

**Elk Rapids Township Planning Commission
Meeting Minutes - Tuesday, October 18, 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, Renee Mischel, Emile Sabty, Dorance Amos, Pug Sliger,
(Quorum Established)
- Absent:** Jim Lundy, Gary Pepler
- Also Present:** Len Harrett, Zoning Administrator; Larry Nix, Planning Consultant;
William Derman, Attorney; Joseph Nowak, Jackie Weber, Patricia Pearlman,
Mrs. Nix, and Patrick Brady.
- Adoption of Agenda:** Agenda for the October 18, 2016 meeting was unanimously adopted by the
M/S Mischel/Amos commission. **Motion Approved**

Public Comments: Patricia Pearlman, Village of Elk Rapids resident shared her comments and concerns regarding the future status of the Elk Rapids District Library and surrounding property.

Chair Smith responded to Ms. Pearlman’s comments and noted that the Township has no jurisdiction over the library and the lease with the Village. Chair Smith reported that she met with Township Supervisor, Bill White to discuss the library and a recommendation was made to share legal and planning resources with the Village Planning Commission to research deeds, determine facts, and get clarification of the ordinances.

Approval of Minutes: Minutes for the August 16, 2016 meeting was unanimously adopted by the
M/S Amos/Sliger Commission. **Motion Approved**

Site Plan Review Public Hearing:
To consider approving a Modification to a Previously Approved Site Plan. Under consideration is a request from Joseph A. Nowak, owner of Nowak Cabinets located at 11744 US-31 South, Elk Rapids, Michigan. The property is zoned R-2 with Commercial use through a Special Use Permit, Tax ID #05-06-032-014-10. The applicant plans to add a 36’ x 44’ addition to the rear of the existing structure (West Side) for Cold Storage to store loaded trailers inside the addition.

Open Public Hearing: **Opening of Public Hearing Unanimously Approved**
Motion/S Mischel/Amos

Township Planning Consultant Report: Mr. Larry Nix, PCP, recapped and highlighted the memorandum/report he provided the Planning Commission dated October 7, 2016 regarding the revision to Nowak Cabinets Site Plan. Highlights of his report include the following:

- The site plan application requests the desire to add a storage building, 36’ x 44’, adjacent to the existing showroom and warehouse building on the property.
- This area is currently unused and will not infringe on any operation of the moving of vehicles and materials going in and out of the building.
- Research of this location revealed that the Nowak property is zoned R-2 Residential Zone with Commercial use through a Special Use Permit approved in 1988. The current zoning ordinance does not recognize a commercial operation in the R-2 Residential Zone and therefore, needs to be corrected.

- Mr. Nix recommended that the Planning Commission re-zone the Nowak property to Commercial which accurately reflects the commercial business that has been going on for the past 28 years. Further noted, he is not aware of any issues or complaints relating to the operation of this business for almost three decades.
- Mr. Nix noted that even though there are several requirements and time constraints to re-zone a property, making the applicant wait until January 2017 is not ideal. Therefore, Mr. Nix proposed the following:
 - 1) Approve the Site Plan at this evenings meeting.
 - 2) Schedule a Public Hearing on November 15, 2016 to rezone this property to Commercial
 - 3) Ensure that a quorum is available on the November 15th date (Opening Day of Deer Season).

- **Site Plan Comments:**

- 1) The proposed 1,584 square foot expansion/garage will contain three overhead doors and a service door.
- 2) The 2010 approved Site Plan proposes a dumpster in this location.
- 3) The Fire Chief has stipulated that a dumpster must be at least 15 feet from any building. (*Reference Elk Rapids Fire Department Document Dated 9/26/2016 – Chief Peter Van Den Berge*)
- 4) Outside Lighting is not indicated on the site plan. The applicant will need to clarify what type of lighting would be used.
- 5) A light over a pedestrian entrance is required by building code.

- **PCP’s Recommendation to Planning Commission:** Approve the site plan tonight with one contingency and two conditions:

CONTINGENCY:

- 1) Contingent upon the Township initiating and obtaining approval to rezone the Nowak property at a Public Hearing to be held Tuesday, November 15, 2016

CONDITIONS:

- 1) Resolution of dumpster location.
- 2) Resolution of outside lighting.

Township Attorney Comments: Mr. Derman agreed with Mr. Nix’s recommendation to the Planning Commission to approve the Site Plan contingent upon Mr. Nix’s three conditions.

Zoning Administrator Comments: Mr. Harrett reiterated he is also in agreement with Mr. Nix’s recommendations and further noted he sees no issues with the Nowak property. (No telephone pole lines, flat issue, drainage is already in place, oversized retention pond also exists). Mr. Harrett also communicated that Mr. Nowak had informed him verbally that the dumpster was going to be kept inside the building and that no additional outside lights was going to be added to the site unless code required it.

Public Input: None

Comments from applicant, Joseph A. Nowak, owner of Nowak Cabinets:

- 1) Mr. Nowak stated he was satisfied with the Planning Commission’s actions to rezone his property to C – Commercial.
- 2) Mr. Nowak stated he has no plans to put a dumpster outside because his only trash is cardboard which needs to be kept inside due to weather conditions.
- 3) Mr. Nowak stated he did not plan on installing any outside lighting.

