

Zoning Board of Appeals Meeting

OCTOBER 31, 2018

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

MEMBERS PRESENT: Rick Dodge, Larry Malburg, Jerry Moore, Traci Pewinski

MEMBERS ABSENT: James Gostomski

ALSO PRESENT: 2 guests

MOVED BY MOORE AND SUPPORTED BY PEWINSKI TO RECEIVE THE MINUTES FROM JULY 17, 2017 AS PRESENTED. MOTION CARRIED.

MOVED BY DODGE AND SUPPORTED BY PEWINSKI TO RETAIN LARRY MALBURG AS CHAIR, JAMES GOSTOMSKI AS VICE-CHAIR AND TRACI PEWINSKI AS SECRETARY. MOTION CARRIED 4-0.

Petition No. 1.: Petition 18-01 – TDC/STE – 4310 Van Dyke, Variance Request from Almont Township zoning Ordinance No. 39, as amended, Article 6, Section 6.2L – Parking areas and Section 6.2.O – Curbs

Attorney John Miller, acting on behalf of his clients TDC/STE presented a summary of the reasons his clients felt that they needed a variance from paving the employee parking area and installing the required curbs. Mr. Miller noted that the building and parking areas never had curb and gutters before TDC/STE bought and started improving the property; there was no legitimate health or safety benefit in installing paving and curbs and that gravel surfaces drain better than asphalt or concrete.

Mr. Miller also noted the pre-existing parking surfaces had sheet drainage and detention areas that have worked effectively for over 30 years. The property was previous an airport/storage facility prior to TDC/STE purchasing and developing the property, therefore the site should not be held to the same standards as if it were a newly developed site. It was noted that other Commercial/Industrial sites have been developed without having to pave and curb their parking areas.

Mr. Miller concluded that the variance request does not undermine section 6.3.L and 6.2. O as the Planning Commission has already approved a gravel area on the site, and due to its past history, the property has had no problems with drainage or traffic issues.

Petition 18-01 – TDC/STE CONTINUED:

Discussion was held by the Zoning Board of Appeals members. The property in question is zoned C-3 (General Commercial) and was granted special land use approval for the outdoor display areas. The approved site plan shows that the parking areas are to have curbs and gutters with a gravel area which is fenced in for storage of vehicles and parts. The employee parking was approved to be relocated to the gravel area by the Planning Commission at their October 2018 meeting.

Chairman Malburg opened the meeting to hear public comments at 7:19 p.m.

Mr. William Saintonge who has property off of Danielle Drive and who was also there for a variance request, spoke in favor of granting the two variances. After asking for and hearing no further public comments, Chairman Malburg closed the public comment portion of Petition 18-01 at 7:28 p.m.

**MOVED BY DODGE AND SUPPORTED BY PEWINSKI TO APPROVE THE REQUESTED VARIANCE FROM ZONING ORDINANCE NO. 39, AS AMENDED, ARTICLE 6, SECTION 6.2.L AS PRESENTED BY TDC/STE OF 4310 VAN DYKE BASED ON THE FOLLOWING FINDINGS OF FACTS: (1) BASED ON THE FACT THAT STRICT ENFORCEMENT OF THE ORDINANCE WOULD DEPRIVE THE OWNERS OF RIGHTS ENJOYED BY OTHER PROPERTY OWNERS WITHIN THE SAME ZONING DISTRICT; (2) THE CONDITIONS AND CIRCUMSTANCES ARE UNIQUE TO THE SUBJECT PROPERTY IN THE SENSE THAT THE PROPERTY IS ALLOWED TO HAVE HEAVY EQUIPMENT STORED AND SOLD ON SAID PROPERTY AND THAT THE WAIVING OF PAVING OF THE EMPLOYEE PARKING AREA ONLY AND USING A CRUSHED LIMESTONE PRODUCT WILL ENSURE PROPER DRAINAGE AND IT IS NOTED THAT ALL PUBLIC PARKING AND DISPLAY AREAS WILL BE PAVED PURSUANT TO ARTICLE 6 AND THE ENGINEERING DESIGN STANDARD ORDINANCE; (3) THE CONDITIONS AND CIRCUMSTANCES UNIQUE TO THE PROPERTY WERE NOT CREATED BY THE OWNER OR HIS PREDECESSOR IN TITLE AS THE FORMER SITE WAS USED AS AN AIRPORT AND STORAGE FACILITY AND DID NOT REQUIRED PAVED PARKING; (4) THE REQUESTED VARIANCE WILL NOT CONFER SPECIAL PRIVILEGES AS OTHER PROPERTIES WITHIN ALMONT TOWNSHIP HAVE BEEN APPROVED TO CONSTRUCT SITES WHERE PAVING WAS NOT MANDATED: (5) THE REQUESTED VARIANCE WILL NOT BE CONTRARY TO THE SPIRIT AND INTENT OF THE TOWNSHIP ZONING ORDINANCE IN THAT BY ALLOWING THIS VARIANCE THE PROPERTY WILL BE UTILIZED TO ITS BEST ADVANTAGE.
ROLL CALL VOTE: DODGE – YES, PEWINSKI – YES, MOORE – YES, MALBURG – YES. MOTION CARRIED 4-0.**

