

# CHARTER TOWNSHIP OF FLUSHING

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## ***PLANNING COMMISSION MEETING MINUTES***

DATE: SEPTEMBER 13, 2010

TIME: 7:00 P.M.

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

### **MEMBERS OF PLANNING COMMISSION**

Mark J. Newman, Chair

Jerome Doyle, Vice Chair

Richard Buell, Secretary

Mark Purkey, Board of Trustee Representative

John Cuddeback

Ronald Flowers

Julia A. Morford, Recording Secretary

**PRESENT:** Mark J. Newman, Jerome Doyle, Richard Buell, Ronald Flowers, John Cuddeback, and Mark Purkey

**ABSENT:** None

**OTHERS PRESENT:** Four (4) other individuals

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

**II. ADOPTION OF AGENDA: FLOWERS MOVED**, seconded by Doyle to approve the Agenda by moving “New Business” up to Number IV and “Unfinished Business” to Number V in order that “New Business” may be taken care of first. **MOTION CARRIED.**

**III. APPROVAL OF MINUTES:**

**a. MINUTES OF JUNE 14, 2010: BUELL MOVED**, seconded by Doyle to approve the Minutes of June 14, 2010 as amended. **MOTION CARRIED.**

**b. MINUTES OF JULY 12, 2010: PURKEY MOVED**, seconded by Flowers to approve the Minutes of July 12, 2010 as amended. **MOTION CARRIED.**

**IV. NEW BUSINESS:**

**1. Scott Burtrum, 9062 Vista Del Arroya, Flushing, MI 48433**

Formal Hearing for the Purpose of Obtaining a Property Split of Parcel No. 08-22-200-062 located at 9062 Vista Del Arroya, Flushing, MI 48433

**BACKGROUND:**

At the June 14, 2010 Meeting, Mr. Burtrum had come before the Planning Commission for an informal hearing to determine the procedure for splitting his property and to change some of the things on the property.

Notices were sent out for the current meeting, which is a Formal Hearing, to all the residents within 300 foot of the subject property (Parcel No. 08-22-200-062). Mr. Burtrum supplied a drawing from Delta Land Surveying & Engineering, Inc. which showed the property as it currently is with Parcel A and Parcel B.

**CORRESPONDENCE:**

1. Mr. & Mrs. Stephen Gillean, 9074 Vista Del Arroya Drive, Flushing – “against the split as it would lower the value of their property.”
2. Two (2) letters were returned to the Township marked “Unable to Forward”.

**COMMENTS FROM MR BURTRUM AS TO HISTORY AND WHY MR. BURTRUM WANTED TO SPLIT HIS PROPERTY:**

1. Owned Parcel B for fifteen (15) to seventeen (17) years; owned Parcel A for ten (10) to twelve (12) years.
2. When barn was originally built on Parcel A, it was built on the property line and now trying to pull back one hundred (100) feet in order to place a septic field and continue to use the barn.
3. Parcel A and Parcel B have always been two (2) parcels.
4. The barn is actually two (2) structures butted together as one (1) pole barn.
5. Currently, there isn't a septic field on proposed Parcel A.
6. Presently serviced by a well, but if approved for the split would have public water installed on Parcel A and B.
7. Intent was to sell Parcel B with the dwelling and then build a home on Parcel A to live in.
8. Currently, in the process of trying to have electricity brought to the dwelling from McKinley Road.
9. There is sixty (60) feet of easement off McKinley Road.
10. Would like to turn the barn into a duplex or apartment.

**COMMENTS FROM THE PLANNING COMMISSION MEMBERS:**

1. Per the drawing supplied by Delta Engineering, Parcel B use to extend up to the South line of Parcel A.
2. Barn built eight (8) years ago; was Mr. Burtrum knowledgeable that the barn was built on two (2) properties.
  - a. At the time, there was an extension pulled that extended Parcel B into Parcel A enough to build the barn. The dotted line (on the drawing by the barn) there is another thirty (30) foot to fifty (50) feet to the North that encompasses the barn. Presently barn situated on Parcel B
3. Were Parcel A and B combined?

