

CHARTER TOWNSHIP OF FLUSHING
6524 N. SEYMOUR ROAD
ZONING BOARD OF APPEALS MEETING
DATE: SEPTEMBER 3, 2002 **TIME: 7:30 P.M.**
PHONE: 810-659-0800 **FAX 810-659-4212**
WEB PAGE: <http://www.gfn.org/flushing/main.htm>

MEMBERS:

Edward Henneke, Chairperson	James Sarka
Richard Vaughn, Vice Chairperson	Eric Swanson
Ann Fotenakes, Board Representative	

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

CHAIRPERSON HENNEKE opened the meeting at 7:45 p.m. with Roll Call.

ROLL CALL: Sarka, Fotenakes, Henneke, Swanson, Fitch and Morford

MEMBERS ABSENT: Vaughn

OTHERS PRESENT: Ronald Long, Sandra Long, and Lou Jacob

APPROVAL OF AGENDA: FOTENAKES MOVED, seconded by Swanson to approve the agenda as presented. **MOTION CARRIED.**

APPROVAL OF MINUTES OF JANUARY 8, 2002: SWANSON MOVED, seconded by Sarka to approve the minutes of January 8, 2002. **MOTION CARRIED.**

UNFINISHED BUSINESS:

None

NEW BUSINESS: OPENED TO THE PUBLIC AT 7:50 P.M.

1. Ronald Long – 621 Morrish Road – Flushing MI
Request for Variance of 917 Square Feet of lot size – Section 16.1c

RONALD LONG (Long) was present to request a variance of 917 square feet of lot size per Ordinance Section 16.1c which involves a parcel that is partially located in both the City of Flushing and the Township of Flushing. **LONG** has requested that the parcel (Lot 19) be split along the Township/City line to create a second (2nd) lot. If the second (2nd) lot should be created, it would be less than 12,000 square feet which is required by the Ordinance. Notices have been sent to the Township residents living within 300' of the property and to the City of Flushing.

LONG stated he had planned to sell the lot. He (Long) obtained a property split approval from the Flushing Board of Trustees by means of a motion on March 14, 2002 which stated:

“**LIEPMANN MOVED**, seconded by Fotenakes to give a tentative approval which would be considered final approval upon receipt by the

building inspector of documentation of a Franchise Agreement between Mr. Long and the City of Flushing pursuant to water and sewer. MOTION CARRIED.”

HENNEKE wanted to know if a tentative franchise agreement had been entered into for the water and sewer with the City of Flushing. **LONG** stated his property had been part of the franchise agreement, that was drafted in the 1980’s, for the area of the cul-de-sac and Falling Leaf Court area.

HENNEKE read the written letter of correspondence, which concerned public utilities, from Dennis Bow, City Manager of City of Flushing which stated:

“With regard to the utilities available for the proposed lot, our records indicate that the existing franchise agreement would allow the use of the existing sewer and water lines on Falling Leaf Court.”

FITCH stated **LONG** has 100 plus feet frontage on Falling Leaf Court; the property would have a Falling Leaf Court address.

LONG stated the previous owner of 621 S. Morrish Road had sold to the next door neighbor (Robin and Karen Stoddard, the first house North of Long’s property) 150 feet x 8 feet which is equal to 6,000 square feet. By selling the stripe of land, (150 feet x 8 feet) it had made **LONG**’s property less than 12,000 square feet. If **LONG** had the extra 8 feet, it would only be 42 feet x 8 feet which would only be 336 square feet; with the 336 square feet, there still would not be 12,000 square feet. Even though **LONG** would not have 12,000 square feet, and since sewer and water would be in place, he could divide another way and have an 80 foot frontage. With the 80 foot frontage in the front and back, he (Long) would have over 12,000 square feet. There could also be another option to dividing the property where there would be a triangle of the City in the Township and a triangle of the Township in the City, but there would be over 12,000 square feet, which would be legal concerning the public utilities. If **LONG** decided to split his property another way instead of the original way that was approved by the Board of Trustees on March 14, 2002, he (Long) would have to go before the Board of Trustees again to obtain approval for a different type of split. **HENNEKE** stated that under the Township Ordinance, a survey would be required in order to obtain the correct, legal description for the property.

