

CHARTER TOWNSHIP OF FLUSHING

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ZONING BOARD OF APPEALS MINUTES

DATE: JUNE 23RD, 2026

TIME: 4:00 P.M.

MEMBERS OF ZONING BOARD OF APPEALS

Chair – Steve Moulton

Melissa Fitch

Vice Chair – Fred Peivandi

Kevin MacDermaid

Planning Commission Representative – Amy Bolin

Jeanette Sizemore, Recording Secretary

PRESENT: Peivandi, Bolin, Fitch, MacDermaid and Moulton

ABSENT: None

OTHERS PRESENT: 21 (Twenty-one) others present.

I. MEETING CALLED TO ORDER at 4:00 P.M. by Zoning Board of Appeals
Chairperson Moulton with Roll Call and Pledge to the American Flag.

II. APPROVAL OF AGENDA:

MR. PEIVANDI MOVED, supported by Mrs. Bolin to approve the agenda.

THE MOTION CARRIED.

III. APPROVAL OF PREVIOUS MINUTES:

MR. MACDERMAID MOVED, supported by Mrs. Fitch to approve the minutes of the October 27th, 2025 Zoning Board of Appeals meeting.

ACTION ON THE MOTION:

AYES: MacDermaid, Moulton, Peivandi, Bolin and Fitch

NAYS: None

ABSENT: None

THE MOTION CARRIED.

IV. PUBLIC COMMENTS

OPEN FOR PUBLIC COMMENTS 4:07 P.M.

NONE

CLOSED FOR PUBLIC COMMENTS 4:08 P.M.

V. UNFINISHED BUSINESS

None

VI. NEW BUSINESS

Chair Moulton – Gave a brief outline on the public hearing concerns. Flushing Township has a Zoning Code. Part of the Zoning Code includes setback requirements for various types of properties. The property at issue is zoned C2, it's the property located on Mt. Morris Rd at the intersection of McKinley Rd. It is the Northeast corner of that intersection, the address is 8490 W. MT. Morris Rd. The current owner of that property has a desire to construct a new gas station and related convenient store, small food establishment. What he would like to construct there will not fit within the property remaining after he comes back 50ft for each one of the 4 boundary lines. The existing zoning ordinance requirement a 50ft setback for properties zoned C2. The parcel is approximately 200ft in one dimension and 218ft in the other. There are diagrams, plans that have been prepared by an architect or engineer on behalf of the property owner which lay out what he would like to do, you can see the incursion into the setback areas, if the structures are constructed as depicted on the diagram. The Zoning Board of Appeals has authority under the Zoning Ordinance which complies with the Michigan Zoning Enabling Act to grant what are known as variances. There are two broad types of variances. Use Variances, which essentially means my property is zoned for specific use, I am asking to be allowed to use it for something else. The common example is property zoned residential, if somebody wants to operate a business, they request a Use Variance. The Zoning Enabling Act has essentially prohibited those except for Townships, authority to grant Use Variances, for they are a change in the Zoning Ordinance its self. The other type of variance is, not a use variance it is a variance to adjust specific criteria within the zoning ordinance to address a use that's permitted by the zoning ordinance but won't comply with these other requirements the were applicable to the property besides the use limitations. We the Zoning Board of Appeals has the authority to do that. There are specific criteria that the applicant must satisfy to warrant the decision granting a variance from established setback requirements. Historically the property at issue has been used as a gas station before. I don't know when it was vacated. The structure remains on the property, that's been vacant for a number of years. Its use is limited to commercial use, so there is some incentive to see if that can be enabled without causing disruption to the other objectives in our zoning ordinance. Which include that the use on commercial property not undo or interfere or bourdon the enjoyment of joining properties or the publics interest or the interest of the Townships in a well-regulated community. So, what we are looking at, is there reason presented by the applicant to warranted modifying the setback requirements from the 50ft to what will be detailed. Someone is here to speak on behalf of the owner and will layout exactly what they are asking.

1. PUBLIC HEARING to consider a variance for the Zoning Board of Appeals decision pertaining to First Stop Properties variance request to *Sec. 36-701 Table of District Regulations C-2* at Parcel No. 08-02-300-009, 8490 W. Mt. Morris Rd, Flushing, MI 48433 also known as PARCEL OF LAND BEG AT SW COR OF SEC TH N 1 DEG 28 MIN W 200 FT TH E 218.25 FT TH S 1 DEG 28 MIN E 200 FT TH W 218.25 FT TO PL OF BEG SEC 02 T8N R5E.

Public Hearing Opened at 4:08 P.M.

David McDade (Roark Galt Architects) – 10166 N. Linden Rd in Clio

Chairperson Moulton – So you are an architect.

David McDade (Roark Galt Architects) – Yes, 34 years, one to go. I drew up the site plan. Flint Survey and Engineering did the original survey. I took the survey and designed the site plan from that.

Chairperson Moulton – Would it be your intent to submit the site plan as an exhibit in support of the request for variance?

