

- Property issues between Schultz and Ishak
- Surveyors did not know there was a well on the property
- Problem with the foundation
- New survey was not done to find the new property lines – properties were changed quite drastically
- No formal survey except for the East side of property – everything measured from the wrong point
- Monument exists at the right location
- Current problems concerning Schultz
 - a. how septic system would be serviced – no easement
 - b. Schultz had the property surveyed in October 2003
 - c. Ishak’s house is two and one-half (2 ½) feet from the Schultz property line
 - d. Resale affect on Schultz house
 - e. Ishak’s garage service door steps (East side of house) crosses the Schultz property line
 - f. Ishak’s house gutter drains cross Schultz property line
 - g. Property owners along Carpenter Road already dealing with water problems
- Why no requirement (ordinance) for Ishak to have a survey
- If variance granted to Ishak, there will be a landscaping problem for Schultz property
- Ishak’s house and the Schultz house are forty-two (42) feet apart
- Schultz wanted to know how the property line problem went unnoticed
- 3-4 changes to the property lines:
 - a. whole original parcel (3 lots) started out as 112’ x 300’ each
 - b. when Schultz purchased his property – 120’ x 480’
- no room for septic service truck to get to get to Ishak’s septic tank - Ishak’s septic tank is in his front yard

AMJAD ISHAK (ISHAK) of 738 Jefferson Street, Mt. Morris, Michigan and constructing a home at 8130 Carpenter Road, Flushing, Michigan 48433 (Lot No. 4) was present to request a variance of side yard setback for a single family residence.

ISHAK stated that when the foundation of 8130 Carpenter Road was dug, the contractor went 40 feet – 20 feet of the 40 feet was from the **SCHULTZ** property line. The foundation contractor measured from the property line of the May/June 2003 survey. When the proposed Flushing Junior High School was surveyed, the stake was placed at 1,000 feet; **ISHAK**, took the property line figure from the three (3) lots which consisted of Ishak, Schultz and one (1) other neighbor on Lot 6, and started at 1,027 feet. The contractor, digging the foundation for **ISHAK**, started at 1,027 feet and added 240 feet which was where **ISHAK**’s property line would start; 120 foot property frontage for **SCHULTZ**, and the one neighbor; the contractor thought he was in the right position. After reviewing the property lines with **JERRY FITCH (FITCH)**, Building Inspector for the Township, and the one (1) neighbor, it was determined there was twenty (20) feet of property that no one owned. The problem has been the twenty (20) feet. **ISHAK** stated that builder and consultant, Ron Coleman, already had the survey completed when he started the project. **ISHAK** is the builder of the home.

The house at 8130 Carpenter Road, Flushing (**ISHAK**) would be two and one half (2 ½) feet from **SCHULTZ’S** property line.

An attempt by **ISHAK** to purchase additional land from **SCHULTZ** has transpired; the asking price has not been determined. **SCHULTZ** contacted an attorney to review the property line situation and was informed that he (Schultz) could make **ISHAK** an option to purchase some land. **SCHULTZ** does not want to see **ISHAK** tear his (Ishak's) house down. Per **SCHULTZ**, his attorney recommended the asking price of \$13,000 for a whole strip of property in order to take care of the setbacks for **ISHAK**.

MRS. SCHULTZ wanted to know about the "10' Rule." **HENNEKE** stated it was the distance from the overhang to the property line on the side yard. **HENNEKE** stated that **SCHULTZ** would not have to sell **ISHAK** a ten (10) foot strip of land the entire length of the parcel but could sell a certain determined amount of property.

8:00 P.M. - THERE WAS AN ADJOURNMENT OF THE MEETING FOR SCHULTZ AND ISHAK SO THEY COULD LEAVE THE ZONING BOARD OF APPEALS MEETING TO ARRANGE SOME TYPE OF PROPERTY AGREEMENT.

Dean and Cindy Norrow, 8160 W. Carpenter Road, Flushing, Michigan 48433 – "had received a Notice so decided to come to see what was happening."

MRS. SCHULTZ stated that Ron Coleman (Coleman) actually had placed the survey stakes in the correct area. A letter was received from Coleman to Schultz' concerning the survey stakes.

