

**CHARTER TOWNSHIP OF FLUSHING**

6524 N. SEYMOUR ROAD

FLUSHING, MICHIGAN 48433

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***PLANNING COMMISSION MEETING***

DATE: JULY 14, 2008

TIME: 7:00 P.M.

WEB ADDRESS <http://www.flushingtowship.com>

**MEMBERS OF PLANNING COMMISSION**

Mark J. Newman, 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:** Buell, Flowers, Gibbs, Pratt, Fitch, and Morford

**ABSENT:** Newman, Doyle, and Swanson

**OTHERS PRESENT:** Tom Walker, Larry Anderson, Lesley Anderson, Reginald Rabidue, Nancy Rabidue, and Real Estate Agent Scott Reel

**I. MEETING CALLED TO ORDER** at 7:00 p.m. by Recording Secretary **JULIA MORFORD**, with Roll Call and the Pledge to the American Flag.

**FLOWERS MOVED**, seconded by Pratt to appoint Planning Commission Member **RICHARD BUELL (BUELL)** as the Chair for the meeting. **MOTION CARRIED.**

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

**III. APPROVAL OF MINUTES OF JUNE 9, 2008: PRATT MOVED**, seconded by Flowers to approve the Minutes of June 9, 2008 with corrections. **MOTION CARRIED.**

**IV. UNFINISHED BUSINESS:**

**V. NEW BUSINESS:**

1. Larry Anderson, 10157 Willowbrook Drive, Flushing, Michigan 48433  
Special Use Permit to Expand an Existing Private Drive, Parcel No.  
08-04-100-015

**LARRY ANDERSON (ANDERSON)**, 10157 Willowbrook Drive, Flushing, Michigan 48433, stated an individual wanted to purchase his (Anderson) house and approximately one (1) acre of property. **ANDERSON** owns a total of eleven (11) acres and would split ten (10) acres off the property to the West; the ten (10) acres would remain vacant property. **BUELL** inquired if the easement was the street that served the three (3) houses to the South. **BUELL** wanted to know if the private road constituted the new property boundary under the current request. **ANDERSON** stated it was the new boundary.

**SUMMARY:**

- **ANDERSON** was interested in selling his current home if he (Anderson) could get the property split.
- **FLOWERS** doesn't want the easement to go with the property because he (Flowers) does not want the new owner to think he (the new owner) owned the easement.
- **ANDERSON** stated the easement would stay where it currently was located and would continue west. Both parcels (house and one (1) acre and ten (10) acres) would share the existing easement.
- **FLOWERS** wanted to know if the property was registered with the Genesee County Register of Deeds.
- **PRATT** wanted to know if there were intentions to build on the vacant property. **ANDERSON** stated there were no intentions at this time to build.
- **FLOWERS** wanted to know if there had been a certified survey done on the parent parcel where the easement was located.
- Real Estate Agent, **SCOTT REEL (REEL)**, stated there could have been a point when the previous owners, Sewells, could have had a survey done.
- **FITCH** stated that **THOMAS WALKER (WALKER)** had a survey done several years ago when he (Walker) had his property split. **WALKER** stated the South side of his property had been surveyed.
- **FLOWERS** was concerned about the easement not being extended to the railroad tracks. The South property line off Willowbrook Drive was 1,178.42 feet. **FLOWERS** doesn't have a problem with the Special Use Permit Request.
- **GIBBS** wanted to know if the property could be land locked. **FLOWERS** stated there wasn't anyway it could be land locked.
- **BUELL** wanted to know how far back in history does Willow brook Drive go. **WALKER** stated the road had been in existence approximately fifty (50) years. On Willowbrook Drive itself, there are five (5) houses and two (2) houses on the South Easements. The property for **NICHOLAS AND THOMAS WALKER** is located off the South Easement.

\* \* \* \* \*

**BUELL** reviewed *General Provisions Article III Section 20-305 Private Roads:*

- a. A private road is a road that provides direct access to a parcel and which is not dedicated to and accepted by an authorized governmental road agency. (Definition of a private road.)

