

CHARTER TOWNSHIP OF FLUSHING

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PLANNING COMMISSION MEETING MINUTES

DATE: MAY 10, 2010

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

John Cuddeback

Eric Swanson, Secretary

Ronald Flowers

Mark Purkey, Board of Trustee Representative

Julia A. Morford, Recording Secretary

PRESENT: Newman, Doyle, Buell, Flowers, Cuddeback, and Purkey

ABSENT: Swanson

OTHERS PRESENT: Two (2) other individuals

I. MEETING CALLED TO ORDER at 7:07 p.m. by Planning Commission Chair
MARK NEWMAN with Roll Call and the Pledge to the American Flag.

NEWMAN stated that he had received a letter and phone call from Planning Commissioner Member Eric Swanson. Eric will be resigning effective as of this meeting. An individual will have to be appointed to fill the position of Recording Secretary, for the Planning Commission, and Representative to the Zoning Board of Appeals.

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

III. APPROVAL OF MINUTES OF APRIL 12, 2010: PURKEY MOVED, seconded by Doyle to approve the Minutes of April 12, as amended. **MOTION CARRIED**

IV. UNFINISHED BUSINESS:

1. Continued Review of Accessory Structures in Front Yard

COMMENTS FROM THE PLANNING COMMISSION REGARDING ACCESSORY STRUCTURES:

- The Planning Commission has received several requests within the past few months from people who wanted to build garages/barns in their front yards.

- It was discussed among the Planning Commission Members if there needed to be changes made to the ordinance to make it more stringent against such buildings, or where people who had vacant land and wanted to build a storage unit but did not want to offend the neighbor; at the same time, the property owner would come along and build a house.
- The Planning Commission did not want to end up with a small house and a giant barn in the front yard.
 - a. Examples:
 1. Two (2) houses on the east side of Linden Road; one house has a huge brown pole barn in the front yard (Mt. Morris Township).
 2. Green barn on McKinley Road south of Coldwater Road (Flushing Township). The barn has since been torn down.
- A few property owners were asked about the accessory structure situation and it was found that people move to Flushing Township for different reasons; two (2) of the property owners own large homes with pole barns in the back of their houses. It was discussed whether to limit the size of the pole barn to no more than the square footage of the primary house. If someone wanted to live in a 1,500 square foot ranch and build a 2,000 square foot pole barn in the back woods, they should be able to do that. Is a life style change being forced on people? Everyone doesn't want to live in the city!
- Everyone has to be protected and yet, at the same time, property rights have to be protected.
- An illusion is created when there is a two (2) story, 2,000 square foot home with 1,000 square foot on each level and a pole barn on the same piece of property; the pole barn, which is the same size as the home, would look larger than the house. The size of the garage would have to be factored into the issue also.
- Acreage would have to be considered if a special use permit should be acceptable. If there is a one (1) acre parcel and the barn takes up one-half (½) of the one (1) acre, there would be a monster and it would have to be controlled by setbacks. It would make a difference on how big the pole barn would be on the particular property. There should be rules and regulations so the Planning Commission could look at the site plan to make a decision. Then you would need setbacks.
- The accessory structure ordinance is confusing to the public because when the property consists of twenty (20) acres it is considered a farm, which is another aspect. Pole barns have been built in the woods and also pole barns have been built with trees planted around the building.
- When farm animals are involved, seventy-five (75) feet is the setback.
- It isn't necessary to have a huge house on a parcel of land to have a pole barn. Why can't a smaller house be built with a pole barn.
- Setbacks would dictate where the house would be located on a parcel of land.
- In cases where there is an existing pole barn on a piece of property, the size of the pole barn might dictate the size of the house.
- There should not have to be a special use permit for every pole barn.
- If all the rules and requirements for an accessory structure are met, the individual wouldn't have to come to the Planning Commission; only an unusual situation would require attending the Planning Commission.

- If a pole barn is attached to the house, the individual would not have to come to the Planning Commission for a special use permit.
- The original accessory structure ordinance was written for people that live along the Flint River and wanted to put their accessory structure in back of their house (Seymour Road) so they would have a view of the Flint River, which would be the front of their house. Now people are building their homes facing a creek, pond, etc. and don't want an accessory structure blocking their view of the focal point of their property.
- The Planning Commission has to be very concerned that neighbors don't lose value of their own property because of something another neighbor does to his property. It is impossible to make someone do something they don't want to do. Everyone has to be in the same boat and have a reasonable remedy. Setbacks would be the solution!
- It was mentioned using square footage but the situation would depend upon what an individual wanted to construct; the site plan procedure could be used.
- If an individual already has a residential structure on the property and wanted to build a barn, he/she would not have to come to the Planning Commission. A special use permit would not be required as long as all the building requirements have been met.
- If a person wanted to place an accessory structure in the front yard, they would still have to come to the Planning Commission for a special use permit.
- On vacant property, a special use permit would be required.
- An accessory structure for animals would have to meet the side setback requirements as there has to be a specified amount of property for animals. An individual would have to follow the fence ordinance, animal ordinance, and any other ordinance that would apply.