LONG stated he has paid taxes two (2) different ways: one (1) to the City of Flushing and one (1) to the Township of Flushing. The City lot does not show a lot number; the legal description for the township parcel is shown as Lot 19 (Parcel No. 08-36-503-004). Per **HENNEKE** a parcel number does not necessarily designate a separate description.

HENNEKE mentioned he had received information from **JERRY FITCH**, (Fitch), the Building Inspector, that indicated when Rowe Inc. (Rowe) computed the square footage, they (Rowe) had received a larger square footage for the proposed lot than what **LONG** had computed: **LONG**, 11,083 square feet, Rowe, a larger number. **HENNEKE** recommended getting a survey. **SARKA** wanted to know if there was a legal description on **LONG**’s deed.

LONG stated there was a letter written in 1976 from the City to the Township stating that **LONG**’s house set on the Township line. To remedy the situation, the City decided to let the

Township take over the house, in other words, to pay the City taxes to the Township. There was supposed to be a 35' setback on each side of the line; the setbacks are not shown. A neighbor (John Goodspeed, 605 S. Morrish Road) also has paid property taxes for their house to the Township, and the Township lot taxes to the City of Flushing.

HENNEKE stated that with a lot split in the Township, it would require 1) the location, 2) dimensions, 3) and nature of the ingress, 4) a written description of all previous land divisions, 5) an adequate and accurate legal description of each resulting parcel; the only way to obtain a description that would show the dimensions would be to have the land surveyed. **LONG** stated that he had a copy of a "financial survey" from Delta Surveying Company with the measurements located on the survey as to 1) where the setbacks are from Morrish Road, 2) the dimensions of the Long house (which sets back 14' from the Township Line) and 3) the location the house is placed on the property, and 4) where the Township line crosses the property. Per **HENNEKE**, the "financial survey" might possibly work for the matter. **LONG** has found three (3) stakes from a survey, they are: the two (2) front stakes off Morrish Road and a stake off Falling Leaf Court. Another stake, which had been covered, was located about 1 inch from the stake on the front corner of Falling Leaf Court about 1 inch from a survey which Rowe had completed. The fourth (4th) corner stake could not be located.

HENNEKE read the first letter of correspondence from: 1) Dennis Bow, City Manager for the City of Flushing;

LONG stated his house had been built in 1951 and consisted of 795 square feet. The Township line had been moved, toward the West, around 1979 or 1980. The house had been constructed before the township line had been moved. The property had been split for tax purposes only. The property was a plat which included property in the City of Flushing and the Township of Flushing. **LONG** stated the reason for his decision to divide the property along the Township line had been to eliminate paying taxes in the township. **HENNEKE** stated that with the actual survey, **LONG** may only need 600 square feet instead of 917 square feet. **FITCH** stated Rowe Inc had previously come up with 11,600 square feet.

HENNEKE read the remaining letters of correspondence from the following residents:

2. Mr. & Mrs. Chris Narten, 7484 Falling Leaf Court, Flushing, Michigan – Deny
3. Ms. Madonna Aubrey, 3243 N. Morrish Road, Flushing, Michigan – Deny
4. Mr. & Mrs. Robert Hem, 7505 Falling Leaf Court, Flushing, Michigan – Deny

LONG'S house sits in the City, on Morrish Road; the back yard is in the township. An agreement was made years ago regarding sewer and water. **LONG** would get his sewer and water for the new lot from Falling Leaf Court (the township); the old house would receive water and sewer from the City and each would be taxed separately. **FITCH** stated the Township received the taxes from the house which is in the City. If the lot should be divided, per the request, the entities would receive taxes for what actually was theirs, instead of what they (entities) thought it was.

CLOSED TO THE PUBLIC AT 8:20 P.M.

HENNEKE stated the descriptions for the parcels states: one says whatever parcel that is in the City excluding the parts that are in the Township; the Township description says that everything that is in the Township excluding that which is in the City; there is no official line of demarcation - it has been sort of a division that has been made which has been accessible but not a legal description that could be worked with to have the necessary dimensions. **HENNEKE** stated perhaps all that would be necessary would be the survey Delta Surveying Company had made in the past. The calculations could be made, and what the Zoning Board of Appeals would need to be approved, would not be something less than the recommended.

The City of Flushing has told **LONG** that he had a non-conforming lot. **FITCH** wasn't sure about the arrangement with the City, but it seemed like that Falling Leaf Court needed water and the City did not have water available so the Township provided the water – this is how the Township ended up with taxes on the house. **SARKA** stated he owned two (2) lots with two (2) separate deeds but has one (1) tax assessment for both lots.

