

**CHARTER TOWNSHIP OF FLUSHING**  
**6524 N. SEYMOUR ROAD**  
**ZONING BOARD OF APPEALS**

**DATE: MAY 3, 2005**

**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 of Trustees 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 and the Pledge to the American Flag.

**ROLL CALL:** Swanson, Fotenakes, Vaughn, Henneke, and Fitch (Morford was taking care of the Special Election for the Schools).

**MEMBERS ABSENT:** Sarka

**OTHERS PRESENT:** Doug Sova, Dean King, Karen King, Thomas Williams, and Winston Dolphin

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

**III. APPROVAL OF MINUTES OF FEBRUARY 1, 2005: VAUGHN MOVED**, seconded by Swanson to approve the minutes of February 1, 2005. **MOTION CARRIED.**

**IV. UNFINISHED BUSINESS:**  
None

**V. NEW BUSINESS:**

**1. Thomas Williams, 8046 Mt. Morris Road, Flushing (Parcel No. 08-02-400-020)**

**HENNEKE** stated that **THOMAS WILLIAMS (WILLIAMS)** had petitioned the Zoning Board of Appeals for an Appeal on a Variance of a Home Occupation at 8046 Mt. Morris Road, Flushing, Parcel No. 08-02-400-020.

- would like a variance to work out of his (Williams) pole barn.
- has repaired engines for automobiles, for a period of two (2) years, out of his pole barn for the purpose of making money.
- has a full time job selling parts at a dealership during the day.
- has lived at 8046 Mt. Morris Road for two (2) years.
- spends three (3) or four (4) hours per day working on automobiles.

- tries to keep the minimum of automobiles, in his driveway, down to one (1) or two (2).
- at one time there were twenty (20) vehicles, on his property, with four (4) of the vehicles being **WILLIAMS**.
- only three (3) or four (4) automobiles could be placed in his pole barn – the rest of the vehicles would have to sit outside the pole barn.
- the area has been zoned Residential Suburban Agricultural (RSA).

**OPENED TO THE AUDIENCE:**

1. **Karen King, 8062 W. Mt. Morris Road, Flushing (adjacent to Mr. Williams)** – “Williams are very hard working people next door; disagree with the business being in a residential area; business invades the Kings’ privacy; don’t mind the vehicles or motorcycles; don’t like the number of vehicles being next door; Kings want to relax when they come home from work; if business had been there twenty-six (26) years ago, Kings would not have bought the house; have a big concern about the property value of their property; Williams have beautiful manicured yards.”
2. **Dean King, 8062 W. Mt. Morris Road, Flushing (adjacent to Mr. Williams)** – “grew up in the City of Flint; lived across the street from the same type of business as Williams; one reason moved from the City of Flint was to get away from this type of stuff; King appreciates what Williams is trying to do; very hard working people; in three (3) years Kings plan to retire and move away from the area; approximately 150 feet from Williams’ property.”

**CORRESPONDENCE:**

1. Tom Skinner – 8084 W. Mt. Morris Road, Flushing – “no problem with the business.”
2. Raymond Laaksonen, 8089 Morrish Road, Flushing – “envelope returned “unable to forward.””

**SPECIFIC INFORMATION PERTAINING TO THE WILLIAMS PROPERTY:**

1. Kings live on the West side of the **WILLIAMS** property.
2. Skinner’s property abuts up to **WILLIAMS**’s property on the West side in the back of the King property.
3. **WILLIAMS** property abuts up to four (4) other properties.
4. **WILLIAMS** owns seven (7) acres.
5. The *Tree Farm* on Mt. Morris Road is one half mile West of the **WILLIAMS** property.
6. There are no fences.
7. Notice had been sent to thirteen (13) neighbors within 300’ of the petitioner.

**CLOSED TO THE AUDIENCE:**

**HENNEKE COMPARED THE REQUEST WITH THE ORDINANCES:**

- **WILLIAMS** request not a special land use
- Not a home occupation – not doing business within the home
- Only thing the request could be applicable to would be a variance to allow a commercial operation to be conducted in a residential zone

**HENNEKE** reviewed Article XVIII, Section 20-1803 (A) (3) which states:

“No home occupation shall be conducted in any accessory structure.”

**JERRY FITCH (FITCH)**, Building Inspector, stated the request for **WILLIAMS** would not fit into any of the ordinances. **FITCH** had a concern about the correct interpretation of the ordinance and the variance of the section of the Home Occupation. Other than the interruption, he felt there would have to be a rezoning of the property. **HENNEKE** stated that in Section 20-1803 (A) the words “shall be conducted” could not be varied.

**ZONING BOARD OF APPEALS COMMENTS:**

- **SWANSON** stated that under the type of business that **WILLIAMS** has been maintaining, it would come under the classification of “Automobiles – General Repairs” which required a C-2 zoning with a discretionary special use permit. **SWANSON** felt **WILLIAMS** should have changed the zoning before he came before the ZBA.
- **FOTENAKES** stated a variance wasn’t available for commercial property.
- **HENNEKE** stated the ZBA could not give a Use Variance, due to the zoning regulations – the Board of Trustees does the re-zoning.

