

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

ZONING BOARD OF APPEALS

DATE: MARCH 3, 1998

TIME: 7:30 P.M.

MEETING CALLED TO ORDER at 7:30 p.m. by Chairman Henneke. He asked the recording secretary to call the roll.

MEMBERS PRESENT

Edward Henneke, Chairman

James Sarka

Lynn C. McLean, Township Board Representative

Richard

Vaughn

ALSO PRESENT:

Jerald W. Fitch, Building Inspector

Ida M. Reed, Recording Secretary

MEMBERS ABSENT: Harvey Workman

APPROVAL OF AGENDA: The agenda was approved as presented.

PUBLIC HEARING:

VIC DIPINISKI'S REQUEST TO MODIFY VARIANCE GRANTED ON 9/2/97:

CHAIRMAN HENNEKE asked Mr. Dipinski to explain the reason he is requesting modification of the variance he was granted on September 2, 1997.

MR. DIPINISKI explained that after he received the variance for the building he then went to the Planning Commission for the site plan review. The Planning Commission did not make a decision at that meeting, because they needed additional information on the drawing. One of the problems was finding space for the required number of parking spaces.

He would like a variance to build the building 5' from the east property line, 30' from the north property line, 88' from the Mt. Morris Road right of way and 56' from the Seymour Road right of way. He would like the building to be 48' by 94'. He feels he needs this size building for storage, walk in freezers and the sales area. He needs to keep the area to the north free from any parking, because that is where his septic field is located.

The original plans called for 9' from the east property line, 61' from the north property line, 48' from the Mt. Morris Road right of way and 81' from the Seymour Road right of way. The building is 48' by 94'.

CHAIRMAN HENNEKE asked Mr. Fitch what the minimum set back is for a commercial building.

MR. FITCH stated that when it is next to residential property it is 100'. This is the requirement in our zoning ordinance at the present time. At the time that building was constructed the requirement was 80'. The existing building is 12' from the property line, and he doesn't know if a variance was issued for this building when it was first constructed. If there were a commercial piece to the east, there would be an 80' set back requirement. Residential buildings are required to have a minimum of 20' between residential structures on two separate parcels. Strip malls are

able to build attached commercial buildings on a single parcel, but each individual business establishment has to be separated by a firewall. Mr. Fitch also explained building codes for commercial buildings.

CHAIRMAN HENNEKE stated that right now we have a building that is 12' from the east property line. If we don't let him do anything, it is going to stay 12'. By narrowing that set back to 5' are we impacting the neighbors to the east. He is real concerned with the building being so close to the property line. This particular neighbor may not have a problem, but a future neighbor may have a problem with it.

MR. FITCH stated that you could make arguments for both, and yet you could make a good argument for the other, because you have clearance on three sides of the building. He could argue either one of these positions

MR DIPINISKI stated that he has talked with the neighbor to the east and he doesn't have a problem with only having a 5' set back on the east.

McLEAN ASKED Mr. Dipiniski why he wants to move the building over to the 5' set back on the east? Does it have something to do with what the Planning Commission?

MR. DIPINISKI would be willing to leave the East Side set back at 12' feet if he could still have a 48' wide building, but it would be closer to Seymour Road. The Planning Commission seems to be willing to allow him to have 15 to 18 parking spaces, and he thinks with the new dimensions he could get that many parking spaces. Each parking space has to be 10' wide and 20' deep, plus he will need at least two handicap parking spaces. He has a septic system to the north, and he cannot use that area for parking.

McLEAN has a real problem with changing the eastside set back to 5'. He would be willing to keep the set back at 12', and change the distance from the building to the Seymour Road right of way to 49'.

VAUGHN thought it would be easier to grant a variance for the parking than to change the size of the building. He would rather stay with the original plan and give up a few more parking spaces. For all intents and purposes he will not need that many spaces any way.

CHAIRMAN HENNEKE asked if it would be possible to get an easement on the neighbor's property? That could be another alternative. He just has a real problem with allowing the building so close to the property line. He asked Mr. Fitch if the Appeals Board allowed him to build closer to Seymour Road would that cause a safety hazard.

MR. FITCH did not believe it would impact the clear vision area to have the building 7' closer to Seymour Road. He would be more comfortable in keeping the 12' set back to the east. He would be amazed if there were ever 15 cars at a party store at one time.