2. Approval of Zoning Board of Appeals Meeting Dates for 2004

HENNEKE stated the proposed 2004 Zoning Board of Appeals Meetings Dates would be: Tuesday, May 4, 2004; Tuesday, September 7, 2004, and Tuesday, January 4, 2005. **FOTENAKES MOVED**, seconded by Swanson to approve the meeting dates for the Zoning Board of Appeals for 2004. **MOTION CARRIED.**

3. Amendment to the Agenda

HENNEKE MOVED, seconded by Vaughn to Amend the Agenda to place the Election of Officers on the Agenda listed under "New Business." **MOTION CARRIED.** **VAUGHN MOVED**, seconded by Fotenakes to nominate Ed Henneke as the Chairperson. **MOTION CARRIED.** **FOTENAKES MOVED**, seconded by Sarka to keep the Vice Chairperson as Richard Vaughn. **MOTION CARRIED.** **FOTENAKES MOVED**, seconded by Henneke to keep Julia Morford as the Recording Secretary. **MOTION CARRIED.**

BOARD COMMENTS:

1. Staked Survey Information

It was stated in the State Law that an accurate legal description had to be provided to the Township. **FITCH** stated that **DENNIS JUDSON (JUDSON)**, Assessor for the Township approached the Township Board of Trustees four (4) plus years ago regarding no information in the ordinance that required a survey, which **JUDSON** had been requiring a survey. A Real Estate agent called **JUDSON** regarding the matter. **JUDSON** approached the Township Board of Trustees again wanting the Board of Trustees to write the Staked Survey Ordinance; there was an objection from one (1) of the Trustees. A meeting was held between **FITCH, JUDSON, SUPERVISOR TROTOGOT**, and **ATTORNEY STEVE MOULTON**, Township Attorney. The decision was made to return to the Township Board of Trustees and advise them that the

Township did not need surveys. **FITCH** would like for the Zoning Board of Appeals to make a recommendation to the Township Board of Trustees to reconsider the staked survey situation. **HENNEKE** recommended the matter be sent to the Planning Commission to propose an ordinance change as mortgage surveys have been useless. **FITCH** stated that a boundary survey should be required at the time of a property division; if there is a property line change, there should be another survey. The staked survey ordinance would protect new residents coming into the township and also protect the Township, itself.

8:20 P.M. – SCHULTZ AND ISHAK RECONVENED TO THE REGULAR MEETING.

ISHAK wanted to know if he could purchase property the width of his house. **HENNEKE** recommended that **ISHAK** purchase a ten (10) foot section of land the width of his (Ishak’s) house. **ISHAK** stated the house and garage have a total of ninety-two (92) feet. The dollar amount of \$3,000 was requested by **SCHULTZ** to **ISHAK** as a resolution to the matter, but **ISHAK** was hesitant. The last resort if the matter should not be settled, would be to go to Court. **ISHAK** felt there should have been a survey. **HENNEKE** suggested that **ISHAK** might want to consult with an attorney. There should be very little construction work on the house (8130 Carpenter Road) until the matter has been resolved between **ISHAK** and **SCHULTZ**. At the present, the house is being dry walled and should be completed within a month or month and one half.

HENNEKE stated that during the adjournment of the present meeting between **ISHAK** and **SCHULTZ**, a letter was produced that stated **RON COLEMAN (COLEMAN)** had staked the property before **ISHAK** started building and the stakes were in the proper location. (The letter was read to the audience).

HENNEKE recommended rather than come up with a final suggestion at the meeting, he (Henneke) suggested the meeting be postponed until the next regular meeting scheduled for Tuesday, May 4, 2004. If **ISHAK** and **SCHULTZ** resolve the property line situation before the May 4, 2004 meeting, they would not have to appear at the meeting. If the situation could not be resolved, they (Ishak and Schultz) would return to the May 4, 2004 meeting; there would be no extra charge as it would be a regular scheduled Zoning Board of Appeals Meeting. If a decision could not be resolved, a Special Meeting would have to be called and there would be a charge. **FOTENAKES MOVED**, seconded by Swanson to postpone the matter until May 4, 2004 or unless the petitioner requested a Special Meeting. **MOTION CARRIED.**

NEXT REGULAR SCHEDULED MEETING will be held on **TUESDAY, MAY 4, 2004.**

ADJOURNMENT: FOTENAKES MOVED, seconded by Swanson to adjourn the Zoning Board of Appeals meeting at 8:35 p.m.

EDWARD HENNEKE, Chair

JULIA A. MORFORD,
Recording Secretary

RICHARD VAUGHN, Vice Chair
010604 appeals

Date Approved