ANSWER: Parcel A has never been split. Not sure if the issue was considered a split as it never went any further than the office.

4. Even if a legal description was changed on a document, maybe even written on paper, it doesn't really have any effect because property is being split without the approval of the township. The method in which Delta drew up the drawing, there is a pole barn that straddles the old property line.

5. Were you originally told you could place a pole barn on Parcel A?

ANSWER: yes

6. Was there a permit pulled for the barn?

ANSWER: yes, the permit had to be extended for another year to get it closed.

7. 1) Where is the well on Parcel B; where is the well for the house on Parcel B.

ANSWER: The pole barn was built around the well on Parcel B. The well for the dwelling is also in the pole barn. If the split is approved, there will be public water brought in for both Parcel A and B. The well will not be serviceable again.

- 2) Where will the new septic system be installed?

ANSWER: it will be located on the 100' x 100' property (Proposed Parcel B).

- 3) Where will the driveway be located?

ANSWER: The drive way currently comes in off McKinley Road for Parcel A.

- 4) Is it your intent to get an occupancy permit for the pole barn?

ANSWER: Mr Burtrum will be contacting the State Building Inspector; currently working to get electricity back to the pole barn.

- 5) Are you going to be turning the pole barn into a house?

ANSWER: Mr. Burtrum would like to turn the barn into a duplex since it is actually set up to be split.

- 6) Do you have the pole barn roughed in as to the plumbing, etc.

ANSWER: By the end of the month, Mr. Burtrum will be contacting the State Building Inspector as to what he (Mr. Burtrum) needed to do to complete the barn.

8. to reiterate, the well is located in the existing pole barn and won't be used?

ANSWER: yes, the well is located in the barn and the water won't be used for drinking only thermo uses;

- 2) before Parcel B and Parcel A, including the barn, can be sold, water will have to be installed for both units?

ANSWER: yes, the water will be installed;

- 3) what are the setbacks from the barn to the property line on the east or west side?

ANSWER: It is wide enough on the west side for a cement truck to drive through, approximately thirteen (13) feet; on the east side about twenty (20) feet;

- 4) what are you going to do for another area needed for a secondary septic system? Have you talked to the Health Department?

ANSWER: There is a preliminary on the septic field.

- 5) the way the barn drawing is shown extending into the northern part of Parcel B, there isn't any exact dimensions on how much it extends, plus the distances from the property lines have to be accepted? The drawing shows that the barn occupies one-half ( 1/2 ) its size into Parcel A and one-half (1/2) into Parcel B. 6) according to the ordinance there has to be three-fourths ( 3/4 ) of an acre for the particular existing structure and there has to be

room for a secondary septic field; not sure what size of property Mr. Burtrum is requesting in order to accept the barn;

ANSWER: there would be enough room to put a 75' x 50' field between the barn and the Northern part of Parcel B.

9. The septic field has to be twenty-five (25) feet from the proposed property line.
10. The perk test was completed south of the pole barn.
11. It was believed that Mr. Burtrum needed a variance instead of a split because there would only be one-half (1/2) of an acre remaining. There has to be enough room to install an additional septic system.
12. Parcel B could not be sold without room for another septic system and it would have to be acceptable and accommodate the field. The issue would then go to the Zoning Board of Appeals (ZBA) due to a reduction in the size of the parcel to one-half (1/2) acre.
13. The Planning Commission has to review and if all the facts can't be put together, and if there isn't enough room for the septic field, a raised septic field would have to be installed. On some occasions, the Health Department has allowed an alternate system that doesn't have to have trenches at six (6) foot intervals.
14. There needed to be a layout/drawing so the Planning Commission could take all the details and would know the details.
15. There needed to be ten (10) foot away for the septic and another ten (10) to fifteen (15) foot before the septic bed was installed; the same procedure had to be done on the other parcel. There should be twenty-five (25) foot on all four (4) sides.
16. A plot plan needed to be done in order for the Planning Commission to have all the dimensions to make the project acceptable.
17. It was recommended that Mr. Burtrum get a plot plan in order that he could find where the property stakes were located. A copy of the actual survey could be obtained from the Genesee County Register of Deeds.
18. It was suggested that Mr. Burtrum take the current drawing and at least find the caps to the property because the property wasn't restaked.
19. It was suggested that if selling Parcel B, move the property line back toward the barn and forgo the cost of putting the septic system where it was not wanted.
20. The Planning Commission needed assurance that everything was correct; the drawing (Delta) stated that a boundary survey was not done.