McLEAN MOVED, seconded by Vaughn to allow the variance for construction of a building 48' by 94'. The building is to be constructed 12' from the eastside property line, and 49' from Seymour Road right of way, 88' from Mt. Morris Road right of way, and 30' from the property line to the north. Yes: 4. No: 0. MOTION CARRIED.

There was discussion about the number of parking spaces Mr. Dipiniski would need for his party store. According to the ordinance they did not feel the Zoning Board of Appeals has authority to grant variances for parking. They will leave that decision to the Planning Commission.

UNFINISHED BUSINESS:

FLUSHING MOBILE HOME ESTATES REQUESTING VARIANCE FROM SIGN ORDINANCE:

This issue was held over from the January 6, 1998 meeting. An Attorney's opinion was requested. Attorney Moulton sent the following information.

I understand the facts to be as follows. Flushing Estates Mobile Home Park is located on the East Side of Gillette Road, south of Mt Morris Road. Flushing Estates wants to install a sign, approximately four feet by six feet in size, pointing out the location of the mobile home park. The sign would be located on a parcel of vacant property near the intersection of McKinley and Mt. Morris Roads. This property is zoned C-2. You asked if such a sign is allowed under the Township's sign ordinance, adopted effective February 29, 1996 The answer is no.

Section 1.9 of the ordinance states:

"All signs not expressly permitted under this ordinance or exempt from regulation hereunder in accordance with the previous section are prohibited in the township".

The previous section, Section 1.8, lists the types of signs, which are exempt from regulation under the ordinance. These include public notices required by law, signs located inside buildings, works of art, holiday or other decorative lights displayed for a limited period of time and certain traffic control signals. The sign at issue does not fall within any of the exemptions and, therefore, to be allowed, the sign must be permitted under the provisions of the ordinance.

Signs permitted in an area zoned C-2 are set forth in Section 1.5 8 of the ordinance, which states, in part:

"On premises used or occupied for commercial purposes in the C-2 (central commercial district), there shall be permitted

As I read the ordinance, signs on properties zoned C-2 are limited to premises used or occupied for commercial purposes. The property on which the sign at issue is to be located is vacant. While the property is zoned C-2, the property does not consist of a premises used or occupied for commercial purposes. The maintenance of the sign, in and of itself, is not a permitted commercial use in a C-2 zone. For this reason, the proposed sign is not allowed by the ordinance.

I do not find any language in the ordinance expressly addressing off-site signs. However, the structure of the ordinance generally precludes off-site signs. There may be an exception, which would allow off-site signs in certain Circumstances. For example, suppose there was a convenience store properly located on a parcel of property zoned C2. If the owner of the property store reached an agreement with Flushing Estates to post a sign on the property used for the convenience store, and the sign otherwise satisfied the criteria of Section 1-5.8, the sign would be allowed, as the sign is located "on premises used or occupied for commercial purposes". The ordinance does not limit signs to advertising the commercial purpose at the property where the sign is located.

The Zoning Board of Appeals board members reviewed Attorney Moulton's answer to their request for information. In light of this information they did not see any way they could approve the request for an off site sign.

NORM BOWER, who was requesting the variance, felt his request should be approved because of a hardship. He stated that it is very hard for people to find the location of the Mobile Home Park, where they sell Medallion Homes. He feels off site signs are permitted in certain circumstances. It is a very attractive sign that he wants to put on the corner of Mt. Morris and McKinley Roads.

HENNEKE MOVED motion seconded by McLean to deny the request for a variance from the sign ordinance. This denial is based on the information received from Attorney Moulton. Yes: 4. No: 0. MOTION CARRIED

APPROVAL OF MINUTES: LYNN MOVED motion seconded by Henneke to approve the minutes with 3 corrections. There were 3 dates that needed to be changed. MOTION CARRIED.

NEW BUSINESS: MR. FITCH stated he may have a request for a special meeting of the Zoning Board of Appeals from Mr. Nicola for "The Needles Subdivision". This would concern a variance for a wet land area. He will try and set it up for April 14th or April 28th if that is agreeable with everyone. No one seemed to have a problem with either date.

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

ADJOURNMENT: As there was no further business the meeting was adjourned at 9:00 p.m.

Edward Henneke, Chairperson

Ida M. Reed, Recording Secretary

Harvey Workman,
Vice-Chairman/Secretary