

CHARTER TOWNSHIP OF FLUSHING

6524 N. SEYMOUR ROAD

FLUSHING, MICHIGAN 48433

810-659-0800 FAX: 810-659-4212

MINUTES OF THE SPECIAL PLANNING COMMISSION MEETING

DATE: FEBRUARY 29, 2016 TIME: 7:00 P.M.

WEB ADDRESS: <http://flushingtowship.com>

MEMBERS OF PLANNING COMMISSION

Chair: Jerome Doyle	Robert Gensheimer
Vice Chair: Mark Newman	Donn Hinds
Secretary: Ronald Flowers	William Mills
Board of Trustee Representative: Shirley D. Gage	
Recording Secretary: Julia A. Morford	

PRESENT: Jerome Doyle, Robert Gensheimer, Ronald Flowers, William Mills, Mark Newman, and Shirley Gage

ABSENT: Donn Hinds

OTHERS PRESENT: Twelve (12) other individuals

- I. MEETING CALLED TO ORDER** at 7:00 p.m. by Planning Commission Chair **JEROME DOYLE** with Roll Call and the Pledge to the American Flag.
- II. ADOPTION OF AGENDA: FLOWERS MOVED**, seconded by Newman, to approve the Agenda as presented. **MOTION CARRIED.**

III. UNFINISHED BUSINESS:

- 1. **Matthew Goss, 6087 N. Seymour Road, Flushing MI 48433**
 Formal Hearing for the purpose of a Special Use Permit to dig a pond at 6087 N. Seymour Road, Flushing MI 48433, Parcel Number 08-15-300-022, pursuant to *Special Use Permits Article XVIII, Section 20-1804(BB) Ponds.*

Mr. Matthew Goss (Mr. Goss) of 6087 N. Seymour Road, Flushing MI 48433, had been in attendance at the February 8, 2016 Planning Commission Meeting to request a Special Use Permit to dig a pond at 6087 N. Seymour Road, Flushing MI 48433. Mr. Goss currently has the information that was requested by the Planning Commission regarding the Site Plan and what has to be put together per the way the Ordinance was written and Mr. Goss’s proposed way of doing the pond as well as the final. The pond will be used mostly for geothermal heating for his home. The proposed pond will be one (1) acre in size and located on an eighteen (18) acre parcel.

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PLANNING COMMISSION MEMBER, MARK NEWMAN STATED THAT SOMETIME AGO WHEN THE PLANNING COMMISSION ADOPTED VARIOUS PORTIONS OF THE ZONING ENABLING ACT, PART OF THAT WAS THE “CONFLICT OF INTEREST

POLICY.” Unrelated to the issue, and since the last meeting, Mr. Goss was referred to Mr. Newman’s office, by a colleague of Mr. Newman’s, and Mr. Newman has now been retained by Mr. Goss to do work for his company as an Attorney in a contract litigation piece that is in the Genesee County Circuit Court. The matter has nothing to do with the current property and nothing to do with what has been submitted and Mr. Newman feels that in no way does it impact his ability to independently rule on Mr. Goss’s application. Mr. Newman has reviewed the issue with the Flushing Township Attorney and he did not feel, that in the light that when Mr. Newman was retained, there wasn’t a conflict. Mr. Newman stated that if anyone had a concern the issue should be discussed; if Mr. Newman felt there was a conflict, he would excuse himself from the matter per the policy.

DECISION: THE PLANNING COMMISSION DIDN’T FEEL THERE WAS A RATIONAL FOR A CONFLICT OF INTEREST.

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Mr. Goss has represented himself at the February8, 2016 Planning Commission and explained what he wanted to do; the Planning Commission understood the issue and what Mr. Goss had requested.

DOYLE ask for comments from the audience:

- 1. “lives on Coldwater Road and has a concern about the grandchildren getting into the pond; will there be a fence around the pond; concerned about the mosquitoes and don’t want to have a breeding pond.”

