

CHARTER TOWNSHIP OF FLUSHING
6524 N. SEYMOUR ROAD
FLUSHING MICHIGAN 48433
ZONING BOARD OF APPEALS
DATE: JUNE 1,1999 TIME: 7:30 P.M.
PHONE: 810-659-0800 FAX: 810-659-4212
WEB ADDRESS: <http://www.gfn.org/flushing/main.htm>

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
Richard Vaughn

ALSO PRESENT:

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

MEMBERS ABSENT: James Sarka

APPROVAL OF AGENDA: The agenda was approved as presented.

APPROVAL OF MINUTES: WORKMAN MOVED, seconded by McLean to approve the minutes of 1/5/99 as printed. MOTION CARRIED

PUBLIC HEARING:

1. Request from Daniel F. Williams for a variance from the Fence Ordinance.

CHAIRMAN HENNEKE acknowledged that this issue had been before the Zoning Board of Appeals, The Planning Commission and The Township Board, and is now back in front of. the ZBA, He asked Mr. William if he had anything new that he wished to bring to the ZBA tonight?

MR. WILLIAMS presented his request, a drawing of the lot and the proposed fence. He also presented a petition signed by 10 neighbors that did not object to the fence. He wants to extend the existing fence another 64 feet to the west on Coldwater Road. He would like to put a deck on the back of his house, but it needs to be shielded from all the noise from Coldwater Road.

- a. The variance request form states that the strict enforcement of the provisions of the Township Zoning Ordinance would render conformity unnecessarily burdensome. If he placed the fence as designated by the ordinance it would be over his seepage bed, and he would lose 22' of his yard.
- b. The need for a variance is due to unique circumstances of the property, because the seepage bed dictates the line of the fence. He wants to keep the fence in line with the property for the aesthetic value.
- c. He did not create the problems, because the septic system was there when he bought the house.

- d. He did not feel this variance would confer privileges denied to others.
- e. Approval of the variance is not contrary to the spirit of the zoning district and public safety.

Mr. Williams stated that his problem is unique because he has a corner lot. If his house were one lot over he would be able to erect the fence with no problem.

VAUGHN was concerned because the first problem has not been taken care of. We denied the first request and nothing has changed. He pointed out that Mr. Williams did not get a permit when he put the fence up in the first place.

MR. WILLIAMS acknowledged that he was in error for not getting a fence permit, but he did not know that he needed a permit for a fence.

RICK NOWACZYK, friend of Mr. Williams stated that the first request was not presented properly. Originally he stated that he was asking for a variance for a new fence, but he should have stated that he wanted to replace an old fence.

CHAIRMAN HENNEKE explained that as soon as he put up a fence it is a new fence, regardless if he is replacing an old fence. If he just put in a slat to repair the fence that is one thing, but when you replace the whole thing, it is no longer the old fence. It isn't a repair any longer. We knew at the first meeting that it was a new fence.

WAYNE LAHAR, 8243 W. Coldwater Road asked if Mr. Williams was going to get dogs or something. Is that the reason he wants to fence in the whole back yard? He did admit that the noise factor on Coldwater Road is terrible.

HENNEKE read a petition signed by 7 neighbors who live within 300 feet and 3 neighbors who live outside the 300 feet. They did not object to the existing fence, which is approximately 22 feet, or the addition of 64 feet further west on Coldwater Road.

HENNEKE also read a letter from James A. Crawford, regarding the fence. He objects to the existing fence, and any extension of the fence. He feels the present fence along the north line is unattractive to the environment of this corner. He lives nearby, directly across from the north fence and it shields much of the view looking south. He feels this intersection is already dangerous with the Flushing High School traffic in the early morning as well as the afternoon. He feels this fence will contribute to traffic problems, because, in his opinion it will obstruct the view.

VAUGHN as well as several of the other ZBA members did not agree with the letter writer. They travel this road regularly and the fence does not obstruct the view. They have clear vision from Deland Road onto Coldwater Road and from Coldwater Road onto Deland Road.

CHAIRMAN HENNEKE stated that we have to do two things. 1. We need a motion to reconsider this issue. 2. We have to then determine if we have the authority to change the ordinance We have to get past the five requirements in the ordinance if we are to allow this variance.

THE ZBA members reviewed Section 20-2208 of the Variance Review Procedures. We need to decide if this request meets all five requirements.

VAUGHN stated that this is a corner lot, and that is the problem. People on corner lots have different circumstances. He is being penalized because he in on a corner lot. Corner lots should have been taken into consideration when this ordinance was drafted.

VAUGHN MOVED seconded by Henneke to reconsider the previous vote that was taken on September 1, 1998. MOTION CARRIED.

DISCUSSION ensued on the five requirements that needed to be met.

a. Will the strict enforcement of the provision of the township zoning ordinance unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome?

ZBA answer: It would make it very difficult for him to put up a fence if he had to go south of the septic field.

b. Is the need for a variance due to unique circumstances of the property?

ZBA answer: Yes, mainly because of the location of the septic system, and it is a corner lot.

c. Did you create the problems you are trying to get around?

ZBA answer: He did not create the problem. It was an existing septic system.

d. Will the requested variance confer special privileges that are denied other properties similarly situated and in the same zoning district?

ZBA answer: No, they have made allowances in similar circumstances.

e. Will the requested variance be contrary to the spirit and intent of this zoning district and public safety?

ZBA answer: No, because this fence will not obstruct the clear vision area of either roads.

WORKMAN MOVED, seconded by McLean to grant the variance to allow Mr. Williams to erect a fence in the specified location, according to the drawing presented. The main reason for allowing the variance is to avoid the septic field. MOTION CARRIED.

The question came up about the \$100 fee that was charged for the second request. There may be a possibility that the board agreed to waive the second fee. The clerk will check this out, and if the fee was waived, the clerk will see that a refund check is sent to Mr. Williams.

****Clerk's note:** The minutes of the Regular Board meeting dated October 8, 1998 reflect the approved motion to waive the \$100 fee for Mr. Williams to reapply for a variance from the fence ordinance. A check will be sent to Mr. Williams in the amount of \$100.

NEXT REGULAR MEETING will be held on Tuesday, September 7, 1999, at 7:30 p.m.

ADJOURNMENT: As there was no further business the meeting was adjourned at 8:25 p.m.

Edward Henneke, Chairperson

Ida M. Reed, Recording Secretary

Harvey Workman,

Vice-Chairman/Secretary