

CHARTER TOWNSHIP OF FLUSHING
6524 N. SEYMOUR ROAD
ZONING BOARD OF APPEALS MEETING
DATE: JANUARY 2, 2001 TIME: 7:30 P.M.
PHONE: 810-659-0800 FAX 810-659-4212
WEB PAGE: <http://www.gfn.org/flushing/main.htm>

MEMBERS:

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

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

CHAIRPERSON HENNEKE opened the meeting at 7:39 p.m. with Roll Call.

ANN FOTENAKES was sworn in as a new member of the Zoning Board of Appeals.

MEMBERS PRESENT: Fotenakes, Henneke, Sarka, and Vaughn

MEMBERS ABSENT: None

OTHERS PRESENT: 14 people in attendance

APPROVAL OF AGENDA: FOTENAKES MOVED, seconded by Henneke to approve the Agenda. MOTION CARRIED.

APPROVAL OF MINUTES OF SEPTEMBER 5, 2000: FOTENAKES MOVED, seconded by Henneke to approve the minutes of September 5, 2000 as presented. MOTION CARRIED.

UNFINISHED BUSINESS:

Brent Parker's Request for Re-Consideration of an Earth Removal Permit.

THE MEETING WAS OPEN FOR PUBLIC COMMENTS AT 7:45 P.M.

HENNEKE stated that the Board was being asked to reconsider an item that was approved approximately one (1) year ago. Henneke wanted to know the reason for the re-consideration, or if there was something new to re-consider since last year's permit. Mrs. Parker stated [her husband and herself] had been renting three (3) pieces of equipment to finish the sides of the pond; it was very expensive to pay for the rentals. The Parkers wanted to sell more dirt to pay for the rentals so they could complete the project. Some of the other areas of the pond were finished but with the unpredictable weather, completion had been detained. The current Earth Removal Permit expires December 2001.

HENNEKE stated the Parkers were given until November 30, 2000, to have finished with the removal of the dirt, and then were given an additional period of time to clean

up the rest of the property. Mrs. Parker passed out a letter showing their expenses to be \$148,231, but the income was not listed. Henneke wanted to know if the Parkers had made less than the total expenses of \$148,000. She (Mrs. Parker) stated that the diesel fuel bill was \$500; and rental fee on the three (3) pieces of equipment was \$12,000 per month. Mrs. Parker stated that the expenses had been more than the income. The Parker's main goal was to make a big in-ground fish tank, but last year decided to have a fish hatchery.

VAUGHN stated the project had been started in 1989. He could not understand why the Parkers could not get the project cleaned up and finished.

MRS. PARKER said there had been another exit constructed so traffic would not have to pass the neighbors' houses all the time. The traffic enters from Frances Road and exits McKinley Road. They have kept the roads sprinkled with water to keep the dust down. Asphalt has been put on the two exits (500 yards at a time).

MR. PARKER stated they were tired of constantly having to appear before the Board to ask permission to finish the pond project.

HENNEKE wanted to know why the deadline for the project was not completed last year. Sarka stated the Zoning Board of Appeals minutes state the Parkers had six (6) months, until November 30, 2000 to remove the sand, and until May 2001, to complete the project.

HENNEKE stated he was not exactly sure what the Parkers wanted, but apparently they wanted more time to clean up, and, in the process, remove more dirt. **MR. PARKER** stated that he wanted to remove 20,000 cubic yards of clay from the area. It takes three (3) cubic yards of clay to make one (1) cubic yard of sand. The Parkers would be selling clay, sand and black dirt.

FOTENAKES stated a bond was in affect that states the Parkers have to complete the project, even if the work is not currently finished.

HENNEKE stated that after reviewing the minutes from December 1999, it appeared that from 1989 through 1997, there were only 1,000 cubic yards of sand removed. For all of those years, no progress was made. From the December 1999 minutes, it was the intent of the Zoning Board of Appeals to allow the Parkers to clean up the area. The condition of the appeal, at that time, was to have all the dirt completely removed by December 30, 2000. After that time, the Parkers had the opportunity to finish cleaning up the area without an additional earth removal from the site. The dirt was to be moved around in order to slope the pond.

FOTENAKES wanted to know if the Parkers would be able to finish the project by December 2001?

SARKA stated that Parkers wanted one (1) year to remove the dirt, but they were given eighteen (18) months.

Comments from the Audience:

- (1) **Joe Martin, 8320 N. McKinley Road, Flushing, Michigan** - "it is their property, so let them do what they want to with it" - Henneke stated that when a project goes over ten years, it is considered commercial property.
- (2) **Duane Bilodeau, 8504 N. McKinley Road, Flushing, Michigan** - "trying to get a deadline when no ones know the nature". Parkers are trying to get rid of some of the dirt they are digging out. They have had equipment failure.
- (3) **Randy Matzke, 8511 W. Frances Road, Flushing, Michigan** - "the pond is not going to get much bigger - all they want to do is get rid of the piles of dirt, to pay for the equipment, so they can get the pond in the location where it needs to be".
- (4) **Eric Swanson, 8433 N. McKinley Road, Flushing, Michigan** - "two neighbors across the street have been complaining about the dust and dirt all summer". Parkers keep coming back year after year for a permit.
- (5) **Charles Ackerman, 8428 N. McKinley Road, Flushing, Michigan** - "what is going to happen if he stops now". Parkers have until May 1, 2001 to complete the project.

