

CHARTER TOWNSHIP OF FLUSHING
6524 N. SEYMOUR ROAD
FLUSHING, MICHIGAN 48433
810-659-0800 FAX: 810-659-4212
SPECIAL PLANNING COMMISSION MEETING
DATE: MAY 23, 2005 TIME: 7:00 P.M.
WEB ADDRESS <http://www.gfn.org/flushing/index.html>

MEMBERS OF PLANNING COMMISSION

Aaron Bowron, Chair	Richard Buell
Jerome Doyle, Vice Chair	Ronald Flowers
Eric Swanson, Secretary	David Gibbs
Barry Pratt, Board of Trustee Representative	

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

PRESENT: Bowron, Doyle, Swanson, Buell, Flowers, Gibbs, Pratt, Fitch, and Morford

ABSENT: None

OTHERS PRESENT: None

I. MEETING CALLED TO ORDER at 7:07 p.m. by Planning Commission Chair Aaron Bowron with Roll Call and the Pledge to the American Flag.

II. ADOPTION OF AGENDA: GIBBS MOVED, seconded by Flowers to adopt the Planning Commission Agenda for May 23, 2005 as presented. **MOTION CARRIED.**

III. APPROVAL OF MINUTES OF MAY 9, 2005: FLOWERS MOVED, seconded by Doyle to approve the May 9, 2005 Minutes with corrections. **MOTION CARRIED.**

IV. UNFINISHED BUSINESS:

1. Opinion and Review of C-1 and C-2 Zoning Districts from Attorney Moulton

BOWRON reviewed past history of the C-1 and C-2 Zoning Districts:

1. November 22, 2004 Attorney Moulton submitted draft ordinance with proposed changes to Article XIII Section 20-1301 (Dimensional Requirements) and Article XIV Section 20-1401 (C-1 and C-2 Zoning Districts)
2. February 25, 2005 – only action taken was a motion to postpone any action on the proposed ordinance until such time full Planning Commission could reconvene.
3. April 25, 2005 a motion made which stated:

“SWANSON MOVED, seconded by Flowers to approve the draft as presented by Attorney Moulton on C-1 and C-2, but that any of the non-conforming lots that cannot meet the requirements set down by the new ordinance that the setbacks for the front, rear, and sides be not less than 50% minimum of the combined width or depth lot setback. MOTION CARRIED.

4. The changes from the April 25, 2005 meeting were incorporated in a revised proposed draft from Attorney Moulton on May 6, 2005 - additional changes included a minimum 30' setback from any lot line.
5. May 9, 2005 - revised draft ordinance reviewed with the two (2) main points of discussion:
 - a. should there be a specified minimum 30' setback
 - b. have a 50% sliding setback or something less – more flexibility
6. Township Assessor compiled a list of the C-2 properties in the township – 7 properties were less than 150 feet

ROUND TABLE DISCUSSION AMONG THE PLANNING COMMISSION:

1. Commercial property frontage (81.5' - Silman) is a fairly new building.
2. Commercial frontage (75' – former store at railroad tracks in Brent Creek).
 - a. store building has been torn down – property zoned C-2.
 - b. at one time Brent Creek had small lots.
3. Opinions on the 30' Setback:
 - a. good idea
 - b. doesn't matter if the figure is 50% or 30%
 - c. will there be the 30 feet in addition to the 50% - have only one or the other.
 - d. on small lots could go with a minimum of 30 feet with 50% off the side.
4. Possibilities of the 50% setbacks:
 - a. 50% for both the back and front
 1. 100' setback with 50' in the front and in the back
 2. 80' setback in the front
 - b. there should be a minimum setback in the front – otherwise people will build on the front property line.
5. small lots could join together with other lots and have a strip mall.
6. problem with having commercial next to residential property – a buffer would be needed.
 - a. if individual given the option to build on either property line – they could build next to the residential property line.
 - b. sliding scale a great idea – could adjust where the building would be located with minimums.
 - c. problem has to be addressed with front setback and property located next to residential property.
7. idea of “sliding scale” would give the Planning Commission the option to state where the structure would have to be located near the residential property.

BOWRON read Section 20-1901 *Developments Requiring Site Plan* which stated:

“Any commercial district that abuts a residential area may require additional set backs and buffers for the health, safety and welfare of the residentially zoned area.”

BOWRON stated the Planning Commission already had the authority, in the zoning ordinance, to provide additional buffering between commercial and residential. The decision would be if the Planning Commission wanted to explicitly put the information in the ordinance with a minimum setback. **DOYLE** stated there needed to be a starting point (guideline) as to what was needed for consideration when the site plan was brought before the Planning Commission.