Petition 18-01 Art. 6, Section 6.O – TDC/STE CONTINUED:

**MOVED BY DODGE AND SUPPORTED BY PEWINSKI TO DENY THE REQUESTED VARIANCE FROM ZONING ORDINANCE NO. 39, AS AMENDED ARTICLE 6, SECTION 6.2.O AS PRESENTED BY TDC/STE OF 4310 VAN DYKE BASED ON THE FOLLOWING FINDINGS OF FACTS: (1) BASED ON THE FACT THAT STRICT ENFORCEMENT OF THE ORDINANCE DOES NOT DEPRIVE THE OWNERS OF RIGHTS ENJOYED BY OTHER PROPERTY OWNERS WITHIN THE SAME ZONING DISTRICT, (2) THE CONDITIONS AND CIRCUMSTANCES ARE NOT UNIQUE TO THE SUBJECT PROPERTY; (3) THE CONDITIONS AND CIRCUMSTANCES TO THE PROPERTY WERE SELF CREATED BY THE OWNERS; (4) THE REQUESTED VARIANCES WILL CONFER SPECIAL PRIVILEGES AS OTHER PROPERTIES WITHIN THE SAME ZONING DISTRICT HAVE BEEN HELD TO THE SAME STANDARDS AND HAVE PAVED PARKING WITH CURBS AND GUTTERS; (5) THE REQUESTED VARIANCES IF APPROVED WOULD BE CONTRARY TO THE SPIRIT AND INTENT OF THE TOWNSHIP ORDINANCE.
ROLL CALL VOTE: DODGE – YES, PEWINSKI – YES, MOORE – YES, MALBURG – YES. MOTION CARRIED 4-0.**

SUMMARY: Variance was granted from Article 6, Section 6.2.L thereby allowing the applicant TDC/STE that their employee parking area which is located on the north side of the gravel fenced area may be constructed with crushed limestone and does not have to be paved with asphalt or concrete.

Variance was denied from Article 6, Section 6.2.O, therefore TDC/STE must install the required curbs as prescribed in Zoning Ordinance No. 39, Article 6, Section 6.2.O. and Almont Township Engineering Standards Ordinance No. 49.3.

#2.Petition 18-02 – William Saintonge – parcel 44-001-009-016-30 – Danielle Drive – Variance Request from Almont Township Zoning Ordinance No. 39, Article 6, Sections 6.2.J – ingress and egress drives to parking lot, & 6.2.L - parking areas

Mr. William Saintonge owner of the parcel in question explained that he was seeking a variance from Article 6, Sections 6.2.J and 6.2.L which states that all parking areas and ingress and egress to said parking areas shall be paved. Such entrances and exit may be combined as one, which shall in no event be less than 28 feet in width and shall be approved by the County or State. Tapers and bypass lanes shall be required as determined by the Planning Commission. Mr. Saintonge stated that Danielle Drive is a private drive and has a MDOT approved entrance/exit off of M-53 (Van Dyke). The crushed stone access drive that Mr. Saintonge proposes for his property will come off of Danielle. Mr. Saintonge explained that his business is property and building maintenance and that he will be using part of the site to store landscaping material in enclosed structure(s). The site will not be opened to the public for sale of any product. An office will be built on the west side of the property with the storage being placed on the east end of the property. As the materials will be transferred to the property by semi- trucks, he stated that it would be more practical to construct his drive access and driveway to the storage area on the east side of his property with crushed limestone or 22A(A).

As the driveway is considered part of the parking area and as the parking area is required to be paved, Mr. Saintonge requested that his driveway access and drive around the storage building(s) be allowed to be paved with gravel and not asphalt or concrete. Mr. Saintonge stated that the parking area around the main office building would be paved pursuant to the Zoning Ordinance. Mr. Saintonge also noted that the owner of the other property off of Danielle did not have to put in curbs for his access onto to his property as he also uses Danielle for his entrance and exit.

Chairman Malburg opened the hearing at 7:55 p.m. Chairman Malburg inquired 3 times if there were any public comments. As there was no public audience, chairman Malburg closed public comments at 7:56 p.m.

