

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

SPECIAL MEETING OF THE ZONING BOARD OF APPEALS

DATE: APRIL 7, 1998

TIME: 7:30 P.M.

MEETING CALLED TO ORDER at 7:45 p.m. by Chairman Henneke.

Recording secretary called the roll with the following members present.

MEMBERS PRESENT

Edward Henneke, Chairman

James Sarka

Harvey Workman, Vice Chairman & Secretary

Richard Vaughn

Lynn McLean, Township Board Representative

Jerald W. Fitch, Building Inspector

Ida M. Reed, Recording Secretary

Paul and Dale Nickola, developers of "The Needles Subdivision," and Van Kupisch, Engineer from Gould Engineering firm, representing the Nickola brothers, and 30 residents living within 300 feet of the request.

MEMBERS ABSENT: None

PUBLIC HEARING: Request by Dr. Paul Nickola for a variance of lot sizes in "The Needles Subdivision." located at 5327 Seymour Road. (Section 20-701 of the Flushing Charter Township Zoning Ordinance) Parcel #08-21-200-001

CHAIRMAN HENNEKE opened the public hearing, and explained to those in attendance the reason for the meeting and asked Dr. Nickola or a representative to explain their request to the ZBA.

VAN KUPISCH, engineer from Gould Engineering explained the variance request. Basically the site is located between Seymour Road on the east, the railroad tracks on the west, Carpenter Road on the south, and Coldwater Road on the north. Dr. Nickola has a home at the site. They are requesting a variance on lot size, because almost half of the western end of the site is wetland, as determined by a wetland consultant. The western end is also a heavily wooded area.

This is an RSA Zoning District, and the property is 81 acres in size. They propose to develop 57 lots. The proposed lots will have a minimum width 100 feet, and a minimum square footage of 21,500 square feet. There are a total of 10 lots that do not conform to the zoning ordinance for lot size. Lot #10 needs a variance for 17 feet. The other 9 lots, #39, #40, #41, #42, #43, #44, #45, #48, #49, are the real problem.

The developer wants to maintain and leave the wetland as it is. The only way to do that, without land locking the wetland area is to put the road approximately where it is located on the drawing. The lots will then be buildable lots, and will support a septic system.

Because of the results of the perk test, the county is requiring engineered septic fields for lots #39 thru #43, and those lots are required to be 2 acres in size. Lot #41 #44 and #45 are L shaped lot, and #44, #45 #48 and #49 are additional lots that will need a variance. Lots 20 thru 24 and lots 31 thru 38 may

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need sand fill for the septic field, but that is not part of the issue tonight. The rest of the lots will have a standard septic system.

The Health Department has visited the site on a couple occasions, and has granted preliminary approval contingent upon the conditions being met for the proposed systems

The main reason they are requesting a variance is because of the natural features of the property, which the developer wants to keep in tact. He doesn't want to ask the DEQ for a variance to fill or to change the configuration of the wetland.

When this proposal comes before the other township boards they will explain the proposed retention ponds and drainage system for the subdivision.

There request tonight is a variance for 10 lots that would exceed the 400-foot maximum depth.

CHAIRMAN HENNEKE stated, if the township had an open space ordinance that would allow us to shorten up those lots, rather than have the lots in that configuration, then the wetland area could be retained as an open space development. Is that something that would be of interest to the developer? He also wondered if the people buying these long lots would build their homes in this wetland area?

MR. KUPISCH did not feel an open space development was realistic. They are already losing about 30 percent of the property. We need this size lot in order to have the sand fill septic system. Open Space Development is not practical in an area where a sewer system is not available. In an open space development you run into all kinds of problems. If you have an open space development, then you get into the problem of who uses it. If it is left wide open, then you have infringement from other people. If it is owned by individual landowners, then they can control their own property. The back of those long-lots would not be a desirable place to build, because the railroad tracks are at the end of the lots.

CHAIRMAN HENNEKE opened the meeting to the public for any comments they wished to make.

SYLVESTER PLUCINISKI, 9452 Heddy Drive stated that the end of Heddy Drive is real wet, and how are they even going to get back there with the land being so wet, are they going to use Heddy Drive to get back to the subdivision?

VAUGHN explained that Heddy Drive is not going to be used to access this subdivision, and the wetland area is what is being considered at this meeting, not the roads.

CHAIRMAN HENNEKE read the letter that was received from the Genesee County Health Department explaining the lots that would need special septic systems. This letter will be kept with "The Needles" subdivision folder.

LOUIS SCAFE, 5107 Seymour Road asked about the square footage of the proposed houses in relation to the square footage of the house? He was told that issue is not before us tonight. The county will take care of the issues you are concerned about.

GARY WARDOSKY, 10057 Coldwater Road asked where all the water is going to go?

MR KUPISCH explained that everything has to be approved by the Genesee County Drain Commission. They have had engineering studies done, and the developers will have to be responsible

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for any water run off that is their fault. The water table has been tested, and they have made sufficient preparations for water run off. There will be storm drains that will run into man made ponds. This in turn will drain into an 18-inch county drain that exits into the Flint River.

HAROLD DRAHEIM, 10187 Coldwater Road was concerned with the high water table, and the water drainage. He was told that issue is not what is before this board tonight.

SARKA felt this piece of property had other potentials for development. He noticed that on the aerial map it shows vacant land to the south, and wondered if this subdivision would possibly expand in the future. He was told that there are no plans for this subdivision other than what is presented here tonight.

