

CHARTER TOWNSHIP OF FLUSHING

6524 N. SEYMOUR ROAD

FLUSHING, MICHIGAN 48433

810-659-0800

FAX: 810-659-4212

PLANNING COMMISSION MEETING MINUTES

DATE: JUNE 13, 2011

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, Robert Gensheimer and Mark Purkey

ABSENT: None

OTHERS PRESENT: Thirteen (13) 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 adopt the Agenda as submitted. **MOTION CARRIED.**

III. APPROVAL OF PREVIOUS MINUTES: DOYLE MOVED, seconded by Purkey to approve the Minutes of April 11, 2011 as amended. **MOTION CARRIED.**

IV. UNFINISHED BUSINESS:
None

V. NEW BUSINESS:

- 1. Trevor J. and Michelle Cook, 5418 McKinley Road, Flushing, MI 48433**
Special Use Permit to excavate a pond at 5418 McKinley Road, Flushing, MI 48433, Parcel No. 08-23-100-076 per *Special Use Permit Article XVIII, Section 20-1804(BB)*.

The proper publication (Agenda) was placed in the Flint Journal; the proper Notices were sent to thirty-three (33) different entities (neighbors and utility companies) referencing the special use

request to construct a pond on the subject property; a Special Use Request Form was filled out and submitted; a letter from a Civil Engineer from the Division of Surface Water Management of the Genesee County Drain Commissioner's Office; an aerial topography map of the area; a plat map and legal description of the area; a Soil Erosion/Sedimentation Control Permit; a completed Pond Site Plan Review Checklist submitted by the applicants for a special use permit.

CORRESPONDENCE RECEIVED REGARDING THE SPECIAL USE PERMIT REQUEST:

None; but a letter sent to Mr. Jack Wheatley was returned due to the property being an out-lot and there wasn't a mail box on the location.

APPLICANT'S COMMENTS:

- Nothing has changed since the proper documents were submitted to the Planning Commission.
- Requesting for the retention pond to be completed at 5418 N. McKinley Road, Flushing
- Currently, there is a construction site on the property (5418 N. McKinley Road, Flushing).
- Process:
 - a. There was a mix up; Flushing Township does not have its own building inspector so everything is forwarded to the State.
 - b. When the State looked at the plans and saw the schematics that were provided, they assumed that the pond was pre-existing.
- Due to a complaint from a neighbor stating his property was being flooded, the township came out to review the issue.
- There has been twenty-two (22) inches above normal rain this year.
- Mr. Cook immediately stopped digging in the pond (approximately one-third (1/3) of the pond has been dug) as he wanted to comply.
- Told that letters would have to be sent to all the neighbors.
- Mr. Cook went to the County and obtained the property soil erosion and pond permits.
- There has been some grading around the pond to give it curb appeal.
- Main question – “is whether Mr. Cook flooding out his neighbors”?
- As told by the Genesee County Drain Commission (Drain Commission), the current water level stands two and one-half (2½) feet below the road grade.
- There is a natural flow that runs from the East of the property on an angle toward the road; there is a catch basin at the North east corner of Mr. Cook's property where the water cuts across his (the neighbor's) front yard and Mr. Cook's corner property then hits the drain catch basin and runs across the street, going toward the Flint River.
- Mr. Cook was informed that the reason for the flooding of the house across the street from his was because there is a property drain that runs further back behind the properties that runs to the Flint River and that drain is clogged and broken up as it has been there for years. This has nothing to do with the retention pond (Mr. Cook's) or water level across the road.

- With twenty-two (22) inches above normal rain water this year, everyone's basement is going to be wet and the sump pumps will run above normal.
- Mr. Cook is not trying to short cut, make the neighbors mad, or the township mad, he went out and immediately got the paper work that was requested. Everything drawn on the permit is the township ordinance and has been approved the by Drain Commission and the Road Commission; he is not in the road right-of-way.
- Originally when talked to the Road Commission, was told that any water or run off over-flow drains needed to be at ground existing level because at that level if it drained naturally from there it would do its own course of natural flow. Currently, there isn't a drain in the area. There was a cut in the berm in order for the run off to hit the drain pump to drain away in order for respect to not flood the next door neighbor's property any more than it actually is.
- The goal is to be a retention pond and should alleviate the next door neighbor's so that it will flow across the street.

COMMISSION MEMBERS COMMENTS AND ANSWERS FROM MR. COOK:

1. **PURKEY:** "do you understand where the right-of-way starts from the road; the ordinance states you have to be one-hundred (100) feet from the right-of-way, not the center of the road; you also have to be fifty (50) feet from any power lines and seventy-five (75) feet from the adjoining property which is the other house that Mr. Cook owns; which are the setbacks; not even close to being the correct setbacks which creates a problem in itself. The Planning Commission would have to look at whether to vary the ordinance; not falling into the "right spot." (BB Ponds, b, General Provisions and Conditions, number 10).
2. **BUELL:** "stated it was a retention pond – so would that mean that you don't intend to have a normal pond that is full of water." Answer: it would be full of water the majority of the time but would drop down due to the weather or not a normal rain season. **BUELL:** "impression of a retention pond would be gathers water and holds it on a temporary basis and releases it slowly so that the water can run away without flooding and then dries up. Answer: no – that is not Mr. Cook's plans. **BUELL:** "how deep is the pond going to be?" Answer: fifteen (15) feet deep per the ordinance. **BUELL:** "has there been an engineered drawing done of the pond." Answer: the engineer was from the Water Department. **BUELL:** "there is a concern about the side setbacks so an engineered drawing would be needed in order to make a reasonable judgment." "What is the source of water in the area?" Answer: ground water. **BUELL:** "is the neighbor to the north concerned about the water". Answer: there is a catch basin in the corner of his lot. The purpose of the pond is to alleviate as much water as possible from going across the street. **BUELL:** "is the dirt being used to backfill around the house that you are building?" Answer: yes, the purpose of the pond was to get free dirt to use for the house.
3. **NEWMAN:** the foundation of the proposed house looks high out of the ground. Answer: it is six (6) foot above the ground; there won't be a walk out in the back.

4. **DOYLE:** the biggest problem is there isn't a site plan available so the proper measurements can be determined which would tell the slopes of the berms and everything else that will need to be done; also needed would be the sizes of items in comparison to the off sets and back sets; there isn't a septic system permit which would tell how much of a septic system that would be needed because of the high ground water; there are backsets from the septic system that have to be followed; the biggest problem is there isn't a plot plan that has everything drawn to proper scale; all the details have to be determined and make sure that everything follows the ordinances; everything has to be placed where it is supposed to be to be acceptable so the Planning Commission can approve or disapprove it and if approved then at that point everything can be inspected and proved that everything is put where it is suppose to be put based on water tables, back sets, and everything that one would have to do; the site plan should have been done first; a good final decision cannot be made.
5. **NEWMAN:** in the *Special Use Permit Ordinance* under sub paragraph *B-4*, the drawings mentioned are the engineered drawings drawn to scale by a qualified designer showing the site buildings, easements, the size of things, etc. The drawings produced are informative but not drawn to scale. A lot of the areas are not developed to handle the big articles such as ponds and if the engineered drawings are not produced, it is hard to make a determination as to whether or not the item should go in the area. If the engineered drawings are not produced, it is hard for the Planning Commission to make a determination as to whether the pond should go in the area. Mr. Cook has well meanings as to what he intended to do with the overall water flow in the area that would benefit the other land owners. The Planning Commission doesn't know if that is how the land actually flows and if the water flows in a particular direction; an engineered drawing is needed. (BB Ponds, General Provisions and Conditions, number 4).
6. **FLOWERS:** was concerned about the engineered drawing; the engineer would take a look at the pond to determine if it should be a detention pond and most detention ponds are required to have a flow in order to not turn "green"; there should be more than fifteen (15) feet from the next property, which Mr. Cook owns.
7. **CUDDEBACK:** a lot of things have to be done before he takes the next step; the property was already a low area and his (Cuddeback's) opinion was that Mr. Cook should have brought in dirt for the backfill.
8. **GENSHEIMER:** concurs with the other Planning Commission members.
9. **PURKEY:** too close to the road and also too close to the other house that Mr. Cook owns. The problem would be if some day Mr. Cook sold the other house (next door).
10. **NEWMAN:** has to assume that Mr. Cook will one day sell the neighboring property so the setbacks must comply; the actual distance doesn't match the drawing furnished by Mr. Cook because it is so close to the road.
11. **DOYLE:** if Mr. Cook should decide that he wanted the pond that close, he would have to request that the other property joins in with the Special Use Permit so that if it is sold, it is sold with the particular condition. The other people would have to abide with the use permit; there would have to be information as to how the water flows. A sound decision could be made by the Planning Commission.

12. **BUELL:** “what is the total size of the parcel.” Answer: 3.74 acres. **BUELL:** “why did Mr. Cook choose to take the dirt out of the front instead of the back property.” Answer: because the front was the lowest spot and the water table was the lowest. **BUELL:** “has the pond reached total depth of fifteen (15) feet.” Answer: one section is but would like to go further to the East with the pond; thought the one hundred (100) foot rule was from the center of the road.
13. **PURKEY:** “per the ordinance, since the road is one-hundred (100) feet wide, the procedure would be to take ½ or fifty (50) feet from the center of the road which is the road right-of-way and then take another one hundred feet from the road right-of-way.”
14. **FLOWERS:** “the engineers would review and do all the level shots of the property to determine the water flow, measurements, detention or retention ponds; there has to be a release of the water. Detention ponds are set for storm water to come into the pond and then allowed to flow out when it gets to a certain height; Retention ponds holds the water of the storm and then releases to a natural level of its own.
15. **DOYLE:** “even if Mr. Cook had not dug the pond, there would have been a tremendous amount of water that flowed to that particular location. The amount of water this spring has been overwhelming and could possibly not have been the result of the pond but with the situation as it is. If the drains are inadequate to hold that amount of water, there could still have been problems with the basements.”
16. **PURKEY:** “make sure the drawing shows the septic fields, property lines, and houses not only on Mr. Cook’s property but the neighboring properties.”
17. **DOYLE:** “what is on the southeast property of the new building.” Answer: it is open fields with a storm drain in the corner between the houses on Jaclyn Ann and Mr. Cook’s property; open drain without a manhole.