DOYLE REVIEWED: SPECIAL USE PERMITS, ARTICLE XVIII, (BB) PONDS

- 1. Definitions:

POND – A natural or manmade body of water used to provide water for livestock, fish, and wildlife, recreation, fire control, crop and orchard spraying and irrigation and other related uses for the personal use of the property owner and/or tenants. For purposes of this section, pond shall not include a landscape, garden, or ornamental pond with less than 100 square feet of surface area and a depth of 3 feet or less.

- a. Intent:

The regulations set forth in this section are designed to provide for the regulation of a pond and to specify the conditions and circumstances under which such ponds may be developed to protect the health, safety, and general welfare of the residents of the community, preserve ecologically important features, and to prohibit development which, unregulated, may have an adverse effect upon the existing general and aesthetic character of the township.

- b. General Provisions and Conditions:

- 1. It shall be unlawful for any person, firm, corporation, partnership, or other organization or entity to construct a pond within the Township without first securing a construction permit from the building official. A Site plan has to be approved by the Planning Commission for conditions and site

approval. A pond shall be a special use permitted on a property zoned RSA.

2. A pond shall not be constructed on a lot or parcel of land that is less than 2 acres in size.
3. Water shall be maintained in all pond excavations, and built in a spring or natural water drainage area according to current County topography maps and drain districts, showing existing property grades and also future pond grades.
 - **DOYLE:** it shows on the Site Plan the water will be draining to the East South East to the most southeast corner of the property.
 - **FLOWERS:** where will the overflow area be?
 - **MR. GOSS:** what happens if he isn't planning on having any kind of overflow or anything to the sort.
 - **DOYLE:** there has to be some type of overflow provided for in case Mr. Goss has an overflow because it has to go someplace. It makes a difference as to where it goes according to other people's property as well as Mr. Goss's property.
 - **MR. GOSS:** if the elevations stay the same what difference does it matter if it rains for ten (10) days straight now or ten (10) days straight after the pond is put in.
 - **DOYLE:** it is a matter of trying to keep erosion from happening.
 - **MR. GOSS:** they did get a soil erosion permit; the Genesee County Drain Commission did send out an engineer and didn't say anything to Mr. Goss; the Drain Commission does have the same drawings as the Planning Commission and didn't say anything about flooding their storms; Mr. Goss doesn't plan on putting in kind of overflow tube. The pond directly to the North of his property does not have an overflow tube but just sits there with water in it; it is banked up on the sides a little but there isn't an overflow tube.
 - **NEWMAN:** is it your intention to keep the same drop to the South East as it is currently?
 - **MR. GOSS:** everything is staying with the natural habitat of the land.
 - **NEWMAN:** the drawing by the surveyor shows that the area drops off near the eastern edge of the bend of the pond; the elevations drop that way and would stay.
 - **DOYLE:** the natural way for the water to flow would be that direction according to the way the property is currently. Do you intend to use the dirt that you dig out of the pond and flatten it out on the existing property?
 - **MR. GOSS:** the idea had been one of the talks depending upon how to get rid of some of the spoils and build it up so that the pond doesn't appear, when you look down on it, to be falling off the property. Mr. Goss did not want to have a huge banked up area all

around the pond so that he could not see the pond; Mr. Goss wanted the dirt to be as level as possible with the lawn.