PARKER stated that with the snow, they would be unable to start removing the dirt before April 2001. The project was to be completed by May 2001, but Parkers needed until December 30, 2001. Sarka stated that Parkers could only have a one-year permit at a time.

PARKER stated they have four (4) full time and four (4) part time workers on the project. The rain has caused delays with the project; no one wants to work in wet clay.

FITCH wanted to know if the dirt that the Parkers wanted to get rid of, was what was stockpiled at the present time. Parker stated that part of the stockpile was piled up around the pond so when it was finally completed, they would line the pond with the clay. Parkers also plan to use some of the clay to make a 100' x 200' island.

THE MEETING WAS CLOSED TO THE PUBLIC AT 8:39 P.M.

VAUGHN stated that something had to be done to the land. The project has continued for over ten (10) years and it needs to be cleaned up. The Township has laws and a

responsibility to those laws. The land does belong to the Parkers, but when it infringes, to the extent that it might affect the price of property, then the township has a responsibility to get it cleaned up. Vaughn realizes there have been delays, but there also was a deadline set. Parkers have a responsibility to the Township to get the project finished.

FOTENAKES stated she was part of the Charter Township Planning Commission when the Parkers came before the Board many times to ask for extensions on the project. Other ponds have been dug, but no problems have existed like this particular pond. Last year, the Planning Commission informed the Parkers they had to end the project; no more extensions. The ordinance states that if undue hardship exist, they could receive an extension, but Fotenakes felt there have not been sufficient reasons. If another extension is granted, the Parkers would be back to the Zoning Board of Appeals next year for an extension on the same project

SARKA stated that the project is not a regular pond. He would hate for the Parkers to start a project of this multitude and then not finish the work. The extension was granted last time because of this very reason; however, a time frame needed to be established. Sarka stated that originally the Planning Commission denied the earth removal permit; the Zoning Board of Appeals granted an appeal. Does the ZBA have the authority to extend the permit? Henneke said it is for re-consideration of the appeal.

FITCH stated that 42 letters were sent out to the neighbors regarding the Earth Removal Permit. Two letters were received by the Board: (1) Charles and Grace Ackerman, January 2, 2001, - no objection to the granting of the permit. (2) No name was given - they ask that the permit be turned down due to dust/dirt, and the wife has asthma.

HENNEKE stated that originally there was an appeal from the Planning Commission. There were questions as to whether the Commission made a mistake in applying the Zoning Code and whether it should be overturned. From the minutes of December 1999, the decision of the Planning Commission was affirmed. The Parkers were given an extension per the minutes as following:

"Condition of Appeal. All dirt removal is done and over with on November 30, 2000. After that period of time, the Parkers have an additional right to complete it without additional earth removal from the site, but to move the dirt around to get the proper slope. If they complete the proper sloping in depth within six months, by the end of May 2001, pond No. 2 shall be complete. Parkers shall post a \$10,000 bond to run to June 1, 2001. Purpose of the pond running beyond the limit of the completion date of the pond is to insure compliance with this decision. If not completed at that time, we shall ask that the bond be revoked, funds used to complete the project. Any remaining funds will be refunded to the Parkers. There will be

further extensions in this operation because we are affirming the decision of the Planning Commission to terminate operations."

ATTORNEY JOHN ZINTSMASTER, Attorney for the Parkers, felt they could live with the decision.

THE ONLY REASON for extension would be delay due to rain. The Zoning Board of Appeals could extend time to do anything, except to remove the dirt. Parkers have until May 2001 to get the land cleaned up.

HENNEKE wanted to know how long it would take to finish the pond without removing any of the dirt. Parker stated that if he was given until December 2001, he could have the area cleaned up.

HENNEKE MOVED, seconded by Fotenakes to reconsider this because of the wetness of the weather in the summer of the year 2000 and the potential delays in causing and removing it, we are suggesting allowing him an extension of time until September 1, 2001 to remove any dirt that needs to be removed and that the entire project be completed by December 1, 2001. If it is not completed, there absolutely will be no further extensions. We will revoke the bond and apply the bond to whatever needs to be done at that point.

ROLL CALL VOTE:

AYES: Sarka, Fotenakes, Henneke

NAYS: Vaughn MOTION CARRIED.

UNFINISHED BUSINESS:

None

ELECTION OF NEW OFFICIALS:

SARKA MOVED, seconded by Fotenakes to nominate Edward Henneke for Chairperson. MOTION CARRIED

SARKA MOVED, seconded by Henneke to nominate Richard Vaughn for Vice Chairperson. MOTION CARRIED

MOTION to retain the Township Clerk, Julia Morford, for Recording Secretary, as it has been the custom in the past.

SCHEDULED MEETING DATES:

The scheduled meeting dates for 2001 are as follows: Tuesday, January 2; Tuesday, May 1; and Tuesday, September 4. The Zoning Board of Appeals meets quarterly.

ZONING BOARD OF APPEAL SEMINARS:

FOTENAKES will be checking into forthcoming Zoning Board of Appeal seminars to attend. Henneke mentioned an upcoming Zoning Seminar sponsored by Rowe, Inc.

There will be another person joining the Zoning Board of Appeals at the May 1, 2001 meeting.

NEXT REGULAR MEETING will be held on **TUESDAY, MAY 1, 2001**

ADJOURNMENT: Being there were no further objections, Chairperson Henneke deemed the meeting adjourned at 8:37 p.m.

EDWARD HENNEKE, Chairperson

JULIA A. MORFORD,
Recording Secretary

RICHARD VAUGHN, Vice Chairperson

DATE APPROVED

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