

CHARTER TOWNSHIP OF FLUSHING
6524 N. SEYMOUR ROAD
FLUSHING, MICHIGAN 48433
810-659-0800 FAX: 810-659-4212

PLANNING COMMISSION

DATE: JULY 11, 2005 TIME: 7:00 P.M.
WEB ADDRESS <http://www.gfn.org/flushing/index.html>

MEMBERS OF PLANNING COMMISSION

Aaron Bowron, Chair	Richard Buell
Jerome Doyle, Vice Chair	Ronald Flowers
Eric Swanson, Secretary	David Gibbs
Barry Pratt, Board of Trustee Representative	

Jerald W. Fitch, Building Inspector
Julia A. Morford, Recording Secretary

PRESENT: Bowron, Doyle, Buell, Flowers, Gibbs, Pratt, Fitch, and Morford

ABSENT: Swanson

OTHERS PRESENT: Matt Kassuba, Cory Coombe, and James Greenfelder

I. MEETING CALLED TO ORDER at 7:00 p.m. by Planning Commission Chair Aaron Bowron with Roll Call and the Pledge to the American Flag.

BOWRON requested to reverse “New Business” and “Unfinished Business” on the current Agenda.

II. ADOPTION OF AGENDA: FLOWERS MOVED, seconded by Gibbs to adopt the Agenda by reversing No. 5 and No. 4 on the Agenda. Number 5 would be first. **MOTION CARRIED.**

III. APPROVAL OF MINUTES OF JUNE 13, 2005: FLOWERS MOVED, seconded by Pratt to approve the Minutes of June 13, 2005 as corrected. **MOTION CARRIED.**

IV. NEW BUSINESS:

1. **Matt Kassuba, 7218 Gillette Road, Flushing, Michigan 48433**
(Parcel No. 08-10-400-019)
Special Use Permit to Place an Accessory Structure in the Front Yard

7:26 P.M. – OPENED TO AUDIENCE:

MATT KASSUBA (KASSUBA) was present to request a special use permit to place an accessory structure in the front yard at 7218 Gillette Road, Flushing, Michigan.

KASSUBA lives on a corner parcel:

- Has debated the location for the accessory structure due to being on a corner lot.
- Aspen Meadows Subdivision extends along the South side of the property
- Has requested thirty (30) feet for the distance between the garage and the house.

BOWRON stated the requirement for a special use permit for an accessory structure in the front yard was due to Gillette Road being West and the private road to the South (Aspen Meadows). The accessory structure would be in the front of the existing private drive.

BOWRON reviewed *Definitions Article II*:

Yard, front = a yard extending between side lot lines across the front of a lot and adjoining a public street in the case of a corner lot, both yards fronting on a public street shall be front yards.

KASSUBA stated there was a concern as to Aspen Meadows being a private drive; Gillette Road is a public road. **BOWRON** stated that although Aspen Meadows was a private drive, **KASSUBA** came before the Planning Commission because houses would be along the front yard. **KASSUBA** wanted, and the Planning Commission recommended, the accessory structure be screened so the accessory structure would be aesthetically pleasing for the neighbors and would be located behind the existing wall of pine trees located on **KASSUBA**'s property.

1. **James Greenfelder, 7205 Gillette Road, Flushing** – “not in favor of anything that Scott Hope does.”

BUILDING INSPECTOR'S COMMENTS:

JERRY FITCH (FITCH) read *General Provisions Article III, Section 20-305, Private Roads* which states:

- (d) (12) Parcels fronting on private roads shall meet the required front yard setback and lot width for their district.

FITCH said he treated the property as a corner lot.

BOWRON stated there were no problems with the setbacks. **FITCH** stated there seemed to be some question as to the property being a corner lot. He (Fitch) has no problem with **KASSUBA** placing the accessory structure in the requested area.