- **DOYLE:** a lot of times what happens is that a berm is placed, in this particular case, on the southeast corner, or a long flat rolling area, and that corner is where your berm would be and then you would have some type of an area for drainage. The Planning Commission likes to have some type of pipe so you direct where the water would flow rather than in a location that could cause a problem for neighbors as well as Mr. Goss's property, but not possibly in this case since Mr. Goss's property is quite a lot higher than the neighbors.
- **MR. GOSS:** the water falls and then starts to pick up toward the neighbor's house; everything falls to the particular corner where there is a huge catch basin on the corner of Coldwater Road; he didn't really want the pipe because he would really have to build up the land to accommodate a big pipe sticking out of the ground and then a big pipe sticking out of wherever it would go. It is a long way from the corner of Mr. Goss's property.
- **DOYLE:** the topography map shows increments of two (2) feet; the property is ten (10) feet lower on the south east corner of the property than where the pond will be located.
- **MR. GOSS:** one area indicates an elevation of 690 and the top of the pond is 699 so there would be nine (9) feet from the top of the pond.
- **DOYLE:** the house is located at the elevation of 708; the porch in front of the garage where the concrete is located is 704 so there would be a four (4) foot drop. The 692 elevation goes into the neighbor's property.
- **NEWMAN:** there would be a fourteen (14) foot drop.
- **MR. GOSS:** the 702 elevation would be the better figure to use rather than the 708 because it is built up so high around the house. The 702 is a better rendition of the general overall grade. The Drain Commissioner came out to review the area and didn't see any problems.
- **FLOWERS:** was concerned about the water draining all the way down the driveway.
- **DOYLE:** you have to look at what the drainage system consists of where the houses are currently located and where the water currently drains to; what happens to the water; so if overburdening the area where you would be putting more water in the pond and it spills over, which usually happens in the spring time.
- **MR. GOSS:** Mr. Goss recommended that he call his surveyor so he could answer further questions from the Planning Commission. He definitely did not intend to put any kind of pipe in and if anything would berm up; there is a twenty-five (25) foot mark and intended to berm up, per the ordinance, in front of the homes and

bring the berm over and fill in the south east corner; he doesn't want to put in a large pipe because he would have to get back with the Drain Commissioner to find out if it would be ok to have a straight pipe sticking out. The Drain Commissioner is good with the current idea and has no problems from their point of view; some of the topography lines came from the Drain Commissioner's report.

- **DOYLE:** there are no problems with the topography lines. The Planning Commission is not concerned about what the Drain Commission told Mr. Goss about Flushing Township's Ordinance regarding ponds; the Drain Commission does not control ponds, Flushing Township controls ponds.
- **MR. GOSS:** does it say something in the ordinance about him (Mr. Goss) having a drainpipe?
- **DOYLE:** there has to be some type of ability to control erosion and that is all about where you place some type of drain off, what you do with the drain if you place it on your own property and you have it set up so maybe there are rocks at the end where it will not create erosion problem for the neighbors and yourself.
- **MR. GOSS:** would rather berm up the south east corner of the property but don't want to do that either.
- **DOYLE:** you are going to have to do something because the Planning Commission cannot issue the permit unless you agree to the commitment.
- **MR. GOSS:** wanted to know if the Planning Commission were experts at with the matter?
- **DOYLE:** the Planning Commission has been issuing permits for many years.
- **MR. GOSS:** he has been alive for thirty-three (33) years.
- **FLOWERS:** there needs to be some type of overflow when the water gets so high; if you are going to berm up to five (5), six (6), or ten (10) feet, that water is going to flow up to the top and then could come down the other side, which is part of the drainage. When he (Flowers) worked for the Road Commission, they had a *One Hundred (100) Year Flood Plan* that they had to predict and work with the plan. Everyone thought the *One Hundred (100) Year Plan* was stupid, but though the years we have lost Mt. Morris Road and Ballenger Road over pass and tile under both bridges and lost both roads; at the Mt. Morris Road bridge, Flowers watched a lady go down the river on top of her car; there is a change of a *One Hundred (100) Year Flood* that is going to create the flood and go over Mr. Goss's berm and start washing away the soil. If there is ever a thirteen (13) day rain, where will the water go?

