

CHARTER TOWNSHIP OF FLUSHING

6524 N. SEYMOUR ROAD

FLUSHING MI 48433

ZONING BOARD OF APPEALS

DATE: FEBRUARY 1, 2011

TIME: 7:30 P.M.

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MEMBERS:

Edward Henneke, Chair

Richard Buell

Richard Vaughn, Vice Chair

James Sarka

Scott Minaudo, Board of Trustees Representative

Julia A. Morford, Recording Secretary

I. CHAIR EDWARD HENNEKE opened the meeting at 7:35 p.m. with Roll Call and the Pledge to the American Flag.

ROLL CALL: Edward Henneke, Richard Vaughn, and James Sarka

MEMBERS ABSENT: Richard Buell and Scott Minaudo

OTHERS PRESENT: Steve Nemer

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

III. 7:40 P.M. OPEN FOR PUBLIC COMMENTS:

None

7:41 P.M. CLOSED FOR PUBLIC COMMENTS

IV. APPROVAL OF MINUTES OF JANUARY 4, 2011: VAUGHN MOVED, seconded by Sarka to approve the minutes of January 4, 2011 as amended: **Page 1**, Approval of Minutes of September 28, 2010, line 4, "It was suggested that the only thing...fact of findings for each case" **changed to** "It was suggested that the only thing the Recording Secretary needed to put in the minutes was the motion and action; however, the ZBA has to summarize the finding of facts for each case". **MOTION CARRIED.**

V. UNFINISHED BUSINESS:

None

VI. NEW BUSINESS:

**1. Steven Nemer, 7302 W. Mt. Morris Road, Flushing, MI 48433
Variance of Sign Ordinance, Section 13.5-65**

The proper publication was in the Flint Journal on Sunday, January 9, 2011; Notices were sent out January 13, 2011 to seventeen (17) residents and utility companies.

No one was in the audience to contest the issue.

Mr. Steven Nemer (Mr. Nemer) stated the Zoning Board of Appeals had received a Google view of the area. It is very hard to notice there is a store next to house because of the trees on the East side of the store.

Since the last meeting of January 4, 2011, it was ascertained that 1) the roadway right of way was fifty (50) feet from the center of the road. (A drawing was produced showing the fifty (50) foot right of road.) 2) the ordinance requires that any part of the sign be fifteen (15) foot back from that point which would be sixty-five (65) feet which is behind the front portion of the porch from the West; 3) on a previous drawing produced by Mr. Nemer, another twenty-five (25) foot was marked thinking there was another twenty-five foot setback but in a C-2, there is only a fifteen (15) foot setback.

The variance consists of two (2) issues:

1. the ordinance requires one to have a two hundred (200) foot street frontage to have a free standing sign. A variance is needed for less than 200' (the distance is one hundred twenty-six (126) feet.
2. If Mr. Nemer wanted the sign closer than fifteen (15) foot, another variance would have to be on the fifteen (15) foot setback.

COMMENTS FROM THE ZONING BOARD OF APPEALS MEMBERS:

1. Don't see a problem if approach on the fifteen (15) feet as far as safety, visibility, or intersecting areas.
2. Looks like the two (2) variances that needed to be granted.
3. **HENNEKE** felt the property is better zoned as C-1 which has a height of eight (8) feet maximum and thirty-two (32) square feet which would be a 4 x 8 sign.
4. Mr. Nemer's drawing shows a 4 x 8 sign and would be internally light.
5. There were no objections to having a fifteen (15) foot high sign.
6. Mr. Nemer said the current sign is close to 15 foot; the current sign could be taken down, but wanted to find out his options. The current sign does not work.
7. The ordinance does not allow for two (2) signs so Mr. Nemer has no objections to taking the sign down.

REVIEW OF THE ORDINANCE FOR C-2 ZONING

(Section 13.5-65 Commercial, C-2)

On premises used or occupied for commercial purposes in the C-2 (central commercial district), there shall be permitted: As set forth in the general provisions, a

maximum for two (2) signs selected from options 1,2,3, and 4 shall be permitted per premises, except in the case of a second entrance, where one (1) additional wall or window sign is permitted.

