

- d. has been to the Planning Commission
- e. 13 ½ acres of property

COMMUNICATIONS/NOTIFICATION:

- Opinion on the private drive received from Flushing Township Attorney **STEVE MOULTON**
- Proper notification has been sent to twenty-eight (28) residents within 300' of the property

SPECIFICATIONS ON THE PRIVATE DRIVE:

- 66' access for a private drive
- A section map had been sent out to the Zoning Board of Appeals members; a detailed drawing has not been received from **ST. JOHN**
- **FITCH** stated he was not sure a Private Drive ordinance was in affect when **ST. JOHN'S** home was built
 - a. first private drive ordinance would have been in the late 1960's or early 1970's
 - b. ordinance has taken several forms from access to a main public road to a 33 foot to serve two (2) homes; 66 foot for more than two (2) homes (2000 or 2001); in 2002 the ordinance was amended to the 33 foot

CONCERNS:

- **HENNEKE** stated that, included with all requests, there needed to be a drawn-to-scale drawing showing the lot; existing buildings; proposed buildings; and additions to existing buildings, etc.
- Road width, access, and maintenance, etc.
 - a. **ST. JOHN** stated there had been a Road Maintenance signed by thirteen (13) individuals; he (St. John) has been taking care of the road for years

SPECIFICATIONS OF PROPOSED PROPERTY SPLIT:

- The proposed property lot is 165 feet x 297 feet – 1.8 acres
- The proposed property is located to the North of Section 200-031, on the attached Genesee County Section Map (See Exhibit A), currently owned by Lee St. John and would be a division of property Section Number 200-030; it would be the same dimensions wide

ISSUES:

- There is a non-conforming situation which **LEE ST. JOHN** has been seeking to expand
- Under the philosophy of the ordinances, the Zoning Board of Appeals cannot expand non-conforming uses
- The non-conforming issue would be the roadway
- There would be the addition of another house to a situation that is already out of code.
- There is property to the North that may or may not want access off the private drive

7:53 P.M. OPENED TO THE PUBLIC

1. **Gerald Lawrence, 9098 Coldwater Road, Flushing** – “the property on the North side of the Coldwater Road Extension was his father’s property; understands why Mark St. John would like to construct a home; he (Lawrence) has five hundred (500) plus feet on the North side and has considered dividing the property into two (2) lots – would he be denied access to the property, (HENNEKE stated he would need an access to cross to the North property); how many times are variances given; what is the Zoning Board of Appeals going to do when he (Lawrence) turns in a request for driveways in excess of the permitted number of homes.”
2. **Trent Farnsworth, 6007 N. McKinley Road, Flushing** – “Coldwater Road Extension borders up to Farnsworth’s property; approval of the private drive and construction of the home; road would enhance the neighborhood.”
3. **Fred Meredith, 9086 Coldwater Road, Flushing** – “lives on the North side of Coldwater Road Extension; approval of the construction of the proposed home; everyone has worked together to take care of the road; the road is wide enough for emergency services; people on the North side realize they do not own a legal right-of-way but are allowed to use the current right-of-way; participates in the assessment for the right-of-way; State law allows the township to collect money for a five (5) year period to maintain some type of public facility which fourteen (14) residents pay \$200 each to maintain the Coldwater Road Extension; the township holds the money; Genesee County Road Commission (Road Commission) chlorides the road and other companies grade the road; maintenance bills are sent to the township.”
4. **Returned 300’ Letters:** Gerald Lawrence, 9098 Coldwater Road, Flushing (he received a 300’ letter at his present address of 7101 Gillette Road, Flushing); Richard Borgerine, 9232 Vista Del Arroya, Flushing; and Washington Mutual Bank, 9144 Coldwater Road, Flushing.

8:10 P.M. CLOSED TO THE PUBLIC

VAUGHN MOVED, seconded by Fotenakes to grant the variance per *Variance Review Procedures*, Section 20-2208 (ZBA) due to the unique circumstances of the property, the private road and the easement under ordinance Subsection A:

- (3) The application shall be accompanied by an affidavit by the applicant explaining:
 - a. How the strict enforcement of the provisions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
 - b. The need for the variance is due to unique circumstances of the property.
 - c. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.

