

CHARTER TOWNSHIP OF FLUSHING
6524 N. SEYMOUR ROAD
FLUSHING, MICHIGAN 48433
810-659-0800 FAX: 810-659-4212
PUBLIC HEARING - SPECIAL PLANNING COMMISSION MEETING
DATE: SEPTEMBER 26, 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, Swanson Buell, Flowers, Gibbs, Pratt, Fitch, and Morford

ABSENT: None

OTHERS PRESENT: Gary Miller, Don Liske, Ryan Cuz, and Scott Chappell

I. MEETING CALLED TO ORDER at 7:02 p.m. by Planning Commission Chair Aaron Bowron with Roll Call and the Pledge to the American Flag.

II. ADOPTION OF AGENDA: FLOWERS MOVED, seconded by Gibbs to adopt the Agenda. MOTION CARRIED.

III. APPROVAL OF MINUTES OF AUGUST 22, 2005: DOYLE MOVED, seconded by Swanson to approve the Minutes of August 22, 2005 as corrected. MOTION CARRIED.

IV. PUBLIC HEARING – Consider Amendments to the Text of the Township Zoning Ordinance – Section 20-702, C-1 and C-2

The Public Hearing is being held in accordance with Amendments:

Article XX, Section 20-2001 (d):

(d) The Township Planning Commission shall hold a public hearing on the property amendment and shall transmit notice of the proposed amendment and a summary of public hearing comments to the Township Board with its recommendations.

BOWRON stated the Planning Commission had solicited the advice of the township counsel regarding amendments to C-1 and C-2 zoned properties; numerous public hearings have been held. Changes in each of the ordinances were necessary to remedy some of the short comings.

C-1 zoned property has little harmony between the current minimum lot size of 20,000 square foot, minimum lot width of 200 feet and large setbacks of 80 feet. It renders expansion or reasonable use of the property very difficult and defeats the central purpose of the zoning ordinance which is to encourage the use of land in accordance with their character and adaptability.

C-2 zoned property was realized, by the Planning Commission, that minimum five (5) acre lot size frustrated the sensible utilization of land. The goal of insuring compatibility with adjacent properties could be achieved more practically through creation of minimum five (5) acre commercial districts comprised of minimum lot sizes of no less than 22,500 square feet.

Non-conformities are almost inevitable by product of any changes to the zoning ordinance. The proposed amendment would eliminate the creation of non-conforming lots by providing that any lot zoned C-2, as of the date of this amendment, shall be considered part of the C-2 district regardless of the dimension or total area of the lot. The concession is offset by mandating that any change in a lot, which is a part of a commercial district consisting of at least five (5) acres, require a petition for a *Special Use Permit*. The provision will equitably balance the property owner and community.

BOWRON incorporated by reference the draft amendments published in the Flushing Observer on August 28, 2005 and September 18, 2005. (Exhibit A).

SUMMARY:

C-1 and C-2 Zoned Property Amendments:

- decrease the front, side and rear setbacks from current 80 foot to 50 feet.
- decrease the minimum lot width from current 200 foot to 150 foot
- proposed minimum lot depth of 150 feet – currently no minimum lot depth is prescribed

C-1 Zoned Property Amendment:

- increase the minimum required lot area from 20,000 to 22,500 square feet

C-2 Zoned Property Amendment:

- eliminate the minimum five (5) acre area, and in its place, requires a minimum five (5) acre commercial district.
- minimum lot area for the parcels comprising the five (5) acre district is 22,500 square feet.

For more flexibility, but insuring compliance with the minimum setbacks, the Planning Commission may, at its discretion, deviate or adjust the setbacks so that cumulatively they satisfy the minimum established setback distance.

EXAMPLE:

On a 150' x 150' lot, a building could, at the discretion of the Planning Commission, be placed 80' back from the road right of way and 20' away from the rear lot line, thereby cumulatively satisfying the 100' setback, otherwise required by a minimum 50' front and rear setbacks.