- **MR. GOSS:** what difference is it if it drops off twelve (12) feet now and there isn't a pond in the area? Wouldn't the *One Hundred (100) Year Flood*, flood the neighbors then?
- **DOYLE:** the Planning Commission has the responsibility to protect the neighbors and Mr. Goss as well.
- **MR. GOSS:** wouldn't a hundred year rain flood now? What is the difference between having a pond or not having a pond in the area?
- **DOYLE:** if you didn't have a pond, you wouldn't be changing anything that you have.
- **MR. GOSS:** but he would still be potentially flooding out the neighbors.
- **DOYLE:** what are you going to do with the dirt – create berms or spread over the area?
- **MR. GOSS:** if he leaves as is, it will eventually run off the same as today without a pond in the area. He is not going to make it any higher on the one side; to Mr. Goss, the natural run off is the same now as with or without the pond if there is a one hundred (100) year rain, which we are in a minimal one hundred (100) year flood area.
- **FLOWERS:** there is still a chance for a one hundred (100) year flood; he (Flowers) has lived through one.
- **MR. GOSS:** what size pipe would the Planning Commission like for him (Mr. Goss) to put in?
- **DOYLE:** it just needs to be an over-flow pipe, such as a four (4") or eight (8") inch pipe that will take the water.
- **FLOWERS:** just a plastic pipe and run it down into the ground to the swale; if the pond starts flowing, the eight (8") inch pipe will take a lot of the water away so the pond won't flood over.
- **DOYLE:** at the end of the pipe, there needs to be some type of rock system or other system that can dissipate the water so the area doesn't erode.
- **DOYLE:** why do you put a sump line to a house?
- **MR. GOSS:** for the water to go someplace.
- **DOYLE:** when sump lines are put in how do you leave it? Do you leave it so something else can wash out? We are talking about a method to keep the property stable for Mr. Goss and the neighbors.
- **DOYLE:** after some discussion regarding which of his neighbors had drainpipes and who didn't and perhaps that was before there were ordinances governing the ponds, Doyle stated conditions could be placed on the issue. The Planning Commission has the power to make the decision as to whether the request is accepted or not, without anyone else. The Planning Commission uses their best knowledge and has done hundreds of the requests. Before ponds are placed, the Planning Commission has to consider all the people

that live around the area and Mr. Goss should also consider the neighbors.

- **NEWMAN:** there is a provision in the ordinance that states the Planning Commission can approve a request as submitted, reject as submitted, approve with some modifications. The Planning Commission can approve with conditions and Mr. Goss, you may say I don't like the conditions and that means you don't build the pond; you could always build later with the conditions or you can file a new Application to amend the Site Plan. The Church on Mt. Morris Road is referenced sometimes because of the condition of staggering of the pine trees, the height of a berm, etc. to protect the neighbors from getting car lights shining in their back yards and homes.
4. Ponds shall be engineered and designed according to all provisions and conditions of this Ordinance, including engineered drawings, drawn to scale by a qualified designer showing all site buildings, easements, size, setbacks, etc. Such plot plan shall be approved by the Building Inspector before a hearing shall be scheduled.
 5. All soil and similar materials excavated during the construction of the pond shall remain on the property, unless an Earth Removal Permit has been obtained.
 6. If a pond exceeds 4.9 acres, it would be classified as a lake, and could be cause for other permit requirements.
 7. The parcel should contain natural land forms which are so arranged that the change of elevation within the site includes slopes often (10) percent or less; and water drainage could provide water to fill pond.
 - **DOYLE:** has the pond to the North ever gone dry?
 - **MR. GOSS:** the pond is holding water. The sand is good.
 - **DOYLE:** the Planning Commission has to get an idea if the area will accept a pond.
 - **MR. GOSS:** he did a test dig and the next day it was filled in approximately six (6) feet.
 - **DOYLE:** if the pond to the North has kept water in it, it probably has water underground. There needs to be a rational that there is water in the ground table.
 - The subject site and/or adjoining properties do not contain natural assets including trees, wood-lots, endangered species habitats, wetlands, 100 year floodplains, natural watersheds, or similar features that would be altered by the establishment of the pond.
 9. The outside edge of the pond is not within fifty (50) feet of an existing County Drain.
 10. The proposed pond is not located within one hundred (100) feet of a public road right-of-way, private easement, or school site.
 11. The proposed pond is not within fifty (50) feet of an existing wetland.