OPINIONS CONCERNING THE SLIDING SCALE:

1. **DOYLE** had no problem with going with the sliding scale but also recommended having the minimum setbacks. Even though there is a site plan there are two (2) minimums to contend with: 1) no closer than thirty (30) feet from the front, and 2) if you are located next to residential property be at least thirty (30) feet from the property line in order to provide for the buffer.
2. **SWANSON** stated the fifty (50%) percent originally was to pertain only to properties that were non-conforming. (Information produced by the Township Assessor showing seven (7) commercial properties in the township showing a frontage of 150 foot or less).
3. **FITCH** stated there was more of a concern for vacant properties rather than properties that already had a building constructed on it.
4. **SWANSON** stated there were only a few vacant properties left in the township (one being seventy-five (75) foot frontage located in Brent Creek at the railroad tracks).
5. **DOYLE** wanted to know if the proposed ordinance was being put into the existing ordinance to handle the non-conforming uses?
6. **SWANSON** stated that what **ATTORNEY STEVE MOULTON (ATTORNEY MOULTON)** had stated would allow the Planning Commission to change the offsets for conforming lots and non-conforming lots.
7. **SWANSON** stated the big problem would be the non-conforming property because it would be less than one hundred fifty (150) feet.
8. **BUELL** wanted to know how the proposed ordinance language would affect the smallest lot.

EXAMPLE:

1. 50% on a 75' lot would allow a 37' wide building.
9. **PRATT** stated that minimums also could affect the Planning Commission:
Quote from Attorney Moulton in a letter of correspondence dated November 22, 2004:
“I understand the need to buffer a residential property from adjoining commercial property. Is that best accomplished by distance, i.e., significant rear and side yard requirements, or can the potential problems be better addressed by requiring certain types of fences, berms and landscaping?”

10. **PRATT** felt if minimums were set, the Planning Commission would lose their ability to use buffers, for protection to the residents, such as fences, berms, etc.

EXAMPLE:

1. 75' frontage with 50% sliding scale with a 37 ½ foot building there would be 18½ ' side setback on one side and 19' side setback on the other (if the building was centered) **OR** wherever the Planning Commission decided to slide.
 2. 75' frontage with 10% setback on one side there could be 27' side setback on the other.
11. **BUELL** wanted to know if a fifty (50%) percent slide was a fair amount? **DOYLE** stated the matter would depend upon if the property abutted a residential area. **BUELL** wanted to know if the Planning Commission, at their discretion, could set a different setback. **DOYLE** stated if the information was stated in the ordinance it would give the Planning Commission a guideline as to what information to give to the residents before they come before the Planning Commission. **FLOWERS** stated currently it was fifty (50%) percent. **DOYLE** stated if the distance was slid over ten (10) feet on one side and added the eight and one half (8½) feet on the other side, there would be a total of twenty-seven and one-half (27½) feet. **SWANSON** wanted to know how the language could be written in the ordinance so the building could be slid over due to the railroad tracks adjoining the property (Brent Creek). If the property owner slid over within ten (10) feet of the property line, would there be some way to say the owner could still have nineteen (19) feet on the other side, which would give the owner the ability to have a larger building; there would be residential zoning on the other side of the property.
12. **DOYLE** stated another interpretation would be to say there had to be thirty (30) feet for residential, but if a berm or a fence was installed, the distance could be lower than thirty (30) feet. If the property was commercial abutted to commercial, there would only have to be enough room on one side for emergency vehicles to get to the back of the structure for health, safety and welfare purposes. **SWANSON** wanted to know if the smaller lot setbacks could be left up to the discretion of the Planning Commission. **FITCH** felt the setbacks should be left along other than the front setback. **SWANSON** felt the wording "at the discretion of the Planning Commission" would give the Planning Commission a guideline to stand on.

EXAMPLE:

1. 40% slide with a minimum of 30' and if centered there would be 15' on each side.
 2. 40% slide with a minimum of 10' and if centered there would be 20' on each side
 3. there would be a 45' footprint for a building on the smallest lot
13. **SWANSON** stated the largest non-conforming lot was one hundred twenty-seven (127) feet in width.
14. **DOYLE** stated if there was commercial on one side, the minimum setback could be moved to ten (10) feet.