On a 150' x 150' lot, a building could set 80' away from one (1) side yard and 20' from the other side line, cumulatively satisfying the 100' setbacks, otherwise required by a minimum of 50' setback on each side yard.

The **sliding scale method** would allow for the placement of a building anyplace on the lot as long as it is no closer than 30 feet to the road right of way and no closer than 20 feet to the rear lot line or any line abutting commercial property.

The proposed amendments would attempt to resolve the limitations in the current C-1 and C-2 property lots that have failed to meet the proposed minimum setbacks by providing a scheme where the lots may still be utilized. This method would be achieved by setting setback distances on a forty (40%) percent basis of the lot width and depth. Neither the proposed amendments to C-1 and C-2 property alter either by expanding or diminishing any of the uses permitted by right or by discretionary use permit, nor do they affect any currently permitted accessory uses or buildings.

7:15 P.M. OPENED TO THE PUBLIC

No Comments

7:16 P.M. CLOSED TO THE PUBLIC

DOYLE MOVED, seconded by Flowers to approve the amendments to C-1 and C-2 Zoning Ordinance and send the issue on to the Board for review. **MOTION CARRIED.**

V. UNFINISHED BUSINESS:

1. **Gary Miller, 10010 Ruby Drive, Flushing, Michigan**
Special Use Permit to Enlarge an Existing Pond Parcel No. 08-16-200-054
and an Earth Removal Permit to Remove Dirt from the Enlarged Pond

GARY MILLER (MILLER) has petitioned the Charter Township of Flushing Planning Commission for the purpose of obtaining a Special Use Permit to enlarge an existing pond at 10010 Ruby Drive, Flushing, Michigan 48433, Parcel No. 08-16-200-054 and also for an Earth Removal Permit to remove dirt from the enlarged pond.

MILLER has provided the Commission with: 1) a *Site Grading Agreement for Parcel No. 08-15-100-021*; 2) a *Permanent Easement and Right-of-Way Grant from Scott Chappell to MILLER*; and 3) a *Storm Sewer Easement and Right-of-Way Grant from Ryan Cuz to MILLER*.

7:19 P.M. - OPEN TO THE AUDIENCE FOR PUBLIC COMMENT

There were no comments regarding the Gary Miller Pond issue.

7:19 P.M. - CLOSED TO THE AUDIENCE FOR PUBLIC COMMENT

CONCERNS/QUESTIONS:

- **BOWRON:** prior drawings of the property have showed a separate parcel, which was owned by **MILLER**, but was not shown on the large engineered drawing dated September 2005. **BOWRON** thought there was a second parcel that **MILLER** had owned and was anticipating selling – it was determined this was not the case.
- **FLOWERS:** the directional marking on the large engineered drawing showed the wrong directions.
- **BOWRON:** the pond and extension (475' x 100') would abut **SCOTT CHAPPELL'S (CHAPPEL)** property. A *Permanent Easement and Right-of-Way Grant* has been drafted by Rowe Inc (Rowe) which would give **MILLER** a ten (10) foot maintenance easement on the Eastern ten (10) feet of **CHAPPELL'S** property.
 - a. easement would run with the property
 - 1. “This instrument shall be binding upon and inure to the benefit of the parties, hereto, their representatives, successors, and assigns.” (Stated on the Permanent Easement and Right-of-Way Grant).
 - b. easement has to be recorded at the County
 - c. Article XVIII, Section 20-1804 (bb) (e) (c) states:
Limitations:
 - (c) The easement shall be recorded as a pre-condition to issuance of the permit
- **BOWRON:** where would the excavated dirt be placed? **MILLER:** the dirt would be placed on the South West half and also on **CHAPPELL'S** property.
- **DOYLE:** would like for the Planning Commission to review the provisions as to what the Planning Commission would prefer:

Article XVIII, Section 20-1804 (bb) (d) Design Requirements:

Private ponds shall be permitted as an accessory use provided they meet the following requirements:

1. The setback distance for the pond shall be a minimum of seventy-five (75) feet from the waters edge at its highest point from any adjoining property line. There shall be a minimum of 25 feet between the edge of any berm or other placement of elevated soils removed from the excavated pond and any adjoining property line. The total height, as measured from original grade, of any berm or elevated soils and any fence or other materials built or placed upon the berm, except trees or other vegetation, shall not exceed a total of 6 feet. This provision shall not prohibit the placement of

an otherwise appropriate fence across a part of such berm, which may cause the height of the fence to exceed 6 feet at the point of crossing the berm.