c. Application and Review Procedures

1. Application shall be made to the Township Building Official. Applications shall contain the name and address of the applicant, a legal description of the property upon which the pond will be established, a site plan submitted site plan check list in accordance with Site Plan Review procedures and/or Section 20-1800 under P1 – Earth Removal.
2. If and when it ever becomes necessary to obtain a permit from the Department of Natural Resources or the Genesee County Drain Commission, it shall be the responsibility of the landowner to obtain the permits prior to meeting with the Planning Commission.
3. The applicant shall also provide evidence from a civil engineer, or similar allied professional that water can be continuously maintained in the pond once it is constructed. A pond should be built in a spring area or a water drain off area to provide fresh water. (A well is not a qualified source of water.)

d. Design Requirements

Private ponds shall be permitted as an accessory use provided they meet the following requirements:

1. The setback distance for the pond shall be a minimum of seventy-five (75) feet from the waters edge at its highest point from any adjoining property line. There shall be a minimum of 25 feet between the edge of any berm or other placement of elevated soils removed from the excavated pond and any adjoining property line. The total height, as measured from original grade, of any berm or elevated soils and any fence or other materials built or placed upon the berm, except trees or other vegetation, shall not exceed a total of 6 feet. This provision shall not prohibit the placement of an otherwise appropriate fence across a part of such berm, which may cause the height of the fence to exceed 6 feet at the point of crossing the berm.
2. There shall be a distance of not less than fifty (50) feet between the outside edge of the pond and any building.
3. There shall be a distance of not less than fifty (50) feet from the water's edge to any overhead transmission lines.
4. Slopes of the excavation shall not exceed a ratio of four (4) feet horizontal to one (1) foot vertical, to a depth below water of six (6) feet on shallow walk in side, and no more than six (6) feet horizontal to six (6) feet vertical at three sides of the pond. Ponds must be a minimum of 15 feet depth to existing grade in deepest spot to keep water from being stagnant, unless topography demands special consideration.
5. All areas disturbed during construction shall be seeded with bluegrass or other high quality grasses and maintained in good condition to prevent erosion.
6. The Township Planning Commission may, at its discretion, require the installation of a fence no less than four (4) feet in height to protect the health, safety, and

welfare of the property owners and or tenants, neighboring uses, and Township residents.

7. The Township Planning Commission may, at its discretion, require the installation of a berm to be appropriate designed for height and width, whose slope shall be no more than at a 30 degree angle to prevent erosion and to protect the health, safety, and welfare of the property owners and or tenants, neighboring uses, and Township residents.

e. Limitations

1. No pond shall be located upon, cross, or extend beyond an existing property line and a permit shall not be issued for construction of a pond on more than one property, unless, in addition to the other requirements of this section:
 - (a) The owners of each property on which any part of the pond is to be located, submit a joint application for a special use permit, signed by each property owner.
 - (b) Each property owner executes a reciprocal easement, in recordable form, satisfactory to the planning commission, which describes the benefits and burdens to each property, including adequate provisions to assure maintenance of the pond.
 - (c) The easement shall be recorded as a pre-condition to issuance of the permit.
2. Construction of a pond shall be completed within twelve (12) months of the issuance of the construction permit. Extension may be granted by the Planning Commission for a reasonable cause shown.
3. The requirements contained herein shall not relieve the applicant from complying with other land development or environmental standards established by the Township or by other public agencies having jurisdiction.

f. Fees Required

1. Fees for the review of applications for the purpose of obtaining a construction permit for a pond shall be \$50. The fee may be changed at a later date by resolution of the Township Board.
2. There shall be a minimum \$7,500 Performance Bond presented at the time permit is issued. Total amount of bond to be determined by the Planning Commission. The \$7,500 Earth Removal Performance Bond may be combined with the Performance Bond for a pond.
3. Bonding or insurance shall be in accordance with our Earth Removal Permit.