David McDade (Roark Galt Architects) - Yes

Chairperson Moulton – We were provided copies; I just wanted to make sure this is the exact site plan you are referring to?

David McDade (Roark Galt Architects) – Yes

Chairperson Moulton – There is a signature on the plan is that your signature?

David McDade (Roark Galt Architects) – yes, it is

Chairperson Moulton – The plan we have consist of 5 pages, color photograph rendition

David McDade (Roark Galt Architects) – That's it

Chairperson Moulton – The document that would be relevant to us at this point would be the first page were you lay out lines showing where the existing setbacks are measured at 50ft from the property boundary line. Where the main structure would be located in reference to that and what the property owner is requesting by way of variance to the existing variance requirements.

David McDade (Roark Galt Architects) – That is correct.

Chairperson Moulton – For the record this site plan and the other 5 pages attached to it will be part of the record of the public hearing.

Chairperson Moulton – Assuming we have this in front of us, can you explain what that the property owner intends to build, how the property is to be used and what the problem is with existing setback requirements being applied to the project

David McDade (Roark Galt Architects) – Actually if its ok, I am here with the owner. In regards to the building and the business itself I would prefer, him to speak and I will come in, in any regards to the site plans.

Hassan Hammanmi (Owner) – 721 Fountain View Dr. Flushing

Chairperson Moulton – And you own the property we are talking about

Hassan Hammanmi (Owner) – Correct

Chairperson Moulton – Could you briefly explain what it is you intend to do with the property if you can obtain the required authorizations

Hassan Hammanmi (Owner) – What I plan to do is reconstruct the property the way it looks. When I first purchased the property about 4 years ago. It is a bad looking property; I spoke to Chris Czyzio from

the zoning and coding department at the Township. And we decided to build a new building. But then we seen the setbacks and it is 50ft off each side, left me about 100ft by 120ft unbuildable place. We tried to get around it, work with the setbacks with no luck. So, we decided to make it bigger. I came to Mr. Dave to see what we can do by putting in a new building and a new canopy and take old tanks out, put in new ones and clean up anything we have to. And follow all requirements we have to make this place a better-looking corner than what it is.

Chairperson Moulton – So looking at the drawing and what is proposed, it's a gas station in part, how many bays will the gas station have

Hassan Hammanmi (Owner) – 3 pumps

Chairperson Moulton – The pumps would be placed or in proximity or nearest to Mt. Morris Rd

Hassan Hammanmi (Owner) – Correct

Chairperson Moulton – And then going north from where the pumps would be located

Hassan Hammanmi (Owner) – Would be the building

Chairperson Moulton – Is there a parking area in between the pumps and the building

Hassan Hammanmi (Owner) – Yes sir, after taking 50ft for setbacks only space for 4 parking spots

David McDade (Roark Galt Architects) – If I may interject with that. I ran calculations and the shaded area of the buildable totals 4.8% of the entire property. That is not a lot. And actually, the current gas station the way it sits is in more of a violation of the setbacks than what we propose off Mt. Morris Rd.

That existing canopy is actually closer than the canopy we would be adding. Plus, there is an existing shed that would be also across the east setback line. So, the site as it is right now is non-conforming. The fact that when you have a gas station and you have an independent canopy from the building its self, you have to have a drive and parking spaces and a sidewalk and so forth, physically that could not be done.

Chairperson Moulton – So in addition to the 3 pumps I see parking area to the pumps, I see a structure. What is the purpose of that.

Hassan Hammanmi (Owner) – That is the convenience store

Chairperson Moulton – Is that a one- or two-story building

Hassan Hammanmi (Owner) – One story

Chairperson Moulton – Is there food preparation at this convenient store

David McDade (Roark Galt Architects) – In this drawing yes, but now we are thinking about not doing food prep. So, the building is actually getting a little shorter. To a point to where I am going to move it over to the edge of the 50ft setback, that would be the east setback. And if we do that, we now go from 3 variances to 2. I was told just recently that food prep probably isn't in for this location. And that would be that extra area that you see it's on the east side of the building so that would be sliding in a little bit.

Chairperson Moulton – So if I recall correctly from the review of the materials. As the building is shown on the plans, its 40ft from the property line

David McDade (Roark Galt Architects) – It is 41ft. The east property line is skewed a little bit compared to where the building is, so in the rear it is 40ft and the front is 41ft.

Chairperson Moulton – So you may be amending the plans with regard to the building shortage making it somewhat shorter than shown. And if that comes to be then there would be no variance with regard to the east setback.

David McDade (Roark Galt Architects) – That is correct.

Chairperson Moulton – Is it you're understanding that obtaining variances if in fact that happens is only the first step in a lengthy process that is going to require further permission from the Township sight plan

review and that sight plan review is going to necessitate compliance within the requirements of the Genesee County Road Commission regarding ingress/egress. I don't know if in fact there are underground storage tanks that requires Genesee County Water and Waste would be involved. And certainly, there would be extensive regulatory requirements imposed by the State of Michigan which in regard of installation of the tanks. Were these ever use?