7:35 P.M. – CLOSED TO THE AUDIENCE

PLANNING COMMISSIONERS COMMENTS:

- **DOYLE:** if the proposed property owners to the East decided to place their homes back from the corner similar to **KASSUBA'S**, the proposed accessory structure would be out in front of **KASSUBA'S** home on the other proposed residents' street. (If the proposed property owners decided to place their home back, that would be fine, except if the proposed accessory structure (Kassuba's) is placed in front of **KASSUBA'S** buildings it would be out further than the ordinary property line and would be conforming to the fact that the accessory structure would be in the front yard. **BOWRON** stated it would be of virtue of the private drive being there. **DOYLE** stated the private drive would have nothing to do with someone building in someone's front yard, as there still had to be setback restrictions.
- **BOWRON:** the issue has been brought to the Planning Commission under a special land use for an accessory structure in the front yard. **DOYLE** stated that if the proposed structure was in the front yard, and it sets out in **KASSUBA'S** front yard, that would become the front yard off of the street. If the structure was back even with **KASSUBA'S** house, there should be no complaints.
- **DOYLE:** the rationale for putting the ordinance together in the first place was to allow the accessory structure in the front yard only on certain conditions such as on the river, etc. and as long as individuals didn't build accessory structures in front of the other houses that were at the road, the Planning Commission would accept the idea.
- **BOWRON:** his interpretation of a front yard definition refers to a public street, whereas the street to the immediate South is a private drive. It would not trigger a review under the "front yard accessory structure".
- **DOYLE:** if the issue was put into the perspective that if you were purchasing the lot next door to the lot in question, and you constructed a house on the lot next door that set back further than **KASSUBA'S**, suddenly there would be a structure in your front yard.
- **BOWRON:** the Zoning Ordinance does not define a front yard with a private drive.
- **PRATT:** an accessory structure would be acceptable subject to the following conditions:
 1. The lot the accessory structure shall be located on is at least 400 feet deep or adjacent to a river or lake.
 2. The accessory structure shall conform to all minimum front and side yard setbacks required for principal structures in the district it is located in.
 3. The accessory structure shall either be screened from view of the roadway and adjacent lots or be designed to be compatible with surrounding residential structures in size, height, style of siding and landscaping.

(Special Use Permits Article XVIII, Section 20-1804, (A) Accessory Structures)

- **BUELL:** is the size of the proposed accessory structure greater than the size of the existing garage? **KASSUBA:** the proposed building has been based upon the restrictions within the distance of the development which called for a maximum of a 30' x 40' building.

- **BOWRON: KASSUBA** did not want the proposed structure to be in the center of the front yard of the neighbor to the East; nor in the back yard of the neighbor where he would see it all the time.

SPECIFICATIONS OF PROPOSED ACCESSORY STRUCTURE:

- Structure would be stick built with concrete foundation and conventional framing
- Vinyl siding similar to the house
- Eight (8) or (9) foot Garage door
- Not a pole barn structure
- Roof similar to the house

LANDSCAPING:

- Pine trees would be extended to the East.
- Future intention to line the entire property with trees.
- Two (2) lots located behind **KASSUBA's** property have ponds.
- Contractors have been using a road located behind **KASSUBA's** home; there will be no access to the property once the project has been finished.

COMMUNICATION FROM NOTICES:

There has been no correspondence received from neighbors.

PRATT MOVED, seconded by Doyle to grant a Special Use Permit to Matt Kassuba to place an accessory structure in the front yard at 7218 Gillette Road, Flushing, subject to the accessory structure being screened from view of roadways and adjacent lots or be designed to be compatible with surrounding residential structures in size, height, style, siding, and landscaping.

DISCUSSION ON THE MOTION:

1. **DOYLE:** glad the motion made was subject to having the screening which would help Kassuba and the neighbors. Would the screening be around the building or only on the corner where the building would be located at the far East property line? **PRATT** stated the motion stated screened from view of roadways.

AMENDMENT TO THE MOTION TO READ:

PRATT MOVED, seconded by Doyle to grant a Special Use Permit to Matt Kassuba to place an accessory structure in the front yard at 7218 Gillette Road, Flushing, subject to the accessory structure either being screened from view of roadways along the Southeast property line and adjacent lots or be designed to be compatible with surrounding residential structures in size, height, style, siding, and landscaping. **MOTION CARRIED.**

V. UNFINISHED BUSINESS:

1. Continued Review of C-1 and C-2 Proposed Draft Ordinance

BOWRON stated that after the last meeting, the Planning Commission assumed that everything had been in order for **ATTORNEY STEVE MOULTON'S (ATTORNEY MOULTON)** review of the proposed C-1 and C-2 draft ordinance. **BOWRON** stated he had some concerns regarding the proposed ordinance so reviewed some history on the C-1 and C-2 Ordinance:

