

CHARTER TOWNSHIP OF FLUSHING

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PLANNING COMMISSION MEETING MINUTES

DATE: OCTOBER 4, 2010

TIME: 7:00 P.M.

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

MEMBERS OF PLANNING COMMISSION

Mark J. Newman, Chair

John Cuddeback

Jerome Doyle, Vice Chair

Ronald Flowers

Richard Buell, Secretary

Robert Gensheimer

Mark Purkey, Board of Trustee Representative

Julia A. Morford, Recording Secretary

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

ABSENT: None

OTHERS PRESENT: Five (5) 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 Purkey to approve the Agenda as submitted. **MOTION CARRIED.**

III. APPROVAL OF MINUTES: DOYLE MOVED, seconded by Cuddeback to approve the Minutes of September 13, 2010 as amended. **MOTION CARRIED.**

IV. UNFINISHED BUSINESS:

1. Continued Review of Accessory Structures in Front Yard

NEWMAN reviewed the accessory structure issue and even contacted two (2) of his colleagues, who do municipal law, regarding accessory structures; one colleague was a City Attorney. The city lots are smaller and a shorter distance to the road. The other was a larger township with larger lots and all an individual had to do was obtain a building permit and build any place they wished. In other states, you could build as many outbuildings as you wished but the total could not exceed a certain percent of the lot. One figure was 44%. The information does not pertain to Flushing Township, especially when they build on a vacant lot. Currently, there isn't very much construction going on.

POINTS OF INTEREST:

- The original start of the accessory structures was when the homes started being built on the Flint River. When there are subdivisions, there are already restrictions on out buildings because the residents can either have or not have out buildings.
- It was discussed as to why the accessory structure was not a problem. It was discussed if an individual wanted to build an accessory structure in the front yard, and the structure did not fit the environment of the home, or wanted to construct an out building on a vacant lot in which case it was recommended the accessory structure be in the back of the property in case the individual wanted to construct a home in front of the existing accessory structure. Residents have come in and wanted to construct other things. **DOYLE** and **GENSHEIMER** stated there had been major problems on the Flint River side, of Seymour Road, when the residents originally started to construct accessory structures.
- If someone wanted to construct a pole barn, not an accessory structure because it would not be an accessory to anything, to store wood and tools in the barn while building a home, it would be contingent upon approval of the placement of the barn. There have been residents that already have a turn-around in their front yard and would like to use the concrete as the base for the barn.
- The issue of a movable shed was discussed. There are some Flushing City residents that own property in Flushing Township where a stream runs through the property and the residents would like to have a shed to put their lawn mower and tools in and use as a part of recreational property. Would there have to be a special use permit to drop off a shed when there were no footings, no pole construction etc. It was felt it would be a “temporary structure” and could be moved. It was felt it would be similar to an above ground pool.
- What would the township desire? Does the Planning Commission feel there will be a flood of people that would be interested in the shed? It might be considered the same as an out building on a piece of property that tends to make the other person’s property less valuable. If someone put up a movable shed, they would not be able to put it in the front yard but could put it on the side of the home. It was recommended to put the information in the ordinance so it would be clear. It was felt the Building Inspector should be contacted as to what the State required.
- It was recommended to empower the people that deal with the public to make decisions (such as the building inspector), instead of waiting for a month or month and a half, to come back to the Planning Commission. If the structure was movable and could be slid around, it would have to be equal to the front or behind the existing structures on neighboring parcels. If the shed was going to be permanent, the individual would still have to come in and get the special use permit and there would be a condition on building the pole barn so that it had to be attached to a slab or poured with footings so if someday a house would be built on the location, it would have to be built so many feet in front of the structure and not reverse.
- “Temporary” has to be defined. There is already an ordinance in existence regarding mobile homes that are considered temporary structures. Mobile homes are not supposed to be lived in and stored where existing residences are. There could be a limit put on the

size of a movable shed where a special use permit would be required and could not be larger than a particular size and could not be lived in. There was a question as to whether the movable shed could be used by the caregivers for the growth of the plants for the medical marijuana.

- In the ordinance, listed under “temporary dwellings”, mobile homes and travel trailers may be placed on a lot for temporary residence while construction is pursued. Storage is not permitted on the lot. It was felt if the movable shed was up to a certain size and affixed to the ground and an improvement to the land, they needed to come before the Planning Commission. There could be an exception to the ordinance which states if the movable shed was under a certain square footage and not affixed to the ground, you could have it without getting a building permit and coming before the Planning Commission but the shed cannot be used as a dwelling or temporary residence and it has to be placed behind the front line of structures on neighboring property. There would be a different situation if the resident lived on a corner lot. Language should be made clear so as to no mis-understandings but have to be careful and not too strict. The primary concern would be to not have a giant pole barn out front and construct a home behind the barn; a line has to be drawn at someplace.
- In some cities in the North, movable sheds are used as cabins. There are also instances where a small shed has been placed in the back of a regular home and people actually use the shed and the property is not zoned for multi-zoning. Currently, someone could bring in a movable structure and place it anywhere they wish. The language for “temporary dwelling” was read and pertains to living in the dwelling; but not a movable shed.
- The language/regulations should be placed in the ordinance so if questions should come up, the ordinance could be referenced and problems could be resolved. An example mentioned was private drives which had been addressed years ago.
- It was determined not to go with a percentage formula for the construction of pole barns because there are a lot of people that restore cars, furniture, etc in their pole barn and it could be a life style issue for some residents.
- The issue will be referred to Flushing Township Attorney Steve Moulton.