Hassan Hammanmi (Owner) – They were use for about 20 years and then they closed down that place. Every year testing through the state. Empty out fuel. According to EGLE.

Chairperson Moulton – You plan on taking those tanks out and replacing with new tanks

Hassan Hammanmi (Owner) – With new double wall fiberglass.

Chairperson Moulton – And you will be dealing with the State of Michigan

Hassan Hammanmi (Owner) – Yes, we will be dealing with the State of Michigan, with the water department, the road commission. But in order for us to get to that point and submit the site plans we want to be able to make sure that we are ok and get the variance so we can move forward to the next step. With the State, with the water, with the county so we can move forward. We just need this first step to start the next steps to move forward.

Chairperson Moulton – Do you have experience in operating retail gas stations

Hassan Hammanmi (Owner) – I have 26 gas stations in the State of Michigan

Chairperson Moulton – I guess that answers that

Vice Chairperson Peivandi – Mister Chair, I think the property dimensions are really about 168ft by 150ft that is what we have to consider in terms of the properties dimension because the rest belongs to the road commission.

David McDade (Roark Galt Architects) – Which in that case we are at 9.9% buildable.

Mrs. Bolin – Looking at your application you have it stated that on the west side of McKinley that you have provided 25ft 5.8inches. But when I look at your site plan it says 24ft. Is that a typo?

David McDade (Roark Galt Architects) – Yes that is a typo, it is 24ft 5.8inches, you should go by the drawing.

Mrs. Bolin – I know you have the measurements for the canopy, but do you know the measurement for the gas pumps from the road

David McDade (Roark Galt Architects) – 42ft from the right of way
(at this time there was a lot of talk amongst the Commissioners)

Mrs. Bolin – How far are you planning to put the storage tanks from the east property line.

David McDade (Roark Galt Architects) – That is a great question, they will be about 40ft off the property line, but some of that will depend on the State of Michigan and what they approve.

Mrs. Fitch – On the building you are proposing to build. You did say you wanted to decrease it by approximately 10 feet. What would the square footage of that building be?

David McDade (Roark Galt Architects) – 2100 square footage.

Mrs. Fitch – The shaded area which shows what would be the building if within the ordinance that would be the area you would build on. Do you know the square footage?

David McDade (Roark Galt Architects) – 2100 to 2200 square footage.

Mrs. Fitch – So that is actually bigger than the building you are proposing to build?

David McDade (Roark Galt Architects) – Barely, the configuration causes a problem and that doesn't include the canopy.

Hassan Hammanmi (Owner) – The canopy has got to be involved in that shaded area. So in that 2100 to 2200 square footage we have to have the building and canopy, which is very, very, very small

Mrs. Fitch – Are you going to continue with the drive thru.

David McDade (Roark Galt Architects) – No there is no drive thru. That is an access for loading and unloading.

Mrs. Bolin – So there will be no driveway off McKinley Rd

David McDade (Roark Galt Architects) - Yes

Mrs. Fitch – On page 4 when it shows the front of the building, next to the fill and chill you have the gooseneck lighting and below you have the metal awning. What is the purpose.

David McDade (Roark Galt Architects) – It looks cool. No really, it's strictly for aesthetics.

Vice Chairperson Peivandi – Did you look at the foot notes on our requirements for the setbacks under h or you could actually modify some of your dimensions to make it work for you? There is another paragraph that says to provide total of the front and rear yards equals at least 40% of the lot width, and provided any building or structure on the 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. This is all under foot note h.

Hassan Hammanmi (Owner) – Thank you

Vice Chairperson – You are welcome.

(At this point there was a lot of talk amongst the Commissioners) (Unable to hear all conversation)

Chairperson Moulton – How pressing is time on this issue? If we gave you a copy of this ordinance and your engineers look at it and could conform, without offending you in terms of what it is you can do within this area that might exist. If your engineer employed the relief provision that is provided in our ordinance which gives the Planning Commission discretion within the confines of that relief. It may satisfactorily address your concerns. I need to look into this, comparing it to the provisions in our ordinance that brings you to the Zoning Board of Appeals. And possibly get the Township Attorney involved to see if one of these mechanisms has priority over the other. In other words, the property owner needs to go to the Planning Commission or needs to go to the Zoning Board of Appeals to obtain the setback requirements. Mr. Peivandi makes a good point; this may provide you with what you need, without coming in front of the Zoning Board of Appeals. Because if we rule against you, your next avenue of relief from our decision would be appeal with the Genesee County Circuit Court. That would be far more time consuming and costly then trying to address this issue in front of us right now, whether or not it properly belongs or would better be served by going in front of the Planning Commission. You are going to go to the Planning Commission any way at some point.

Hassan Hammanmi (Owner) – If we were able to do, based on that ordinance. Would we still have to come back to ZBA?

Chairperson Moulton – No.

David McDade (Roark Galt Architects) – Interesting. If we did it all within the confines of that relief.

Chairperson Moulton – Adjourned meeting for 5 – 10 minutes. Mr. Isaac, Clerk Meinburg and Zoning administrator Czyzio was invited to discussion as well.