COMMENTS:

1. 75 feet from the waters edge (Section 20-1804 (bb) (e)) - grant an easement and have it extend onto **CHAPPELL'S** property.
 - a. 175 feet from the East property line (as detailed on the small engineered drawing).
 - b. 280 feet from the North property line to the North line of the pond.
 - c. 191 feet on the West side to the street
 - d. setbacks are correct for the pond
2. Article XVIII, Section 20-1804 (bb) (d) 1:
The total height, as measured from original grade, of any berm or elevated soils and any fence or other materials built or placed upon the berm, except trees or other vegetation, shall not exceed a total of six (6) feet.
 - a. soil would only be rolled back
 - b. there would be no berm
3. topography changes:
 - a. grade changes in the Southeast corner (dirt would be pulled back).
 - b. most of the proposed pond would be constructed on the South side of the property
 - c. **MILLER:** currently, the Southwest side of the pond is high ground; the east half of the pond is low ground; the low side will be built up
 - d. most of the dirt would be used on the Southwest half of the property toward **CHAPPELL'S** property.
 - e. the two (2) foot grade (from 694' to the West to 692' – small engineered drawing) would be built up
 - f. no definite berms have been showed
4. **BOWRON:** after checking with **CHAPPELL** and **MILLER**, there would be no problems with the pond as far as the children are concerned.
5. **BUELL:** the boundary of **LISKE'S** property (on the East side of **MILLER'S** property) would facilitate the flow of water across **LISKE'S** property to **MILLER'S** pond.
 - a. **MILLER:** per the engineer, there is a “hump” between the **LISKE** and **MILLER** property that is causing the drainage problem. When the water gets so low the “hump” stops the water from flowing to the pond from **LISKE'S** property.
 1. the “hump” is located at the original contour line marked 696 (on the small engineered drawing) in the center of the line where there is a curve line.
 2. **BUELL:** has **LISKE** been consulted regarding the plans for the property?

BOWRON read the document entitled **SITE GRADING PARCEL #08-15-100-021** which stated:

“This statement is to confirm that I, Gary Miller, will do the necessary grading on parcel #08-15-100-021, which is owned by Mr. Donald Liske, for the purposes of alleviating existing drainage problems along the west line of his parcel. (The wording was drafted by the engineer).

MILLER stated the drainage problem was on his (Miller’s) property, not **LISKE’S** property which would involve lowering the grade on **MILLER’S** property so that **LISKE’S** property would drain across **MILLER’S** property to the Northwest.

6. **PRATT:** was there a septic field or anything similar in the area that would drain back to **MILLER’S** pond? Per **MILLER**, there wasn’t anything that would drain.
7. **BOWRON:** wanted to know if **LISKE** had any comments to offer to the situation.
 - a. the situation could be accomplished by not doing anything to **LISKE’S** property.
 - b. a natural “little” creek use to run through the area, but has been built up higher on **MILLER’S** property; if the area was cleared out there would be no problems. (The water use to drain to the creek).
 - c. **LISKE:** he is in favor of **MILLER** expanding his proposed pond.
8. **SWANSON:** **MILLER** has done a good job in bringing the engineered site drawing back to the Planning Commission with everything which the Planning Commission had requested with all the permits, drains, agreements, etc.

SWANSON MOVED, seconded by Buell to approve Mr. Miller’s petition to enlarge his pond as to the site drawing, agreements, and the ordinance of which has been presented.