NEWMAN will review the accessory structure issue and get back with the Planning Commission at the next meeting. The issue will be further discussed at the next meeting.

BUELL recommended, that in the future if a resident was on the agenda, that issue should be placed first on the agenda.

V. NEW BUSINESS:

1. Informal Hearing Regarding the Replacement of an Existing Fence

David Schade, 9125 North Island Drive, Flushing, MI 48433 was in attendance requesting to replace an existing four (4) foot white picket fence with a four (4) foot decorative iron fence. The way the property sits, the fence would be located on the side, back of the property and wouldn't cover the whole yard. The former owners' of the home had the white picket fence installed. Michigan Fence Company will be installing the fence.

NEWMAN stated the fence didn't violate the Subdivision Association Requirements. The former white picket fence had met all the Flushing Township ordinance requirements, so there wouldn't be anything different with the proposed black iron fence.

2. Discussion of the "Medical Marijuana Law"

The marijuana issue had been discussed at some of the seminars attended by Planning Commission Members. Different comments/concerns heard from the Planning Commission members were:

- “it was not a matter of when the issue will come to the townships, but when.”
- there were three (3) options:
 1. Leave the issue alone and do nothing; the township would have no control.
 2. License and at least the township would know where it was.
 3. License and control the issue through zoning.
- there are 12,350 registered marijuana users that will be eligible to purchase marijuana in Michigan. It is an issue that the township should be prepared for.
- some doctors cannot write a prescription for marijuana and there are others that have limited script writing privileges.
- per the Federal Government, marijuana is prescribed as a Class 1 narcotic and could not be prescribed but would be considered for “approval to smoke” if the individual person needed the narcotic. The regulations would be placed on the caregiver who could have five (5) patients and could grow up to twelve (12) plants per person. Per the law, the individual could only be in possession of two and one-half (2 ½) ounces of marijuana. Smoking is prohibited in public places.
- “Zoning Issues in a Changing World” a book that had been given out at one of Rowes Seminars, explained all the issues which Flushing Township needed in order to precede with an ordinance since the details were per State law. (The Michigan Marihuana Act was effective December 4, 2008).
- the Commercial area would be the best place for the business. (C-1, C-2, or C-3).
- recommended taking the definitions from a “Medical Marihuana Ordinance” that had been received from Niles Michigan.
- an email had been received from Ypsilanti, Michigan who stated they just had their first reading of the ordinance. The medical marijuana would be zoned so that it would be grown in a “green area” where other plants were grown.
- there isn’t that much commercial property in Flushing Township.
- there wasn’t a guarantee there would be enough property to grow marijuana.
- a new district could be created for the use.
- if the issue was placed in C-1, C-2, or C-3 would it have to be a Discretionary Special Use (DS). Drug Stores are zoned DS and C-2.
- medical marijuana could not be allowed as a “home occupation.”
- there are very few C-1 and C-2 zoning districts with C-2 being the smallest zoning district in Flushing Township.
- there was enough property but not enough for a C-1 zoning district.
- the dispensary could not be located within 1,000 feet of children.
- would the Township be responsible for having the sufficient property for the resource for the good of the citizens, or would the Planning Commission better serve the residents by limiting the use to small areas.
- the township needed to make provisions for the medical marijuana use; it could be rezoned to C-2.