1. Planning Commission had addressed both ordinances in a piece meal fashion
 - a. Section 20-1301 dealing with C-1 consists of three (3) aspects:
 1. lot width, depth and area
 2. yard setbacks, front and rear
 3. height

MOTION FROM APRIL 25, 2005:

“SWANSON MOVED, seconded by Flowers to approve the draft as presented by Attorney Moulton on C-1 and C-2, but that any of the non-conforming lots that cannot meet the requirements set down by the new ordinance that the setbacks for the front, rear, and sides be not less than 50% minimum of the combined width or depth lot setback. MOTION CARRIED.

MOTION FROM MAY 23, 2005:

“SWANSON MOVED, seconded by Doyle that any lot zoned C-1, as of the effective date of this ordinance, which does not meet the currently established minimum yard requirements may be used for any permitted C-1 use, provided the total of the front and rear yards equals at least 40% of the total lot depth, and the total of the side yards equals at least 40% of the lot width, and provided any building or structure on the lot on the front lot is located at a minimum of 30' from the road right of way and a minimum of 20' from the rear lot line and any property line abutting residential property; the Planning Commission reserves the discretion to require a buffer along any line abutting residential property. (The same applies to C-2 Commercial Property). It has been moved to amend Section 20-1301 and Section 20-1401 of the Zoning Ordinance for the Charter Township of Flushing regarding the Dimensional Requirements in C-1 and C-2 as previously described for non-conforming uses only.

ROLL CALL VOTE:

AYES: Pratt, Gibbs, Flowers, Buell, Swanson, Doyle, Bowron

NAYS: 0 MOTION CARRIED.

BOWRON stated there was a discrepancy in the first half of the proposed ordinance. When **ATTORNEY MOULTON** gave the revised ordinance on May 6, 2005, it contained the following language:

*At the discretion of the Planning Commission the minimum dimensions of the front and rear yard and the side yards may be adjusted so that the total of the front and rear yards is a minimum of 100 feet and the total of the side yards is a minimum of 100 feet.” (The sliding scale concept for conforming C-1 lots).

BOWRON stated that when compared, the first paragraph to the later paragraph which was the Motion from May 23, 2005, there are minimum setbacks from the front yard and the rear yard or any lot abutting residential property. There were no similar minimum setbacks for conforming C-1 and C-2 property using the sliding scale method. Was there an explanation for the reason?

DOYLE stated the motion only pertained to non-conforming uses. **BOWRON** stated the proposed ordinance, voted on, deals with conforming and non-conforming uses. The Planning Commission neglected the first part of the paragraph where it gives the Planning Commission the discretion to use the 100 foot sliding scale for conforming lots. The language “providing any building or structure on the lot is located at a minimum of 30’ from the road right of way and a minimum of 20’ from the rear lot line and any property line abutting residential property” was for the non conforming lots with a 40% sliding scale. The conforming use with the 100’ sliding scale was eliminated. **DOYLE** felt the other part of the ordinance should be amended also. The concern, in the ordinance, has dual purposes: 1) for the non-conforming use and 2) allowing the conforming uses to be able to do certain things.

BOWRON stated the proposed draft ordinance from **ATTORNEY MOULTON** before the corrections/additions had addressed both the scenarios for the C-1 and C-2 conforming and non-conforming uses. The wording “minimum of 30’ from the road right of way and a minimum of 20’ from the rear lot line and any property line abutting residential property” should be inserted after the sliding 100’ scale at the beginning of the paragraph. The ordinance would read:

“*At the discretion of the Planning Commission the minimum dimensions of the front and rear yard and the side yards may be adjusted so that the total of the front and rear yards is a minimum of 100 feet and the total of the side yards is a minimum of 100 feet and provided any building or structure on the lot is located at a minimum of 30’ from the road right of way and a minimum of 20’ from the rear lot line and any property line abutting residential property.”