FURTHER QUESTIONS/CONCERNS FROM THE PLANNING COMMISSION:

1. **NEWMAN:** recommended some small berming between “A and B” (on the Site Plan) on the South side of the pond which would create some greater privacy which Mr. Goss wanted, it would be less visible and attractive to children who might be to the South (grandchildren of a neighbor), but also if going from “B to A” (on Site Plan), going from South to the North, is a little bit lower and would

allow the over-flow to go as it currently is flowing and kind of channeling, and still gets the flow going in the direction it currently is flowing, with or without the pond.

ANSWER: Mr. Goss would agree with the recommendation as long as the engineer didn't have to draw a berm on the Site Plan.

2. **FLOWERS:** an eight (8) or ten (10) inch pipe would be better.
3. **DOYLE:** when you put a larger pipe in that means you are going to have more flow; you still have to handle the flow; if you put a smaller pipe in it will go out slower and therefore you have less chance for erosion of any kind; the point is the erosion and how you are going to take care of it. If you (Mr. Goss) show that you are going to have some kind of drainage over a seeded sodded area that can handle the water movement without eroding it, then the Planning Commission could possibly look at the fact that you (Mr. Goss) don't need a pipe, but you can use some form of grade that would allow the water to drain in a slower manner that isn't going to cause erosion on someone else's property.
4. **MR. GOSS:** so we aren't really worried about flooding someone's property, only eroding it?
5. **DOYLE:** why do you keep talking like that, the Planning Commission is worried about the flooding.
6. **NEWMAN:** we have to address the two (2) issues to make sure they balance themselves.
7. **MR. GOSS:** has to revert back to how is it any different as the way the land sits now as compared with a having a pond.
8. **DOYLE:** you are going to dig the dirt out of the hole and spread it around the existing property; you would be changing the grade even if you raised it six (6) inches; the water would be diverted to someplace else depending on the finished grade. If it is a situation where the water is running off onto flat land and that is lower, it is going to create another area that is nothing more than a mosquito pond, which you don't want to do.
9. **MR. GOSS:** why would anyone do that to a \$200,000 home?
10. **DOYLE:** because it was graded wrong.
11. **NEWMAN:** sometimes people do it unintentionally.
12. **MR. GOSS:** don't you have to take the advise of the Drain Commissioner who sent their engineers out?
13. **DOYLE:** what does the Drain Commissioner have to do with the ponds? You are building the pond.
14. **MR. GOSS:** he has a \$3,700 bond with the Drain Commissioner's Office - \$3,000 bond and a \$700 soil erosion permit.
15. **FLOWERS:** the Planning Commission is concerned about the construction type permit where you have to run a silt fence around the outside of the area so that if it rains before the grasses have started to grow and before anything else has transpired, you need the silt fence to prevent eroding in the area; the Drain Commissioner's Office is only concerned about the run off of the water and the silt fence. This is why the Drain Commissioner's Office is after you (Mr. Goss) for a bond to make sure the issues are taken care of. Everyone else will ask you for the same thing; that is what you are responsible.

