

**Elk Rapids Township Planning Commission
Meeting Minutes – Tuesday April 18, 2017**

PLANNING COMMISSION MEETING MINUTES

Chairwoman Smith called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Aaron Isenhardt, James Lundy, Renee Mischel, Emile Sabty & Shen Smith.

Absent: Gary Pepler & Pug Sliger.

Also Present: Larry Nix, Planning Consultant/Zoning Administrator, William Derman, TWP Attorney, Audience of 3, Patrick Brady, Carol Brady & Dorance Amos.

Adoption of Agenda: M/S Lundy/Mischel. Agenda for 4-18-2017 meeting was adopted unanimously.

Public Comments Chairwoman Smith recognized Mr. Patrick Brady who spoke regarding his concerns on potentially identified future R-3 development parcels. Mr. Brady referencing page 5 of the 11-15-2016 minutes stated that since January 2015, at the joint R-3 Village-Township meeting, when R-3 discussion began to evolve, he felt that Master Planning was being done by Committee not by Community. His opinion that what began in January 2015 until September 2015, in his view was considered as Master Planning by Committee not Community. Chairman Smith thanked Mr. Brady for his comments.

Approval of Minutes: M/S Lundy/Mischel. Minutes for 11-15-2016 meeting were approved unanimously.

PC Chair Notice Chairwoman Smith indicated Leonard Harrett had retired from the office of Elk Rapids Township Zoning Administrator. She announced the Elk Rapids Township Planning Commission would like to extend their thanks to Mr. Leonard M. Harrett for his twenty three (23) years of service working with the Planning Commission as the Township Zoning Administrator - Thank you Len Harrett!

Chairwoman Smith also announced that Mr. Larry Nix, Planning Consultant has assumed the duties of the Township Zoning Administrator, and will serve in both capacities.

Township Zoning Administrator Report Residential Fencing Mr. Nix indicated that he received one inquiry about putting up a fence to block HWY noise. The esthetics of a fence was mentioned to the inquirer and the selection of a pleasing color, which would be probably brown or green. He did not see that the TWP need any change in the existing Zoning Ordinance relative to Fences.

Mr. Sabty stated that Fence appears in our Zoning Ordinance 10 times in different areas, with no restrictive mentions, mainly not to obstruct road views. Antrim County has 14 Townships, with only 7 Townships using a Zoning Ordinance, and only two of those have a specific paragraph about Fence, mainly not to obstruct a view around corners. Fence uses are not a concern in Antrim County, and should not be in Elk Rapids Township. Planning Commission came to the conclusion that a Fence Ordinance is not needed in Elk Rapids TWP.

Unfinished Business

Setback Memo Mr. Nix referred to his Memo of January 11, 2017 in response to Mr. Harrett letter on “Non-Typical Properties When Determining Setbacks”. He discussed the “Attachment B” list of definitions and that they may improve on understanding the various setback situations defined in the Zoning Ordinance which may be of help to the ZBA.

Mr. Sabty stated that the listed 11 properties with potential setback abnormality are usually resolved at the ZBA. The Planning Commission does not need to address these situations. However “Attachment B” by the Planning Consultant which expands on the Definitions in the Zoning Ordinance is useful in expanding on the terminology used.

Mrs Mischel stated that she does not agree about the ZBA resolving such problems, that the Zoning Ordinance should likely include solutions about setback controversies in most situations.

Mr. Sabty stated that there will always be setback disagreements, and the ZBA being a Quasi Judicial Board tries to resolve them using the laws on hand, they don't make the laws, they only apply it. When they can't find an applicable law to apply, then they come to the Planning Commission and request a study and revision of the Zoning Ordinance. So far, it is apparent they have the tools on hand to resolve setback situations. The Planning Commission doesn't need to change the Zoning Ordinance to address the 11 listed setback situations that may arise; the ZBA can handle them one at a time, when they come up.

Chairwoman Smith indicated that by adding the "Attachment B" definitions to the Zoning Ordinance this may give the ZBA availability to a wider range of definitions. She then asked Mr. Isenhardt about his experience while serving on the ZBA relative to adding the definitions in "Attach B"? Mr. Isenhardt indicated he did not feel the definitions in "Attach B" would have had much effect. The ZBA had been able to resolve unique situations when they come up without the need for additional definitions. It did not hinder him at all when situations came up.