(As the Zoning Commissioners come back there was a lot of conversation that was before opening meeting back up.)

Chairperson Moulton – Let's reconvene with the hearing. We are going to deal with the issue brought up by Vice Chair Peivandi, it is really an issue of law apposed to an issue that involves any facts. So, at

this point are there any further questions, for the board or the two individuals here with the proposed request.

Hassan Hammanmi (Owner) – I would like do the least time on this. I will do what is needed to not come to ZBA if possible.

Chairperson Moulton – There was some discussion on if we had the authority to adjourn the meeting to a later date, so you could take a look at that or if you felt comfortable with the provision that would fall within the requirements of subparagraph h. You could proceed immediately with the Planning Commission. You have to go in front of the Planning Commission at some point anyway. And then dispense with the meeting here. You could always come back to Zoning Board of Appeals if the Planning Commission for whatever reason didn't feel it that it could exercise its discretion under paragraph h. I will pick at you Mr. Isaac, I know that you and some of your clients have put a fair amount of preparation time into this hearing.

Attorney Roger G. Isaac – (Attorney Isaac went over information that was sent in letter form to the Zoning Board of Appeals, below)

Based upon the information submitted with the application and the materials currently available, I do not believe the applicant has demonstrated why the requested setback reductions are necessary, why a conforming commercial development cannot reasonably be constructed on the property, or why the requested relief is consistent with the intent of the Township's zoning regulations and long-term planning objectives.

The application itself raises several questions that I believe warrant careful consideration by the Board.

The application indicates that there are no deed restrictions or easements affecting the property. However, the recorded Warranty Deed attached as Exhibit B identifies multiple easements affecting the parcel, including easements benefiting the Genesee County Road Commission, Consumers Power Company, and public water infrastructure. Because easements directly affect the usable area of a property, I believe it is important that the Board evaluate the variance request using a complete understanding of all recorded encumbrances affecting the site.

The application also states that the applicant did not create the problems he is attempting to overcome. Based upon the information currently available, it is not clear what unique physical characteristic of the property prevents compliance with the Township's setback requirements.

The property has existed in its current configuration for decades. The application does not appear to identify any extraordinary topographic condition, natural feature, or other unique circumstance that would prevent reasonable use of the property under the existing C-2 zoning standards.

Instead, the requested variance appears to be driven more by the specific layout and operational requirements of the proposed development than by a unique condition of the property itself. While the applicant may prefer a particular site design, it is not clear why a conforming commercial development could not reasonably be constructed on the property.

As reflected in the Land Contract attached as Exhibit C, the applicant acquired an interest in the property with knowledge of the property's existing physical characteristics, historical use, and recorded

encumbrances. While ownership alone does not determine whether a variance should be granted, it is relevant when evaluating whether the circumstances presented are truly unique to the property itself or are related to the proposed redevelopment plan.

The purpose of the Township's zoning regulations is not simply to establish dimensional requirements on paper. The ordinance is intended to protect public health, safety, welfare, property values, and the orderly development of land within the Township. The setback standards applicable to the C-2 District serve those purposes by providing separation between uses, improving safety, reducing conflicts between neighboring properties, and preserving the character of the commercial corridor.

The requested variance would significantly reduce those setbacks. Before granting such relief, I believe the Board should be satisfied that the applicant has demonstrated a genuine need for the variance and that the proposal remains consistent with the spirit and intent of the Ordinance and the planning objectives set forth in the Flushing Township Master Plan.

I am also concerned about the transportation and public safety implications of the proposed development. Based upon the submitted site plan and the operational requirements associated with fuel deliveries, questions remain regarding how tanker trucks will safely access, maneuver, and service the site without creating conflicts with surrounding traffic. Given the property's location at the heavily traveled intersection of Mt. Morris Road and McKinley Road, these concerns deserve careful consideration.

The Township's Master Plan recognizes the importance of transportation planning, roadway safety, traffic circulation, and compatibility between land use decisions and transportation infrastructure. The proposed variance raises legitimate questions regarding whether those objectives are being advanced or compromised by the proposed site layout.

Environmental considerations likewise remain unresolved. As outlined in the Environmental Assessment Memorandum prepared by Timothy Hebert and attached as Exhibit D, the property has a documented history of underground storage tanks, petroleum releases, remediation activities, and residual contamination concerns.

Historical environmental records, including the adsorbed soil concentration maps attached as Exhibit E, further illustrate the property's documented release history and remediation activities. While historical closure documentation exists, I have not seen information demonstrating that groundwater migration, vapor intrusion pathways, neighboring wells, or ongoing Due Care obligations have been fully evaluated in connection with the proposed redevelopment.

Given the property's environmental history, I believe these issues should be fully understood before variance relief is granted.

I also ask the Board to consider the substantial community interest reflected in Exhibit A, consisting of petitions and letters submitted by more than 200 residents, business owners, customers, neighboring property owners, and community stakeholders.

These concerns include public safety, groundwater protection, environmental impacts, traffic impacts, property values, and the long-term character of the Mt. Morris Road and McKinley Road corridor.