- if an ordinance has been drafted by a legislative act it could not be banned by State Law.
- six (6) Planning Commission members would be speaking for all of Flushing Township.
- if notices were sent out to Flushing Township residents that rezoning would be taking place for a medical marijuana facility to grow, distribute, or residents would be living at the facility, there would be “hell” to pay.
- the City of Ypsilanti’s dispensary allowed on-site ingestion, smoking, eating, etc. to individuals with cards. The City of Ypsilanti has no zoning in place and if an ordinance was adopted, the ordinance would be grandfathered.
- something needed to be on the books as soon as possible; the ordinance could always be amended at a later date.
- the issue needed to be classified something other than agriculture because agriculture would be classified as RSA.
- for the time being, any type of activity would require a special use permit until the Planning Commission and the Board could get an approved ordinance in place.
- there was a lawsuit years ago that involved Grand Blanc Township; there was case law that stated when a township charged service fees they couldn’t do it because of a monopoly; the service fees went from a few dollars to several thousand dollars overnight. A moratorium was placed on Grand Blanc by themselves.
- when there was a special use permit, there had to be conditions as to how to determine how the special use would be used.
- perhaps there could be something basic.
- other communities are also dealing with the Medical Marijuana Act. Some things that could be put into the proposed ordinance would be: fees, an application, an inspection, and permits. The Federal Government controls drug regulations; the State Government another issues.
- under Federal law, marijuana is illegal; some states have passed laws that state a “person has a medical condition that could benefit from marijuana.” The Federal Law states that one couldn’t grow, possess, or use marijuana except for a very limited use.
- the issue has to be controlled.
- the growth of marijuana was controlled by the State; setbacks could also be used to regulate the use. There should be a whole new zoning district for the use. Since C-1 and C-2 are so small.
- The issue should be limited to Commercial.
- what would keep someone from buying additional farm land from a farmer in the township in order to have the required land.
- people have gone to other townships and purchased homes to start the business.
- a district could not be set up if you could not find it.
- there should be a separate completely new designation for medical marijuana; perhaps C-4. If a new zoning district was started, notices would have to be sent out to all the residents.
- Flushing Township Residents have always disagreed with pre-zoning of property.
- the use would be permissible in C-2.

CONCLUSION:

It was recommended to go with a C-2 zoning district and to be listed in the Zoning Manual as Special Use Permit, Letters NN, "Medical Marihuana Dispensary & Ingestion Sites". Per State Law, the dispensary would have to be located 1,000 feet from anything that deals with children. Residents have to come into the township office to apply for a discretionary special use permit (DS). All the neighbors within three hundred (300) foot would have to be notified of the hearing. In the ordinance, the State Law would be referenced so the ordinance would not have to be changing all the time.

Further discussion of the Medical Marihuana Act will be listed on the Agenda for the June 14, 2010 Planning Commission Meeting under "Unfinished Business".

VI. PUBLIC COMMENTS:

9:10 P.M. – OPENED TO THE PUBLIC FOR NON-AGENDA ITEMS

None

9:11 P.M. – CLOSED TO THE PUBLIC FOR NON-AGENDA ITEMS

VII. BOARD COMMENTS:

1. **BUELL** felt very bad about Eric Swanson leaving; he did a great job.
2. **PURKEY** was very surprised at Eric leaving; Eric was a stickler on Code Enforcement; would like to see input from Mark Newman and the Supervisor as to an appointment to replace Eric.
3. **DOYLE** felt Eric poured his heart out in the letter; a lot of things were involved.
4. **CUDDEBACK** hoped that he (Cuddeback) was not to blame for Eric resigning; had played golf with Eric when they were in Florida.
5. **NEWMAN** respected Eric's wishes and felt that Eric was very professional in dealing with the issue. Eric cares very much for the township but decided to bow out; he will be missed very much.
6. **FLOWERS** will really miss Eric because he knows so much about the township and enforced the ordinances when he was Code Enforcement Officer.
7. **PURKEY** wanted to know if the Planning Commission had to rush into getting someone to fill the vacant position. Since Eric is also the representative for the Zoning Board of Review would suggest that Supervisor Terry Peck, Planning Commission Chair Mark Newman, and Planning Commission Vice Chair Jerry Doyle work together to select someone that is experienced to fill the vacant position.

VIII. MEETING SCHEDULE: NEXT REGULAR SCHEDULED MEETING WILL BE HELD ON MONDAY, JUNE 14, 2010 AT 7:00 P.M.

FUTURE REGULAR SCHEDULED MEETING DATES:

REGULAR SCHEDULED MEETING – MONDAY, JULY 12, 2010 AT 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, AUGUST 9, 2010 AT 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, SEPTEMBER 13, 2010 AT 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, OCTOBER 4, 2010 AT 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, NOVEMBER 8, 2010 AT 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, DECEMBER 13, 2010 AT 7:00 P.M.

IX. ADJOURNMENT: Due to lack of business matters, **NEWMAN** adjourned the meeting at 9:23 p.m.

MARK J. NEWMAN, Chair

JULIA A. MORFORD, Recording Secretary

ERIC SWANSON, Secretary

Date of Approval

Planningminutes 05/10/2010