

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

**DATE: JANUARY 4, 2000                      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 7:30 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 was absent due to a death in his family.

**APPROVAL OF AGENDA:** CHAIRMAN HENNEKE asked to amend the agenda by adding three items that need to be taken care of at this first meeting of the new year.

1. Election of Officers
2. Approval of Meeting Dates
3. Appoint a Recording Secretary

McLEAN MOVED, seconded by Workman to approve the agenda as amended. MOTION CARRIED.

**UNFINISHED BUSINESS:**

**NEW BUSINESS:** CHAIRMAN HENNEKE reported that the first item under new business is the appeal by Meadowbrook Manor of a decision made by the Flushing Township Board. The board denied a request by Meadowbrook Manor to rezone 110 acres on Mt. Morris Road from RSA to RU-4.

The second request was for a zoning variance from RSA to RU-4 subject to a zoning change request.

CHAIRMAN HENNEKE stated that the Zoning Board of Appeals would not be able to hear the appeal tonight of Meadowbrook Manor. This request will have to be adjourned, and it will be necessary to schedule another meeting. The reason is, the appeal is on the record. The record, which is the Flushing Township Board Minutes of December 9, 1999, has not been officially approved. Because there may be changes to the proposed minutes, we have to wait until the minutes become the official minutes of December 9, 1999. If there are changes to that record it could affect the decision of the Zoning Board of Appeals. Until those minutes are approved, which should be at the next board meeting that will be held on January 13, 2000, the record is not subject to an appeal.

For that reason the appeal is premature. In consultation with Mr. Chimovitz, on behalf of Meadowbrook Manor, the request for an appeal and the request for a variance should be adjourned and considered together at a later date, because they are part and partial of the same matter.

HENNEKE called for a motion to adjourn this matter, and a motion to consider it at a later date.

McLEAN MOVED, seconded by Vaughn to adjourn the appeal submitted by Meadowbrook Manor for the decision that was made by the Flushing Township Board to deny the rezoning request from RSA to RU-4. To also adjourn the request for a zoning variance from RSA to RU-4 that is subject to the zoning change request. The reason for adjourning the appeal is because the Flushing Township Board of Trustees has not approved the meeting minutes of December 9, 1999. That this request be rescheduled for Tuesday, February 1, 2000 at 7:30 p.m., subject to change if the majority of the members are not able to attend. Yes: 4. No: 0. MOTION CARRIED.

CHAIRMAN HENNEKE stated the reason for adjourning this request is so Attorney Chimovitz will not have to file new papers. The meeting notice will be republished, and letters will be sent to those living within 300 feet of the request.

We will not be taking new testimony unless there is something that needs to be added to the supplement that we already have. He instructed the public that if they wished to speak at the next meeting, they could as a group select a spokesperson to address the issue on the opposing side. It is not a matter of new testimony, but if they feel they need to supplement the record they will have an opportunity to do so. The spokesperson should summarize all the reasons why the board was correct in its decision. They could do that in writing or in person. We will not go through all the individual public objections that have been heard and are in the record.

He thanked all those that were present for this meeting, and apologized for not being able to hear this request tonight. If we were to hear the appeal tonight and the board changed the record on us, we would be right back here again. It is very important that we follow proper legal procedure.

**ELECTION OF OFFICERS:** McLEAN MOVED, seconded by Vaughn to elect Edward Henneke as Chairman, Harvey Workman as Vice Chairman and Secretary to serve as officers of the Zoning Board of Appeals for the year 2000. MOTION CARRIED

**SET MEETING DATES:** McLEAN MOVED, seconded by Vaughn to set January 4<sup>th</sup>, May 2<sup>nd</sup>, and September 5<sup>th</sup> as the regular meeting dates for the year 2000. MOTION CARRIED.

**SELECTION OF RECORDING SECRETARY:** McLEAN MOVED, seconded by Vaughn to appoint Ida Reed as recording secretary of the Zoning Board of Appeals for the year 2000. MOTION CARRIED.

**CHAIRMAN HENNEKE'S CONCERNS IN ANTICIPATION OF THE NEXT MEETING:** There is a concern that arises because we had a lawsuit dismissed "**with prejudice**". The party that requested a change in zoning was the same party that filed a lawsuit against the township. He did some research on the issue and is going to ask Attorney Chimovitz to address that concern. Based on his research, when a case is dismissed "**with prejudice**", it does not mean that you can bring it again. When it is dismissed "**with prejudice**", as he understands the case law, it means that you cannot bring it back, because it is in effect a decision on the merits of the case. There is a second matter that he wants to

address. This matter already went thru the rezoning process in 1996. It was denied and was not appealed. Which means that that decisions stands. It was considered last year, but maybe it shouldn't have been. He does not think they have standing in this rezoning request with the very same plan they had before. It isn't the question of whether it is for a retirement community opposed to the other community. The change is from RSA to RU-4. Once that is given you can't say you now have to put in a retirement community. They are open to put in anything they want that is allowed in the RU-4 zoning.

HENNEKE wanted the members to be aware of these concerns when this request is heard at the next meeting.

**CONSIDER APPROVAL OF PREVIOUS MINUTES:** McLEAN MOVED, seconded by Vaughn to approve the minutes of December 7, 1999 at printed. MOTION CARRIED.

**NEXT MEETING will be held on Tuesday,** February 1, 2000, at 7:30 p.m., subject to change if a quorum is not able to attend.

**ADJOURNMENT:** As there was no further business the meeting was adjourned at 8:00 p.m.

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Edward Henneke, Chairperson

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Ida M. Reed, Recording Secretary

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Harvey Workman,  
Vice-Chairman/Secretary

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Date Approved