DISCUSSION:

1. **GIBBS:** were there any 300’ letters returned or comments received?
MORFORD stated a letter from Leonard McKay, 6299 Seymour Road, was returned with no forwarding address. There were no other letters of correspondence received regarding the proposed pond issue.
2. **PRATT:** on the existing foundation on the other lot to the Northwest, what are the measurements between the existing pond and the edge of the pond. **MILLER** stated there was seventy-five (75) feet.
3. **DOYLE:** the Planning Commission should follow the design requirements to make sure that everything was located on the plot plan.
4. **SWANSON:** the West side of the pond has been pre-approved by the township. The South and West side of the pond which is being enlarged should be the areas that would need dimensions.
5. **DOYLE:** felt the drainage for the property was ok, but there was definite ability for the pond to drain and not create an overflow problem for the property. What about the West property and the overflow drainage that would go across the existing roadway to his (Miller’s) house and then to the North property line and

then to the lower drain? It should be stated the above would be the process for the drainage. **DOYLE** would like to have everything in writing so there would not be drain problems at a later date; there have been overflow problems to the West.

6. **SWANSON:** to the North and West, there is a proposed additional ten (10) inch diameter of existing PVC storm pipe with the agreement to go across the owner's property. There is an additional ten (10) inch pipe going across the West side of the property to the drain.
7. **PRATT:** what is the drainage history of the property to date?
8. **DOYLE:** the complaint received was the overflow of water to the West property. The status on **LISKE'S** property was water backup.
9. **MILLER:** plans are to build the property so the pond would hold the water and drain off slowly.
10. **DOYLE:** the plans show the water has to drain to the North, then to the West, then to the small drainage ditch.
11. **BOWRON:** it would be best to make sure that everything drains properly otherwise if the system did not work properly, **MILLER** would be setting himself up for a legal suit to the property owners as either a nuisance or a trespass which could be brought against **MILLER** for water backup and flooding.
12. **DOYLE:** what is the final height of the proposed pond supposed to be?
 - a. existing pond elevation was 687
 - b. drainage elevation for ditch which flows from **LISKE'S** property is 692
 - c. pipe that extends out for an overflow should be kept at a particular size so it would have to be kept at 690.
 - d. the drain at the North would be set at the bottom of the South drain
 - e. there would be four (4) feet lower on the North side
 1. **MILLER:** there would be a ten (10) inch drain to the North side, which is the low elevated drain and the South drain would be set at the top of the ten (10) inches.
 2. **FLOWERS:** the drain should be set at 691 to 692 otherwise the area would wash out.
 - f. the water will drain to the North at 690 and then over to the Rowe Drain.

BOWRON read the proposed **STORM SEWER EASEMENT AND RIGHT-OF-WAY GRANT** for Ryan Cuz which states:

KNOW ALL MEN BY THESE PRESENTS Ryan Cuz party of the first part, residing 10100 Ruby Drive, Flushing, Michigan 48433 for and in consideration of the sum of One (\$1.00) dollar and other good and valuable consideration paid to him by the Gary Miller, party of the second part, whose address is 10010 Ruby Drive, Flushing, Michigan 48433 does hereby grant, convey and release to the said party of the second part, a permanent easement and right-of-way in which to construct, operate, maintain, repair and/or replace a storm sewer over, across, under and

through the following parcels of land situated in the Township of Flushing, Genesee County, Michigan.

BOWRON stated the easement was permanent and would run with the property; the easement would have to be recorded before the Building Permit would be issued.

BOWRON felt *Article XVIII, Section 20-1804 (d) Design Requirements* should be reviewed:

1. The setback distance for the pond shall be a minimum of seventy-five (75) feet from the waters edge at its highest point from any adjoining property line.
2. There shall be a distance of not less than fifty (50) feet between the outside edge of the pond and any building.

ACTUAL CIRCUMSTANCE: There is at least seventy-five (75) from Mr. Chappell's home.

3. There shall be a distance of not less than fifty (50) feet from the water's edge to any overhead transmission lines.
4. Slopes of the excavation shall not exceed a ratio of four (4) feet horizontal to one (1) foot vertical, to a depth below water of six (6) feet on shallow walk in side, and no more than six (6) feet horizontal to size (6) feet vertical at three sides of pond.