INTERPRETATION:

The sliding scale for non-conforming and conforming has been presented. For conforming, in no instance, no closer than thirty (30) feet from the road right of way and no closer than twenty (20) feet from the rear property line or twenty (20) feet from any adjacent property line that abuts residential property. The sliding scale of one hundred (100) feet for C-1 conforming use has not been done.

The information dealt with all the details on the original draft ordinance from **ATTORNEY MOULTON**.

BACKGROUND SUMMARY:

- **DOYLE:** the formula was the only thing that was changed which **ATTORNEY MOULTON** had suggested.
- **FLOWERS:** **ATTORNEY MOULTON** used 50% for the lot width, depth, and length.
- **BOWRON:** in the November 22, 2004 draft ordinance, **ATTORNEY MOULTON** used the 150' for the Lot Width, Lot Depth, and 50' setbacks for the Front Yard, Side Yard, and Rear Yard with the asterisk. Which refers to:
 - *At the discretion of the Planning Commission the minimum dimensions of the front and rear yard and the side yards may be adjusted so that the total of the front and rear yards is a minimum of 100 feet and the total of the side yards is a minimum of 100 feet.
- **BOWRON:** Motion from April 25, 2005, made by Swanson, approved elimination of the concept of 50% for non-conforming C-1 lots.
- **REVISED EDITION:** **ATTORNEY MOULTON** gave another draft ordinance which incorporated the information which provided that "any building or structure on the lot on the front lot is located at a minimum of 30' from any lot line."
- **PLANNING COMMISSION MEETING OF MAY 9, 2005:** "Does the Planning Commission want 50% for the non-conforming C-1 lots and does the Planning Commission want the 30' minimum setback."
- **PLANNING COMMISSION MEETING OF MAY 23, 2005:** Motion by Swanson to go with 40% for non conforming lots with 30' front yard setback and 20' rear setback.
- The procedure applies to conforming C-1 lots and C-2 lots also.

DOYLE stated the Planning Commission was dealing with non-conforming uses. What had been discussed, would not work. **BOWRON** stated there was a subsequent motion made to the one that Swanson made on May 23, 2005. **DOYLE** stated the motion on May 23, 2005 had been for non-conforming uses only.

BOWRON wanted to know why the particular language was added to the motion from May 23, 2005 which stated:

"the Planning Commission reserves the discretion to require a buffer along any line abutting residential property."

BOWRON stated the language (The Planning Commission...abutting residential property) was redundant because there will always be a site plan with each request. The Planning Commission already had the authority to require a buffer. **DOYLE** stated the language was inserted into the proposed ordinance to remind the Planning Commission that something has to be done.

It was determined the language would stay in the proposed ordinance.

BOWRON inquired as to why there was a 30' setback in the front yard and a 20' setback for the rear yard and no closer than 20' for the side yard if it abuts residential property. **FLOWERS** stated the reason the 20' minimum setback was imposed was because of the ability for a fire truck to get around in the back of proposed buildings. **DOYLE** stated that if commercial property abutted residential property, then the buffer could be put in, in order to allow the request to happen. The Planning Commission has a lot of room to agree or not agree what the people can do. There is a situation where currently there is no sewer; properties would need septic system areas.

BOWRON read the proposed draft C-1 and C-2 ordinance which states:

THE TOWNSHIP OF FLUSHING ORDAINS:

1. Section 20-1301 of the Charter Township of Flushing Zoning Ordinance, last adopted March 13, 1997, and is amended as follows:

Section 20-1301 Dimensional Requirements:

<u>HEIGHT</u> 2 ½ Stories	<u>FRONT YARD</u> 50'*	<u>SIDE YARD</u> 50'*	<u>REAR YARD</u> 50'*
<u>LOT WIDTH</u> 150'*	<u>LOT DEPTH</u> 150'*	<u>LOT AREA</u> 22,500	

*At the discretion of the Planning Commission the minimum dimensions of the front and rear yard and the side yards may be adjusted so that the total of the front and rear yards is a minimum of 100 feet and the total of the side yards is a minimum of 100 feet, and provided any building or structure on the lot is located at a minimum of 30' from the road right of way and a minimum of 20' from the rear lot line and any property line abutting residential property. Any lot zoned C-1, as of the effective date of this ordinance, which does not meet the currently established minimum yard requirements may be used for any permitted C-1 use, provided the total of the front and rear yards equals at least 40% of the total lot depth, and the total of the side yards equals at least 40% of the lot width, and provided any building or structure on the lot is located at a minimum of 30' from the road right of way and a minimum of 20' from the rear lot line and any property line abutting residential property. The Planning Commission reserves the discretion to require a buffer along any line abutting residential property. (The same applies to C-2 Commercial Property). It has been moved.