Chairwoman Smith suggested that we put the addition of new definitions in "Attach B" on the "To Do List" to review at a later date if needed. There was consensus by the Planning Commission to add the definitions in "Attach B" onto the To Do List.

Township Zoning Map Review Chairwoman Smith explained that Mr. Sabty has been working on this project concerning discrepancies between the Zoning Map and the County Property Classification Map. Mr. Sabty stated he will be referring to the summary of the issues distributed and the attached background documents. Also there is a one sheet attachment that lists 10 new discrepancies without details that were just discovered before this meeting.

Those discrepancies between the Zoning Map and the County Map started when the PC was rezoning the Nowak/Perry properties on US-31. Following that there was a question about the "Garrow" rezoned properties. From there more were discovered. A brief listing of such discrepancies is:

1. Rezoning Nowak/Perry R2-C:
 - Zoning Map shows Nowak/Perry properties R2
 - County Map shows Nowak as C & Perry as R
 - The Deeds show Nells "C" owns the Perry strip up to Nowak property w/easement.
2. Grand Traverse Regional Land Conservancy – 5 properties
The Zoning Map showed the Original lot as "E". The Zon Ord Sec 6.01-G states that public and privately owned Parks are only allowed in "A" zoned area. The three adjacent lots are marked R1 on the Zoning Map. The fifth lot East of US-31 is marked "E". The County recently updated their map to show all five lots as 705-Conservancy.
3. Two Lot Splits: Two new lot splits appear around the Gun Club that are not on the Zoning Map.
4. South Bayshore/Lakeshore Drive
 - Amendment 94-2 of 4/28/1994 approved rezoning R3-R1 8 lots South of Pine Hollow.
 - Amendment 94-2 was approved by the TWP. Further the TWP approved splitting lot #1. No change appeared on the Zoning Map.
 - Amendment 2014-3 of 8-26-2014 approved rezoning 10 lots including 2 Pine Hollow lots from R3-R1, this included the 8 lots below Pine Hollow previously rezoned R3-R1 in 1994.
 - 12-19-2014 The TWP approved amendment 2014-3.
5. Birch Lake Rd Rezoning 44 Lots R2-R1:
 - 5-16-1995 TWP asked the Planning Commission to give this rezoning a top priority.
 - 7-11-1995 Rezoning took place and was approved by the TWP.
 - Discrepancies appear on the Zoning Map when compared to the County Map:
 - i. Lot #1 on the 44 lot list was split since; both lots appear as "E" should be R1.
 - ii. Lots 2-9 on the list show R2 & R1 split, should all be R1.
 - iii. Lots 27 & 28 show as R1, were merged and appear on County Map as "C".
6. Garrow Rezoning R2-R1: 4-4-2000 the original 22 lots were converted and rezoned into 6 R1 lots. The change never appeared on the Zoning Map.
Planning Commission recommended then that all the surrounding R2 lots in that area should be changed to R1. Nothing took place.
7. Orchard View Drive: On 11-14-2016 the name Orchard Drive was changed to Orchard View Drive. It does not appear on the Zoning Map.

8. 10 New Discrepancies: A detailed study of these new discrepancies has not been completed. They are based on how they appear on the Zoning Map vs. the County Map.
9. TWP Zoning Map R2 Residential Designations:
 - In August 1995 when the Garrow property was approved for rezoning R2-R1, the Planning Commission approved "Proposing a rezoning in the immediate future for all the remaining R2 lots in this area (Wequagamaw) to R1". Nothing took place.
 - On January 1987, all shoreline property south of the Village along GT Bay was rezoned to R1. Most properties along that line back to US-31 stayed R2; showing mostly split R1-R2 lots. R2 also appears on Elk Lake Rd except for the Shoal R2 Site Condo.
 - Over the years R2 areas were not used as such, R1 is almost used in every area. The TWP would be better served if all the R2 areas on the Zoning Map are changed to R1.

