

CHARTER TOWNSHIP OF FLUSHING

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PLANNING COMMISSION MEETING MINUTES

DATE: NOVEMBER 14, 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, John Cuddeback, Ronald Flowers, Robert Gensheimer and Mark Purkey

ABSENT: Richard Buell

OTHERS PRESENT: Tim Zawaua, Dave Shrader, and Scott Burtrum

I. MEETING CALLED TO ORDER at 7:04 p.m. by Planning Commission Chair **MARK NEWMAN** with Roll Call and the Pledge to the American Flag.

II. ADOPTION OF AGENDA: PURKEY MOVED, seconded by Flowers to adopt the Agenda by changing the order of “Unfinished Business” and “New Business”; “New Business” will be Number IV and “Unfinished Business” will be Number V. **MOTION CARRIED.**

III. APPROVAL OF PREVIOUS MINUTES: DOYLE MOVED, seconded by Gensheimer to approve the Minutes of October 3, 2011 as amended. **MOTION CARRIED.**

IV. NEW BUSINESS:

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

Formal Hearing for the Purpose of a Property Lot Line Adjustment on Parcel No. 08-22-200-062 and Parcel No. 08-22-200-063 located at 9062 Vista Del Arroya, Flushing MI 48433

The Planning Commissioners’ packet contained a copy of a letter from Supervisor/Zoning Administrator Terry A. Peck dated October 27, 2011 notifying everyone within the specified area around the subject property who were to receive a Notice (thirty-five (35) individuals) and

nine (9) entries of persons or entities that have signed up to receive Notices of everything the Planning Commission encounters, such as Consumers Energy, Rail America, Bishop Airport, etc. and sent out by the Clerk on October 27, 2011.

Mr. Burtrum was present at the June 14, 2010 Planning Commission Meeting where the issue was discussed at an informal hearing. (See enclosed minutes of June 14, 2010 in the packet). Also enclosed in the packet is the Zoning Permit for the Property Split which has been signed by Mr. Burtrum and who has paid the \$25 required fee; a drawing from Delta Land Surveying of a proposed parcel split and boundary lines; a Building Permit; Electrical Permit; letter dated September 22, 2011 from Douglas W. Franks, Environmental Health Sanitarian of the Genesee County Health Department; copy of an Application for Approval for a Water Well; and a colored aerial photograph showing an orange rectangle drawing around the property.

CORRESPONDENCE:

1. **Mr. & Mrs. Stephen Gillean, 9074 Vista Del Arroya, Flushing** – “
“Concerning Scott Burtrums second petition to attempt a property split of parcel No. 08-22-200-062 located at 9062 Vista Delarroya Drive, our property is right next to this parcel on the west side. As we recall when the township granted permission to build his pole barn where it is, the township required him to build it there so that the parcel split would not occur, we do not see the purpose for this redundant issue, and the wasting of our municipal and neighbor time. We have a 300 x 300 parcel and Scott Burtrum wants to split 9062 down to a smaller parcel, our position is – NO – this should not be allowed, it will lower the value of our property.

A recent well was installed in the proximity of the septic bed in the back yard; it is evident they have listed the property for sale and are planning to sell this home. A question for the township is where is the septic relative to the location to the new well, was this done within building code? Are you over seeing his performance of property revisions?

In the past Scott was seen doing continuous dumping from construction clean up bringing in dump trucks of refuse, broken window panes of glass, iron pipes, vehicles left without plates on the property and in our opinion should require a salvage yard license. Previous complaints on this topic have gone unanswered by the township. Scott Burtrum’s history of property projects, using oak trees for posts in the pole barn instead of treated lumber, and incomplete pond, does indicate that his standards are below those of building code. Supporting his request to change parcel sizes appears to encourage his lack of property standards accountability, which injures the neighborhood.”

2. There were three (3) undeliverable letters: Jack Wheatley, Daniel Law, and Regina Irwin

QUESTIONS/COMMENTS FROM THE PLANNING COMMISSION:

2. **PURKEY** felt that Mr. Burtrum had everything together; the survey has been completed; looks like what Mr. Burtrum is requesting is to take 57.548 from the 100' x 300' lot and leaving 25' from the building to the new proposed property line; it would be roughly under 250' left by 100' lot; the Genesee County Health Department (Health Department) has said there is enough room on the North end of Parcel B (08-22- 200-062) for an alternate septic site; there is a new well in place; building, electrical, and well permits are in place; the neighbor's septic fields and wells are marked on the survey map; everything is laid out well as to what Mr. Burtrum wants to do.
3. **DOYLE** goes along with Mr. Purkey except for one (1) thing – the ordinance states the lots have to be 100' x 300', which is $\frac{3}{4}$ of an acre; if the Planning Commission approved something that was not acceptable according to the ordinance, wouldn't that be something the Zoning Board of Appeals (ZBA) would have to give a variance on; the issue of the $\frac{3}{4}$ of an acre was questioned; the Planning Commission does not have the right to recind what the ordinance states without due process; the ZBA will allow variances based on whatever condition that might be rational to the question; the Planning Commission could not suddenly state the ordinance could be adjusted.
4. **PURKEY** questioned that if the property was 100' x 400', Mr. Burtrum would not have to get a variance; but since the property is less than 100' x 300', Mr. Burtrum would have to obtain a variance.
5. **DOYLE** stated the ZBA can review the request and because of the fact there is a septic in the front to serve the existing dwelling, and the well is 50' away from that as well as it would be for the septic field in the back, the ZBA could look at it as if it would be a reasonable variance. If an issue is a rational item, it would be an acceptable item.
6. **FLOWERS** recommended reviewing *Site Regulations, Article 4, Section 20-403* for information regarding 30,000 square feet for a lot.
7. **GENSHEIMER** stated that lot sizes were reviewed when Mr. Burtrum came in for an informal hearing.
8. **DOYLE** stated the Planning Commission did not give variances.
9. **CUDDEBACK** stated in his subdivision, his lot is 100' x 200', he has a septic system and his own well because a water line doesn't come down his road; he should have the opportunity to do what he wanted to with his own property.
10. **GENSHEIMER** wanted to know if Mr. Burtum's intention was to building a house?
11. **FLOWERS** re-added the measurements and they don't total up. (240' + 57.54' don't add up to 306.54').
12. **NEWMAN** stated *Site Regulations, Article 4, Section 20-403*
“lots which are not served by municipal water and sanitary sewers, a minimum lot size of 30,000 square feet, with at least 100 feet of frontage on a dedicated public road for construction of a single family residence.”
Table of District Regulations for RSA states
“lot areas 20,000 square feet served by public water and sewer.”

13. **DOYLE** stated at one time all lots were 200 x 100 and the Genesee County Health Department stated that if two (2) septic systems were needed, more square footage was needed, so the Planning Commission changed the lot size to 100 x 300' (30,000 square foot) so there was enough area for a second septic system.
14. **FLOWERS** stated the Variance Review Procedure is *Section 20-2208* and *20-2206*; *20-2206 is the Interpretation and 20-2208 is the actual procedure*. There is a thirty-five (35) day time period from the time the issue goes before the Planning Commission until the issue goes to the ZBA.
15. **NEWMAN** stated the Variance Review Procedure *Section 20-2208 (3)*, will answer some of Mr. Burtrum questions such as:
 - a. Strict enforcement
 - b. Unique circumstances
 - c. Conditions and circumstances not created by the owner
 - d. Substantial justice
 - e. Contrary to the spirit and intent
16. **NEWMAN** stated the Planning Commission would not formally deny Mr. Burtrum's request, but would direct him to apply to the Zoning Board of Appeals because the Planning Commission could not legally take up the issue and decide one way or the other but will withdraw the application.
17. **MORFORD** stated the next ZBA Meeting was scheduled for the first Tuesday in January, 2012 – would there be a problem with the time frame. Per the Ordinance, the time frame is a minimum of thirty-five (35) days from the time the individual goes before the Planning Commission to the time the individual goes before the ZBA. Mr. Burtrum will come into the office to get the Variance form to proceed to the ZBA.

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2. Dave Shrader, 7126 Hickory Street, Flushing MI 48433

Informal Hearing regarding a Wholesale Dealer's License located at 7126 Hickory Street, Flushing MI 48433, Parcel No. 08-24-576-047

Informational material had been given to the Planning Commission Members consisting of: Special Use Permit for a Home Occupation; wholesale car dealer's license.

SPECIFICATIONS FOR THE HOME OCCUPATION REQUEST:

- Mr. Shrader has to work from his home due to taking care of his son who is sick and has to stay home.
- The car license is different from a regular car business similar to Delehanty Ford.
- Mr. Shrader would go to an automobile dealer's auction and purchase a car for \$1,000, bring the car home, clean the car, and then take the car to another auction to be sold.

- There would not be any retail business out of the home; per the wholesale license Mr. Shrader would not be allowed to sell to the public, but individuals can review the car at his (Shrader's) home before they purchase the car from a broker at Freeway Auction.
- Sometimes a neighbor helps with cleaning the cars.
- Mr. Shrader uses places such as Flint Auction, etc.
- The LLC has already been set up.
- in order to get a wholesale dealer's license, you have to obtain permission from the municipality.