- b. Application, review, and approval of a proposed, private road shall follow the same procedures, as conditional use permits with regards to notice and timing. (The Planning Commission is not looking at a new private road, but looking at an existing private road with a modification to the road.)
- c. Application for approval of a private road shall include a site plan sealed by a professional engineer showing:
  - 1. Existing and proposed lot lines.
  - 2. The location of existing and proposed structures.
  - 3. The width and location of the private road easement.
  - 4. A cross section of the proposed road, showing the types of material the road base and surface will consist.
  - 5. Utility plans including the location and size/capacity of storm water drainage systems, sewer or septic systems, water lines or private wells, and private utilities such as telephone, electrical or cable service.
  - 6. Proposed locations of driveways off the private road.
  - 7. Any existing or proposed structures, trees or other obstructions within the proposed right-of-way.
  - 8. All division of land shall be in compliance with the Subdivision Control Act.
- d. The proposed private road shall meet the following standards:
  - 1. The minimum right-of-way width shall be sixty-six (66) feet, provided that an applicant can request a reduction in right-of-way width in order to protect natural features provided that in no case may the right-of-way be less than 50' or as a result of space saving features such as curb and gutter. (The Planning Commission had a discussion regarding the proposed private road approximately one (1) year ago with the property split between **THOMAS AND NICHOLAS WALKER**. The agreement had been: 1) Willowbrook Drive would be 22' wide which would be wide enough for large trucks to get back to the area; 2) The width would not hinder the pine trees just off Seymour Road on the North side of Willowbrook Drive.)
  - 2. The minimum grade for roadways shall be .05%. The maximum grade shall be 6%. The maximum grade within 100' of an intersection shall be 3%.
  - 3. No fence, wall, sign, screen or any planting shall be erected or maintained in such a way as to obstruct vision between a height of three (3) and ten (10) feet within the triangular area formed by the intersection of a road right-of-way line and a private road right-of-way line and a line connecting two (2) points which are located on those intersecting right-of-way lines, thirty (30) feet from the point of intersection.
  - 4. The maximum number of residences permitted on a cul-de-sac is 20, but in no instances may a cul-de-sac be over 1,000 feet in length.
  - 5. Any driveways off of a private road shall be at least 40' from the intersection of the private road right-of-way and a public road right-of-way.
  - 6. Intersections of private roads with public roads shall be at an angle as close to 90 degrees as possible, but in no case shall it be less than 80 degrees or more than 100 degrees.

7. The width of the roadway shall be a minimum of 18' with 3' shoulders provided for bicycle and pedestrian traffic for roads servicing lots over 100' in width. Roads servicing lots 100' wide or less shall provide a 24' wide roadway with 3' wide shoulders.
8. The minimum radius for circular cul-de-sacs roadway is 40'. An interior island is permitted in the center of the cul-de-sac, provided that the roadway within the cul-de-sac is no less than 25' wide.
9. Private roads shall meet the recording and maintenance requirements outlined for common drives in Section 20-304(b). (Currently, a Private Road Maintenance Agreement is already in place. **WALKER** stated one of the houses was sold. **FLOWERS** stated the Road Maintenance Agreement should be grandfathered with the property even if the property should be sold. If the property was split, it would be grandfathered with the request and it would go with the new deed that went with the other ten (10) acres. The information should be recorded with the Genesee County Register of Deeds. **PRATT** felt that **ANDERSON** could recommend any new purchaser that was planning to purchase property, to join in on the Road Maintenance Agreement. **FLOWERS** suggested: 1) the new parcel be surveyed with a new description and 2) the dedicated easement between the two (2) properties go with the deed. **FLOWERS** stated the easement was over the limit, as far as the ordinance was concerned, which stated there be only two (2) houses on a thirty (30) foot drive. **PRATT** stated that **WALKERS** had provided gravel for the private drive (Willowbrook Drive) approximately two (2) years ago.)
10. Private roads shall be paved with bituminous asphalt or concrete if any of the following occur:
  - a. The road serves more than 10 residential dwelling units.
  - b. The lots are an average of 100' or less in width.
  - c. The road provides access to multiple family developments.
11. Sight distances on horizontal and vertical curves shall be a minimum of 200' measured at a point 10' from the edge of the traveled road-way at a height of 42" to an object height of 42".
12. Parcels fronting on private rods shall meet the required front yard setback and lot width for their district.
13. The private road shall be constructed with a minimum 10" of 22-A aggregate.
  - e) Any road that provides connection to any other (two) 2 public roads, provides access to industrial or commercial property shall be constructed to county road standards, and inspected and approved by the Genesee County Road Commission.
  - f) Any private road in legal use as of the effective date of Section 20-305 shall not be subject to the requirements of Section 20-305. Any increase in the existing use of such private road shall require a special use permit to be considered by the planning commission in accordance with Sections 20-1800, 1801, and 1802 of the Charter Township of Flushing Zoning Ordinance. The planning commission shall have the sole discretion to allow modification of the existing use of the private road and may impose any conditions that are reasonably necessary to achieve the objectives set forth in

Sections 20-1800, 1801, 1802. Except as expressly amended by this subsection (f) all provisions of Section 20-205 shall remain in full force and effect.

