been discussed at the May Planning Commission meeting and was suggested that it go before the Zoning Board of Appeals to determine whether the use as proposed would be considered a permitted by right use as it is similar to what is already permitted in C1, C2, and C3 zoned district as a “eating or drinking establishments in which there is no dancing, floor show or other live entertainment.”

Discussion was held on the Dr. Ron Davis Smoke Free Air Act where an opinion was given stating that hookah lounges may qualify as a tobacco specialty store if it met state requirements. A hookah lounge may not have a food service license or liquor license.

**Petition 17-03 – Interpretation (hookah bars/lounges) continued:**

Discussion was also held on law enforcement concerning said use. Concern was expressed that in allowing such a use, it could potentially lead to other illegal activities. Public hearing was closed at 7:14 p.m.

**MOVED BY BLETCH AND SUPPORTED BY MALBURG TO ALLOW HOOKAH BARS/LOUNGES AS A PERMITTED USE IN C-1, C-2, AND C-3 ZONED DISTRICTS BASED ON THE FOLLOWING FINDINGS OF FACT: (1) BASED ON THE FACT THAT STRICT ENFORCEMENT OF THE ORDINANCE WOULD DEPRIVE OWNER OF RIGHTS ENJOYED BY OTHER OWNERS IN C-1, C-2 AND C-3 ZONED DISTRICTS AS EATING OR DRINKING ESTABLISHMENTS IN WHICH THERE IS NO DANCING, FLOOR SHOWS OR OTHER LIVE ENTERTAINMENT PERMITTED; (2) THE CONDITIONS AND CIRCUMSTANCES ARE UNIQUE IN NATURE BUT MEETS THE REQUIREMENT OF DAILY CONVENIENCE SERVICE OF PERSONS RESIDING IN NEARBY AREAS; (3) THE CONDITIONS AND CIRCUMSTANCES UNIQUE WERE NOT CREATED BY THE OWNER OR HIS PREDECESSOR IN TITLE DUE TO THE FACT THAT THE USE WAS NOT SPECIFICALLY IDENTIFIED IN ALMONT TOWNSHIP'S ZONING ORDINANCE UNDER ARTICLES 14, 15, AND 16; (4) THE REQUESTED VARIANCE WILL NOT CONFER SPECIAL PRIVILEGES AS THE USE AS PROPOSED IS SIMILAR IN USE TO EATING OR DRINKING ESTABLISHMENTS IN WHICH DANCING, FLOOR SHOWS OR OTHER LIVE ENTERTAINMENT IS PROHIBITED; AND (5) THE REQUESTED VARIANCE WILL NOT BE CONTRARY TO THE SPIRIT AND INTENT OF THE TOWNSHIP ZONING ORDINANCE FOR ARTICLES 14, 15, AND 16. IT IS ALSO THE RECOMMENDATION OF THE ZONING BOARD OF APPEALS THAT SAID USE BE SPECIFICALLY IDENTIFIED IN ALMONT TOWNSHIP'S ZONING ORDINANCE TO AVOID FURTHER QUESTIONS AS TO WHETHER OR NOT HOOKAH BARS/LOUNGES ARE A PERMITTED USE. ROLL CALL VOTE: BLETCH – YES, MALBURG – YES, PEWINSKI – NO, GOSTOMSKI – NO, MOORE – NO. MOTION DEFEATED.**

Zoning Administrator Lloyd asked if the ZBA does not believe hookah bars/lounges are to be permitted by right, what would they recommend. Concern over the potential extra law enforcement was a major factor.

**MOVED BY GOSTOMSKI AND SUPPORTED BY PEWINSKI TO POSTPONE FURTHER DISCUSSION ON HOOKAH BARS/LOUNGES UNTIL JULY 11, 2017 THEREBY GIVING THE ZBA MEMBERS SUFFICIENT TIME TO RESEARCH THE MATTER. MOTION CARRIED.**

**PUBLIC HEARING: Petition 17-02 – MARK SCHLANDERER, 5838 TIMBERWOOD LANE, variance from Zoning Ord. 39, as amended, Article 2, Section 2.02.3 - “no accessory building shall be constructed in any required or non-required front yard.”**

Chairman Malburg opened the public hearing at 7:20 p.m. and asked Mrs. Schlanderer to explain request.

Beth Schlanderer noted that their property was approx. 10 acres that with the house, septic fields, septic lines, geothermal lines and drainage there is no room to build a barn behind the house only on the side and front of the house. The front yard is heavily wooded and the barn would not be noticeable from the road.

Chairman Malburg noting that no further comments were offered closed the public comment portion of the meeting at 7:25 p.m.

Discussion was held by the ZBA members.

**MOVED BY GOSTOMSKI AND SUPPORTED BY PEWINSKI TO APPROVE THE REQUESTED VARIANCE FROM ZONING ORDINANCE NO. 39, AS AMENDED, ARTICLE 2, SECTION 2.02..3 AS PRESENTED BY MARK SCHLANDERER OF 5838 TIMBERWOOD LAND BASED ON THE FOLLOWING FINDINGS OF FACT: (1) BASED ON THE FACT THAT STRICT ENFORCEMENT OF THE ORDINANCE WOULD DEPRIVE THE OWNER OF RIGHTS ENJOYED BY OTHER PROPERTY OWNERS; (2) THE CONDITIONS AND CIRCUMSTANCES ARE UNIQUE TO THE SUBJECT PROPERTY; (3) THE CONDITIONS AND CIRCUMSTANCES UNIQUE TO THE PROPERTY WERE NOT CREATED BY THE OWNER OR HIS PREDECESSOR IN TITLE; (4) THE REQUESTED VARIANCE WILL NOT CONFER SPECIAL PRIVILEGES AS OHER PROPERTIES WITHIN ALMONT TOWNSHIP HAVE BEEN APPROVED TO CONSTRUCT ACCESSORY BUILDINGS IN THE FRONT YARD; AND (5) THE REQUESTED VARIANCE WILL NOT BE CONTRARY TO THE SPIRIT AND INTENT OF THE TOWNSHIP ZONING ORDINANCE. ROLL CALL VOTE: GOSTOMSKI – YES, PEWINSKI – YES, BLETCH – YES, MOORE– YES, MALBURG – YES. MOTION CARRIED.**

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Consensus of ZBA members agreed to meet on Tuesday, July 11, 2017 beginning at 7:00 p.m. to resume said meeting to sign the FINAL DECISION OF THE ALMONT TOWNSHIP ZONING BOARD OF APPEALS FORM and approve the June 7, 2017 minutes.

Respectfully,

*Ida L. Lloyd*

Ida L. Lloyd, Recording Secretary