COMMENTS/QUESTIONS FROM THE PLANNING COMMISSION:

- **PURKEY:** have to have an address to have a dealer's license; looking for an office in the home. (ANSWER: Would have an office in the home to keep a Police Book which would have records of VIN numbers, who the vehicle was sold to, etc.)
- **FLOWERS:** where would the cleaning take place? (ANSWER: in the garage.) What would be the number of cars in the drive at one time? (ANSWER: two – if have \$2,500 and purchase two (2) cars, he can't purchase any more vehicles until those two (2) cars are sold.)
- **DOYLE:** at the Formal Hearing, there are seven (7) questions that have to be answered about the operation of the home occupation request. The seven (7) items is what the Planning Commission base their decision on whether the Home Occupation request is approved or not.
- **PURKEY:** wanted to know if Mr. Shrader received a copy of the ordinance.
- **NEWMAN:** read *Section 20-1803(a) Home Occupation Ordinance* which states:
 1. *The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used for the purposes of the home occupation, and shall be carried out completely within such dwelling.*
 2. *There shall be no change in the outside appearance of the structure or premises, or other visible evidence of the conduct of such home occupation, other than one (1) sign not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the dwelling.*
 3. *No home occupation shall be conducted in any accessory structure.*
 4. *There shall be no sale of any goods manufactured elsewhere in connection with such home occupation except for sales incidental to the home occupation.*
 5. *No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking, generated by the conduct of such home occupation shall be provided by an off-street area, located other than in a required front yard.*
 6. *No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or*

television receivers off the premise, or causes fluctuations in line voltage off the premises.

7. *Home occupations shall be carried on by a member or members of the family residing on the premises, and not over one (1) employee not residing on the premises.*

- **NEWMAN:** the idea of allowing a home occupation for a business is if it is something that an individual can do that really doesn't change the appearance of the neighborhood or the home.
- **DOYLE:** wanted to know if Mr. Shrader had an attached garage; **DOYLE** stressed that a home occupation could not be conducted in an accessory structure such as a pole barn.
- **NEWMAN:** since home occupation is considered non-discretionary, it tells the Planning Commission that if application complies with the seven (7) items, the individual will receive the home occupation permit. With discretionary, there are other things to review. With non-discretionary even if there are four hundred (400) people in attendance, the Planning Commission abides with the ordinances. Whatever the individual states on the home occupation request, that has to be complied with – nothing more.
- **NEWMAN:** Mr. Shrader will come to the next Planning Commission meeting.

V. UNFINISHED BUSINESS:

1. Continued Update of Master Plan

- a. **NEWMAN** – working on the Water Resources with the Genesee County Water and Waste; reference will be made to the web site of the Genesee County Water and Waste; reference was made to a brochure which **NEWMAN** had obtained; information such as problems with water etc will be added to the Master Plan and will comply with the information from Doug Piggott of Rowe Engineering.
- b. **FLOWERS** – getting an update of the traffic flow which won't be ready until January, 2012. There are a lot of "little black boxes" in roads which is actually doing the counting.
- c. **CUDDEBACK** – the water and sewer lines are just fine per the drawings, etc which were brought in last month.
- d. **NEWMAN** – the first part of 2012 when all the information has been obtained, there needs to be a Special Meeting/Work Session to assemble; would like to have everything completed by May 2012.
- e. **PURKEY** – flood plane maps have been obtained; wetland maps are available on the web; will look at getting smaller maps for the flood plane; SEV figures will be out by May
- f. **MORFORD** – has received land use maps from Mt. Morris Township and Montrose Township.
- g. **BUELL** – working on the Agriculture and survey
- h. **NEWMAN** – the Continued Update of the Master Plan will be placed on the December Agenda. .

VI. PUBLIC COMMENTS:

8:16 P.M. – OPENED TO THE PUBLIC FOR NON-AGENDA ITEMS

8:17 P.M. – CLOSED TO THE PUBLIC FOR NON-AGENDA ITEMS

VII. BOARD COMMENTS:

1. **PURKEY** passed out copies of the Charter Township of Flushing User Fees and ask each Planning Commission Member to review and make any suggestions to him or the Clerk.

VIII. NEXT REGULAR SCHEDULED MEETING WILL BE HELD ON MONDAY, DECEMBER 12, 2011 AT 7:00 P.M.

FUTURE REGULAR SCHEDULED MEETING DATES:

MONDAY, JANUARY 9, 2012 AT 7:00 P.M.

IX. ADJOURNMENT: Due to lack of business matters, **NEWMAN** adjourned the meeting at 8:24 p.m.

MARK J. NEWMAN, Chair

JULIA A. MORFORD, Recording Secretary

RICHARD BUELL, Secretary

Date of Approval