ACTUAL CIRCUMSTANCE: The ratio exists on the North side of the pond. There is a five (5) to one (1) ratio on the sides of the expansion. The steeper slopes are at the South, West, and North sides of the pond.

Ponds must be a minimum of fifteen (15) feet in depth to existing grade in deepest spot to keep water from being stagnant, unless topography demands special consideration.

ACTUAL CIRCUMSTANCE: The deepest part of the pond is 672 and the top of the water is 687; which would equal fifteen (15) feet.

5. All areas disturbed during construction shall be seeded with bluegrass or other high quality grasses and maintained in good condition to prevent erosion.
6. The Township Planning Commission may, at its discretion, require the installation of a fence no less than four (4) feet in height to protect the health, safety, and welfare of the property owners and or tenants, neighboring uses, and Township residents.

ACTUAL CIRCUMSTANCE: **CHAPPELL'S** children are old enough to exercise sufficient caution. **MILLER** has children also. **BOWRON** felt there wasn't a need or requirement to place a fence around the pond.

7. The Township Planning Commission may, at its discretion, require the installation of a berm to be approximately designed for height and width, whose slope shall be no more than at a 30 degree angle to prevent erosion and to protect the health, safety, and welfare of the property owners and or tenants, neighboring uses, and Township Residents.

ACTUAL CIRCUMSTANCE: No berm would be required. **DOYLE:** there would be a raise in the property on the South and West side to be able to hold water and then drain to the North and West. The pond sides would be filled on the South and West side.

FLOWERS: is water currently flowing across both parcels of property?

MILLER: **CUZ** already has water flowing across his property from the drain on the South side of **MILLER'S** property. **CUZ** cannot interfere with the natural flow of water.

When the pond has been completed, it will measure 3.2 acres.

CUZ stated he never had problems with flooding until **MILLER** filled the pond. The water floods **CUZ'S** bean field before it gets to the Rowe Drain.

DOYLE felt if there was a drain to elevate the water, the majority of time it would take care of the matter. It seems like there could be an overflow of water in the spring time or in an enormous rain fall. **BUELL** stated that if the water was drained at 690 feet and the topography is 694 on the Southwest corner which flows to **CUZ** property, it would be a long time before the Southwest drain would ever be used. **FLOWERS** stated there were 2 – six (6) inch pipes running to the South. **MILLER** stated there was a ten (10) inch pipe flowing to the North property line, which would run along the North property line to the Rowe Drain. The secondary drain would only go to the property line. **DOYLE** stated there now was a lake involved instead of a natural drain on the field; a natural drainage on a field is a lot different than a huge body of water suddenly flowing over the sides. If there was a major problem, the water needed to flow to the North with the ten (10) inch drain, West, and then to the Rowe Drain. **DOYLE** felt an open ditch rather than a ten (10) inch pipe would handle the drainage better which would allow the water to get out quicker than through a confined pipe.

BOWRON felt the Planning Commission could walk **MILLER** through the process to make sure the pond conforms to the ordinance, but **MILLER** should plan for the worst scenarios in case something should go wrong in the future.

BOWRON read Article XVIII, Section 20-1804

e. Limitations:

1. No pond shall be located upon, cross, or extend beyond an existing property line and a permit shall not be issued for construction of a pond on more than one property, unless, in addition to the other requirements of this section:
 - (a) The owners of each property on which any part of the pond is to be located, submit a joint application for a special use permit, signed by each property owner.
 - (b) Each property owner executes a reciprocal easement, in recordable form, satisfactory to the planning commission which describes the benefits and burdens to each property, including adequate provisions to assure maintenance of the pond.
 - (c) The easement shall be recorded as a pre-condition to issuance of the permit.
2. Construction of a pond shall be completed within twelve (12) months of the issuance of the construction permit. Extension may be granted by the Planning Commission for a reasonable cause shown.
3. The requirements contained herein shall not relieve the applicant from complying with other land development or environmental standards established by the Township or by other public agencies having jurisdiction.

f. Fees Required:

1. Fees for the review of applications for the purpose of obtaining a construction permit for a pond shall be \$50. The fee may be changed at a later date by resolution of the Township Board.
2. There shall be a minimum \$7,500 Performance Bond presented at the time permit is issued. Total amount of bond to be determined by the Planning Commission. The \$7,500 Earth Removal Performance Bond may be combined with the Performance Bond for a pond.
3. Bonding or insurance shall be in accordance with our Earth Removal Permit.