16. **MR. GOSS:** the only thing the Drain Commissioner's Office ask for was to make sure in the deep corner to place 50' of silk fence.
17. **FLOWERS:** that is to keep the rain from washing down through the soil.
18. **MR. GOSS:** only concerned about 50' in the corner so assumed since the only thing the Drain Commissioner's Office ask was about the fence, they weren't too concerned about the pond.
19. **FLOWERS:** not concerned about fifteen (15) or twenty (20) years down the road, only during the construction period of the pond.
20. **MR. GOSS:** wouldn't they want him (Mr. Goss) to run a silt fence in front of all the houses?
21. **FLOWERS:** not sure why there was the particular issue involved and how they worked it, and how and who decides the matter.
22. **DOYLE:** if you build a house, they want an area that you are going to clear if it is an area where they is going to be a basement, or clearing of dirt, even if it is in a lower area than the property around it, they still want that silt fence around your property. They charge a \$100 bond for that item, which is not a large amount.
23. **MR. GOSS:** there was a \$3,000 bond; he wrote a check for \$3,700.
24. **DOYLE:** not involved in that particular area. If you are involved in any particular part where you are putting in a basement, they are worried about sides of the property so that you are shedding mud and dirt and everything else when you are doing excavating. After you are finished and have placed sod around the area, or you seed or place grass in the area so that it will hold water, then they are not concerned about the area. The other part which the Planning Commission has to concern themselves about is that beyond that if the place that you finally find that is going to drain creates a problem with erosion and it creates a problem with the properties it is not the Planning Commission that is going to give you (Mr. Goss) problems, it is the suit that the person will place on you (Mr. Goss) for the project, which he has every right in the world to do it.
25. **MR. GOSS:** he couldn't agree more.
26. **GENSHEIMER:** unfortunately, the Planning Commission has been here and the neighbors have come in because someone has done something incorrectly with their yard as far as excavating. Now it everybody's problem; that is what the Planning Commission is trying to prevent.
27. **MR. GOSS:** he totally gets the point but looks at it as if his engineer got the drawing and drew it from an engineers view point, and they don't have it with a pipe or anything, and he can't go back to them and say the Planning Commission wants a pipe and they (engineers) say "what do you mean"?
28. **DOYLE:** there are two (2) options: put a pipe in, not a large pipe, because it causes more erosion quicker and what can happen with his (Doyle) experience with any type of erosion is you can put a grade together that allows that grade and when it is seeded such that the grade will accept the movement of the water and not wash the ground out, then you might be able to do what you are suggesting by diverting the water around the pond that comes across the property to the southeast corner where eventually it will go. Where it goes from there, is where it goes now, but we have to make sure that anything you put into this is that the flow of water gets there without any erosion problem. The simplest way to do that is

with a pipe, and not a large pipe because that creates a big deal unless there is a splash for all the extra water to go into gravel or something with rocks that disperses the water. That is what this discussion is all about. The Planning Commission can put that condition on, one way or another, but it has to be addressed.

29. **MR. GOSS:** he will talk to his engineer and tell them that the Planning Commission wants a pipe put in.
30. **NEWMAN:** the Planning Commission can give Mr. Goss a minimum size pipe that has been used before.
31. **DOYLE:** the Planning Commission can specify a four (4) inch pipe.
32. **MR. GOSS:** so we can't do the project by just berming up and getting everything to flow in a particular direction naturally?
33. **DOYLE:** The area can be graded so that you can create an area for the water to go, in fact you should so the water doesn't all spill over the top of the pond and come off in several different locations. It is all about how you finish grade the area.
34. **NEWMAN:** how would it be if the Planning Commission proposed that after Mr. Goss digs the hole as required by the Ordinances as to the drawing, all the soils remain on site, and it has to go someplace, spread it out to the point where the grade is maintained around the pond and then build up a four (4) foot berm from the two (2) points referenced on the drawing. That way the grade stays the same so won't have to worry about it pooling into a mosquito thing. By building up the berm on part of it, it challenges the overflow to spill off to the east, southeast where we would like for it to go, similar to a funnel and addresses some of the concerns.
35. **MR. GOSS:** would gladly put a berm up because you can see the water already flows in that direction.
36. **NEWMAN:** this is the Planning Commission's way of guaranteeing that the project will be done. The table is 32 to 36 inches; one part is the same as before, so the water would run away from the houses and follow the natural topography already in place.
37. **MR. GOSS:** he would be dropping ten (10) feet.
38. **NEWMAN:** this would be a way to do the project without putting in a pipe as you have indicated.
39. **MR. GOSS:** if he could get a condition that Mr. Goss would get another drawing showing a berm in the proposed area.
40. **NEWMAN:** the Planning Commission don't need another drawing, but can approve tonight with that condition and then it is up to Mr. Goss or the pond person to do as dictated on the request. The Planning Commission is allowed to place conditions on a request.
41. **DOYLE:** the final is that Mr. Goss will seed the area and have sod there so it will hold because there is a ten (10) foot fall.
42. **MR. GOSS:** no disrespect to the Planning Commission but he has no reason to not follow the condition.
43. **DOYLE:** the Planning Commission has to try and protect everyone.

