

CHARTER TOWNSHIP OF FLUSHING

6524 N. SEYMOUR ROAD

ZONING BOARD OF APPEALS

DATE: JANUARY 6, 2009

TIME: 7:30 P.M.

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MEMBERS:

Edward Henneke, Chair

James Sarka

Richard Vaughn, Vice Chair

Eric Swanson

Scott Minaudo, Board of Trustees Representative

Jerald W. Fitch, Building Inspector

Julia A. Morford, Recording Secretary

I. CHAIR EDWARD HENNEKE opened the meeting at 7:30 p.m. with Roll Call and the Pledge to the American Flag.

ROLL CALL: Henneke, Swanson, Sarka, Vaughn, Minaudo, Fitch and Kathleen Strauss (in the absence of Recording Secretary Julia Morford)

MEMBERS ABSENT: Morford

OTHERS PRESENT: Flushing Observer Reporter Nikki Brand

II. APPROVAL OF AGENDA: SWANSON MOVED, seconded by Minaudo to approve the Agenda as submitted. **MOTION CARRIED.**

III. PUBLIC COMMENTS:

None

IV. APPROVAL OF MINUTES OF JANUARY 9, 2007: MOVED and seconded to approve the minutes of January 9, 2007 as presented. **MOTION CARRIED.**

V. UNFINISHED BUSINESS:

None

VI. NEW BUSINESS:

1. Approval of the 2009 Zoning Board of Appeals Meeting Dates

Building Inspector **JERRY FITCH (FITCH)** stated there had been a discussion with the Flushing Township Board of Trustees regarding changing the time of the Zoning Board of Appeals Meetings to 7:00 p.m. **VAUGHN MOVED**, seconded by Minaudo to approve the 2009 Meeting Dates of January 6, 2009; May 5, 2009; September 1, 2009, and January 5, 2010 at 7:00 p.m. **MOTION CARRIED.**

2. **Election of Officers**

HENNEKE stated the officers should consist of the Township Clerk, Julia Morford, a Chairperson, and a Vice Chairperson.

- A. **MINAUDO MOVED**, seconded by Vaughn for **HENNEKE** to be the Chairperson.
MOTION CARRIED.
- B. **SARKA MOVED**, seconded by Swanson for **VAUGHN** to be the Vice Chair.
MOTION CARRIED.

(Chairperson: Edward Henneke; Vice Chairperson: Richard Vaughn; and Clerk Julia Morford as secretary)

3. **Update of the Michigan Zoning Enabling Act (MZEA)**

A) At one of the 2008 Zoning Board of Appeals (ZBA) Meetings (where a quorum wasn't present) a discussion was held between the members in attendance regarding the Michigan Zoning Enabling Act (MZEA). **HENNEKE**, who also is the Attorney for the City of Flushing, had stated he was in the process of preparing a similar amendment to the Zoning Ordinances for the City of Flushing. He (Henneke) , as suggested by the Michigan Attorney General, felt there could be a conflict of interest if an individual was serving on the ZBA and also on the Planning Commission. **ERIC SWANSON** is the individual that serves on both the Flushing Township Planning Commission and the Zoning Board of Appeals. **SWANSON** stated that if he voted on an issue at the Planning Commission, he could not vote on the issue at a ZBA meeting.

FITCH has reviewed the conflict of interest issue with Flushing Township **ATTORNEY STEVE MOULTON**. The Planning Commission is in the process of updating the Master Plan By-Laws to reflect the "conflict of interest" issue.

FITCH stated two (2) issues needed to be discussed concerning the MZEA: 1) the dates for appeals, and 2) alternate members to the ZBA. **HENNEKE** stated the issue of alternates had been discussed in the past, but the issue had been dismissed because there had never been a problem with attendance for ZBA members due to a shortage. **HENNEKE** stated the ZBA meeting in 2008 was the first time in fifteen (15) years a meeting had to be cancelled due to a quorum not being present.

HENNEKE will review the by-laws for further discussion at a future Flushing Township ZBA Meeting. The ZBA would be the final authority on a decision; the next step would be Circuit Court.

HENNEKE stated per *Roberts Rules of Order*, the members could vote to allow a member to excuse himself because of the "conflict of interest" issue.

B) **HENNEKE** stated one issue that he has run into is the action of the ZBA on an appeal until the minutes are approved because the minutes are not official until they are approved.

SWANSON stated recently he was at a Michigan Townships Association (MTA) Seminar in Frankenmuth and there was an item mentioned that was called "certifying ZBA Decisions." The Decision involved "Decision 1", which is what the ZBA does at present. The future will have

“Certifying Decisions 2” so the owner that was granted the variance is not left hanging indefinitely. The ZBA would certify the decision before the end of the meeting. It was suggested by MTA to put a form together that would be signed by the ZBA Chair with the decision and conditions, if any, on the basis of the decision. The applicant would then be allowed by co-op with his appeal, to take the case to court or whatever.

SWANSON stated the voting could be done at a later date, when the minutes are officially put together, but the law would allow the ZBA to certify the decision at the time of the meeting, which the Chair would sign with conditions. The Planning Commission also would be putting a form together which would show the actions. **HENNEKE** felt the form should be itemized as to why a request was being approved or rejected on the basis of an appeal according to basic standards to go by.

HENNEKE will obtain a copy of the statute for the ZBA members.

- B. Wind Turbines** – the turbine issue has been discussed by the Planning Commission. **HENNEKE** felt there should be an ordinance, prior to someone violating the law because if there wasn’t an ordinance, the person could not be stopped from building. The current Tower Ordinance controls the height of towers but it doesn’t control the wind turbulence. The wind turbulence would be the structure, and if the tower was higher than the what the ordinance stated, it would not be allowed. **EXAMPLE: SWANSON** stated a person had put up a tower and one of the blades had come off and went through a neighbor’s house; the individual was cited. The individual stated there wasn’t an ordinance so because the area didn’t have the ordinance it was not permissible. (This incident happened in Michigan). **HENNEKE** stated there were federal regulations on some of the towers which the ZBA could be opposed. The township could not totally exclude something from the books.

HENNEKE stated it would almost be similar to trailer parks. **SWANSON** stated the same effect would be the trailway system that Genesee County was putting through. It was recommended that cities, villages, and township put together an ordinance as to where the municipalities would like for the trailways to be placed in their jurisdiction. If there wasn’t an ordinances, the officials could place the trailway at their discretion.

HENNEKE stated on the Flushing Riverview Walkway, go-carts were not allowed on the trailway, but amigos were allowed. **SARKA** stated there was a sign that stated “no motorized vehicles” on the trail.

VII. NEXT REGULAR SCHEDULED MEETING will be held on **TUESDAY, MAY 5, 2009 AT 7:00 P.M.**

VIII. ADJOURNMENT: SWANSON MOVED, seconded by Henneke to adjourn at 7:59 p.m. MOTION CARRIED.

EDWARD HENNEKE, Chair

KATHLEEN STRAUSS in the absence of
JULIA A. MORFORD, Recording Secretary

RICHARD VAUGHN, Vice Chair

Date Approved

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