7:31 P.M. OPENED TO THE AUDIENCE FOR COMMENTS:

1. **Cheryl Gillean, 5430 N. McKinley Road, Flushing** – “there use to be a gravel pit across the street from her house and there were no problems until the dirt was used for Jaclyn Ann Drive; don’t mind having the pond there as long as it well kept and safe; the property is always wet; there aren’t any ditches in the area.”
2. **Terry A. Peck, Flushing Township Supervisor** – “a call was received from the neighbors across the street and on both sides of the ditch, before the pond was dug that their basements were flooded; the tile between the houses is restricted and plugged up in the back; the pond was dug and the basements flooded again; the builder took a four (4) inch hose across the road and put into the culvert which flows West of the River; instructed the builder to shut the pump off; met with the owner; the house on the South drains into the pond and is fine; no silk fence but there is one on the driveway; Genesee County Road Commission (Road Commission) instructed Mr. Cook to not pump any water into the County Drain until all permits have been filed; a channel was cut for the water to move out.”
3. **Camaine Birchmeier, 5394 N. McKinley Road, Flushing** – “has been in the area for nine (9) years and this is the first time her sump pump has actually turned on; ten (10) feet above Mr. Cook’s level.”

4. **Jeff Boshaw, 5419 N. McKinley Road, Flushing** – “lives in the duplex across the street from Mr. Cook’s property; previously there weren’t any water problems; thought the problem was due to extra rain flowing into the drain; there is definitely a water issue – a total nightmare; has had four (4) floods in his basement.”
5. **Terri Chase, 5437 N. McKinley Road, Flushing** – “lives next door to Mr. Boshaw; this is the first time in eighteen (18) years there has been water problems; every time water goes into the drain his yard bubbles up with water; has had a fifty(50) foot box elder tree fall down in his yard.”
6. **Suzanne Pomrehn, 8474 Jaclyn Ann Drive, Flushing** – “her property backs up to the Cooks; appreciates the Planning Commission taking the water issue serious.”
7. **Beverly Edick, 8425 Wesley Drive, Flushing** –“the pond is so deep and so close to the road; there is nothing to keep children from falling into the pond; pond needs to be safe once dug.” (The issue of fences was discussed regarding in ground pools.)

7:59 P.M. – CLOSED FOR AUDIENCE COMMENTS

PURKEY MOVED, seconded by Flowers to postpone the Special Use Permit until the next scheduled Planning Commission Meeting on July 11, 2011. (The meeting will not have to be published again in the newspaper.) **MOTION CARRIED.**

VI. PUBLIC COMMENTS:

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

None

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

VII. BOARD COMMENTS:

1. **BUELL:** since school is out and there are no fences, signs, etc, there needs to be something put in the area to keep people away from the pond.
2. **PURKEY:** there is an issue dealing with dispensaries that have come before the Supervisor and purposed ordinance was drafted by Attorney Moulton; the issue of medical marijuana has been beaten to death; the law is still the Federal government.
3. **DOYLE:** the only information the Planning Commission could do would be to follow the ordinance such as day cares; a location could be determined; if the person participates with medical marijuana how do you control the situation. Ponds are a water reservoir; nothing that can’t be done to be engineered to be proper. When you apply for a building permit, you have all the items taken care of. Sometimes the septic field has to be raised in order to be made to work.
4. **GENSHEIMER:** how did Vienna Township get approval at the old Ford dealership.
5. **CUDEBACK:** apologized for being late; the situation with the pond is a good example of why there is a Planning Commission and how things can go in the right direction; Mr. Cook is going to have a very expensive project. At this point, Mr. Cook can’t correct the issue.

6. **NEWMAN:** if the dirt is put back in; the water has to be removed; if Mr. Cook fills in the dirt, there will still be problems; the process works. Mr. Cook will be placed on the July 11, 2011 Planning Commission Agenda under *Unfinished Business*.

VIII. MEETING SCHEDULE: NEXT REGULAR SCHEDULED MEETING WILL BE HELD ON MONDAY, JULY 11, 2011 AT 7:00 P.M.

REGULAR SCHEDULED MEETING DATES:

MONDAY, AUGUST 8, 2011 AT 7:00 P.M.
MONDAY, SEPTEMBER 12, 2011 AT 7:00 P.M.
MONDAY, OCTOBER 3, 2011 AT 7:00 P.M.
MONDAY, NOVEMBER 14, 2011 AT 7:00 P.M.
MONDAY, DECEMBER 12, 2011 AT 7:00 P.M.

- IX. ADJOURNMENT:** Due to lack of business matters, **NEWMAN** adjourned the meeting at 8:22 p.m.

MARK J. NEWMAN, Chair

JULIA A. MORFORD, Recording Secretary

RICHARD BUELL, Secretary

Date of Approval

Planning minutes 06 13 2011