

**CHARTER TOWNSHIP OF FLUSHING
6524 N. SEYMOUR ROAD
FLUSHING MICHIGAN 48433**

ZONING BOARD OF APPEALS

DATE: JANUARY 6,1998 TIME: 7:30 P.M.

MEETING CALLED TO ORDER at 7:35 p.m. by Chairman Henneke. He asked the recording secretary to call the roll.

MEMBERS PRESENT

Edward Henneke, Chairman
Harvey Workman, Vice Chairman & Secretary
Lynn C. McLean, Township Board Representative

James Sarka
Richard Vaughn

ALSO PRESENT:

Jerald W. Fitch, Building Inspector
Ida M. Reed, Recording Secretary

MEMBERS ABSENT: None

APPROVAL OF AGENDA: McLEAN MOVED, motion seconded to approve the agenda with addition of Election of Officers. MOTION CARRIED

APPROVAL OF MINUTES: There were no additions or deletions to the minutes of December 2, 1997. They were approved as printed.

UNFINISHED BUSINESS: Mr. Bob Halbedel of 9095 Overland Trail met with the Flushing Township Zoning Board of Appeals again with additional information. At the previous meeting he requested a variance to construct a 6' privacy fence around his swimming pool. He was asked to return with additional information that was more specific. He lives on a corner lot and would like more privacy for his family when using the yard and the swimming pool.

Mr. Halbedel furnished the ZBA with his footage proposal.

1. 25 1/2 feet from the curb to the fence.
2. 31 feet from front of house to proposed fence.
3. 39 feet from edge of pool to proposed fence. There is a 2 foot cement area around the pool. This measurement is from the cemented area.

There are some obstacles, such as trees and a septic field that he needs to work around.

CHAIRMAN HENNEKE asked if there was anyone from the public that wished to address this request. As there was no one, he closed this public comment time and opened it up for board discussion.

SARKA did not understand where his property line is? He states from the pool to the fence and from the fence to the curb, but no mention of his property line.

FITCH stated the road right of way is 30' from the center of the road.

HENNEKE stated that it appears he wants to put the fence 10' inside his property line.

1/6/98 Appeals

There was discussion concerning trees that are located close to the road, and the blue spruce that would be inside the fence. From the pool to the fence on the back side of the property would be approximately 6' or 7'. There was concern among the ZBA members with the distances proposed by Mr. Halbedel

CHAIRMAN HENNEKE stated that he has visited the site several times and feels that going out 31 feet from the front of the house is too far. It is just too close to the road. He is going to make a proposal that he feels would fit into the setting better. He doesn't know how the other fences were permitted in that area, but to have fences in that neighborhood so close to the road are really unsightly. To continue with this same problem is not beneficial to the aesthetics of the neighborhood. He is inclined to allow some leeway in this matter because of the way his yard is. He needs to fence in his pool and provide some privacy.

HENNEKE MOVED, seconded by McLean to change the measurements as follows:

1. Change the 25 1/2 feet from the curb to the fence to 41 1/2 feet
2. Change the 31 feet from front of house to the fence to 15 feet.
3. Change the 39 feet from cemented edge of the pool to the fence to 24 feet.

Mr. Halbedel did not approve of the changes because he stated the fence would then be in his septic field, and he would not have room to provide a swing set for his daughter. He was told there would not be a problem with constructing a fence 25 feet from the curb.

HENNEKE called for a vote on the motion. Yes: 5. No: 0. MOTION CARRIED. Mr.Henneke stated that the board would allow him to construct the fence 15' out from the house.

Mr. Halbedel stated that if that is all he can do he does not even want the pool. He claimed that if our township building inspector had not told him he could have a fence he would never have built the pool in the first place. He claimed he was told he could put up a chain link fence any place he wanted to, but if he wanted a 6' high fence in his front yard he would need a variance. Your proposal is just not acceptable.

HENNEKE stated that he could not speak for what the building inspector said or did not say. All I know is that the zoning ordinance states that your fence cannot be any closer to the road than your house.

Mrs. Halbedel did not understand. The fence was not an issue with their immediate neighbors, how did it become an issue with this board?

HENNEKE stated it became an issue because this is a township wide, not just in a specific neighborhood. Your neighbors are not the ones likely to perceive a problem when dealing on a township wide basis, where everyone might want a variance from every aspect of the ordinance. You get to a point where you just can't do that.

Mrs. Halbedel asked what their next course of action would be?

HENNEKE stated they could appeal the Zoning Board's decision to Circuit Court.

1/6/98 appeals

PUBLIC HEARING:

FLUSHING MOBILE HOME ESTATES REQUEST FOR VARIANCE FROM SIGN ORDINANCE:

NORM BOWER, representing Medallion Homes which is located on the corner of Mt. Morris and Gillette Road. He appeared before the ZBA with a request to construct an off site sign on at McKinley and Mt. Morris Road. He presented a letter to the ZBA from Mr. Edward Flynn, owner of the property in a C-2 Zoning District. The letter gave him permission to use the property for an off site sign. The letter also gave Mr. Bower permission to act in behalf of Mr. Flynn, as he is out of town.

The sign would be placed 35' from Mt. Morris Road and 90' from McKinley Road. The proposed sign would be 4' by 6' and would be very attractive. The sign would have Medallion Homes on it and show the direction to travel to find Flushing Mobile Home Estates where the Medallion Homes are being sold.

HENNEKE stated that he had a copy of the sign ordinance and it does not allow for off site signs in the township. He does not believe the ZBA has the authority to grant the request of Mr. Bower. We may need to get a legal interpretation from the township attorney. Because it is an off site sign, and the property is not owned by Medallion Homes, we want to be sure that we have the authority to handle this request.