In addition, a list of individuals prepared to address the Board regarding this matter is attached as Exhibit F.

For these reasons, I respectfully believe the applicant has not demonstrated that the requested variance is necessary or that the standards for variance relief have been satisfied. I respectfully request that the Board deny the variance request and preserve the intent, protections, and planning objectives reflected in the Flushing Township Zoning Ordinance and Master Plan.

David McDade (Roark Galt Architects) – Easements of the property does not affect anything at all.

Chairperson Moulton – What is the current status of ownership of the property?

Hassan Hammanmi (Owner) – the land contract states 18th month contract, property bought in 2022, paid off early 2024.

Chairperson Moulton – Is the property in an LLC?

Hassan Hammanmi (Owner) – Yes, LLC owned by me. Nobody else. The Deed will be registered in First Stop Properties. And First Stop Properties is owned by me.

Chairperson Moulton – So that situation is easy to address. If any relief is granted by the ZBA it would be subject to titling the property in the name of whatever entity applied for the variance. Is there anything else you would like to add.

Hassan Hammanmi (Owner) – I have bought many properties with land contract with no problem. But still I am here for setback.

Chairperson Moulton – We can impose conditions if we should grant a variance and the other conditions would be you simply record the documents necessary to title the property in the name of the LLC. The other issues Mr. Isaac raised were you didn't disclose the easements, the ones he is talking about are, public easement, consumers easement.

Hassan Hammanmi (Owner) – I have a lot of properties with the same easements.

Chairperson Moulton – Do you remember any other issues he raised with your standing?

Hassan Hammanmi (Owner) – The reason I didn't build it for 4 years. It was on my timeline. Six months after I bought it, I brought that to Mr. Czyzio. My first architect retired, I ended up going to Mr. Dave, Mr. Dave was a hundred pounds more than this, he got sick, he lost all of it, I waited on him. Once he was not sick, I moved forward on it. I wanted to make sure I had the full funding to start and finish in six months. I don't like to start something and not finish.

Chairperson Moulton – I think that those of us sitting up here have a clear understanding of what you wish to do. And what the existing setbacks are required. So, at this time I will ask Mr. Isaac if he'd like to retake the podium with any additional information or arguments you wish. And then we will turn it over to the public after that. I will indicate to the public we did receive a substantial package of signed letters, a letter that was signed by an uncounted number of individuals and a petition form and signed by the individual to make that part of the public hearing record. So, I don't mean to cut anybody off, any that would like to speak may speak, but if you are just going to reiterate what is already in writing would be redundant. At this point Mr. Isaac, if you would pick up where you left off.

Attorney Roger G. Isaac – Thank you. The number 4 of the applicants. It says regarding: Will the strict enforcement of the provisions of the township zoning ordinance unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome?

- I do not think this is the case; he could build smaller than proposed that wouldn't be an issue.

(Attorney Roger G. Isaac went over some other issues that will need to be brought to the Planning Commission for site plan review as well)

- Went over Master Plan requirements (multiple times)
- Building requirements (multiple times)
- Zoning Board of Appeals job requirements and duties (multiple times)
- Tanker issues
- Traffic issues
- Plan requirements don't fit variance
- Residents with gas station lights
- Go ahead and build a gas station the same size as the existing gas station
- Issue isn't the gas station, it is changing the size
- Land contract
- Buyer beware
- Went over multiple issues of building being built too close to residents would be harmful to the residents nearby.

Multiple residents – Instead of standing and speaking about the same items. They all agreed with Mr. Isaac.

Alex Hansen – Alex went over the following items:

After reviewing the application, site plans, Township Ordinance, Master Plan, environmental records and supporting documents, I respectfully ask that this variance request be denied.

The property has existed in its current configuration for decades, and those physical characteristics were known at the time the property was acquired. I have not seen evidence that a conforming commercial development cannot reasonably be built on this property.

I ask the Board to consider the significant community concern surrounding this request. More than 200 residents, business owners and neighboring property owners have signed petitions and letters expressing concerns about increased traffic at an already busy intersection, public safety and the overall impact that an additional gas station may have on the surrounding area.

Based on the information currently available, I do not believe the applicant has demonstrated a practical difficulty or hardship unique to the property, nor have they shown that a reasonable conforming development cannot be achieved.

For those reasons, I respectfully ask that the variance request be denied. Thank you.

Teresa Bundy – Approximately 300 feet from this property. I have a well that is less than 800 feet away, I have concern about tanks in the ground. The reason it closed in the first place is because the tanks were leaking, as far I know. That means ground contamination, which is a big concern for me. I mean what if there is an apocalypse I want to use my well. When I am not able to use city water which I pay for.

Chairperson Moulton – Your concerns are valid, and those will be addressed at the next level.

Teresa Bundy – Well we will go with the next level, but what I am saying is that has been an eye sore. He might have owned it, nothing about the property is maintained. I am having my well tested.

Chairperson Moulton – How long have you lived at your current address?