2. Continued Discussion Regarding Medical Marijuana Law

At a previous Planning Commission Meeting, the Planning Commission reviewed the draft ordinance of the Medical Marijuana Law prepared by Attorney Steve Moulton (Attorney Moulton). There were some additions which the Commission felt should be included in the draft ordinance and is being reviewed by Attorney Moulton. **NEWMAN** and Attorney Moulton discussed the “fee” structure issue whether for the caregiver, dispensary; level of background check, etc. Due to the Medical Marijuana Law being so complicated, the Commission had further questions/concerns to discuss:

BACKGROUND CHECK:

1. What level of background check should be done; felt it should be the same as police officers.
2. Last page of draft (pg 4) what is the meaning of: “If the business is owned by an **entity**, owner shall mean each of the shareholders, partners, or members, and the application shall authorize a criminal background check of each owner.” **Entity**

= in Michigan is defined as partnership, limited liability company (LLC), corporation, etc., not for profit, for profit, charitable organizations; example: if seven (7) people filed Articles of Organization with the State of Michigan to form the Planning Commission LLC, all seven (7) would be considered members of the LLC. "Members are LLC" and all seven (7) individuals would have to have a background check.

3. The background check would be similar to the liquor license which is sent to the local Police Chief to sign off , the fire department comes in to make sure the building meets the standards, and a criminal history and financial background check is done in order to make sure you are not a "straw person" for someone that can't get a license which happens at gun shows.

FEES:

1. Attorney Moulton (after discussion with **NEWMAN**) stated he could put together a tierd fee structure: for one person applying for themselves , there would be one fee; a caregiver would be more; for a dispensary it would be substantially more.
2. The fee has to be legitimate in order to not keep people out of the township.
3. Cost should be cost neutral to the township and someone else should pay for the fee. (In the ordinance, for site plan reviews, the issue could be sent to the townships engineers and the applicant would pay for the cost).

CAREGIVERS:

1. What is interpretation of draft of page 3, (ii):
"if the proposed location for the cultivation, processing and storage of medical marijuana by the primary care giver is in an area zoned RSA, RU-1, RU-2, RU-3, or RU-4, the cultivation and related activities shall comply with all requirements of Section 20-1803(A) of the Zoning Ordinance, except if the property is zoned RSA, the cultivation, processing and storage of medical marijuana may take place in an accessory structure."

The interpretation applies to the Caregiver only.

2. There are three (3) levels: 1) the patient who can do so much for himself/herself; 2) the caregiver who administers it for others; and 3) the dispensary which is the place where you can get and/or smoke would be located in C-2 or C-3.
3. The township would not be spot zoning but would be located in a specified area.
4. Caregivers are limited to grow twelve (12) plants per patient. A non-caregiver can run a dispensary.
5. The dispensary is only a smoking area.
6. Can caregivers form a co-op?
7. Page 2, number 4, makes reference to cultivation of medical marijuana:
"an individual, registered with the state as a primary care giver may assist not more than five (5) registered qualifying patients with the use and cultivation of medical marijuana."

8. A patient can grow their own plants at their own house if they are not registered with as care giver; if registered with a care giver, then the plants are grown at the care giver's home.
9. "A qualifying patient who has been issued a current registry identification card may possess no more than 2.5 ounces of marijuana. . ." (page 1, number 3, letter a).
10. When there is a State law, the township does not have the option to opt out and the township is part of the State law.

DISCUSSION:

1. Can the township make money off the marijuana law.
2. No one knows where the medical marijuana law will end up; very hard to put together; there is a safety issue involved.
3. The Planning Commission has to make the issue very clear when we have the public hearing because the township cannot opt out but has to place a handle on the location.
4. In California, marijuana is legal. Can anyone grow marijuana? In California they would like to have industrial manufacturing so they will know how much to tax; similar to sales tax. Under the law, no state has the authority to use or grow marijuana, it still violates the substance abuse act. Would it be better to legalize marijuana.
5. What will happen if Washington changes administration in the future and the Attorney General changes the law to prosecute, now what happens? California needs the tax money and don't want to be cut off.

V. NEW BUSINESS:

None

VI. PUBLIC COMMENTS:

8:27 P.M. – OPENED TO THE PUBLIC FOR NON-AGENDA ITEMS

None

8:28 P.M. – CLOSED TO THE PUBLIC FOR NON-AGENDA ITEMS

VII. BOARD COMMENTS:

1. **FLOWERS** requested that anyone that wanted to go to the Free Floodplains Seminar sponsored by Rowe Engineers to let the Clerk know. It will be held October 28, 2010 at 7:00 p.m.
2. **CUDDEBACK** mentioned a Genesee County Forum that will be held on Friday, November 4, 2010 to be held from 8:00 a.m. until 12:00 Noon at the Mass Transit Authority (MTA) office. Please let the Clerk know and she will register everyone.
3. **BUELL** stated the Medical Marijuana Law was administered by the Department of Community Health. He will send email to the department to see what areas that need to be reviewed. He will not be in attendance at the November Meeting.
4. **PURKEY** stated approximately one year ago the township had to approve a Flood Plain Ordinance; now there are some homes that sit in the flood plain area that didn't before.

5. **DOYLE** stated he received a document from Supervisor Peck regarding the Hyde Park Assisted Living located at the corner of Potter/Elms/Wyndham Road who would like to split their property so they will only have the parcel, where buildings are located, be involved in the mortgage. The property is already two (2) parcels involved. There will be two (2) property tax bills sent out. **DOYLE** will review the issue with the Supervisor.

VIII. MEETING SCHEDULE: NEXT REGULAR SCHEDULED MEETING WILL BE HELD ON MONDAY, NOVEMBER 8, 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 8:40 p.m.

MARK J. NEWMAN, Chair

JULIA A. MORFORD, Recording Secretary

RICHARD BUELL, Secretary

Date of Approval

Planning minutes 10/04/2010