

**Elk Rapids Township Planning Commission  
Meeting Minutes - Tuesday, August 16, 2016**

The meeting of the Elk Rapids Township Planning Commission was called to order by the Chairman, Shen Smith at 6:30 pm at the Government Center, 315 Bridge Street, Elk Rapids, MI 49629

**Present:** Shen Smith, Jim Lundy, Renee Mischel, Dorance Amos, Pug Sliger, Gary Pepler, Emile Sabty

**Absent:** None

**Also Present:** Len Harrett, Zoning Administrator; Larry Nix, Planning Consultant; William Derman, Attorney; Heidi Shafer, Antrim County; Derek Spurlock, Tom Wiltse, Rod Hammond, Mr. & Mrs. Hults, Patrick Brady and one other person.

**Adoption of Agenda:** Agenda for the August 16, 2016 meeting unanimously adopted by the commission. **Motion Approved**  
**Motion/S - Amos/Sliger**

**Public Comments:** None

**Approval of Minutes:** Minutes for the July 19, 2016 meeting unanimously adopted by the commission.  
**Motion/S - Smith/Amos** **Motion Approved**

**Zoning Administrator's Report:** Nothing new to report at this time.

**Public Hearing #1: Richard & Kathy Radatz**

Under consideration is a request for a Site Plan Review from Richard & Kathy Radatz, 10514 Lakeshore Road, Williamsburg, MI 49690, owners of platted residential zoned property at the same location a.k.a. Lot #26 of Sunset Shores Subdivision, (Tax ID# 05-06-550-024-10). Request a Site Plan Review hearing to address the provisions of Section 2.11 restrictions applicable to Property Abutting Lakes, Rivers or Streams of the Township Zoning Ordinance.

**Open Public Hearing #1: Opening of Public Hearing #1 Unanimously Approved**  
**Motion/S – Mischel/Smith**

Mr. Larry Nix, PCP, recapped and highlighted the memorandum/report he provided the Planning Commission dated July 25, 2016 regarding the Radatz Site Plan/Violation. Highlights of his report include the following:

- The 25' vegetative strip as defined in Section 2.11 of the Zoning Ordinance deals with the natural featured area. A small portion of the Radatz property improvements are in this 25' area. Mr. Nix reported that he investigated this issue on the State web-site, read legislation, and contacted the Michigan Department of Environmental Quality. Conclusion: Stone stairway to the lake, placement of a natural stone sitting area, and the rock boulder retaining wall is not considered a building or structure.
- Zoning Administrator Harrett, also confirmed that these types of stone walk ways and patio/sitting areas were fairly normal requests from individuals who live on the lake and want a path from the house to the water.
- It was also determined that the patio was only a portion of the 25' natural feature strip and the bulk of the patio is made out of natural stone deemed not to be a structure because the stone is sitting on the ground, with no foundation, holding up natural earth and blending in with the ground.
- Mr. Nix also noted that the applicant was requested to supply the Township with detailed drawings of plantings and provide a site plan that clearly shows to the Planning Commission and the public, the details of what is being planted in this 25' natural vegetation strip regulated in Section 2.11 of the Zoning Ordinance.

It was reported that the applicant has met this requirement.

- Mr. Nix recommended that the applicant should provide information on the proposed completion schedule. Upon satisfactory clarification of this item, it is recommended that the Planning Commission approve the site plan application for shoreline modification subject to the following conditions:
  1. The applicant shall comply with the requirements of the Antrim County Soil Erosion permit.
  2. Inspections as noted in Section 2.11, D, 3 of the Zoning Ordinance shall be conducted and compliance with the Zoning Ordinance and all other applicable regulations shall be maintained at all times.
- Attorney Derman recommended the following additional requirements:
  1. Photos of the completed project site be taken to be kept on file for information and reference.
  2. Maintain the plantings within the 25' vegetation area.
  3. In accordance with the Zoning Ordinance, a follow-up visit should be made to the site one year after completion to ensure that all planted vegetation in the 25' area is alive and thriving. In addition, if vegetation is not alive, applicant is asked to replant and keep in living format.

**Additional Comments/Discussion by Planning Commission regarding Radatz Site Review:**

- Vice Chairman, Mischel asked for comments on this project from Antrim County, Soil and Erosion Officer, Heidi Shaffer.