NEWMAN MOVED, seconded by Gensheimer, to approve the application for the Site Plan with the condition that there be a minimum of four (4) foot berm from the “A” listed on the drawing on the Southwest corner of the drawing over to where “B” is located in the middle Southeast corner of the property and that the rest of the grade be maintained in such a manner so that the water will continue to flow primarily to the East and somewhat to the South; the ordinance requires the area be seeded and sodded including the berm.

ADDITIONAL CONCERNS REGARDING FENCES:

- **DOYLE:** a neighbor in the audience was concerned about the pond being an attraction to children; the way the Planning Commission has always handled the ponds is to look at it as though there should be a fence around the Flint River so there aren't any possibilities of anyone going into the River and it being unsafe for them. When the Planning Commission looks as to whether a fence is needed, we have to look at the pond, North of the proposed pond. There aren't any particular ponds other than what you would have on your own property if you had a pool that you would have to protect that particular part for your own children.
- **GAGE:** does the other pond have a fence around it? (No)
- **DOYLE:** we, in Flushing Township, have always looked at it as living in a township with a river running through it and while we can't protect that one hundred (100%) percent of the time, we feel that it is not necessary to put a fence around it either. **DOYLE** views it as maybe the people that have a problem, should put up their own safety fence on their own property.

DISCUSSION:

1. **GENSHEIMER:** he likes the berm, but “should” or “could” the Planning Commission consider a “what if” in case it doesn't work or becomes problematic for the lower ground of the neighbors? Could it be an option then for Mr. Goss to put in a drainpipe if it is problematic for the neighbors?
2. **NEWMAN:** in terms of the water overflowing?
3. **MR GOSS:** he is not in the business to upset his neighbors where he (Mr. Goss) is going to live for the next forty (40) or fifty (50) years. If the berm doesn't work, he will have to do something.
4. **GENSHEIMER:** appreciates Mr. Goss saying that but the Planning Commission has been in this situation lots of nights when there was a whole neighborhood ticked off because someone put in a pond incorrectly.
5. **NEWMAN:** the other thing is a long term, that if something should happen to you or your family and the property is sold, or ten (10) years down the road you get a job offer in Texas and you move and the next person that comes in and if the safe guards aren't built in, there isn't anything the Planning Commission can do at that point. We never know what the future holds; the Planning Commission has to prepare for the possibility that Mr. Goss could change his mind and sell the property in the fall.
6. **FLOWERS:** the Special Use Permit for which Mr. Goss is applying for goes with the property and is recorded as such so whether Mr. Goss sells the property or not, the special use goes with the property for the next purchaser.

- 7. **MR. GOSS:** looks at the facts and data in front of him, today – now, showing the minimal flood area; realizes there are lot of minimal issues. If the berm doesn't work, would have to look at the data.

AMENDMENT TO MOTION:

NEWMAN MOVED, seconded by Gensheimer, to amend the motion to include that if the berm is not satisfactory, then an engineered overflow pipe of at least four (4) inches be installed in a location that is able to take the water and disperse it without creating an undermining of the property (rocks/gravel).

ACTION OF THE MOTION:

ROLL CALL VOTE:

YEAS: Doyle, Gage, Gensheimer, Newman, Mills, Flowers

NAYS: 0

ABSENT: Hinds

MOTION CARRIED.

IV. OPEN FOR PUBLIC COMMENTS:

None

CLOSED FOR PUBLIC COMMENTS

V. BOARD COMMENTS:

None

VI. MEETING SCHEDULE: NEXT REGULARLY SCHEDULED MEETING WILL BE MONDAY, MARCH 14, 2016 AT 7:00 P.M.

VII. ADJOURNMENT: CHAIR DOYLE adjourned the meeting at 8:53 p.m.

JEROME DOYLE, Chair

JULIA A. MORFORD, Recording Secretary

RONALD FLOWERS, Secretary

Date of Approval