- (1) One (1) internally or externally illuminated freestanding sign per premises with more than two (2) hundred (200) feet of street frontage. Such sign shall not exceed fifteen (15) feet in height and sixty-four (64) square feet in area, and shall be set back so that the face or any part of the sign is at least fifteen (15) feet from the nearest existing road right-of-way line. Permit is required.

FINDING OF FACTS:

1. The Variance Request Form was filled out and notarized.
2. The drawing was filled out to scale.
3. Affidavit Number 4:
 - a. Will the strict enforcement of the provisions of the township zoning ordinance unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome?
Fact: there would be hindrance in using the property because there would be no other way to see the store until in front of the store and would then be past the area on the roadway which would cause a substantial burden.
 - b. Is the need for a variance due to unique circumstances of the property?
Fact: because of the existing buildings, it would be a unique circumstance to place a sign in the area.
 - c. Did you create the problems you are trying to get around?
Fact: The unique circumstance was not created by Mr. Nemer but perhaps by the predecessor except for the trees.
 - d. Will the requested variance confer special privileges that are denied other properties similarly situated and in the same zoning district?
Fact: It does not appear to be any special privileges to Mr. Nemer.
 - e. Will the requested variance be contrary to the spirit and intent of this zoning district and public safety?
Fact: Based on the information discussed, it does not appear to have an impact on public safety. It is consistent with the spirit and intent of the C-2 Zoning District.
4. Issue: (1st portion of variance) Variance from a two hundred (200) foot frontage as stated in the ordinance to one hundred twenty-six (126) foot frontage.
Fact: the issue was not created by Mr. Nemer and having less than two hundred (200) foot would not adversely affect anyone.
5. Issue: (2nd portion of variance) Variance on fifteen (15) foot from the roadway right-of-way.
 - a. The sign cannot start until sixty-five (65) feet back which pushes back beyond the porch area of the house.
 - b. The porch is sixty-one (61) feet from the center of the road
 - c. The diagram shows the sign location to be in front of the store building, east of house, and west of the edge of the driveway.
 - d. Mr. Nemer would like to go as close to the fifty (50) foot road right of way line as possible; for an eight (8) foot sign it would need to be fifty-four (54) foot from the center of the road. The post would be 54' from the center of the road with a 4' overhang.

- e. The sign will be approximately fifteen (15) feet from the pavement (in the grass).

HENNEKE MOVED, seconded by Vaughn to grant the variance to allow the sign no closer than fifty (50) foot from the center of the road which is the road right-of-way, grant the variance as to the fifty (50) foot setback from that line so the sign can be visible from the West; furthermore, grant a variance to the two hundred (200) foot frontage as required in the ordinance to allow the sign to be placed on a lot that is one hundred twenty-six (126) plus feet. Based on the discussion earlier, it appears that the strict enforcement would unreasonably prevent him from using the property for the permitted purpose and render conformity unnecessarily burdensome. Due to the unique circumstances of pre-existing property, that the conditions and circumstances unique to this property were not created by him perhaps by his predecessor sometime ago before this ordinance. The variance would not cause substantial injustice as opposed to the other property owners or vice versa to benefit the other owners as opposed to Mr. Nemer. Furthermore, it is not contrary to the spirit or intent of the zoning district because the zoning district is commercial. Commercial properties have to have some way to show where their business is located in a reasonable fashion. A 4' x 8' sign is reasonable here; it is not an industrial type sign; overall the variances as indicated should be granted. The leading edge, the part of the sign closest to the road, would have to be a minimum of fifty (50) foot from the center of the road right-of-way.

DISCUSSION:

There cannot be a temporary sign placed at the location

ACTION OF THE MOTION:

MOTION CARRIED.

HENNEKE MOVED, seconded by Vaughn to amend the motion to specify the sign will be no higher than fifteen (15) feet and, per Mr. Nemer's agreement, the old sign will be removed because he can only have one (1) free standing sign anyway.

ACTION OF THE MOTION:

MOTION CARRIED.

VII. NEXT REGULAR SCHEDULED MEETING will be held on **TUESDAY, MAY 17, 2011 AT 7:30 P.M.**

VIII. ADJOURNMENT: SARKA MOVED, seconded by Vaughn to adjourn the meeting.

EDWARD HENNEKE, Chair

JULIA A. MORFORD,
Recording Secretary

RICHARD VAUGHN, Vice Chair
02 01 2011 appeals

Date Approved