Teresa Bundy – I have been there since 1997. My husband has been there since early 80's

Chairperson Moulton – Just based on your memory how long has that location been vacant.

Teresa Bundy – That location has been vacant since about late 1990's - 2000

Chairperson Moulton – So we are talking about 25 years.

Teresa Bundy – I am concerned with the lights and we already have light issues.

Chairperson Moulton – Your concerns are legitimate issues, typically the water situation, underground tanks that are at the vacant gas station.

Teresa Bundy – But, why are they allowed to stay there?

Chairperson Moulton – That is all within the purview of the State of Michigan. New ownership will address those issues. The Planning Commission, if it gets that far, all of these matters will be discussed, looked at and will be conditions before a building permit would be issued for anything on the property. This only the first step, it probably the smallest step, there many more issues to be addressed. Many more parties that will be involved. Genesee County Road Commission will be involved. They will review dealing with egress/digress and will deal with the tanker issue. There are rules and regulations that deal with this that are not purview beyond Flushing Township or Zoning Board of Appeals. The only issue is, is it appropriate to issue a variance. We have specific rules and procedures we need to apply to the request.

Teresa Bundy – When it was a gas station before they didn't need a variance

Chairperson Moulton – I am almost certain that the zoning ordinance provisions with regard to the setbacks in concerns with that property were put in place after that gas station was already there. That is another issue that needs to be considered by the Zoning Board of Appeals in terms of this request.

Teresa Bundy – Ok, well I guess all I have to say is that I will be here every step of the way.

Chairperson Moulton – Which is your right and you are certainly entitled to show up at any hearing or the Planning Commission and Board of Trustees itself.

Teresa Bundy – Ok, Thank you.

Tim Hebert – (Environmental Consultant) Environmental Resource Group

- Letter in packet
- 4 tanks removed in 1994
- Remediated 53 yards of contaminated soil and about 495 gallons of contaminated water.
- Installed existing tanks in 1994 have not been inspected at all
- Tanks listed Temporary out of service on LARA a year ago. Now not listed in LARA
- Which EGLE our environmental wing at the State no BEA was performed
- Geology on site water
- Tier one restricted closure in 2000
- Well never used due to salt water undrinkable.
- Well head protection ACT

Chairperson Moulton – Mr. Hebert I don't mean to cut you off. One of the reasons I allowed it go so long is what your saying is interesting. But directed it to the Planning Commission and its process

evaluating the site plan review. It really doesn't bare on anything that the Zoning Board of Appeals needs to take into consideration of the setbacks.

Tim Hebert – No, but I wouldn't think you would want to approve something without having all the other State entities giving their blessings on things.

Chairperson Moulton – That would be the case if we were the last word, we are not. The property owner is going nowhere, even if the variance is granted in a matter that enables him to. His next step is to the Planning Commission. He is not going to get authority to do one thing with respect to that property without approval of a special use permit from the Planning Commission. The only reason the owner is here today rather than in front of the Planning Commission is that the setbacks are a dead stop for what he intends to do, in my opinion they are a dead stop for anybody who intends to use this property for its zoned purpose as a C2. The setbacks essentially eliminate any reasonable use of the property. Contrary to what Mr. Isaac is arguing, I think he has a good shot at getting some relief from the Zoning Board of Appeals. Because the Township imposed these setbacks, the strong argument can be made that there is an unreasonable taking. You have essentially eliminated any real practical use of the property if you apply the setbacks as literally set forth in the ordinance.

Tim Hebert – But if you apply the setback there are still restrictions on the development of the area you approve for the setback and its contaminations. All I am saying is, you.

Chairperson Moulton – That is why I was listening to you and taking notes. These are all issues that need to be presented to the Planning Commission to ensure that as part of their check list these issues are addressed by the appropriate agencies. That would include the Genesee County Road Commission with regard to the egress issue that were being raised by several people. The State of Michigan with regard with the existing tanks that are going to come out. And that process, I am assuming I am not an expert on what the State of Michigan requires for underground storage tank removal. But there has to be a base line assessment at some point. If there is contamination found that's going to have to be remediated and addressed. So, there is a lengthy list of things that need to be looked at. But it's the Planning Commission that's going to look at those and determine what needs to be done before they will authorize a special use permit for the construction of the gas station at this location. All your issues are relevant and helpful it's just that you are speaking to the wrong part of the operation here in terms of getting that information to the entity that will use it in going forward in evaluating whether this project goes forward.

Tim Hebert – That's good. You got a crash course in environmental then.

Justin Blaska – I own the property just north of the property in concern. So, a lot of concerns that have been brought up concerning environmental issues are going to be brought to the Planning Commission. For the variance issue, it will be 20 feet off my property line. Variance is granted a reasonable, I think this is a 50% or 60% reduction in the setback itself. In that standpoint, what's good for the goose is good for the gander. I followed the ordinances replacing a fence and some other things on my property. I spoke to Chris (zoning administrator) to take care of all those issues. I think that with the setback variance issue 50% is a little more, reasonable would be more like 20% - 30%. That is all I really have for now. Any other issues as far as environmental I will take to the Planning Commission.