In Conclusion, Mr. Sabty stated:

- There was never a coordination to follow up on changes that take place so that the Zoning Map and the TWP/County Map are in sink.
- The Zoning Map, as required is mentioned in the MI Zoning Act 110 of 2006, but does not specify a particular process or format to follow in preparing and developing the map as long there is an accepted and useable Zoning Map.
- Our Zoning Map is seldom updated nor is it user friendly. Almost all updates are copied from the County Map which is constantly updated and shows a detailed description of a property. Beside that, we already pay taxes that support the County mapping process.

Recommendations by Mr. Sabty:

1. Since the Zoning Map is a legally adopted document and controlled by the TWP, don't do anything and continue to use it as it is.
2. Drop the Zoning Map and replace it with a County Property Class type Map that can be developed to meet the zoning need.
3. Drop the Zoning Map. Give the TWP Assessor the current zoning classifications for all the TWP properties to be added to the individual properties description in the County Map. From there on any zoning changes are passed on to the Assessor for inclusion and we can then use the County Map that is constantly updated.
4. Parks and Exempt Properties: Amend the Zoning Ordinance Chapter 5 to add a new Zone, like "P" and maybe a new Chapter on "P". If the Zoning Map is retained, change it to add a "P" Zone with its own color designation.
5. Current Zoning Map: As useless as the current Zoning Map is now, and if it must be held on to as is, then move it to the Collaborative Master Plan file as Map #6, where like Map #5 it would be updated every 5 years using the "White Paper" approach that would be centrally kept in a designated office that will handle the assignment.

Chairwoman Smith asked Larry Nix his thought on the map issues. Mr. Nix indicated the Zoning Map is a document associated with the Zoning Ordinance and they are controlled and adopted by the TWP Board. The Township is responsible for maintaining the map documents with the official keeper of records being the TWP Clerk.

Chairwoman Smith indicated the map questions are a very large project to resolve at this meeting. Maybe Emile, Larry and Bill can work on it and consult with the TWP. What do we need to do in order to get our properties in this TWP on a map with the correct Zoning? How long, and what would it take the Assessor to add all the Zoning designation to the County Map? It sounds like a major project?

Mr. Nix indicated the County classifications are not zoning classifications. In 2010, the Planning Commission adopted the current Zoning Map, even if it had errors. Still the Township followed the legal process in adopting and it is the Township Official Zoning Map regardless of how the records were kept or the map administered. If there are concerns with the Zoning Map, someone has to sit down with the Zoning Map and make all the changes considered to be necessary.

Mrs Mischel suggested that Messrs. Sabty, Nix and Derman work together on this project and bring back a proposal to the Planning Commission for solving this problem. Mr. Sabty stated that after listening to all of the discussions, he is not interested in more study as suggested, that he did his share and presented his findings, and that if the Planning Commission decides to make change, it is fine by him, if not, then just close the books and move on.

Chairwoman Smith indicated the Planning Commission needs direction from those who know how this process works. We were not aware of the difference between the Zoning Map, the County Map, etc... or when all the discrepancies occurred.

Mr. Sabty stated that many discrepancies do occur as new cycles of members take office and are not aware of how or what took place in the past. Let us leave it with the Planner, Attorney and Township Board to figure how they are going to correct the maps.

New Business Road Lake Access Chairwoman Smith announced the Planning Commission had a request from the TWP to assist in the identification of TWP Road/Lake access points. Mr. Sabty presented a study on the subject; he used the Zoning Map and County Map to locate road end points that end at the water. Physically some are apparent, while others are not identifiable. He also included all lots that are governmentally owned and are on the water. All together there were 16 locations that were identified on the list. It was determined that at present the list satisfies the request from the TWP.

Public Comments - None

Member Comments Chairwoman Smith asked Mr. Amos, Supervisor, if the TWP would give the Planning Commission feed back after they meet with the County on April 26 relative to mapping, and if there are any directions for the Planning Commission to take.

Adjournment As there was no further business Chairwoman Smith asked for a motion to adjourn the meeting. M/S – Mischel/Sabty. Motion Unanimously Approved. The meeting was adjourned at 8:20 PM.

Announcement At this time there is no Planning Commission meeting scheduled until July 18, 2017.

In the absence of the Township Record Keeper, the draft minutes for this meeting were compiled by Emile Sabty and Shen Smith.