Additional Comments/Discussion by Planning Commission regarding Nowak Cabinets Site Plan:

- Mr. Nix inquired about what kind of waste/trash is generated by Nowak Cabinets. Mr. Nowak responded that his business generates very little trash and that he tries to recycle saw dust, and cut hardwoods. His biggest trash is cardboard which is why he needs to keep his dumpster/recycle bins inside.
- Mr. Nix asked Mr. Nowak if he read the Fire Chief's report on dumpsters? Mr. Nowak responded that he had read it and reiterated he did not plan to have a dumpster outside of his building.
- Ms. Mischel referenced the fire department's report and wanted to make sure the Planning Commission wasn't missing something the Fire Chief was trying to communicate.
- Mr. Sabty responded that if Mr. Nowak was leaving his dumpster inside of his building, no action was needed by the Planning Commission.

**Motion to Close the Public Hearing: Motion Unanimously Approved
Motion/S Mischel/Amos**

Motion to Approve: Motion to approve the Site Plan Review request by Nowak Cabinets, 11744 US 31 South, Tax ID #05-06-032-014-10, to add a 36' x 44' storage structure to the rear (West Side) of the existing structure as presented on the site plan Dated September 21, 2016, contingent on the Planning Commission and the Township Board approving the rezoning of the property from R-2 Residential to C Commercial, with these conditions:
M/S Sabty/Smith

1. IF a dumpster is located outside, it is to be located at the rear of the structure at least 15 feet from the structure and out of sight, with a screened fence that allows access for truck pick up.
2. Parking area lighting, IF used, to be of "Pole Shoe-box type" with no more than 100 watt bulbs.

Motion Unanimously Approved

At this point in the meeting three copies of the approved site plan were signed by all as required. Mr. Nix further noted that because this motion is contingent on rezoning approval, a copy of the meeting minutes should be attached to the site plan.

The Board continued a discussion on how to proceed with rezoning the Nowak Cabinets property as well as a small portion of the parcel owned by Charles W. Perry. Highlights of this discussion are contained below:

- Mr. Nix noted that there is a piece of the Perry property that should also be considered by the Planning Commission for rezoning.
- In an effort to keep the US 31 properties to the North zoned as Commercial, it was determined that approximately 93' x 112' feet of the Perry property fronting US 31 South mainly used as an access from US 31 S to the main property, to the West, should be rezoned from R-2 Residential to C Commercial.

- It was determined, that once the Notice for the Public Hearing is published and a Public Hearing is held, only the properties noted in the Public Hearing Notice can be considered for rezoning. The Planning Commission would not be able to “add” a property during a Public Hearing without appropriate notification. However, the Board would be able to “remove” a parcel and recommend it not be rezoned if there was opposition during the Public Hearing.
- Chair Smith asked if this process would cause Spot Zoning. Planning Consultant Nix responded that this process would not cause Spot Zoning because the property has been used for commercial purposes for almost three decades.
- Attorney Derman raised a possible concern that the County Tax Maps may be off. After reviewing the Perry and Nelles property deeds, there appears to be a difference on ownership of the US 31 frontage property. Mr. Derman noted that he will continue to follow-up and research the deeds, title work and any available survey’s on these properties. He will also try to make contact with the Perry and Nelles property owners to see if they can provide further clarification regarding their properties.
- Mr. Sabty showed the Board members a copy of the tax and zoning maps so they could visually compare the maps and properties in question. He further noted that all properties located on US 31 to the North will show a consistent C Commercial zoning and will not impact the R-2 Residential properties.

In Conclusion: Planning Consultant Larry Nix recommended the following to the Planning Commission:

- 1) The Board cover all their bases and publish the Public Hearing Notice in the Elk Rapids News to rezone both the Nowak Cabinets property and the small piece approximately (93’x112’) of the Perry property from R-2 Residential to C Commercial.
- 2) The Planning Commission hold a Public Hearing to re-zone these two parcels, on Tuesday, November 15, 2016. (*A survey of the Board confirmed a quorum would be available on this date*).
- 3) Bill Derman further research the properties and if it is revealed that Perry does not own the property up to US 31, that parcel can be removed from the rezoning process.
- 4) If after the property research the County Tax Map is in error, the Planning Commission can make those corrections locally.

M/S Sabty/Amos Motion to hold a Public Hearing on November 15, 2016 to rezone two parcels:

- 1) A parcel owned by Joseph A. Nowak, owner of Nowak Cabinets, 11744 US 31 S, Elk Rapids, MI, Tax ID #05-06-032-014-10, currently zoned R-2 Residential. Rezone it from R-2 Residential to C Commercial.
- 2) A portion of a parcel owned by Charles W. Perry, 11690 US 31 S, Williamsburg, MI, Tax ID #05-06-032-009-50. The land subject to rezoning is approximately 93’x112’ fronting US 31 S and mainly used as access from US 31 S to the main property to the West. Rezone the partial parcel (93’x112’) from R-2 Residential to C Commercial.