2. Section 20-1401 of the Charter Township of Flushing Zoning Ordinance, last adopted March 13, 1997, and is amended as follow:

Prospectively, any property to be used for the purpose set forth in Sections 20-1402, or 20-1403 shall be within a general commercial district (C-2). The minimum area for a C-2 district shall be 5 acres. The dimensional requirements for a lot within a C-2 district are set forth below. All contiguous parcels which are zoned C-2 shall be deemed part of a C-2 district for purposes of computing the area of the C-2 district.

Any lot zoned general commercial (C-2), as of the date of this amendment shall be considered part of a C-2 district regardless of the dimensions or total area of the lot.

Any change in the use of a C-2 lot, which is not a part of a commercial district consisting of at least 5 acres, shall require a special use permit under the provisions of Section 20-1800 and following of this ordinance.

Section 20-1401 dimensional requirements:

<u>HEIGHT</u>	<u>FRONT YARD</u>	<u>SIDE YARD</u>	<u>REAR YARD</u>
2 ½ Stories	50’*	50’*	50’*
<u>LOT WIDTH</u>	<u>LOT DEPTH</u>	<u>LOT AREA</u>	
150’*	150’*	22,500	

* At the discretion of the Planning Commission the minimum dimensions of the front and rear yard and the side yards may be adjusted so that the total of the front and rear yards is a minimum of 100 feet and the total of the side yards is a minimum of 100 feet.

This ordinance shall be immediately effective upon publication.

* * * * *

BUELL recommended that several sketches of how a footprint would be determined, be included with the proposed draft ordinance when it is sent to **ATTORNEY MOULTON**. (**ATTORNEY MOULTON** was the original designer of the draft ordinance). **JERRY FITCH (FITCH)** Building Inspector will give all the details to **ATTORNEY MOULTON** and also the Table of District Regulations (Section 20-702).

REDUCTION IN SETBACKS:

PRATT wanted to know if the 20' setbacks could be reduced. **FLOWERS** stated that anything less than 20' was very hard because if there was a fire department ladder truck with side straps on it, it would take up to 14' to 16' when it extended out the legs to keep the truck from falling. **PRATT** stated that looking at the narrowest commercial lot at 81.75' and if the 40% was applied, there could only be a 32.4 feet building with two (2) 16' side yard lots. **DOYLE** stated it would be better to keep a 20' setback and possibly be closer on the other end and still allow the emergency vehicle to get along one (1) side; **BOWRON** stated it would be on the smallest size non-conforming parcel. If someone chose to build a 40' building in the middle, and 40% of the lot width is 15', the situation still would not be stopped. **BUELL** felt with the proposed ordinance there would be flexibility to construct.

EXAMPLE:

If there was an 81' lot and at 40% of that would be 32.4'. Could the person take the 81' lot and put a 40' wide building in the middle and leave 16' on each side. There would have to be a minimum of 40% setback. **PRATT** stated if the Planning Commission required a minimum of 20' for the side yard setback, the proposed ordinance would not stop an individual from having a 32' wide building with 16' on each side.

After the proposed draft ordinance was interpreted and reviewed it turned out to be: 1) 30' from the front, 2) 20' from the rear yard setback or from the sides if it abuts residential. **NOW** the language reads:

“30 feet from the road right-of-way and a minimum of 20 feet from the rear lot line and any property line abutting residential property.”

PRATT stated the Planning Commission could allow a situation of 15 feet. **BUELL** stated the Planning Commission purposely allowed themselves (Planning Commission) the position of being able to be flexible with the envelope inside the boundary to move it all the way to one (1) side intentionally making it zero (0) on one side and 30 feet on the other side. **PRATT** was concerned about getting into a situation where 20 feet would be a bare minimum, not just for safety. The worse case of all the non-conforming lots would be the 81 feet lot.