Ms. Shaffer reported that good things have come out of the Radatz project and as a result, she is considering changes to her permitting process. Ms. Shaffer further noted that the proposed erosion control is doing a very good job of addressing the erosion issues. Furthermore, it was reported that the Radatz property was full of poison ivy and invasive plants and that Mr. Spurlock's proposed project actually improves the condition of that site. In conclusion, Ms. Shaffer stated she is excited about the native plants going in, and that the changes being made will improve the site and make the shoreline much more attractive.

- Mr. Sabty encouraged the Planning Commission to reference and compare the old and new prints for the Radatz property. It was noted that the old trees that were in the previous drawings are still present in the new drawings and therefore were still alive and unaffected with the new site renovations.
- Chair Smith asked Mr. Spurlock when he anticipates completing the Radatz project.

Mr. Spurlock responded that if he has approval from the Planning Commission to continue, he plans to have the Radatz project completed by: **September 1, 2016.**

- Chair Smith also reported to the Planning Commission that even though not required, the owners have agreed to plant a new Clump Birch Tree in the 25' area to replace the tree stump that was pulled out to help hold the soil. It was confirmed that this new tree is noted on the site plan.
- Referencing the July 25<sup>th</sup> Williams & Works report, Vice Chair Mischel asked Zoning Administrator Len Harrett if the determination that stone slabs are considered a natural element/not a structure; if this is consistent with what has been done in the past?

Mr. Harrett responded that although this is a unique situation, the Zoning Ordinance does not regulate anything that is flush with the ground. Residents are permitted to put in a ground patio that is flush with the ground as an alternative sitting space. The only stipulation is a ground patio cannot cause water to migrate to a neighbor's property or cause run off into the lake.

- Mr. Sabty also reported that although this type of patio is not addressed in the Zoning Ordinance, there were numerous references for these types of requests in past Zoning Board Minutes. Owners were told these types of ground patios were permitted as long as they did not exceed one foot in height.
- Chair Smith reported that she was told by one of the Radatz's neighbors that most of the big boulders on this property were brought in many years ago during high water to cut down on erosion. This neighbor believes many of them were buried in the sand and that most of them were just moved around.

**Close Public Hearing: Closing of Public Hearing #1 Unanimously Approved**  
**Motion/S - Amos/Peppler**

**Motion to Approve:**  
**Motion/S - Amos/Peppler**

Approve the site application to modify the shoreline and address the provisions of Section 2.11 restrictions applicable to Property Abutting Lakes, Rivers or Streams of the Township Zoning Ordinance, at 10514 Lake Shore Drive, Williamsburg, MI 49690, Richard & Kathy Radatz, owners of platted residential zoned property at the same location a.k.a. Lot #26 of Sunset Shores Subdivision (Tax ID #05-06-550-024-10), with the following conditions:

**reasons**

1. The applicant shall provide information on the proposed completion schedule.  
*(Mr. Spurlock already confirmed and established a completion date of: **September 1, 2016**).*
2. The applicant shall comply with the requirements of the Antrim County Soil Erosion permit.
3. Inspections as noted in Section 2.11, D, 3 of the Zoning Ordinance shall be conducted and compliance with the Zoning Ordinance and all other applicable regulations shall be maintained at all times.
4. At project completion, photos of the site will be taken and kept on file.
5. The applicant will maintain all plantings within the 25' strip as noted on the site plan.
6. One year after completion of this project, a follow-up visit to the site will be made to ensure plantings within the 25' strip are still alive.
7. If any plantings within this 25' strip are not alive, applicant will replant the vegetation.

**Motion Unanimously Approved**

At this point in the meeting three copies of the approved site plan were signed by all as required.

**Public Hearing #2: Tom Wiltse and Pad Lock LLC**

Under consideration is a request for a Site Plan Review for commercial zoned property at 16188, 16200, 16214 & 16244, Elk Pointe Road, Elk Rapids, Michigan 49629, (Tax ID# 05-06-029-006-00), owned by Tom Wiltse and Pad Lock LLC, located at the same location. Request a Site Plan Review hearing to modify a previously approved Site Plan on 4-21-2015 per revised Zoning Ordinance of 6-30-2016 Section 11.05-C-8.

**Open Public Hearing #2: Opening of Public Hearing #2 Unanimously Approved**

**Motion/S – Smith/Amos**

Mr. Larry Nix, PCP, recapped and highlighted the memorandum/report he provided the Planning Commission dated August 8, 2016 regarding the Pad Lock LLC, Revised Site Plan. Highlights of his report included the following:

- A site plan for Pad Lock LLC was previously approved by the Planning Commission on April 21, 2015 which included the addition of five buildings on this piece of property. Three of the buildings have been constructed. Two buildings on the south side and one in the middle of the property have not been constructed as of this date.