- d. Why the requested variance would do substantial justice to the applicant as well as other property owners in the district, and lesser relaxation would not provide substantial relief and be more consistent with justice to others.
- e. Why the requested variance will not be contrary to the spirit and intent of this zoning district and public safety.

MOTION FAILED.

VAUGHN felt if he (Vaughn) owned property and if the matter followed the law, he should be able to allow other family members to construct homes on the property.

SARKA felt the Zoning Board of Appeals had to stay consistent with the ordinances as it is currently written.

MISCELLANEOUS COMMENTS:

1. **HENNEKE:** Where does the Zoning Board of Appeals stop on the Coldwater Road Extension? There are no other private roads with thirteen (13) homes constructed on it; perhaps place conditions on the matter:
 - a. (Gerald) Lawrence has no access to the private road so could not build
 - b. have an asphalt private road
 - c. ditches and drains
 - d. wide enough for two (2) vehicles – public road standards
 - e. easements for utilities
2. **FOTENAKES:** could reduce the easement to fifty (50) feet
3. **SWANSON:** there has to be a paved road when there are over ten (10) houses
4. **HENNEKE:** no one is trying to change the matter but if there is a continued effort to construct homes, something has to be done.
5. **SWANSON:** if St. John and Lawrence could come up with an Agreement to get a fifty (50) foot easement down the road between both sides of the road, there would not have to be a meeting.
6. **ST. JOHN:** would the private road go over the water line which is on the edge of the road? Would everything have to go off the South side of the private road? Buckeye Pipeline is located on the South side of the private road.
7. **SARKA:** if Lawrence should decide to split property would he have to request permission from **ST. JOHN** to have an easement to his (Lawrence) property.
HENNEKE stated Lawrence would have to go through the same issue as he (Lawrence) would be trying to use **ST. JOHN'S** private drive which already has fourteen (14) homes.
8. **ST. JOHN:** if everything stands as it is, Lawrence would have to make his own thirty-three (33) foot road come out someplace into McKinley Road. **ST. JOHN** stated that he would sacrifice for Lawrence.
9. **SWANSON:** the easement would not be the road; the road in a private road is only 18 feet wide; or if it sits within the easement that is what is needed; the easement could set over the utilities.
10. The parties should try to resolve the situation to make the private drive a permanent matter.

CONCLUSION:

HENNEKE stated the Zoning Board of Appeals needed a drawing that showed exactly where the easement was located; where the utilities would be in relation to the road; where storm sewers are currently located on the road; width of the road; ditches and curbs; and what would be feasible. No decisions would be determined unless there was a drawing to scale of the private road. **SWANSON MOVED**, seconded by Fotenakes to postpone the matter until the next regular Zoning Board of Appeals scheduled for January 5, 2005. **MOTION CARRIED.**

* * * * *

FOTENAKES MOVED, seconded by Vaughn to add Jeffrey Schultz of 8118 Carpenter Road, Flushing, to the Agenda for Informational – Regarding a Variance of Side Yard Setback, Single Family Residence. **MOTION CARRIED.**

* * * * *

2. Jeffrey Schultz, 8118 Carpenter Road, Flushing – Informational Regarding Variance of Side Yard Setback, Single Family Residence

JEFFREY SCHULTZ (SCHULTZ) of 8118 Carpenter Road, Flushing was present to seek information on a matter that had come before the Zoning Board of Appeals on May 4, 2004 concerning a variance of side yard setback for a single family residence. The matter was supposed to be resolved by the September 7, 2004 Zoning Board of Appeals Meeting, but was not.

It was determined that **FITCH** would contact Flushing Township **ATTORNEY STEVE MOULTON** and have him (Attorney Moulton) contact Amjad Ishak of 8130 Carpenter Road, Flushing to address the issue to see if it could be resolved.

VI. NEXT REGULAR SCHEDULED MEETING will be held on **TUESDAY, JANUARY 5, 2005.**

VII. ADJOURNMENT: VAUGHN MOVED, seconded by Fotenakes to adjourn the Zoning Board of Appeals meeting at 8:45 p.m.

EDWARD HENNEKE, Chair

JULIA A. MORFORD,
Recording Secretary

RICHARD VAUGHN, Vice Chair

Date Approved