HENNEKE MOVED, seconded by Vaughn to postpone this issue until March 6, 1998. This will give the ZBA an opportunity to get an opinion from the township attorney. The attorney will be asked if our zoning ordinance allows off-site signs. If his answer is yes, then we want to know if the ZBA has authority to allow an off-site sign to be located 1/2 mile from their place of business. MOTION CARRIED.

HENNEKE told Mr. Bower that our next meeting is March 3, 1998 at 7:30 p.m. Don't do anything until we get the attorney's opinion, and the ZBA has a change to make a decision at that meeting. You will not be charged an additional fee to come to this meeting. If we find out ahead of time that we do not have the authority to make that decision you will be notified.

TERRY SAUERS IS APPEALING THE DENIAL OF A REQUEST FOR A HOME OCCUPATION PERMIT:

TERRY SAUERS 8261 McKinley Road stated that he is requesting a Home Occupation Permit for the purpose of putting together customized rifles and holsters. Because of the new law he needs a Federal Firearms License in order to get parts at a reasonable rate. He also needs a Home Occupation Permit from the township, or a store front in order to get an FFL license.

He owns 11 acres in an RSA Zoning District. He does the customizing in his home. The majority of his business is done outside the home or at gun shows. Once or twice a year he may sell a gun from his home. There will be no advertising in the phone book, and there will not be a sign at his home. His business card has a phone number, but no address. All his supplies are kept in the basement, and his guns are kept in a large heavy duty gun safe.

1/6/98 appeals

FITCH stated a Home Occupation Permits are handled by the Planning Commission. They have heard three of these cases in the past, and denied all of them. Two of the requests were then appealed to the ZBA. He didn't see much point in having this gentleman go to the Planning Commission and then turn around and come before this board. He decided to just bring him to the ZBA in the first place.

VAUGHN wanted to know why the others were turned down?

WORKMAN as a member of the Planning Commission, stated the reason the others were denied was because they were selling guns that were manufactured elsewhere.

McLEAN was concerned because, in order for Mr. Sauers to assemble these customized guns, he purchases the parts from outside the home. The Home Occupation Permit states there shall be no sale of goods manufactured elsewhere in connection with the Home Occupation, except for sales incidental to the home occupation. If all components are manufactured elsewhere, and you are assembling them, what is the difference. After reading the minutes of the other Planning Commission meetings dealing with the same issues, he doesn't see any difference.

The ordinance for a Home Occupation is found on page XV111-4, Section 20-1803 of the Zoning Ordinance. **HENNEKE** reviewed this section of the ordinance with the members.

DALE BLOSS of 8343 McKinley Road stated that there is no additional traffic at Mr. Sauers' home. He sees more traffic from the day care center located in the area. He stated that Mr. Sauer does retail sales at gun shows.

MR SAUERS stated that he sometimes lets a customer use his gun range on the back of his property. This is also used by his family..

SARKA felt this was a different case from the others that were heard at the Planning Commission. People that have nurseries don't grow all the things they sell. They purchase trees, plants and etc. from wholesalers and then plant them on their property for a while, and then sell retail to their customers as home grown. The nurseries don't plant trees and shrubs by using seeds. He doesn't see any difference from Mr. Sauers purchasing parts and assembling them and then selling them.

HENNEKE agreed with Sarka, that it is a different situation because Mr. Sauers customizes and assembles the guns before he sells

WORKMAN MOVED, seconded by McLean to deny the permit on the basis that it does not meet the requirements for a Home Occupation Permit outlined in Section 20-1803 in the Ordinance. Yes: Workman and McLean. No: Vaughn, Sarka and Henneke. **MOTION FAILED**

VAUGHN MOVED, seconded by Sarka to grant the request based on information furnished by Mr. Sauer for the purpose of customizing of firearms, and assembling holsters for retail sales. The conditions applied to this Special Use Permit are:

1/6/98 appeals

1. Customers are not to use the shooting range.
2. He is not to purchase pre assembled guns and sell them in his home.
3. He is not to put up a sign to advertise this business.
4. There will be no more than 25% of the floor area used for the home occupation
5. There will be no change in the outside appearance of the structure or premises.
6. The home occupation will not be conducted in an accessory structure.
7. No equipment will be used that will generate noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of persons off the lot.
8. There will not be over one (1) employee who does not reside on the premises.

McLEAN stated that section 4 of the ordinance says there shall be no sale of any goods manufactured elsewhere. The question is how are we going to interpret manufactured for the goods that are being used. Are they being assembled 100% of the time or just part of the time.

HENNEKE called for a vote on the motion. Yes: Vaughn, Sarka, and Henneke. No: Workman and McLean. MOTION CARRIED.

WORKMAN is concerned that we are helping Mr. Sauers circumvent the intent of a federal law that was passed to stop the proliferation of gun dealers throughout the country.

ELECTION OF OFFICERS: HENNEKE called for nominations from the floor.

WORKMAN MOVED, seconded by McLean to elect Edward Henneke as Chairman of Flushing Township Zoning Board of Appeals. MOTION CARRIED.

McLEAN MOVED, motion seconded by Vaughn to elect Harvey Workman as Vice Chairman and Secretary of Flushing Township Zoning Board of Appeals. MOTION CARRIED

WORKMAN MOVED, motion seconded to appoint Ida M. Reed, Clerk, as Recording Secretary of Flushing Township Zoning Board of Appeals. MOTION CARRIED.

NEXT REGULAR MEETING will be held on Tuesday, March 3, 1998 at 7:30 p.m.

ADJOURNMENT: As there was no further business the meeting was adjourned at 9:30 p.m.

Edward Henneke, Chairperson

Ida M. Reed, Recording Secretary

Harvey Workman,
Vice-Chairman/Secretary