

CHARTER TOWNSHIP OF FLUSHING
6524 N. SEYMOUR ROAD
ZONING BOARD OF APPEALS MINUTES
DATE: SEPTEMBER 2, 2003 **TIME: 7:30 P.M.**
PHONE: 810-659-0800 **FAX 810-659-4212**
WEB PAGE: <http://www.gfn.org/flushing/index.html>

MEMBERS:

Edward Henneke, Chair	James Sarka
Richard Vaughn, Vice Chair	Eric Swanson
Ann Fotenakes, Board Representative	

Jerald W. Fitch, Building Inspector
Julia A. Morford, Recording Secretary

I. CHAIR EDWARD HENNEKE opened the meeting at 7:30 p.m. with Roll Call.

ROLL CALL: Vaughn, Swanson, Henneke, Fotenakes, Sarka, Fitch and Morford

MEMBERS ABSENT: None

OTHERS PRESENT: Reva J. Gordon, Ted Meehle, Howard West, Walker Fesmire, Ivan Peterson and one other individual

II. APPROVAL OF AGENDA: FOTENAKES MOVED, seconded by Swanson to approve the agenda as presented. **MOTION CARRIED.**

III. APPROVAL OF MINUTES OF MAY 6, 2003: FOTENAKES MOVED, seconded by Vaughn to approve the minutes of May 6, 2003 with corrections: **Page 3**, paragraph 4, "Fotenakes stated that if...avoid any favoritism" **changed to** "Fotenakes stated that if the Board of Trustees is going to implement rules and regulations, the Zoning Board of Appeals has to have good criteria of why there is going to be an alteration to *Signs by Crannie* to avoid any favoritism." **MOTION CARRIED.**

IV. UNFINISHED BUSINESS:
None

V. NEW BUSINESS:

1. Flushing Presbyterian Church, 5010 McKinley Road, Flushing, MI
Sign Variance (Section 13.5-60 (a))

WALKER FESMIRE (FESMIRE), Chair of the Property Committee for Flushing Presbyterian Church, Flushing, Michigan, was present to request a variance to construct a second sign of less than 32 square feet and to obtain a permit to construct the sign which would be located on Carpenter Road, East of the church. Currently, a *Flushing Presbyterian Church* sign faces McKinley Road.

SIGN MATERIALS:

The proposed sign would be of brick, to match the church building, with type N masonry cement, using the existing engraved limestone sign pieces with old limestone cap. Some of the materials, for the proposed church sign, had been part of the former sign that was located at the corner of McKinley Road and Carpenter Road. The wall of the sign would be 10’ long, 3’ high and 8” thick (double brick). The sign would be constructed on a 12” wide by 10’ 8” long - 42” deep footing. The proposed sign would be ten (10) feet from the right-of-way and east of the present parking lot. The sign would not be illuminated.

POINTS OF DISCUSSION:

- distance the proposed sign would be from the sidewalk.
- concern if someone pulled out onto the sidewalk before going to the street, would the individual be in a position to see to the East without having any view obstructions.
- there would be approximately 15’ to 18’ between the edge of the road and the nearest edge of the sidewalk.

SARKA stated the variance for the existing sign had been issued a couple of years ago.

JERRY FITCH (FITCH), Building Inspector for the Charter Township of Flushing, stated there was a clear vision provision in the Zoning Ordinance of twenty-five (25) feet going in both directions creating a triangle at an intersection. At the area, or into the triangle, at the time the existing sign variance was granted, there was not an obstruction of vision. **HENNEKE** stated the size on the existing sign had not been an issue. **FESMIRE** stated with a soccer field being between the church and the high school, there was plenty of room to place the sign. **FITCH** stated he thought this was the only area in the township where there were sidewalks and he was not exactly sure where the road right-of-way was in relation to the sidewalks; Carpenter Road has a 66’ right-of-way. **HENNEKE** stated the fence, along Carpenter Road, would be just inside the sidewalk.

7:33 P.M. OPENED TO THE AUDIENCE

1. Reva Jo Gordon, Chair of the Memorial Committee – “Memorial Committee working with the Property Committee, who is doing the mechanics, to construct the sign, Memorial Committee is paying for the sign. Previous sign was in honor of Martha Coxworth who graduated from Flushing High and was killed when she was 21 years of age – parents installed the previous sign which was taken down after many years. The Church would like for the Memorial Committee to have the memorial sign be re-constructed again.”

7:50 P.M. CLOSED TO THE AUDIENCE

HENNEKE read the *Sign Variance* (Section 13.5-60 (a):

- (a) Where institutional uses are permitted in a residential zoning district, there shall be permitted one (1) residential sign which may be directly or indirectly illuminated not to exceed thirty-two (32) square feet in area. In the case of a freestanding sign, such sign shall not exceed fifteen (15) feet in height, and shall be set back so

that the fact or any part of the sign is not less than ten (10) feet back from right-of-way line. A permit is required.