ALBERT OLAH, 10173 Coldwater Road asked to be shown where the ponds are going to be located?

MR. KUPISCH showed pointed out on the map where the ponds would be located. After the water drains into the ponds, it is metered out the county drain to the Flint River. One of the problems with water in that area is because the railroad has not maintained the drain under the railroad tracks. The drain has always been under the tracks, but has not been maintained.

THERE WERE four people in the audience against the variance because of the water problem.

SHIRLEY PIEKNIK, 10107 Coldwater Road sent a letter because Mr. or Mrs. Pieknik was unable to attend, and Mr. Henneke read the letter into the record.

"My husband and I will not be able to attend your meeting concerning the variance of lot size petitioned by Dr. Nickola. However, I want you to know we strongly disagree with change to lot size requested by Dr. Nickola!!!"

Our main concern is the water drainage problem, which is occurring right now to most of the homes along Coldwater Road. When we get any sizable amount of rain our property floods. The water from Nickola's land runs onto ours, creating a major flooding problem for us. Our yard looks like we have a large pond running from the back of the property which touches Nickola's to the front of our yard until it empties in the ditch. We have had times when our backyard is flooded all the way across adjoining the neighbors on both sides of us.

You know when there is construction that dirt is hauled in for septic fields, lawns, etc.. This will cause an even greater problem for us with run off. Any type of altering to the landscape is going to cause major problems for all of us along Coldwater Road. Is the township ready to foot the bill to alleviate this problem? Is Dr. Nickola? Even with the larger lot sizes we are going to have problems, let alone the smaller ones !!!!!

Another fact of which I am sure you are aware of is the wetland issue. That land is wet or soggy most of the year. There are also standing marshes, which do not dry up, I have contacted the DNR about this issue. I am also told that there is a natural spring located on his property. I want to know what is going to be done about this issue.

I want to thank you for the chance to address this issue. I hope that you will fairly consider the problems we now face and not let money do the talking!"

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CHAIRMAN HENNEKE stated that the concern he has is the long lots. The proposal is for the wetland to be privately owned by individuals buying those lots. The back portion of which can't be used. He wonders if this wouldn't be more suitable for an open space development. This type of development would make the land more productive.

The people who will own the lots will still have a potential problem with others trespassing onto that property, whether they are privately owned or owned by the association.

CHAIRMAN HENNEKE reviewed Sec. 20-2207 of the Zoning Ordinance, which gives the procedure to follow when the ZBA receives a variance request. The request was presented with a plat plan, an application, and an affidavit. The meeting was posted, and notices were sent by first class mail to everyone living within 300 feet of the request.

McLEAN is concerned that if we approve such a large variance this could set a precedent for subdivisions. The ordinance allows a maximum of 1 to 4 ratios for lot size, and we have a couple lots that are 1389' long with 100' width. That is quite a variance, and is not even in the ballpark. If someone else requests a similar variance, we could be putting ourselves in a bad position if this request is approved tonight.

The ordinance states the need for the variance is due to the unique circumstances of the property. In another area it asks if this variance is not approved would it unreasonably prevent the owner from using the property for the permitted purpose.

At this point McLean does not see where the variance, if it is denied, is going to prevent the Nickola brothers from using the property for it's intended purpose.

HENNEKE agrees with McLean as far as the way this land is configured. It is going to create a real mish-mash of property lines. It is not going to serve anybody well, and he hopes the township would work with the Nickola brothers to see if there isn't some way to develop something that would have meaningful impact on the community.

The ZBA does have some leeway for imposing conditions, which would protect the natural resources, of this wetland area. This would be social as well as an economic well being, considering the residents living around it. He would like to see if the township is in a position to consider something, along with the Nickola brothers, to get his project going, and utilize that land in a more beneficial manner. If the variance is approved we will have strips of land that no one can use.

MR. KUPISCH thinks the Nickola brothers do have a unique piece of property. That is one of the provisions for a special use. If we cannot develop the land the way we have proposed, he does not know how it can be developed. Gould Engineering has done open space development that allows you to reduce lot sizes, and what ever you take out of the lot, you put in open space. Because of the lack of sanitary sewers in that area, these lots cannot be reduced. You just cannot reduce the lot sizes in this particular instance, because the lots are at minimum size to allow for the septic systems. You do have the open space, but it is not to the public. It has been their experience to give the property to the individual property owners, and have them take care of it. The portion that is wetland will stay as open space, because it can't be built on.

CHAIRMAN HENNEKE would like to postpone this meeting, to give the board an opportunity to talk with the engineers as far as lot sizes are concerned, and then talk with the health department to find out

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what they are after. He would like to talk with the township attorney as far as developing a wetland. We need further information to enable the board to make a wise decision.

CHAIRMAN HENNEKE moved, seconded by Vaughn to postpone this meeting until May 5th for the purpose of gathering further information on open space development. He would like to have an opportunity for the members to investigate how the area could be utilized more productively. Yes: 5. NO: 0. MOTION CARRIED.

A SPECIAL MEETING was called for Tuesday, May 5th, 1998 at 7:30 p.m. to continue with the variance issue requested by Dr. Paul Nickola.

NEXT REGULAR MEETING will be held on Tuesday, June 2, 1998 at 7:30 p.m.

ADJOURNMENT: Chairman Henneke adjourned the meeting at 9:05 p.m.

Edward Henneke, Chairperson

Ida M. Reed, Recording Secretary

Harvey Workman,
Vice-Chairman/Secretary