The Zoning Board of Appeal members held discussion on the site plan, the private drive, the proposed use of the property and sections 6.2.J and 6.2.L. As this was a request for variances, it was noted that the site plan will be reviewed by the Township Planning Consultant, Engineering Consultant and the Planning Commission. It was also noted that as Danielle Drive was a private road, maintenance of the road would be between the two property owners. Suggestion was made that a truck entrance be constructed and a second and separate entrance be constructed that would service the main office building portion of the property and that said driveway and parking be paved. As Danielle is a private road, the driveway to the office building would not require curbs, and that no taper or bypass lanes would be required.


Petition 18-02 – William Saintonge – parcel 44-001-009-016-30 – Danielle Drive Continued:

MOVED BY PEWINSKI AND SUPPORTED BY MOORE TO APPROVE THE REQUESTED VARIANCE FROM ZONING ORDINANCE NO. 39, AS AMENDED, ARTICLE 6, SECTIONS 6.2. J AND 6.2.L AS PRESENTED BY WILLIAM SAINTONGE FOR PARCEL 44-001-009-016-30 BASED ON THE FOLLOWING FINDING OF FACTS: (1) BASED ON THE FACT THAT STRICT ENFORCEMENT OF THE ORDINANCE WOULD DEPRIVE THE OWNER OF RIGHTS ENJOYED BY OTHER PROPERTY OWNERS WITHIN THE SAME ZONING DISTRICT; (2) THE CONDITIONS AND CIRCUMSTANCES ARE UNIQUE TO THE SUBJECT PROPERTY IN THE SENSE THAT THE PROPOSED LOCATION IS OFF THE PRIVATE DRIVE NAMED DANIELLE AND THEREFORE DOES NOT REQUIRE TAPERS, AND BYPASS LANES WHICH ALREADY EXIST, AND AS THE PRIVATE DRIVE IS BEING UTILIZED AS HIS DRIVEWAY THE PAVING HAS ALREADY BEEN ESTABLISHED AND THEREFORE MEETS THE REQUIREMENTS FOR A SAFE ENTRANCE AND EXIT, ALSO THE PROPOSED USES (LANDSCAPING/CONTRACTING) IF ALLOWED WOULD HAVE HEAVY EQUIPMENT (SEMI-TRUCKS) WHICH COULD DAMAGE THE PAVEMENT THEREBY CREATING A POTENTIAL HAZARD, AND THAT BY USING CRUSHED LIMESTONE OR 22A(A) IN THE STORAGE AREA ONLY, THE APPLICANT HAS SUBMITTED EVIDENCE THAT IT WILL NOT CAUSE UNDO HARM TO THE ADJACENT PROPERTIES AND THAT BY USING A CRUSHED STONE PRODUCT IT WILL ENSURE PROPER DRAINAGE AND IT IS ALSO NOTED THAT ALL PARKING AREAS LOCATED NEAR THE OFFICE BUILDING ARE TO BE PAVED PURSUANT TO ARTICLE 6 AND THE ENGINEERING DESIGN STANDARD ORDINANCE; (3) THE CONDITIONS AND CIRCUMSTANCES UNIQUE TO THE PROPERTY WERE NOT CREATED BY THE OWNER OR HIS PREDECESSOR IN TITLE AS THE FORMER PROPERTY WAS ONCE PART OF A LARGER PARCEL AND UNDEVELOPED; (4) THE REQUESTED VARIANCE WILL NOT CONFER SPECIAL PRIVILEGES AS OTHER PROPERTIES WITHIN ALMONT TOWNSHIP HAVE BEEN APPROVED TO CONSTRUCT SITES WHERE PAVING WAS NOT MANDATED; (5) THE REQUESTED VARIANCE WILL NOT BE CONTRARY TO THE SPIRIT AND INTENT OF THE TOWNSHIP ZONING ORDINANCE IN THAT BY ALLOWING THESE VARIANCES, THE PROPERTY WILL BE UTILIZED TO ITS BEST ADVANTAGE. ROLL CALL: PEWINSKI – YES; MOORE – YES; DODGE – NO; MALBURG – YES. MOTION CARRIED 3-1.

SUMMARY: Variance was granted from Zoning Ordinance No. 39, as amended Article 6, sections 6.2.J and 6.2.L thereby allowing the applicant to construct an access drive and driveway on the eastern portion of parcel 44-001-009-016-30 which is located off of the private road Danielle Drive, of crushed limestone/22A(A) for the storage area only. The office area which is to be located on the western side of the property is to comply with Article 6 and the Township's Engineering Design Ordinance for the access drive and parking. If a second driveway is to be constructed for the office area it shall be paved, but will not require curbs, tapering or by-passing lanes.

The consensus of the members present agreed to postpone closing the October 31, 2018 meeting at 8: 55 p.m. until November 8, 2018 and resume the meeting at 6:30 p.m. to review and approve the minutes from October 31, 2018.

Respectfully,



Ida L. Lloyd, Recording Secretary