SWANSON mentioned Section 13.5-43 (i)

- (i) Variances. A variance may be allowed by the board of appeals only in cases involving practical difficulties or unnecessary hardships when the evidence in the official record of the appeal supports all the following affirmative findings:
1. That the alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the township.
 2. That the alleged hardships and practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, or mere inability to attain a higher financial return.
 3. That allowing the variance will result in substantial justice being done, considering the public benefits identified to be secured by this chapter, the individual hardships that will be suffered by a failure of the board of appeals to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will not be contrary to the public purpose and general intent and purpose of this chapter.

The above findings of fact shall be made by the board of appeals, which is not empowered to grant a variance without an affirmative finding of fact in each of the categories above. Every finding of fact shall be supported in the record of the proceedings of the board.

Nothing contained herein shall be construed to empower the board of appeals to substantially change the terms of this chapter, or to significantly add to the types of signs permitted on any premises.

SWANSON MOVED, seconded by Fotenakes to deny the variance request based on the variance requirements for the Zoning Board of Appeals. **MOTION CARRIED.**

DISCUSSION:

- no hardships or practical difficulties, or both, are exceptional and peculiar to the property
- source and reason for the placement of the sign
- when exceptions are made – everyone else wants the same exception for the same thing
- main reason for the sign – make sure a sign is placed on Carpenter Road for people to find the Church - Gordon
- sometimes in memorials, trees etc have been placed
- Section 13.5-60 (b) stated:
 - There shall be permitted necessary non-illuminated incidental signs that do not exceed two (2) square feet in area and four (4) feet in

height, except where exceeded by state law such as handicapped parking signs.

**2. Ivan Peterson, 12389 Coldwater Road, Flushing, Michigan
Variance to Place Accessory Structure in the Front Yard (Section 20-400 (b))**

IVAN PETERSON (PETERSON) of 12389 Coldwater Road, Flushing, Michigan was present to request a variance to place an accessory structure in his front yard, closer to the front property line, in order to have space for a future septic system.

8:00 P.M. OPEN TO THE AUDIENCE

FACTS OF DISCUSSION:

- would like to eliminate the breezeway
- from the front of the garage there is 81 feet from the center of Coldwater Road
- proposed garage would overlap the existing attached garage by 5 feet
- Buckeye Pipeline runs in the front yard located at the ditch line
- proposed structure would be designed and structured the same as house as far as siding, shingles, etc.
- only other way to have the proposed structure in the same location would be to connect the two (2) structures (present house and proposed accessory structure – 12 foot gap) with a breezeway – which would close the whole front of property
- existing attached garage is 24 feet x 24 feet
- present house is 37 years old – present septic system has been in place since that time
- would like the accessory structure not attached to house due to cost reasons; would like to have an opening (breezeway area) between the structures instead of going around the whole house to get to the back yard
- 25 foot front yard setback
- a farm is located across the street from Peterson’s home
- recommended connecting the existing garage and proposed accessory structure only at the roof level
- the proposed accessory structure overlaps the existing garage by 5 feet
- there is 12 feet between the existing garage and the proposed accessory structure

HENNEKE stated there were two (2) parcels of land within three hundred (300) feet of Peterson’s property. The Zoning Board of Appeals received a letter of correspondence from Robert and Annette Schunter which stated:

“they had no objection to the request that will come before your Zoning Board of Appeals meeting on Tuesday, September 2, 2003, for a building variance requested by Ivan Peterson of 12389 Coldwater Road, Flushing, Michigan 48433.”

8:16 P.M. CLOSED TO THE AUDIENCE

HENNEKE read *Accessory Structure Site Regulations*, Section 20-400 (b) which states:

- (a) Attached accessory buildings. An accessory building attached to the principal building on a lot shall be made structurally a part thereof, and shall comply with the yard requirements of this chapter applicable to the principal buildings.
- (b) Detached accessory buildings. A detached accessory building shall not be nearer than ten (10) feet to the principal building, cover more than thirty (30) percent of the rear yard or be closer than five (5) feet to the interior side or rear line, except as otherwise provided in this chapter. An accessory structure may be located in the side or rear yard only, unless permitted in the front yard by issuance of a special use permit.

FITCH stated the original accessory structure request had been ten (10) feet closer to Coldwater Road but had not fit the criteria for the Special Use Permit for an Accessory Structure which stated a specific lot size and being adjacent to a water way. **HENNEKE** stated the requirement was for a rear or side yard but not a front yard.