Motion Unanimously Approved

- The Board members confirmed that written notification needs to be sent to all residents within 300 feet of the subject parcels in all directions within 15 days before the November 15th Public Hearing. Zoning Administrator Len Harrett agreed to handle this required mailing notification to the residents. Emile Sabty agreed to get the Public Hearing Notice published in the Elk Rapids News.

Zoning Administrator’s Report:

- 1) L. Harrett provided an update on the Orchard Drive property. A permit was issued for one lot on the South side. No other contact from the owner or engineering firm for the development North of Orchard Dr. has been made.
- 2) Per a request from the Zoning Board of Appeals, Mr. Harrett provided the Planning Commission Members with a list of examples of non-typical properties when determining setbacks.

The Commission discussed how sometimes it is difficult to determine what setbacks apply to certain properties where the front, back and side yards are not always clear due to the roads and access to the property. It was further noted that this issue was originally raised at a ZBA Meeting when there was some concern that the Township may be left vulnerable to a law suit because the definition of a setback in the Township Zoning Ordinance was not clear or strong enough.

In Conclusion: Chair Smith requested that Planning Consultant Larry Nix and the Township Attorney Bill Derman review the examples listed in the Zoning Administrators Report and provide the Planning Commission with their opinion by the November meeting, (if possible), on whether a revision to the ordinance to clarify the definition of setbacks is warranted.

New Business: *(Note: Listed below are abbreviated versions of the full text amendments)*

- 1) **Discussion for Possible Zoning Ordinance Text Amendments:**
Site Plan Review and Modifying Previously Approved Site Plan – **add meeting notice & publication requirements to the Ordinance** for the required 15 day notice period.
- 2) **Discussion for Possible Zoning Ordinance Text Amendments:**
Review requirements and handling for new **Site Plans** and a new classification for the Requirements and handling for **Modification to Previously Approved Site Plans** different Criteria – two separate issues?
- 3) **Discussion for Possible Zoning Ordinance Text Amendments for Residential-Mini Storage:**

(Revision to read as follows)

17.05 C A notice shall be published once, at least fifteen (15) days prior to the date of public hearing, in a newspaper of general circulation in the Township to inform the general public of a site plan review.

17.11-B Any other proposed amendment which does not meet the criteria in Section 17.11-A shall be considered a major amendment and require a resubmission, review by the Planning Commission and payment of fee subject to the procedures and requirements of Chapter 17 Site Plan Review section 17.05-C of this Zoning Ordinance.

1.03 Definitions and Sec 11.05C Residential-Mini Storage – Delete the word “**Residential**” from the title to read just “**Mini Storage**”.

Planning Commission – Further Discussion on Zoning Ordinance Text Amendments:

- It was noted that if these text amendments are approved, the Policy Manual would also need to be updated.
- Ms. Mischel questioned whether or not there might be a need for more than one definition for the different types of “mini storage”? Comparisons were made between larger and smaller storage units, and the difference between residential and commercial storage. It was concluded that this would be an issue to discuss at another meeting.

M/S Sabty/Mischel Motion to put proposed Zoning Ordinance Text Amendments 1, 2, 3 on the agenda for the Public Hearing scheduled for Tuesday, November 15, 2016.

Motion Unanimously Approved

New Business: *(Continued)*

- 4) **Annual Nomination for Planning Commission Officers.**
Chair Smith opened the meeting for nominations of officers.

M/S Sabty/Amos Motion made that all current Planning Commission Officers continue in their positions for 2017.

Motion Unanimously Approved

- 5) **Discussion regarding updating and reprinting the Elk Rapids Township Zoning Ordinance.**
Following completion of any upcoming proposed zoning text amendments – re-codifying and updating Ordinance.

The Commission discussed the need to get authorization to have the Elk Rapids Township Zoning Ordinance updated with all the new amendments. The last time the ordinance was professionally printed was 2013. The Commission noted that even though an updated copy is posted on the Townships website, an updated print copy would be very helpful.

- 6) **District Library** – Chair Smith raised some concerns surrounding the future of the District Library. Smith again reiterated that the Township is not involved in the rent of the building or the issues concerning plans for possible expansion.

The Planning Commission members shared and discussed various comments and opinions on what they have heard/know about the future of the library/island house and surrounding property.

In an effort to assist the Village with getting the district library ordinances straightened out, Chair Smith suggested that the Township extend the resource services of their Planning and Legal Consultants to review the library deed and ordinances and offer their opinion and recommendation to both the Township and Village Planning Committees.

In conclusion, the general consensus of the Planning Commission members was to first do some fact finding and separate what is hearsay and what are actual facts before getting involved and making a statement on the future of the library.

Public Comments: Patrick Brady asked if a copy of the proposed full text amendments was available. E. Sabty provided Mr. Brady with a copy at this meeting.

Member Comments: E. Sabty referenced the Planning Commission 2017 Meeting Schedule which was distributed to the members before the meeting. He will post the meeting schedule on the Township bulletin board before January, 2017. Planning Commission in Agreement.

Adjournment: Motion to Adjourn.
M/S Mischel/Amos **Motion Unanimously Approved.**
Meeting adjourned at 7:50 PM