FITCH stated if there were two (2) commercial properties together, why couldn't the properties be joined? This was the idea of no side setbacks.

FLOWERS stated the Planning Commission was trying to protect residential property which abutted most of the C-1 and C-2 properties in the township. If the individual came in and wanted to build on the 81' property, with a 40' building, it would be impossible as the individual would have to have 20' on both sides of the residential property and put whatever type of building in the center. **PRATT** wanted to know the situation about commercial property setbacks. It would

be a different situation as there would not be the 20' situation. **PRATT** stated the situation was to protect the residents of the township.

DOYLE stated that if two (2) parcels were placed together at the same time, they could come in to request the permit as long as there was 20' on the side of one parcel (#1) and 20' on the other side of the second (#2) property. If there was one single property owner that had come in, and the Building Inspector had not known what the other person would be doing, the ability to have the 50% was that there would still be 20' and if the building had to be slide over 10' to the property line, there would still be the availability for fire protection. At the same time, there would still be enough room to build a decent size building. **FLOWERS** stated with the current language, the Planning Commission could work with the individual. If the property is residential all the way around the property, the individual has no choice but to have 20' on each side of the property. At least the individual can do something with his property. **DOYLE** stated there always had to be a site plan.

VII. PUBLIC COMMENTS:

8:32 P.M. OPENED TO THE PUBLIC

8:32 P.M. CLOSED TO THE PUBLIC

VIII. BOARD COMMENTS:

1. **FITCH** stated he felt the Planning Commission members had mixed feelings on the Special Use Permit Request for MATT KASSUBA. **FITCH** stated he saw the situation as a corner lot and also had fit into the Accessory Structure in the Front Yard Ordinance (Section 20-1804 (A)). **FITCH** wanted to know if maybe the definitions should be reviewed. **DOYLE** felt that when something is not specified in an ordinance and is overlooked, the Planning Commission has the right to amend the ordinance and cover the situation. **FITCH** wanted to know how easy it would be to strike "public road" and replacing it with "road". **DOYLE** felt it should state "public and private road". **BOWRON** felt there was room for debate and question and some matters are better to have the individual deal with the situation. The Planning Commission has the flexibility to work with the residents.

DOYLE stated the ordinance did not cover front yards on private roads. **PRATT** felt it would depend upon what road your house fronted; **BUELL** felt it would depend upon your address. **DOYLE** stated actually the person on the corner does have two (2) front yards. **FITCH** stated that KASSUBA's lot was over 400 feet which is a requirement for a front yard accessory structure. **DOYLE** felt although there was a private road involved, what were the restrictions in the subdivision? **PRATT** felt the Planning Commission had already established the front yard setbacks for KASSUBA. The Planning Commission has required KASSUBA to meet front yard setbacks on Gillette Road. It would always apply for any road whether it was a

corner lot or whatever, if the Planning Commission has caused the person to abide by a front yard setback to build the house, the establishment of the front yard has taken place.

The Ordinance states a corner lot has two (2) front yards. **DOYLE** stated there has to be conformity so that everyone has the same rights.

2. SPECIAL MEETING SCHEDULED FOR MONDAY, JULY 25, 2005:

1. Review the C-1 and C-2 proposed draft ordinance
2. Wetland Review

3. Planning Commission 2 Part Seminars - Frankenmuth, Michigan:

1. Part I – Beyond Traditional Zoning: Tools for Flexibility
Wednesday, July 20, 2005
2. The Top Zoning Errors That Land Townships in Hot Water
Wednesday, August 17, 2005

VIII. MEETING SCHEDULE:

PROPOSED SPECIAL MEETING – MONDAY, JULY 25, 2005 – 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, AUGUST 8, 2005 – 7:00 P.M.

PROPOSED SPECIAL MEETING – MONDAY, AUGUST 22, 2005 – 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, SEPTEMBER 12, 2005 – 7:00 P.M.

PROPOSED SPECIAL MEETING – MONDAY, SEPTEMBER 26, 2005 – 7:00 P.M.

IX. ADJOURNMENT: There being no further business, **BOWRON** adjourned the Planning Commission Meeting at 8:45 p.m.

AARON BOWRON, Chair

JULIA A. MORFORD, Recording Secretary

ERIC SWANSON, Secretary

Date of Approval