15. **PRATT** wanted to know if there could be a sliding scale which would allow a ten (10) foot minimum; would there be type of language that would give the Planning Commission the discretion for a berm or some type of protection. Is there a possibility of having a “zero” lot line situation? **DOYLE** stated if commercial abutted to commercial, the “zero” lot line could be achieved.
16. **GIBBS** wanted to know if a fire truck could get down a ten (10) feet drive. If the adjacent property had a ten (10) foot setback, there would be twenty (20) feet setback (for both properties) which would be plenty of room for emergency vehicles (if there were no fences).
 - a. **PRATT** stated if there was a twenty (20) foot setback on one side of the property and on the other side of the property there was a fence with a “zero” lot line setback, there would still be room to get an emergency vehicle on the side with the twenty (20) foot setback.
 - b. **FLOWERS** stated if there was a ten (10) foot side setback on one side and a fence on the other side, there would not be enough room to get the emergency vehicle in the drive.
17. **PRATT** stated if there was a ten (10) foot side setback as a minimum for any property, there would be a situation where there would be ten (10) feet on each side yard setback for a total of twenty (20) feet – the side yard setback would never change.
18. **DOYLE** stated there should be the minimum setbacks and the slide setbacks.
19. **FLOWERS** stated what the township currently has takes care of all the needs of the township.
20. **SWANSON** stated the forty (40%) percent would give plenty of room to place a good sized building (even on the smallest property).
21. **DOYLE** stated the only problem he could see was how much room should there be between the building on one piece of property and the residential property next door.
22. **BUELL** felt the front to back setbacks should be determined.
23. **DOYLE** felt there should only be a setback for the front property line.
24. **FITCH** stated he liked the sliding scale – forty (40%) percent would allow for a larger building; the lower the percentage the larger the building and the higher the percentage the smaller the building.
25. **FITCH** recommended that wording should be added to the affect that the front setbacks should be thirty (30) feet from the road right-of-way.
26. **DOYLE** recommended using the language that on the residential new neighbor side “it is the discretion of the Planning Commission” as to whether, on the residential new neighbor side, that the Planning Commission has the discretion to decide whether there would have to be a berm, fence, etc. for protection from the residents. If neither of the neighbors would like the berm, fence, etc. the notation would be placed in the minutes that neither neighbor wanted the protection.

CONSIDERATION OF THE SETBACKS:

BOWRON stated the general consensus would be to have a minimum setback for the front yard in conjunction with the sliding scale. The side setbacks would not have a minimum but only the sliding scale of forty (40%) percent. **BUELL** felt there should be a minimum for the back yard

setbacks. **DOYLE** was happy with the forty (40%) percent, but felt the Planning Commission should have the ability, because of the situation, to require what would be needed for protection (berm, fence, trees, fence) for the residential property. **BUELL** stated the current rear yard setback was eighty (80) feet. **FLOWERS** stated that if forty (40%) percent was used for front and back, it would give plenty of acreage for building.

EXAMPLE:

1. if there were 100' with 40%, and there was a minimum of 30', they could have a 20' slide setback on the back.

DOYLE wanted to know what would happen if, an individual lived out in the country and there wasn't sewer and water - where would the septic tank be placed. **SWANSON** stated the location and size of the building would dictate the location of the septic tank because the offsets would still have to be met.

FLOWERS stated that most of the non-conforming commercial properties that were listed weren't near sewer; there would be water. For the seventy-five (75) feet property (Brent Creek), the Assessor might wish to return the property back to RSA Zoning. The property owner could possibly purchase more land for a septic system.

BOWRON reviewed the facts regarding the sliding scale to be:

The Planning Commission was comfortable with the forty (40%) percent sliding scale with a minimum of thirty (30) foot frontage with front and rear setbacks. The Planning Commission reserves the right, or has the discretion, to condition any buffers that would be abutting any residential property.

- All site plans have to comply with the Genesee County Health Department.
- The Planning Commission could place a minimum of twenty-five (25) or thirty (30) feet on the front and twenty (20) feet on the back. In case of an emergency, a vehicle would be able to get to the back of the property even if the building was slid to one side.
- If there should be residential property in the back of the existing residential property, there should be the same distance of twenty (20) feet for the same purpose so that a fence could be installed to control the lights.

BOWRON stated the conclusion of the Commission seemed to be to go with the revised Ordinance but to reduce the slide scale to forty (40%) percent with the minimum reduced from thirty (30) feet to twenty (20) feet.

BUELL stated that under the proposed ordinance the Heath Property (Mt. Morris Road) which is one hundred seventy-five (175) feet wide, could construct a building one hundred five (105) feet wide with an offset on one side and twenty (20) feet on the non residential bordering side; there could be fifty (50) feet on the residential property line and if the property was four hundred (400) feet long, a building could be constructed three hundred fifty (350) feet wide.

FLOWERS stated the commercial lots, going from smallest to largest, would be: **1)** 75' x 300' (Brent Creek); **2)** the narrowest lot would be 81.75' x 220'; **3)** 100' x 400'; **4)** another lot 100' x 250'; **5)** 127' x 300'. Most all of the seven (7) non-conforming lots have a septic located someplace on the property, which would limit the placement of twenty (20) foot setbacks from the back yard. **DOYLE** stated the Planning Commission has the ability to determine what would be placed on the property line for the buffer.