\* \* \* \* \*

**COMMENTS BETWEEN THE AUDIENCE AND PLANNING COMMISSION:**

1. **Reginald Rabidue, 10264 Willowbrook Drive, Flushing** – “ten (10) residents were mentioned in the ordinance, does that mean the road has to be paved?” **BUELL** stated the particular section did not apply because it was an existing private road in existence in July 2005. A Special Use Permit would have to be obtained from the Planning Commission who has the authority to say “yes” or “no” based on the conditions of the private road at the time.

**PAST HISTORY REGARDING WILLOWBROOK DRIVE:**

- **PRATT** stated that under a Special Use Permit the Planning Commission is able to condition a property with a survey, easement, and the road maintenance agreement to be attached to the property.
  - **PRATT** stated with the Special Use Permits, the Planning Commission is to review them for the Health, Safety, and Welfare of the Community. In that aspect, the rules don’t apply as they normally would to a private road because the Planning Commission went around to the “old existing private road” and come to the Planning Commission for a Special Use Permit. Everything is reviewed as to the situation, judge for Health, Safety, and Welfare of the area and residents, because other items don’t apply. If someone new came into the Township to get a private road, everything that was reviewed in the ordinance would come into effect, but the older private roads do not apply. The issue was channeled to a Special Use Permit in order to allow any development or changes on the road, the Planning Commission reviews and then judge in the Commissions’ minds to invoke any conditions for someone to follow for health, safety, and welfare. Every issue is individually reviewed.
2. **Reginald Rabidue** – the easement curved to the South of his (Rabidue) property and continued under the Consumers Energy Power lines; the last half-mile is a curve.”
  3. **BUELL** wanted to know if the last half mile bordered part of the requested parcel. **RABIDUE** stated all of his property bordered the request parcel. **FLOWERS** stated **RABIDUE** owned the last parcel on the North side of the drive all the way back to the railroad tracks right-of-way (100-019).
  4. **FLOWERS** stated the map showed the road as being straight and recommended the survey be done and the stakes set since the road would be changed.
  5. **RABIDUE** stated that when the telephone poles were installed, through his property, the installers stayed on the property line.
  6. **GIBBS** wanted to know if there was an easement through **RABIDUE’S** property.

7. **BUELL** suggested the property (Anderson's) stay as it was but change the description of the parcel that **ANDERSON** was attempting to split due to the curve in the property.
8. **BUELL** inquired from **REEL**, if the proposed transaction required a survey? **REEL** stated the parcel with the house would be having a survey so the new owner would know exactly what was being purchased.
9. **BUELL** stressed that **ANDERSON** would be the owner of the remaining ten (10) acres and would be aware that the road crosses his (Andersons) boundary. The location of the road where it currently is isn't perfect with the survey if it were done.
10. **WALKER** stated that most of the time when utility companies install poles, lines, etc. they would stay on the road.
11. **FLOWERS** stated if changes were made in the future such as purchase of the ten (10) acres, the purchaser would have to come before the Planning Commission to obtain approval because, at that time, issues such as paved roads, etc. would take place.
12. **MRS RABIDUE** wanted to know how far West the road would be extended.
13. **FLOWERS** stated that according to the records from the Planning Commission, the easement would extend all the way to Brent Creek. The only concerns that he (Flowers) had was: 1) the easement, 2) the survey being done on the property split, 3) the easement noted on both parcels, and 4) the Maintenance Agreement be attached as part of the document.

**RECOMMENDATION FROM BUILDING INSPECTOR JERRY FITCH:**

1. Only adding one parcel of land to the private road.
2. Per the Assessor, the property would have to be surveyed in order to divide the property.
3. Legal descriptions and easements would be on record.
4. **WALKER** already has cleaned up the Maintenance Agreement and added a property owner.
5. There shouldn't be a lot of problems with the issue.
6. The property was a buildable site.
7. Since the request was for a Special Use Permit, and if **ANDERSON** wanted to divide the ten (10) acres in the future, he (Anderson) would have to come back before the Planning Commission.