Chairperson Moulton – Your property is zoned?

Justin Blaska – I am not sure.

David McDade (Roark Galt Architects) – C2

Justin Blaska – What is your company

Chairperson Moulton – What do you do at your business

Justin Blaska – Concrete leveling and foundation repair. I moved here from Mt. Morris 2 years ago.

Mrs. Bolin – Just out of curiosity. Your property is directly north of his?

Justin Blaska – Yes

Mrs. Bolin – And you bought it 2 years ago

Justin Blaska – 2024

Mrs. Bolin – And you bought yours?

Hassan Hammanmi (Owner) – September 2022

Justin Blaska – I have my own concerns as far as marketability of my property down the road if there is contamination found and disruption to my business. But that can be brought up down the road, my main concern is fairness across the board.

Teresa Bundy – We are all hear with our concerns and I want to know how he was able to come here without having any of these things done?

Chairperson Moulton – This is the first step he needs to take.

Teresa Bundy – It seems like he should have known these things.

Chairperson Moulton – This is the first step of a long journey for him.

Leslie Domromil – I live on Dillon Rd west of Seymour Rd so have to go through town or Mt. Morris Rd over the River. I go Mt. Morris Rd because I like to rural area. I don't think we need another gas station.

Chairperson Moulton – Anyone else?

Chairperson Moulton – We will close the public comments for public hearing.

CLOSED PUBLIC HEARING at 5:56 p.m.

2. Discussion and possible motion to consider a variance for the Zoning Board of Appeals decision pertaining to First Stop Properties variance request to *Sec. 36-701 Table of District Regulations C-2* at Parcel No. 08-02-300-009, 8490 W. Mt. Morris Rd, Flushing, MI 48433 also known as PARCEL OF LAND BEG AT SW COR OF SEC TH N 1 DEG 28 MIN W 200 FT TH S 1 DEG 28 MIN E 200 FT TH W 218.25 FT TO PL OF BEG SEC 02 T8N RSE.

Board discussion was over the following:

- Property owner directly to the north. How far off the property line is your building (60-80ish)
- Applicant shows reasonable C2 difficulty of using the property, under the zoning enabling act
- Small gas station for today's needs
- Easements
- Underground tanks
- Setbacks from public road should be through the Genesee County Road Commission
- Tanker issues
- Location of Dumpsters

- 50-foot setbacks are these unreasonable for this property is his proposal reasonable to issue variance
- Property has right to use property as see's fit within the requirements of the law and the compatibility other neighboring property's
- Emergency vehicle accessibility
- Possible adjustment of building size
- Concerns of gas pumps being to close to road with heavy traffic
- Owner has been looking at changing some of that as well.

(Interruption from the resident's in hall during board discussion)

Chairperson Moulton – Suggested to postpone the rest of this meeting for a later date to give owners of variance request to come back with new site plan.

NO OBJECTIONS FROM THE BOARD. It was unanimously agreed upon to set the continuation meeting for **July 15th, 2026 at 10 A.M.** Meeting postponed at 6:36 P.M.

CONTINUED ON

DATE: JULY 15th, 2026

TIME: 10:00 P.M.

MEMBERS OF ZONING BOARD OF APPEALS

Chair – Steve Moulton

Melissa Fitch

Vice Chair – Fred Peivandi

Kevin MacDermaid

Planning Commission Representative – Amy Bolin

Jeanette Sizemore, Recording Secretary

PRESENT: Peivandi, Bolin, Fitch, MacDermaid and Moulton

ABSENT: None

OTHERS PRESENT: Flushing Township Attorney Odette and 11 (Eleven) others present

I. MEETING CALLED TO ORDER at 10:02 P.M. by Zoning Board of Appeals
Chairperson Moulton with Roll Call and Pledge to the American Flag.

1. Discussion and possible motion to consider a variance for the Zoning Board of Appeals decision pertaining to First Stop Properties variance request to *Sec. 36-701 Table of District Regulations C-2* at Parcel No. 08-02-300-009, 8490 W. Mt. Morris Rd, Flushing, MI 48433 also known as PARCEL

OF LAND BEG AT SW COR OF SEC TH N 1 DEG 28 MIN W 200 FT TH E 218.25 FT TH S 1 DEG 28 MIN E 200 FT TH W 218.25 FT TO PL OF BEG SEC 02 T8N R5E.

After some discussion.

CHAIRPERSON MOULTON MOVED, supported by Commissioner MacDermaid to grant variance request subject to the following conditions. That the set back from the McKinley Road right of way to any structure placed on the property shall be a minimum of 30 feet. That the set back from Mt. Morris Road right of way to any structure placed on the property shall be a minimum of 30 feet. That the set back to the property line to the east will be 50 feet. So 50 feet from the east property line to any building or structure placed on the property. To the north the set back shall be a minimum of 22 feet 1 and 1 half inches from that north lot line to any building or structure placed on the property. An additional condition is that all requirements for this variance to be sustained will be the submission of the plan which we will have a copy and which will be appended to the decision, the plan that owner's architect last drafted, the owners architect drafted shall be appended and incorporated by reference as part of the discussion on the variance request. That the owner shall then proceed to the Planning Commission for site plan review and on an application for a special use permit to operate a gasoline service station consistent with the revised plan. That the Planning Commission as part of that review will address any concerns that the Genesee County Road Commission may have.