MILLER wanted to know if there needed to be another easement. **DOYLE** stated the Planning Commission was only trying to alert **MILLER** for the possible problems that might arise in the future. **FLOWERS** stated there still needed to be a drain to the North, which does show on the engineered drawing. The South drain would be **CUZ'S** responsibility. If something should happen to **MILLER** in the future, and someone else took over the property, the next person may not like the situation and there could be a problem. When cases where there are problems, they usually occur ten (10) to fifteen (15) years down the road.

DOYLE stated if it was determined the drain line would not be large enough to handle the overflow, **MILLER** would be responsible for the problem. There are no engineering notations concerning the matter.

DOYLE wanted to know how much lower the Rowe Drain (known as Rowe Drain #1) was than the **CUZ** property. **CUZ** stated if the Drain was cleaned out, there would be a two (2) foot drop.

CUZ stated the drain started at Coldwater Road, flowed through the Perkins Property (South of the Miller property), flowed through the **CUZ** property to the Northwest, flowed toward Turner Road, and then to the Rowe Drain.

DOYLE stated the topography map showed the water drains in the Northwest direction, as mentioned by **CUZ** and that would be what the Planning Commission would deal with.

COMMENTS FROM THE BUILDING INSPECTOR:

JERRY FITCH (FITCH), Flushing Township Building Inspector stated there was nothing else to mention about the proposed enlargement of the pond other than what had already been discussed.

ACTION OF THE MOTION:

(Motion Repeated) SWANSON MOVED, seconded by Buell to approve Mr. Miller's petition to enlarge his pond as to the site drawing, the agreements which have been presented, and by the ordinances.

ROLL CALL VOTE:

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

NAYS: 0 MOTION CARRIED.

GIBBS recommended there be an easement which would save a lot of problems in the future.

VI. NEW BUSINESS:

None

VII. PUBLIC COMMENTS:

8:15 P.M. – OPENED TO THE PUBLIC FOR NON-AGENDA COMMENTS

8:15 P.M. – CLOSED TO THE PUBLIC FOR NON-AGENDA COMMENTS

VIII. BOARD COMMENTS:

1. **BOWRON** stated the next regular scheduled Planning Commission meeting would be Monday, October 3, 2005 at 7:00 p.m. with one (1) agenda item.

2. **BOWRON** would like the issue of the Grading Ordinance be placed on the October 3, 2005 Planning Commission Agenda.

3. **FLOWERS** stated there would be an MTA all-day seminar entitled *Processing Land Division and Combination Requests* on Thursday, December 1, 2005, at the Holiday Inn Gateway Centre, Flint, Michigan.

IX. MEETING SCHEDULE:

REGULAR SCHEDULED MEETING – MONDAY, OCTOBER 3, 2005, – 7:00 P.M.
PROPOSED SPECIAL MEETING – MONDAY, OCTOBER 24, 2005 – 7:00 P.M.
REGULAR SCHEDULED MEETING – MONDAY, NOVEMBER 14, 2005 – 7:00 P.M.
PROPOSED SPECIAL MEETING – MONDAY, NOVEMBER 28, 2005 – 7:00 P.M.
REGULAR SCHEDULED MEETING – MONDAY, DECEMBER 12, 2005 – 7:00 P.M.

X. ADJOURNMENT: There being no further business, **BOWRON** adjourned the Planning Commission Meeting at 8:19 p.m.

AARON BOWRON, Chair

JULIA A. MORFORD, Recording Secretary

ERIC SWANSON, Secretary

Date of Approval

Planningminutes 09/26/05