**WRITTEN CORRESPONDENCE:**

A letter of correspondence was received from Buckeye Pipeline without any objections to the issue.

**FLOWERS MOVED**, seconded by Pratt that a Special Use Permit be granted to Larry Anderson to expand the use of the private road subject to:

1. The easement being part of the title
2. Road Agreement being executed and filed by both parties
3. The parcel be surveyed.

**ACTION OF THE MOTION:**

ROLL CALL VOTE:

AYES: Buell, Flowers, Gibbs, Pratt

NAYS: None MOTION CARRIED

ABSENT: Newman, Doyle, and Swanson

**VI. PUBLIC COMMENTS:**

**8:00 P.M. – OPENED TO THE PUBLIC FOR NON-AGENDA ITEMS**

1. **Mrs. Rabidue** – a statement was made about the property across from their property, by the way, who owns the property?

**8:01 P.M. – CLOSED TO THE PUBLIC FOR NON-AGENDA ITEMS**

**VII. BOARD COMMENTS:**

1. **FLOWERS** passed out *Genesee County Traffic Flow and Pavement Condition Maps* prepared by the Genesee County Metropolitan Planning Commission.
2. **FLOWERS** appreciated getting the Resolution showing when the Flushing Township Planning Commission was formed; the Resolution was part of the “To Do List” required by the State.
3. **FITCH** reminded everyone of the Planning Commission Public Hearing scheduled for August 11, 2008 regarding the non-discretionary issue of group homes.
4. **PRATT** stated there was an article in the *Capitol Current* that had been received from the State. The State has been working on the turbines per an article entitled “*Senate Moves Energy Package Pre-Empts Local Zoning.*” The Senate used the final hours of the late night session to approve their version of the energy package which had some bills previously approved by the House with attempts to create incentives to renewable energy in Michigan. For the first time, one of the bills included language that pre-empts local zoning for the sighting wind energy facilities. The bill was amended on the floor and it included language that allowed the Public Service Commission to grant and expedite sighting certificates that took precedence over local zoning ordinances.
5. **FITCH** referred to Senate Bill 213 which had been published in the *Capitol Current* and had been amended. Setbacks and noise would be left to the discretion of the local municipalities.
6. **BUELL** felt the State would not go to every township and super impose their template on everyone. Most of the townships would be contending with noise, setbacks, tower heights, etc. There was a lot of information in the Tower Ordinance that seemed to overlap.
7. **FLOWERS** stated when the cell towers started to become popular, the township put in the ordinance that cell towers had to have certain distances.

8. **GIBBS** stated the wind turbines were not as quiet as people thought they are; out west there was more room to deal with. The Planning Commission really needed to review the noise ordinance.
9. **BUELL** felt there needed to be continued discussion on the turbines in the future. Flushing Township needed an ordinance for the turbines.
10. **FLOWERS** doesn't want to give up local control.
11. **GIBBS** felt the Planning Commission should review the ordinances from other states.
12. **FLOWERS** stated that Huron County currently has a wind turbine ordinance.
13. **PRATT** stated he read where the wind turbines are placed off shore in Europe because of the noise.

**VIII. MEETING SCHEDULE:**

**REGULAR SCHEDULED MEETING – MONDAY – AUGUST 11, 2008 AT 7:00 P.M.**  
**REGULAR SCHEDULED MEETING – MONDAY – SEPTEMBER 8, 2008 AT 7:00 P.M.**  
**REGULAR SCHEDULED MEETING – MONDAY – OCTOBER 6, 2008 AT 7:00 P.M.**  
**REGULAR SCHEDULED MEETING – MONDAY – NOVEMBER 10, 2008 AT 7:00 P.M.**  
**REGULAR SCHEDULED MEETING – MONDAY – DECEMBER 8, 2008 AT 7:00 P.M.**

**IX. ADJOURNMENT: FLOWERS MOVED**, seconded by Pratt to adjourn the meeting at 8:15 p.m.

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RICHARD BUELL, Chair in the absence  
of MARK J. NEWMAN

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JULIA A. MORFORD, Recording Secretary

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ERIC SWANSON, Secretary

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Date of Approval