- Part of the original 2015 approved site plan required the applicant to provide some screening/buffering of the property. The applicant offered to plant evergreen trees at 8 feet on-center, to be 3-5 feet in height at the time of planting. In addition, a 6-foot high security fence was required including white slats.
- In light of the amendment made to the Zoning Ordinance on June 30, 2016 that provides the Planning Commission the opportunity to consider modifications to the buffer and/or greenbelt requirements, the applicant as submitted a new application to remove both the fence and planting screening/buffering requirements from his property.
- Mr. Wiltse owner of Pad Lock LLC offers the following as justification for removal of the screening requirements on his commercial property: “Remove the requirements for both the fence and the plantings around the perimeter of the property. Both are unnecessary. All of the surrounding properties are zoned commercial, and none of those are required to have such screening. We are allowed to build lot line to lot line in commercially zoned areas. I agree to plant some trees along the open portion of the north property line, even though the requirement should be waived.” (*Reference: Tom Wiltse DBA Pad Lock LLC Site Plan Application, page 3, item C 2*).
- It was also noted that property adjoining Mr. Wiltse’s property is heavily wooded on the south and east side and a portion of the north property line is also wooded. The vast majority of this existing vegetation is not on the applicants property, however, applicant does agree to install supplement landscaping to the property along US-31.
- Mr. Nix noted that after reviewing the application and physically viewing the property, the recommendation to the Planning Commission to approve the modified screening/buffering requirement for the Pad Lock, LLC site plan is based on the following reasons:
  1. All adjacent property is zoned Commercial.
  2. Only one commercial use is adjacent to the Pad Lock self-storage building and no complaints have been logged against this use.
  3. The bulk of the property surrounding the self-storage site is heavily wooded, screening and buffering the site from public view.
  4. To our knowledge, there have been no complaints of site lighting by adjacent property owners.
- In addition, Mr. Nix further recommended that the following conditions be placed on the approval of the proposed site plan modification:
  1. Evergreen trees a minimum height of 3-5 feet in height at planting shall be planted at the north property line sufficient to screen the view of the storage buildings. These trees should be spaced not more than 8 feet on center. If any tree is not healthy or living in a 24-month period after planting, said tree shall be replaced with a living tree at the expense of the owner.
  2. These trees shall be planted this fall but no later than November 1, 2016.
  3. The site plan approval is extended for a period no later than November 1, 2017 as requested by the applicant for the construction of the remaining buildings on the site.
- In addition to the above recommendations and conditions, Attorney Derman suggested adding these additional requirements:
  1. As a form of information and record for the file, photos of the site will be taken after completion of the new plantings.
  2. No removal of existing vegetation except where necessary around the two retention ponds where drainage improvements need to be made.
  3. Existing and new vegetation is to be maintained.
- Mr. Wiltse further stated in the meeting that as a commercial zoned property, he feels it is unfair to require him to hide his storage units from the public. He does not want to hide his buildings from the public. He also stated from a safety perspective, it is important to see the people utilizing the units.

- It was further noted that Mr. Wiltse is willing to landscape the property, but wants the Planning Commission to waive the screening requirement on his property.

**Close Public Hearing #2: Closing of Public Hearing #2 Unanimously Approved**

**Motion/S - Smith/Amos**

**Additional Comments/Discussion by Planning Commission regarding Tom Wiltse and Pad Lock, LLC:**

- Mr. Sliger voiced agreement with Mr. Wiltse that his property is not offensive as it stands today.
- Chair Smith reported that in her recent travels, she made it a point to look at other mini-storage facilities. She noted a difference between mini-storage and outside storage, and because Mr. Wiltse does not have outside storage on his property, deemed screening should not be required.
- Mr. Sabty noted that the 2016 amended revisions to the Zoning Ordinance provides some requirement relief from screening requirements to property owners who have situations like Mr. Wiltse.
- Vice Chair Mischel asked Mr. Nix to share his observations and experience regarding buffering and screening requirements mandated by other municipalities.

Mr. Nix noted that typically, most Zoning Ordinances require fencing for security purposes along with some type of screening or buffering for these types of facilities. However, because Mr. Wiltse does not feel security is an issue at his location; the need for a fence does not apply. Mr. Nix also noted that in industrial locations, some municipalities require no buffering of these types of facilities.