SWANSON MOVED, seconded by Doyle that any lot zoned C-1, as of the effective date of this ordinance, which does not meet the currently established minimum yard requirements may be used for any permitted C-1 use, provided the total of the front and rear yards equals at least 40% of the total lot depth, and the total of the side yards equals at least 40% of the lot width, and provided any building or structure on the lot on the front lot is located at a minimum of 30' from the road right of way and a minimum of 20' from the rear lot line and any property line abutting residential property the Planning Commission reserves the discretion to require a buffer along any line abutting residential property. (The same applies to C-2 Commercial Property). It has been moved to amend Section 20-1301 and Section 20-1401 of the Zoning Ordinance for the Charter Township of Flushing regarding the Dimensional Requirements in C-1 and C-2 as previously described for non-conforming uses only.

ROLL CALL VOTE:

AYES: Pratt, Gibbs, Flowers, Buell, Swanson, Doyle, Bowron

NAYS: 0 MOTION CARRIED.

V. NEW BUSINESS:

1. Review/Revise Site Plan Check List

BOWRON stated he had a few issues with the Site Plan Check List and felt there should be an authorization clause on the Review Check List and Special Land Use Permit Forms which stated:

“I hereby grant permission to Flushing Township Personnel, including, but not limited to Planning Commissioners and the Building Inspector, to enter upon the above-described premises during daylight hours pending, and in furtherance of, a decision on this petition.”

Owner, Agent, Petitioner

BOWRON felt the time to review the matters on the Planning Commission Agenda should be during daylight hours. **SWANSON** would like the wording to read “reasonable daylight hours”.

FLOWERS MOVED, seconded by Pratt to incorporate the Authorization Clause into the Review Check List Ordinance Requirements and Special Land Use Permit Form (to be listed under the heading of “Additional Comments). MOTION CARRIED.

2. Special Land Use Article

BOWRON stated the Special Land Use required a site plan but it does not distinguish between more intensive developments with those that are not intensive such as temporary trailers, accessory structures in the front yard. The ordinance states there had to be a site plan.

There was a mistake where it references in Site Plan Review Requirements Review Procedures, Section 20-1801 (a):

(a) An application for the approval of a special land use shall be made by an owner of an interest in the land on which the special land use is to be located to the township clerk accompanied by the necessary fees as provided by ordinance or resolution and documents as provided for herein. In the case of a discretionary special land use the application shall be accompanied by copies of a site plan drawn to a scale of one (1) inch equals twenty (20) feet and meeting the requirements of Section 20-1903. In the case of a non-discretionary land use the application shall be accompanied by a plot as required for issuance of a zoning permit along with any additional information required by the Zoning Administrator that is necessary for him/her to determine if the application meets the ordinance requirements.

The above referenced Section 20-1903 should have been Section 20-1902 Site Plan Review Requirements which states:

“Section 20-1902: Before any building permit shall be issued, a site plan drawn to a scale of one (1) inch equals twenty (20) feet, and at least two (2) copies of this site plan shall be submitted to the township clerk. Such site plan shall contain the following information...”

BOWRON felt that all the Planning Commissions decisions should be tethered to, or authorized by, or be rationally inferred, some provision in the Zoning Ordinance.

DOYLE stated Section 20-1903 had to be done before 20-1902 because the *Procedures* had to be taken care of first and then proceed to the *Requirements*. **FLOWERS** felt the two sections went hand in hand.

VI. PUBLIC COMMENTS:
OPENED AT 9:10 P.M.
CLOSED AT 9:10 P.M.

VII. BOARD COMMENTS:

1. Common Drives and Private Roads Public Hearing

There will be a Public Hearing scheduled for Monday, June 13, 2005 due to the proposed amendment changes to the Common Drives and Private Roads.

2. **Planning For Growth and Land Conservation Seminar**
FLOWERS stated there would be a Planning Seminar on Thursday, June 9, 2005 at 8:30 a.m. until 5:00 p.m. at the Sarvis Conference Center, Flint, Michigan. Everyone that plans to go should give their name to **MORFORD**.
3. **Special Planning Commission Meetings**
SWANSON wanted to know how many “Special” meetings the Planning Commission would need for the rest of the fiscal year. Due to the Revenue Sharing being reduced by the State, the township budget is being reviewed.

VIII. MEETING SCHEDULE:

REGULAR SCHEDULED MEETING – MONDAY, JUNE 13, 2005, – 7:00 p.m.

PROPOSED SPECIAL MEETING – MONDAY, JUNE 27, 2005 – 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, JULY 11, 2005 – 7:00 P.M.

PROPOSED SPECIAL MEETING – MONDAY, JULY 25, 2005 – 7:00 P.M.

IX. ADJOURNMENT: There being no further business, **BOWRON** adjourned the Planning Commission Meeting at 9:19 p.m.

AARON BOWRON, Chair

JULIA A. MORFORD, Recording Secretary

ERIC SWANSON, Secretary
Planningminutes 052305

Date of Approval