**DOYLE MOVED**, seconded by Flowers that, for lack of information, the request be turned down at this time and that if he (Mr. Burtrum) so wishes he can go ahead and put the information on a plot plan that is correct with permits and return to the Planning Commission. The request is turned down because there isn't enough information for the Planning Commission to make a decision.

#### **DISCUSSION:**

After Mr. Burtrum obtains all the information, he has two (2) options: 1) come back to the October 4 Regular Meeting or 2) pay for a Special Meeting.

**ACTION OF THE MOTION:**

ROLL CALL VOTE

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

NAYS: 0 MOTION CARRIED.

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**ROBERT GENSHEIMER WAS SWORN IN AS A PLANNING COMMISSION MEMBER TO FILL THE POSITION LEFT VACANT BY ERIC SWANSON.**

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**V. UNFINISHED BUSINESS:**

**1. Continued Review of Accessory Structures in Front Yard**

The Planning Commission, over the past few months, has been dealing with the issues of accessory structures in the front yard, construction of pole barns on vacant property, etc. **NEWMAN** is in the process of putting together the details for the draft ordinance.

**2. Continued Discussion Regarding Medical Marijuana Law**

Township Attorney Steve Moulton recently drafted a four (4) page proposed Medical Marijuana ordinance which included State Statutes.

**COMMENTS/QUESTIONS:**

- **BUELL** thought when the issue was voted in by the people, that marijuana would be dispensed through the pharmacies; never realized so much would be involved; spent years as an educator trying to keep marijuana out of schools.
- **FLOWERS** stated that by being a caregiver, they could grow sixty (60) plants and could grow the plants in an accessory structure, which would go back to the issue of accessory structures.
- **PURKEY** felt there should be something in the proposed ordinance that would allow the township to charge fees, do criminal background checks; dispensaries are allowed to grow up to sixty (60) plants for five (5) people; could the caregivers form a co-op; should there be something placed in the proposed ordinance.
- **ADDITIONAL ITEMS THAT NEEDED TO BE CONSIDERED IN THE PROPOSED ORDINANCE:**
  1. Fees and charges for background checks
  2. Will the township handle the applications
  3. Co-ops
  4. Background checks for felons
  5. Condition of approval