Mr. Nix further noted it was sole responsibility of the Planning Commission to make the final decision on whether or not to remove or modify screening/buffering requirements. Further noting, the report he prepares and provides to the Planning Commission contains information, recommendations and conditions; and are to be used as suggestions and guidelines to help the Commission make their decision based upon what the Planning Commission wants to accomplish in this community.

- Vice Chair Mischel asked Zoning Administrator Harrett to provide his observations and experience on screening/buffering requirements in front of new commercial type buildings along US-31.

Mr. Harrett responded that every business along US-31 undergoing a site plan review has been asked to plant some new trees between their building and the highway to enhance and beautify the US-31 corridor. Typically the response to this request has been positive.

- Mr. Sabty added that the Master Plan outlines the Township’s goals and plans for the US-31 Corridor area.

***(Reference Collaborative Master Plan - Chapter 4 - Future Land Use -View Corridors - Pages 28-29):***

The US-31 corridor is a highly visible and significant thoroughfare in the Township, as it connects the Elk Rapids community to the larger Traverse City region and beyond. As such, the Township seeks to preserve existing scenic views along the corridor and where growth is appropriate, implement standards to ensure safe traffic movements and attractive development sensitive to the character of Elk Rapids. It is the Township’s intent to minimize curb-cuts onto US-31 through consolidated access; require greater front yard setbacks and landscaping to foster a natural appearance; restrict signage and site lighting; buffer parking; encourage coordinated developments; and to enact other improvements.

- Mr. Pepler asked applicant Wiltse what the percentage of greenbelt/screening surrounding his buildings is on his property. Mr. Wiltse responded that approximately 90% of the existing vegetation is not on his property but on the adjacent properties.

**Motion to Approve:  
Motion/S - Smith/Sliger**

Approval to modify/remove the buffering and screening requirements (Conditions #1 and #2), from the approved site plan dated April 21, 2015 per revised Zoning Ordinance of June 30, 2016 Section 11.05-(C)-(8), for commercial zoned property at 16188, 16200, 16214 & 16244, Elk Pointe Road, Elk Rapids, Michigan 49629, (Tax ID #05-06-029-006-00), owned by Tom Wiltse and Pad Lock LLC, located at the same location.

**Approval to modify the buffering/screening requirements is based on the following reasons:**

1. All adjacent property is zoned Commercial.
2. Only one commercial use is adjacent to the Pad Lock self-storage building and no complaints have been logged against this use.
3. The bulk of the property surrounding the self-storage site is heavily wooded, screening and buffering the site from public view.
4. To our knowledge, there have been no complaints of site lighting by adjacent property owners.

**Approval of this site plan modification also includes the following conditions:**

1. Accept the offer from Mr. Tom Wiltse to landscape the property along the west side of his property along US-31 with deciduous and evergreen trees.
2. Upon completion of the property improvements and landscaping, photos will be taken of the site to document existing vegetation and new plantings for the file.
3. Existing vegetation on the property will not be removed.  
**Exception:** Vegetation may be removed if needed to complete improved drainage requirements.
4. Existing vegetation and new plantings will be maintained.
5. The site plan approval is extended for a period of no later than November 1, 2017 as requested by the applicant for the construction of the remaining buildings on the site.
6. As a form of information and record for the file, photos of the site will be taken after completion of the new plantings.
7. No removal of existing vegetation except where necessary around the two retention ponds where drainage improvements need to be made.
8. Existing and new vegetation is to be maintained.

**Motion Unanimously Approved**

At this point in the meeting it was noted that because the Planning Commission was waiving Conditions #1 and #2 on the previously approved site plan dated April 21, 2015, it was not necessary for commission members to sign copies of the site plans.

**Public Hearing #3: Rodney Hammond and Uncle Rod's Inc.**

Under consideration is a request for a Site Plan Review for commercial zoned property at 16175 and 16167 Wanigan Drive, Elk Rapids, Michigan 49629, (Tax ID# 05-06-029-008-15 and # 05-06-029-019-00), owned by Rodney Hammond and Uncle Rod's Inc., located at the same location. Request a Site Plan Review hearing to modify the previously approved two Site Plans on 11-17-2015 per revised Zoning Ordinance of 6-30-2016 Section 11.04-E.