FITCH read *Special Use Permits* Article XVIII, Section 20-1804 which states:

- (A) (1) The lot the accessory structure shall be located on is at least 400 feet deep or adjacent to a river or lake.
- (2) The accessory structure shall conform to all minimum front and side yard setbacks required for principal structures in the district it is located in.
- (3) The accessory structure shall either be screened from view of the roadway and adjacent lots or be designed to be compatible with surrounding residential structures in size, height, style of siding and landscaping.

HENNEKE stated that **PETERSON'S** prime concern was if the proposed accessory structure was moved back further into the side yard that it would interfere with the proposed septic system; the existing septic field is located to the Northwest of the house. The front yard cannot be used due to the well being located in the front of the house (South). **FITCH** stated the requirement for septic systems is fifty (50) feet plus one and one half (1 1/2) times the area as the reserved area.

The existing house (12389) is located one hundred (100) feet back from the road. A storage building is located in the Northwest corner of the property. Trees are located on the Northeast area.

HENNEKE reviewed *Variance Review Procedures*, Section 20-2208 which states:

- (a) Procedures.
 - (1) An application for the approval of a variance shall be made, by an owner of an interest in the lot, to the township clerk accompanied by the

necessary fees as provided by ordinance, or resolution and documents as provided by this chapter.

- (2) The application shall be accompanied by a plot plan drawn to the scale of one (1) inch equals twenty (20) feet, and containing the following information:
 - (a) Dimensional elements for which a variance is requested.
 - (b) Dimensional relationships of the subject lot to the structures of all adjacent lots.
- (3) The application shall be accompanied by an affidavit by the applicant explaining:
 - (a) How the strict enforcement of the provisions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
 - (b) The need for the variance is due to unique circumstances of the property.
 - (c) The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.
 - (d) Why the requested variance would do substantial justice to the applicant as well as other property owners in the district, and lesser relaxation would not provide substantial relief and be more consistent with justice to others.
 - (e) Why the requested variance will not be contrary to the spirit and intent of this zoning district and public safety.

The term “structurally attached” was debated among the Zoning Board of Appeals members. **HENNEKE** inquired from **FITCH** if a building was attached with a roof but did not have walls, would it be part of the house? **FOTENAKES** felt the definition “structurally attached” should go back to the Planning Commission for a clearer definition for the public.

SWANSON stated that usually when the accessory structure is in the front yard, there are vision problems where the structure is blocking the neighbors’ view.

HENNEKE stated the accessory structure request did not fit the requirements for a detached accessory structure as for as the square footage requirement.

SWANSON MOVED, seconded by Fotenakes to grant the variance. **MOTION DENIED**.

The Zoning Board of Appeals reviewed *Variance Review Procedures*, Section 20-2208 again:

- (a) How the strict enforcement of the provisions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

ANSWER: (1) If the proposed accessory structure had to be moved back, it would interfere with the area set aside for the future septic system. (2) If the breezeway could be constructed between the existing garage and the proposed structure across, it would be as the original permit was granted. (3) The breezeway would not prevent **PETERSON** from using the property.

- (b) The need for the variance is due to unique circumstances of the property.

ANSWER: It would be considered normal 200 feet x 195 feet property. There has to be 50 feet from the well system to the septic system. The water table is high in the area; **FITCH** stated that when perks tests have been made, the requirement is for two (2) foot above the high water level. It was determined that the property was not unique.

- c The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.

ANSWER: **PETERSON'S** had the house built.

- d. Why the requested variance would do substantial justice to the applicant as well as other property owners in the district, and lesser relaxation would not provide substantial relief and be more consistent with justice to others.
- e. Why the requested variance will not be contrary to the spirit and intent of this zoning district and public safety.

HENNEKE felt that after the first three (3) Review Procedures did not pass, there wasn't any need to continue with the remaining two (2) Procedures.

VAUGHN MOVED, seconded by Fotenakes that the variance be denied based on the criteria of Section 20-2208, Variance Review Procedures. **MOTION CARRIED.**

BOARD COMMENTS:

1. **HENNEKE** stated the interruption of "structurally attached" should be more clearly interrupted. There will be research on the exact meaning. **HENNEKE** felt the accessory structure should be an integral structure of the house and the garage.

NEXT REGULAR SCHEDULED MEETING will be held on **TUESDAY, JANUARY 6, 2004.**

ADJOURNMENT: VAUGHN MOVED, seconded by Fotenakes to adjourn the Zoning Board of Appeals meeting at 8:57 p.m.

EDWARD HENNEKE, Chair

JULIA A. MORFORD,
Recording Secretary

RICHARD VAUGHN, Vice Chair

Date Approved

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