**SWANSON MOVED**, seconded by Fotenakes to deny the request for any kind of a home occupation variance.

**DISCUSSION:**

- **FOTENAKES** felt the ZBA could not grant a home occupation or any other kind of variance because of the type of business.
- **HENNEKE** stated the ZBA was not a Board that could rezone – the only way to have that type of use of property would be to rezone if it fell within a special use category. In the residential area, there are no special uses for commercial operations without rezoning. The Master Plan (long range plan) plans where the township would be headed within the next ten (10) years and the area (around **WILLIAMS** property) has not been set aside for commercial uses.
- **HENNEKE** stated the township has to be careful in a process called “spot zoning.”
- Variances run with the land and could not be taken back.
- **VAUGHN** stated the ZBA’s hands were tied.
- **FITCH** stated the request was brought before the ZBA due to the fact he (Fitch) felt **WILLIAMS** had a better opportunity to get a variance than rezone the property

**ACTION OF THE MOTION:**

**Motion: SWANSON MOVED**, seconded by Fotenakes to deny the request for any kind of a home occupation variance. MOTION CARRIED.

2. **Win Dolphin, 5082 McKinley Road, Flushing (Parcel No. 08-23-300-006)**  
**Variance of the Side Yard (both sides)**

**WIN DOLPHIN (DOLPHIN)** has petitioned the ZBA for the purpose of obtaining a variance on both side yards at 5082 N. McKinley Road, Flushing, Parcel No. 08-23-300-06. Notices were sent out to nine (9) entities within the 300 foot area.

**SPECIFIC INFORMATION REGARDING THE PROPERTY:**

- **DOLPHIN** has requested a variance of seven (7) inches on either side of his home.
  - a. the ordinance side yard setback would be ten (10) feet
  - b. the request would be for a seven (7) inch variance
  - c. the proposed request would be 9’3” on both sides of the home after it was completed.
- the property has not been surveyed – the lot lines were given to **DOLPHIN** by the neighbors on the North and South side of the proposed property.
- When **DOLPHIN** purchased the home, there were thirty-seven (37) inches to the fence
  - a. the garage and breezeway have been torn down due to lack of a foundation under the building.
  - b. the house has been around for a long time.
  - c. the property width is seventy-five (75) feet.
  - d. there is a stake located on the North side
  - e. individual on the South side of the house (**DOLPHINS**) stated the fence was in place years ago when he bought his property - (the survey stakes were on his property).
- **DOLPHIN** bought the home October 2004.
- **DOLPHIN** stated he would like to build a 24’ x 24’ garage with a 10/10 pitched roof on the North side of the home.
- **DOLPHIN** would like to build a 20’ x 50’ addition on the South side which would consist of a basement and a story and one half building.
- The whole house has been gutted down to the floor joist.
  - a. new floor joists have been installed
  - b. cement pads are in the middle to be used for support.
- the small buildings in the back of the proposed home have been torn down.
- **DOLPHIN’S** daughter, who lives in Flushing City, would like to live in the home when it has been completed.
- **DOLPHIN** would like to leave enough space on the South side of the home to be able to drive to the back yard and construct a playscape in the back yard.
- The proposed lot is not a plotted lot.

**HENNEKE** was not concerned about the seven (7) inch variance, if there are were no objections from the neighbors, but there could still be a problem without a survey. Yard fences have been

known to be placed in the wrong location which would in turn give the wrong distances between houses.

**SWANSON MOVED**, seconded by Fotenakes to grant the variance of one (1) foot so that **DOLPHIN** can utilize a nine (9) foot side yard on either the North or South side of the proposed property; a staked survey shall be required.

**1. Douglas Sova, 5102 N. McKinley Road, Flushing** – “he has no problems with **DOLPHIN** building the house or garage, it would be raising the property value; lives on the North side of the proposed lot.”

**ACTION OF THE MOTION:  
MOTION CARRIED.**

**HENNEKE** stated after **DOLPHIN** has the survey completed, he (Dolphin) should come into the Township Hall for a building permit according to the variance which had been granted. **DOLPHIN** would have to show the building would be within the dimensions – instead of ten (10) feet it would be nine (9) feet.

**VI. NEXT REGULAR SCHEDULED MEETING** will be held on **TUESDAY, SEPTEMBER 6, 2005 AT 7:30 P.M.**

**VII. ADJOURNMENT: VAUGHN MOVED**, seconded by Fotenakes to adjourn the Zoning Board of Appeals meeting at 8:25 p.m.

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EDWARD HENNEKE, Chair

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CATHY VELAT, Acting in the absence of  
JULIA A. MORFORD, Recording Secretary

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RICHARD VAUGHN, Vice Chair

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Date Approved

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