Conversation was had on set backs and our ordinances we have in place for some of the issues in place.

CHAIRPERSON MOULTON – As part of the discussion. The motion has been made and supported. As additional support why I believe this would be an appropriate resolution. There are some criteria laid out in our zoning ordinance which tracks explicitly the Zoning and Enabling Act requirements. The State statute on this issue. Requirement one, the strict enforcement of the zoning ordinance. The applicant needs to show, that the strict enforcement of the zoning ordinance would unreasonably prevent the owner from using the property for a permitted purpose. So, the issue is, do the set back requirements of 50 feet from a lot line, keeping in mind that lot line for this purpose is defined in our ordinance road right of ways. Does the actual implementation or requirement of compliance with those 50 feet set backs eliminate or unreasonably prevent the owner from permitted use of this property. Keeping in mind this property is zoned C2, and through a special use permit operation of a service station is a permitted use. My editorial comment, I would say that the implementation of those set backs imposed in 2005 over existing commercial properties was intended to be a generic guide line. Foot note (h) exists to address the harsh results that might result from the literal application of those set backs. It is difficult to prescribe, in my opinion guidelines particularly when you are writing ordinances, that are so specific that they are going to address or provide the opportunity to address every unique situation that arises. I believe crafting the variances to fit what the owner wants to do which is a reasonable use to his purpose is a reasonable rational exercise of the Zoning Board of Appeals authority.

MR. MACDERMAID – I agree.

VICE CHAIRPERSON PEIVANDI – I can go with that.

CHAIRPERSON MOULTON - The second requirement the need to the variance is due to the unique circumstances of the property. I remember in law schools in property class, every property is unique just as it sits. That is why specific relief is often granted by the courts in property disputes that wouldn't be granted in other circumstances. But this property is unique for several reasons. We have very, very little property zoned for

commercial purposed in Flushing Township. Our master plan picks Mt. Morris Rd as probably the first location to look for in terms of property to be zoned for commercial purposes. I think there are several reasons for that. It is a main throughway, its one of the few roads that connects to I75 and then on the other end, in close proximity of this property it is one of the two bridges in the Townships that get you on the other side of the river. It's at an intersection of another significant road, McKinley Road. Seems like an ideal place for a gas station, in the world. The condition of the set backs had nothing to, the existing owner and his predecessor had nothing to do with creating a situation that requires really.

The next requirement, the conditions and circumstances unique to the property were not created by the owner or his predecessor in title within the time following the effected dated provision alleged to adversely affect such property. That certainly being the case, the provisions that we are struggling with came into plan in 2005. And nothing has been done with respect to the property or its zoning since that time and certainly not by the current owner.

The next item, the requested variance will not confer special privileges that are denied other properties similarly situated in the same zoning district. I am not sure the properties assembled on Mt.Morris Road in this location constitute a district, but they are the only real cluster of commercial properties in the Township. And don't think there is anything being done here that favors this particular owner or property. If another owner with another property similarly situated, they would be entitled to relief. If not at the Planning Commission because the particular situation didn't fit quit within. There is another footnote with regards to C1 properties similar to this. It was intended that there was an avenue for properties in this situation. Just happens in this case it has to be the Zoning Board of Appeals rather than Planning Commission.

The next one, granting the variance will ensure that the spirit of the ordinance is observed public safety secured and substantial justice done. In my mind is it a fair practical result, both to the property owner, those in immediate proximity including adjacent or abutting property's, the public at large and the Township as the governing entity. It doesn't seem to impose undo burdens on anybody. I don't see granting the variance in the form we have as imposing a burden or a negative impact on the abutting properties, all of the properties in immediate proximity accept across the road. There was an issue is whether if these were to be determined adjacent or abutting properties. In my mind they are not. The intervening road severs that connection. Those two properties on both corners of the intersection, one seems to be a large parcel of vacant land with nothing on it, the other one on the south east corner is, last I knew of was a horse ranch. In any event the structures on that property are well distant from the edge of Mt. Morris Road. So, I do not see anybody being adversely affected by the grant of the variance.

No further comment.

ACTION ON THE MOTION

ROLL CALL VOTE:

AYES: Bolin, Fitch, MacDermaid, Moulton and Peivandi

NAYS: None

ABSENT: None

THE MOTION CARRIED.

(Any additional documents for these minutes are available at Flushing Township office for viewing)

X. NEXT REGULAR SCHEDULED MEETING

AS NEEDED.

XI. ADJOURNMENT

With no further business, the meeting adjourned at 10:52 A.M.

STEVE MOULTON, Chairperson

JEANETTE SIZEMORE, Recording Secretary

Date of Approval