FOTENAKES stated that technically **LONG** could split his property with an 80 foot frontage and 12,000 square feet. **HENNEKE** stated he was more concerned that what the Board did was accurate and correct.

HENNEKE wanted to know, from **FITCH**, that assuming **LONG** had the correct calculations on the diagram, what problem would there be for **LONG**, as far as to the proper setbacks for his house, side yards, front and back. **FITCH** stated that **LONG** would have to meet the same setbacks as everyone else as to the roadway setbacks plus 25 feet at the front, 10 feet on each side and a 25 feet rear-yard setback. **FITCH** stated that a 1,100 square foot, one-story home could be constructed on the proposed size lot. **FITCH** would have a hard time determining where the township line was located in order to measure the setback. **FITCH** stated the township would allow the purchaser to go within 25 feet of the road right-of-way so the purchaser would be able to have a fair amount of property; it would also depend upon the type of house that would be constructed. Falling Leaf Court has been considered a sub-division.

HENNEKE stated that if **LONG** was assessed for a water and sewer line, it would be assessed on the front parcel footage. There would be an additional hook-up fee to actually hook up to the system; the proposed new owner would pay for the hook-up fee. **LONG** had not been in the original assessment district, which would have made the assessment fee lower and depended upon the number of parcels involved.

HENNEKE stated there could be restrictions on the property, as far as the size of the lot, that could be legally enforced in a civil suit against **LONG**. **FITCH** stated there may be deed restrictions on the property that would not be enforced by the Township, but would be enforced by the subdivision itself. Some of the deed restrictions placed on property commonly are: 1) no fences, 2) minimum square footage, 3) the way the house is constructed, 4) no out buildings, 5) no modular homes, etc.

SARKA felt that until there were accurate numbers, a legal survey or description, the Board could not come to a conclusion.

FOTENAKES MOVED, seconded by Swanson to postpone the matter until a legal description with accurate numbers of the lot had been obtained. **MOTION CARRIED.**

HENNEKE stated more accurate information such as the below listed would be needed:

1. legal survey with accurate/exact description perhaps from Delta Surveying
2. exact square footage
3. a split that the Zoning Board of Appeals and Long could live with
4. have a lawyer check the restrictions
5. get a copy from the title company that had done the original title work when property bought

If **LONG** should decide to split his property any other way to achieve an 80 foot front, **LONG** would have to go before the Board of Trustees again for approval.

HENNEKE stated a staked survey is needed when there is a lot split. When the proposed new property has been deeded, **LONG** would need the legal description to the property. The variance would continue with the land when sold to another individual.

MRS. LONG wanted to know what would happen if the property was sold before the next meeting of the Zoning Board of Appeals? **FOTENAKES** stated the purchase agreement should state that the purchase would be subject to a property split; just mention that the deal is “pending” as no one would complete the purchase agreement until the split is approved and the variance granted and the franchise would not be a problem.

It was determined that **Tuesday, October 15, 2002 at 7:30 p.m.** be set to further discuss the variance of the property at 621 S. Morrish Road. If the **LONGS** should decide to sell the property as is, they (Longs) should contact **FITCH** as to their decision; the scheduled meeting would be cancelled. The October meeting would be posted on the Township Office door but letters would not be sent to the neighbors.

HENNEKE stated one thing with real estate, once a mistake has been created on descriptions, it perpetrates itself and it gets worse as it proceeds; this is where you have lawsuits, etc.

SPECIAL MEETING TO CONSIDER THE VARIANCE OF 917 SQUARE FEET AT 621 S. MORRISH ROAD will be held on **TUESDAY, OCTOBER 15, 2002 at 7:30 p.m.**

NEXT REGULAR SCHEDULED MEETING will be held on **TUESDAY, JANUARY 7, 2003.**

BOARD COMMENTS:

HENNEKE thanked the Board of Trustees for the recent wage increase that was approved.

ADJOURNMENT: FOTENAKES MOVED, seconded by Swanson to adjourn the Zoning Board of Appeals meeting at 9:05 p.m.

EDWARD HENNEKE, Chairperson

JULIA A. MORFORD,
Recording Secretary

RICHARD VAUGHN, Vice Chairperson

Date Approved

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