**Open Public Hearing: Opening of Public Hearing #3 Unanimously Approved**

**Motion/S – Smith/Amos**

Mr. Larry Nix, PCP, recapped and highlighted the memorandum/report he provided the Planning Commission dated August 8, 2016 regarding the revision to Uncle Rod's Site Plan, located at 1617 & 16175 Wanigan Drive. Highlights of his report include the following:

- The approved site plan for these two pieces of property was approved at the November 17, 2015 Planning Commission Meeting.
- At the time of this approval, the applicant had proposed to do some landscape plantings along the south property line of the two properties to meet the Zoning Ordinance screening requirements.
- In light of the recent June 30, 2016 ordinance amendment, the applicant has initiated this site plan review for consideration of amending the buffering requirements on the approved site plan, offering the following as justification: “In lieu of trees add 6 foot wooden privacy fence along south lot line. On south line for parking lot fence would go from east corner to first storage building, since existing building is very close to lot line. A fence better meets the screening requirements. The fence would provide access to the south side of the building for upkeep, and future addition of a well.” (*Reference: Site plan application, page 3, item C & D, submitted by Rodney Hammond, 07/22/2016*).
- Mr. Nix highlighted his recommendations and conditions for the approval of the modified buffering as proposed by the Uncle Rods Repair Facility Site Plan as follows:

**Recommendations:**

1. The 6 foot tall wooden privacy fence will provide immediate visual relief to the adjacent property owner.
2. The wooden privacy fence will minimize maintenance as opposed to keeping trees in a living condition.
3. The fence minimizes the potential for trespass into the adjacent orchard area.

**Conditions:**

1. All of the conditions and stipulations of the site plans approved for 16175 & 16167 Wanigan Drive will remain in effect as approved at the November 17, 2015 Planning Commission meeting except for the buffering requirement as approved above.
2. The 6 foot tall wooden privacy fence shall be erected this fall but no later than November 1, 2016.

- Attorney Derman recommended the following additional requirements:

1. The fence is to be maintained.
2. Photos of the fence will be taken for the file.

- Members asked Mr. Hammond for clarification of the location, size and purpose of his proposed gate. Mr. Hammond noted that he had discussed the gate and fence with the adjacent orchard property owner and reported the adjacent owner did not have an issue with him installing the gate or the fence.

It was further established during this discussion that the drawing/placement of the fence on the site plan was simply an error and that the fence would run along the south end of the property.

- Because of the expense and preparation needed to install the fencing and gate, Mr. Hammond requested that the Planning Commission grant him an extension for the install deadline to be: **June 1, 2017.**

**Close Public Hearing #3: Closing of Public Hearing #3 Unanimously Approved**

M/S - Sabty/Amos

**Motion to Approve:**

Motion/S - Lundy/Amos

**Approval of the modified buffering (fence and gate) placed on the south property line as proposed for the Uncle Rod’s Repair Facility site plan and based upon the Zoning Ordinance - Section 11.04(E), with the following recommendations and conditions:**

**Approval to modify the buffering/screening requirements is based on the following reasons:**

1. The 6 foot tall wooden privacy fence will provide immediate visual relief to the adjacent property owner.
2. The wooden privacy fence will minimize maintenance as opposed to keeping trees in a living condition.
3. The fence minimizes the potential for trespass into the adjacent orchard area.

**Approval of this site plan modification also includes the following conditions:**

1. All of the conditions and stipulations of the site plans approved for 16175 & 16167 Wanigan Drive will remain in effect as approved at the November 17, 2015 Planning Commission meeting except for the buffering requirement as approved above.
2. The 6 foot tall wooden privacy fence shall be erected this fall but no later than June 1, 2017.
3. The fence will be maintained.
4. Photos of the fence/gate will be taken for the file.

**Roll Call:** Amos (Yes); Mischel (No); Smith (Yes); Lundy (Yes); Sliger (Yes); Pepler (Yes); Sabty (Yes)  
**6 in Favor / 1 Opposed - Motion Approved**

**Unfinished Business:** None

**New Business:**

Chair Smith reported that that according to the July 18, 2016 ZBA Meeting Minutes, the ZBA members Passed a motion to pre-write their motions in the affirmative and denial format to make it easier to write motions during their meetings. Chair Smith asked the Planning Commission members if this is something that might work for their meetings. The group consensus was that they will continue to utilize the memo format currently provided by Mr. Larry Nix, Planning Consultant, Williams & Works.

**Public Comments:** None

**Member Comments:** None

**Adjournment:** Meeting unanimously adjourned at 8:12 PM  
**Motion/S - Lundy/Amos**