6. Dispensaries only in properties zoned C-2 or C-3 (each dispensary has to apply; a qualified caregiver would also have to apply for a permit for their own location).
- **EXAMPLE:** if an individual was a licensed qualified caregiver and had five (5) patients, each patient could grow up to twelve (12) plants for a total of sixty (60) plants per caregiver, and the individual has a warehouse on M-13 (zoned C-2), after filing all the property documents, photographs, pay the fees, and everything else that was required, and then came to the Planning Commission, it doesn't allow the individual to say that his "facility" is approved so that now he can allow his friend "Ron" to come over. (Page 2, Primary Care Giver – Cultivation of Medical Marijuana, letter b, Non-discretionary Special Use Permit.)
- The Caregiver has to come before the Planning Commission for a Special Use Permit that would be good for one (1) year.
- **GENSHEIMER** wanted to know if the State laws ruled the conditions. There is a point system with the State. Does the Planning Commission have the right to turn a person down because he is a felon.
- Planning Commission Members would like to know which State Law does the Marijuana Law adhere to. Also, R.333.101-R 333.133. When the State has a law that deals with the Medical Marijuana Law, the Federal Law does not prosecute anyone. (Does the State Law violate the Federal Law dealing with the growing of marijuana?)
- **NEWMAN** has great faith in Attorney Moulton and thanked him for placing the different statutes in the draft Medical Marijuana ordinance.
- **NEWMAN** stated in order to become registered, an individual has to take care of issues with the State; there are also issues with the patients. If there are felons, should they be rejected as caregivers. The language reads essentially you are not getting a prescription for marijuana, but a statement by a licensed medical professional that says that you would benefit from the use or consumption of marijuana because the doctor could lose his/her license by writing a prescription for marijuana. (The individual would then take the statement from the doctor and contact the State).
- **PURKEY** felt there should be fees charged because there would be Planning Commission Meetings, inspections that the Police Department would have to perform, etc.
- **BUELL** wanted to know if the growing of the plants had to be done inside. It was mentioned there had to be a lot of security.
- If we can charge a fee, recommended to add to page 4, number 8, the following to the proposed draft ordinance written by Attorney Moulton:
  - “Fees associated with permits, record checks, inspections, etc. as described in the ordinance shall be borne by the applicant as established by the Township.”

**ISSUES FOR CONSIDERATION FOR ATTORNEY MOULTON TO ADD TO THE DRAFT ORDINANCE:**

1. Fees (inspections, fees with special use permits:ex: subdivisions, etc)
2. Impact that find on the background check
3. Language for (Buell)
4. R.333.101-R.333.133
5. Does the zoning districts have to be amended to allow in C-2

It was felt the Marijuana Law would be finalized at the next meeting.

**VI. PUBLIC COMMENTS:**

**8:50 P.M. – OPENED TO THE PUBLIC FOR NON-AGENDA ITEMS**

None

**8:51 P.M. – CLOSED TO THE PUBLIC FOR NON-AGENDA ITEMS**

**VII. BOARD COMMENTS:**

1. **PURKEY** stated according to a recent report which **PURKEY** gave to the Planning Commission from Plante and Moran, that due to declining real estate values which resulted in the tax base going down, there would not be the taxable value similar to 2007 until 2021. Also welcomed Mr. Gensheimer.
2. **DOYLE** welcomed Mr. Gensheimer. The reason for the cancelled meeting in August was due to some necessary documents not being available for the issues to be discussed; **DOYLE** was under the weather also.
3. **FLOWERS** wanted to know if “New Business” and “Unfinished Business” could be switched so the agenda wouldn’t have to be amended every month. The By-Laws of the Planning Commission rule the order of the Agenda.
4. **CUDDEBACK** stated that one-half (½) of the questions never got to his end of the table before being answered; thanked all the Commission Members for their help. Welcomed Mr. Gensheimer.
5. **GENSHEIMER** thanked everyone for the opportunity to be on the Planning Commission again; he was previously served in the early 2000’s. Has a concern with the proposed ordinance section 6(a). Does the Planning Commission have to make a change to allow marijuana in C-2.
6. **NEWMAN** received documentation from Attorney Terry Adler who represents the Dalton Airport Association, regarding the *Airport Approach Plan* and the *Airport Layout Plan* which has been adopted by the Michigan Aeronautic Division for filing with the Planning and Zoning Commission.

**VIII. MEETING SCHEDULE: NEXT REGULAR SCHEDULED MEETING WILL BE HELD ON MONDAY, OCTOBER 4, 2010 AT 7:00 P.M.**

**FUTURE REGULAR SCHEDULED MEETING DATES:**

**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 9:02 p.m.

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MARK J. NEWMAN, Chair

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JULIA A. MORFORD, Recording Secretary

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RICHARD BUELL, Secretary

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Date of Approval

Planning minutes 09/13/2010